

# **THE MINING ACT, 2020**

## **ARRANGEMENT OF SECTIONS**

### **PART I PRELIMINARY**

1. Short title and commencement
2. Interpretation

### **PART II ADMINISTRATION**

3. Overall responsibility for administration of the Act
4. Director of Mines
5. Execution and delegation of functions of the Director of Mines

### **PART III OWNERSHIP OF MINERALS AND GRANT OF MINERAL RIGHTS**

6. Ownership of minerals
7. Grant of mineral rights
8. Agreements related to granting mining licences
9. Types of mineral rights
10. Application for mineral rights
11. Information and investigations concerning applications
12. Restriction on granting of mineral rights
13. Priority of applications
14. Issuance of a mineral right
15. Duration of a mineral right
16. Application for renewal of a mineral right
17. Renewal of a mineral right
18. Application for transfer of a mineral right

### **PART IV REGISTRATION AND RECORDS**

19. Mining Cadastre Office
20. Contents of register of mineral rights
21. Cadastral survey map

### **PART V RIGHTS AND OBLIGATIONS OF THE HOLDER OF A MINERAL RIGHT**

22. Rights of the holder of a reconnaissance licence
23. Obligations of the holder of a reconnaissance licence
24. Rights of the holder of a mining permit
25. Obligations of the holder of a mining permit
26. Rights of the holder of a prospecting licence
27. Obligations of the holder of a prospecting licence
28. Rights of the holder of a mining licence
29. Obligations of the holder of a mining licence
30. Special responsibilities relating to the mining of radioactive minerals

31. Dredging permits
32. Surrender of a mineral right area

**PART VI  
SUSPENSION AND CANCELLATION OF A MINERAL RIGHT**

33. Reasons for suspending or cancelling a mineral right
34. Notice of suspension or cancellation of a mineral right
35. Liabilities and obligations on cancellation of a mineral right

**PART VII  
SURFACE RIGHTS**

36. Rights of land owner on a mineral right area
37. Compensation to land owners
38. Compulsory acquisition of private land
39. Restrictions on exercise of rights under a mineral right.

**PART VIII  
PROTECTION OF THE ENVIRONMENT, HEALTH AND SAFETY**

40. Compliance with laws related to environment
41. Rehabilitation of damaged areas
42. Financial guarantees for environment protection
43. Health and safety of workers and other persons

**PART IX  
FINANCIAL PROVISIONS**

44. Statutory fees and levies
45. Royalty
46. Deferment of royalty
47. Annual surface rental
48. Recovery of royalty, fees and levies
49. Sales of mineral ores to affiliated purchasers

**PART X  
LOCAL CONTENT AND VALUE ADDITION**

50. Employment and training of employees
51. Procurement of local goods and services
52. Value addition and transformation

**PART XI  
MISCELLANEOUS**

53. Security for compliance
54. Offences and Penalties
55. Indemnity of officials
56. Regulations

**PART XII  
REPEAL AND TRANSITIONAL PROVISIONS**

57. [List of repealed/amended Acts]. TBD
58. Transitional Provision
59. Precedence of this Act

## THE MINING ACT, 2020

An Act to govern mineral prospecting, mining and related matters.

[Assent ..... 2020]  
[Commencement ..... 2020]

### PART I PRELIMINARY

#### 1. Short title and commencement

- (1) This Act may be cited as The Mining Act, 2020.
- (2) This Act shall come into operation on the .... day of ..... 2020.

#### 2. Interpretation

In this Act, unless the context otherwise requires -

"authorised officer" means a person designated as such under section 5;

"body corporate" means a company or corporation;

"continental shelf" means that part of the seabed and subsoil of the submarine area adjacent to the coast of The Bahamas but outside territorial waters over which the Commonwealth of The Bahamas is entitled by law to exercise sovereign rights for the purpose of exploring and exploiting natural resources;

"Director" means the Director of Mines referred to under section 4;

"discovery" means a discovery of a mineral or group of minerals occurring in quantities or circumstances that indicate the presence of a mineral deposit;

"environmental impact assessment" means an environmental impact assessment fulfilling all requirements of this Act and any other law that specifically provides for such assessments;

"environmental management plan" means an environmental management plan meeting all requirements of this Act and any other law that specifically provides for such plans;

["environmentally sensitive area" means an area designated as an environmentally sensitive area under the Environmental Planning and Protection Act;]2019

"Government" means the Government of The Bahamas;

"land" includes land beneath water, the seabed and sub- soil;

"mine" when used as a noun, means any place at which any operation connected with mining is carried on, above or below the ground, for the purpose of extracting or obtaining any minerals;

"mine" when used as a verb, means intentionally to win minerals and includes any operations directly or indirectly necessary for or incidental to mining operations;

"mineral" means any substance, whether in solid, liquid or gaseous form, occurring naturally in or on land and includes any metalliferous ore, building materials, and having been formed by or subjected to a geological process but does not include water or hydrocarbons;

"mining area" means an area that is subject to a mining licence;

"mining licence" means a licence granted in accordance with this Act that authorises mining operations;

"mining operations" means an operation carried out in connection with a mine

(a) to win a mineral from where it occurs;

(b) to extract a mineral from its natural state;

(c) to process and refine the minerals; or

(d) to dispose of a mineral or waste substances resulting from, such winning or extraction;

"mining permit" means " a permit granted in accordance with this Act that authorises small-scale mining operations;

"mining permit area" means an area that is subject to a mining permit;

"mineral product" means a substance derived from an ore by mining or processing;

"mineral right" means a reconnaissance licence, mining permit, a prospecting licence or a mining licence;

"mining cadastre" means the mining cadastre referred to under section 19;

"Minister" means the Minister responsible for mining activities;

"person" includes an individual, a company or association or body of persons corporate or unincorporated;

"prescribed" means prescribed by regulations made under this Act;

"processing operations" means operations for the purpose of milling, beneficiating and dressing mineral ores, and including smelting and refining of minerals;

"prospecting licence" means a licence granted in accordance with this Act that authorises prospecting operations;

"prospecting area" means an area that is subject to a prospecting licence;

"prospecting operations" means operations to search for minerals and mineral deposits or to test the mineral potential of land, or both, and includes geophysical surveys, geo-chemical surveys and photo geological or other like surveys;

"register of mineral rights" mean the register referred to in section 19;

"radioactive mineral" means a mineral which contains by weight at least one-twentieth of one per cent (0.05 per cent) of uranium or thorium or any combination thereof, including, but not limited to, monazite sand and other ores containing thorium and carnotite, pitchblende and other ores containing thorium.

