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**CHAPTER 103**  
**THE MINING LAW**

**Jamaica**  
**Cap. 253.**  
**Law**  
**38 of 1957.**  
**39 of 1958.**  
**21 of 1959.**

[13th October, 1947]

**PART I. General**

**1.** This Law may be cited as the Mining Law.

Short title.

**2.** In this Law—

Interpreta-  
tion.

“alluvial” includes all forms of mineral deposits which do not fall within the definition of lode, and for the purposes of this Law bauxite and laterite deposits shall be regarded as alluvial deposits;

“buy” includes exchange, barter, or giving or receiving as a pledge or security and “sell” includes deposit as a pledge or security;

“deposit” means any sum or any security therefore, deposited with the Administrator under section 13;

“holder” of an exclusive prospecting licence, mining lease or water right includes any person in whom such licence, lease or water right, or a part of the rights thereunder, has become lawfully vested by transfer, assignment or otherwise;

“this Law” includes regulations made under this Law;

“lessee” of a mining lease includes all persons having a right or interest in or under a mining lease, whether by transfer, assignment or otherwise;

“licence” means an exclusive prospecting licence granted under section 21;

“lode” includes all true fissure veins, contact veins, segregated veins, bedded veins, in metalliferous bankets, stockworks, such irregular deposits as conform generally to the above classification, and beds of any mineral such as beds of iron stone;

“to mark out” an area means to delimit such area in the manner provided in this Law;

“Medical Officer” means any person appointed by the Administrator to be a Medical Officer for the purposes of this Law;

“mine” includes any place, excavation or working whereon, wherein, or whereby, any operation in connection with mining is carried on;

- Cap. 102
- “mining lease” means a mining lease granted under section 33;  
 “to mine” means intentionally to search for, extract or win minerals, and includes any operations necessary for the purpose;  
 “minerals” except for the purposes of Part VIII has the same meaning as in the Minerals (Vesting) Law;  
 “owner” in relation to land includes an occupier or a lessee;  
 “passageway” means any highway, road, street, footpath, right of way, easement or installation of any railway, tramway, wireline, conveyor belt, cable way, chute, pipe, sewer, drain, tunnel, shaft, fluming or water-course;  
 “to prospect” means to search for minerals and includes such working as is reasonably necessary to enable the prospector to test the mineral-bearing qualities of the land;  
 “prospecting or mining rights” means rights under a prospecting right, licence, or mining lease;  
 “public water” means all water flowing in a known and defined channel and which is capable of being applied to the common use of riparian proprietors;  
 S2 Law 39/1958, Schedule. “mining rights” means rights under a mining lease;  
 “radio-active mineral” means any substance specified in the Schedule;  
 “shaft” means any vertical or inclined tunnel other than a stope or winze which is or might be used for winding, travelling, draining or ventilating purposes in connection with prospecting or mining operations;  
 “tailings” means all gravel, sand, slime, or other substance which is the residue of *bona fide* mining operations;  
 “water-course” means any channel or duct, whether natural or artificial, which confines, restricts or directs the flow of water;  
 “water right” means a water right granted under Part IV.

Unlawful  
mining and  
unlawful  
prospecting.

**3.** Any person who prospects or mines on any lands in the Islands otherwise than in accordance with the provisions of this Law shall be guilty of unlawful prospecting or unlawful mining (as the case may be) and shall be liable on summary conviction before two Justices to a fine not exceeding one thousand pounds or to imprisonment with hard labour for a term not exceeding twelve months, and in addition the Court before which such person is convicted shall order the forfeiture of all minerals obtained in the course of such unlawful prospecting or mining, or if such minerals cannot be forfeited, the payment of such sum as the Court may assess as the value of such minerals.

4. Nothing in this Law shall apply to, or confer any right to prospect or mine for, any mineral oil. Law does not apply to oils.

5. (1) The Administrator may appoint such officers as may be necessary for the carrying into effect of the provisions of this Law. Appointment and duties of officers.

(2) It shall be the duty of the Administrator in addition to any other duties provided in this Law to exercise general supervision over all prospecting and mining operations in the Islands.

6. The Administrator may delegate or assign to any officer appointed under subsection (1) of section 5 all or any of his powers, duties and jurisdiction subject to such limitations as he may specify, but in so doing the Administrator shall not thereby divest himself of the right to exercise concurrently all or any of the powers, duties and jurisdiction conferred upon him by this Law. Delegation of powers.

7. All minerals obtained in the course of prospecting or mining operations shall be liable to such royalties as may be prescribed, and no minerals shall be exported except after payment or securing of royalty under such conditions as may be prescribed: Royalties.

Provided that the Administrator may, by permit under his hand, exempt from liability to royalties small quantities of minerals intended for use, or exported, as commercial samples or scientific specimens, or for the purpose of experiment or assay.

8. (1) Save where otherwise provided by this Law no prospecting or mining rights shall authorize prospecting or mining on any of the following— Lands excluded from prospecting or mining.

- (a) land dedicated or set apart for any public purpose (other than mining), or for a burial ground, or within one hundred yards of such places, except with the consent of the Administrator;
- (b) any area situate within any town or village except with the consent of the Administrator;
- (c) land reserved for the purpose of any railway or situate within one hundred yards of any railway other than a railway constructed on the area of the mining lease by the mining lessee, except with the consent of the Administrator;
- (d) any area which is the site of or is within one hundred yards of any building, works, reservoir or dam owned or occupied

by the Government or by a public authority, except with the consent of the Administrator;

- (e) any street, road or highway or any land within fifty yards of the centre line of any street, road or highway, other than one constructed on the area of the mining lease by the mining lessee, except with the consent of the Administrator;
- (f) land within one hundred yards of any building, except with the consent of the occupier:

Provided that where such consent is withheld, the Administrator may allow prospecting or mining on such land on such conditions as he may think fit;

- (g) any area closed to prospecting or mining under section 9;
- (h) any area over which rights under a licence or a mining lease have been previously granted under the provisions of this Law until fourteen days have elapsed from the date of the *Gazette* in which notice is given of the termination of such rights or in respect of which permission to mine has been given under the provisions of section 32 and is still lawfully subsisting, except by the holder of such licence, mining lease or permit;
- (i) any area over which a right of passageway is vested in the holder of a mining lease, except with the consent of such holder.

(2) Where under subsection (1) the Administrator is empowered to authorize prospecting or mining, then—

- (a) if a public authority is directly affected by the giving of consent, the Administrator shall not give such consent without prior consultation with such public authority;
- (b) where consent is given the Administrator may impose such conditions as he may think fit.

(3) In this section—

“burial ground” means any place—

- (a) authorized under any law to be a place of burial;
- (b) attached to any place of worship and used as a place of burial;
- (c) habitually used as a place of burial by the members of any sect or congregation;

“town or village” means a town or village as defined under any Law for the time being in force for spirit licence purposes or for all purposes.



9. The Administrator may, by notice in the *Gazette*, declare any area, other than an area over which rights under a licence or mining lease have been previously granted and are subsisting, to be closed to prospecting and mining either generally or by such persons, or for such periods, or for such minerals, as may be specified in such notice, and may re-open such area or any part thereof by further notice on any terms and conditions as to prospecting or mining and to such persons as he may think fit.

Power to close areas to prospecting, etc.

10. Where any prospecting right, licence or mining lease has been granted in pursuance of the provisions of this Law and subsequently the Administrator is satisfied that such grant has been obtained as a result of any misleading, false or fraudulent representation, or in consequence of any incorrect information (whether such information be supplied wilfully or otherwise), the Administrator may call upon the holder of such right, licence or lease to show cause within a specified time why such right, licence or lease should not be revoked; and if he fails to comply with such order within the time specified or if the cause shown be inadequate in the opinion of the Administrator, such right, licence or lease may thereupon be revoked by the Administrator and notice of such fact shall be published in the *Gazette* and a copy of such notice shall be sent to the holder at his last known address.

Power to revoke prospecting rights, etc., in cases of fraud, etc.

