

MINES AND MINERALS (AMENDMENT) ACT, 1973

No. 33



of 1973

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An Act to amend the Mines and Minerals Act, 1967

Date of Assent: 20.12.73

Date of Commencement: 28.12.73.

ENACTED by the Parliament of Botswana.

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| Short title | 1. This Act may be cited as the Mines and Minerals (Amendment) Act, 1973. |
| Amendment of section 2(1) | 2. Section 2(1) of the Mines and Minerals Act, 1967 (hereinafter referred to as "the principal Act") is amended by inserting in its proper alphabetical sequence the following definition -
" "responsible officer", in connexion with matters relating to prospecting operations and prospecting rights, means the Director, and in connexion with matters relating to mining operations and mining rights means the Commissioner;" |
| Amendment of section 2(2) | 3. Section 2(2) of the principal Act is amended by substituting for the words "English measure" the words "metric measure according to the international system of metric units". |
| Amendment of section 7 | 4. Section 7 of the principal Act is amended in the proviso to subsection (1) (a), and in subsection (5) thereof by substituting for the word "Commissioner" wherever it occurs the word "Director" in each case. |
| Amendment of section 8 | 5. Section 8 of the principal Act is amended -
(a) in subsection (1) thereof by substituting for the word "Commissioner" the word "Director";
(b) in subsection (3) thereof by substituting for the words "1 000 square miles", wherever they occur, the words "2 500 square kilometres" in each case;
(c) "by inserting immediately after subsection (3) thereof the following new subsection - |

“(3A) Notwithstanding the provisions of subsection (3), the Minister may determine that a special prospecting licence shall be issued or renewed for a period or periods exceeding the period or periods specified in subsection (3), where, in the opinion of the Minister, special circumstances exist justifying such longer period or periods;” and.”

(d) in subsection (5) thereof by substituting for the word “Commissioner” in line 2 the word “Director”, and by inserting immediately before the word “Commissioner” in line 4 the words “Director and the”.

6. Section 8A of the principal Act is amended by substituting for the word “Commissioner” the word “Director”. Amendment of section 8A

7. Section 9(1) of the principal Act is amended by substituting for the words “Mining Commissioner” the word “Director”. Amendment of section 9

8. Section 10 of the principal Act is amended – Amendment of section 10

(a) by substituting for the word “Commissioner” wherever it occurs the word “Director” in each case; and

(b) by inserting immediately after subsection (2) thereof the following new subsection –

“(2A) Before passing an application to the Minister under this section the Director shall consult the Commissioner.”.

9. Section 11(3) of the principal Act is amended by substituting for the word “Commissioner” wherever it occurs the word “Director” in each case. Amendment of section 11

10. The proviso to section 12(1) (a) of the principal Act is amended by substituting for the words “square mile” the words “2,5 square kilometres”. Amendment of section 12

11. Section 13(3) of the principal Act is amended by substituting for the word “Commissioner” the word “Director”. Amendment of section 13

12. Section 14 of the principal Act is amended – Amendment of section 14

(a) in paragraph (a) (ii) thereof by substituting for the words “Bushman Relics Proclamation (Chapter 180)” the words “Monuments and Relics Act, 1970”; 15 of 1970

(b) in paragraph (b) thereof by substituting for the words “two hundred feet” wherever they occur the words “seventy metres” in each case, and by substituting for the word “yards” the word “metres”; and

(c) in paragraphs (c) and (d) thereof by substituting for the word “yards” wherever it occurs the word “metres” in each case.

13. Section 15 of the principal Act is amended by substituting for the words “90 000 square feet” the words “10 000 square metres”. Amendment of section 15

Amendment
of section 16

14. Section 16 of the principal Act is amended –

- (a) in subsection (1) thereof by substituting for the words “one thousand feet” wherever they occur the words “three hundred metres” in each case;
- (b) in subsection (2) thereof by substituting for the words “two inches” the words “five centimetres”, and for the words “three feet” the words “one metre”; and
- (c) in subsection (4) thereof by substituting for the words “nine inches” the words “twenty centimetres”.

Amendment
of section 20

15. Section 20 of the principal Act is amended –

- (a) in line 2 of subsection (1) and in subsection (3) thereof by substituting for the word “Commissioner” wherever it occurs the word “Director” in each case; and
- (b) in subsection (1) thereof by substituting for all the words after paragraph (h) the following –
 - “(i) such other matters relating to his prospecting operations as the Director may require,and shall supply, at least once in every three months, copies of such records to the Director:

Provided that the Director may, in his discretion, and upon application being made to him in that behalf, in any particular case dispense with or modify any or all of the requirements of this subsection.”.

