

# REPRINT

## **MINES AND MINERALS ACT (CAP. 42)**

**As in force at: 5 February 2024**

<b>STATUS:</b> <b>CURRENT</b>
-------------------------------

For details see Endnotes
--------------------------

**AN ACT** TO PROVIDE FOR THE DEVELOPMENT OF MINING IN SOLOMON ISLANDS BY PRESCRIBING APPROPRIATE PROCEDURES FOR THE GRANT OF LICENCES, PERMITS OR LEASES, FOR THE ESTABLISHMENT OF A MINERALS BOARD TO REGULATE AND CONTROL MINING, TO REPEAL THE MINING ACT AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

## **MINES AND MINERALS ACT (CAP. 42)**

### **Table of provisions**

<b>PART I</b>	<b>PRELIMINARY .....</b>	<b>1</b>
1	Short title	1
2	Ownership of minerals	1
3	Interpretation	2
<b>PART II</b>	<b>ADMINISTRATION .....</b>	<b>4</b>
4	Reserved and protected areas	4
5	Appointment of officers	5
6	Powers of the Minister	5
7	Functions and powers of the Director	6
8	Powers of inspection	7
9	Recovery of fees and payments	8
10	Minerals Board	8
11	Functions of the Board	8
12	Indemnification	9
<b>PART III</b>	<b>RECONNAISSANCE PERMITS .....</b>	<b>9</b>
13	Reconnaissance permit	9
14	Application for reconnaissance permit	10
15	Form and content of reconnaissance permit	11
16	Security of compliance	11
17	Rights of reconnaissance permit holder	11
18	Obligations of reconnaissance permit holder	12
<b>PART IV</b>	<b>PROSPECTING LICENCES .....</b>	<b>13</b>
19	Prospecting licence	13
20	Application for prospecting licence	14
21	Acquisition of surface access rights for prospecting	16
22	Form and content of prospecting licence	18
23	Security of compliance	19
24	Area, duration and renewal of prospecting licence	19
25	Surface access fees and compensation for damage	21
26	Rights of prospecting licence holder	21

27	Obligations of prospecting licence holder	22
28	Transfer of prospecting licence	25
29	Retention of cores and samples	25
<b>PART V</b>	<b>MINING LEASES.....</b>	<b>26</b>
30	Mining lease	26
31	Application for a mining lease	27
32	Acquisition of surface access rights for mining	29
33	Compulsory acquisition of land for mining	30
34	Determination of surface rental and compensation for damage	31
35	Determination of compensation for land compulsorily acquired	31
36	Grant of mining lease	32
36A	Approved infrastructure	32
37	Rejection of application for a mining lease	33
38	Form and content of mining lease	33
39	Registration of mining lease	34
40	Execution of mining lease	34
41	Duration and renewal of a mining lease	34
42	Transfer of a mining lease	36
43	Rights of a mining company	37
44	Obligations of a mining company	38
45	Royalties	39
46	Payment of royalties	41
47	Power of Minister to defer or remit royalties	41
48	Payment of export duty	42
49	Security of compliance	42
49A	Grant of special site right	42
49B	Road access licence	43
49C	Payment into Court	45
49D	Director may suspend and cancel	46
49E	Restoration of the land	46
<b>PART VI</b>	<b>ALLUVIAL MINING.....</b>	<b>48</b>
50	Alluvial miner's permit	48
51	Application for alluvial miner's permit	48
52	Form and content of alluvial miner's permit	49
53	Rights of alluvial miners	50
54	Obligations of alluvial miners	51

<b>PART VII</b>	<b>GOLD DEALING.....</b>	<b>51</b>
55	Gold dealer's licence	51
56	Application for gold dealer's licence	52
57	Form and content of gold dealer's licence	53
58	Rights of licenced gold dealer	53
59	Obligations of licenced gold dealer	53
60	Export of gold	55
61	Records and information on gold dealing	56
62	Exceptions	57
63	Penalty for unlawful gold dealing	57
<b>PART VIII</b>	<b>BUILDING MATERIALS .....</b>	<b>57</b>
64	Building materials permit	57
65	Application for a building materials permit	58
66	Form and content of building materials permit	58
67	Right of building materials permit holder	59
68	Obligations of building materials permit holder	59
69	Exceptions	60
<b>PART IX</b>	<b>MISCELLANEOUS .....</b>	<b>60</b>
70	Accredited agents	60
71	Suspension and cancellation by the Minister	60
71A	Force majeure	62
72	Surrender of rights by holder	62
73	Assets on expiration or cancellation	63
74	Delivery of documents on expiration or cancellation	63
75	Records and information	64
76	Secrecy to be preserved	64
77	Public officers and other persons prohibited from acquiring rights	64
78	Penalties	65
79	Offences	65
80	Regulations	65
81	Repeal and savings	67
<b>SCHEDULE</b>		<b>68</b>

# **MINES AND MINERALS ACT (Cap. 42)**

**As in force at: 5 February 2024**

## **PART I            PRELIMINARY**

### **1            Short title**

This Act may be cited as the *Mines and Minerals Act*.

### **2            Ownership of minerals**

- (1) All minerals of every description in or under all lands of whatsoever ownership or tenure or in whatsoever possession or enjoyment they may be, are and shall be deemed always to have been, vested in the people and the Government of Solomon Islands.
- (2) No person shall, except in accordance with the provisions of this Act and any regulations made thereunder:
  - (a) explore for, or develop, mineral resources;
  - (b) carry out reconnaissance, prospecting or mining operations in respect of minerals; or
  - (c) acquire any right, title or estate in any minerals.
- (3) Subject to the provisions of this Act, the Government shall have the exclusive right to deal with and develop the mineral resources in such manner as it deems to be in the national interest.
- (4) In particular and without prejudice to the generality of the provisions of subsection (3), the Government may:
  - (a) either alone or in association with any person explore, develop or manage mineral resources;
  - (b) enter into agreements or arrangements providing for the participation of any person in connection with the exploration, development and acquisition of minerals; or

- (c) grant the exclusive right to any person to enter any land to prospect for or mine minerals and acquire such minerals upon such terms and conditions it thinks fit.
- (5) Any person who contravenes the provisions of subsection (2)(a) or (b), shall be liable, on conviction before a magistrate, to a fine not exceeding ten thousand penalty units and, in default of payment, to imprisonment for a term not exceeding twelve months.

### 3 Interpretation

In this Act:

**“alluvial miner”** means the holder of an alluvial miner’s permit issued pursuant to section 50 and includes a member of an alluvial miner’s group;

**“associate company”** includes parent or holding companies, subsidiary companies, business or joint ventures;

**“Board”** means the Minerals Board established under section 10;

**“building materials”** means clay, gravel, sand and stone used for buildings, roads or other construction purposes;

**“Chief Geologist”** means the Chief Geologist in the Ministry for the time being charged with the responsibility for mines and minerals;

**“commercial discovery”** means the discovery of a mineral deposit potentially capable of being mined commercially at a profit;

**“Director”** means the Chief Geologist who is appointed Director pursuant to section 5;

**“gold”** includes gold, gold bullion, retorted gold, gold ores, gold dust, gold amalgam, gold alloys, precipitates containing gold, slag, concentrates, tailings and residues but does not include coin or other things manufactured of gold which, on view, have apparently been worked or manufactured for trade purposes;

**“gold dealing”** means the purchase, sale or export of gold, including any operation directly or indirectly incidental thereto, by the holder of

a gold dealer's licence;

**“inspector”** means an inspector or other officer appointed under section 5 and includes the Director;

**“land”** includes water and land covered by water;

**“landowner”** in relation to a registered interest means the person in whose name the interest is for the time being registered; and in relation to customary land, means the person or persons who is or are according to current customary usage, regarded as the owner or owners of the land;

**“mineral”** means any substance found naturally in or on the earth formed by or subject to a natural geological process, but does not include petroleum as defined in section 3(1) of the *Petroleum (Exploration) Act*;

**“mineral licence”** means a prospecting licence or mining lease or both;

**“mining”** means intentionally to extract any mineral and includes milling, processing, concentrating, beneficiating, smelting or refining and includes any operation directly or indirectly incidental thereto;

**“mining area”** means the area subject to a mining lease;

**“mining company”** means a company authorised to carry out mining under a mining lease;

**“Minister”** means the Minister of the Government for the time being charged with the responsibility for mines and minerals;

**“open cast mining”** means surficial mining or quarrying of minerals exposed either at the surface or after removal of overburden;

**“prospecting”** means intentionally to search for any mineral and includes determining the extent of any mineral deposit and its economic value;

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

**“reconnaissance”** means intentionally to search for any mineral by geophysical, geochemical, photo-geological surveys or other remote sensing techniques, and surface geology in connection therewith, but does not include drilling, trenching, pitting or other excavations or subsurface techniques other than hand-operated augering;

**“reconnaissance area”** means the area subject to a reconnaissance permit;

**“tender”** means inviting, soliciting or placing on open market, whether domestically or internationally, a land area proposed for reconnaissance, prospecting or mining.

## **PART II                    ADMINISTRATION**

### **4                    Reserved and protected areas**

- (1) The Minister may from time to time, by notice published in the *Gazette*, designate any area as a reserved area and prohibit the carrying out of reconnaissance, prospecting or mining thereon.
- (2) Reconnaissance, prospecting and mining are prohibited in or on:
  - (a) any village, place of burial, tambu or other site of traditional significance, inhabited house or building, except with the consent in writing of the owner or occupier thereof, and within such distance as may be prescribed by the Minister;
  - (b) any cultivated land or land rendered fit for planting and habitually used for the planting of crops, except with the consent in writing of the owner or occupier thereof;
  - (c) any land designated as town land, under the *Lands and Titles Act*, except with the consent in writing of the owner of the surface rights;
  - (d) any state forest or controlled forest within the meaning of the *Forest Resources and Timber Utilisation Act*, except with the consent in writing of the Commissioner of Forest Resources and subject to such terms and conditions as the Commissioner may impose; or



- (e) any land used for public purposes.

## **5 Appointment of officers**

- (1) There shall be appointed for the purposes of this Act:
  - (a) a Director of Mines; and
  - (b) an Inspector of Mines, and such other officers as may be necessary for the due administration of this Act.
- (2) Any appointment made under subsection (1) shall, if the person appointed is to be a public officer, be made in accordance with the *Constitution* but otherwise shall be made by the Minister.
- (3) The Director appointed pursuant to subsection (1) shall be the holder of the post of Chief Geologist.

## **6 Powers of the Minister**

The Minister may at any time, on the advice of the Board:

- (a) issue:
  - (i) reconnaissance permits;
  - (ii) prospecting licences;
  - (iii) mining leases;
  - (iv) gold dealer's licences; and
  - (v) building materials permits;
- (b) authorise in writing any public officer to enter upon any land in Solomon Islands for the purpose of conducting reconnaissance, prospecting or other geological, geophysical or geochemical surveys;
- (c) by notice, direct the holder of any permit, licence or lease issued pursuant to this Act to produce relevant books, records, accounts or other information as may be specified in the notice;

- (d) direct any person to comply with the provisions of this Act or regulations made thereunder;
- (e) direct a holder of a permit, licence or mining lease to comply with its terms and conditions;
- (f) take whatever measures as may be necessary:
  - (i) to protect the health and safety of persons;
  - (ii) for conservation purposes with a view to preventing waste; or
  - (iii) to minimise damage to any mineral deposit, land, air, water, vegetation or animal life; or
  - (iv) to protect sites of archaeological, historical, or geological significance; and
- (g) prescribe rates of, defer or remit royalty payments.

## **7 Functions and powers of the Director**

Subject to the provisions of this Act, the Director shall have power, for the purpose of the performance of his functions under this Act:

- (a) to advise the Board on the technical aspects of reconnaissance, prospecting and mining operations so as to ensure that Solomon Islands receives the greatest benefits obtainable from the exploitation of its mineral resources;
- (b) to receive applications for permits, licences and leases and to submit such applications to the Board for the Board's consideration;
- (c) to carry out independent and due diligent search and proper assessment of the companies intending to or applying for reconnaissance permit, prospecting licence and mining lease as prescribed;
- (d) if necessary, to interview or hold meetings with an applicant for discussing or resolving any relevant matter that the Minister

may direct in writing from time to time or the Director deems essential for the board's purposes;

- (e) to negotiate, as directed by the Board and in consultation with the holders of mining leases, with landowners for surface access rights and rentals;
- (f) to conduct or authorise inspections of any gold dealing, reconnaissance, prospecting or mining operations in order to ensure that such operations are carried out in accordance with the provisions of this Act, the regulations and the terms of any licence, permit or lease;
- (g) to authorise persons other than holders of permits, licences, or leases to export samples for purposes of scientific research or such other purposes as he may deem fit; and
- (h) to keep and maintain any registers, information and records relating to gold dealing, reconnaissance, prospecting or mining in such manner as the Minister may require.

