

eSwatini

Mining Act, 1958

Act 5 of 1958

Legislation as at 1 December 1998

FRBR URI: /akn/sz/act/1958/5/eng@1998-12-01

There may have been updates since this file was created.

PDF created on 21 February 2024 at 16:33.

Collection last checked for updates: 1 December 1998.

[Check for updates](#)



About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

This is a free download from the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

www.laws.africa
info@laws.africa

There is no copyright on the legislative content of this document.
This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

Mining Act, 1958

Contents

Part I – General	1
1. Short title	1
2. Interpretation	1
3. Penalty for prospecting or mining without authority	4
4. Right to prospect for mineral oils or other natural mineral oil products or diamonds may be granted by agreement with the Minerals Committee	4
5. Prospecting in closed regions	5
6. Appointment of officers and Commissioner of Mines	5
7. Delegation of powers	5
8. No action lies against officers for acts done in execution of their duties	5
9. Mineral taxes	5
10. Lands excluded from prospecting or mining	5
11. Restricted minerals	6
12. Surface rights: Security for compensation for damage may be required	6
13. Surface rights: Payment of compensation to owners or occupiers	7
14. Charges for enquiry by Government officers	7
15. Deposits	7
16. Records to be kept by holders of prospecting and mining rights	8
17. Discovery of economic minerals to be notified	9
18. No transfer of or creation of interest in a prospecting or mining right valid without the prior consent of the Ngwenyama	9
19. Amalgamation or revocation of prospecting or mining rights	9
20. Obligations of holders of prospecting rights, locations and leases	9
21. Restoration of land	9
22. Power of Ngwenyama to cancel prospecting or mining rights where granted on incorrect or misleading information	10
23. Penalty for giving false or misleading information	10
24. Revocation of prospecting or mining rights	11
25. Right of lessee to remove fixtures	11
26. Acceptance of rent not to act as waiver of forfeiture	12
Part II – Prospecting	12
27. When prospecting lawful	12
28. Disposal of minerals obtained under a prospecting right	12
29. Prospecting licence	12
30. Privileges and obligations under a prospecting licence	13

31. Ancillary privileges under a prospecting licence	13
32. Exclusive prospecting licence	14
33. Rights under an exclusive prospecting licence	14
34. Surrender of an exclusive prospecting licence	14
35. Grant of special exclusive prospecting licence	15
36. Application for special exclusive prospecting licence	15
37. Act and regulations for exclusive prospecting licence to apply	15
Part III – Mining	15
38. When mining lawful	15
39. Locations	15
40. Locations may be lode, alluvial or river	15
41. Rights under a location	16
42. Abandonment of location	16
43. Grant of a mining lease	16
44. Application for a mining lease	17
45. Applicant to possess sufficient capital	17
46. Lease granted for specified minerals	18
47. Duration of lease	18
48. Rights under a mining lease	18
49. Surface rights of lessee	18
50. Lessee not to enter into certain agreements	19
51. Penalty for non-payment of rent	19
52. Surrender of lease	19
53. Special lease	19
Part IV – Disputes	19
54. Powers of District Commissioners to hear and decide disputes	19
55. Procedure	20
56. District Commissioner hearing dispute to keep records and take notes	20
57. Enforcement of decrees and decisions	20
58. Appeals to the High Court and saving of jurisdiction	21
Part V – Possession, purchase and sale of minerals	21
59. Possession and sale of minerals	21
60. Purchase of minerals	22
61. Who may melt precious metals	22
62. Restriction on import and export of minerals	22

63. Licence to deal in minerals	22
64. Obligations of holders of mineral dealer's licence and bankers	22
65. Business of a goldsmith not to be carried on without a licence	23
66. Goldsmith's licence	23
67. Obligations of a licensed goldsmith	23
68. Offences by licensed dealers and goldsmiths	23
69. Power of court on conviction of a licensed dealer or goldsmith	23
70. Maliciously placing minerals on premises with intent	23
Part VI – Inspections and accidents	24
71. General inspections	24
72. Obligation to remedy any dangerous practice and procedure to be followed	24
73. Inspections in connection with welfare and health and procedure to be followed	24
74. Procedure on objection to comply with notice	25
75. Penalty on failure to comply with notice	25
76. Contracting out forbidden	25
77. Procedure in case of accident	25
Part VII – Passageways and roads	25
78. Creation of passageway	25
79. Consent required to interfere with passageways, saving diversions of a public path	26
80. Holder of exclusive prospecting licence or mining right may construct road access	26
81. Using of mining road	26
82. Disputes	27
83. Duration of right to passageways	27
Part VIII – Prospecting and mining on mineral concessions	27
84. Legislation relating to inspections, accidents, enquiries, safety and welfare to apply to mineral concessions	27
85. Right of owner of a mineral concession	27
86. Reporting discovery of minerals on a mineral concession	27
87. Notification when prospecting and mining proceeds on a mineral concession	27
88. Improvements may be made by the owner of surface rights on a prior-dated mineral concession in certain circumstances	27
89. Holder of a prior-dated mineral concession may disturb improvements without compensation in certain circumstances	28
90. Investigation in respect of minerals by the Government	28
91. Prospecting on a mineral concession	29
92. Mining leases to prospectors	29

93. Other mining leases	30
94. Recovery of costs of investigations or prospecting	31
95. Prospecting right or mining lease or location over two or more portions of mineral concessions	31
96. Right to mine associated mineral on payment of royalty	31
97. Power of entry of officers and prospectors	31
98. Power of entry of lessees	31
98bis. Exemption from payment of royalty	32
Part IX – Swazi Areas	32
99. Restriction of prospecting and mining in Swazi Area	32
100. Notice of intention to prospect and mine in Swazi Area	32
101. Ngwenyama to issue prospecting or mining right	32
Part X – Taxation of mining rights	32
102. Surrender of mineral concession in certain circumstances	32
103. Cancellation of mineral concession	33
Part XI – Registration	33
104. Exclusive prospecting licences, and mining rights to be registered	33
105. All transfers or creations of interest in licences, mining locations and leases to be registered	33
106. Failure to register	33
107. Searches of registers	33
108. In case of lost or destroyed certificate copy may be substituted	33
109. Holder of mining rights to have registered address in Swaziland	34
Part XII – Miscellaneous	34
110. Right to use water	34
111. Water	34
112. Government departments excepted from the provisions of the Act	34
113. Trivial defects in beaconing or application do not invalidate excepted cases	34
114. Lateral limits	35
115. Land required for public purposes	35
116. Power to take materials	35
117. Protection of estate of deceased person, insolvent, or mentally disordered person	36
118. Government officers prohibited from acquiring rights	36
119. Discovery of mineral by Government servant	36
120. Salting	36
121. Obstruction of officers	36
122. Unlawful beacons	37

123. Who may beacon certain areas	38
124. Penalty for interference or obstruction	38
125. Power of arrest	38
126. Titles to be produced when demanded	38
127. Penalties	39
128. Forfeiture	40
129. The Minister with the prior approval of the Ngwenyama may make regulations	40
130. Repeal of legislation set out in the Schedule	42
Schedule	42

eSwatini

Mining Act, 1958

Act 5 of 1958

Commenced on 1 March 1958

[This is the version of this document at 1 December 1998.]

An Act to amend and consolidate the law relating to prospecting and mining and mineral concessions, and matters ancillary thereto.

Part I – General

1. Short title

This Act may be cited as the Mining Act, 1958.

2. Interpretation

In this Act, unless the context otherwise requires—

“**agent**” includes a tributor or option-holder or any person placed in charge of prospecting or mining operations by a holder;

“**alluvial**” includes all forms of mineral deposits which do not fall within the definition of “lode”;

“**authorised officer**” means an officer authorised by the Minister;

“**bank**” means any branch in Swaziland of the Standard Bank Swaziland Limited, Barclays Bank of Swaziland Limited or such other bank as the Minister may by notice in the *gazette* declare to be a “bank” for the purposes of this Act;

“**banker**” means any manager or accountant of a bank and any officer of a bank who is acting in the capacity of manager or accountant;

“**beacon**” means a mark erected on any land for the purpose of marking out ground for prospecting or mining purposes under this Act and includes location beacons, corner beacons, upper beacons, boundary beacons and direction beacons;

“**buy**” and “**sell**” include “**barter**”; “**buy**” includes “**purchase**” and “**receive as a pledge or security**” and “**sell**” includes “**deposit as a pledge or security**”;

“**Commissioner**” means the Commissioner of Mines appointed under [section 6](#) of this Act;

“**Crown mineral area**” means any area defined as such by the Minister by notice in the *gazette* in respect of which there exist rights to any minerals or mineral oils which were vested in any former High Commissioner or other authority representing the Crown whether under the Crown Lands and Minerals Order in Council, 1908, as amended by the Crown Lands and Minerals Amendment Order in Council, 1910, or otherwise and which rights now vest in the *Ngwenyama* in trust for the Swazi Nation;

[Amended L.N.37(7)/1967]

“**department**” means the Geological Survey and Mines Department;

“**deposit**” means any sum lodged with Government or the Minerals Committee as a guarantee for the due performance of any obligation imposed by this Act or regulations made thereunder and includes a banker’s guarantee;

“**diagram**” means a diagram or plan prepared to the satisfaction of the Commissioner;

“goldsmith” means a worker in gold or other precious metal or a seller of articles manufactured of gold or other precious metal;

“holder” of a prospecting right or mining right means the person to whom any such right was granted in the first instance and includes any person in whom such right or part thereof has become lawfully vested by transfer, assignment or otherwise, and for the purposes of Part VII of this Act and any regulations made under this Act relating to safety in mines and the service of notices includes every person carrying on or who has carried on prospecting and/or mining operations on mineral concessions;

“inspector of mines” includes a senior inspector of mines and an assistant inspector of mines, and any person delegated by the Minister to act as a senior inspector, an inspector or an assistant inspector of mines;

“land” includes any portion of any land;

“lease” means a mining lease;

“lessee” means the holder of a mining lease granted under this Act;

“livestock” includes cattle, horses, donkeys, mules, pigs, sheep, goats, and all other domesticated animals and their young;

“location” means a right granted under [section 39](#);

“lode” or **“reef”** includes all true fissure veins, bedded veins, contact veins, segregated veins, pipes, contact deposits, stockworks, impregnations, metalliferous conglomerates other than hardened alluvial deposits of geological recent origin, metalliferous and lateritic cappings, such irregular deposits as conform generically to the above classification and beds of any mineral such as beds of ironstone and coal seams;

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

“mine” means intentionally to win minerals and shall include any operations necessary for the purpose, but shall not include a right or permit to use water;

“mineral” and **“minerals”** do not include mineral oils but include—

- (a) metalliferous ores and other substances in their natural state which are obtainable only by mining or in the course of prospecting operations;
- (b) metalliferous ores and other substances in their natural state mined or obtained in the course of prospecting operations;
- (c) the valuable parts of such ores or other substances for marketing or export;
- (d) the product of treating or dressing such ores or other substances for marketing or export;

[Amended A.9/1989]

- (e) such substances in their natural state as are commonly used for building, roadmaking or other construction purposes including clay, kaolin, limestone, shale, laterite, sand, stone, chalk or slate except when used by a natural person who is a citizen of Swaziland and who is the owner or occupier of the surface land for his construction purposes on such land:

Provided that the King may by notice in the *Gazette* declare any substance in its natural state not to be a mineral for the purposes of this Act,

And provided further that Part VI of this Act and any regulations made hereunder or under any other law relating to safety in mines or quarries shall apply to substances which have been so declared not to be minerals for the purposes of this Act.

[Amended P.63/1961; Added A.9/1989]

“minerals committee” means the Minerals Committee established in section 95 of the 1968 Constitution repealed by the King’s Proclamation to the Nation of the 12th April, 1973, which committee was re-instituted by the King in the said Proclamation;

“mineral concession” means a concession made by or on behalf of the King or Paramount Chief of Swaziland and confirmed either by the late *Chief Court of Swaziland or by any former High Commissioner giving a right to precious or base metals, precious stones, minerals or mineral products on any piece of land, and where the area subject to any such concession has been sub-divided shall include the title to any sub-division thereof, and shall be deemed to include any agreement, special authority, or lease made before the coming into force of this Act conferring a right to prospect or mine for a period (including a right of renewal) of not less than twenty-one years, but shall not include any such concession which was vested in any former High Commissioner or other authority representing the Crown and which now vests in the *Ngwenyama* in trust for the Swazi nation;

[Replaced P.63/1961; Amended H.C.N.122/1961]

“mining board” shall mean a board appointed under [section 6](#);

“mining right” means a mineral concession and includes all types of locations and leases;

“Minister” means the Minister responsible for Mines;

“non-precious minerals” means all minerals other than precious metals or precious stones;

“occupation under a prospecting licence” means the exercise on any area of the rights set out in section [30\(c\)](#), [30\(d\)](#) and [31](#) of this Act wholly or partly for the purpose either of prospecting such area or of preparing to mark out the whole or part of such area, and includes the erection of a beacon or anything purporting to be a beacon or anything which is intended to constitute part of a beacon;

“opencast” means any uncovered excavation which has been made from the surface for the purpose of winning minerals;

“occupier” means the person in lawful possession or occupation of any surface right and shall include the legal representative of any such person who has died or become insolvent, or of a company in liquidation, or who is a minor or is of unsound mind or is otherwise under disability;

“owner” means the person in whose name is registered in the Deeds Office of Swaziland any surface right and shall include the legal representative of any such person who has died, or become insolvent, or of a company in liquidation or who is a minor or is of unsound mind or is otherwise under disability;

“passageway” means any highway, road, street, footpath or installation of any railway, tramway, wireline, cableway, chute, pipe, sewer, drain, tunnel, shaft, fluming or watercourse and includes any right of way or servitude;

“precious metals” means gold, silver or metal of the platinoid group in the unmanufactured state, including ores containing such metal, but shall not include ores containing any such metal in combination with another mineral where such metal cannot be worked apart from such mineral and the value of such metal is less than the cost of producing both the metal and the mineral;

“precious stones” means diamond, emerald, opal, ruby, sapphire, turquoise and any other stones which the *Ngwenyama* may by notice in the *gazette* declare to be included in this definition;

“prescribed” means prescribed by the regulations made under this Act;

“prior-dated mineral concession” means a mineral concession granted on a date prior to the grant of surface rights over the same area;

“private land” means land held under a title which confers the surface rights of such land, but shall not include Swazi Areas;

* For “Chief Court” see footnote to the Concessions Act, [No. 3 of 1904](#).

