

BOTSWANA GEOSCIENCE INSTITUTE ACT, 2014

No. 29



of 2014

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An Act to provide for the establishment of the Botswana Geoscience Institute for the purpose of undertaking research in the field of geosciences and providing specialised geoscientific services, empowering the Institute to be the custodian of geoscience information; promoting the search for, and exploration of any mineral in Botswana, to act as an advisory body in respect of geohazards and for matters incidental thereto.

Date of Assent: 27.08.2014

Date of Commencement: ON NOTICE

ENACTED by the Parliament of Botswana.

PART I — *Preliminary*

Short title and commencement

1. This Act may be cited as the Botswana Geoscience Institute Act, 2014, and shall come into operation on such date as the Minister may, by Order published in the *Gazette*, appoint.

Interpretation

2. In this Act, unless the context otherwise requires —

“authorised officer” means a person authorised by the Minister to exercise powers conferred by section 34;

“Board” means the Board of the Institute established under section 6;

“Chairperson” means the Chairperson of the Board;

“Chief Executive Officer” means the Chief Executive Officer of the Institute appointed under section 22;

“discovery” means a technological or scientific discovery, including the discovery of a mineral deposit;

“geochemical survey” means a survey involving the chemical analysis of systematically collected samples of rock, soil, stream sediments, plants or water for mineral and groundwater exploration;

“geohazards” means —

- (a) a geological state or an incipient geological condition that has the potential to develop further into a situation leading to harm, damage or uncontrolled risk;
- (b) phenomena that are related to geological and environmental conditions and involve long term and short term geological processes which range in magnitude from relatively small to large scale features and may affect the local and regional socio-economy; and
- (c) areas characterised by potential life threatening geological condition in Botswana, including dolomite land, undermined areas, areas of potential slope stability problems and areas prone to potential severe seismicity and flood-line areas;

Cap. 66:01

- “geoscientific information” includes geotechnical information, exploration, mining, hydrogeology, geochemistry, geophysics, engineering geology, economic geology, geochronology, geomagnetism, geotechnical investigations, seismology, geohazards and environmental geology;
- “geotechnical survey” means a ground survey to establish sub-surface conditions to obtain information on and analysis of the physical properties of soils, rocks and ground water levels;
- “Institute” means the Botswana Geoscience Institute established under section 3;
- “member” means a member of the Board;
- “minerals permit area” has the meaning assigned to it under the Mines and Minerals Act;
- “mining area” has the meaning assigned to it under the Mines and Minerals Act;
- “prospecting licence” has the meaning assigned to it under the Mines and Minerals Act;
- “retention area” has the meaning assigned to it under the Mines and Minerals Act;
- “Secretary” means the Secretary to the Board, appointed under section 24; and
- “senior staff” means any employee of the Institute who holds a position which is designated as such by the Board.

PART II — Establishment and functions of Botswana Geoscience Institute

Establishment of Institute

3. (1) There is hereby established a body to be known as the Botswana Geoscience Institute.

(2) The Institute shall be a body corporate capable of suing and being sued in its own name and, subject to the provisions of this Act, of performing such acts as bodies corporate may, by law, perform.

Functions of Institute

4. (1) The Institute shall be responsible for research in the field of geosciences, providing specialised geoscientific services and promoting the search for, and exploration of any mineral in Botswana.

(2) Notwithstanding the generality of subsection (1), the Institute shall —

- (a) advance the geoscientific knowledge of Botswana by geothematic survey, long term monitoring, effective data management and high quality applied research through —
- (i) geoscience information updates including digitization and web delivery enabling of data,
 - (ii) rapid map revisions to geological mapping based on satellite imagery, interpretation of airborne geophysics, geochronology and anomaly ground truthing field base surveys,
 - (iii) systematic geochemical survey for mineral exploration and environmental baseline purposes,