## **8 Powers of inspection**

- (1) Any officer appointed pursuant to section 5 shall, at all reasonable times, have access to any area or premises where gold dealing, reconnaissance, prospecting or mining operations or operations incidental thereto, are being carried out and may:
  - (a) inspect and take extracts from all books, accounts, vouchers and documents specifically relating to such operations;
  - (b) inspect and take samples of any material being prospected or mined;
  - (c) examine or inspect any equipment, machinery or other implements used in connection with such operations or related operations; and
  - (d) survey or inspect any workings, cuttings, pits, trenches, drill holes or other excavations or working places relating to such operations to ensure that all operations are being carried out in accordance with this Act or any regulations made thereunder.

7

- (2) Where an inspector finds, or has reason to believe, that a holder is in breach of any provisions of this Act or regulations made thereunder, he shall bring such breach to the notice of the Director.
- (3) The Director, on being informed of any breach referred to in subsection (2), may take whatever action he deems necessary in accordance with the provisions of this Act.

## **9 Recovery of fees and payments**

Any fees or payments which become due under the provisions of this Act shall be a debt due to the Government and be recoverable in any court of competent jurisdiction.

## **10 Minerals Board**

- (1) There shall be established, for the purposes of this Act, a Minerals Board which shall, subject to the provisions of this Act, be responsible for general matters relating to the administration of this Act.
- (2) The provisions of the Schedule shall have effect as to the constitution of the Board and otherwise in relation thereto.
- (3) The Minister may, after consultation with the Chairman, give the Board such directions of a general character as to the policy to be followed by the Board in the performance of its functions as appear to the Minister to be necessary, and the Board shall give effect thereto.

## **11 Functions of the Board**

The functions of the Board shall be:

- (a) to advise the Minister on the issue of permits, licences or leases in respect of gold dealing, reconnaissance, prospecting and mining operations to be carried out in terms of this Act;
- (b) to take such measures as it deems necessary or appropriate to inform landowners or land holding groups affected, on operations to be carried out, in terms of permits, licences or leases, as the case may be;

- (c) to assist respective holders of, or applicants for, permits, licences and leases to negotiate with landowners and land owning groups in order to enable such holders to gain access to affected land and carry out reconnaissance, prospecting or mining operations;
- (d) to assist landowners or land holding groups to determine surface access fees and other payments in terms of this Act;
- (e) to assist in the determination of compensation for damage that may become payable pursuant to this Act; and
- (f) to take such measures as it deems necessary or appropriate to establish trust funds for the benefit of landowners or land holding groups referred to in sections 25 and 34 of this Act.

## **12 Indemnification**

No public officer, inspector or other person authorised under this Act shall be personally liable for anything done or omitted to be done in good faith in the performance of his functions under this Act.

## **PART III RECONNAISSANCE PERMITS**

### **13 Reconnaissance permit**

- (1) Subject to the provisions of this Part and section 4, the Minister may issue reconnaissance permits to any applicant who makes application pursuant to section 14, for the carrying out of reconnaissance in any area of Solomon Islands, where the Minister is satisfied that:
  - (a) the applicant has adequate financial resources and the technical competence and experience to carry out effective reconnaissance operations; and
  - (b) the proposed reconnaissance programme is adequate for reconnaissance.
- (2) A reconnaissance permit shall be granted for a period not exceeding one year but may be renewed for an additional period not exceeding one year.

- (3) A reconnaissance permit shall not be transferable.

**14 Application for reconnaissance permit**

- (1) Each application for a reconnaissance permit shall be made to the Director in the prescribed form and shall state:
- (a) the applicant's full name, address and nationality, and, in the case of an application by a partnership or other association of persons, the full names and addresses and nationalities of all partners or of all such persons, or, in the case of an application by a corporate body, the registered name and address of such body;
  - (b) a description of the area in respect of which the application is made in accordance with the Universal Transverse Mercator Grid, together with a plan thereof to such scale and accuracy as may be prescribed;
  - (c) a proposed reconnaissance programme, with details of the equipment expected to be used in connection therewith, and the names of the persons to be responsible for the conduct thereof;
  - (d) the period within which the reconnaissance programme is expected to be completed; and
  - (e) such additional information as the Director may require.
- (2) Each application shall be accompanied by payment of such application fee as may be prescribed.
- (3) The Director shall refuse to accept an application for a reconnaissance permit if, at the time of submission of the application:
- (a) there is pending before the Board an application for a prospecting licence or mining lease in respect of all or part of the proposed reconnaissance area; or
  - (b) all or part of the proposed reconnaissance area is subject to an existing prospecting licence or mining lease.

## **15 Form and content of reconnaissance permit**

- (1) A reconnaissance permit shall be in such form as may be prescribed and shall specify:
  - (a) the name, address and nationality of the permit holder;
  - (b) the area covered by the permit together with a plan thereof;
  - (c) the reconnaissance programme to be undertaken and the names of the individuals to be in charge;
  - (d) the period for which it is issued; and
  - (e) such other terms and conditions as the Board may deem fit to impose.
- (2) A copy of each reconnaissance permit when issued shall be transmitted by the Director to the Provincial Secretary of the Province in which the reconnaissance area is situated.

## **16 Security of compliance**

The Board may require a reconnaissance permit holder to deposit a specified sum in the prescribed manner or enter into a bond or guarantee with the Director for due performance of his obligations in accordance with the provisions of this Act; and on due performance of his obligations the deposit shall be refunded or the bond or guarantee duly cancelled, as the case may be.

## **17 Rights of reconnaissance permit holder**

- (1) Subject to the provisions of this Part and section 4, the holder of a reconnaissance permit shall, subject to the consent of the landowners, have the right to enter any land in the reconnaissance area and carry out reconnaissance.
- (2) A reconnaissance permit shall be non-exclusive and shall not carry any right to obtain a prospecting licence.
- (3) A reconnaissance permit shall be exempt from the provisions of the *Investment Act*.

- (4) The holder of a reconnaissance permit may remove minerals from the reconnaissance area for the purposes of assay, identification or analysis in accordance with such conditions as the Director may determine.
- (5) Any person who removes any mineral from a reconnaissance area in contravention of subsection (4), shall be guilty of an offence and be liable on conviction before a magistrate to a fine not exceeding ten thousand penalty units and in default of payment to imprisonment for a term not exceeding six months.

## **18 Obligations of reconnaissance permit holder**

- (1) Subject to the provisions of subsection (2), the holder of a reconnaissance permit shall, within three months of the expiration of the permit, submit to the Director a report setting forth his evaluation of the mineral prospects in the reconnaissance area.
- (2) Where the holder of a reconnaissance permit makes application for the renewal of the reconnaissance permit or for a prospecting licence in respect of part of the reconnaissance area, he shall submit two reports, one in respect of that part of the reconnaissance area to be relinquished, the other in respect of that area to be retained.
- (3) The report or reports referred to in subsections (1) and (2) shall be accompanied by:
  - (a) copies of all aerial photographs and other images obtained by remote sensing in the course of reconnaissance;
  - (b) copies of any computer tapes used in the production of images mentioned in paragraph (a);
  - (c) copies of all geological, geochemical and geophysical maps, profiles, diagrams and charts relating to the reconnaissance area made by or for such holder;
  - (d) copies of all chemical, physical, petrological and mineralogical tests and analyses made by or for such holder;
  - (e) copies of all reports made by or for such holder, including geological interpretations concerning the mineral prospects in

12



the reconnaissance area; and

- (f) a statement of the direct costs incurred by the holder in carrying out the reconnaissance.
- (4) Except as provided for in subsection (5), the reports and information referred to in subsections (1) and (2) shall not be released by the Director to the public:
- (a) until a period of three months has elapsed from the date of expiry of the reconnaissance permit, in the case of reports on areas to be relinquished; or
  - (b) until a period of three months has elapsed from the date of expiry of any subsequent permit, licence or lease granted to the reconnaissance permit holder in respect of any part of the reconnaissance area not relinquished; or
  - (c) until the date of refusal by the Board of any application by the reconnaissance permit holder for any subsequent permit, licence or lease in respect of any part of the reconnaissance area; or
  - (d) until such holder withdraws such application.
- (5) The reports referred to in subsection (4) may be released by the Director to the public at times earlier than the dates respectively specified therein, provided the reconnaissance permit holder gives his consent in writing.

## **PART IV            PROSPECTING LICENCES**

### **19            Prospecting licence**

Subject to the provisions of this Part and section 4, the Minister may issue prospecting licences, to any applicant who makes application pursuant to section 20, for the carrying out of prospecting in any area of Solomon Islands, where the Minister is satisfied that:

- (a) the applicant has adequate financial resources and the technical competence and experience to carry out effective prospecting operations; and

- (b) the proposed prospecting programme is adequate for prospecting.

## **20      Application for prospecting licence**

- (1) Except in cases of tender, each application for a prospecting licence shall be made to the Director in the prescribed form and shall state:
  - (a) the applicant's full name, address and nationality and, in the case of an application by a partnership or other association of persons, the full names, addresses and nationalities of all partners or of all such persons;
  - (b) in the case of an application by a corporate body, the registered name and address of such body, the full names and nationalities of the directors and the full name and nationality of any shareholder who is the beneficial owner of more than five per cent of the issued capital and any other person who controls the corporate body;
  - (c) information as to the financial status, technical competence and experience of the applicant;
  - (d) a description of the area over which the prospecting licence is sought in accordance with the Universal Transverse Mercator Grid, together with a plan thereof to such scale and accuracy as may be prescribed;
  - (e) a report setting forth his evaluation of the mineral prospects in the area, and, if the area was subject to a reconnaissance permit held by the applicant including the information required by section 18(2) not theretofore supplied;
  - (f) the minerals for which the applicant wishes to prospect;
  - (g) the period for which the prospecting licence is required;
  - (h) a proposed work programme, its minimum estimated direct costs and the names and qualifications of the individuals to be in charge thereof;
  - (i) a proposed programme for the acquisition of surface access

rights and the names of the individuals to be in charge thereof;

- (j) the applicant's intentions regarding environmental protection; and
  - (k) such additional information as the Director may require or as may be prescribed.
- (2) Each application shall be accompanied by payment of such application fee as may be prescribed.
  - (3) The Director may require an applicant to amend an application with respect to the proposed work programme and other matters.
  - (4) The Board may call for tenders for a prospecting licence over a specified area, in which case all such tenders shall comply with the prescribed procedures.
  - (5) The Director shall refuse to accept an application for a prospecting licence if, at the time of submission of the application:
    - (a) there is pending before the Board an application for a prospecting licence or mining lease in respect of all of the proposed prospecting area; or
    - (b) all of the proposed prospecting area is subject to an existing prospecting licence or mining lease; or
    - (c) the applicant or an associate company is currently holding three or more prospecting licences over different prospecting areas and has not applied for a mining lease or commenced mining in at least one prospecting area.
  - (6) Where an application for a prospecting licence is in respect of an area which includes part of the area which is the subject of:
    - (a) any previous application, pending before the Board, for a prospecting licence or mining lease; or
    - (b) any existing prospecting licence or mining lease, the Director shall accept the application and shall excise from it that part of the area which is the subject of such previous application,

licence or lease.

- (7) The Director shall inform the applicant of any excision made pursuant to subsection (6)(b).