"reconnaissance area" means an area subject to a reconnaissance licence;

"reconnaissance licence" means a licence granted in accordance with this Act that authorises reconnaissance operations;

"reconnaissance operations" means preliminary operations for the search for minerals and mineral deposits and includes initial field inspections and surveys;

"regulations" means regulations made under section 55 of this Act;

"small-scale mining" means non-mechanised mining operations;

"The Bahamas" means the Commonwealth of The Bahamas.

## **PART II ADMINISTRATION**

### **3. Overall responsibility for administration of the Act**

(1) Subject to this Act, the Minister shall have overall responsibility for the administration of this Act.

(2) The Minister shall ensure that the mineral resources of The Bahamas are explored and exploited in the most efficient and effective manner.

### **4. Director of Mines**

The Minister may designate a technically qualified public officer to be the Director of Mines responsible for the implementation of this Act.

### **5. Execution and delegation of functions of the Director of Mines**

(1) Anything required or permitted by or under this Act to be done by the Director of 6

Mines may be done by the Director himself or herself or by any public officer who is authorized in writing to do so by the Director, either for a specific case or generally.

(2) The Director of Mines may designate any technically qualified public officer to be an authorised officer for the purposes of this Act or a specific provision of this Act.

### **PART III OWNERSHIP OF MINERALS AND GRANT OF MINERAL RIGHTS**

#### **6. Ownership of minerals**

All rights of ownership in and control of minerals in, under or upon any land in the Commonwealth of The Bahamas and its continental shelf are vested in the Government of The Bahamas notwithstanding any right of ownership or otherwise that any person may possess in and to the land on, in or under which minerals are found or situated.

#### **7. Grant of mineral rights**

(1) No person shall, on or in any land to which this Act applies, prospect for minerals or carry on mining operations except under the authority of a mineral right granted under this Act.

(2) No person shall prospect for minerals or carry on mining operations without obtaining a certificate of environmental clearance as provided under the Environmental Planning and Protection Act, 2019

(3) Any person who contravenes subsection (1) or subsection (2), commits an offence and on conviction is liable-

- (a) in the case of an individual, to a fine of not less than [       ] or to imprisonment for a period not exceeding [       ] years, or to both;
- (b) in the case of a body corporate, to a fine of not less than [       ].

(3) The Minister may, in the public interest, authorize any person to undertake purely non-commercial prospecting operations of geological or mineral resources without requiring an application for a mineral right.

(4) The Minister may, subject to Cabinet approval, by order published in the Gazette, designate any area of land to be an area reserved exclusively for small scale mining.

(5) A mining right shall not be granted to an applicant therefor unless the Minister is satisfied that —

(a) the proposals of the applicant would ensure the most efficient and optimal use of the mineral resources concerned;

(b) the applicant has adequate financial resources and technical and industrial competence and experience to carry on effective mining operations;

(c) the applicant is able and willing to comply with the conditions on which the licence is proposed to be granted;

(d) in the case of a mining licence the applicant's proposals for the employment and training of citizens of The Bahamas and with respect to the procurement of goods and services obtainable within The Bahamas are satisfactory; and

(e) the mining operations would not be against the public interest, taking into account but not limited to the following:

- (i) the preservation of the character of the environment including the flora and fauna;
- (ii) any possible effect on the water table or surface drainage pattern;
- (iii) the nature and location of other land uses that could be affected by the operations being applied for;
- (iv) the danger of pollution to the environment; and
- (v) any other factors which in the opinion of the Minister would be against the public interest and contrary to the National Environmental Policy.

#### **8. Agreements related to granting mining licences**

(1) The Minister may on behalf of the Government enter into an agreement (not inconsistent with this Act) with the holder of a mining licence with respect to all or any of the following matters, namely-

- (a) the grant to that person of a mining licence on the conditions specified in the agreement;
- (b) the implementation of a profit sharing arrangement between the holder of a mineral right and the Government;
- (c) conditions to be included in the mining licence as granted or renewed, including minimum work or expenditure obligations; or
- (d) any matter incidental to or connected with the foregoing.

(2) The Government, or an agency of the Government identified in the licence, shall have the right to acquire on terms to be agreed, an interest in a mining licence granted under this Act.

#### **9. Types of mineral rights**

Mineral rights that may be granted under this Act are -

- (a) a reconnaissance licence;
- (b) a mining permit;
- (c) a prospecting licence;



(d) a mining licence;

#### **10. Application for mineral rights**

(1) An application for the grant or renewal of a mineral right shall be made to the Minister, or, if so prescribed, to the Director of Mines.

(2) The application shall be -

(a) in a prescribed form; and

(b) submitted with the prescribed fee.

(3) The application may be withdrawn by the applicant giving to the Minister or, in the case of an application made to the Director of Mines, to the Director of Mines, a notice of withdrawal.

(4) The Minister may direct the applicant for a mineral right to publish details of the application in a prescribed newspaper circulating in The Bahamas.