Amendment
of section 21

16. Section 21 of the principal Act is amended by substituting for the word “Commissioner” wherever it occurs the word “Director” in each case.

Amendment
of section 22

17. Section 22 of the principal Act is amended by inserting immediately after subsection (2) thereof the following new subsection –

“(2A) Before granting permission under this section the Commissioner shall consult the Director.”.

Amendment
of section 34

18. Section 34 of the principal Act is amended –

- (a) in subsection (2) (a) thereof by substituting for the words “60 feet” the words “twenty metres”;
- (b) in subsection (3) (b) thereof by substituting for the words “3 feet” the words “one metre”, and in the proviso thereto by substituting for the word “footage” the word “amount”, by substituting for the words “three cubic yards” the words “7,5 cubic metres”, and by substituting for the word “foot” the word “metre”; and
- (c) in subsection (4) thereof by substituting for the word “footage” the word “amount”.

- 19. Section 41 of the principal Act is amended –** Amendment
of section 41
- (a) by substituting for the word “Commissioner” wherever it occurs the word “Director” in each case; and
- (b) in subsection (4) (b) thereof by substituting for the words “Part II” the words “Part III”
- 20. Section 42 of the principal Act is amended by substituting for subsections (1) and (2) thereof the following new subsections –** Amendment
of section 42
- “(1) Before application is made for a mining right in respect of any claim, the pegs placed under the provisions of section 15 shall be replaced by stone or concrete beacons at least sixty centimetres high and one metre in diameter at the base, and in the centre of such beacon there shall be securely fixed in an upright position a peg of not less than five centimetres in diameter, and projecting not less than one metre above the ground level.
- (2) At every such stone or concrete beacon, there shall be dug two trenches not less than one metre long, fifteen centimetres wide, and thirty centimetres deep, to indicate the direction of the two adjacent beacons.”
- 21. The proviso to section 45(1) of the principal Act is amended by substituting for the words “one acre for every four claims” the words “one thousand square metres for every claim”.** Amendment
of section 45
- 22. Section 59 of the principal Act is amended by substituting for subsection (1) thereof the following new subsection –** Amendment
of section 59
- “(1) There shall be paid to the State at the office of the Director by every holder of a special prospecting licence issued under the provisions of section 9 a quarterly registration rental of five cents for every square kilometre of the grant, with a minimum quarterly rental of R12,50.”
- 23. Sections 61, 62, 67, 68, 69, 70, 71, 72 and 73 of the principal Act are amended by substituting for the word “Commissioner” or the words “Mining Commissioner” wherever they occur the words “responsible officer” in each case.** Amendment
of sections 61,
62, 67, 68, 69,
70, 71, 72 and
73
- 24. Section 76 of the principal Act is amended by inserting immediately before the word “Commissioner” the word “Director,”.** Amendment
of section 76
- 25. Sections 77, 79 and 83 of the principal Act are amended by substituting for the word “Commissioner” wherever it occurs the words “responsible officer” in each case.** Amendment
of sections 77,
79 and 83
- 26. Section 95 of the principal Act is amended by inserting immediately before the word “Commissioner” the words “Director,”.** Amendment
of section 95
- 27. Section 97(2) of the principal Act is amended by substituting for the word “Director” the word “Commissioner”.** Amendment
of section 97
- 28. Section 99 of the principal Act is amended by inserting immediately before the words “Records Office” the word “Mining”.** Amendment
of section 99

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- Amendment of section 100 **29.** Section 100 of the principal Act is amended by substituting for the word "Commissioner" wherever it occurs the words "responsible officer" in each case.
- Amendment of section 101 **30.** Section 101 of the principal Act is amended by substituting for the word "Commissioner" wherever it occurs the words "responsible officer" in each case, and in subsection (1) thereof by substituting for the words "Records Office" the words "Mining Records Office".
- Amendment of sections 102 and 103 **31.** Sections 102 and 103 of the principal Act are amended by substituting for the word "Commissioner" wherever it occurs the words "responsible officer" in each case.
- Amendment of section 106 **32.** Section 106 of the principal Act is amended –
(a) in subsection (1) thereof by substituting for the word "Director" wherever it occurs the words "responsible officer" in each case; and
(b) in subsection (2) thereof by substituting for the words "ten feet" the words "three metres".
- Amendment of section 108 **33.** Section 108 of the principal Act is amended –
(a) in subsection (1) thereof by deleting the words "explosives or employment" which occur in paragraph (b), and by deleting paragraphs (d), (e) and (g);
(b) by deleting subsections (2), (3) and (4) thereof; and
(c) by inserting immediately after the word "Commissioner" in line 10 of subsection (5) thereof the words "or the Director, as the case may be,".
- Amendment of section 109 **34.** Section 109(1) of the principal Act is amended by deleting the words "the Commissioner" and substituting for the words "either of them" the word "him".
- Deletion of sections 112 and 114 **35.** The principal Act is amended by deleting sections 112 and 114.
- Amendment of section 113 **36.** Section 113 (2) of the principal Act is amended by inserting immediately after the word "Director" the words "or the Commissioner".
- Amendment of section 115 **37.** Section 115(1) of the principal Act is amended by deleting paragraphs (h), (i), (j), (k), (m), (r) and (s).
- Amendment of section 117 **38.** Proviso (c) to section 117 of the principal Act is amended by substituting for the word "Commissioner" the word "Director".
- Replacement of First Schedule **39.** The principal Act is amended by substituting for the First Schedule thereto the following new Schedule –