## **21 Acquisition of surface access rights for prospecting**

- (1) Where the Board is of the opinion that an application for a prospecting licence, submitted in accordance with section 20, is acceptable, the Minister shall inform the applicant in writing (which writing is hereinafter referred to as the "letter of intent") of his intention to issue the prospecting licence subject to the applicant acquiring surface access rights.
- (2) The Minister's letter of intent, issued pursuant to subsection (1) may, *inter alia*, allow such period and include such terms and conditions that the Board may seem fit to impose with regard to the process of seeking surface access rights.
- (3) A copy of each letter of intent when issued shall be transmitted by the Director to the Provincial Secretary of the Province in which the prospecting area is situated.
- (4) On receipt of the letter of intent the applicant, in consultation with the Director, shall:
  - (a) take such measures in accordance with the terms and conditions referred to in subsection (2) to identify and record the names of the landowners, land holding groups, or any person or groups of persons having an interest in the land in the prospecting area;
  - (b) enter into negotiations with the persons referred to in paragraph (a) in order to obtain surface access rights;
  - (c) make arrangements for the payment of surface access fees and compensation for damage; and
  - (d) in consultation with the landowners, appoint trustees, for the purposes of paragraph (c).
- (5) In determining the rates of surface access fees and compensation

for damage pursuant to subsection (4)(c), the Director and the landowners shall, as far as practicable, be guided by the rates prescribed for the purpose by the Minister, who shall, in prescribing such rates, not take into consideration any value of the land by reason of the possible existence of any minerals therein.

- (6) Where no agreement is reached between the applicant and the landowners at the end of the period specified in the letter of intent, the Board may:
  - (a) where it is satisfied that *bona fide* attempts have been made by the applicant to negotiate with the landowners or land holding groups, extend the said period; or
  - (b) where it is satisfied that sufficient attempts to negotiate have not been made, inform the applicant that his application is unsuccessful.
- (7) Where, at the end of the period specified in the letter of intent, the applicant has reached agreement with landowners in respect of part of the proposed prospecting area and there is no agreement in respect of the remainder of the area, the Board may, after consultation with the applicant:
  - (a) extend the said period; or
  - (b) request the applicant to amend and subdivide his application to cover:
    - (i) areas in respect of which agreement has been reached; or
    - (ii) areas in respect of which agreement has not been reached.
- (8) Where there is no dispute and the applicant reaches agreement with the landowners, such agreement shall be reduced to writing and the contents of the agreement shall be *prima facie* evidence of:
  - (a) the names of the landowners or land holding groups having rights over the land in the prospecting area; and

- (b) the amount of surface access fees or compensation for damage.
- (9) On agreement being reached in the manner provided under subsection (8), the Minister shall issue to the applicant a prospecting licence as specified in section 22.
- (10) A copy of each prospecting licence, when issued shall be transmitted by the Director to the Provincial Secretary of the Province, in which the prospecting area is situated, who shall also be informed of all renewals under section 24.
- (11) Any person who by any fraudulent pretence or false representation:
  - (a) causes the Director or the landowners to believe that he represents the landowners; or
  - (b) obtains or causes any money to be paid as surface access fees or compensation for damage

is guilty of an offence and liable on conviction before a magistrate to imprisonment for a term not exceeding five years.

## **22 Form and content of prospecting licence**

A prospecting licence shall be in such form as may be prescribed, and shall specify:

- (a) the name, address and nationality of the licence holder;
- (b) the area covered by the licence, together with a plan thereof;
- (c) the minerals covered by the licence;
- (d) the work programme and annual minimum direct expenditure commitment to be undertaken by the holder and the names of the individuals responsible for the conduct thereof;
- (e) the period for which it is granted;
- (f) the names of the trustees responsible for the trust accounts referred to in section 25(2);

- (g) the programme for environmental protection; and
- (h) such other terms and conditions as the Minister may deem fit to impose.

## **23 Security of compliance**

The Board may require a prospecting licence holder to deposit a specified sum in the prescribed manner, or enter into a bond or guarantee with the Director for due performance of his obligations in accordance with the provisions of this Act; and on due performance of his obligations the deposit shall be refunded or the bond or guarantee duly cancelled, as the case may be.

## **24 Area, duration and renewal of prospecting licence**

- (1) A prospecting licence shall cover such area not exceeding six hundred square kilometres and shall be valid for such period not exceeding three years as may be specified therein.
- (2) The holder of a prospecting licence may at any time, not later than thirty days before the expiry of such licence, apply to the Director for a renewal thereof for a period not exceeding two years and for an area not more than half of the initial area covered by the licence, so however, that the Board may authorise a renewal for a larger area if, in its opinion, such authorisation would be in the national interest.
- (3) The holder of a prospecting licence may at any time not later than thirty days before the expiry of such renewal period, apply to the Director for an additional renewal thereof for a further period not exceeding two years and for an area not more than half of the prospecting area remaining at the end of the initial renewal period, so however, that the Board may authorise a renewal for a larger area if, in its opinion such authorisation would be in the national interest.
- (4) Each application for renewal of a prospecting licence shall be made to the Director and shall be accompanied by:
  - (a) two reports, one on the area to be relinquished and the other on the area to be retained, both such reports indicating:
    - (i) the results of prospecting operations carried out to the

- date of such application;
- (ii) an evaluation of the mineral prospects in the area; and
- (iii) the direct costs incurred to the date of such application;
- (b) the information required by section 27(5) not theretofore supplied;
- (c) a proposed prospecting programme to be carried out during the period of renewal, indicating:
  - (i) the minerals covered by the renewal application;
  - (ii) the area covered by the renewal, together with the plan thereof;
  - (iii) the proposed period of renewal;
  - (iv) the minimum expenditure commitment to be under taken by the holder during the renewal period;
  - (v) the names of the persons responsible for the conduct thereof;
- (d) copies of agreements with landowners relating to surface access rights and fees, and compensation for damage, during the period of renewal;
- (e) such other information as the Director may require; and
- (f) such application fee as may be prescribed.
- (5) The Director may require an applicant to amend a renewal application with respect to the proposed work programme and other matters.
- (6) The Minister shall grant the renewal of a prospecting licence where he is satisfied:
  - (a) that the holder has complied with the terms and conditions of his licence and the provisions of this Act or any regulations



made thereunder;

- (b) that the proposed prospecting programme and minimum expenditure commitments are reasonably satisfactory to test the mineral prospects of the area in respect of which the renewal is made; and
- (c) that the holder has reached agreement with the landowners or land holding groups regarding surface access rights and fees and, compensation for damage during the period of the renewal.

## **25 Surface access fees and compensation for damage**

- (1) Each holder of a prospecting licence shall pay surface access fees at such rates and at such times as may have been agreed pursuant to section 21.
- (2) All such surface access fees shall be paid into a trust account for the benefit of landowners in the prospecting area.
- (3) The holder of a prospecting licence shall pay, in addition to surface access fees, compensation for any damage caused by him as a result of prospecting, to any live or dead stock, crops, trees, buildings, works, water supplies or tambu places at such rates as may have been agreed pursuant to section 21.

## **26 Rights of prospecting licence holder**

Subject to the provisions of this Part, section 4 and to any other law relating to buildings, drainage, aviation, land, protection of the natural environment and to control of natural water supplies, including river water, the holder of a prospecting licence together with his servants and agents, shall have the exclusive right to enter any land in the prospecting area and carry out prospecting and for such purpose may, as far as is necessary:

- (a) drill, trench, pit and make excavations;
- (b) build roads, helicopter pads, erect camps and construct temporary buildings;

- (c) install or fix machinery; and
- (d) take or direct any public water from any lake, river or water course.

## **27 Obligations of prospecting licence holder**

- (1) The holder of a prospecting licence shall:
  - (a) on receipt of the prospecting licence, commence prospecting in accordance with the work programme as specified in the licence;
  - (b) expend on prospecting, in direct expenditure, not less than the amount specified in the licence;
  - (c) as soon as practicable notify the Director of any commercial discovery made;
  - (d) backfill or otherwise make safe any drillhole or excavation made during the course of his prospecting operations, to the satisfaction of the Director; and
  - (e) unless the Director otherwise stipulates, remove, within ninety days of the expiry of his prospecting licence, any camp, 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 Director.
- (2) The holder of a prospecting licence may, from time to time, notify the Director of changes of substance he wishes to make in the work programme and such changes shall, unless rejected by the Director, take effect within thirty days of such notification.
- (3) The Director may require the holder of a prospecting licence to carry out specified works to rehabilitate any roads, stream beds or banks, or land damaged as a result of his prospecting.
- (4) The holder of a prospecting licence shall keep complete and accurate books and records of his prospecting and shall, not later than thirty days after each six month period of the licence, submit to the Director

a report, in such form as may be prescribed, on his prospecting during the previous six months.

- (5) The report referred to in subsection (4) shall include or show:
- (a) the locations, inclinations, azimuths, diameters and depths of all holes drilled;
  - (b) the locations and types of all samples collected;
  - (c) detailed geological logs of all holes drilled;
  - (d) the results of all chemical, physical, petrological and mineralogical tests and analyses;
  - (e) the results of all geophysical surveys;
  - (f) the results of any other work done in connection with the prospecting;
  - (g) copies of all maps, profiles, diagrams and charts relating to the prospecting made by or for the holder;
  - (h) the names of addresses of individuals permanently employed in Solomon Islands;
  - (i) the direct costs, broken down into such categories as may be prescribed, incurred by the holder in carrying out the prospecting;
  - (j) a report on matters relating to surface access and the names and addresses of all landowners or land holding groups;
  - (k) a report on measures taken to protect the environment within and outside the prospecting area; and
  - (l) such other matters as may be prescribed.
- (6) The holder of a prospecting licence shall, within three months of the expiration of the licence, submit to the Director a final report on his prospecting unless:

- (a) he has made application for renewal pursuant to sections 24(2) or (3), in which case the provisions of section 24(4) shall apply; or
  - (b) he has made application for a mining lease, in which case the provisions of section 31(1) shall apply.
- (7) The final report referred to in subsection (6) shall comprise a summary of all information referred to in subsection (5), in respect of prospecting carried out from the date of commencement of the licence to the date of expiration or surrender.
- (8) Any person who fails to keep or submit any records referred to in subsections (4), (5) or (6), or who knowingly supplies false or misleading information, shall be guilty of an offence and be liable on conviction before a magistrate to a fine not exceeding ten thousand penalty units or in default of payment to imprisonment for a term not exceeding six months.
- (9) Except as provided for in subsection (10), the reports and information referred to in sections 24(4), 27(4) and 27(6) shall not be released by the Director to the public:
  - (a) until a period of three months has elapsed from the date of expiry or surrender of the prospecting licence, in the case of reports and information on areas to be relinquished; or
  - (b) until a period of three months has elapsed from the date of expiry or surrender of:
    - (i) any renewed licence; or
    - (ii) any mining lease,

granted to the prospecting licence holder in respect of any part of the prospecting area not relinquished; or
  - (c) until the date of refusal by the Board of any application by the prospecting licence holder for:
    - (i) a renewal of the licence; or

- (ii) a mining lease,
  - in respect of any part of the prospecting area; or
  - (d) until such holder withdraws such application.
- (10) The reports and information referred to in subsection (9) may be released by the Director to the public at times earlier than the dates respectively specified therein, provided the prospecting licence holder gives his consent in writing.

## **28 Transfer of prospecting licence**

- (1) The holder of a prospecting licence or of any interest therein shall not transfer or otherwise deal in his licence or any part or share thereof in any manner whatsoever without first obtaining the approval in writing of the Board, and any purported transfer or dealing without such approval shall be void and of no effect.
- (2) Each application for the approval of a transfer or other dealing shall be made to the Director by the holder and shall state such details, with such modifications as may be necessary, of the transferee, as would be required in the case of an application for a prospecting licence under section 20, together with such other information as the Director may require.
- (3) Each dealing in a prospecting licence shall be in writing and shall state the full and true consideration passing between the parties thereto and a certified copy of such writing shall be presented to the Director with the application referred to in subsection (2).
- (4) Where the Board has given its approval to a dealing in a prospecting licence, the certified copy referred to in subsection (3) shall be so endorsed by the Director.

## **29 Retention of cores and samples**

- (1) Cores and samples obtained in the course of prospecting may be removed from a prospecting area, for the purpose of assay, identification or analysis, subject to such conditions as the Director may determine.