#### **11. Information and investigations concerning applications**

(1) The Minister may, by notice served on an applicant for the grant of a mineral right, require the applicant to provide him or her, within such reasonable time as is specified in the notice, such further information relevant to the application as may be described in the notice; and such proposals, by way of alteration to or in addition to any proposals in the application, as the Minister specifies in the notice.

(2) If the applicant, or any of the applicants, is a body corporate, the Minister may require that such information includes details to enable the Minister to ascertain to what extent the controlling power in the direction of the affairs of the body corporate is vested in a body corporate incorporated outside The Bahamas or an individual resident outside The Bahamas.

#### **12. Restriction on granting of mineral rights**

(1) No mineral right shall be granted-

(a) to an individual unless he or she is a citizen of The Bahamas;

(b) to a body corporate, unless the body corporate is a company or corporation incorporated in The Bahamas under the provisions of the Companies Act (Ch.308); or is incorporated outside the Bahamas and has been duly registered in The Bahamas under the provisions of the said Act;

(c) in respect of an area of land covered by an existing prospecting licence or mining licence.

(2) A public officer responsible for the administration of this Act shall not directly or indirectly acquire a right or interest in a mineral right.

(3) A public officer referred to in sub-section (2), shall not acquire or retain a share in

a company carrying on prospecting or mining operations.

(4) The Minister shall authorize the grant of a mineral right only through a competitive bidding process used for public procurement in the case of -

- (a) any area in which mineral ores have been discovered through prospecting operations carried out by the Government;
- (b) any area with known mining potential based on past prospecting or mining operations.

### **13. Priority of applications**

Where two or more applicants, not acting together, each make an application for the grant of any mineral right over the same area or over an overlapping area, the person whose application was first registered in the register of mineral rights applications shall be considered for the grant of a mineral right in priority to the other applicants.

### **14. Issuance of a mineral right**

(1) The Minister shall, in writing, notify the applicant for a mineral right of the decision to grant or refuse to grant a mineral right.

(2) When an application is rejected, the Minister shall, in writing, provide to the applicant the reasons for rejection.

### **15. Duration of a mineral right**

(1) A reconnaissance licence shall be valid for a period not exceeding one (1) year and shall not be renewable.

(2) A mining permit shall be valid for an initial period not exceeding two (2) years and may be renewed once for a period not exceeding one (1) year.

(3) A prospecting licence shall be valid for an initial period not exceeding four (4) years and may be renewed twice for a period not exceeding two (2) years.

(4) A mining licence shall be valid for an initial period not exceeding twenty-five (25) years or the estimated life of the ore body proposed to be mined, whichever is shorter. Such a licence may be renewed once for a period not exceeding ten (10) years.

### **16. Application for renewal of a mineral right**

(1) An application for renewal of a mineral right shall be submitted to the Minister in the prescribed form and shall include-

- (a) a report on prospecting or mining operations carried out as of the date of the application and associated costs;

- (b) a detailed report of the results, data, and analysis of the prospecting or mining operations;
- (c) a proposed programme of operations to be carried out during the period of renewal and its estimated cost;
- (d) a plan identifying the part of the licence area for which renewal is applied for.

(2) In the case of a prospecting licence, the Minister shall, before any renewal is granted, require the holder of the licence to relinquish fifty percent (50%) of the original area granted and the holder of the licence shall submit to the Minister a map of the area which is required to be relinquished within the time frame specified by the Minister.

(3) In the case of a mining licence an application for renewal shall additionally include a statement giving details of -

- (a) the latest proved, estimated or inferred mineral ore reserves verified by an independent consultant at the cost of the applicant and approved by the Minister;
- (b) the capital investment to be made in, and production costs and revenue forecasts in respect of the period of renewal;
- (c) mining operations proposed to be carried out in the period of renewal if substantially different from the previous operations;
- (c) any expected changes in the method of extraction and processing of mining products;
- (d) the likely social and environmental impacts as well as proposed mitigation and compensation measures.

#### **17. Renewal of a mineral right**

(1) When an application is consistent with the provisions of this Act and the terms and conditions of the mineral right, the Minister shall renew the mineral right with or without variation of the terms and conditions of the initial mineral right.

(2) The person making an application for renewal of the mineral right shall be notified in writing within sixty (60) days of the decision on the renewal application, and if the application is denied, the Minister shall inform the applicant in writing of the reasons for such refusal.

#### **18. Application for transfer of a mineral right**

- (1) An application for the transfer of a mineral right shall be addressed to the Minister in writing.
- (2) A holder of a mining right shall not, after the date of the grant of the right or licence, without the prior written approval of the Minister—
- (a) register the transfer of any share or shares in the company to any person or that person's nominee if the effect of doing so would give that person control of the company; or
  - (b) enter into an agreement with any person, if the effect of doing so would be to give that person control of the company.
- (3) The Minister may, on an application for approval under this section, call for and obtain such information as is necessary for purposes of the application, but such approval shall not be unreasonably withheld.
- (4) The Minister shall approve or reject an application for approval within sixty (60) days of receipt of the application.
- (4) For the purposes of this section, a person is deemed to have control of a company—
- (a) if the person or that person's nominee holds, or the person and that person's nominee together hold, a total of fifty percent or more of the equity shares of the company; or
  - (b) if the person is entitled to appoint, or to prevent the appointment of, half or more than half of the number of Directors of the company.

#### **PART IV REGISTRATION AND RECORDS**

##### **19. Mining Cadastre Office**

- (1) The Director shall establish and maintain a Mining Cadastre Office which shall be accessible to the public.
- (2) The Mining Cadastre Office shall for the purposes of this Act maintain a register and a cadastral survey map.