11. Any holder of prospecting or mining rights intending to prospect or mine on any lands shall give notice of his intention to the owner and the occupier of such land before commencing operations thereon, and shall, if so required by the owner, occupier, or the Administrator, lodge with the Administrator such sum, or give security therefore, as the Administrator may direct for the payment of any compensation which may be payable under section 12, and such sum, or the balance thereof (if any) may be refunded or released in accordance with the provisions of subsections (3), (4) and (5) of section 13.

Notice and security for compensation for damage.

12. (1) The holder of prospecting or mining rights shall, on demand being made by the owner or occupier of the land upon or under which prospecting or mining operations are being or have been carried on by him, pay such owner or occupier fair and reasonable compensation for any disturbance of his surface rights and for any damage done to the surface of the land or to any live or dead

Payment of compensation to owners or occupiers.

stock, crops, trees, buildings or works, as a result of such operations.

(2) The amount of compensation payable under subsection (1) shall be determined by agreement between the parties or, if the parties are unable to reach agreement or if the agreed compensation is not paid, the owner or occupier may take proceedings in the Petty Court without limit of amount.

(3) The sum awarded by the Petty Court or, when there has been an appeal, by the Court hearing the appeal, as the case may be, shall be paid by such holder to the person entitled thereto, within fourteen days of the date of the decision.

(4) Without prejudice to any other means of recovery, if the sum awarded is not paid within the time specified in subsection (3) such sum may, on application to the Administrator be paid out of the amount lodged under section 11.

(5) The Administrator may, by notice to the holder of prospecting or mining rights who has failed to pay the sum awarded, suspend his mining or prospecting rights until the sum awarded has been paid and until such holder has lodged with the Administrator such further sum as the Administrator may demand as security for any future compensation payable and if such payment and lodgment is not made within such time as the Administrator may consider reasonable the Administrator may revoke the prospecting or mining rights of the holder in default.

General  
deposits.

**13.** (1) As a guarantee for the due performance of the obligations imposed by this Law any person may be required by the Administrator, either on application or when holding prospecting or mining rights, or a water right, to deposit (in addition to any sum lodged under section 11 or 12) with the Administrator such sums, or security for like amounts in lieu thereof, as may be prescribed and on failure of such person to make such deposit within the time specified by the Administrator the application may be refused or the prospecting or mining rights or the water right revoked by the Administrator.

(2) The Administrator may in any case where the depositor has failed after due notice to meet any obligation imposed upon him by this Law, take such steps as he may consider fit to fulfil the obligation and may expend from any deposit such sum as he may consider reasonable to defray any expense incurred by him in so doing; and where any deposit or portion thereof is so expended, the Adminis-

trator may require the depositor to make good such deposit or portion and failure to do so may render any prospecting or mining rights or any water right in respect of which any deposit was made liable to revocation by the Administrator.

(3) Where upon the termination of all interests in any prospecting or mining rights, or water right in respect of which a deposit has been made, the original right, licence, mining lease or water right is produced to the Administrator and the termination of such interests is duly recorded, then the person by whom such deposit was made may make written application to the Administrator for the refund or release of such deposit or balance thereof and, upon production of satisfactory evidence by the applicant, the Administrator may authorize such refund or release to be made:

Provided that in the absence of such satisfactory evidence the Administrator may withhold such refund or release until such time as he may think fit:

Provided also that such refund or release is made without prejudice to any claim or proceeding existing or which may arise through the breach by the holder of any prospecting or mining rights or water right, or by his servants, of any of the provisions of this Law.

(4) Where the interest of a depositor in any prospecting or mining rights or water right is terminated by transfer, no refund or release shall be made until the transferee has lodged a like deposit or such sum as the Administrator may demand.

(5) Sums deposited under this section may be otherwise dealt with in such manner as may be prescribed.

**14.** (1) Whenever any land being the whole or part of the area of a mining lease is required by the Administrator for any public purpose he shall give notice to that effect to the holder of such lease, and such holder shall remove therefrom before a date to be specified in such notice any works, buildings, plant or other of his property, and such mining lease shall in respect of the land required be determined as from such date.

Land under mining lease, etc., required for public purposes.

(2) In any such case where the holder of a mining lease has received any notice under subsection (1) he shall be entitled to receive out of General Revenue compensation for any disturbance of passageways, works, buildings, plant or other property belonging to him, but not for disturbance of his mining rights; and compen-

sation payable to such holder under this section shall, if not agreed upon between the parties, be determined by the Judge of the Grand Court on application by either party.

(3) Whenever any land temporarily occupied by the holder of a prospecting right or occupied under an exclusive prospecting licence or water right is required by the Administrator for any public purpose, he shall give notice to that effect to the holder of the right or licence and such holder shall, not later than thirty days from the date of notice or within such further period as the Administrator may allow, remove from the land so occupied any works, buildings, plant or other property belonging to him, temporarily erected or placed thereon and shall cease to occupy such land; and such holder shall not be entitled to any compensation for any such disturbance.

(4) A notice given under this section by the Administrator that land is required for a public purpose shall be conclusive evidence of that fact.

## PART II. *Prospecting*

### GENERAL

When prospecting lawful.

**15.** It shall not be lawful for any person to prospect except in pursuance of and in accordance with the terms and conditions of a prospecting right or exclusive prospecting licence.

Prospecting for specified minerals may be prohibited.

**16.** The Administrator may by notice in the *Gazette* prohibit prospecting for any specified mineral, and in such a case the holder of a prospecting right or exclusive prospecting licence shall not prospect for such specified mineral unless otherwise expressly provided in such right or licence.

Disposal of minerals obtained in prospecting.

**17.** (1) Minerals obtained in the course of prospecting under a prospecting right or licence shall be the property of the Crown and shall not be removed from the land or disposed of by the holder of the right or licence or by any other person except with the consent of the Administrator.

(2) The Administrator may authorize the removal of minerals from the land from which they have been obtained subject to such conditions, if any, as he may impose.

(3) If the holder of a prospecting right or a licence desires to

retain or dispose of any minerals obtained in the course of prospecting he shall make an application in writing to the Administrator stating the kind and quantity of minerals in respect of which the application is made and the situation of the land from which the mineral was obtained, and if the Administrator is satisfied that the applicant has been conducting only such work as is reasonably necessary to enable him to test the mineral-bearing qualities of the land, he may authorize the applicant to retain or dispose of the minerals in respect of which application is made, on payment of the prescribed royalties.

*Prospecting Right*

**18.** (1) The Administrator may, in his absolute discretion, on application in the prescribed form and upon the payment of the prescribed fee, grant to any individual a prospecting right in the prescribed form:

Grant of  
prospecting  
right.  
S 3 Law  
39/1958.

Provided that a prospecting right shall not be granted—

- (a) to any individual who is under eighteen years of age;
- (b) to any individual who is unable to prove to the satisfaction of the Administrator that he can understand this Law to such an extent as to enable him to carry out the obligations imposed by or under it;
- (c) to any individual to whom there has previously been issued either in his own name or as agent for any person a prospecting right which has not been surrendered or cancelled and which is in all other respects still valid;
- (d) except with the consent of the Administrator, to any individual who or whose present employer has been convicted of an offence under this Law, or who or whose present employer has previously held any prospecting or mining right which has been revoked by reason of a breach of the terms or conditions thereof;
- (e) to any person other than an individual.

(2) A prospecting right may be granted to an individual as agent for a person:

Provided that in any such case there shall be forwarded with the application an undertaking by such person to be responsible for the acts and omissions of the individual (who shall also be responsible for his own acts and omissions) and where the individual is in the employ

of such person, such right shall, unless such person otherwise requests, forthwith terminate on the holder leaving the service of such person.

(3) A prospecting right shall not be transferable and shall, unless terminated, remain in force for a period of one year from the date of issue, but may be renewed for further periods not exceeding one year each.

(4) The Administrator may, by endorsement on the prospecting right, restrict prospecting under it to any specified area or to any specified minerals.

(5) A prospecting right shall be produced whenever demanded by the owner or occupier of land on which the holder thereof is prospecting, or by any constable.

Rights and  
obligations  
under a pros-  
pecting  
right.