- (2) Upon the expiry of a prospecting licence, the Director may take possession of any core or sample or portion thereof obtained, in the course of prospecting, from areas relinquished and not subject to either renewed prospecting or to mining by the holder.
- (3) Any person who destroys or disposes of a core or sample in contravention of this section shall be guilty of an offence and be liable on conviction before a magistrate to a fine not exceeding five thousand penalty units and in default of payment to imprisonment for a term not exceeding three months.

## **PART V            MINING LEASES**

### **30            Mining lease**

- (1) Subject to the provisions of this Part and section 4, the Minister may issue mining leases for the carrying out of mining operations in any area of Solomon Islands.
- (2) Only the holder of a prospecting licence who has made a commercial discovery may apply for a mining lease which shall be restricted to an area within his prospecting area and in respect of a mineral covered by his prospecting licence.
- (3) Before making application for a mining lease, the holder of a prospecting licence who has made a commercial discovery may, after consultation with the Director, request the Minister to cause negotiations to be conducted on matters relating to the terms and conditions of the mining lease which may, *inter alia*, include participation by the Government of Solomon Islands in the sharing of production, revenues, profits or in the equity capital of the mining company.
- (4) Agreement reached after such negotiations shall be reduced to writing.
- (5) The holder of a prospecting licence shall, before making application for a mining lease, cause to be organised under the *Companies Act*, a mining company, which shall be controlled by or be under common control with the holder of the prospecting licence.

- (6) Where an agreement has been negotiated pursuant to subsections (3) and (4), the Minister may on behalf of the Government enter into an agreement with the negotiating parties.
- (7) The Minister may establish appropriate modalities and procedures to coordinate the issue and grant, subject to the relevant law, by the relevant agencies of requisite licences, permits, orders and notices to the holder of a mining lease to enable him to conduct activities and operations under his mining lease.

### **31        Application for a mining lease**

- (1) Each application for a mining lease shall be made in writing to the Director not less than ninety days prior to the expiry of the applicant's prospecting licence and shall specify:
  - (a) the registered name and address of the mining company and evidence that it is controlled by or is under common control with the holder of the prospecting licence;
  - (b) the full names and nationalities of the directors and the full name and nationality of any shareholder who is the beneficial owner of more than five per cent of the issued capital;
  - (c) information as to the financial status, technical competence and experience of the applicant;
  - (d) a description of the area over which a mining lease is sought, together with a plan thereof to such scale and accuracy as may be prescribed;
  - (e) a comprehensive report on the mineral deposit which shall include details of the grade and quantity of the proven and probable ore reserves and the anticipated mining conditions, with comments on possible ore reserves;
  - (f) a technological report on mining and treatment possibilities and the intention of the applicant in relation thereto;
  - (g) a proposed mining plan which shall include:
    - (i) the date by which the applicant intends to commence

- commercial production;
- (ii) the anticipated facilities, scale of operations and production capacity;
- (iii) the nature of the mineral products;
- (iv) the anticipated processing plan and the estimated overall recovery of ore and mineral products;
- (v) the anticipated marketing arrangements to be made for the sale of the mineral products; and
- (h) an environmental assessment, with a detailed programme for:
  - (i) tailings and waste disposal;
  - (ii) the progressive reclamation and rehabilitation of lands disturbed by mining; and
  - (iii) the monitoring and minimisation of the effects of such mining on air, land and water areas;
- (i) a reasonably detailed forecast of capital investment, operating costs, and sales revenues and the anticipated financing plan;
- (j) the period for which the mining lease is required;
- (k) the anticipated employment requirements and a proposed programme for the employment, education and training of Solomon Islands citizens specifying for each year:
  - (i) the anticipated number of Solomon Islands citizens to be employed under the programme;
  - (ii) the content of the training courses; and
  - (iii) the anticipated costs thereof;
- (l) the anticipated requirements for goods produced in Solomon Islands and for services which may be obtained within Solomon Islands and the applicant's intention in relation thereto;



- (m) details of the anticipated infrastructure and a description of the area or areas necessary therefor; and
  - (n) such further information as may be prescribed or as the Director may require.
- (2) Each application shall be accompanied by payment of such application fee as may be prescribed.

## **32 Acquisition of surface access rights for mining**

- (1) Where the Board is of the opinion that an application for a mining lease submitted in accordance with section 31 is acceptable, the Minister shall, where the applicant has not previously acquired surface access rights for mining, inform the applicant in writing of his intention to issue the mining lease pending the acquisition of surface access rights by the Director.
- (2) Where the applicant has at the time of the application acquired surface access rights for mining, the Minister may grant the applicant a mining lease subject to the provisions of section 36.
- (3) A copy of the written intention referred to in subsection (1) shall be transmitted by the Director to the Provincial Secretary of the Province in which the mining area is situated.
- (4) Where a commercial discovery has been made, the Director may, at any stage thereafter, in consultation with the applicant, enter into negotiations with the landowners or any person or groups of persons having an interest in the land to acquire surface access rights for mining and make arrangements for the payment by the applicant to the landowners of:
  - (a) a surface rental; and
  - (b) compensation for any damage caused by the mining to any live or dead stock, crops, trees, buildings, works or tambu sites.
- (5) Where there is no dispute and agreement is reached pursuant to subsection (4), such agreement shall be reduced to writing and the contents of the agreement shall be *prima facie* evidence of:

- (a) the names of the landowners or land holding groups having rights over land in the mining area; and
  - (b) the amount of surface rental or compensation for damage payable.
- (6) A copy of such agreement shall be transmitted by the Director to the Provincial Secretary concerned.
- (7) The provisions of section 21(11) shall, *mutatis mutandis*, apply to any fraudulent pretence or false representation made under this section, as they apply in relation to acquisition of surface access rights under that section.

### **33 Compulsory acquisition of land for mining**

- (1) Where there is no prospect of the negotiations provided for in section 32 being concluded on a basis acceptable to the parties, or where the delay in arriving at a satisfactory settlement is not in the public interest the Minister may, in consultation with the Minister charged with responsibility under the *Land and Titles Act*, require the Commissioner of Lands to exercise the powers conferred by Division 2 of Part V of the *Land and Titles Act* and any other power vested in him in that behalf.
- (2) Where any land is compulsorily acquired pursuant to subsection (1), such purpose shall in relation to the exercise of any such powers be deemed to be in the public interest.
- (3) Where, pursuant to subsection (1), it is determined that the customary land be compulsorily acquired for mining purposes or any purposes of this Act, the Commissioner of Lands shall, as far as practicable, ensure that the interest to be acquired is limited to a fixed term interest.
- (4) Where, pursuant to subsection (1), it is determined that the customary land be purchased, leased or compulsorily acquired, the provisions of Part V of the *Land and Titles Act* shall *mutatis mutandis* apply to such purchase, lease or compulsory acquisition.
- (5) On completion of a purchase, lease or compulsory acquisition under

Part V of the *Land and Titles Act*, the Minister may require the Commissioner of Lands to transfer the interest acquired, to any holder of a prospecting licence who has made a commercial discovery.

- (6) Where the land is compulsorily acquired and the interest is transferred, the holder of the prospecting licence shall, in lieu of the surface rental and compensation for damages payable pursuant to section 32(4), be liable to pay to the Commissioner of Lands such rental and compensation as may be determined.

#### **34       Determination of surface rental and compensation for damage**

- (1) In determining the surface rental and compensation for damage pursuant to section 32, the Director and the landowners shall, as far as practicable, be guided by the rates prescribed for the purpose by the Minister, who shall, in prescribing such rates, not take into consideration any value of the land by reason of the existence of minerals therein.
- (2) All such surface rentals shall be paid into a trust account, at such periods specified in the mining lease or in the agreement entered into pursuant to section 32, for the benefit of the landowners or the land holding groups in the mining area.
- (3) The Director shall, in consultation with the landowners, appoint trustees for such trust account to make distributions therefrom to such beneficiaries.

#### **35       Determination of compensation for land compulsorily acquired**

In determining reasonable compensation for land or a right to land acquired pursuant to section 33, there shall be taken into account:

- (a) the market value of the land or right, exclusive of any increase in its value by reason of the existence of minerals therein;
- (b) the value of any improvements thereon;
- (c) compensation for trees and crops, other than crops planted in anticipation of such acquisition; and

- (d) any damages that may be caused by severance and disturbance.

### **36 Grant of mining lease**

The Minister may grant a mining lease to an applicant where he is satisfied that:

- (a) surface access rights have been acquired;
- (b) the proposed mining plan will ensure:
  - (i) the efficient and beneficial use of the mineral resources in the proposed mining area; and
  - (ii) adequate protection of the environment within and outside the mining area;
- (c) the proposed mining area is not the same as or does not overlap an existing prospecting area or mining area so that the rights of the holder of any existing mineral right in respect of such area will not be prejudiced thereby;
- (d) the applicant has adequate financial resources, and the technical competence and experience to carry on effective mining operations;
- (e) the applicant is able and willing to enter into and comply with such terms and conditions of a mining lease as the Board considers reasonable in the circumstances, which may, *inter alia*, include participation by the Government of Solomon Islands in the sharing of production, revenues, profits or in the equity capital of the mining company; and
- (f) the applicant is not in default of his prospecting licence.

### **36A Approved infrastructure**

- (1) The Minister may make it a condition of a mining lease that the company to which the mining lease is issued, construct infrastructure to be known as ("approved infrastructure") satisfying the conditions set out in subsection (2).

- (2) Approved infrastructure is infrastructure that has been designated by the Government of Solomon Islands and prescribed by Regulation to this Act as infrastructure that:
  - (a) will benefit a community of the Solomon Islands; and
  - (b) can be constructed by a company holding a mining lease more efficiently than by the government of the Solomon Islands.

### **37 Rejection of application for a mining lease**

The Minister may, after giving the applicant reasonable notice, reject an application where:

- (a) the conditions specified in section 36 have not been complied with; or
- (b) the applicant fails to propose changes to the mining lease in a satisfactory manner; or
- (c) the applicant is in default and fails to rectify such default in the manner suggested.

### **38 Form and content of mining lease**

- (1) A mining lease shall be in such form as may be prescribed and shall rectify:
  - (a) the name, address and nationality of the mining company;
  - (b) the minerals to be mined;
  - (c) the area covered by the lease, together with the plan based on a survey by a surveyor registered under the *Land Surveys Act*, and of such scale and accuracy as may be prescribed;
  - (d) the period for which it is granted; and
  - (e) the terms and conditions upon which it is granted.
- (2) The approved mining plan and programme for the employment, education and training of Solomon Islands citizens shall be

appended to the mining lease.

- (3) A copy of the mining lease, when issued shall be transmitted by the Director to the Provincial Secretary of the Province concerned.

### **39 Registration of mining lease**

- (1) Where a mining lease is granted pursuant to section 36, the holder of the mining lease shall apply in writing to the Registrar of Titles for it to be registered.
- (2) On application being made pursuant to subsection (1), the Registrar of Titles shall note in the land register, such lease in such manner as he thinks fit.

### **40 Execution of mining lease**

Every mining lease shall be executed by the holder within the period specified in the lease or within a reasonable time that shall not exceed six months from the date of granting of the lease.

### **41 Duration and renewal of a mining lease**

- (1) A mining lease shall be valid for such period not exceeding twenty-five years from the date of granting of the lease or as may be specified therein.
- (2) A mining company may, at any time, not later than one year before the expiry of a mining lease, apply to the Director for a renewal thereof for a period not exceeding ten years.
- (3) An application for renewal of a mining lease shall be made in writing to the Director and be accompanied by a proposed mining plan for the period of renewal which shall include:
  - (a) the latest details of the grade and quantity of the proven and probable ore reserves and the anticipated mining conditions with comments on possible ore reserves;
  - (b) the estimated overall recovery of ore and mineral products;
  - (c) any expected changes in methods of mining and treatment,

marketing arrangements, and the programme for tailings and waste treatment and disposal, the progressive reclamation and rehabilitation of land disturbed by mining, and for the minimization of the effects of such mining on air, and land areas;

- (d) details of any additional infrastructure requirements and a description of the area or areas necessary therefor;
  - (e) a detailed forecast of any additional capital investment during the renewal period;
  - (f) anticipated type and source of financing and projected operating costs and sales revenues during the renewal period;
  - (g) any proposed changes in the programme for the employment, education and training of Solomon Islands citizens; and
  - (h) such further information as may be prescribed or as the Director may require.
- (4) Each application shall be accompanied by payment of such application fee as may be prescribed.
- (5) Where the Board considers that an application for renewal of a mining lease may be acceptable, the Director shall so notify the Provincial Secretary of the Province in respect of the area for which application has been made and where necessary, the procedures in sections 32 and 33 shall *mutatis mutandis* apply in respect of the renewal application.
- (6) The Minister shall grant an application for a renewal of a mining lease provided he is satisfied that:
- (a) surface access rights have been acquired for the renewal period;
  - (b) the proposed mining plan will ensure the efficient and beneficial use of the mineral resources in the mining area;
  - (c) the applicant is not in default of the mining lease; and

- (d) the applicant is able and willing to enter into and comply with such terms and conditions for the renewed mining lease as the Board considers reasonable in the circumstances.