##### **20. Contents of register of mineral rights**

- (1) The Director shall enter in the register of mineral rights a record of applications, grants, renewals, area enlargements and relinquishments, transfers, revocations, forfeitures, attachments, pledges, encumbrances, fees paid, reports submitted, changes of address, changes of name or any other matter materially affecting the

status of or any interest in any mineral right registered under this Act.

(2) The register of mineral rights shall contain a record in sufficient detail showing -

- (a) the name of an applicant for a mineral right and in the case of an applicant that is a company, the names of the principal owners and shareholders
- (b) the type of mineral right applied for and granted;
- (c) the area to be subject to the mineral right applied for; and
- (d) the date and time the application or the grant was registered.

(3) Where the Director is satisfied that there has been a mistake made in, or that some matter has been incorrectly entered in, the register of mineral rights he shall rectify the register, by correcting that mistake or incorrect entry and shall enter in the registry a record of such correction and the date when the correction was entered.

#### **21. Cadastral survey map**

(1) The Director shall create and maintain a cadastral survey map that shows -

- (a) all areas for which licences granting mineral rights are currently in force;
- (b) all areas for which licence applications for mineral rights are pending a decision; and
- (c) all areas closed to mining operations under this Act.

(2) The cadastral survey map may be in the form of physical maps or maps contained in an electronic format or both.

### **PART V RIGHTS AND OBLIGATIONS OF THE HOLDER OF A MINERAL RIGHT**

#### **22. Rights of the holder of a reconnaissance licence**

(1) Subject to the provisions of this Act and other terms and conditions of a licence, the holder of a reconnaissance licence shall have the non-exclusive right to carry out reconnaissance operations in the reconnaissance area and may for that purpose:

- (a) collect from the reconnaissance area, mineral ore specimens and samples within such limit as may be specified by regulations for the purpose of having them analysed; and
- (b) erect temporary camps and buildings.

#### **23. Obligations of the holder of a reconnaissance licence**

The holder of a reconnaissance licence shall –

- (a) commence reconnaissance operations within 30 days of the date of the grant of the reconnaissance licence or such other period as may be approved by the Minister in writing;
- (b) carry out reconnaissance operations in accordance with a plan approved by the Minister and an environmental management plan approved by relevant authorities;
- (c) promptly carry out any directives relating to its reconnaissance operations which may be given to the holder by the Minister for the purposes of ensuring safety or good mining practices;
- (d) submit to the Minister quarterly, or at such other intervals as the Minister may determine, geological and financial reports and such other information relating to reconnaissance operations as may be prescribed;
- (e) repair any damage to the environment caused by activities in the licence area;
- (f) notify the Minister in writing of any archaeological discovery; and
- (g) unless the Minister otherwise stipulates, remove within sixty calendar days of the expiration of the reconnaissance licence, any camps, temporary buildings or machinery erected or installed by the holder and repair or otherwise make good any damage to the surface of the ground occasioned by such removal to the satisfaction of the Minister.

#### **24. Rights of the holder of mining permit**

Subject to the provisions of this Act and other terms and conditions of a mining permit, the holder of a mining permit shall have the exclusive right to carry out small scale mining operations in the mining permit area and may -

- (a) mine minerals to which the permit relates;
- (b) subject to the payment of the required fees and royalties, sell any mineral products recovered.

#### **25. Obligations of the holder of a mining permit**

(1) The holder of mining permit shall -

- (a) commence operations within 30 days of the date of the grant of the mining permit or such other period as may be approved by the Director in writing;
- (b) carry out its operations in accordance with a plan approved by the Director and an environmental impact assessment and environmental management plan approved by relevant authorities;

- (c) promptly carry out any directives relating to its mining operations which may be given to the holder by the Director for the purposes of ensuring safety or good mining practices;
- (d) notify the Director of the intention to begin or cease mining;
- (e) dump any mineral or waste product in a manner approved by the relevant health and environmental authorities and in accordance with the provisions of this Act;
- (f) demarcate and keep demarcated the mining permit area in the prescribed manner;
- (g) carry out rehabilitation and reclamation of mined out areas;
- (h) keep accurate records of minerals mined from the mining permit area and such records shall be produced for inspection on demand by the Director or a duly authorised officer; and
- (i) submit all prescribed reports within the prescribed time limit.

## **26. Rights of the holder of a prospecting licence**

(1) Subject to the provisions of this Act or other licence conditions, the holder of a prospecting licence shall have the exclusive right to carry out prospecting operations in the prospecting area and may for that purpose:

- (a) prospect for all mineral as granted by the licence;
- (b) drill boreholes and make such excavations as may be necessary;
- (c) collect from the prospecting area mineral specimens and samples for the purpose of having them analysed and valued without exceeding such limit as may be specified by regulations for prospecting purposes;
- (d) erect temporary camps and buildings.

(2) Subject to the provisions of this Act, the holder of a prospecting licence shall have the exclusive right to apply for a mining licence over any portion of the prospecting area where an economically mineable mineral deposit is discovered.

(3) The application under sub-section (2) shall be made within ninety (90) days before the expiry of the prospecting licence.

(4) When a prospecting licence expires pending a response on a mining licence application, the prospecting licence shall remain valid until the response is provided in accordance with this Act.

## **27. Obligations of the holder of a prospecting licence**

The holder of a prospecting licence shall-

- (a) commence prospecting operations within ninety (90) days from the date of issue of the prospecting licence;
- (b) carry out prospecting operations in accordance with a program of prospecting operations approved by the Minister and an environmental impact assessment and environmental management plan approved by relevant authorities;
- (c) promptly carry out any directives relating to its mining operations which may be given to the holder by the Minister for the purposes of ensuring safety or good mining practices;
- (d) submit to the Minister every six (6) months, in the prescribed form, a summary report on work progress of the approved program;
- (e) submit to the Minister, every year, not later than ninety (90) days after the end of each year of the issuance of the licence, an audited statement of expenditure directly incurred under agreed prospecting activities;
- (f) seek approval from the Minister for any proposed amendments to the agreed program of prospecting operations;
- (g) notify the Minister of the discovery of any mineral ore deposit of possible economic value within a period of thirty (30) days of such discovery;
- (h) demarcate and keep demarcated the prospecting area in the prescribed manner; and
- (i) notify the Minister, as soon as the holder commences, suspends or ceases prospecting operations.