**19.** (1) Subject to the provisions of this Law and of the prospecting right, the holder of a prospecting right may—

(a) enter upon and prospect on any land or water for any minerals, except minerals for which prospecting is prohibited unless the Administrator has issued authority therefor by endorsement on the prospecting right;

(b) while engaged in *bona fide* prospecting on any uncultivated land (without charge, in the case of Crown land, and on payment or tender of a reasonable sum to the owner or occupier in the case of land other than Crown land)—

(i) erect at such place as the owner or occupier may select a temporary camp and such temporary structures as may be necessary and enter into temporary occupation thereof;

(ii) take fuel, other than standing timber, for his domestic use at such place;

(iii) graze such animals as may be necessary for the carrying on of prospecting;

(c) take for his domestic use so much public water as may be necessary;

(d) dig holes and trenches:

Provided all such excavations shall be fenced or secured, and on the prospector leaving the neighbourhood, filled in such a manner as to prevent persons or stock inadvertently entering therein, and if any holder of a prospecting right

contravenes the provisions of this paragraph the Administrator may cause such excavations to be filled in or may take other protective measures, and shall charge such holder such sum as was reasonably expended in so doing, and such charge shall be a lawful deduction from the deposit made by such holder; and such action by the Administrator and the payment of such charge by the holder shall not exempt such holder from liability under this or any other Law for such contravention;

- (e) use so much public water as will enable him to test the mineral bearing qualities of the land by washing, sluicing or other means:

Provided that where in the opinion of the Administrator such use of water interferes with or is likely to interfere with any existing user of water, the holder shall on demand cease such use until he has made such arrangements as will satisfy the Administrator;

- (f) mark out and apply for an exclusive prospecting licence or a mining lease.

(2) The holder of a prospecting right shall keep full and accurate records of his prospecting operations and shall render to the Administrator such returns as may be prescribed, and on failure so to do the Administrator may, without prejudice to any other penalty for which the holder may be liable, refuse to accept any application by such holder for an exclusive prospecting licence or mining lease.

**20.** In the case of any contravention of the provisions of this Law or of the prospecting right by the holder of a prospecting right the Administrator may call upon the holder of such right to show cause within a time specified why his right should not be revoked; and should he fail to comply with such order within the time specified or should the cause shown be inadequate in the opinion of the Administrator, the Administrator may, by notice in the *Gazette* (a copy of which notice shall be forwarded to the last known address of the holder), summarily revoke such right and thereupon all privileges and rights conferred thereby or enjoyed thereunder shall as from the date specified in the notice of such revocation cease:

Revocation  
of a pros-  
pecting  
right.

Provided always that such revocation shall not in any way affect the liability of any person in respect of the breach of any provision of this Law committed by him before such revocation.

*Exclusive Prospecting Licence*

Grant of  
exclusive  
prospecting  
licence.

**21.** (1) The Administrator may, on application in the prescribed form and on payment of the prescribed fee, grant an exclusive prospecting licence in the prescribed form to any person who himself holds a prospecting right or to any person whose agent is the holder of a prospecting right:

Provided that the Administrator may in special circumstances grant an exclusive prospecting licence to any person.

(2) The Administrator may require an applicant for a licence to satisfy him that he possesses or commands sufficient working capital to ensure the proper prospecting of the area in respect of which the application is made and for the payment of any compensation which may be payable to the owners or occupiers of the land in respect of which the licence is required.

(3) A licence shall not be granted in respect of any area exceeding eight square miles.

(4) A licence shall be granted for a specified mineral only:

Provided that when the applicant or the holder has discovered other minerals on the area applied for, or the subject of the licence, the Administrator may in his discretion include by endorsement on the licence such other minerals in the licence.

(5) Subject to subsection (2) of section 22, a licence shall be valid for one year from the date of issue, but may be renewed for such period or periods not exceeding one year each and on such conditions as the Administrator may decide.

(6) The Administrator may grant or withhold the grant of a licence as he may think proper, or may grant it subject to such conditions as he may think fit.

S 2 Law  
38/1957.

(7) Any area in respect of which a licence is granted shall specifically exclude an area within its boundaries over which a licence or a mining lease for the same mineral is in existence at the date of the grant of such licence.

Rights under  
a licence.

**22.** (1) Subject to the provisions of this Law and of the licence, the holder of a licence shall have the sole right of prospecting for the mineral or minerals specified in the licence upon the lands within the area of his licence, and for such purpose may—

(a) enter upon the lands within such area with his agents and



workmen and thereon sink shafts or wells and exercise all or any of the rights conferred upon the holder of a prospecting right;

- (b) employ in prospecting on such land any number of persons who for the purpose shall not be required to hold prospecting rights; and
- (c) on and over unoccupied land within the area of his licence erect and maintain such machinery and plant and construct such passageways as may be necessary for or in connection with his prospecting operations.

(2) The holder of a licence who has fulfilled all the conditions attached thereto may, subject to the provisions of this Law, apply for renewal of such licence, mark out and apply for the grant of a mining lease, over the whole or any part of the area the subject of the licence, or mark out a reduced area and may apply for renewal of his licence over such reduced area only:

Provided that no licensee shall hold, by a licence in respect of a reduced area or by renewal of his former licence, a licence over any ground where alluvial deposits are being explored for a period of more than three years in all, or where lode deposits are being explored, for a period of more than six years in all unless the Administrator is satisfied that prospecting operations have been stopped or seriously hindered by special circumstances beyond the control of the licensee, in which event he may grant a renewal for an additional year.

**23.** (1) The holder of a licence shall during the currency of the licence adequately carry on to the satisfaction of the Administrator *bona fide* prospecting operations on the lands included in the area in respect of which the licence has been granted:

Obligations  
under a  
licence.

Provided that the Administrator may on the written application of the holder suspend the obligation imposed by this subsection in respect of any licence for such time as the Administrator may think fit.

(2) The holder of a licence shall, during the currency of the licence, keep all excavations, whether made prior to the grant of the licence or during the currency of the licence, secured to the satisfaction of the Administrator in such a manner as to prevent persons or stock inadvertently entering them.

(3) The holder of a licence, if not personally residing on the land the subject of the licence or in the opinion of the Administrator not residing sufficiently near to give continuous supervision to prospecting operations being conducted on such land, shall at all times have so residing a responsible agent in charge of such operations and shall forthwith notify the Administrator of every appointment of such an agent and of any change in such appointment.

Record of  
prospecting  
operations.

**24.** The holder of a licence shall keep to the satisfaction of the Administrator on the area of his licence, or at such place in the Islands as the Administrator may approve, full and accurate records and plans of his prospecting operations, and shall render to the Administrator such returns as may be prescribed; and on failure so to do the Administrator may, without prejudice to any other penalty for which the holder may be liable, refuse to accept any application by such holder for a mining lease.

Discovery of  
minerals to  
be notified.  
S4 Law  
39/1958.

**25.** The holder of a licence shall forthwith notify the Administrator of the discovery of any mineral other than that for which the licence was granted.

Transfer of  
licence.

**26.** The holder of a licence, or of any interest therein registered under Part VII, shall not transfer his licence or interest or any part or share thereof or create any interest whatsoever therein without first obtaining the consent in writing of the Administrator; and any such purported transfer or creation of any such interest without such prior consent shall have no effect.

Surrender of  
licence.

**27.** A licence may with the consent of the Administrator and on payment of the prescribed fee be surrendered at any time, and such surrender shall be in the prescribed form:

Provided that such surrender shall not affect any liability incurred by the licensee before such surrender takes effect.

Revocation of  
licence.

**28.** In the case of any contravention of this Law or of the licence by the holder of a licence or by any attorney, agent or employee of such holder, the Administrator may call upon the holder of the licence to show cause within a time specified why his licence should not be revoked; and should he fail to comply with such order within the time specified, or should the cause shown be inadequate in the opinion of the Administrator, the Administrator may by notice in

the *Gazette* (a copy of which notice shall be forwarded to the last known address of the holder) summarily revoke such licence and thereupon all privileges and rights conferred thereby or enjoyed thereunder shall as from the date specified in the notice of such revocation cease and the deposit may be declared forfeited to the Crown by the Administrator:

Provided always that such revocation shall not in any way affect the liability of any person in respect of the breach of any provision of this Law committed by him before such revocation.