## **42        Transfer of a mining lease**

- (1) No mining lease or any interest therein shall be transferred, assigned, mortgaged, dealt with or disposed of in any other way, without the approval of the Board, and any purported transfer, assignment, mortgage or dealing without such approval shall be void and have no effect.
- (2) Each application for the approval of a transfer or other dealing shall be made to the Director by the holder of the mining lease and shall state such details, with such modifications as may be necessary, of the transferee, as would be required in the case of an application for a mining lease under section 31, together with such other information as the Director may require.
- (3) Each dealing in a mining lease shall be in writing and shall state the full and true consideration passing between the parties thereto and a certified copy of such writing shall be presented to the Director with the application referred to in subsection (2).
- (4) The Board shall give its approval to a transfer of a mining lease where:
  - (a) the proposed transferee is a person controlling the mining company; or
  - (b) the mining company is under common control of the transferor and transferee; or
  - (c) the proposed transferee is a financially responsible third party and a refusal would be unreasonable.
- (5) The transferee together with the transferor, or the transferee alone, as the case may be, shall be responsible for the performance of the terms and conditions of the lease.
- (6) Where the Board has given its approval to a dealing in a mining lease the certified copy referred to in subsection (3) shall be so endorsed

36



by the Director.

#### **43 Rights of a mining company**

- (1) Subject to the provisions of this Part, section 4 and to any other law relating to buildings, drainage, land, protection of the natural environment and the control of natural water supplies, including river waters, the mining company may, in the exercise of its rights under its lease, enter upon the mining area to carry out mining, including the right to:
  - (a) make all necessary excavations to mine the mineral deposit or deposits in the mining area and to re-work mine tailings and dumped materials;
  - (b) erect, construct and maintain in the mining area such machinery and buildings, workshops and other production facilities as may be necessary or convenient for the purpose of mining, storing, transporting, dressing, treating, smelting or refining the mineral recovered in the course of mining;
  - (c) stack products or dump any waste products of mining or mineral processing;
  - (d) erect, construct and maintain houses and buildings for the use of the mining company, its contractors, agents and their employees and their immediate families;
  - (e) lay pipes, make water races, ponds, dams and reservoirs and divert and use any water necessary, provided that the needs of users of river water downstream of the mining area, are taken into account;
  - (f) construct and maintain all such passageways, communications facilities and conveniences as may be necessary for carrying out mining operations; and
  - (g) engage in all such other activities as may be reasonably necessary for carrying out mining operations.
- (2) Subject to the provisions of this Act, and to any other law relating to buildings, drainage, land, protection of the natural environment and

37

the control of natural water supplies, including river waters, the mining company shall have the exclusive right to mine on or under the area covered by its mining lease and to remove or dispose of any such mineral as its own property upon extraction of the mineral from the mineral ore body mined under the mining lease.

#### **44 Obligations of a mining company**

(1) A mining company shall:

- (a) pay, either in accordance with the agreement made pursuant to section 32 or the provisions of section 33(6), a surface rental and compensation for damage;
- (b) commence production on or before the date specified in the mining lease unless circumstances beyond its reasonable control which could not have been foreseen or avoided, prevent the commencement of production;
- (c) carry out the mining plan specified in the mining lease, using appropriate technology and effective equipment, machinery, methods and materials, with due diligence, efficiency and economy, in accordance with sound conservation, technical and engineering practices generally used in the mining industry;
- (d) keep the mining area demarcated in the prescribed manner;
- (e) maintain an office in Solomon Islands to which all communications and notices may be addressed, at which shall be kept:
  - (i) complete and accurate records of mining in such form as the Board may approve;
  - (ii) copies of all maps, profiles, diagrams, charts and geological reports, including interpretations;
  - (iii) accurate and systematic financial records of operations in the mining area and such other books of accounts and financial records as the Board may require;
  - (iv) a register of the names and addresses of all persons

employed; and

- (f) submit to the Director such reports, records and other information as may be prescribed or as the Board may require from time to time.
- (2) The reports, records and other information provided for in subsection (1)(e) shall be submitted at such times and be subject to such periods of confidentiality as shall be:
  - (a) prescribed under the terms and conditions of the mining lease; or
  - (b) specified in the agreement reached pursuant to section 30(4).
- (3) A mining company may from time to time notify the Director of any amendments it wishes to make in the mining plan, and such amendments shall, unless rejected by the Board have effect within sixty days after being so notified.

#### **45 Royalties**

- (1) The holder of a mining lease or building materials permit shall pay royalties to the Government for any mineral obtained pursuant to the lease or permit.
- (2) The rate of royalty payable pursuant to subsection (1) shall be:
  - (a) in respect of gold, silver, copper, nickel, bauxite, and iron ore, three percent of the gross value of minerals removed from the site of the mine or transferred to another person if there is a disposal of the minerals to another person prior to removal from the site; and
  - (b) in respect of all other minerals, a rate prescribed by the Minister in consultation with the Minister of Finance.
- (3) In determining the royalty rate there shall be applied the principle of fair market value of the mineral at the place of mining, determined in accordance with such method as may be prescribed by the Minister, or where the relevant mining agreement provides for the valuation of the mineral, in accordance with the relevant mining agreement.

- (4) For the purposes of this section a special fund to be known as the Mining Royalty Special Fund is hereby established in accordance with section 100 of the *Constitution* and all royalties paid in pursuance of this section:
- (a) in respect of minerals other than gold, silver, copper, nickel, bauxite and iron ore shall be credited to the Fund so established and the Minister may from the Fund authorise payment, not exceeding one hundred percent to be paid to the owner of the land from or under which the minerals are obtained; and
  - (b) in respect of gold, silver, copper, nickel, bauxite and iron ore shall be included in the Consolidated Revenue of the Government of Solomon Islands with:
    - (i) ten percent of the royalties deemed to be received by the Government of Solomon Islands in the capacity of a trustee receiving the royalties for the benefit of the Government of the Province in which the mining lease referred to in subsection (1) is located; and
    - (ii) forty percent of the royalties deemed to be received by the Government of Solomon Islands in the capacity of a trustee receiving the royalties for the benefit of the owners of the land to which the mining lease referred to in subsection (1) applies in respect of the area covered by the renewal, together with the plan thereof;
- (5) The Minister may by regulations prescribe:
- (a) the manner and procedure for the making of payments to the Fund and payments out of the Fund to the beneficiaries referred to in subsection (4);
  - (b) the maintenance of a separate account in respect of each holder of a mining lease or building materials permit;
  - (c) the division of any account referred to in paragraph (b) to sub-accounts in respect of the owners and beneficiaries referred to in subsection (4);

- (d) the manner and procedure for the control and management of the Fund and the accounts referred to in paragraphs (b) and (c); and
  - (e) such other terms and conditions as may be necessary for the proper administration of the Fund and the accounts.
- (6) In this section:

**“gross value”** of gold and silver means the London pm price fix in United States dollars as determined by the London Bullion Market Association for refined gold and silver as at the date of the refinery receipt multiplied by the certified quantity of gold and silver as issued by the relevant refinery; and

**“gross value”** of minerals specified in paragraph (a) of subsection (2) other than gold or silver means the market value of the minerals determined by reference to a standard specified by the Minister by way of Order.

#### **46 Payment of royalties**

- (1) Royalties shall be paid within ninety days after the end of each month on minerals obtained in that month.
- (2) Where it is not practicable to determine the amount of royalty payable on the due date, the Minister may assess a provisional royalty and when the amount of royalty is determined, any additional amounts shall be brought to account or overpayments refunded, as the case may require.
- (3) Any late payment of royalty shall bear interest at such rate as the Minister shall prescribe.

#### **47 Power of Minister to defer or remit royalties**

The Minister may, on application by the holder of a mining lease and on the advice of the Board:

- (a) defer payment of any royalty due from such holder, subject to such conditions as he may determine; or

- (b) remit in whole or in part any royalty payable, for such period as he may deem necessary in the interests of the development of the mineral or other resources of Solomon Islands.

#### **48 Payment of export duty**

- (1) The holder of a mining lease shall in addition to royalty payable pursuant to section 45 be liable to pay any export duties of customs in accordance with the *Customs and Excise Act*.
- (2) In determining the export duty of customs payable on any export of minerals from Solomon Islands, the Comptroller of Customs and Excise shall take into consideration the royalties paid in respect of that quantity of mineral.

#### **49 Security of compliance**

The Minister may at any time require the holder of a mining lease to deposit a specified sum in the prescribed manner or enter into a bond or guarantee with the Director for the due performance of his obligations in accordance with the provisions of this Act, and on due completion of the aforesaid obligations the deposit shall be refunded or the bond or guarantee duly cancelled, as the case may be.

#### **49A Grant of special site right**

- (1) Subject to the provisions of this Act and to any terms and conditions not inconsistent therewith that he may think fit, the Director may grant a special site right to the holder of a mineral licence.
- (2) An application for a special site right shall be in the prescribed form and shall be accompanied by the prescribed fees, together with a deposit as may be prescribed.
- (3) Special site rights may be granted for such purposes, for such period and in such manner as may be prescribed, in respect of the following acts or things:
  - (a) the construction and use of passageways other than roads;
  - (b) water rights;

- (c) installation of machinery
- (d) disposal of earth and tailings; and
- (e) installation of furnaces:

Provided that:

- (i) the Director may issue special site rights for such other purposes in respect of water or land as may, in his opinion, be necessary or advisable for the conduct of prospecting or mining operations or for any other purposes connected with mining;
  - (ii) water rights for the generation of electric power shall not be granted under this section unless such electric power is to be used by the holder of the mineral licence for the purpose of prospecting or mining operations under such licence;
  - (iii) nothing in this Act shall affect the right of any person to divert water under a permit issued under the provisions of the *River Waters Act*.
- (4) Land which is the subject of a special site right shall not exceed dimensions as may be prescribed.
  - (5) A special site right may be extended by renewal for such periods as the Director may determine.
  - (6) The Director shall notify the Registrar of Titles of every grant, renewal, surrender, determination or variation of the term or area of a special site right and shall furnish the requisite details for the purpose of noting the grant, renewal, surrender, determination or variation.

#### **49B Road access licence**

- (1) No person shall, in the exercise of any rights conferred on him under this Act, construct any road on or over any land not being the subject of a mineral licence held by him without first obtaining a road access licence empowering him to do so:

Provided that the holder of the mineral licence shall have the right of access for himself, his servants and agents to and from a licence area and for that purpose may pass without hindrance over any unimproved land.

- (2) Subject to the provisions of this Act and to any terms and conditions not inconsistent therewith that he may think fit, the Director may with the concurrence of the Commissioner of Lands, grant a road access licence to the holder of a mineral licence.
- (3) A road access licence shall authorise the holder, his servants and agents, with or without vehicles, to pass over the land the subject of such licence and to construct roads thereon.
- (4) Every application for a road access licence shall be in the prescribed form and shall be accompanied by the prescribed fees together with a deposit as may be prescribed.
- (5) A road access licence may be granted for such period as may be prescribed and may be renewed for such periods as the Director may determine.
- (6) The Director may require the applicant for a road access licence to adjust the plans and markings in respect of any proposed road as he considers reasonable bearing in mind the convenience of all parties that may be affected by the road.
- (7) All rights under any road access licence conferred upon the holder of a mining licence under this Act shall expire when such licence is terminated or abandoned for any reason whatsoever and thereupon the holder shall, if required by the owner or occupier, restore the surface of the land to its former state so far as is practicable, and the provisions of sections 25(3) and 34 shall apply in relation to determination of compensation for damages:

Provided that the holder of any other mineral licence in the same vicinity who wishes to use such road may apply for a road access licence over the whole or any part of the land, the subject of the expiring licence, and if such licence is granted the obligations of the holder of the expiring road access licence under this subsection shall cease in respect of the land, the subject of the licence so granted.