“**prospector**” means the holder of a prospecting right granted under this Act;

“**prospecting right**” includes an exclusive prospecting licence, a special exclusive prospecting licence, and a prospecting licence;

“**Regional Administrator**” and “**Regional Secretary**” means the administrative officer in charge of any region in which any matter shall arise under this Act;

“**shaft**” and “**pit**” mean 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;

“**special authority**” means a special authority granted in terms of section 5(3) of the repealed Crown Minerals Areas Proclamation;

“**surface right**” means and includes the rights to the surface of the land conferred by any grant of land or to the use of land for a definite or indefinite period or to land for agricultural purposes or to grazing or timber rights over land, the rights of the Crown to the surface of any land vested in the Crown as former Crown Land, or by any other title, and the rights to the surface of land conferred by a freehold title;

[Amended LN.38(7)/1967]

“**Swazi Area**” means any area or portion thereof set aside for the sole and exclusive use and the occupation of members of the Swazi nation and described in the schedule to the Swazi Areas Act, [No. 41 of 1916](#), and shall include any Swazi land settlement area or portion thereof as defined in the Swazi Land Settlement Act [No. 2 of 1946](#), and any other land purchased for, by or on behalf of the Swazi nation;

“**tailings**” means all gravel, sand, slimes, or other substances which is the residue of *bona fide* mining operations;

“**to mark out**” or “**to peg**” an area means to delimit such area by beacons and trenches of the kind prescribed and in the manner provided in this Act and regulations;

“**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;

“**tribute agreement**” means any lawful agreement or arrangement whereby a holder of a mineral concession has given a tribute, authority or other permission to mine on all or any part of a mineral concession to a tributor and includes any renewal of such an agreement or arrangement;

“**tributor**” means a person having a tribute agreement with the holder of a mineral concession;

“**unwrought precious metal**” includes precious metal in any form whatever, smelted or unsmelted, refined or unrefined, and which though smelted is not manufactured or made up into any article of commerce, and shall include amalgam, slimes, slags, gold-bearing concentrates, pots, battery chips, sweepings of reduction works and scrapings and by-products of unrefined precious metal;

“**watercourse**” means any channel or duct whether natural or artificial which confines, restricts, or directs the flow of water.

3. **Penalty for prospecting or mining without authority**

Any person who shall prospect or mine on any lands or waters in Swaziland otherwise than in accordance with this Act or who aids or abets such person shall be guilty of an offence.

[Original section 3 repealed by P.18/1964]

4. **Right to prospect for mineral oils or other natural mineral oil products or diamonds may be granted by agreement with the Minerals Committee**

- (1) Any person desiring to prospect for mineral oils or natural mineral oil products or diamonds on any land shall first apply to the *Ngwenyama* through the Minerals Committee.

- (2) This Act shall not apply to any agreement entered into under subsection (1) unless the contrary is therein expressly provided.

5. Prospecting in closed regions

Nothing in this Act shall be deemed to authorise any person to enter any region or area to which entrance by him may be forbidden by any law for the time being in force.

[Original section 5 Repealed by L.N. 8/1969]

6. Appointment of officers and Commissioner of Mines

The *Ngwenyama* may appoint a Mining Board, Commissioner of Mines and such other officers as may be necessary for carrying into effect the provisions of this Act.

7. Delegation of powers

The Commissioner may delegate or assign to any officer appointed under [section 6](#) all or any of his powers, duties and jurisdiction, but in so doing the Commissioner 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 Act.

8. No action lies against officers for acts done in execution of their duties

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

9. Mineral taxes

All minerals obtained in the course of prospecting or mining operations shall be liable to such mineral taxes as may be prescribed from time to time:

[Amended K.O-I-C. 34/1973]

Provided that the Commissioner may in his discretion, by permit under his hand, exempt from liability to mineral taxes small quantities of minerals to be used as commercial samples or scientific specimens or for the purpose of assay.

10. Lands excluded from prospecting or mining

Save where otherwise provided by this Act or any regulations made thereunder no prospecting or mining right shall authorise mining or prospecting on or occupation of any of the following lands—

- (a) land dedicated or set apart for any public purpose other than mining or for a place of burial, or within one hundred metres of such reserved places, except with the consent of the *Ngwenyama*;
- (b) any area situate within any town or municipality declared to be such in terms of the Urban Areas Act, [No. 8 of 1969](#), except with the consent of the owner and of the *Ngwenyama*;
- (c) land reserved for the purpose of any railways or situate within 100 metres of any railway, except with the consent of the Swaziland Railway Board constituted under the Railway Act [No. 15 of 1962](#);
- (d) any land used as a garden, orchard, vineyard, nursery or plantation or on land under cultivation or within 100 metres of any spring, well, borehole, reservoir, dam, artificial watercourse or waterwork or within 200 metres of any house, homestead or building unless consent shall have been obtained from the owner or occupier of such land:

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

- (e) any street, proclaimed road or highway or any land within fifty metres of the centre line of such street, proclaimed road or highway, except with the consent of the *Ngwenyama*;
- (f) any Government Protection Area as defined in [section 119](#) or land closed to prospecting by reason of the exercise of any of the provisions of the next succeeding section;
- (g) any area over which prospecting or mining rights have been previously granted by the Commissioner or any former High Commissioner or registered under the provisions of any legislation repealed by this Act until thirty days have elapsed from the date of the *gazette* in which notice is given of the termination of such prospecting or mining rights; in the case of any such area no prospecting or occupation shall take place before midday on the day on which the area becomes open for prospecting and occupation;
- (h) any area over which any passageway has been created and is lawfully subsisting under Part VII of this Act or in respect of which an application in the prescribed form has been made for mining rights and in respect of which permission to mine has been given under [section 38](#) and is still lawfully subsisting;
- (i) any mineral concession.

11. Restricted minerals

- (1) The *Ngwenyama* may publish in the *gazette* definitions or lists of restricted minerals and from time to time vary the said definitions or lists.
- (2) On the publication of any such definition or list or amendment thereto the following provisions shall have effect—
 - (a) no prospecting or mining rights shall authorise the prospecting for, or the mining of any such mineral without a special licence from the *Ngwenyama*;
 - (b) if any such mineral is discovered in the course of prospecting under any prospecting or mining right the holder of the prospecting or mining right shall immediately notify the *Ngwenyama* of such discovery;
 - (c) if any such mineral is discovered on a mineral concession, no such mineral shall be removed from such concession without the consent of the *Ngwenyama*;
 - (d) no person shall export any such mineral unless, in addition to the certificate required by [section 62\(1\)](#), he has obtained a licence from the *Ngwenyama* for such export.
- (3) A person authorised thereto in writing by the *Ngwenyama* may enter upon any prospecting or mineral right and there may prospect for restricted minerals.

12. Surface rights: Security for compensation for damage may be required

- (1) Subject to [sections 88 and 89](#) as to when compensation is payable by holders of prior-dated mineral concessions any person intending to prospect or mine on any land (other than Swazi Area) shall when practicable give notice of his intention to the owner and the occupier of such land before commencing operations thereon.
- (2) The Commissioner may in his discretion on the application of such owner or occupier direct such person to give security by depositing with the Government or the Minerals Committee such sum or a banker's guarantee in lieu thereof as the Commissioner may direct for the payment of compensation (other than any surface rent payable in terms of this Act) for any damage done to the surface of the land or to any trees, crops, buildings or works, or for livestock injured or killed by the negligence either of such person, or of any agent or servant of such person, by any prospecting or mining operations thereon.

- (3) If such deposit or security is ordered, and if the owner or occupier so requires, such person shall desist from prospecting or mining of the land until such deposit or security has been given.
- (4) Notwithstanding anything in this section the holder of a location or mining lease who is paying surface rent in respect of any private land included within the area of his location or lease shall not be liable to pay compensation in respect of any building erected, economic tree or crops planted or works constructed on such land after the date on which surface rent began to be payable.

13. Surface rights: Payment of compensation to owners or occupiers

Subject to sections [88](#) and [89](#) as to when compensation is payable by holders of prior-dated mineral concessions—

- (1) the holder of prospecting or mining rights under this Act shall, on demand being made by the owner or occupier of the land (not being a Swazi Area) 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 (other than any surface rent payable in terms of this Act) for any damage done to the surface of the land or to any crops, trees, buildings or works, or for livestock injured or killed by the negligence either of the holder of such rights, or any agent or servant of such holder;
- (2) if such holder fails to pay compensation when demanded under subsection (1) or if any owner or occupier is dissatisfied with the compensation offered, such owner or occupier may take proceedings;
- (3) the sum awarded by the High Court, shall be paid by such holder to the person entitled thereto, within fourteen days of the date on which the amount of the award is notified to the holder of the right or licence;
- (4) if the sum awarded is not paid within the time specified in subsection (3) such sum may be paid by means of any deposit or banker's guarantee lodged with Government or the Minerals Committee by such holder for the due observance by him of any obligations imposed on him by this Act or the regulations, or if no moneys or insufficient moneys have been deposited or guaranteed may be recovered by execution issued out of a magistrate's court;
- (5) the *Ngwenyama* may suspend the prospecting right, mining location or lease of the person in default until the amount awarded has been paid and until such holder has deposited with the Government or the Minerals Committee such further sum as may be demanded as security for any further payments, and if such payment and deposit is not made within such time as the *Ngwenyama* may consider reasonable the *Ngwenyama* may revoke the prospecting licence, mining location or lease of the person in default.

[Original section 13 Repealed by L.N.8/1969]

14. Charges for enquiry by Government officers

If an enquiry or examination of any area is by this Act required to be made by any Government officer in connection with any application made under this Act or in settlement of any mining dispute the person on whose behalf such enquiry or examination is made shall be liable to pay such charges as may be prescribed.

15. Deposits

- (1) As a guarantee for the due performance of the obligations imposed by this Act or any regulations made thereunder any person may be required by the Commissioner, either on application or when holding a prospecting or mining right, to lodge as deposits such sums or banker's guarantee for like amounts in lieu thereof as may be prescribed and on failure of such person to make such deposits within the time specified by the Commissioner the application may be refused or the prospecting or mining right cancelled by the *Ngwenyama*.

- (2) If a person who has made a deposit under subsection (1) is adjudged by any court to be liable to pay the wages of any person employed by him for mining or prospecting purposes the court may when giving such judgment make an order for such wages to be paid from any such deposit.
- (3) If a person who has made a deposit under subsection (1) has failed after due notice to meet any obligation imposed upon him by this Act or any regulations made thereunder, the Commissioner may take such steps as he shall deem practicable to fulfil the obligation and for such purpose may expend from any deposit whatever lodged by that person such sum as the Commissioner shall consider reasonable to defray any expense incurred by him in so doing.
- (4) If any deposit or portion thereof has been expended in accordance with sub-section (2) or (3) the Commissioner may by written notice and within a time specified by him therein require the depositor to lodge a further deposit equal to the sum so expended and failure to do so within the time specified shall render any prospecting or mining right held by the depositor liable to suspension or revocation.
- (5) Upon the termination of all interests in any prospecting or mining right in respect of which a deposit has been lodged with the Commissioner the original right having been produced to the Commissioner and the termination of such interests duly recorded, the person by whom such deposit was lodged may make written application to the Commissioner for the refund or release of such deposit or balance thereof and, upon production of satisfactory evidence by the applicant which shall (if so required by the Commissioner) be supported by an administrative officer of the district in which such person has been engaged upon prospecting or mining operations with a statement that so far as he is aware there is no claim outstanding against such person in respect of his obligations under this Act and any regulations made thereunder, the Commissioner may authorise such refund or release to be made:

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

And provided further that such refund or release is made without prejudice to any claim or proceedings existing or which may arise through the breach by the holder or by his servants of any of the provisions of this Act or any regulations made thereunder.
- (6) If the interest of a depositor in any prospecting or mining 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 Commissioner may demand.
- (7) Any sums deposited under this section may be otherwise dealt with in the manner prescribed.

16. Records to be kept by holders of prospecting and mining rights

- (1) The holder of a prospecting or mining right shall keep to the satisfaction of the Commissioner on the area of his right or at such place in Swaziland as the Commissioner may approve such full and accurate records and plans of his prospecting or mining operations as may be prescribed.
- (2) On the termination of the right by expiry, surrender or other cause or upon request by the Commissioner at any time such records and plans shall be forwarded without undue delay to the Commissioner for his inspection.
- (3) Such records and plans shall be retained by the Commissioner unless the person forwarding the same asks for their return in which case the Commissioner may take and retain copies of any such records or plans and shall thereafter duly return the same to such person.
- (4) Any plans and records retained by the Commissioner on the termination of a prospecting or mining right or the copies of any plans or records made by the Commissioner under subsection (3) shall become the property of the *Ngwenyama*, and the Commissioner may make such use of them as he shall see fit and shall be entitled if he so desires to allow any person to see them and copy them.