29. (1) Every person who was the holder of a licence which has terminated, shall, not later than thirty days from the date of such termination—

Obligations  
of holder on  
termination  
of licence.

- (a) fill in all excavations made in virtue of the licence or otherwise secure them in a permanent manner so as to prevent persons or stock inadvertently entering therein; and
- (b) remove all beacons marking out the boundaries of the area the subject of the licence; and
- (c) furnish a certificate to the Administrator that he has complied with the provisions of this section as to the securing of excavations and the removal of beacons:

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

(2) If any person contravenes subsection (1) the Administrator may cause such excavations to be filled in or may take other protective measures and shall charge such person such sum as was reasonably expended in so doing, and such charge shall be a lawful deduction from any deposit made by such person:

Provided that such action by the Administrator and the payment of such charge by such person shall not exempt such person from liability under this or any other Law for such contravention.

(3) Where a licence is renewed in respect of a reduced area only,

subsections (1) and (2) shall apply to the area not included in any such renewal.

*Special Exclusive Prospecting Licence*

Grant of special exclusive prospecting licence.

**30.** (1) The Administrator may, in his discretion and on payment of the prescribed fee and notwithstanding anything in this Law, grant a special exclusive prospecting licence over any area and for such period and upon such terms and conditions as he may think fit.

(2) Application for a special exclusive prospecting licence shall be made in the form prescribed for an exclusive prospecting licence.

Rights, etc., under licence applicable to special licence.

**31.** All the rights, powers and privileges conferred on, and all the obligations and duties imposed on, and all the provisions of this Law applicable to, the holder of an exclusive prospecting licence shall also be conferred on, imposed on, and applicable to, the holder of a special exclusive prospecting licence except where there is a specific variance therewith by reason of any special terms and conditions imposed by the Administrator.

PART III. *Mining*

GENERAL

When mining lawful.

**32.** It shall not be lawful for any person to mine except in pursuance of and in accordance with the terms and conditions of a mining lease:

Provided that where application has been made for a mining lease and pending the grant of such lease the Administrator may grant permission in the prescribed form to the applicant to mine on the area applied for on such conditions and subject to such restrictions as the Administrator may think fit, and such permission may at any time be withdrawn by the Administrator.

Grant of a mining lease.

**33.** (1) The Administrator may in his discretion grant a mining lease subject to such covenants and conditions (which may include the payment of any financial consideration) as he may think fit to any person who himself holds a prospecting right or a licence, or to any person whose agent is the holder of a prospecting right:

Provided that where the applicant is the holder of a licence the

area of the lease applied for shall be wholly within the boundaries of that licence.

(2) Application for a mining lease shall be made in the prescribed form and manner and shall be subject to the prescribed conditions.

(3) The Administrator may require an applicant for a mining lease to satisfy him that he possesses or commands sufficient working capital to ensure the proper development and carrying on of mining operations on the area applied for, and for the payment of any compensation which may be payable to the owners or occupiers of the land in respect of which the lease is required, and may require any reports on the area made by prospectors or engineers to be submitted for his information; and in the event of the applicant failing so to satisfy the Administrator, the Administrator may refuse the application but the applicant may make a new application at any time.

(4) A mining lease shall be granted for a specified mineral only: Provided that the Administrator may in his discretion include by endorsement on the lease other minerals.

(5) Mining leases shall be of such kinds or classes and shall be subject to such terms or conditions and in respect of such areas or boundaries as may be prescribed, and special provisions may be prescribed in relation to the persons to whom mining leases may be granted for specified minerals.

**34.** (1) A mining lease may be granted for such term not being more than twenty-five years, as the Administrator may think fit: Duration of  
lease.

Provided that when permission to mine on the area is granted under section 32 pending the grant of the lease, such term shall commence from the date of such permission being given.

(2) If at the expiration of the term originally granted by a mining lease or of any renewal thereof the lessee is carrying on work in a normal and businesslike manner, and the lease is not at that time liable to be revoked under any of the provisions of this Law, and the lessee applies to the Administrator in the prescribed manner for a renewal of his lease, then the lessee shall be entitled on payment of the prescribed fee to obtain a renewal of the lease for a further term not exceeding twenty-five years upon the conditions which are then

generally applicable to new mining leases; but shall not have the right to any subsequent further renewal of the lease.

Rights under  
a mining  
lease.

**35.** In so far as it may be necessary for or in connection with his mining operations and subject to the provisions of this Law, a mining lessee shall have, on the lands included in his lease, the following rights—

- (a) the right to enter upon the lands the subject of the lease, the exclusive right to prospect or mine on such lands and the right to remove and dispose of the mineral specified in the lease on payment of the prescribed royalty;
- (b) the right to make all necessary excavations thereon and to stack or dump any of the products of mining thereon;
- (c) the right to erect, construct and maintain houses and buildings for his use and for the use of his agents and servants;
- (d) the right to erect, construct and maintain such engines, machinery, buildings, workshops and other erections as may be necessary or convenient;
- (e) the right to lay water-pipes and to make watercourses, ponds, dams, and reservoirs, and to divert any public water on or flowing entirely through the land:

Provided that any public water diverted shall be returned to its natural channel before leaving such land and that any rights existing at the time of the grant of the lease to use any public water shall not be disturbed;

- (f) the right to apply for a water right;
- (g) the right to construct and maintain all such passageways as may be necessary;
- (h) the right, subject to the directions of the Administrator, which directions shall be obtained before the exercise of any right under this paragraph, to cut, take and use any tree.

Obligations  
under a  
mining  
lease.

**36.** (1) The holder of a mining lease shall, within a period of six months from the date of the lease and thereafter during the currency of the lease, commence and adequately carry on to the satisfaction of the Administrator *bona fide* mining operations on the land included in the lease:

Provided that the Administrator may on the written application

of the holder suspend the obligation imposed by this subsection for such time as the Administrator may think fit.

(2) The holder of a mining lease shall during the currency of the lease keep all excavations whether made prior to the grant of the lease or during the currency of the lease secured to the satisfaction of the Administrator in such manner as to prevent persons or stock inadvertently entering them.

(3) The holder of a mining lease, if not personally residing on the land the subject of the lease or in the opinion of the Administrator not residing sufficiently near to give continuous supervision to mining operations being conducted on such land, shall at all times have so residing a responsible agent in charge of such operations, and shall forthwith notify the Administrator of every appointment of such an agent and of any change in such appointment.

(4) The holder of a mining lease shall take all due and proper precautions for the safety of all persons employed by him in mining operations.

(5) The Administrator may require that the holder of a mining lease shall employ a person who possesses either adequate mining experience or qualifications in mining and that such person shall personally supervise the mining operations under the lease.

**37.** The holder of a mining lease shall keep to the satisfaction of the Administrator on the land included in his lease, or at such place in the Islands as the Administrator may approve, full and accurate records and plans of his mining operations and of the calculated ore reserves, and shall render to the Administrator such returns as may be prescribed.

Record of  
mining  
operations.

**38.** The holder of a mining lease shall forthwith notify the Administrator of the discovery of any mineral other than that for which the lease was granted.

Discovery  
of minerals  
to be  
notified.  
S 5 Law  
39/1958.

**39.** The holder of a mining lease, or of any interest therein registered under Part VII, shall not transfer his lease or interest or any part or share thereof or create any interest whatsoever therein without first obtaining the consent in writing of the Administrator; and any such purported transfer or creation of any such interest without such prior consent shall have no effect.

Transfer of  
a mining  
lease.

Surrender  
of lease.

**40.** A mining lease may, with the consent of the Administrator and on payment of the prescribed fee, be surrendered either in whole or in part at any time after six months' notice in writing has been given to the Administrator of the intention to surrender, and such surrender shall be in the prescribed form:

Provided that such surrender shall not affect any liability incurred by the holder before such surrender takes effect, and no rent shall be refunded.

Revocation  
of lease.