- (8) The holder of a road access licence shall not hinder or prevent any other person from passing over the land the subject of that licence:

Provided that:

- (a) where any person uses such road in such manner as to do appreciable damage thereto or to enhance substantially the cost of upkeep thereof, the holder of the licence may require him to contribute to the cost of making good such damage or to the cost of upkeep; and
  - (b) where any person uses such road in such manner as to interfere materially with the free use and enjoyment thereof by the holder of the mineral licence, the holder of the licence may require him to limit his use of the road so as to remove such interference.
- (9) If any dispute arises in connection with damage, upkeep or interference under subsection (8), any person affected by such dispute may lodge a complaint with the Director who shall decide the matter at issue.
- (10) If any mineral licence is granted in respect of any part of the land, the subject of a road access licence, the holder of such licence may require, the holder of the road access licence to deviate the road, and the cost of such deviation shall be borne by the holder of such other mineral licence:

Provided that prior approval of the Director is required for such deviation, and if he approves the deviation, the Director shall amend the road access licence accordingly.

- (11) The Director shall notify the Registrar of Titles of every grant, renewal, surrender, determination and variation of the term or area of a road access licence and shall furnish the requisite details for the purpose of noting the grant, renewal, surrender, determination or variation.

#### **49C      Payment into Court**

- (1) Where any compensation or surface rent is payable or ordered to

be paid under this Act and the identity of the person or persons entitled to such compensation is not known, or is in doubt or is disputed, the compensation or rent may be paid where it does not exceed one thousand dollars into a Magistrate's Court, and in all other cases into the High Court.

- (2) Upon being so paid the compensation or rent shall be presumed to have been paid to the person or persons thereto entitled, and such presumption shall not be questioned in any proceedings whatsoever.
- (3) Any person claiming to be entitled to payment of the whole or any part of compensation or rent so paid into court may, within twelve years of the payment into court, make application to the court for the payment to him of the compensation or part thereof.
- (4) The court may of its own motion or upon application by a claimant, order the whole or part of any sum paid into court under this section, to be paid to any person or persons.
- (5) Where any compensation or rent paid into court under this section has not been paid out within twelve years, it shall be credited to and form part of the Consolidated Fund.

#### **49D Director may suspend and cancel**

If, in any case where the holder of a mineral licence is required to pay rent or other compensation under this Act, payment is in arrears or the amount deposited is insufficient, the Director may suspend such mineral licence until the amount payable has been paid and until such holder has deposited with him such further sums as may be demanded as security for further payments, and, if such payment and deposit is not made within such time as the Director may consider reasonable, the mineral licence may be cancelled in accordance with the provisions of section 71.

#### **49E Restoration of the land**

- (1) Where the surface of the land, the subject of a mineral licence has been disturbed by prospecting or mining operations during the term of the licence, the Director may order the holder thereof to restore the

surface of the land. Such requirements of restoration shall be embodied in an appendix to such mineral licence before issue or thereafter by due service of such order.

- (2) Where any mineral licence is terminated or abandoned for any reason whatsoever, the person whose mineral licence has been terminated or abandoned shall, not later than thirty days from the date of termination of the mineral licence, fill up all shafts, pits, holes and other excavations or when the Director so permits, in an appropriate case, otherwise secure them in a permanent manner to the satisfaction of the Director so as to prevent persons or livestock inadvertently entering therein, and shall within such period furnish a certificate to the Director that he has complied with the provisions of this section as to the fencing or filling up of shafts, pits, holes and other excavations and the removal of posts:

Provided that no such person shall be liable for filling up or securing any excavations made by other persons on the land, the subject of his mineral licence, prior to the grant thereof, if, on application for the mineral licence, he has shown on the plans submitted with his application, the position of these excavations in relation to the boundaries of the land, or if he submits within a period of one month from the date of grant of the mineral licence, a plan showing the position of such excavations.

- (3) If any person whose mineral licence has been terminated or abandoned neglects to fill up or secure any excavations or to notify the Director in accordance with subsection (2) within the prescribed time, the Director shall have the right to cause such excavations to be filled up, may charge such person such sum as the Director considers reasonable, and such charge shall be a lawful deduction from any amount deposited by such person with the Director under this Act and may be recovered as a civil debt at the suit of the Director:

Provided that such filling up or securing by the Director and the payment of such charge shall not exempt such person from his liability under this Act or any other law for his failure to fill up or secure such excavations.

- (4) Where a mineral licence is renewed in respect of a reduced area

only, subsections (2) and (3) shall apply to the land not included in such renewal.

- (5) This section shall be in addition to and not in derogation of any other provision of this Act.

## **PART VI ALLUVIAL MINING**

### **50 Alluvial miner's permit**

- (1) An alluvial miner's permit may be issued by the Director to any Solomon Islands citizen who:
- (a) is over twenty-one years of age; and
  - (b) has not been convicted of an offence involving dishonesty or fraud.
- (2) Where the permit is on behalf of a group, the leader representing the group shall satisfy the Director that he is not disqualified under subsection (1) and that he has obtained the consent of the group to hold the permit on behalf of the group.
- (3) No alluvial miner's permit shall be issued in respect of any area other than to the landowners in the area, unless such landowners agree in writing to its issuance to the person who is not a landowner in the area.
- (4) An alluvial miner's permit shall be granted for a period of one year and may be renewed for additional periods of one year.
- (5) An alluvial miner's permit shall be non-exclusive.
- (6) An alluvial miner's permit shall not be transferable.
- (7) An alluvial miner's permit may at any time be cancelled by the Director on the holder being convicted of any offence which in the opinion of the Director renders the holder unfit to hold the permit.

### **51 Application for alluvial miner's permit**

- (1) Each application for an alluvial miner's permit shall be made to the

Director in the prescribed form and shall state or include, as the case may be:

- (a) where the application is made by an individual, the applicant's full name, address, age, place of birth and be accompanied by proof that the applicant is a citizen of Solomon Islands;
  - (b) where the application is made by a group of persons:
    - (i) the name, address, age and place of birth of the individual designated by the group to be the applicant on behalf of the group;
    - (ii) the number of persons in the group;
    - (iii) the names and addresses of all persons in the group; and
    - (iv) proof that the members of the group are citizens of Solomon Islands;
  - (c) the alluvial mineral to be mined;
  - (d) the mining method to be used;
  - (e) the area in which alluvial mining is to be carried out;
  - (f) two recent, passport-size photographs of the applicant; and
  - (g) such additional information as the Director may require.
- (2) The prescribed form shall contain the written consent of the landowners in the area in respect of which application is made.
  - (3) Each application shall be accompanied by payment of such application fee as may be prescribed.

## **52 Form and content of alluvial miner's permit**

- (1) An alluvial miner's permit shall be in such form as may be prescribed and shall specify:
  - (a) the number and date of issue;

- (b) the name and address of the permit holder;
  - (c) the names and addresses of the members of the group in the case of a group permit;
  - (d) the alluvial mineral to be mined; and
  - (e) the area covered by the permit.
- (2) A recent photograph of the holder shall be attached to the permit.

### **53 Rights of alluvial miners**

- (1) Subject to the consent of the landowners, the provisions of this Part and section 4, an alluvial miner shall have the right to enter any land and undertake alluvial mining in soft, unconsolidated material lying on or beneath the surface of the ground and formed by natural geological processes.
- (2) For the purposes of subsection (1), an alluvial miner shall:
- (a) employ panning or washing techniques using hand-operated equipment or mechanical suction dredges with a capacity of less than four cubic metres per hour using water in rivers or streams;
  - (b) not use bulldozers, scrapers, excavators or any other mechanised earth-moving equipment;
  - (c) not use engine-driven rock crushers nor employ any mineral extraction techniques requiring cyanide, mercury or any other poisonous substance;
  - (d) not dig underground shafts, drives, adits or pits unless all such excavations are vertical, not deeper than two meters from the surface and not greater than ten square metres in area at the surface, unless the Director otherwise directs; and
  - (e) not use explosives.
- (3) In areas subject to a prospecting licence or mining lease, there shall be no alluvial mining without the consent in writing of the holder of

the prospecting licence or mining lease, as the case may be.

#### **54            Obligations of alluvial miners**

- (1) An alluvial miner shall:
  - (a) not dispose of any gold obtained other than to a gold dealer licensed under Part VII, who may export gold on behalf of the alluvial miner;
  - (b) backfill all excavations and not leave any part of the area covered by the permit in an unsafe condition;
  - (c) not pollute or interrupt or adversely affect the flow of any water; and
  - (d) comply with such rules and procedures as may be prescribed by the Director.
- (2) Gold obtained by members of a group shall be disposed of only by the permit holder on behalf of the group and only to a licensed gold dealer.
- (3) Each person holding an alluvial miner's permit on behalf of a group shall issue, to each member of the group, a membership card in the prescribed form.
- (4) The holder of an alluvial miner's permit or member of an alluvial miner's group shall produce his permit, or membership card, as the case may be, upon request by the Director, any police officer, any inspector or other officer authorised under this Act.

### **PART VII            GOLD DEALING**

#### **55            Gold dealer's licence**

- (1) The Minister may issue a gold dealer's licence to:
  - (a) any licensed bank in Solomon Islands; or
  - (b) any person who:

- (i) is over twenty one years of age;
  - (ii) is a citizen of Solomon Islands;
  - (iii) is a fit and proper person to hold such a licence and who, in the opinion of the Board appears to understand the provisions of this Act, to such an extent so as to enable him to carry out the obligations imposed under this Act; and
  - (iv) has not been convicted for an offence under this Act or an offence involving dishonesty or fraud.
- (2) A gold dealer's licence shall be valid for one year from the date of issue and may be renewed on payment of the prescribed fee.
- (3) A gold dealer's licence shall not be transferable.
- (4) Notwithstanding the provisions of subsections (1) and (2), the Minister may grant a gold dealer's licence to a government agency on such terms and conditions as it deems fit.
- (5) A gold dealer's licence may at any time be cancelled by the Minister on the licensee being convicted of any offence which in the opinion of the Minister renders the licensee unfit to hold the licence.

## **56 Application for gold dealer's licence**

- (1) An application for a gold dealer's licence shall be made to the Director in the prescribed form and shall state:
  - (a) the applicant's full name, age, nationality and business address;
  - (b) in the case of an application by a corporate body the registered name and address of such body; and
  - (c) such additional information as the Director may require.
- (2) Each application shall be accompanied by payment of such application fee as may be prescribed.



**57 Form and content of gold dealer's licence**

A gold dealer's licence shall be in such form as may be prescribed and shall specify:

- (a) the number and date of issue;
- (b) the name of the gold dealer and the address of his place of business registered under section 61(1);
- (c) the period for which it is granted; and
- (d) the terms and conditions upon which it is granted.

**58 Rights of licenced gold dealer**

The holder of a gold dealer's licence, together with his servants and agents, shall have the right to:

- (a) purchase gold from either the holder of an alluvial miner's permit, or from another licensed gold dealer; or
- (b) sell gold to any person within Solomon Islands; or
- (c) export gold,

provided that both purchases and sales are effected at the registered place of business of the gold dealer.

**59 Obligations of licenced gold dealer**

- (1) The holder of a gold dealer's licence shall maintain a balance capable of weighing up to 500 grams to the nearest 0.1 of a gram and furnish proof of such accuracy to the Director.
- (2) A holder of a gold dealer's licence shall issue numbered receipts for all gold purchased in such form as may be prescribed.
- (3) The holder of a gold dealer's licence shall at all times keep at his registered place of business in Solomon Islands his gold dealer's licence and shall produce such licence upon request by the Director or any authorised inspector.

