

**THE BAMANGWATO CONCESSIONS LIMITED MINING LEASE
(AMENDMENT NO. 3) ACT, 1971**

No. 55



of 1971.

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Amendment of Schedule to Act No. 7 of 1970

AN ACT TO AMEND THE BAMANGWATO CONCESSIONS LIMITED MINING LEASE ACT, 1970 BY PROVIDING IN THE FORM OF LEASE SCHEDULED THERETO FOR THE CALCULATION OF ROYALTY TO BE PAID BY THE GRANTEE

Date of Assent: 22.12.71.

Date of Commencement: 31.12.71.

ENACTED by the Parliament of Botswana

1. This Act may be cited as the Bamangwato Concessions Limited Mining Lease (Amendment No. 3) Act, 1971. Short title

2. The Schedule to the Bamangwato Concessions Limited Mining Lease Act, 1970, is amended — Amendment of Schedule to Act No. 7 of 1970

(a) by the addition at the end of clause 1 of the Mining Lease of—
““BCL Sales” means BCL Sales Limited, a company incorporated under the laws of the Republic of Botswana.”;

(b) by the deletion of sub-clause (b) of clause 12(A) of the Mining Lease and the substitution therefor of—

“(b) The said royalty shall be calculated and payable as follows —

The excess of sales revenue in any financial year over the production cost in that financial year shall be arrived at after taking into account the opening and closing stocks of metals and minerals as valued for the purpose of the audited accounts of BCL/BCL Sales;

In this clause —

“BCL/BCL Sales” means the Grantee and BCL Sales jointly and severally and, in the context of sales revenue, costs, stocks, accounts or any other financial expression, means the joint sales revenue, costs, stocks, accounts or such other financial expression of the Grantee and BCL Sales consolidated in such manner as is, in the opinion of the Auditors of the Grantee, proper and accords with the principles of sound accountancy;

“operations” means mining operations carried on by the Grantee within the area of Grant and all exploration carried out by the Grantee within Botswana, and processing, servicing, financial, administrative, marketing and selling operations in or out of Botswana of BCL/BCL Sales related to such mining operations or such exploration;

“sales revenue” means the amount realised by BCL/BCL Sales from the operations;

“production cost” means the cost of production by BCL/BCL Sales of minerals or metals, including the operating costs down to and including delivery by BCL/BCL Sales to buyers, and rents or other like amounts payable to the Government, including payments made by the Grantee as contribution towards the costs of establishing a township at Selebi-Pikwe, interest payable on loans, expenses of administration (including Directors’ fees), depreciation or other like amounts set aside to provide for the replacement of assets and the amount of all such other provisions as in the opinion of the Auditors of the Grantee it is proper to make and accords with the principles of sound accountancy but not including appropriations to reserve or provisions for income tax, profits tax, or any tax of a substantially similar nature nor royalties payable hereunder;

“financial year” means the period of twelve calendar months adopted by the Grantee as its financial year.”;

- (c) by the deletion of sub-clause (4) of clause 12(B) of the Mining Lease set out in paragraph (b) of Section 2 of the Bama-ngwato Concessions Limited Mining Lease (Amendment No. 2) Act, 1971, and the substitution therefor of —

“(4) In this sub-clause —

“Commercial Production Date” means the date which is the last to occur of the following dates —

- (i) the Power Delivery Date referred to in the Power Agreement, between the Botswana Power Corporation and the Grantee, scheduled to the Master Agreement; or
- (ii) the Water Delivery Date referred to in the Water Agreement, between the Water Utilities Corporation and the Grantee, scheduled to the Master Agreement; or
- (iii) the date upon which the Grantee’s Pikwe mine at Selebi-Pikwe is first capable of attaining a weekly rate of extraction of 38,000 metric tonnes of ore per week;

“Master Agreement” means the agreement to be entered into between the Government of the Republic of Botswana, the Grantee, BCL Sales and Botswana RST Limited expressing and governing the relationships between them in regard to the exploitation of the mining rights granted in terms of this mining lease.”;

- (d) in the second line of sub-clause (C) of clause 12 of the Mining Lease by the deletion of “its audited accounts” and the substitution therefor of “the audited accounts of BCL/BCL Sales”; and

- (e) by the deletion of sub-clause (D) of clause 12 of the Mining Lease and the substitution therefor of —

“(D) In the preparation of the annual audited accounts of BCL/BCL Sales a system of provisions for replacements shall be used in lieu of a system of depreciation of assets and such provisions for replacements shall be included in the definition of “production cost” for the purpose of calculating the royalty due under this mining lease. In the

event of BCL/BCL Sales wishing to adopt some other system in lieu of the system of provisions for replacements the Grantee and the Government agree that the method of computing the royalty payable hereunder shall be amended to the extent necessary to ensure that the amount of royalty due to the Government is not in any way affected by such alteration to the accounting procedures of BCL/BCL Sales.”.

Passed by the National Assembly this day, the 16th December, 1971.

G.T. MATENGE,
Clerk of the National Assembly.