**41.** (1) The Administrator may revoke a mining lease under this Law in the following cases—

- (a) if the holder, or any attorney, agent or employee of the holder commits any contravention of this Law, or of any requirements thereunder, or of any conditions of the lease, and does not repair such contravention within such period, not being less than one month, as the Administrator may allow from the date of the receipt by the holder of a notice in writing from the Administrator so to do or such extended period as the Administrator may think fit; or
- (b) if the holder wholly ceases work in, on or under the land the subject of the lease during a continuous period of six months, without the written consent of the Administrator:

Provided that such consent shall not unreasonably be withheld.

- (2) Such revocation shall not affect any liability already incurred by the holder.

(3) Where the Administrator has revoked a mining lease under this section notice of such fact shall be gazetted and a copy of such notice shall be sent to the holder at his last known address.

Treatment  
of tailings  
after termin-  
ation of  
lease.

**42.** (1) Any person who was the holder of a mining lease which has terminated may, within thirty days of such termination, apply to the Administrator for leave to enter the land comprised in the lease and treat or remove any tailings, ore or stone stacked or dumped by him on the surface prior to such termination, and the Administrator may grant such leave and may fix a time within which such treatment or removal is to be completed.

- (2) If such leave is not applied for within thirty days or such



treatment or removal is not completed within the time fixed any tailings, ore or stone remaining on the land shall become the absolute property of the Crown.

**43.** (1) The owner of any plant, machinery, engines or tools on any land the subject of a mining lease, or water right, which has terminated or which are in, on, or over any passageway used in connection therewith, may within three months from the date of such termination, or within such further time as the Administrator may allow, remove such plant, machinery, engines or tools, but shall not remove or interfere with any timber in any mine; and if such plant, machinery, engines or tools are not so removed they may be sold by auction by order of the Administrator at the risk of such owner and the net proceeds of such sale, after deducting the costs thereof and any sum which the person who was the holder of such lease or water right is required by law to pay to Government, shall be retained by the Administrator and held until applied for by such owner:

Owner may remove plant, etc., on termination of lease or water right.

Provided that where such plant, machinery, engines and tools cannot be sold by auction they shall become the property of the Crown and may be dealt with and disposed of in such manner as the Administrator may direct.

(2) Any person who removes or interferes with any timber in a mine other than that which it may be necessary to remove in the course of normal mining operations shall be guilty of an offence against this Law and liable on summary conviction before two Justices to a fine not exceeding one hundred pounds or to imprisonment with hard labour for a term not exceeding six months or to both fine and imprisonment.

**44.** (1) The Administrator may, notwithstanding anything in this Law, grant a special mining lease of any land, if he is satisfied that by reason of the difficulties and cost attending the mining in, on or under such land or for any other cause it is necessary that such a lease be granted.

Special mining lease.

(2) The form and duration of, and the area to be comprised in, any such special mining lease, the surface and subterranean limits thereof, the rent and royalty to be paid and the labour and other conditions, reservations and exceptions to be contained therein, shall be such as the Administrator may approve, but except where there

is a specific variance therein such special mining lease shall be subject in all respects to the provisions of this Law.

PART IV. *The Use of Water*

Interference  
with public  
water.

**45.** Except as provided in section 19 (1) (e) and 35 (e) no public water shall be dammed, diverted or in any way interfered with without the consent of the Administrator.

Pollution of  
public  
water.

**46.** Any person who in the course of prospecting or mining operations or work connected therewith permits any poisonous or noxious matter to be discharged into any public water in such a quantity as to be injurious to animal, fish, or vegetable life, shall be guilty of an offence against this Law.

Water right  
under mining  
leases.

**47.** (1) If it appears necessary for the proper working of the area of any mining lease, or for the processing or transportation of any minerals mined therein, the Administrator may, on such conditions as he may think fit, grant to the holder of such mining lease in respect of any public water a right (which shall be known as a "water right")—

- (a) to utilise for prospecting and mining operations or for the processing or transportation of minerals, any public water existing within the boundaries of his lease; or
- (b) to utilise at the site to which material is conveyed for washing any public water existing at such site;
- (c) to obtain and convey to the area of his lease or to any other area from any public water outside such area such specified volume of water as the holder may require for mining purposes, or for the purposes of processing and transportation;
- (d) to occupy such land as may be required for a dam, reservoir or pumping station and for the conveyance of such water to the area by means of pipes, ducts, flumes, furrows or otherwise;
- (e) to construct any works necessary for the collection, storage or conveyance of such water.

(2) Application for a water right shall be in the prescribed form; and for the purposes of such application a mining lessee may authorize in writing a land surveyor, together with his servants and workmen, to enter at all reasonable times on any land after giving to the

occupier thereof not less than three days' notice of the date upon which such entry is proposed to be made; and any damage done by such surveyor, his servants or workmen, shall be deemed for the purposes of section 12 to be damage done by the mining lessee in the course of prospecting or mining operations.

(3) A water right shall, subject to any express condition to the contrary, remain in force during the currency of the mining lease which it serves, or any renewal thereof.

(4) The holder of a water right shall compensate any person whose rights he may have disturbed or to whom he may have caused damage in the exercise of the right and such compensation shall be determined and may be recovered in the manner set out in section 12; and the Administrator may require an applicant for a water right to lodge with the Administrator such sum, or give security therefor, as the Administrator may think fit for the payment of such compensation, and such sum or the balance thereof (if any) may be refunded or released in accordance with the provisions of subsections (3) (4) and (5) of section 13.

(5) The holder of a water right shall pay rent in respect of all land, other than land comprised within the area of his mining lease, occupied by him under the water right.

(6) No water right shall be granted until after the expiration of one month from the date on which the Administrator has published a notice of the application for the right in the *Gazette* and has caused a like notice to be posted in a conspicuous place on or in the vicinity of the land in relation to which the application is made.

**48.** (1) Any objection to the granting of a water right shall be made in writing to the Administrator within twenty-one days of the date of the publication of the application in the *Gazette*.

Objection to  
grant of  
water right.

(2) The objections if any shall be heard on a day appointed, of which the applicant and objector shall have due notice, by the Administrator who may thereupon grant the right applied for subject to such conditions (if any) as he may think fit.

**49.** A water right may be amended by the Administrator on application by the holder in respect of—

Amendment  
of water  
right.

(a) the volume of water which may be diverted; or

(b) the areas to which it may be conveyed; or

(c) the name of the holder,  
by endorsement thereon:

Provided that no such endorsement shall be made in respect of an increase in the volume of the water to be diverted unless notice of such application has been given in the manner provided in subsection (6) of section 47.

Variation of  
water right  
in respect of  
excess water.

**50.** Where a water right has been granted to any person the Administrator may, notwithstanding such grant, if he is satisfied that such person does not require the whole of the public water in respect of which the right has been granted, grant to any other holder of a mining lease a water right to take from the water obtained by such person under the water right a specified quantity of water subject to such conditions as may be just; and for such purpose to construct and maintain any pumps, pipes, ducts, flumes or water courses as may be necessary to convey such water to the area of his lease, and thereupon the water right granted to such first-named person shall be deemed to be varied accordingly.

Transfer of  
water right.

**51.** The holder of a water right, or of any interest therein registered under Part VII, shall not transfer his right or interest, or any part or share thereof, or create any interest whatsoever therein without first obtaining the consent in writing of the Administrator, and any such purported transfer or creation of any such interest without such prior consent shall have no effect.

Surrender of  
water right.

**52.** A water right may, with the consent of the Administrator, be surrendered at any time after one month's notice in writing has been given to the Administrator of the intention to surrender and on payment of the prescribed fee:

Provided that such surrender shall not affect any liability incurred by the holder before such surrender takes effect, and no rent shall be refunded.

Revocation  
of water  
right.

**53.** (1) The Administrator may revoke any water right granted under this Part if the holder, or any attorney, agent or employee of the holder, commits any contravention of the provisions of this Law or of any conditions of his right, and does not repair such breach within such period as the Administrator may by notice in writing to the holder specify.

(2) Any such revocation shall not affect any liability already incurred by the holder.

(3) Where the Administrator has revoked a water right under this section, notice of such fact shall be gazetted and a copy of such notice shall be sent to the holder at his last known address.