- (4) Each purchase of gold by a dealer shall be recorded by the holder of a gold dealer's licence in a register in such form as shall be prescribed, in which shall be recorded:
  - (a) the receipt number and date of purchase;
  - (b) the name and address of the seller and his alluvial miner's permit number or his gold dealer's licence number, as the case may be;
  - (c) the weight of the gold purchased; and
  - (d) the purchase price paid to the seller.
- (5) Each sale of gold by a dealer shall be recorded by the holder of a gold dealer's licence in a register in such form as shall be prescribed, in which shall be recorded:
  - (a) the date of the sale;
  - (b) the name and address of the purchaser;
  - (c) the weight of gold sold; and
  - (d) the price paid to the dealer.
- (6) Each sale or purchase of gold recorded in a gold dealer's register shall be signed by the servant or agent of the dealer who makes the sale or purchase and by either the seller or the purchaser, as the case may be.
- (7) A gold dealer who uses any purchased gold in the manufacture of any articles for trade or other purposes, shall keep records in such form as may be prescribed, of any such use.
- (8) Any person who makes a false entry or otherwise contravenes this section shall be guilty of an offence and be liable on conviction before a magistrate to a fine not exceeding ten thousand penalty units or to a term of imprisonment not exceeding one year or to both such fine and imprisonment.

## 60      **Export of gold**

- (1) Subject to the provisions of subsection (2), gold may be exported by:
- (a) the holder of a gold dealer's licence; or
  - (b) any person who has purchased gold from a licensed dealer and can furnish proof of such purchase,

in compliance with the prescribed procedures and upon payment of the prescribed export duty in accordance with the *Customs and Excise Act*.

- (2) Each consignment of gold exported by the holder of a gold dealer's licence shall be recorded by the dealer in a register, in such form as shall be prescribed, in which shall be recorded:
- (a) a unique reference number for the consignment;
  - (b) a description of the gold exported;
  - (c) the weight of gold exported;
  - (d) the date of export;
  - (e) the name or flight number of the exporting vessel or aircraft;
  - (f) the cost of freight, insurance and other charges relating to the export; and
  - (g) the name and address of the consignee, and following refining and sale outside Solomon Islands:
    - (i) the refinery certificate number;
    - (ii) the cost of refining;
    - (iii) the weight in grams of gold and any other metals recovered after refining; and
    - (iv) the amount of foreign currency realised by the sale of the consignment.

- (3) Where gold is exported by a bank licenced as a gold dealer under section 55(1)(a), on behalf of another licenced gold dealer or the holder of an alluvial miner's permit, the bank shall record in a register, in such form as shall be prescribed:
  - (a) the name of the gold dealer or alluvial miner on whose behalf the export is made; and
  - (b) the information which is required by subsection (2).
- (4) Any person who wishes to export gold pursuant to subsection (1)(b) shall first make application, in such form as shall be prescribed, to the Director for permission to export such gold.
- (5) Where the Director considers that export of gold referred to in subsection (4), is acceptable he shall issue a certificate in such form as may be prescribed, authorising the export.
- (6) Upon export of gold pursuant to subsection (5), written details of the gold exported shall be transmitted, in such form and in such manner as may be prescribed, to the Director.

## **61 Records and information on gold dealing**

- (1) The Director shall keep a register of gold dealers in which shall be recorded:
  - (a) the number of each licence;
  - (b) the name, and address of the place of business of, each dealer; and
  - (c) such other particulars as the Board may require.
- (2) A gold dealer shall, not later than the eleventh day of each calendar month, submit to the Director copies of all entries made in the registers or records pursuant to sections 59(4), 59(5), 59(7), 60(2) or 60(3), as the case may be, relating to all purchases, sales, export and use of gold in the previous calendar month together with copies of all refinery certificates received by the dealer during that month.
- (3) The Director shall keep confidential the specific information

submitted by dealers pursuant to subsection (2) but may release to the public general statistical information relating to alluvial gold production and export.

## **62 Exceptions**

The provisions of this Part, relating to the sale and export of gold, shall not apply:

- (a) to the sale and export of gold by the holder of a mining lease, if such sale and export is in accordance with the terms of the mining lease; or
- (b) to the export, for assay purposes, by the holder of a reconnaissance permit or prospecting licence if such export is in accordance with the terms of such permit or licence, as the case may be; or
- (c) to the export, for purposes of scientific research, by any person authorised by the Director pursuant to section 7(e).

## **63 Penalty for unlawful gold dealing**

Any person who purchases, sells, exports or otherwise deals in gold contrary to the provisions of this Part shall be guilty of an offence and liable, on conviction to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

# **PART VIII BUILDING MATERIALS**

## **64 Building materials permit**

Subject to the provisions of this Part and section 4, the Minister may issue building materials permits for the mining of building materials in any area of Solomon Islands to any person who makes application pursuant to section 65, where the Minister is satisfied that the proposed mining will not cause erosion of coastal or river sediments, or otherwise adversely affect, either directly or indirectly, the environment.

**65            Application for a building materials permit**

- (1) Each applicant for a building materials permit shall specify in a written application to the Director:
  - (a) his full name, address or, in the case of an application by a partnership or other association of persons, the full names, addresses and nationalities of all partners or of all such persons, or, in the case of an application by a corporate body, the registered name and address of such body and the full names and nationalities of the directors and the full name and nationality of any shareholder who is the beneficial owner of more than five per cent of the issued capital;
  - (b) a plan of the area, which shall not exceed half a square kilometre, for which the permit is sought;
  - (c) the proposed plan for mining the building materials; and
  - (d) such other information as the Director may require.
- (2) Each application shall be accompanied by the written consent to the issuance of the permit of the landowners in the area for which application is made, which consent may include such terms and conditions relating to surface access fees and compensation for damage as may have been agreed between the applicant and the landowners.
- (3) Each application shall be accompanied by payment of such application fee as shall be prescribed.

**66            Form and content of building materials permit**

- (1) A building materials permit shall be in such form as may be prescribed and shall specify:
  - (a) the full name and address of the permit holder;
  - (b) the area covered by the permit, together with a plan thereof;
  - (c) the duration of the permit and the specified quantity of building materials authorized to be mined; and

- (d) any other matter that the Director deems necessary.
- (2) A building materials permit shall not be transferable.

**67 Right of building materials permit holder**

The holder of a building materials permit shall, subject to the provisions of this Part and section 4, have the right to enter any land for the purpose of mining building materials in accordance with prescribed opencast mining procedures.

**68 Obligations of building materials permit holder**

- (1) The holder of a building materials permit shall:
  - (a) pay such surface access fees and compensation for damage as may have been agreed pursuant to section 65(2);
  - (b) mine building materials within the area covered by the permit in accordance with good mining industry practice;
  - (c) pay royalties at the prescribed rate per cubic metre for all building materials extracted;
  - (d) submit a report to the Director on the expiration of the permit, or where the permit is for a period exceeding one year, submit annual reports stating the quantity of building materials mined and its disposition, including the names of any purchasers and sales prices;
  - (e) on termination of the permit, clear the area and make it safe to the satisfaction of the Director; and
  - (f) comply with such rules and procedures as may be prescribed.
- (2) Any holder of a building materials permit who fails to comply with any provisions of subsection (1), shall be liable, on conviction before a magistrate, to a fine not exceeding one thousand penalty units and, in default of payment, to imprisonment for a term not exceeding six months.
- (3) Where an offence under subsection (1)(a) or (b) is a continuing

offence the offender shall be liable to a further penalty not exceeding fifty penalty units for every day for which the offence continues and, in default of payment, to imprisonment for a term not exceeding six months.

## **69 Exceptions**

- (1) The requirements of sections 65, 66, 67 and 68 (with the exception of section 68(1)(d)) shall not apply to any government department, provincial or local authority which mines for building materials on land owned by the government or such authority, provided that such mining is brought in writing to the notice of the Director.
- (2) Building materials for building or road construction for the personal use of the landowner or occupier, or for sale not exceeding a prescribed amount, may be mined without a building materials permit.
- (3) The holder of a mining lease may, in the mining area, mine for building materials for his own personal use, without a building materials permit, provided that such mining of building materials is brought in writing to the notice of the Director.
- (4) Nothing in subsections (1) or (3) shall be construed as permitting any department, authority or mining company referred to in those respective subsections to disregard proper mining practices or to endanger the safety of life or property.

## **PART IX MISCELLANEOUS**

### **70 Accredited agents**

Every person who applies for a reconnaissance permit, prospecting licence or mining lease shall, at the time of such application, register with the Director the name of an accredited agent in Solomon Islands who shall be responsible for all matters relating to the terms of such permit, licence or lease, as the case may be.

### **71 Suspension and cancellation by the Minister**

- (1) The Minister on the advice of the Board may suspend or cancel a



permit, licence or mining lease in the event that the holder:

- (a) contravenes any provisions of this Act or any regulations made thereunder;
  - (b) commits a material breach of, or fails to comply with or observe, any provision of his permit, licence or mining lease unless such breach is due to an event beyond his reasonable control which could not have been reasonably foreseen or avoided; or
  - (c) dissolves, liquidates, becomes insolvent, commits an act of bankruptcy, makes an assignment for the benefit of creditors, petitions or applies to any tribunal for the appointment of a trustee or receiver for himself, or commences any proceedings relating to himself under any law pertaining to bankruptcy, arrangement, insolvency or readjustment of debt.
- (2) The Minister, before exercising his powers under subsection (1), shall call upon such holder to show cause within reasonable time as he may specify, why the holder's rights should not be suspended or cancelled, as the case may be, and if such holder fails to show cause within the time so specified or if the cause shown is, in the opinion of the Minister, inadequate, the Minister may take such action as specified in subsection (1), or in the case of any breach mentioned in paragraph (b) of subsection (1) may allow such holder to remedy such breach within such time as the Minister may specify.
- (3) During any period of suspension, the holder shall continue to be obliged to pay any fees or other amounts required to be paid pursuant to this Act or the terms and conditions of the permit, licence or lease, as the case may be.
- (4) The cancellation of a permit, licence or mining lease by the Minister shall not affect the liabilities of the holder incurred prior to the date of cancellation, or the obligations to remove any improvements and to make safe and restore the area subject to the permit, licence or mining lease, as the case may be.
- (5) The holder of a permit, licence or mining lease suspended or cancelled by the Minister may appeal against such decision to the High Court.

## **71A Force majeure**

- (1) Subject to a mining agreement entered into with the holder of a mineral licence where the holder of such licence is prevented from carrying out his operations under the mineral licence due to *force majeure*, the period during which the *force majeure* event subsisted shall be added on to the term of the mineral licence.

- (2) In this section:

**“mineral licence”** includes a prospecting licence deemed to be granted under section 81(2).

**“force majeure”** means any cause beyond the reasonable control of the holder of the mineral licence prescribed in the mining agreement as constituting *force majeure*; and

**“mining agreement”** means the agreement entered into by the Minister with the holder of a mineral licence pursuant to section 30(6).

## **72 Surrender of rights by holder**

- (1) Subject to the provisions of this section and notwithstanding anything to the contrary contained in a mining lease, permit or licence, the holder may surrender the area concerned in whole or in part after giving the Minister not less than:
  - (a) ten days notice in the case of a permit;
  - (b) thirty days notice in the case of a licence; or
  - (c) two years notice, or such lesser period as the Minister may determine in consultation with the holder of the lease, in the case of a mining lease.
- (2) Where the notice relates to a part of the area concerned, the holder shall provide a plan thereof in a form acceptable to the Minister and upon approval, demarcate the remaining area in the prescribed manner.
- (3) Any surrender or withdrawal shall not affect the liabilities of the holder incurred prior to the date of surrender, or the obligations to remove

any improvements and to make safe and restore the area subject to the permit, licence or mining lease, as the case may be.

- (4) Upon the effective date of the surrender, the Minister shall:
- (a) where the surrender relates to a part of the area concerned, amend the permit, licence or mining lease accordingly;
  - (b) if the surrender or withdrawal relates to the whole of the area concerned, cancel the permit, licence or mining lease, as the case may be.

### **73 Assets on expiration or cancellation**

- (1) Subject to the provisions of this section and notwithstanding anything to the contrary in a mining lease, permit or licence the holder or former holder may, within sixty days after the date of its expiration or cancellation, remove from the area subject to the lease, permit or licence, as the case may be, any buildings, fixed machinery or other property.
- (2) Where the Director certifies that any buildings, fixed machinery or other property in a mining area are necessary for care and maintenance, such buildings, fixed machinery or other property shall not be removed without the consent of the Minister.