17. Discovery of economic minerals to be notified

- (1) The holder of a prospecting or mining right shall notify the *Ngwenyama* of the discovery of any minerals of economic value other than that for which his right was granted, within a period of thirty days after such discovery.
- (2) On the application of the holder of a prospecting or mining right to prospect or mine for a mineral in the area of his right other than one for which his right was granted the *Ngwenyama* may in his discretion order the endorsement of such mineral on such right.

18. No transfer of or creation of interest in a prospecting or mining right valid without the prior consent of the *Ngwenyama*

The holder of a prospecting or mining right or the holder of any interest therein duly registered under Part XI of this Act shall not transfer his right or interest or share thereof or create any interest whatsoever therein without first obtaining the consent in writing of the *Ngwenyama*, and no evidence of any such transfer or the creation of any such interest shall be admissible in any court unless prior consent has been obtained:

Provided that this section shall not apply to the holder of a mineral concession.

19. Amalgamation or revocation of prospecting or mining rights

The *Ngwenyama* may permit the amalgamation of areas held under prospecting or mining rights subject to any regulations made under this Act and may revoke any permit so granted if he is satisfied that the holder is not effectively carrying out his obligations.

20. Obligations of holders of prospecting rights, locations and leases

- (1) The holder of a prospecting right, location or lease other than the holder of a prospecting licence shall, during the continuance of the right, location or lease adequately carry on to the satisfaction of the Commissioner *bona fide* prospecting or mining operations on the land included in the area in respect of which his right, location or lease has been granted.
- (2) The Commissioner may on the application of such holder made in the prescribed form and with the consent of the *Ngwenyama* suspend the obligation imposed by sub-section (1) in respect of any right for such time as to the Commissioner may seem proper.
- (3) The holder of a prospecting or mining right other than the holder of a prospecting licence shall, during the currency of the right, keep all excavations, whether made prior to the grant of the right or during the currency of the right, secured to the satisfaction of the Commissioner in such a manner as to prevent persons or livestock inadvertently entering them.
- (4) The holder of a prospecting or mining right other than the holder of a prospecting licence if not personally residing on the land the subject of the right or in the opinion of the Commissioner not residing sufficiently near to give continuous supervision of prospecting or 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 Commissioner of every appointment of such an agent and of any change in such appointment.

21. Restoration of land

- (1) The Commissioner may require any holder of a prospecting right, location or lease other than the holder of a prospecting licence to restore during the currency of such right the surface of the land the subject of such right when such surface has been disturbed by prospecting or mining operations and such requirements of restoration shall be embodied in an appendix to such right before issue or by attachment thereto on renewal.

- (2) If any prospecting or mining right is terminated or abandoned for any reason whatsoever the person whose right has been terminated or abandoned shall, not later than thirty days from the date of termination or abandonment of the right, fill in all shafts, pits, holes and other excavations or otherwise secure them in a permanent manner so as to prevent persons or livestock inadvertently and to their danger entering therein, and shall remove all beacons marking out the boundaries of the area the subject of the right, and shall within such period furnish a certificate to the Commissioner that he has complied with the provisions of this section as to the securing or filling in of shafts, pits, holes and excavations and the removal of beacons:

Provided that no such person shall be liable for filling in or securing any excavations made on the area the subject of his right by other persons, prior to the grant of the right if on application for the right 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 right within a period of one month from the date of grant of such right.

- (3) If any person whose prospecting or mining right has been terminated or abandoned neglects to fill in or secure any excavations or to notify the Commissioner within the prescribed time, the Commissioner shall have the right to cause an inspection to be made and such excavations to be filled in or secured and for so doing shall charge such person such sum as he shall consider reasonable, and such charge shall be a lawful deduction from any deposit made by such person with Government or the Minerals Committee, as the case may be, under this Act:

Provided that such filling in or securing by the Commissioner and such payment by such person shall not exempt such person from his liability under this Act or any regulations made thereunder or any other law for his failure to fill in or secure such excavations.

- (4) If a prospecting or mining right is renewed in respect of a reduced area only, subsections (2) and (3) shall apply to the area not included in any such renewal.

22. Power of *Ngwenyama* to cancel prospecting or mining rights where granted on incorrect or misleading information

- (1) If any prospecting or mining right has been granted and subsequently the Commissioner 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 Commissioner may call upon the holder of such right to show cause within a specified time why the grant should not be revoked.
- (2) Should the holder fail to comply with such an order within the time specified or should the cause shown be inadequate in the opinion of the Commissioner, the Commissioner shall report the matter to the *Ngwenyama* for revocation of such grant by the *Ngwenyama* who may thereupon revoke such grant.

23. Penalty for giving false or misleading information

- (1) 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 Act or any regulations made thereunder 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 and, if no other penalty is specifically provided, be liable to a fine not exceeding six hundred emalangenis or imprisonment not exceeding three years or both.
- (2) Any person who represents that he holds any prospecting or mining right and thereby induces or attempts to induce any person to buy any interest in such prospecting or mining right or to invest capital in any company or syndicate connected therewith, before he has obtained the grant of such right, or when such right has been forfeited, revoked or determined as the case may be, shall

be liable to forfeit any right where such has been applied for and if he be the holder of any other prospecting or mining right to have such right revoked:

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

24. Revocation of prospecting or mining rights

- (1) In the case of the breach by the holder of a prospecting right, mining location or lease of the provisions of this Act or any regulations made thereunder or the terms and conditions of any licence, location, lease or right made under this Act, or of the breach of the provisions of any other Act or regulations made in connection with mining or explosives, or in connection with the employment of labour, or in the case of the conviction of the holder of such licence, location, lease or right for an offence involving dishonesty or fraud it shall be lawful for the Commissioner to call upon the holder of such licence, location, lease or right to show cause within a time specified why his licence, location, lease or right should not be revoked.
- (2) Should such holder fail to comply with such order within the time specified or should the cause shown be inadequate in the opinion of the Commissioner, he shall report the matter to the *Ngwenyama* who may—
 - (a) in the case of a prospecting right or location revoke the grant of the prospecting right or location;
 - (b) in the case of a mining lease, revoke the lease.
- (3) On the revocation of a prospecting right, mining location or lease all privileges and rights conferred thereby shall cease:

Provided that the revocation of a prospecting right, mining location or lease shall not in any way affect the liability of any person in respect of a breach of any law, regulation, or of a term of any such prospecting right, location or lease.

- (4) If under subsection (1) the Commissioner is empowered to take steps to obtain the forfeiture of a prospecting right, mining location or lease he may, if he sees fit, instead of taking such steps, allow the holder of such prospecting right, location or lease time to remedy any breach of the law or of the terms of the right:

Provided that the allowance of such time by the Commissioner shall not in any way affect the liability of any person to be prosecuted or sued in respect of any breach of any law or any term or condition of any right, location or lease.

25. Right of lessee to remove fixtures

- (1) The holder of a location or mining lease who shall have paid all rents, royalties and other payments to be made by him under this Act or under the terms of his lease may, within three months in the case of an alluvial or river location or lease and six months in the case of a lode location or lease after the expiration or other determination of his location or lease, remove all or any of the plant, buildings or other property belonging to him.
- (2) In the case of any holder or lessee who on the expiry or determination of his location or mining lease is in default in the payment of any rent, mineral tax or other payments, and in the case of a holder or lessee who has not removed his property within three months in the case of an alluvial or river location or lease and six months in the case of a lode location or lease as aforesaid or within such further time, if any, as the Commissioner may allow, all the plant, buildings and property of the holder or lessee on the land the subject of the location or lease shall become the property of the *Ngwenyama* and may be dealt with and disposed of by him in such manner as the *Ngwenyama* may direct.

26. Acceptance of rent not to act as waiver of forfeiture

The acceptance by or on behalf of the Crown or the *Ngwenyama* of any rent shall not be held to operate as a waiver of any forfeiture accruing by reason of the breach of any of the provisions of this Act, of the regulations made thereunder or of any covenant or condition, expressed or implied in any location or lease granted under this Act or under any previous law.

Part II – Prospecting

27. When prospecting lawful

No person may prospect, other than under Part VIII of this Act, except in pursuance of and in accordance with the terms and conditions of a prospecting right, location or lease.

28. Disposal of minerals obtained under a prospecting right

- (1) Any mineral obtained in the course of prospecting under a prospecting right shall be the property of the *Ngwenyama* and except for the purpose of sampling and assay shall not be removed from the land or disposed of by the holder of the right or by any other person except with the consent of the Commissioner.
- (2) Any person who commits a breach of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred emalangeni or imprisonment not exceeding twelve months, or both.
- (3) The Commissioner may authorise the removal of minerals from the land from which they have been obtained to any place approved by him for safe custody, subject to such conditions as he may impose.
- (4) If the holder of a prospecting right should desire to retain or dispose of any minerals obtained in the course of prospecting he shall make an application in writing to the Commissioner 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 Commissioner 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 authorise the applicant to retain or dispose of the minerals in respect of which application is made on payment of the prescribed taxes and subject to the approval of the *Ngwenyama*.

29. Prospecting licence

- (1) The *Ngwenyama* may grant and order the issue to any person of a prospecting licence on application in the prescribed form and upon payment of the prescribed fee, and he may order the endorsement thereof so as to restrict the use of the prospecting right to specified areas, and to specified minerals.
- (2) A prospecting licence may be granted to an individual as agent for a person, if such person submits a written undertaking to be responsible for the acts and omissions of such agent, and where the *Ngwenyama* deems fit such agent shall be the lawfully constituted representative of such person.
- (3) No prospecting licence shall be granted to a company or partnership as such but may be granted to an individual as agent of the company or partnership.
- (4) Except where the *Ngwenyama* sees fit to dispense with this requirement, the application for a prospecting licence shall be made by the individual in person who must either be the lawfully constituted representative of the company or partnership or produce a request in writing for the grant of a prospecting licence to the individual as agent for the company or partnership signed by a director or responsible manager or partner of the company or partnership.

- (5) The request referred to in subsection (4) shall contain an undertaking of the company or partnership with the *Ngwenyama* to be responsible for the acts and omissions of the individual who shall also be responsible for his own acts and omissions.
- (6) A prospecting licence shall not be transferable and shall be in force for a period of one year from the date of issue or for such other period as may have been specified by the *Ngwenyama* in the licence.

[Amended L.N.8/1969]

- (7) A prospecting licence shall be produced whenever demanded by the owner or occupier of private land on which the holder thereof is prospecting, or whenever demanded by a chief on a Swazi area.

30. Privileges and obligations under a prospecting licence

Subject to [section 10](#) and to any regulations made under this Act and to the provisions of any law as to forestry and as to the control of natural water supplies, the holder of a prospecting licence may in respect of the area specified in his licence—

- (a) prospect for the mineral or minerals specified in his licence:

Provided that he shall not prospect in a private forest or game reserve, declared to be such in terms of any law, unless he has first given notice to the owner or occupier of such private forest or to the officer in charge of such game reserve, and complies with the conditions imposed by such persons;

- (b) sink shafts or wells or dig holes and trenches:

Provided that all such excavations shall be fenced or secured, and on the prospector leaving the neighbourhood, filled in in such a manner as to prevent persons or livestock inadvertently entering therein:

And provided further that, if any holder of a prospecting licence neglects to comply with the provisions of this paragraph, the Commissioner shall have the right to cause such excavations to be filled in or 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 any deposit lodged by such holder with Government or the Minerals Committee, as the case may be, under this Act, but such filling in by the Commissioner and the payment of such charge by the holder shall not exempt such holder from his liability to any penalty under this Act or any regulations made thereunder for his failure to fill in such excavations;

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

Provided that if in the opinion of an administrative officer 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 such officer;

- (d) mark out and apply for an exclusive prospecting licence or any other prospecting right, location or lease.

31. Ancillary privileges under a prospecting licence

Whilst engaged in *bona fide* prospecting the holder of a prospecting licence may—

- (a) on any uncultivated land on payment or tender of a reasonable sum to the owner or occupier or by agreement in writing with him or failing such agreement on terms laid down by the Commissioner:
 - (i) erect a temporary camp and such temporary structures as may be necessary and enter into temporary occupation thereof:

Provided that in the case of private land, if the owner or occupier shall so require, the camp and structure shall be erected in such suitable place thereon as he may select;

- (ii) take fuel, other than standing timber, for domestic use;
- (iii) graze such livestock as may be necessary for the carrying on of prospecting;
- (b) take for his domestic use water from any spring, water holes, lake, river or stream.

32. Exclusive prospecting licence

- (1) The *Ngwenyama* may grant and order the issue of an exclusive prospecting licence to any person who himself holds a prospecting licence or to any person who employs the holder of a prospecting licence.

[Amended L.N.8/1969]

- (2) An application for an exclusive prospecting licence shall be in the prescribed form, and the applicant shall produce written proof that he has sufficient 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 and occupiers of the land in respect of which the licence is required.

[Amended L.N.8/1969]

33. Rights under an exclusive prospecting licence

- (1) Subject to sections [12](#) and [13](#) the holder of an exclusive prospecting licence shall have the sole right of prospecting for minerals on the land within the area of his licence, and for such purpose may—
- (a) enter upon the land within such area with his agent and workmen and thereon exercise all or any of the rights conferred upon the holder of a prospecting licence;
 - (b) employ in prospecting on such land any number of persons who for the purpose of such prospecting (which shall include the demarcation of areas to be the subject of mining titles) shall not be required to hold prospecting licences; and
 - (c) on and over unoccupied land within the area of his licence erect and maintain such machinery and plant and construct such ways as may be necessary for or in connection with his prospecting operations.
- (2) The holder of an exclusive prospecting licence who shall have fulfilled all the conditions attached thereto may, subject to the renewal of such licence, mark out and apply for the grant of mining rights and may mark out and apply for the registration of mining rights, over the whole or any part of the area the subject of the licence, or mark out a reduced area or reduced areas and may apply for renewal of his licence over such reduced area or areas only.