54. If it appears necessary for the proper working of the area of any mining lease, or of any area over which permission to mine has been granted under section 32, or for the processing or transportation of any minerals mined therein, the Administrator may grant to the holder of the mining lease who has made application for a water right, or to the applicant for a mining lease to whom permission to mine has been granted under such section (as the case may be), a provisional right to exercise and enjoy all the powers and rights conferred on the holder of a water right:

Provisional  
water right.

Provided that—

- (a) the provisions of subsections (4) and (5) of section 47, sections 49, 51 and 52 shall apply to the holder of a provisional water right;
- (b) a provisional water right shall be granted for such period and on such terms as the Administrator may think fit and shall in any event cease to have effect if the mining lease in connection with which it was granted terminates or is refused;
- (c) a provisional water right may be summarily revoked by the Administrator by notice in writing to the holder thereof.

#### PART V. *Passageways*

55. (1) No holder of prospecting or mining rights or of a water right shall at any time, in the exercise of the rights granted under this Law, interfere with or perform any act which may tend to interfere with the exercise of any right of passageway or perform any act which may damage or tend to damage any passageway without first obtaining the consent in writing of the holder of such right of passageway:

Interference  
with passage-  
ways.

Provided that in the case of public rights of passageway or where the holder of the right of passageway cannot be found by the person requiring his consent, the consent of the Administrator shall be deemed sufficient consent.

(2) Nothing in this section shall prevent the holder of a licence, mining lease, or water right, or an applicant for a mining lease to whom permission to mine has been granted under section 32 from diverting any public path within the area of his licence, mining lease, or water right, or covered by the application, if such diversion is made entirely within the area held by or applied for by him and is aligned and maintained to the satisfaction of the Administrator; and on the conclusion of mining or prospecting operations, or operations under the water right, affecting such public path, it shall, if required by the Administrator, be remade as and where it was before such interference.

Acquisition  
of right  
of passage-  
way.

**56.** (1) If the holder of a licence, or mining lease, or a person having permission under section 32 to mine on an area the subject of an application, is desirous of obtaining a right of passageway over lands outside the area covered by the licence, lease or application, or if the holder of a water right is desirous of obtaining a right of passageway for the purpose of such water right, but is unable to obtain consent to such right, or on such terms as he considers reasonable, from the owner or occupier of the land over which the right is desired, he may apply to the Judge of the Grand Court for an order granting such right of passageway; and for the purposes of such application the holder of the licence, mining lease or water right, or the person having permission under section 32 to mine, may authorize in writing a land surveyor, together with his servants and workmen, to enter at all reasonable times on any land after giving to the occupier thereof not less than three days notice of the date upon which such entry is proposed to be made; and any damage done by such surveyor, his servants, or workmen, shall be deemed for the purposes of section 12 to be damage done by such holder or person in the course of prospecting or mining operations.

(2) If on any application under subsection (1) the Judge of the Grand Court is satisfied—

- (a) that it is necessary either for prospecting or mining operations or for the transportation, treatment, processing or storage of any mineral mined, that the applicant should have the right of passageway; and
  - (b) that it is reasonable for such right to be granted over the particular land which is the subject of the application,
- he may make an order granting to the applicant the right of passage-

way and shall determine the compensation to be paid to the owner or occupier of the land over which the right of passageway was granted.

(3) In assessing the compensation payable under this section the Judge of the Grand Court shall have regard to the disturbance of surface rights and to any damage done, or likely to be done, to the surface of the land and shall include in such assessment the sum due for rental of any land occupied under such right of passageway.

(4) A copy of such order shall be forwarded by the Clerk of the Court to the Administrator.

57. Any right of passageway acquired under section 56 shall expire when the licence, mining lease or water right is terminated, or the permission to mine is determined, as the case may be, and thereupon the holder shall comply with the provisions of sections 29 and 43 in so far as they are applicable.

Duration of  
right to  
passageways.

58. The holder of a right of passageway who has constructed a road under such right shall not hinder or prevent any person over whose land such right of passageway exists from having access to or using such road:

Use of  
mining road.

Provided that—

- (a) where any such person uses such road in such a manner as, in the opinion of the holder, to do appreciable damage thereto, or to enhance substantially the cost of upkeep thereof, the holder may call upon such user to contribute to the cost of upkeep;
- (b) where any such person uses such road in a manner as to interfere materially with the free use and enjoyment of such road by the holder, such holder may call upon such user to limit his use of the road so as to cease such interference.

#### PART VI. *Inspections and Accidents*

59. (1) The Administrator, a medical officer or any other person appointed by the Administrator, at all reasonable times by day or night but so as not unreasonably to impede or obstruct the work in progress, may—

General  
Inspections.

- (a) enter, inspect and examine any land on which prospecting or

mining operations are being conducted, or which is the subject of any prospecting or mining rights, water right or right of passageway;

- (b) examine into and make enquiry respecting the condition and ventilation of any mine and any building connected with prospecting or mining operations or any water right or passageway and all matters relating to the safety, welfare and health of the persons employed therein;
- (c) inspect and examine the condition of the external parts of the machinery used upon or in any mine or for the purposes of any water right or passageway, and the condition of all plant and works;
- (d) inspect the storage of explosives upon any mine and direct in what manner they shall be stored;
- (e) exercise all powers necessary for carrying this Law into effect.

(2) The Administrator or a person appointed by him for the purpose may call for, examine and take extracts from all books, accounts, vouchers, documents and plans relating to prospecting or mining operations or to any minerals obtained by such operations and examine and take samples of any material being mined.

Power to  
remedy  
dangerous  
practice, etc.

**60.** (1) If any officer specified in section 59 of this Law finds in any respect any mine or any matter, thing or practice in or connected with prospecting or mining operations or any water right or passageway to be dangerous or defective so as in his opinion to threaten or tend to the bodily injury, or to be detrimental to the welfare or health, of any person, or to the injury of stock, he shall give notice in writing thereof to the holder of the prospecting or mining right, water right or right of passageway, or his agent in charge of the operations or mine, and shall state in such notice the particulars in which he considers such mine, matter, thing or practice to be dangerous or defective, and shall require it to be remedied, either forthwith or within such time as he may specify, and he may order work to be suspended until the danger is removed to his satisfaction.

(2) On receipt of such notice the holder of the prospecting or mining right, water right or right of passageway, or his agent, shall comply therewith, or, if such notice was given by any officer other than the Administrator and he objects thereto, he shall immediately state his objection in writing to the Administrator.



(3) Where the holder of the prospecting or mining right, water right or right of passageway, or his agent, states his objection to the Administrator under subsection (2) he shall cease to use the mine, or part thereof, machine, plant, matter, thing or practice as to which such notice has been given, and shall withdraw all men from the danger indicated by such officer until such time as the matter is determined by the Administrator:

Provided that if, in the opinion of the officer giving such notice, there is no immediate danger, such officer may allow work to proceed during the time the matter is being determined, under such restrictions and upon such conditions to ensure safety as he may consider necessary and may specify in writing.

**61.** If the holder of any prospecting or mining right, water right or right of passageway, or his agent, fails to comply with the requisition of any notice given under section 60, or with the decision of the Administrator when an objection has been determined, he shall be guilty of an offence against this Law and liable on summary conviction before two Justices to a fine not exceeding one thousand pounds, or to imprisonment with hard labour for a term not exceeding one year:

Penalty on failure to comply with notice.

**62.** (1) Whenever an accident occurs in connection with prospecting or mining operations causing or resulting in loss of life or serious injury to any person, the person in charge of the operations shall report in writing with the least possible delay the facts of the matter so far as they are known to him to the Administrator.

Proceedings in case of accident.

(2) In the event of such accident the Administrator shall hold an enquiry into the cause thereof and shall record a finding.

(3) The Administrator shall, for the purpose of an enquiry under subsection (2), have the powers of two Justices of the Peace to summon witnesses, to call for the production of books and documents and to examine witnesses and parties concerned on oath.