## **28. Rights of the holder of a mining licence**

(1) Subject to the provisions of this Act and any condition of a mining licence, the holder of a mining licence shall have the exclusive right to carry on mining operations in the licensed area and may -

- (a) mine the minerals to which the licence relates;
- (b) erect the necessary equipment, plant, machinery and buildings for the purpose of mining operations;
- (c) process, treat, smelt and refine the minerals or mineral products won during the mining operations;



(d) subject to the provisions of any applicable law and the payment of the required fees and royalties, export and sell mineral products recovered.

(2) If the holder of a mining licence discovers any further deposit of the mineral to which the licence relates or any other mineral not included in such licence, such holder of the licence must, within thirty (30) days after such discovery, notify the Minister, giving details of the deposit or other type of mineral discovered, and may apply to the Minister to have the mining of such deposit or mineral included in the existing mining licence, giving in the application a proposed program of mining operations in respect of such discovered minerals.

(3) The holder of a mining licence may, within ninety (90) days of the discovery referred to in paragraph (2) of this section, apply to the Minister to have the mining area enlarged and the Minister may approve such application if he or she is satisfied that such approval will ensure the most efficient and beneficial use of the mineral resources of The Bahamas and the enlargement shall not extend beyond the mining licence size limitations provided for in this Act.

## **29. Obligations of the holder of a mining licence**

(1) Subject to the provisions of this Act, the holder of a

- (a) commence mining operations within one hundred and eighty (180) days from the issuance of the licence;
- (b) develop and mine the mineral deposits covered by the licence in accordance with a programme of mining operations approved by the Minister and an environmental management plan approved by relevant authorities;
- (c) dump any mineral or waste product in a manner approved by the relevant health and environmental authorities and in accordance with the provisions of this Act;
- (d) demarcate and keep demarcated the mining area in the prescribed manner;
- (e) notify the Minister of the commencement, suspension or cessation of mining operations;
- (f) submit to the Minister every six (6) months, in the prescribed form, a summary report on work progress of the approved program;
- (g) submit to the Minister, every year, not later than ninety (90) days after the end of each year of the issuance of the licence, an audited statement of expenditure directly incurred under agreed prospecting activities;
- (h) seek approval from the Minister for any proposed amendments to the agreed program of mining operations;
- (i) notify the Minister of the discovery of any mineral ore deposit of possible

economic value within a period of thirty (30) days of such discovery; and

- (j) maintain at an address in The Bahamas -
  - (i) complete and accurate technical records of the mining and all related operations in the form prescribed by the Minister;
  - (ii) copies of all maps, geological reports, including interpretations, mineral analyses, aerial photographs, core logs, analyses and test results and all other data available to the holder of the licence;
  - (iii) accurate and systematic financial records of the mining and all related operations in the mining area and such other books of accounts and financial records.

### **30. Special responsibilities relating to the mining of radioactive minerals**

- (1) A holder of a mineral right who discovers any radioactive mineral, shall notify the Minister not later than seven (7) calendar days after the discovery.
- (2) No person shall treat or possess or export or import or otherwise dispose of any radioactive mineral except under and in accordance with the terms and conditions determined by the Minister.
- (3) A person who contravenes sub-section (1) or (2) commits an offence and shall be liable, on conviction, to imprisonment for a period not exceeding [ ] or to a fine not exceeding [ ] or to both.

### **31. Dredging permits**

- (1) No holder of a mineral right shall dredge any river, stream, watercourse, lake or waters of the continental shelf without a dredging permit granted by the Minister.
- (2) An application for a dredging permit shall be made to the Minister in the prescribed form.
- (3) When applying for a mineral right, the applicant shall indicate-
  - (a) whether its operations will entail dredging;
  - (b) the types of machines or equipment intended to be used in the dredging operations;
  - (c) the potential environmental consequences and mitigation plans for any damage; and
  - (d) such other information as may be prescribed.

(4) A dredging permit may be granted subject to such conditions or restrictions as the Minister may determine.

### **32. Surrender of a mineral right area**

(1) The holder of a mineral right who wishes to surrender a mineral right area or part of it shall -

- (a) give to the Minister, not less than ninety (90) calendar days' notice;
- (b) comply with relevant conditions as may be prescribed or stated in the mineral right;
- (c) provide a map with coordinates of the area to be surrendered;
- (d) submit detailed technical reports as prescribed containing all information relating to the area to be surrendered from the commencement of a mineral right.

(2) The holder of a mineral right shall within a prescribed period after surrender of a mineral right area-

- (a) submit written evidence issued by the relevant authority of any fees, royalties or other dues in respect of the licence area;
- (b) submit a report certifying that there are no debts owed to the employees;
- (c) submit a certificate of compliance with the environmental management plan issued by relevant authorities.

(3) The surrender of a mineral right area shall take place without prejudice to any liabilities or obligations incurred by the holder in relation to the area surrendered prior to the date of surrender as well as obligations imposed under sub-section (2).