[Amended LN.8/1969]

34. Surrender of an exclusive prospecting licence

An exclusive prospecting licence may with the consent of the *Ngwenyama* and on payment of the prescribed registration 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 shall have taken effect and that no rent shall be refunded.

[Amended L.N.8/1969]

35. Grant of special exclusive prospecting licence

The *Ngwenyama* may grant special exclusive prospecting licences upon such terms and conditions as he may think fit.

[Amended L.N.8/1969]

36. Application for special exclusive prospecting licence

The application for a special exclusive prospecting licence shall be in the prescribed form.

37. Act and regulations for exclusive prospecting licence to apply

Every special exclusive prospecting licence shall be granted subject to this Act and regulations applicable to an exclusive prospecting licence save where such provisions are at variance with any special terms and conditions imposed by the *Ngwenyama*.

Part III – Mining

38. When mining lawful

It shall not be lawful for any person to mine, other than—

- (a) under the provisions of Part VIII of this Act; or
- (b) in pursuance of, and in accordance with, the terms and conditions of—
 - (i) a location or mining lease or other lawful authority or permission granted before the 6th September, 1968, or
 - (ii) a grant, lease, or other disposition made by the *Ngwenyama* in terms of section 95 of the Constitution;

and on payment of the prescribed rent.

[Amended L.N.8/1969]

39. Locations

- (1) Without prejudice to the generality of his powers under Section 95 of the Constitution the *Ngwenyama* may, in his discretion, and subject to any covenants and conditions he may impose, grant a location to any person who himself holds a prospecting licence or to any person who employs the holder of a prospecting licence:

Provided that in the case of the holder of an exclusive prospecting licence the location applied for lies wholly within the boundaries of the licence.

- (2) Locations shall be marked out with beacons in the manner prescribed.

[Amended L.N.8/1969]

40. Locations may be lode, alluvial or river

- (1) Locations may be lode, alluvial or river.
- (2) No holder of an alluvial or river location shall carry on lode mining in the area of his alluvial or river location except with the written consent of the Commissioner which he may withhold without assigning a reason.

- (3) No holder of a lode location may carry on alluvial mining except with the written consent of the Commissioner which he may withhold without assigning a reason,

41. Rights under a location

- (1) Subject to sections [12](#) and [13](#) the registered holder of a location may have the right in respect of the area included within his location—
- (a) to enter thereon and the exclusive right to prospect or mine thereon and subject to the payment of the prescribed mineral tax remove therefrom and, in accordance with Part V of this Act, dispose of the mineral or minerals in respect of which the location shall have been registered;
 - (b) to make all necessary excavations thereon;
 - (c) to stack or dump any of the products of mining thereon;
 - (d) to exercise thereon the rights set out in [section 31](#);
 - (e) to employ in prospecting on such land any number of persons who for the purpose of such prospecting shall not be required to hold prospecting licences.
- (2) The registered holder of a location shall pay rent (hereinafter called surface rent) at such rate per annum as shall be determined by the Minerals Committee for land occupied or used by him for any purposes mentioned in subsection (1), or otherwise for or in connection with his mining operations.
- (3) Surface rent shall be paid in the case of private land to the owner or persons in lawful occupation of such land.
- (4) The Minerals Committee shall fix the rate of the surface rent payable under this section and shall cause the holder to be notified of the rate so fixed before or as soon as conveniently may be after the granting of the location:
- Provided, however, that—
- (a) the rate of surface rent shall be subject to revision by the Minerals Committee at intervals of seven years;
 - (b) in fixing the surface rent payable the Minerals Committee shall not take into consideration the damage which may be done to the surface of the land by the mining or other operations of the holder, for which compensation is payable under [section 13](#).
- (5) All expenses incurred by the Government in surveying, measuring or otherwise ascertaining the extent of the land in respect of which surface rent is payable under this section shall be paid by the holder of the location.

[Amended L.N.8/1969]

42. Abandonment of location

Any holder may abandon his location and shall forthwith notify the Commissioner of such abandonment in writing:

Provided that such abandonment shall not affect any liability incurred by the holder before such abandonment shall have taken effect.

43. Grant of a mining lease

- (1) Without prejudice to the generality of his powers under section 95 of the constitution, the *Ngwenyama* may, in his discretion and subject to any covenants or conditions he may impose, grant a mining lease to the holder of a prospecting licence or of an exclusive prospecting licence:

Provided that in the latter case the area of the lease applied for shall be wholly within the boundaries of that licence; or to the holder of a location in respect of the whole or any part of the area of his location.

- (2) The *Ngwenyama* may authorise any person to execute any such lease on his behalf.

[Amended L.N.8/1969]

44. Application for a mining lease

An application for a mining lease shall be made in the prescribed form and manner and shall be subject to the prescribed conditions as to marking out and survey of the land applied for, and shall be accompanied by payment of one year's rent in advance at the rate prescribed.

[Original section 44 repealed by L.N.8/1969]

45. Applicant to possess sufficient capital

- (1) An applicant for a mining lease shall show that he possesses or commands sufficient working capital to ensure the development and carrying on of mining operations on the area applied for and may be required to submit reports on the area made by prospectors or engineers.

[Amended L.N.38(7)/1967]

- (2) A mining lease shall not be granted to any person unless he can show that—

- (a) he possesses either adequate mining experience or qualifications in mining; or
- (b) he will employ during the currency of the lease a person who possesses either adequate mining experience or qualifications in mining.

- (3) If a mining lease has been granted—

- (a) to a person who falls under subsection (2)(a) such lease shall remain in force during such time only as the lessee personally supervises, or employs some person, who the Commissioner is satisfied possesses adequate mining experience or qualification in mining, personally to supervise, the mining operations being undertaken under the lease, and in the latter event such person does in fact supervise the operations;
- (b) to a person who falls under subsection (2)(b) such lease shall remain in force during such time only as the lessee employs some person, who satisfies the Commissioner that he either possesses adequate mining experience or qualifications in mining, personally to supervise the mining operations being undertaken under the lease and that such person does in fact supervise the operations:

Provided that if no person, who to the satisfaction of the Commissioner either possesses adequate mining experience or qualifications in mining, is available to supervise the mining operations being undertaken under a lease such lease shall not cease or determine if the Commissioner is satisfied—

- (i) that the cessation of supervision is of a purely temporary nature; and either
- (ii) that the operations cease until suitable supervision is again available; or
- (iii) that the operations can continue in accordance with good mining practice.

46. Lease granted for specified minerals

If a mining lease is granted for a specified mineral or minerals and the lessee discovers other minerals on the area leased he shall report that fact to the Commissioner for the information of the *Ngwenyama* who may, in his discretion, include such other minerals; in the lease.

[Amended L.N.38(7)/1967; L.N.8/1969]

47. Duration of lease

- (1) A mining lease may be granted for such term as the *Ngwenyama* may stipulate:

Provided that when permission to mine on the area is granted under [section 38](#) pending the grant of the lease, such term shall commence from the date of such permission being given.

[Amended L.N.8/1969]

- (2) If at the expiry of the term originally granted by a mining lease the lessee shall be carrying on work in a normal and business-like manner, and the lease shall not at that time be liable to be forfeited under this Act, and the lessee shall have given the *Ngwenyama* six months' notice of his intention to renew his lease, then the lessee may, on payment of the prescribed fee, apply for a renewal of the lease for a further period upon the same terms and conditions or upon other conditions as may be agreed.

[Amended L.N.8/1969]

- (3) On the expiry of any renewal granted in terms of subsection (2) the *Ngwenyama* may grant a further renewal for such terms and on such conditions as he may stipulate.

[Amended L.N.8/1969]

48. Rights under a mining lease

Subject to sections [12](#) and [13](#), a mining lease shall confer upon the lessee the right to enter upon the land the subject of the lease, and, subject to this Act and any regulations made thereunder, the exclusive right to mine on such land and the right to remove and dispose of the minerals specified in the lease.

49. Surface rights of lessee

- (1) In so far as it may be necessary for or in connection with his mining operations, and subject to this Act and any regulations thereunder, a mining lessee and the holder of a mineral concession, or a person having a tribute agreement with such holder shall have, on the land included in his lease or concession the following rights—

- (a) the rights set out in [section 41](#);
- (b) the right to erect, construct and maintain houses and buildings for his use and for the use of his agents and servants;
- (c) the right to erect, construct and maintain such engines, machinery, buildings and workshops and other erections as may be necessary or convenient;
- (d) the right to construct and maintain all such tramways, roads, communications and conveniences as may be necessary.

- (2) A mining lessee and the holder of a mineral concession, other than a prior-dated mineral concession, or a person having a tribute agreement with such holder shall pay surface rent for the rights enjoyed by him under subsection (1) of this section and [section 41](#)(2), (3), (4) and (5) shall apply to such rent.

- (3) The District Commissioner shall, at the request of the holder of a lease, cause to be ejected, without payment of compensation, any person who entered or occupied any portion of the land subject of the lease after the lease was applied.

[Amended L.N.8/1969]

50. Lessee not to enter into certain agreements

The lessee shall not enter into any agreements with any person outside Swaziland for the joint control of the price, output or sale of the minerals mined, save with the consent in writing of the *Ngwenyama*.

51. Penalty for non-payment of rent

The rent payable under a lease under this Act shall be payable yearly in advance and if such rent is not paid within one month of becoming due, an amount of twenty-five *per centum* of the amount shall be added to the rent and shall be due and payable as if it were part of the rent.

52. Surrender of lease

A mining lease may with the consent of the *Ngwenyama* and on payment of the prescribed fee be surrendered at any time after six months' notice in writing has been given to the Commissioner of the intention to surrender, and such surrender shall be in the form prescribed provided that such surrender shall not affect any liability incurred by the lessee before such surrender shall have taken effect.

53. Special lease

- (1) The *Ngwenyama* may grant a special lease of any land if he is satisfied that by reason of the difficulties and cost attending the mining, in or under such land or for any other cause it is necessary that such a lease be granted.
- (2) The form of and area to be comprised in any such special lease, the surface and subterranean limits thereof, the rent and mineral taxes to be paid and the labour and other conditions, reservations and exceptions to be contained therein, shall be such as the *Ngwenyama* may approve, but in all other respects such special lease shall be subject to this Act and any regulations made thereunder.

Part IV – Disputes

54. Powers of District Commissioners to hear and decide disputes

- (1) Subject to Part IX of this Act and the Constitution a District Commissioner may enquire into and decide any dispute between persons engaged in prospecting or mining operations, either amongst themselves or in relation to themselves and third parties, concerning any of the matters mentioned in subsection (2), and shall have power to make any order which may be necessary for the purpose of giving effect to his decision and to order the payment by any party to the dispute of such compensation to any other party as the District Commissioner may deem to be reasonable.

[Amended L.N.8/1969]

- (2) The matters referred to in subsection (1) are—
- (a) disputed boundaries;
 - (b) any wrongful act committed or any act wrongfully omitted, or alleged to have been committed or wrongfully omitted, in the course of prospecting or mining operations, by any person against any other person;
 - (c) acts, omissions, or matters in the course of, connected with, or auxiliary to prospecting or mining operations;

- (d) assessment and payment of compensation where provided for under this Act.

55. Procedure

The mode of proceeding in a complaint before the District Commissioner shall be as follows—

- (a) the person complaining shall lodge a memorandum in duplicate at the office of the District Commissioner;
- (b) the memorandum shall be in the prescribed form or in a form to the like effect, and shall specify succinctly the subject matter of the complaint and the relief claimed;
- (c) upon receipt of the memorandum the District Commissioner or an administrative officer on his behalf shall give notice in the prescribed form by post or otherwise, to the party sued of the nature of the complaint and the time and place at which the same will be heard and determined, and shall call upon him to submit his defence to the complaint in writing;
- (d) at the time and place appointed the parties shall attend and state their respective cases before the District Commissioner, and may call evidence on oath in support thereof, and the District Commissioner, having heard such statements and evidence, shall give his decision;
- (e) the District Commissioner may adjourn such hearing to any other time or place and may, on good cause shown, either at the original hearing or at any adjournment, proceed in the absence of either party;
- (f) the District Commissioner may at any time during the hearing seize or cause to be seized any minerals in dispute, and may detain them pending his decision;
- (g) the law for the time being regulating proceedings before and the powers of a magistrate's court established under the Magistrate's Courts Act, [No. 66 of 1938](#), in the exercise of its civil jurisdiction shall, so far as practicable, and subject to any modifications, additions or alterations which may be prescribed, apply to proceedings before such officer and to the enforcement of his decisions in like manner as if such decisions were the decisions of such court:

Provided that nothing shall prevent the Commissioner, an administrative officer, an inspector of mines or an officer of the department, where practicable, settling forthwith and without regard to the provisions of this Part, at the written request of both parties, any dispute between such parties, and such request shall be deemed an undertaking that the decision of such officer will be accepted as final.

56. District Commissioner hearing dispute to keep records and take notes

- (1) Save as provided in the proviso to [section 55](#) a District Commissioner hearing a dispute under this Part of the Act shall keep a record of all cases heard and complaints decided by him and shall take notes in writing of all evidence given before him and shall forward to the Commissioner a statement giving the subject matter of the dispute and his decision thereon.
- (2) Any person interested in any proceedings under [section 55](#) shall be entitled to obtain a copy of the record of such proceedings upon payment of the prescribed fee.