(4) Any person summoned to attend or to produce books or documents under this section, and refusing or neglecting to do so, or refusing to answer any question put to him by or with the concurrence of the Administrator, shall be guilty of an offence against this Law and liable on summary conviction before two Justices to a fine not exceeding twenty pounds:

Provided that no person shall be bound to incriminate himself,

and every witness shall, in respect of any evidence given by him at such enquiry, be entitled to the same privileges to which he would be entitled if giving evidence before a Court of justice.

(5) Any witness attending at the request of or upon summons by the Administrator holding such enquiry shall, subject to any order made by such officer, be entitled to like expenses as if summoned to attend the Petty Court.

#### PART VII. *Registration*

Licences,  
etc., to be  
registered.

**63.** All prospecting rights, licences, mining leases and water rights shall be registered in the office of the Administrator.

Transfers of  
interests in  
licences, etc.,  
to be regis-  
tered.

**64.** (1) When any exclusive prospecting licence, mining lease or water right is transferred to, vests in, or devolves upon any person, such person shall within thirty days thereafter, or of the date of approval where approval is required, apply to register such transfer, vesting or devolution in the office of the Administrator.

(2) Where any interest in an exclusive prospecting licence, mining lease or water right with the written consent of the Administrator, as the case may be, has been created, renewed or determined, the person in whose favour such interest has been created, renewed or determined, shall apply to register the instrument creating, renewing or determining such interest within thirty days of the date of the execution thereof in the office of the Administrator.

(3) The Administrator for good cause shown may extend the period for the making of an application for the registration under this section.

Registration  
not to cure  
defect.

**65.** Registration shall not cure any defect in any document registered or confer upon it any effect or validity which it would not otherwise have had.

Searches of  
register.

**66.** The Administrator shall, on payment of the prescribed fees, allow searches in a register at all reasonable times and shall give copies of or extracts from any entry in a register.

#### PART VIII. *Possession and Purchase of Minerals*

Interpreta-  
tion.

**67.** For the purposes of this Part—  
“minerals” means minerals to which the Administrator may by

order apply the provisions of this Part; and any such order may specify the stage of processing at which such provisions shall cease to apply;

“licensed mineral dealer” means a person licensed under this Part.

**68.** No persons shall possess any mineral unless, in respect of the minerals of which he is in possession— Possession of minerals.

- (a) he is a licensed mineral dealer; or
- (b) he is the holder of a prospecting right or an exclusive prospecting licence; or
- (c) he is the holder of a mining lease or is a person to whom permission to mine has been granted under section 32; or
- (d) he is a person to whom a permit to possess small quantities of a mineral has been granted by the Commissioner under section 72 and such possession is in accordance with the conditions of the permit; or
- (e) he is the duly authorized employee of any person specified in paragraphs (a) to (d).

**69.** (1) No person shall sell any minerals to any person in the Islands other than a licensed mineral dealer or a person to whom a permit has been granted under section 72. Sale and purchase of minerals.

(2) No person shall buy any minerals unless he is a licensed mineral dealer or a person to whom a permit has been granted under section 72.

**70.** (1) The Administrator may grant to any person a mineral dealer’s licence in the prescribed form and on payment of the prescribed fee, and subject to such conditions as he may think fit. Mineral dealer’s licence.

(2) Every mineral dealer’s licence shall expire on the 31st December in the year in which the licence is granted, and shall not be transferred without the consent of the Administrator endorsed on such licence.

**71.** (1) Every licensed mineral dealer shall be liable for the due payment to the Administrator of all royalties due on any minerals bought, received or exported by him, and if so required by the Administrator shall give security for the due payment of all such royalties; and, subject to agreement to the contrary, the licensed Obligations of licensed mineral dealer.

mineral dealer who pays any royalty on minerals may ~~recover~~ or retain the amount from the person on whose behalf he sold or from whom he received such mineral.

(2) Every licensed mineral dealer shall—

(a) keep a register showing all purchases and sales of minerals made by him, the nature and weight of such minerals, the date of each transaction, the name and address of the vendor and his title to be in possession of such minerals, and the name and address of the purchaser or consignee to whom such minerals are sold or consigned; and

(b) cause every transaction to be entered in such register within twenty-four hours of being made; and

(c) produce and exhibit such register to the Administrator, or to any constable whenever so required; and

(d) render to the Administrator such returns as the Administrator may require.

(3) A licensed mineral dealer shall not deal in or be in possession of any minerals except in accordance with the conditions of his licence.

Permit for small quantity of minerals.

72. The Administrator may grant to any person a permit to possess or buy small quantities of minerals subject to such conditions as may be specified in the permit.

This Part not to apply to any Government department.

73. Nothing in this Part shall apply to or restrict the operations of any Government department.

#### PART IX. *Miscellaneous*

Survey.

74. Before granting a mining lease, or water right, the Administrator may require the area of the land to be included or occupied to be surveyed by a surveyor approved by the Administrator and the cost of such survey shall be paid by the applicant for such lease or right.

Lateral limits.

75. The lateral limits of any exclusive prospecting licence, or mining lease, shall be vertical planes passing through the sides by which the licence or lease is bounded:

Provided that the Administrator may grant a special lease under section 44 of a subterranean area larger than the limits of the surface of land comprised in such lease; and in such case so much of the

surface lying above the subterranean area of such lease as is not included in the lease shall be excluded from any prospecting or mining operations whatsoever, except in so far as the holder thereof may be permitted, in the case of Crown Lands, by the Administrator, and in the case of lands other than Crown Lands by the owner thereof, to enter upon any part of the surface line above the area of his lease but not included in the surface limits of such lease for the purpose of constructing thereon such works, plant and buildings, as may be necessary for the proper working of the lease and on payment of such rent and such compensation for the use of such surface as the Administrator or owner, as the case may be, may determine.

**76.** (1) Subject to subsection (2), in the event of any areas subject to licences or mining leases being found to overlap, the area overlapping shall be considered to be within the area of the licence or lease first granted and no compensation shall be payable in respect thereof to the holder of the licence or lease subsequently granted.

Overlapping  
areas.  
S4 Law 38/  
1957.

(2) Subsection (1) shall not apply where the overlapping areas are subject to—

- (a) two or more licences; or
  - (b) two or more mining leases; or
  - (c) one or more mining leases and one or more licences,
- if no two such licences or mining leases, or no such mining lease and licence, as the case may be, are for the same mineral.

**77.** If application for a licence or mining lease is received for the same area or for overlapping areas from two or more persons, that application which is first received in order and in proper form shall have priority; and the decision of the Administrator on any question of priority shall be final.

Priority of  
application.

**78.** The Administrator may without liability for payment of compensation to any person and notwithstanding the previous grant of any prospecting or mining rights make any grant of the land (not being a licence or mining lease) comprised in such rights which he is empowered by law to make, and the person to whom any such grant is made shall be entitled to obtain compensation as provided in section 12 from the holder of a prospecting right, licence or mining lease, by reason of the exercise by such holder of the rights conferred upon him by his right, licence, or mining lease, but only in respect of

Rights sub-  
sequently  
granted.

any disturbance or acts committed by such holder subsequent to the date of such grant to such person.

Power to  
take clay,  
etc.

**79.** The Director of Public Works may at any time take from any land comprised in any licence or mining lease, any clay, gravel, stone, brushwood, timber or other materials required for the construction of roads, buildings or other public works, but compensation shall be payable to the holder of such licence, or mining lease, in respect of any damage done to any passageways, works, buildings or plant belonging to the holder as may be agreed or determined in the manner provided in subsection (2) of section 14.

Export of  
radioactive  
mineral  
restricted.  
S6 Law  
39/1958.

**80.** Notwithstanding anything to the contrary no person shall export, or attempt to export, from the Islands any radio-active mineral except under and in accordance with a permit granted by the Administrator in that behalf.

Report of  
discovery of  
radioactive  
mineral.  
S6 Law 39/  
1958

**81.** If any radio-active mineral is discovered on any land the person by whom such mineral is discovered shall forthwith report such discovery to the Administrator, and no such mineral shall be removed from such land without the consent of the Administrator.

Restrictions  
on export of  
minerals.