## **PART VI SUSPENSION AND CANCELLATION OF A MINERAL RIGHT**

### **33. Reasons for suspending or cancelling a mineral right**

(1) The Minister may suspend or cancel a mineral right if the holder,

- (a) fails to make any of the payments required under this Act on the date due;
- (b) fails without cause to start operations by the due date;
- (c) fails without cause to meet any minimum work or expenditure obligations mandated under the terms of the mineral right or an agreement made pursuant to section 8 of this Act;

- (d) violates environment protection obligations under this Act, an agreement made pursuant to section 8 or other applicable law;
- (e) violates health or safety obligations under this Act, an agreement made pursuant to section 8 or other applicable law;
- (f) fails to submit reports required by this Act;
- (g) contravenes any of the provisions of this Act or the conditions of a mining licence or agreement made pursuant to section 8 of this Act;
- (h) for any reason, becomes ineligible for a mineral right under this Act.

(2) The Minister shall cancel a mineral right when prospecting or mining operations have been terminated or suspended for a continuous period without resumption as planned.

#### **34. Notice of suspension or cancellation of a mineral right**

The Minister shall, before suspending or cancelling any mineral right –

- (a) give at least thirty (30) days' notice to the holder; and
- (b) in such a notice, require the holder to remedy within such period as the Minister may specify any breach of the conditions of the mineral right or an agreement made pursuant to section 8 or violations of the provisions of this Act or other applicable laws.

#### **35. Liabilities and obligations on cancellation of a mineral right**

(1) On cancellation of a licence under section 33, the rights of the holder shall cease but without prejudice to any liabilities or obligations incurred in relation to the licence prior to the date of cancellation; and the holder shall -

- (a) deliver to the Minister all records which the holder is obliged under this Act to maintain including full and detailed reports as prescribed containing all information, results, interpretation, data and other related information pertaining to the prospecting and mining of minerals under the mining licence.
- (b) provide to the Minister a full register of assets which the licence holder intends to remove or to leave in the mineral right area; and
- (c) notify the Minister of any potentially hazardous substances, erections or excavations in that area.

### **PART VII**

## **SURFACE RIGHTS**

### **36. Rights of land owner on a mineral right area**

The rights conferred by a mineral right shall be exercised reasonably and so as to affect as little as possible the interests of any owner or lawful occupier of the land on which such rights are exercised consistent with the reasonable and proper conduct of the prospecting or mining operations concerned.

### **37. Compensation to land owners**

(1) The holder of a mineral right shall pay a fair and reasonable compensation to the owner or lawful occupier as may be negotiated for any disturbance of the rights of such owner or occupier and for any damage done to the surface of the land by the operations of the holder of the mineral right.

(2) The basis upon which compensation shall be payable shall be according to the relevant applicable laws.

(3) No demand made in terms of subsection (1) shall entitle the owner or lawful occupier to prevent or hinder the exercise by the holder of a mineral right of the rights thereunder pending the determination of compensation to be paid.

(4) If the holder of a mineral right fails to pay compensation under this section, or if the owner or lawful occupier of any land is dissatisfied with any compensation offered, such compensation may be determined by the Minister.

### **38. Compulsory acquisition of private land**

(1) The Minister may with Cabinet approval, by order published in the Gazette, compulsorily acquire private land or rights over private land for use by the holder of a mining licence if the acquisition of such land or right is necessary for mining operations.

(2) When land is acquired compulsorily under this section, those persons having an interest in or rights over the land concerned shall be paid adequate compensation by the holder of the mineral right determined on the same basis as compensation for expropriation of land in the public interest under the relevant laws.

(3) Where land has been compulsorily acquired, the holder of a mining licence shall, before entering into possession for use of any land or before exercising any right over the land, make payment of compensation as determined in accordance with subsection (2) to the person or persons concerned.

### **39. Restrictions on exercise of rights under a mineral right.**

(1) The holder of a mineral right cannot exercise his rights in respect of any land:

- (a) dedicated for public purpose except if duly authorised by the responsible

- minister;
- (b) dedicated as a place of burial, or a place of religious or cultural significance except if authorised by the landowner or lawful occupier;
  - (c) which is within 200 metres or such greater distance as may be prescribed of any inhabited, unoccupied or temporarily unoccupied house or building except if authorised by the landowner or lawful occupier;
  - (d) which is within 50 metres of land which has been prepared or upon which there are agricultural crops except if authorised by the landowner or lawful occupier;
  - (e) within 100 metres of any cattle dip, tank, dam or other body of water except if authorised by the landowner or lawful occupier;
  - (f) reserved for the purpose of any railway, highway or waterway and its surroundings except if duly authorised by the administrative authority in charge of the construction; or
  - (g) within any township and its surroundings, except if duly authorised by the administration having control over the township.

(2) Any consent by the responsible minister or other authority referred to under subsection (1) may be given unconditionally or subject to such conditions as they may specify.

(3) Where any consent required under subsection (1) is to be given by the landowner or lawful occupier and in the opinion of the Minister, is being unreasonably withheld, the Minister may, on such conditions, if any, as he or she may impose, direct in writing that the need for the consent under this paragraph shall be dispensed with and authorise the holder of the mineral right to exercise all or any of the rights under the relevant mineral right.

## **PART VIII PROTECTION OF THE ENVIRONMENT, HEALTH AND SAFETY**

### **40. Compliance with laws related to environment**

(1) A holder of a mineral right shall comply with applicable environmental laws and regulations.

(2) Every applicant for a mineral right shall submit an environmental Impact assessment and environmental management plan as a condition for granting a mineral right.

(3) In addition to the requirement in (2), an environmental impact assessment shall be conducted prior to the grant of -

- (a) a mining licence; or
- (b) a mining permit or a prospecting licence for operations in an environmentally sensitive area or any undeveloped track of land.