57. Enforcement of decrees and decisions

- (1) The District Commissioner may send a copy, certified under his hand, of any decree or order made by him to any magistrate's court within the local limits of whose jurisdiction the subject matter of the decree is situated, and such magistrates court shall enforce the decree of such officer in the same manner in which it would enforce its own decree or order.
- (2) The same fees only shall be payable in the magistrate's court upon the enforcement of such decree or order as would be payable upon the enforcement of a like decree or order made by such court.

58. Appeals to the High Court and saving of jurisdiction

- (1) Any person aggrieved by any decree, order or decision, made or given under the powers vested in the District Commissioner under this Part of this Act may appeal to the High Court.
- (2) No appeal to the High Court shall be admitted after the expiry of thirty days from the date of the decree, order or decision appealed against except by leave of the High Court.
- (3) Nothing in this Part shall be deemed to prevent any persons from instituting in any of the courts of Swaziland any proceedings he may think fit to institute, as provided by law.

Part V – Possession, purchase and sale of minerals

59. Possession and sale of minerals

- (1) No person shall possess any minerals, or shall sell, either as principal or agent, any minerals unless —
 - (a) he is a licensed mineral dealer;
 - (b) he is a banker;
 - (c) such minerals have been won by him or his servants acting on his behalf from ground registered in his name under a mining right or on which he has permission to mine under [section 38](#) or on which he is lawfully entitled to prospect and in respect of which he has complied with [section 28](#); or
 - (d) he is the owner of a mineral concession or he holds from an owner of a mineral concession the right to prospect or mine on such land and such minerals have been won from such land and the provisions of Part VIII of this Act in regard to such minerals and the prospecting and mining therefor have been complied with:

Provided that, subject to the prescribed declaration being made before the Secretary of Customs and the prescribed certificate to import into Swaziland being obtained, it shall be lawful—

- (i) for a banker or a dealer licensed to deal in unwrought precious metal to import unwrought precious metal into Swaziland;
 - (ii) for any person to import into Swaziland such quantity of unwrought gold of a fineness greater than 940 per thousand in weight as may be specified in such customs declaration, and to possess, or sell, deal in or dispose of such gold to a banker or dealer licensed to deal in unwrought precious metal;
 - (iii) for any goldsmith duly licensed in accordance with this Act to buy from a banker or dealer licensed to deal in unwrought precious metal such quantity of unwrought precious metal as may be necessary for the conduct of his business;
 - (iv) for the Commissioner to give written permission to any person to purchase small and specified quantities of unwrought precious metal from persons legally entitled under this section to possess such metal and such permit shall be deemed to authorise such person to buy, possess, melt and use such metal.
- (2) Save as provided in paragraph (ii), (iii) or (iv) of the proviso to subsection (1), no person shall sell either as principal or agent any minerals to any other person in Swaziland other than a dealer licensed to deal in such minerals or a banker of Swaziland.
- (3) No person shall pay any debt or wages by means of unwrought precious metal or precious stones.
- (4) If any mineral is found in the possession, power or control of any person, such person shall, unless he proves that he obtained it lawfully, be guilty of an offence against this Act:

Provided that the *Ngwenyama* may by notice in the *gazette* exclude any mineral from the provisions of this section.

- (5) Any unwrought precious metal found without an apparent owner may be seized by the Commissioner, an administrative officer, an inspector of mines or police officer and shall as soon as possible be taken before a District Commissioner who, if satisfied that the owner cannot be found, shall declare it to be forfeited to the *Ngwenyama*.

[Amended L.N.8/1969]

60. Purchase of minerals

Subject to the provisions of paragraphs (ii), (iii) and (iv) of the proviso to [section 59\(1\)](#), no person shall import, buy or receive by way of barter or pledge or otherwise deal in any minerals unless he is the holder of a licence to deal in such minerals or is a banker.

61. Who may melt precious metals

No person shall melt any precious metal, whether wrought or unwrought, unless he is a person who is entitled to possess or sell minerals under [section 59](#).

62. Restriction on import and export of minerals

- (1) No person shall export any minerals from Swaziland unless he holds a certificate granted by the Commissioner.
- (2) No person shall import into Swaziland any unwrought precious metal or precious stones other than jewellery unless he makes a declaration before the Secretary of Customs and obtains, on payment of the prescribed fee, a certificate of importation.
- (3) Before any such unwrought precious metal or precious stones are re-exported from Swaziland such certificate shall be surrendered to the Secretary of Customs who shall send it to the Commissioner.

63. Licence to deal in minerals

- (1) The Commissioner may in his discretion issue to any person a mineral dealer's licence on payment of the prescribed fee.
- (2) Every such mineral dealer's licence shall expire on the thirty-first day of December in the year in which the licence is granted.
- (3) The Commissioner, in his discretion and without assigning a reason, may refuse to issue or renew a mineral dealer's licence or may revoke such licence and on such revocation the Commissioner shall refund such part of the prescribed fee as he thinks just.

64. Obligations of holders of mineral dealer's licence and bankers

- (1) Every holder of a mineral dealer's licence and every banker shall keep a register in English showing all purchases and sales of minerals made by him and the nature and weight of such minerals, the price paid or received, and the date of each purchase or sale and 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 shall cause every transaction to be entered within twenty-four hours of being made, and shall produce and exhibit such register to the Commissioner, any member of the Royal Swaziland Police Force of the rank of sub-inspector or upwards or any inspector of mines whenever so required.
- (2) Every holder of a mineral dealer's licence and every banker shall deliver to the Commissioner on or before the fifteenth day of January, April, July and October in each year a copy of the record

provided for in subsection (1) for the preceding three months together with a declaration that such record is correct.

65. Business of a goldsmith not to be carried on without a licence

- (1) No person shall carry on the business of a goldsmith unless he shall have first obtained a licence as provided by [section 63](#).
- (2) No person shall manufacture any article of commerce from or containing precious metal unless he is a licensed goldsmith and such article is manufactured on the premises.

66. Goldsmith's licence

- (1) A District Commissioner may issue a goldsmith's licence.
- (2) Such licence shall be granted free of charge and shall continue in force until the thirty-first day of December of the year of issue.
- (3) A District Commissioner may refuse to issue a goldsmith's licence without giving a reason for refusal but such refusal shall be subject to appeal to the Minister.
- (4) A District Commissioner may in his discretion, and notwithstanding the preceding section, authorise any retail shopkeeper to sell articles partly or wholly manufactured of gold without being licensed as a goldsmith if such shopkeeper shall satisfy him that the selling of such articles does not constitute the sole or principal portion of his business.

67. Obligations of a licensed goldsmith

Every licensed goldsmith shall keep a register showing all purchases and sales of articles of commerce containing precious metal, and of purchases of unwrought precious metal, made by him and the nature and weight of such articles or metal, the price paid or received and the date of each purchase or sale and the name and address of the vendor and the name and address of the purchaser and shall cause every transaction to be entered within twenty-four hours of being made, and shall produce and exhibit such register to any member of the Royal Swaziland Police Force of the rank of sub-inspector or upwards whenever so required.

68. Offences by licensed dealers and goldsmiths

No licensed dealer or goldsmith shall—

- (a) deal in minerals in a manner which is not specifically authorised by the terms of his licence;
- (b) store any mineral except on premises specified in his licence; or
- (c) buy, sell, deal in, receive, either as principal or agent, any mineral between sunset and sunrise, or on a Sunday or public holiday, or at any place other than the premises specified in his licence.

69. Power of court on conviction of a licensed dealer or goldsmith

- (1) On the conviction of any licensed dealer or goldsmith for an offence under this Act or any regulations made thereunder the court may, in addition to any other punishment it may award, cancel the licence of such dealer or goldsmith.
- (2) In any proceedings under this Act or any regulations made thereunder the burden of proving that any person is a licensed dealer or goldsmith shall lie upon such person.

70. Maliciously placing minerals on premises with intent

No person shall maliciously place any mineral in the possession of or on the premises of any other person, with intent that such other person shall be convicted under any provision of this Act.

Part VI – Inspections and accidents

71. General inspections

The Commissioner, an inspector of mines, an inspector of machinery, or any other officer duly authorised by the Commissioner or by any law for the time being in force at all reasonable times by day or night but so as not unreasonably to impede or obstruct the work in progress, in so far as it is necessary for the purpose of his inspection, may—

- (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 right;
- (b) examine into and make enquiry respecting the condition and ventilation of any mine and any building connected with prospecting or mining activity and all matters relating to the safety, welfare and health of the persons employed;
- (c) inspect and examine the state of the external parts of the machinery used upon or in the mine, and the state of all plant, works and ways;
- (d) examine and take extracts from all books, accounts, vouchers and documents relating to prospecting or mining operations or to any minerals obtained by such operations and examine and take samples of any material being mined;
- (e) exercise all powers necessary for carrying this Part of this Act into effect.

72. Obligation to remedy any dangerous practice and procedure to be followed

- (1) If in any respect an officer specified in [section 71](#) finds any mine or any matter, thing or practice in or connected with prospecting or mining operations 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 livestock he shall give notice in writing thereof to the holder 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 the same to be remedied, either forthwith or within such time as he may specify, and where such officer is an inspector of mines or an inspector of machinery he may order work to be suspended until the danger is removed to his satisfaction.
- (2) On receipt of such notice the holder or his agent shall comply therewith, or, if he objects thereto, he shall immediately state his objection in writing to the Commissioner.
- (3) If such notice has been given and the holder or his agent objects thereto, he shall cease to use the said mine, or part thereof, machine, plant, matter, thing or practice as to which such notice shall have been given, and shall withdraw all men from the danger indicated by such officer until such time as the matter shall have been determined by the Commissioner, and in case of default shall be guilty of an offence against this Act:

Provided that if, in the opinion of such officer, 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 shall consider necessary and shall specify in writing.

73. Inspections in connection with welfare and health and procedure to be followed

- (1) Any medical officer, administrative officer or authorised officer may make inspections and examine into and make enquiry respecting the welfare and health of the persons employed in connection with prospecting or mining operations, and may exercise any of the powers prescribed under this or any other Act, dealing with the welfare and health of such persons.
- (2) If in any respect such officer finds any matter, thing or practice in or connected with prospecting or mining operations to be detrimental to the welfare or health of any person, he shall give notice

to the holder or to the agent in charge of the operations and shall state in such notice the things which he considers defective and shall require the same to be remedied within such time as he may specify.

74. Procedure on objection to comply with notice

- (1) If a holder or his agent objects to remedy the matter complained of in any notice under [section 73](#), he shall immediately after the receipt thereof, state his objection in writing to the Commissioner, and thereupon the matter shall be submitted to and determined by the Commissioner or by such other person as he may appoint in that behalf.
- (2) Nothing in this section or in [section 73](#) shall be deemed to be in substitution for any provisions of any other Act or regulations relating to public health or the employment of labour.

75. Penalty on failure to comply with notice

If the holder or agent fails to comply with any notice given under sections [72](#) and [73](#) or with the decision of the Commissioner when an objection has been determined, he shall be guilty of an offence.

76. Contracting out forbidden

No person shall be precluded or exempted by any agreement from doing such acts as may be necessary to comply with sections [72](#), [73](#) and [74](#), or be liable under any contract to any damages, penalty, or forfeiture for doing such acts.

77. Procedure in case of accident

- (1) If an accident shall occur during the course of prospecting or mining operations causing or resulting in loss of life or injury to any person involving incapacity to work for a period of fourteen days or more, or likely to cause such incapacity, the person in charge of such operations shall without delay make a report in writing of the accident and all the circumstances relating thereto to the District Commissioner and to an inspector of mines.
- (2) Subject to section 22 of the Inquests Act, [No. 59 of 1954](#), in the event of any accident of the nature referred to in section (1) hereof occurring an inspector of mines shall hold an enquiry into the cause thereof and shall record a finding which he shall forward to the Attorney-General.
- (3) The person holding an enquiry under subsection (2) shall, for the purpose of such enquiry, have all the powers of a magistrate's court to summon witnesses, to call for the production of books and documents and to examine witnesses and the parties concerned on oath, and he shall record the statements made to him.
- (4) Any person summoned to attend or to produce books or documents as aforesaid, and refusing or neglecting to do so, or refusing to answer any question put to him by or with the concurrence of the officer holding the enquiry shall be guilty of an offence:

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 and fees to which he would have been entitled if giving evidence before a magistrate's court.

Part VII – Passageways and roads

78. Creation of passageway

No person in the exercise of prospecting or mining rights under this Act shall create a passageway over, on, or under—

- (a) any Crown land, other than that contained in his mining right without the consent first obtained from the District Commissioner:

Provided that no such consent shall be required in the case of a footpath of a temporary nature;

- (b) any part of the area of a mining right or an area over which permission to mine has been granted under [section 38](#) without first obtaining the consent in writing of the holder of such mining right or the applicant who has such permission to mine;
- (c) any private land not being the subject of any prospecting or mining rights without first giving notice to the owner or occupier and lodging a deposit if required as provided in [section 12](#) for payment of compensation as required in [section 13](#);
- (d) any Swazi Area without the permission in writing of the *Ngwenyama*.

79. Consent required to interfere with passageways, saving diversions of a public path

- (1) No holder of an exclusive prospecting licence or mining right and no applicant having permission to mine on the area covered by such application shall, in the exercise of the rights granted under this Act, interfere with or perform any act which may tend to interfere with the exercise of any right of passageway on the area of such prospecting licence or mining right or on the area the subject of an application and over which he has permission to mine, nor shall he 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:

Provided that in the case of customary 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 District Commissioner shall be deemed sufficient consent.