### **74 Delivery of documents on expiration or cancellation**

- (1) Upon the expiration or cancellation of a reconnaissance permit, a prospecting licence or mining lease, the holder shall deliver to the Minister all records which the holder is required to maintain and may retain copies of any such records.
- (2) Any person who fails to deliver any documents referred to in subsection (1) within fourteen days after notification in writing to do so, shall be guilty of an offence and be liable, on conviction before a magistrate, to a fine not exceeding five hundred penalty units and, in default of payment, to imprisonment for a term not exceeding three months.

## **75 Records and information**

Any member of the public may, on giving due notice to the Director, inspect and take, on payment of the prescribed fee, copies of:

- (a) any entries in registers specifying the date of application for, date of commencement of, date of expiry of, size and location of the area covered by, and minerals covered by, any permit licence or lease, as the case may be;
- (b) maps showing the geographical boundaries and coordinates of the area the subject of any permit, licence or lease, as the case may be; or
- (c) reports and documents, pertaining to any permit, licence or lease that are not confidential under the terms of this Act.

## **76 Secrecy to be preserved**

- (1) The Director or any public officer exercising the powers conferred under this Act shall keep secret and aid in preserving secrecy with regard to all matters which may come to his knowledge in his official capacity and shall not communicate any such matter to any other person except in the performance of his duties under the terms of this Act.
- (2) Every person who contravenes this section shall be guilty of an offence and liable, on conviction before a magistrate, to a fine not exceeding five hundred penalty units or to imprisonment for a term not exceeding six months.

## **77 Public officers and other persons prohibited from acquiring rights**

No public officer, or other person performing any function under this Act shall, directly or indirectly, acquire or hold any right or interest under any permit, licence, lease or other document or dealing and any such document or dealing purporting to confer such right shall be null and void.

## **78 Penalties**

Any person guilty of an offence under this Act for which no penalty is provided elsewhere in the Act, shall be liable, on conviction before a magistrate, to a fine not exceeding five hundred penalty units, and in default of payment, to imprisonment for a term not exceeding three months.

## **79 Offences**

Any person who:

- (a) unlawfully interferes with or obstructs the Director, any inspector or any other authorised officer in the exercise of any rights under this Act; or
- (b) unlawfully interferes with or obstructs any holder of a permit, licence or lease or their servants or agents in the exercise of any rights acquired under this Act,

shall be guilty of an offence and shall be liable, on conviction before a magistrate, to a fine not exceeding one thousand penalty units or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

## **80 Regulations**

The Minister may make regulations generally for the proper carrying out of the provisions and purposes of this Act, and in particular but without prejudice to the generality of the foregoing may make regulations:

- (a) prescribing procedures for the acquisition of surface access rights;
- (b) prescribing methods for determining the fair market value of minerals;
- (c) prescribing the rates of royalty payments, the method of calculation and the manner of payment thereof;
- (d) for weighing, sampling and testing minerals;

- (e) prescribing the scale of maps and the manner of determining and marking boundaries;
- (f) prescribing the shape of areas to be surrendered or relinquished;
- (g) providing for the keeping of books and records, the information to be supplied, and the reports to be tendered;
- (h) for fees and compensation schedules, interest charges, and the amounts of deposits, bonds and guarantees;
- (i) for the conservation of mineral resources;
- (j) for the disposal of waste products and the protection of the environment;
- (k) providing for the nature and adequacy of restoration plans;
- (l) providing for the health and safety of persons employed in operations in relation to mining and generally for safety measures of all kinds;
- (m) for inspection, supervision and control of machinery;
- (n) for prevention of nuisance;
- (o) providing for the determination of compensation;
- (p) for the appointment of officials and authorised persons;
- (q) prescribing the use of explosives, machinery and equipment;
- (r) prescribing the methods of mining of alluvial minerals and building materials;
- (s) prescribing forms to be used;
- (t) prescribing the form and manner in which fees may be refunded;
- (u) providing for inspection of areas where operations pursuant to

this Act are carried out;

- (v) prescribing the procedures for tender; and
- (w) prescribing any other matter or anything which may be, or is required by this Act to be, prescribed.

## **81 Repeal and savings**

- (1) The *Mining Act* (hereinafter in this section referred to as the repealed Act) is hereby repealed.
- (2) Notwithstanding the provisions of subsection (1), every permit, licence, lease or right acquired, or obligation or restriction imposed, under the provisions of the repealed Act and in force at the commencement of this Act shall, subject to the provisions of this Act, continue in force and have effect according to the terms and conditions thereof, and shall be deemed to have been given, granted, imposed or issued under the corresponding provisions of this Act.

## SCHEDULE

(Section 10)

### 1 Constitution of the Board

The Board shall consist of nine members who shall be appointed by the Minister by instrument in writing, in the following manner, that is to say:

- (a) representatives from:
  - (i) Finance;
  - (ii) Trade, Industry and Commerce;
  - (iii) Immigration and Labour;
  - (iv) Economic Planning; and
  - (v) Natural Resources; and
- (b)
  - (i) the Chief Geologist;
  - (ii) a representative from the Environment Division;
  - (iii) a representative from the Foreign Investment Division; and
  - (iv) a representative from the Central Bank:

Provided that, in addition, the Minister shall appoint to sit as members of the Board when it considers an application for the issue of a permit, licence or lease:

- (a) a representative from the Provincial Government of the area in which the land is situated; and
- (b) a representative from the landowners.

### 2 Duration of office of member

- (1) A member of the Board, unless his appointment is sooner terminated by the Minister or he otherwise ceases to be a member, shall hold office for such period as the Minister may specify in the member's instrument of



appointment or, if no period is specified, for a period of two years from the date of his appointment and is eligible for re-appointment.

- (2) A member of the Board may at any time resign his office as a member by giving notice in writing to the Minister and the resignation shall take effect on the date specified in the notice or, if no date is specified, on the date of receipt by the Minister of the notice.
- (3) If a member of the Board is, without the permission of the Board, absent from three consecutive meetings of the Board, he shall cease to be a member of the Board.

### **3 Chairman**

- (1) The Chief Geologist shall be appointed as Chairman of the Board by the Minister.
- (2) The Chief Geologist shall vacate office as Chairman if he:
  - (a) resigns that office by notice in writing addressed to the Minister;
  - (b) ceases to be a member of the Board in terms of paragraph 2(3); or
  - (c) resigns or is removed from the office of Chief Geologist.

### **4 Acting members and acting Chairman**

- (1) The Minister may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, shall perform all the functions of the member and shall be deemed to be a member of the Board.
- (2) The Minister may, from time to time, appoint a member to act in the office of Chairman of the Board during the illness or absence of the Chairman and the member, while so acting, shall have all the functions of the Chairman and shall be deemed to be the Chairman of the Board.

### **5 General procedure of Board**

The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act and the regulations, be as determined by the Board.

### **6 Quorum**

The quorum for a meeting of the Board shall be five members of whom one

shall be the Chairman or acting Chairman of the Board.

## **7 Presiding**

- (1) The Chairman or, in his absence, the acting Chairman shall preside at a meeting of the Board.
- (2) The person presiding at any meeting of the Board shall have a deliberative vote and, in the event of an equality of votes, shall have a second or casting vote.

## **8 Voting**

A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present shall be the decision of the Board.

## **9 Minutes**

The Board shall cause full and accurate minutes to be kept of the proceedings of each meeting of the Board.

## **10 Remuneration**

The members of the Board shall be entitled to be paid such remuneration (including travelling and subsistence allowance) where appropriate as the Ministry may, from time to time, determine.

## **11 Disclosure of pecuniary interests**

- (1) A member who has a direct or indirect pecuniary interest:
  - (a) in a matter being considered or about to be considered at a meeting of the Board; or
  - (b) in a thing being done or about to be done by the Board, shall, as soon as the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.
- (2) A disclosure by a member at a meeting of the Board that the member:
  - (a) is a member, director or shareholder of a specified company or other body;
  - (b) has some other specified interest relating to a specified company or other body or to a specified person; or
  - (c) has an interest in the land in question,

shall be sufficient disclosure of the nature of the interest in any matter or thing relating to that company, other body, person or land which may arise after the date of the disclosure.

- (3) The Board shall cause particulars of any disclosure made under this paragraph to be recorded in a book kept for the purpose and such book shall be open at all reasonable hours for inspection by any person on payment of such fee as the Board may, from time to time, determine.
- (4) After a member has disclosed the nature of an interest in any matter or thing, the member shall not, unless the Minister otherwise determines:
  - (a) be present during any deliberation of the Board, or take part in any decision of the Board, with respect to that matter; or
  - (b) exercise any function under this Act with respect to that thing.

## ENDNOTES

### 1

#### KEY

amd = amended	Pt = Part
Ch = Chapter	rem = remainder
Div = Division	renum = renumbered
exp = expires/expired	rep = repealed
GN = Gazette Notice	Sch = Schedule
hdg = heading	Sdiv = Subdivision
ins = inserted	SIG = Solomon Islands Gazette
lt = long title	st = short title
LN = Legal Notice	sub = substituted
nc = not commenced	

#### NOTE

This Reprint comprises the Act and amendments as in force on 1 March 1996 and published as Chapter 42 of the Revised Edition of the Laws of Solomon Islands, together with amendments made to the Act since that date.

### 2

#### LIST OF LEGISLATION

##### ***Mines and Minerals Act (Cap. 42)***

*Constituent legislation:* 3 of 1990 (Commenced 1 March 1996)

##### ***Mines and Minerals (Amendment) Act 1996 (No. 6 of 1996)***

Assent date	30 January 1997
Gazetted	7 February 1997
Commenced	7 March 1997

##### ***Mines and Minerals (Amendment) Act 2008 (No. 2 of 2008)***

Assent date	15 April 2008
Gazetted	15 April 2008
Commenced	23 July 2009*

*[\*Note: The commencement date of 23 July 2009 has been validated by s52 of the Legislation Amendment, Repeal and Validation Act 2023]*

##### ***Penalties Miscellaneous Amendments Act 2009 (No. 14 of 2009)***

Assent date	29 July 2009
Gazetted	1 October 2009
Commenced	1 October 2009

##### ***Mines and Minerals (Amendment) Act 2014 (No. 6 of 2014)***

Assent date	14 May 2014
-------------	-------------

Gazetted	20 May 2014
Commenced	1 July 2014

***Legislation Amendment, Repeal and Validation Act 2023 (No. 17 of 2023)***

Assent date	29 December 2023
Gazetted	29 December 2023
Commenced	5 February 2024

### **3 LIST OF AMENDMENTS**

s 2	amd by Act No. 14 of 2009
s 3	amd by Acts No. 6 of 1996; No. 2 of 2008
s 7	amd by Act No. 2 of 2008
s 17	amd by Act No. 14 of 2009
s 20	amd by Act No. 2 of 2008
s 21	amd by Act No 17 of 2023
s 22 hdg	amd by Act No 17 of 2023
s 27	amd by Act No. 14 of 2009
s 29	amd by Act No. 14 of 2009
s 30	amd by Act No. 6 of 1996
s 36 hdg	amd by Act No 17 of 2023
s 36	amd by Act No 17 of 2023
s 36A	ins by Act No. 6 of 2014
s 38	amd by Act No 17 of 2023
s 43	amd by Act No. 6 of 1996
s 45	amd by Acts No. 6 of 1996; No. 6 of 2014; No. 17 of 2023
s 49A	ins by Act No. 6 of 1996
s 49B	ins by Act No. 6 of 1996
s 49C	ins by Act No. 6 of 1996
s 49D	ins by Act No. 6 of 1996
s 49E	ins by Act No. 6 of 1996; amd by Act No. 17 of 2023
s 53	amd by Act No 17 of 2023
s 59	amd by Act No. 14 of 2009
s 63	amd by Act No. 14 of 2009
s 68	amd by Act No. 14 of 2009
s 71A	ins by Act No. 6 of 1996
s 74	amd by Act No. 14 of 2009
s 76	amd by Act No. 14 of 2009
s 78	amd by Act No. 14 of 2009
s 79	amd by Act No. 14 of 2009
s 80	amd by Act No. 2 of 2008