(4) In the case of an application for a mining licence, the environmental impact assessment prepared by the applicant shall in addition to any requirement under sub-

section (3)-

- (a) be based on environmental baseline assessment work;
- (b) contain the types of information and analysis reflecting international mining best practice;
- (c) include detailed documentation of the licence area environment prior to any mining operations;
- (d) provide a detailed description of the project including all phases of development, operations, reclamation and closure including:
  - (i) identification of the likely major environmental impacts;
  - (ii) detailed measures to minimize or mitigate each environmental impact and timetables for implementation of the mitigation measures;
  - (iii) projected budget and budget timetable to achieve environmental protection objectives;
  - (iv) identification of the likely major social impacts;
  - (v) mitigation measures for each major negative social impact;
  - (vi) an environmental management plan.

(5) A mineral right applicant or mineral right holder required by this or any other law to submit an environmental impact assessment shall-

(a) undertake to consult the public so as to verify possible impacts of the project from all stakeholders' perspectives, and

(b) submit an updated environmental management plan for approval whenever required by any law, and whenever the mineral right holder proposes to make a change in its prospecting or mining operations that would cause a need for a material change in such plan.

(6) A copy of any environmental impact assessment and environmental management plan submitted by a mineral right applicant or mineral right holder shall be made available to the public at the Mining Cadastre Office.

#### **41. Rehabilitation of damaged areas**

(1) A mineral right granted under this Act and applicable environmental laws and regulations shall include conditions relating to the rehabilitation of any part of the licence area that may be damaged by prospecting or mining operations.

(2) Rehabilitation under sub-section (1) means the restoration of a licence area in accordance with the environmental management plan to, as far as is practicable, its natural state or to a safe, stable, predetermined condition and end use which is compatible with a healthy environment and with the principle of sustainable development;

- (3) Every holder of a mining permit, a prospecting licence or a mining licence shall, before the issue of the permit or licence, deposit with the Minister a bond in such amount and form and subject to such conditions as may be prescribed for the rehabilitation of the land for which the licence is to be issued.

#### **42. Financial guarantees for environment protection**

(1) In addition to the requirement of section 40 (3), every mineral right applicant shall provide, within a prescribed time, financial guarantees for the protection of the environment.

(2) The requirements and conditions for the financial guarantee of environmental protection shall be determined by regulations and may be varied from time-to-time to take into consideration the changing costs of performance of any condition.

(3) Where a mineral right holder is obligated to provide a bond or other financial guarantee as required under this Act and fails to do so the Minister shall serve on the mineral right holder a notice of demand indicating a deadline to provide the bond or other financial guarantee and shall cause a note of the service of the notice to be endorsed in the mining cadastre register.

(4) Where a mineral right holder fails to provide the bond or other financial guarantee after the deadline, the Minister may cancel the mineral right.

#### **43. Health and safety of workers and other persons**

(1) Without prejudice to applicable labour laws, every holder of a mineral right shall:

- (a) ensure that the mine is commissioned, operated, maintained and decommissioned in such a way that workers are able to perform their work without endangering their health and safety or of any other person;
- (b) ensure that persons who are not employees, but who may be directly affected by the activities at the mine are not exposed to any hazards to their health and safety;
- (c) ensure that all persons working at the mine have the necessary skills, competence and resources to undertake their work safely and to ensure the safety of others.

(2) Where an authorised officer considers any mining operation or anything connected with any such operation to be so dangerous or defective as to be likely to cause bodily injury to any person, such officer may give a prompt notice in writing to the holder of a mining licence requiring that the danger or defect be remedied or removed, either immediately or within such time as may be specified, and if the authorised officer considers it necessary, order the mining operations to be suspended until the danger is removed or the defect remedied.



(3) A holder of a mineral right who wishes to make an appeal to any decision or order by the authorised officer under sub-section (2), shall first immediately cease the mining operations or that part of the operations affected by the notice and then make the appeal to the Minister and the Minister's decision shall not be subject to appeal.

## **PART IX FINANCIAL PROVISIONS**

### **44. Statutory fees and levies**

The holder of a mineral right shall be subject to statutory fees, levies, a profit sharing arrangement and other payment obligations in accordance with relevant laws of The Bahamas or an agreement pursuant to section 8 of this Act.

### **45. Royalty**

(1) Subject to this Act, the holder of a mining licence shall, in accordance with this Act, the licence and any agreement entered into under section 8, pay to the Government a royalty in respect of minerals obtained by him in the mining area.

(2) Royalty is payable pursuant to subsection (1)-

- (a) at such rate as may be prescribed; and
- (b) where no rate is so prescribed, at a rate fixed in, or computed in accordance with the provisions of the mining licence or agreement pursuant to section 8.

### **46. Deferment of royalty**

(1) The Minister may, on application made to him by the holder of a mining licence, and with Cabinet approval, defer payment of any royalty due from the holder for such period and subject to such conditions as he may determine.

(2) If the holder of a mining licence fails to pay any royalty payable by him on or before the due date or any extension thereof allowed by the Minister, the Minister may, by notice to the holder of the mining licence, prohibit the disposal or sale of any mineral from the mining area concerned, or from any other mining area held by that holder, until all outstanding royalty has been paid or until an arrangement acceptable to the Minister has been made for the payment of the royalty.

### **47. Annual surface rental**

(1) The holder of a mineral right shall pay an annual fee to the Government for the surface area covered by the licence.

(2) The annual fee payable pursuant to subsection (1) is payable on the grant of a 25

mineral right and thereafter annually on the anniversary of the grant until the termination of the mineral right.

(3) The annual fee payable shall be prescribed by regulations.

#### **48. Recovery of royalty, fees and levies**

(1) Royalty payable under section 44 and any fees or levies payable under sections 43 and 46 are debts due to the Government and may be recovered through a court of competent jurisdiction.