- (2) Nothing in this section shall prevent the holder of an exclusive prospecting licence or mining right or an applicant having permission to mine under [section 38](#) from diverting any public path within the area of his licence or right or covered by the application for a lease, if such diversion is made entirely within the area held by him and is aligned and maintained to the satisfaction of the District Commissioner and on the conclusion of the mining or prospecting operations affecting such covered public path, if required by the District Commissioner, such public path be re-made as and where it was before such interference.

80. Holder of exclusive prospecting licence or mining right may construct road access

The holder of an exclusive prospecting licence or a mining right or a person having permission to mine on an area the subject of an application, may, subject to [section 78](#), construct a road to give access to a public road from the area of such licence or mining right or the area over which he has applied and on which he has permission to mine.

81. Using of mining road

No person having constructed a road of access under [section 80](#) shall hinder or prevent any other person from having access to or using such road:

Provided that—

- (a) if any person uses such road in such manner as, in the opinion of the person who constructed such road, to do appreciable damage thereto or to enhance substantially the cost of upkeep the person who constructed such road may call upon such user to contribute to the cost of upkeep;
- (b) if any person uses such road in such a manner as to interfere materially with the free use and enjoyment of such road by the person who constructed the road, the person who constructed such road may call upon such user to limit his use of the road so as to cause a cessation of such interference;
- (c) if a road is constructed and maintained under [section 49\(1\)\(d\)](#) this section shall not apply and such road shall not be deemed to be a road of access.

82. Disputes

Either party may lodge a complaint as provided for in [section 55](#) with the District Commissioner, in the event of any dispute arising in connection with—

- (a) consent required under [section 78\(b\)](#) to create a passageway withheld;
- (b) consent required under [section 79](#) to interfere with the passageway withheld;
- (c) consent required under [section 80](#) to construct a road of access withheld;
- (d) damage to or interference with use of road of access under [section 81](#):

Provided that where the consent required to be obtained from the District Commissioner under the proviso to [section 79\(1\)](#) is in the opinion of the applicant for such consent unreasonably withheld or given subject to unreasonable conditions such applicant may lodge a complaint with the Commissioner whose decision shall be final.

83. Duration of right to passageways

Any right to any passageway acquired by the holder of an exclusive prospecting licence or a mining right under this Part of this Act shall expire when such licence or mining right is abandoned, surrendered, revoked or determined, as the case may be, and thereupon the holder shall comply with [section 21](#) so far as is applicable.

Part VIII – Prospecting and mining on mineral concessions

84. Legislation relating to inspections, accidents, enquiries, safety and welfare to apply to mineral concessions

Except where the context in this Part otherwise requires this Act and the laws relating to the safety and welfare of persons and the service of notices in connection with prospecting and mining operations shall apply to a mineral concession and all prospecting and mining operations on such mineral concession.

85. Right of owner of a mineral concession

The holder of a mineral concession or a person having a tribute agreement with him in writing may prospect or mine on a mineral concession:

Provided that he may not prospect for or mine any restricted mineral unless he is in possession of a special licence to do so issued under [section 11](#).

86. Reporting discovery of minerals on a mineral concession

The discovery of any minerals on a mineral concession shall be reported by the person making such discovery to the Commissioner within a period of thirty days of such discovery.

87. Notification when prospecting and mining proceeds on a mineral concession

No prospecting or mining shall be commenced upon a mineral concession until the Commissioner has been notified.

88. Improvements may be made by the owner of surface rights on a prior-dated mineral concession in certain circumstances

- (1) If after the date of the coming into force of this Act the owner or occupier of the surface rights of any private land subject to a prior-dated mineral concession desires to make any improvements on

such land which is not being used for prospecting or mining purposes, he may, failing agreement with the holder of the mineral concession, after notice to such holder apply to the Minerals Committee for a declaration that he is entitled to make such improvements, and the Minerals Committee, if satisfied that there is no reasonable prospect of mining on such land or of such improvements interfering with mining thereon, may authorise such improvements or make such other order as it thinks fit.

- (2) If it should afterwards be discovered that there are payable minerals on such land or that such improvements will interfere with mining, the holder of the prior-dated mineral concession may carry on mining operations on such land after payment of compensation to the owner or occupier of the surface rights for such improvements, and such compensation, failing an agreement, shall be settled by the High Court, in accordance with the provisions of section 8 of the Constitution.

[Amended L.N.8/1969]

- (3) Nothing in this section shall prevent the owner or occupier of the surface rights making at any time improvements upon private land subject to a prior-dated mineral concession without notice to the holder of such concession provided that compensation may not be claimed for disturbance or damage to such improvements.

89. Holder of a prior-dated mineral concession may disturb improvements without compensation in certain circumstances

- (1) If improvements have been made on any private land by the owner or occupier of the surface rights before the date of the coming into force of this Act, the holder of a prior-dated mineral concession on such land may, subject to the Forests Preservation Act [No. 14 of 1910](#), or the Private Forests Act, [No. 3 of 1951](#), disturb or damage such improvements in the exercise of his rights without payment of compensation:

Provided that—

- (a) he gave notice of objection to the owner or occupier of the surface rights at the time of making such improvements, or
 - (b) on application being made to the Minerals Committee by the owner or occupier of the surface rights the aforesaid holder can prove to the satisfaction of the Minerals Committee that his prospecting or mining is *bona fide* and justifiable, and that it cannot be carried on in a reasonable manner without damage to such improvements.
- (2) If the holder of a prior-dated mineral concession has not commenced and continued to carry on such *bona fide* and justifiable prospecting or mining operations on such land within a year from the date of the coming into force of this Act he shall only be entitled to disturb or damage such improvements after payment of compensation to the owner or occupier of the surface rights; such compensation, failing an agreement, shall be settled by the High Court, in accordance with the provisions of section 8 of the Constitution.

[Amended L.N.8/1969]

- (3) Nothing in this section shall affect an agreement made between the owner or occupier of the surface rights and the holder of the prior-dated mineral concession that improvements should take place without compensation for disturbance or damage to such improvements.

90. Investigation in respect of minerals by the Government

If in the opinion of the *Ngwenyama* it is desirable that any investigation be carried out on any mineral concession in connection with the occurrence or possible occurrence of any mineral on that mineral concession he may, by writing under his hand, direct any officer in the department or other person to carry out the investigation.

91. Prospecting on a mineral concession

- (1) The *Ngwenyama* may if—
- (a) the holder of any mineral concession or any person who is entitled under any tribute agreement to prospect for minerals on any mineral concession does not, in respect to any particular mineral specified by the *Ngwenyama*, avail himself of the right to prospect on such mineral concession; or
 - (b) such holder or person, having so availed himself of such right, does not carry on or cause to be carried on prospecting to the satisfaction of the *Ngwenyama*; and
 - (c) in the opinion of the Commissioner adequate prospecting operations may prove the existence of such mineral on the mineral concession,

cause to be given to such holder, and in the case of a mineral concession subject to any such tribute agreement, also to such person, a notice in writing calling upon him adequately to prospect or to cause to be prospected for such mineral upon the mineral concession and to commence such prospecting or cause such prospecting to be commenced within a period specified in the notice, not being less than three months; and the *Ngwenyama* may, if such mineral is not prospected for on the mineral concession to the satisfaction of the Commissioner or if such prospecting is not commenced within the said period or within such further period as the *Ngwenyama* may allow, or if any right granted under sub-paragraph (i) or (ii) terminates or is terminated for any reason, after considering any representations in writing by such holder or other person—

- (i) by notice in the *gazette* and in one or more newspapers circulating in Swaziland call for tenders for a prospecting right over the mineral concession in respect of the mineral concerned and grant such right, subject to such conditions as he may determine and to the provisions of subsection (2), to any tenderer who satisfies the *Ngwenyama* either that his financial resources are adequate for proper prospecting under such right or that the arrangements by which he proposes to obtain capital for the said purpose are satisfactory; or
- (ii) grant a prospecting right subject to such conditions as the *Ngwenyama* may determine and to subsection (2), over the land in respect of the mineral concerned to any person applying therefor who so satisfies him:

Provided that before the issue of any notice to such holder the *Ngwenyama* shall give due consideration to the provisions of any special authority agreement entered into between the Government and such holder.

- (2) Any such right shall provide for the payment by the prospector to the Commissioner, for the benefit of the holder of the mining rights, of a rental to be fixed by the Commissioner on the recommendation of the Minerals Committee made after considering any representations in writing by such holder.

92. Mining leases to prospectors

- (1) If the *Ngwenyama* is satisfied—
- (a) as a result of prospecting carried out on any mineral concession under a prospecting right granted under [section 91](#) that there are reasonable grounds for believing that any mineral exists in workable quantities on the mineral concession; and
 - (b) that the scheme according to which the prospector proposes to mine such mineral is satisfactory, and either that his financial resources are adequate for the proper mining of such mineral or that the arrangements by which he proposes to obtain capital for the said purpose are satisfactory, the prospector shall be entitled upon application to receive and the *Ngwenyama* shall have the power to grant to him, subject to such conditions as the *Ngwenyama*, after consultation with the Minerals Committee, may determine, and to the succeeding provisions of this section, a mining lease or location in respect of such mineral

and of such other minerals as may be won in conjunction therewith over an area of the land sufficient to constitute a workable mining proposition, the extent whereof shall be determined by the Minerals Committee.

- (2) Any such lease or location shall provide for the payment by the lessee to the Commissioner for the benefit of the holder of the mineral concession, of such royalty, share of profits or other consideration as may be recommended by the Minerals Committee, after considering any representations in writing by such holder.
- (3) The profits, of which a share is payable in terms of any such lease or location, shall be determined by the Collector of Income Tax in like manner as the taxable income derived from mining operations is determined for the purposes of the law relating to income tax.
- (4) Neither the Government nor the owner of the land shall at any time be liable to make any compensation whatsoever for any improvements made by the holder of the mining lease or location upon the area of such lease or location.
- (5) The prospector shall furnish such particulars as the Commissioner may require as to—
 - (a) the royalty, share of profits or other consideration referred to in subsection (2), which he offers to pay; and
 - (b) any other matter connected with the proposed lease or location.

93. Other mining leases

- (1) If the *Ngwenyama* is satisfied—
 - (a) otherwise than as a result of prospecting carried out under a prospecting right granted under [section 91](#) that there are reasonable grounds for believing that any mineral exists in workable quantities on any mineral concession; or
 - (b) as provided in [section 92\(1\)\(a\)](#) and no mining lease or location is applied for by the prospector in respect of the mineral concession concerned, within a period of six months after his discovery of any mineral in quantities which may, in the opinion of the Commissioner, reasonably be believed to be workable; or
 - (c) as provided in the said paragraph, and the prospector is granted a mining lease or location over an area in which a portion of the mineral concession upon which he has discovered any mineral in such quantities, is not included; or
 - (d) if any lease or location granted under [section 92](#) or under this subsection in respect of any mineral terminates or is terminated for any reason before the quantities thereof which can be profitably mined have become exhausted;

the *Ngwenyama* may after giving due consideration to the provisions of any special authority agreement entered into between the Government and the holder of the mineral concession—

- (i) by notice in the *gazette* and in one or more newspapers circulating in Swaziland call for tenders for a mining lease or location in respect of the mineral concerned on such mineral concession or portion thereof, as the case may be, and may, if it has been shown that the scheme according to which any tenderer proposes to mine such mineral is satisfactory, and either that his financial resources are adequate for the proper mining of such mineral or that the arrangements by which he proposes to obtain capital for the said purpose are satisfactory, grant to such tenderer a mining lease or location in respect of such mineral and of such other minerals as may be won in conjunction with it, over an area sufficient to constitute a workable mining proposition, the extent whereof shall be determined by the Minerals Committee; or—
- (ii) grant a mining lease or location in respect of such mineral and of such other minerals as may be won in conjunction with it over such area to any person applying therefor who so satisfies him.

- (2) [Sections 92\(2\)](#) to (5) inclusive shall *mutatis mutandis* apply in respect of any lease or location granted under subsection (1).
- (3) If, within a period of five years after the existence of any mineral on any mineral concession in quantities which may, in the opinion of the *Ngwenyama* reasonably be believed to be workable, has been disclosed by an investigation under [section 90](#), a lease or location under subsection (1) (a), (b) or (c) is granted to any person in respect of such mineral over that mineral concession, such lease or location may provide for the payment by the lessee to the *Ngwenyama* of so much of the costs which have been reasonably incurred for the purposes of any such investigation or prospecting operations from which the holder of the lease or location will derive benefit in his mining operations as may be recommended by the Minerals Committee, after considering any representations in writing by the parties concerned.

94. Recovery of costs of investigations or prospecting

If, within a period of five years after the existence of any mineral on any mineral concession in quantities which may, in the opinion of the *Ngwenyama* reasonably be believed to be workable has been disclosed by any investigation under [section 91](#) or any prospecting operations under any exclusive prospecting right granted under this Part, the holder of the mineral concession or any person who is entitled under any tribute agreement to mine for any mineral on that mineral concession mines on that land for such mineral the *Ngwenyama* or the prospector under such prospecting right, as the case may be, shall be entitled to recover from such holder or person so much of the costs reasonably incurred for the purpose of such investigation or prospecting operations from which such holder or person will derive benefit in his mining operations as the Minerals Committee after considering any representations in writing by the parties concerned, may determine.