FIRST SCHEDULE

(section 34)

- (1) None of the following shall count as development work -
- (a) any shaft, winze, rise, drive, adit or tunnel of less superficial area than 1,5 square metres;
 - (b) any shaft which has been sunk to a total vertical or incline depth of less than 6 metres from the surface;
 - (c) any borehole which has been sunk to a total vertical or incline depth of less than 15 metres from the surface;
 - (d) any borehole from which a core is unobtainable and boreholes used for blasting:

Provided that where intensive and systematic drilling of shallow boreholes has been carried out through overburden to prove the economic potentialities of mineral deposits, the Commissioner may, notwithstanding the provisions of subparagraphs (c) and (d), authorize such work to count as development work.

- (2) Subject to the above conditions -
- (a) each metre of any shaft, winze or rise of 1,5 to 4 square metres superficial area shall count as 1 metre of development work;
 - (b) each metre of any shaft, winze or rise of over 4 and up to 6 square metres superficial area shall count as 2 metres of development work;
 - (c) each metre of any shaft, winze or rise of over 6 square metres superficial area shall count as 3 metres of development work;
 - (d) each metre of any drive, adit or tunnel from surface of 4,5 square metres superficial area and over shall count as 2 metres of development work.

Depth

Each metre of any portion of a shaft, winze or rise, or any drift the floor of which is not more than 20 metres below the natural surface at the working point, shall count as 1 metre of development work; exceeding 20 metres and up to 30 metres as 1,5 metres; exceeding 30 metres and up to 60 metres, as 2 metres; exceeding 60 metres and up to 80 metres, as 3 metres; exceeding 90 metres and up to 120 metres, as 4 metres; exceeding 120 metres and up to 150 metres, as 5 metres; and exceeding 150 metres, as 6 metres.

Distance from entrance -

Each metre of any portion of an adit or tunnel from surface which is 30 metres to 90 metres from a point in the centre of the roof at the entrance shall count as 1,5 metres of development work, and each metre of any portion of an adit or tunnel from surface which is 90 metres or more from such point shall count as 2 metres of development work.

General –

All dimensions shall be taken at right angles to the line of direction of the work, and in the clear between outside timbers if in position or allowing for them if they are to be put in later.

Depth in incline work shall be measured on the incline. The allowances for dimensions and depth or distance from entrance shall be cumulative, viz: each metre of any portion of a shaft of over six square metres superficial area, which is more than 30 metres but not more than 60 metres from surface, shall count as 6 metres of development work.

Allowance for Boreholes –

Each metre drilled below the natural surface for a distance of 90 metres shall count as 1 metre of development work; exceeding 90 metres and up to 180 metres, as 2 metres; exceeding 180 metres and up to 270 metres, as 3 metres; exceeding 270 metres and up to 360 metres as 4 metres; exceeding 360 metres, as 5 metres.

Allowance for Trenching –

See section 34(3).

Geochemical and Geophysical Work –

Every R15 spent on such work shall count as 1 metre of development work.”

Amendment
of Second
Schedule

40. Paragraph 1 of the Second Schedule to the principal Act is amended by substituting for subparagraphs (b) and (c) thereof the following new subparagraphs –

- “(b) coal shall be at 2,75 cents per metric tonne of 1 000 kilogrammes;
- (c) oil shale shall be 3,33 cents per metric tonne of 1 000 kilogrammes;”.

Power of
Minister to
amend

41. When the Minister is satisfied that adequate provision is made for the matters in question by regulations made under the Mines, Quarries, Works and Machinery Act, 1973, he may, by Order published in the Gazette, repeal or amend sections 50, 63, 64, 65, 66, 107, 108, 110, 115 (i) (aa) and 116 of the principal Act.

Passed by the National Assembly this 7th day of December, 1973.

R.J. CHILUME,
Acting Clerk of the National Assembly.