(2) In proceedings pursuant to subsection (1), a certificate of the Director certifying that a specified amount of royalty, fee or levy, is payable by an identified person shall be received as evidence of that fact; but without prejudice to the right to adduce evidence in rebuttal.

(3) Where two or more persons constitute the holder of a mining licence when royalty becomes payable, those persons are jointly and severally liable for the payment of royalty under section 44, or any fees or levies payable under section 43 and 46; but without prejudice to any right to contribution existing between them.

#### **49. Sales of mineral ores to affiliated purchasers**

(1) The holder of a mineral right shall sell mineral ores to affiliates only at prices equivalent to the prices that would be obtained in arm's length sales to non-affiliated purchasers and in accordance with such other terms and conditions on which agreements would be made if the parties had not been affiliated.

(2) The Minister may prescribe the manner in which arm's length prices will be determined for sales by holders of a mineral right to their affiliates.

### **PART X LOCAL CONTENT AND VALUE ADDITION**

#### **50. Employment and training of employees**

(1) The holder of a mineral right shall give preference in employment to citizens of The Bahamas to the maximum extent possible.

(2) The holder of a mining licence shall prepare and submit a plan in respect of employment and training of Bahamian citizens as part of the application. The plan shall be as prescribed and may be revised periodically, subject to approval by the Minister.

(3) The Company shall submit reports to the Minister annually not later than thirty (30) days after the end of each calendar year, showing the positions held by nationals and non-nationals and the level of compliance with the Employment and Training Plan.

## **51. Procurement of local goods and services**

The holder of a mining licence shall:

- (a) give priority to Bahamas contractors for services, provided that the rates, quality and time schedule for delivery are competitive to what is submitted by non-resident contractors;
- (b) give priority to materials and goods produced in The Bahamas, so long as they are comparable in quality, quantity, price and delivery to materials and goods produced outside of The Bahamas;
- (c) provide periodic reports to the Minister regarding its compliance with the requirements of this section.

## **52. Value addition and transformation**

A mineral right may include provisions requiring a holder to establish facilities within The Bahamas for the processing and refining of mineral products or other operations that would add value to or transform the mineral products derived from the applicable mining areas.

## **PART XI MISCELLANEOUS**

## **53. Security for compliance**

In order to ensure that the holder of a mineral right complies with this Act, the Minister may require guarantees, whether from shareholders or otherwise, in respect of that compliance.

## **54. Offences and Penalties**

(1) Any person who-

(a) in, or in connection with, any application under this Act or in response to any requirement of the Minister or of the Director under this Act, knowingly or recklessly gives information which is false or misleading in a material particular;

(b) in any report, return or affidavit submitted in pursuance of any provision of this Act, knowingly or recklessly includes or permits to be included any information which is false or misleading in a material particular;

commits an offence and is liable on conviction-

- (i) in the case of any individual, to imprisonment for a term not exceeding [ ] years or a fine not exceeding [ ] or to both such fine and term of imprisonment;
- (ii) in the case of body corporate, to fine not exceeding [ ]

(2) Any person who contravenes any of the provisions of this Act or any regulations made thereunder commits an offence and where there is no specific penalty provided, is liable on conviction -

- (a) to a fine not exceeding [ ];
- (b) to imprisonment for a term not exceeding [ ] years; or
- (c) to both such fine and imprisonment; and
- (d) in the case of a continuing offence, to a further fine of [ ] for every day during which the offence is continues.

(3) Where an offence under this Act has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to neglect on the part of any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, that person as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

#### **55. Indemnity of officials**

No action shall lie against the Crown, the Minister, the Director or any authorized person in respect of any loss or damage whatsoever suffered by any person through the exercise, in good faith, by the Minister, the Director or by such authorized person of the powers conferred upon them by this Act, save only in respect of any loss or damage which arises directly from the negligence of the Minister, the Director or of any such person as aforesaid in the carrying out of any operation in the exercise of those powers.

#### **56. Regulations**

The Minister may make regulations necessary or convenient for the proper administration of this Act and to facilitate the achievement of the purpose of this Act, and without limiting the generality of the foregoing, may make regulations

- (a) relating to the fees, royalties, rent and other charges that are payable under this Act or the manner in which they are to be calculated;
- (b) prescribing the process for application for a mineral right;
- (c) prescribing the manner in which an area referred to in a mineral right is to be demarcated;
- (d) prescribing the manner in which records, accounts, books and other documents shall be kept, retained and made available for inspection;

- (e) prescribing the manner in which confidential data provided under this Act is to be treated and the periods upon which such data ceases to be confidential;
- (f) prescribing procedures to be followed in any tender to be held under this Act;
- (g) providing the measures and procedures to be observed in respect of radioactive minerals and dispositions conferring rights and interests in respect of such minerals;
- (h) prescribing the measures to be included in approved programmes for prospecting and mining operations;
- (i) prescribing measures to be observed to protect and rehabilitate the environment;
- (j) prescribing the measures to be observed concerning health and safety connected to prospecting and mining operations;
- (k) prescribing measures to be observed regarding the use of explosives for prospecting and mining operations;
- (l) specifying areas that are excluded areas under this Act;
- (m) prescribing the categories of mineral rights that are not to be granted in prescribed areas;
- (n) prescribing the form of any licence, permit, forms, return or other document to be used for the purposes of this Act; and
- (o) regarding any other matter required for the implementation of this Act.

## **PART XII REPEAL AND TRANSITIONAL PROVISIONS**

**57. [List of repealed/amended Acts]. TBD**

### **58. Transitional Provision**

(1) Any mineral right granted prior to the coming into force of this Act shall remain valid until expiration of the period for which it was granted.

### **59. Precedence of this Act**

Where there is an inconsistency between the provisions of this Act any other law relating to minerals and mining, other than the Constitution, this Act shall take precedence unless a contrary intention is clearly indicated.