95. Prospecting right or mining lease or location over two or more portions of mineral concessions

A prospecting right or a mining lease or location under this Part may be granted over two or more contiguous portions or pieces of mineral concessions whether or not the mining rights are held by the same person or under separate titles:

Provided that any such prospecting right, lease or location may, if the mining rights are separately held by different persons, provide for separate rentals, royalties, shares of profits or other consideration in respect of each such portion or piece of mineral concession.

96. Right to mine associated mineral on payment of royalty

If in the process of mining, any mineral, other than the mineral for which a mining right has been granted by the holder of a mineral concession, is discovered to exist in workable quantities by the grantee, the *Ngwenyama* may permit the grantee to mine and treat such other mineral on payment to the holder of the mineral concession of such royalty as may be agreed between the parties or, failing agreement, determined by the Minerals Committee.

97. Power of entry of officers and prospectors

Any officer investigating in pursuance of [section 90](#) and any prospector prospecting in terms of this Part may, subject to [sections 12](#) and [13](#) enter upon any portion of the concession (not being Swazi Area) and exercise thereon the rights set out in [section 31](#).

98. Power of entry of lessees

Any person to whom a lease or location has been granted in terms of this Part may, subject to [sections 12](#) and [13](#) exercise on the area in respect of which the lease or location has been granted (not being Swazi Area) the rights set out in [section 49](#) and [section 41](#) respectively.

98bis Exemption from payment of royalty

The *Ngwenyama* may exempt any person from the payment of a mineral royalty and such exemption shall be published by the Minister by Notice in the *Gazette*.

[Added: A.9/1989]

Part IX – Swazi Areas**99. Restriction of prospecting and mining in Swazi Area**

- (1) No person may, notwithstanding that he has authority to prospect or mine under this Act, prospect or mine within a Swazi Area, save with the permission in writing and subject to the direction of the *Ngwenyama* in *Libandla*, who may withhold such permission or grant the same for such time and on such terms as to compensation, surface rent or otherwise, as he may deem expedient.

[Amended L.N.38(7)/1967; L.N.8/1969]

- (2) All payments made under this section shall be made to the *Ngwenyama* in *Libandla*.

[Amended L.N.38(7)/1967]

100. Notice of intention to prospect and mine in Swazi Area

Any person desiring to prospect or mine on a Swazi Area shall give notice of his intention to the *Ngwenyama* and shall if required by the *Ngwenyama* in *Libandla* give security by depositing with the Minerals Committee such sum or banker's guarantee in lieu thereof as the *Ngwenyama* in *Libandla* may direct for the payment of compensation for the disturbance of surface rights and for any damage done to the land or trees or crops thereon or to livestock by prospecting or mining operations.

[Amended L.N. 8(7)/1967; L.N.8/1969]

101. Ngwenyama to issue prospecting or mining right

- (1) Where permission to prospect or mine is granted by the *Ngwenyama*, the Commissioner may issue prospecting or mining rights as the case may be in accordance with this Act and the regulations thereunder and incorporating the terms and conditions laid down by the *Ngwenyama*:

Provided that the holder of a mineral concession over a Swazi Area may prospect and mine over such area upon obtaining a permit from the *Ngwenyama* in the manner prescribed.

- (2) Such permit shall incorporate any terms and conditions which the *Ngwenyama* may impose, due consideration being given to any existing rights of the holder of the mineral concession and any representations made in writing on his behalf.

[Amended L.N.38(7)/1967; L.N.8/1969]

Part X – Taxation of mining rights**102. Surrender of mineral concession in certain circumstances**

The holder of a mineral concession may at any time by notice in writing addressed to the Commissioner surrender the whole or any part of any such mineral concession in respect of which he is liable for the tax under the Mineral Rights Taxation Order No. 34 of 1973:

Provided that if such surrender is in respect of part only of the area of a mineral concession the holder of such concession shall submit a plan to the Commissioner on which is demarcated to his satisfaction the area to be surrendered:

And provided further that the tax in respect of any area so surrendered shall, unless the surrender is made before the due date of the payment of the tax, be payable in respect of such area for a proportionate amount of the tax corresponding to the portion of the then current financial year which has elapsed at the date of such surrender.

103. Cancellation of mineral concession

If a mineral concession or portion of a mineral concession has been so surrendered, the Commissioner may obtain a cancellation in the Deeds Office of Swaziland of the concession or part thereof so surrendered.

Part XI – Registration

104. Exclusive prospecting licences, and mining rights to be registered

- (1) All exclusive prospecting licences, mining locations, and leases shall be registered in the office of the Commissioner in the manner prescribed.
- (2) No transfer of any mineral concession shall be registered unless and until the transferee shall have produced to the Commissioner a receipt showing that any tax imposed in terms of the Mineral Rights Taxation Order, No. 34 of 1973 in respect of such right has been duly paid.

105. All transfers or creations of interest in licences, mining locations and leases to be registered

- (1) If an exclusive prospecting licence, mining location or lease is transferred to, vests in, or devolves upon any person, such person shall within thirty days thereafter, or, where approval is required, within thirty days of the date of approval, apply to register in the prescribed manner in the office of the Commissioner such transfer, vesting or devolution.
- (2) If any interest in an exclusive prospecting licence, mining location or lease 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 execution thereof, in the office of the Commissioner in the manner prescribed.

[Original sections 105 and 107 repealed by L.N.8/1969]

106. Failure to register

Any person failing to apply for the registration of any transfer, dealing or transaction referred to in [section 105](#) within the prescribed period shall be liable in the discretion of the Commissioner to forfeit all rights in respect thereof, and, if he prospects, works or mines on the area of an exclusive prospecting licence, mining location or lease, in respect of which registration of such transfer, dealing or transaction should have been applied for, shall be guilty of an offence.

107. Searches of registers

Subject to the payment of the prescribed fees, the registers of prospecting and mining rights and of all transfers and interests therein may be searched and examined during the usual office hours and certified copies of any entries shall in all legal proceedings be admissible in evidence without proof of the handwriting or official position of the person purporting to sign the certified copies.

108. In case of lost or destroyed certificate copy may be substituted

In the event of any original instrument creating or evidencing any right under this Act being lost or destroyed or so obliterated as to become illegible, the Commissioner may at the request of the holder

cause a copy thereof to be prepared and to be endorsed with all such entries as were upon the original so far as the same can be ascertained from the records of his office and other available information and shall make and sign a memorandum upon such copy stating the same to be a substitute to be used in place of the original, and what has become of the original so far as is known or supposed.

[Original sections 108 to 110 inclusive repealed by King's *Order-In-Council No. 34 of 1973*]

109. Holder of mining rights to have registered address in Swaziland

- (1) Every holder of a prospecting or mining right shall register with the Commissioner an address in Swaziland by 1st May, 1958.
- (2) Any notice to any person for the purpose of this Act shall be deemed to have been effectively given if delivered personally to such person or sent by registered post to such registered address.
- (3) Unless and until such address shall have been registered, service of any notice under this Act on such holder may be made by one publication in the *gazette* and such notice shall be deemed to have been effectively given.

Part XII – Miscellaneous

110. Right to use water

Any person requiring water for mining purposes may use such water only in terms of a water permit or water-right granted to him in accordance with the water laws for the time being in force in Swaziland.

111. Water

- (1) No person shall have any proprietary right in the water running in any river, stream, watercourse or water-furrow by reason of any mining title.
- (2) No person shall by reason of any mining title have any right to the use of such water save as may be expressly provided by the terms of such title or by regulation.
- (3) No holder of any mining title in respect of any portion of a Government mineral area shall, save as may be expressly provided by the terms of such title, be entitled to obtain any right to the use of such water for the purpose of working ground held under such title or for purposes incidental to such working except in the manner prescribed by regulation.
- (4) If any water-right is granted to the holder of a mining title under regulation such right shall be of the same force and effect as if it had been granted under the Water Act:

Provided, however, that no such water-right shall infringe on any right to water exercisable under the said Act.

112. Government departments excepted from the provisions of the Act

Nothing in this Act shall be construed as being applicable to or restricting the operation of any person or institution having obtained the consent in writing of the *Ngwenyama* to collect and possess specimens of minerals for educational or scientific purposes.

113. Trivial defects in beaconing or application do not invalidate excepted cases

Any departure from the provisions of this Act or any regulations made thereunder in respect of the marking out of an area or in respect of an application for prospecting or mining rights over an area shall not invalidate such marking out or such application if the Commissioner is satisfied that a *bona fide*

attempt has been made to comply with this Act and the regulations made thereunder and that the defect or irregularity is of a minor nature:

Provided that if—

- (a) the applicant on receiving notice in writing from the Commissioner to remedy such defect fails to do so or fails to inform the Commissioner that he has remedied such defect in the time specified in such notice such defect or irregularity shall invalidate such marking out or such application;
- (b) a number of such defects or irregularities occur the whole may be regarded by the *Ngwenyama* as invalidating such marking out or such application;
- (c) such defect is calculated, in the opinion of the Commissioner, to mislead another possible applicant for rights under this Act over the area marked out or part of the area marked out or an area adjoining the area marked out, such defect may be held to invalidate such marking out or such application.

114. Lateral limits

The lateral limits of any land held under an exclusive prospecting licence or mining right shall be vertical planes passing through the sides by which the licence or right is bounded.

115. Land required for public purposes

- (1) If any land being part of the area of a mining right is required by the Government for any of the public purposes defined in the Acquisition of Property Act, [No. 10 of 1961](#), the Minister shall give notice to the holder of such right who shall remove therefrom within the time specified in such notice any buildings, plant or other of his property:

Provided that in any such case the holder of the mining right shall be entitled to receive from Government compensation for any interference with ways, works, buildings and plant belonging to such holder but not for interference with his mining right save where within six months after the date of the notice or within such further period as the Minister may allow the holder of the mining right can show that there are reasonable grounds for believing that minerals exist in economic and workable quantities within the area of land required under the notice:

Provided further that the compensation payable to the holder of a mining right under this proviso shall, if not agreed upon between the parties, be determined by legal action in a court having jurisdiction.

- (2) If any land temporarily occupied by the holder of a prospecting licence or occupied by the holder of a prospecting licence is required by the Government for any public purpose, the Commissioner or District Commissioner shall give notice to that effect to the holder of the licence and such holder shall, not later than thirty days from the date of notice or within such further period as the Commissioner or District Commissioner may allow, remove from the land so occupied any buildings and plant erected thereon and shall cease to occupy such land, and the holder shall not be entitled to any compensation for any such disturbance.
- (3) Except as provided in subsection (1) the holder of a prospecting or mining right shall not be entitled to any compensation from Government if prevented from the exercise of any right on land temporarily occupied under a prospecting or mining right by reason of the land being required for a public purpose.

116. Power to take materials

- (1) The Minister if he is satisfied that mining operations will not be adversely affected thereby may at any time take from land comprised in any mining right any clay, gravel, stone, brushwood, timber or other materials required for any public purpose as defined in [section 115\(1\)](#).

- (2) Compensation shall be payable to the holder of such mining right in respect of any damage done to any ways, works, buildings or plant belonging to the holder and may be agreed or determined in the manner provided by [section 115](#).

117. Protection of estate of deceased person, insolvent, or mentally disordered person

- (1) If the holder of any right under this Act dies, or has been declared insolvent, or in the case of a company, placed under liquidation, or is found to be of unsound mind under the provisions of any law relating to mentally disordered persons for the time being in force in Swaziland, the obligations imposed upon him under this Act shall not arise until after the expiry of ninety days from the date of the appointment of an executor or the issue of letters of administration, or from the date of the sequestration or liquidation order, or from the date of appointment of a curator to the estate of the person of unsound mind, as the case may be.
- (2) If the issue of letters of administration, the sequestration or liquidation order, or the appointment of a curator of the estate of the person of unsound mind shall occur beyond Swaziland, the said period of ninety days shall run from the date of the recognition by the courts of Swaziland of such letters of administration, sequestration or liquidation order, or appointment of a curator.

118. Government officers prohibited from acquiring rights

No person, whether civil or military, while in the service of the Government of Swaziland shall directly or indirectly acquire or hold any right or interest under any prospecting or mining right, and any licence, right or lease, document or transaction purporting to confer any such right or interest on any such officer shall be null and void:

Provided that a temporary employee may retain rights and interests acquired prior to his accepting Government employment.

119. Discovery of mineral by Government servant

- (1) In the event of any discovery of minerals on land other than a mineral concession by any person in the service of the Government the discoverer may mark out in the manner prescribed for marking out of a location an area to be called a "Government Protection Area" not exceeding 260 hectares or may post a notice in the prescribed form, termed a "Government Protection Notice" which shall automatically close to prospecting all land, open to prospecting at the time of posting the notice, within an area of one thousand metres from the notice in all directions.
- (2) Such discovery, marking out, or posting of a Government Protection Notice shall be forthwith reported to the Commissioner and no person may thereafter prospect in such area without the consent of the *Ngwenyama*.
- (3) Authority to prospect or mine in any such Government Protection Area may be granted by the *Ngwenyama* to such persons and subject to such terms and conditions as he thinks fit.

120. Salting

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 such place or who mixes or causes to be mixed with any ore any valuable metal or substance whatsoever that will increase the value or in any way change the nature of the said ore with intent to deceive, cheat, or defraud shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand emalangeni, or to imprisonment not exceeding five years, or to such imprisonment without the option of a fine, or to both.

121. Obstruction of officers

Any person who wilfully obstructs, hinders, assaults or resists any member of the police or any administrative officer or any officer appointed under [section 6](#) or any person authorised by any such officer

in the exercise or execution of any right, power, or duty under this Act, or wilfully disobeys an order of any such officer or other person, other than an order for the payment of money, or is guilty of contempt of an administrative or other officer when acting in a judicial capacity shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred emalangeni or to imprisonment not exceeding twelve months or both.