**82.** No person shall export any mineral from the Islands unless he holds a certificate granted by the Administrator that all prescribed royalties thereon have been paid for or secured to the satisfaction of the Administrator or that no royalties are payable; and there shall be charged for such certificate such fee as may be prescribed.

No action  
against  
officer for  
acts done in  
execution  
of duties.

**83.** No action or other legal proceedings whatsoever, civil or criminal, shall be instituted in any Court of law against the Administrator or other officer or any person acting under his authority for or on account of or in respect of anything done or purported to be done in good faith in the execution of his duty under this Law.

Charges for  
enquiry by  
Government  
officers.

**84.** Where an enquiry or examination of any area is by this Law required to be made by any Government officer such reasonable charges as may be determined by the Administrator may be made.

Fraudulent  
representa-  
tion.

**85.** Any person who represents that he holds any exclusive prospecting licence or mining lease and thereby induces or attempts to induce any person to buy any interest in such licence or lease or to

invest capital in any company or syndicate connected therewith, before he has obtained the grant of such licence or lease, or when such licence or lease has been forfeited, revoked or determined, as the case may be, shall be liable to forfeit any right to the grant of such licence or lease where such has been applied for and if he is already the holder of a prospecting right, licence, or mining lease shall be liable to have such right, licence, or lease revoked:

Provided that nothing in this section shall relieve any person from liability to civil action or a criminal prosecution in respect of such representation.

**86.** Any person who, in connection with any return, statement or document in respect of which information is or may be required to be given under this Law, wilfully or recklessly gives false or misleading information or makes a false or misleading statement, whether oral or in writing, shall be guilty of an offence against this Law.

False or misleading information.

**87.** Any person who places or deposits or is accessory to the placing or depositing of any minerals in any place with the intent to mislead any person as to the payable nature of the minerals naturally occurring in such place, or who mixes or causes to be mixed with any ore, any valuable mineral or substance whatsoever that will increase the value or in any way change the nature of such ore, with intent to deceive or defraud, shall be guilty of an offence against this Law.

Salting.

**88.** Any person who places any mineral in the possession of or on the premises of any other person, with intent that such other person be convicted of any offence against this Law shall himself be guilty of an offence against this Law.

Placing mineral on premises with intent.

**89.** Any person who wilfully obstructs, hinders, assaults or resists any other person in the exercise or execution of any right, power or duty under this Law, or wilfully disobeys an order of any such other person, other than an order for the payment of money, shall be guilty of an offence against this Law and liable on summary conviction before two Justices to a fine not exceeding one hundred pounds or to imprisonment with hard labour for a period not exceeding six months or to both such fine and imprisonment.

Obstructing person in execution of duty.

Interference  
with min-  
ing or  
boundary  
marks, etc.

**90.** Any person who—

- (a) interferes with any prospecting or mining operations authorized by or under this Law;
- (b) obstructs any person in the exercise of any right conferred by or under this Law;
- (c) interferes with any machinery, plant, works or property established on, in, under or over any land in exercise of a right conferred by or under this Law; or
- (d) without lawful authority wilfully breaks, defaces or removes, or in any other way interferes with any boundary mark, beacon or post erected for any of the purposes of this Law,

shall be guilty of an offence against this Law and liable on summary conviction before two Justices to a fine not exceeding one hundred pounds or to imprisonment with hard labour for a term not exceeding six months or to both such fine and imprisonment.

Search  
warrants.

**91.** (1) Any Justice who has reason to suspect that any mineral with respect to which an offence against this Law has been committed is concealed in any place may issue a warrant authorizing any constable with his assistants at any time within one month from the date of the warrant to enter and search that place and all buildings and things therein using such force as may be necessary and to seize any minerals and arrest any person found therein.

(2) Any person arrested and mineral seized under such a warrant shall as soon as possible be brought before a Justice to be dealt with according to law.

Power of  
arrest.

**92.** Any constable may without warrant arrest any person whom he finds committing, or whom he reasonably suspects of having committed, an offence against this Law, and such person arrested shall be taken, with as little delay as possible, before a Justice to be searched and dealt with according to law.

General  
penalty.

**93.** Any person who contravenes any of the provisions of this Law, or commits any offence against this Law, for which contravention or offence a penalty is not expressly provided, shall be liable on summary conviction before two Justices to a fine not exceeding five hundred pounds or to imprisonment with hard labour for a term not exceeding one year, or to both such fine and imprisonment.



**94.** (1) The Administrator may make regulations generally for Regulations.  
giving effect to the provisions of this Law.

(2) Without prejudice to the generality of the power conferred by subsection (1), regulations made under that subsection may provide for—

- (a) the manner of application for, and the form and conditions of, and the renewal, transfer, surrender, revocation or registration of rights under any licence, mining lease or water right;
- (b) the fees, rents and payments to be paid and deposits to be made in respect of any prospecting right, licence, mining lease, or water right, or any renewal, transfer, surrender, or revocation thereof, or any creation of an interest therein;
- (c) the manner in which areas and boundaries shall be marked, beacons and surveyed, and the removal of obsolete beacons;
- (d) the construction and use of passageways;
- (e) the cutting down and use of timber for the purposes of carrying on prospecting and mining operations;
- (f) the safety, welfare, health and housing conditions of persons employed in mines, and the carrying on of prospecting or mining operations in a safe, sanitary, proper and effectual manner;
- (g) the restriction or prohibition of the employment of children in mining operations;
- (h) the possession and disposal of and dealing in the products of mining;
- (i) the registration of prospecting rights, licences, mining leases and the registration of instruments under which any right or interest in licences, mining leases or water rights is transferred, surrendered or otherwise dealt in and the fees payable on such registration;
- (j) the agents and the representatives to be appointed, the returns to be rendered and the nature of the records, accounts, books and plans to be kept by the holders of prospecting or mining rights, and the furnishing by such holders of any information required by the Administrator;
- (k) the rates of royalties to be paid to Government, the method

of calculation of the amount of such royalties, and the manner and time of payment thereof;

- (l) the disposal of any poisonous or noxious products the result of mining operations;
- (m) the working obligations under a licence or mining lease and the amalgamation of working obligations under two or more licences or mining leases held by the same holder.

Provisions  
applicable to  
gypsum and  
phosphates.

**95.** (1) It shall not be lawful for any person to prospect or mine for gypsum or phosphates except in accordance with the provisions of this section.

(2) Subject to the provisions of this section, the owner of any land may grant to any person the right to prospect or mine gypsum or phosphates on such land.

(3) The provisions of sections 2, 5, 6, 8, 9, 14, 24, 25, 37, 38, 83, 84, 86, 87, 89, 90, 91, 92, 93 and 94 and the provisions of Parts IV, V, VI and VII shall, so far as they are applicable, apply to prospecting or mining for gypsum or phosphates as if gypsum and phosphates were included in the definition of minerals and as if the person having the right under subsection (2) to prospect or mine therefor were the holder of prospecting or mining rights.

(4) The Administrator may require the person having the right under subsection (2) to prospect or mine gypsum or phosphates to comply with such provisions of any regulations made under section 94 as he may specify by notice in writing.

Power of Ad-  
ministrator  
to amend  
Schedule.  
S8 Law  
39/1958.

**96.** The Administrator in Council may from time to time by order alter, vary or in any manner amend the Schedule.

## SCHEDULE (Sections 2 and 96)

### RADIO-ACTIVE MINERALS

Section 10 of  
39/1958.

**1.** Any mineral containing uranium or thorium and, in particular and without prejudice to the generality of this paragraph, the substances hereinafter set out in this Schedule.

**2.** Minerals of the pitchblende group, including pitchblende, uraninite, ulrichite, broeggerite, cleveite and related mineral species.

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3. Secondary uranium minerals including torbernite, autunite, uranite, rutherfordine, uranophane, gummite, thorogummite, uranocircite, kasolite, becquerelite and other silicates, hydrates, carbonates, phosphates or arsenates of uranium.

4. Carnotite, tyuyamunite and related uranium-bearing vanadate ores.

5. Uranium-bearing niobate-titanate-tantalate ores, including euxenite, polycrase, blomstrandine, priorite, samarskite, fergusonite, betafite and related minerals.

6. Monazite, thorite and thorianite.