122. Unlawful beacons

- (1) Any person who maintains an unlawful beacon shall be guilty of an offence under this Act and except for good cause shown an unlawful beacon shall be deemed to have been maintained by any person who—
 - (a) erects a beacon within the meaning of this Act or any regulations made thereunder or anything purporting to be such a beacon and fails within twenty-one days from the date of erection of the beacon either—
 - (i) to apply for the grant of an exclusive prospecting licence or mining right over the area in respect of which such beacon is erected; or
 - (ii) to remove such beacon, fill in all trenches ancillary thereto and notify the Commissioner forthwith that he so erected and sub-sequently removed such beacon and filled in such trenches and of his intention not to apply for an exclusive prospecting licence or mining right over the area or any part of the area in respect of which such beacon was erected;
 - (b) being the applicant for an exclusive prospecting licence or mining right whose application has been withdrawn or refused or the holder of such licence or right which has expired, or has been revoked, forfeited, abandoned, surrendered or the renewal of which has been refused fails, within thirty days of the date of such withdrawal, refusal, expiry, surrender, revocation, forfeiture or abandonment, to fill in all boundary trenches and remove all beacons marking out the area which was the subject of application for such licence or right and notify the Commissioner that he has complied with the requirements of this subsection;
 - (c) erects a beacon or anything purporting to be a beacon during any period of the day or night which under this Act or any regulations made thereunder is a prohibited period;
 - (d) erects a beacon within the meaning of this Act or any regulations made thereunder or anything purporting to be such a beacon when he is not empowered under this Act to erect such beacon;
 - (e) establishes on any land anything which is not a beacon but which may be presumed to be intended to lead other persons to suppose it to be a beacon notwithstanding that neither by its dimensions, nor by words or letters thereon does it purport to be a beacon.
- (2) No unlawful beacon shall be removed without the consent in writing of the Commissioner or an inspector of mines first obtained.
- (3) If any person has maintained an unlawful beacon the Commissioner may refuse to accept an application from such person for prospecting and mining rights over an area in Swaziland, for a period of six months from the date of erection of such beacon.
- (4) The Commissioner or an inspector of mines may enquire into the maintenance of any beacon and where he is satisfied that the beacon is an unlawful beacon he may remove or destroy such beacon and fill in the trenches ancillary thereto and may charge the person who erected such beacon such sum as he shall consider reasonable in respect of the cost of such enquiry, removal, destruction or filling in and such charge shall be a lawful deduction from any deposit lodged by such person under [section 15](#).

123. Who may beacon certain areas

- (1) No person shall, without the consent of the Commissioner first obtained, mark out with beacons either directly or indirectly, by an agent or otherwise, any area in respect of any part of which he has previously maintained an unlawful beacon for a period of one year from the date of the erection of such beacon.
- (2) Ground, the subject of a location which has been terminated by expiry, abandonment, revocation or forfeiture, shall not be open to repegging by the previous holder either directly or indirectly by an agent or otherwise until after a period of ninety days from the date of notice of such termination in the *gazette*.

124. Penalty for interference or obstruction

- (1) Any person shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred emalangeni or to imprisonment not exceeding six months, or both, who—
 - (a) interferes with any prospecting or mining operations authorised by or under this Act;
 - (b) obstructs any person in the exercise of any right conferred by or under this Act;
 - (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 Act;
 - (d) without lawful authority wilfully breaks, defaces or removes, or in any other way interferes with any boundary mark, beacon, pillar or post erected for any of the purposes of this Act or any regulations made thereunder.
- (2) For the purposes of this section, unless otherwise expressly provided, it shall be unlawful for an applicant for prospecting or mining rights over an area to move or interfere in any way with any beacon purporting to mark out the area applied for, without the consent in writing of the Commissioner first obtained.

[Original section 124 repealed by [P51/1962](#)]

125. Power of arrest

Any member of the Royal Swaziland Police Force of the rank of sub-inspector or upwards, an administrative officer, or an authorised officer, may without warrant, arrest and search any person whom he may find committing, or whom he reasonably suspects of having committed, an offence against this Act:

Provided that the person arrested shall be taken, with as little delay as possible, before a District Commissioner or a magistrate to be dealt with according to law.

126. Titles to be produced when demanded

The holder of any prospecting or mining right, other than a mineral concession, shall produce his title whenever demanded by the Commissioner, any member of the Royal Swaziland Police Force of the rank of sub-inspector or upwards, an administrative officer, an inspector of mines or any other officer of the department.

127. Penalties

- (1) Any person shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand emalengeni or to imprisonment not exceeding five years, or to such imprisonment without the option of a fine or to both, who—
 - (a) prospects or mines in Swaziland in contravention of [section 3](#) or after being required to desist in terms of [section 12](#); or
 - (b) wilfully or recklessly makes any such representation as is described in [section 23](#); or
 - (c) prospects within Swaziland in contravention of [section 27](#); or
 - (d) mines within Swaziland in contravention of [section 38](#); or
 - (e) contravenes [section 59\(1\), \(2\) or \(4\)](#), or [section 60](#) or [section 61](#) or [section 62](#); or
 - (f) carries on the business of a goldsmith or manufactures any article of commerce in contravention of [section 65](#); or
 - (g) being a licensed dealer or goldsmith, contravenes [section 68](#); or
 - (h) prospects or mines within a Swazi Area in contravention of any of the provisions of Part IX; or
 - (i) exports any mineral from Swaziland in contravention of any provisions of this Act.
- (2) Any person shall be guilty of an offence and liable on conviction to a fine not exceeding four hundred emalengeni or imprisonment not exceeding two years, or to such imprisonment without the option of a fine, or to both, if he—
 - (a) fails to notify the discovery of economic minerals, as required by [section 17\(1\)](#); or
 - (b) being the holder of a prospecting licence, fails to produce such licence whenever lawfully required so to do, in terms of [section 29\(7\)](#); or uses any water after an administrative officer has demanded that he ceases such use, in terms of the proviso to [section 30\(c\)](#); or
 - (c) contravenes [section 64](#); or
 - (d) contravenes [section 67](#); or
 - (e) contravenes [section 70](#); or
 - (f) contravenes [section 75](#); or
 - (g) being the holder of a mineral concession or a person having a tribute agreement with such holder, contravenes [section 86](#) or [87](#); or
 - (h) prospects on a Government Protection Area in contravention of [section 119](#); or
 - (i) maintains an unlawful beacon or removes such beacon in contravention of [section 122\(1\) and \(2\)](#).
- (3) Any person shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred emalengeni or imprisonment not exceeding one year, or to such imprisonment without the option of a fine or to both, if he—
 - (a) pays any debt wages in contravention of [section 59\(3\)](#); or
 - (b) fails to report an accident as required by [section 77](#); or
 - (c) contravenes [section 77\(4\)](#); or
 - (d) prospects, works or mines, in contravention of [section 106](#); or

- (e) being the holder of a prospecting or mining right, fails to produce his title in terms of [section 126](#).

128. Forfeiture

If any court convicts any person in connection with the unlawful possession of any minerals or with unlawful prospecting or mining the court may in addition to any other penalty it may impose forfeit any minerals, tools, implements or equipment in respect of which the offence was committed or which were used in committing the offence:

Provided that if under this section a court declares any minerals to be forfeited it shall advertise the forfeiture substantially in the form prescribed in one issue of the *gazette* or in cases where the mineral forfeited does not in the opinion of the court exceed in value ten emalangeni by notice at the court-house and if, within three months from the date of notice, any person proves to the satisfaction of the court a title to the forfeited mineral or any part thereof and that he was not concerned in any offence for which such mineral was forfeited, the court may order that the mineral or such part as the court considers just to be delivered to that person.

129. The Minister with the prior approval of the *Ngwenyama* may make regulations

- (1) The Minister may make regulations in connection with, or for all or any of, the matters or purposes following—
 - (a) the manner in which applications for any permit, right, licence, location or lease provided for by this Act shall be made, the forms to be used, the information to be supplied by the applicants, and the method of determining priority as between applicants;
 - (b) the fees, rents and payments to be paid and deposits to be made for any permit, right, licence, location or lease provided by this Act;
 - (c) the classes of locations and mining leases;
 - (d) the size and shape of the areas over which exclusive prospecting licences and locations may be granted;
 - (e) the size and shape of the areas over which mining leases may be granted;
 - (f) the manner in which areas and boundaries shall be marked, beaconed and surveyed; the removal of obsolete beacons;
 - (g) the working obligations to be applied to licences, locations, or leases under this Act;
 - (h) the construction and use of passageways and roads;
 - (i) the safe construction and erection of houses, machinery and other works and the safe sinking of pits and shafts to be used for prospecting or mining purposes;
 - (j) the fencing off or rendering secure of any shaft, well, trench, tunnel, drive or other works made for prospecting or mining purposes; and the rehabilitation of any land damaged by such works;
 - (k) the grazing of cattle or other animals and the cutting down and use of timber for the purposes of carrying on prospecting and mining operations;
 - (l) 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;
 - (m) the renewal, transfer, assignment and surrender of rights under licence, locations and leases;
 - (n) the restriction or prohibition of the employment of women and children in mining operations;

- (o) the possession and disposal of and dealing in the products of mining;
- (p) the registration in the office of the Commissioner of licences, locations, leases and instruments under which any right or interest thereunder is transferred, surrendered or otherwise dealt in and the fees payable on such registration;
- (q) the agents and representatives to be appointed, the returns to be rendered and the nature of the records, account books and plans to be kept by the holders of prospecting and mining rights and the furnishing by such holders of any information required by the Commissioner;
- (r) the rates of mineral royalties to be paid to the *Ngwenyama* in trust for the Swazi nation, the method of calculation of the amount of such royalties and the manner and time of payment thereof:

Provided that such royalties shall be in addition to any other mineral royalties paid to the *Ngwenyama*:

And provided further that the Minister shall not exercise his powers under this paragraph without the prior approval thereto of the *Ngwenyama*;

[Amended A.14/1972]

- (s) tributors and tribute agreements;
- (t) the disposal of any poisonous or noxious products the result of mining operations;
- (u) the determination of what proportion of any precious metal per ton an ore may contain without coming under the definition of precious metals;
- (v) the enjoyment of surface rights and the covenants and conditions pertaining thereto;
- (w) the removal, where lawful, of temporary occupiers and other persons from mining areas;
- (x) the notices to be served on owners and occupiers of land and the manner and method of assessment and payment of compensation to persons entitled;
- (y) the amalgamation of working obligations due to be done on the area of one licence, location or lease with the working obligations due to be done on the area of another licence, location or lease;
- (z) the procedure on an appeal in terms of this Act;

[Amended L.N.38(7)/1967]

- (aa) the fees to be paid in respect of any matter or thing under this Act;
- (bb) the amalgamation of licenses, locations and leases;
- (cc) the contribution by parties benefited of a fair share of the cost of pumping in cases where pumping in one mine benefits another mine;
- (dd) the defiling or waste of water, wherever situated and wherever obtained;
- (ee) the prohibition or regulation of the movement of minerals at any time or to, from or in any place or area;
- (ff) the prohibition or regulation of the possession of mining tools in any place or area;
- (gg) the importing, exporting, dealing in, cutting and setting of diamonds;
- (hh) the forms to be used for any of the purposes of this Act;
- (ii) the composition of the Minerals Committee and matters ancillary thereto;
- (jj) generally for the better carrying out of the purposes of this Act.

- (2) Such regulations may prescribe as penalties for contravention thereof fines not exceeding two hundred emalangeni and in default of payment imprisonment for a period not exceeding six months and daily penalties may be imposed for a continuing contravention.

130. Repeal of legislation set out in the Schedule

- (1) The legislation appearing in the Schedule to this Act is hereby repealed to the extent shown in column 3 thereof.
- (2) Nothing in this section shall invalidate any right or title granted or anything done under the provisions of the legislation hereby repealed save as expressly provided in this Act:

Provided that notwithstanding such repeal any such right or title shall be limited as prescribed by the law under which it was granted:

And provided further that except as may be expressly provided by such right or title or by such law, the holder of any such right or title shall hold and exercise such right or title in accordance with the conditions set forth in this Act, and in all respects as if such right or title were issued under this Act:

And provided further that any claim or claims granted under the Crown Mineral Areas Proclamation, and any special authority to mine over an area not exceeding one square mile granted under the said Proclamation shall be deemed to be a location or an amalgamation of locations under this Act; and any special authority to prospect over an area not exceeding eight square miles granted under the said Proclamation shall be deemed to be an exclusive prospecting licence under this Act:

And provided further that any claim or claims granted under section 10 of the Mineral Concession Areas Proclamation shall be deemed to be a location or an amalgamation of locations under this Act.

Schedule

No. and year of law (1)	Title of law	Extent of repeal
13 of 1899	Tariff for Mine Surveyors	The whole.
50 of 1903	Certificates of Competency (Mining)	The whole.
63 of 1903	Diamond Trade	The whole.
66 of 1903	Precious Stones	The whole.
63 of 1951	Uranium and Thorium Control (Amendment) Act	The whole.

Chapter (2)	Title of Chapter	Extent of repeal
85	Concessions Act	Part IV, the whole.
86	Mineral Concession Areas Act	The whole.
88	Crown Mineral Areas Act	The whole except for section 25.
89	Dealing in Unwrought Precious Metals Act	The whole.
90	Uranium and Thorium Control Act	The whole.
92	Base Metal Royalty Act	The whole.