- (iv) national resource assessment and estimate of mineral resource, petroleum and gas potential,
 - (v) strategic aquifer mapping and underground modeling,
 - (vi) thematic mapping,
 - (vii) national geotechnical indicators in response to expanding towns and villages,
 - (viii) regional impacts of mining, including water extraction or kimberlitic dewatering,
 - (ix) seismicity risk reduction assessment, or
 - (x) geohazards related to extra-terrestrial events risk reduction assessment;
- (b) undertake geoscientific research, related technological development and disseminate geoscientific research findings;
 - (c) compile and develop a comprehensive and integrated collection of knowledge and information of geology, geochemistry, geophysics, engineering geology, economic geology, geochronology, geotechnical investigations, seismology, geohazards, environmental geology and other related disciplines;
 - (d) act as an advisory body in respect of geohazards related to infrastructure and development;
 - (e) provide specialised geoscientific services;
 - (f) conduct geotechnical surveys;
 - (g) promote public understanding of geoscience;
 - (h) demonstrate the importance of geoscience to resource and environmental issues; and
 - (i) do all such things as appear to be necessary, desirable or expedient to carry out its functions.

5. (1) The seal of the Institute shall be such device as may be determined by the Board and shall be kept by the Chief Executive Officer.

Seal of
Institute

(2) The affixing of the seal shall be authenticated by the signature of the Chief Executive Officer.

(3) In the absence of the Chief Executive Officer, the person performing the functions of the Chief Executive Officer shall authenticate the seal in his or her place.

(4) The Chief Executive Officer may, in writing, delegate to another employee his or her power to authenticate the seal.

(5) A document issued by the Institute and sealed with the seal of the Institute which seal is authenticated in the manner provided by this section shall be received and taken to be a true instrument without further proof unless the contrary is shown.

Board of
Institute

6. (1) There shall be a Board of the Institute which shall be the governing body of the Institute.

(2) The Board shall be responsible for the general control of the performance and management of the undertakings and affairs of the Institute, and without derogating from the generality of this provision, the Board shall —

- (a) determine the general performance of the Institute;
- (b) determine corporate policy and provide strategic direction for giving effect to the objects and purposes of the Act;
- (c) advise the Minister to change, review or formulate geosciences related policies and strategies where necessary; and
- (d) do such other things as are provided by this Act or as may be necessary for the proper implementation of this Act.

(3) The Board shall consist of eight members appointed by the Minister from amongst persons whom the Minister considers qualified by reason of their experience or expertise in the areas relevant to the functions of the Institution.

(4) The Chief Executive Officer shall be an *ex-officio* member of the Board.

(5) The Minister shall appoint the Chairperson of the Institution.

(6) Membership of the Board shall consist of persons qualified in the following disciplines —

- (a) geological engineering;
- (b) sciences;
- (c) law;
- (d) market regulation;
- (e) consumer protection;
- (f) finance and accounting;
- (g) economics;
- (h) management and business administration; or
- (i) any other relevant discipline as may be determined by the Minister.

(7) A person may be appointed to be a member if he or she possesses demonstrated experience and capability in any of the relevant disciplines under subsection (6) and at least 10 years relevant work experience.

Strategic and
annual plans

7. (1) The Board shall submit a five year strategic plan to the Minister, for the Minister's approval, outlining —

- (a) the goals of the Institute;
- (b) the objectives of the Institute;
- (c) the budget of the Institute; and
- (d) any other matter which the Minister may direct for that five year period.

(2) The Board shall, at least three months before the beginning of each financial year, submit an annual plan to the Minister, for the Minister's approval, outlining —

- (a) the goals of the Institute;
- (b) the objectives of the Institute;
- (c) the budget of the Institute; and
- (d) any other matter which the Minister may direct, for that financial year.

Direction by
Minister

8. (1) The Minister may give the Board written directions, of a general or specific nature, regarding the exercise of its powers, which directions shall not be inconsistent with this Act or with the contractual or other legal obligations of the Board.

(2) The Board shall give effect to the Minister's directions given in accordance with subsection (1).

Tenure of
office

9. A member shall be —

- (a) appointed by the Minister on such terms and conditions as may be determined by the Minister and specified in the instrument of appointment; and
- (b) eligible for re-appointment.

Disqualification,
removal and
resignation of
members

10. (1) A person shall not qualify for appointment as a member or continue to hold office as a member if he or she —

- (a) is at the time of appointment, a member of the National Assembly, a councillor or a member of *Ntlo ya Dikgosi*;
- (b) has in terms of any law in force in any country —
 - (i) been adjudged or otherwise declared bankrupt and has not been discharged or rehabilitated, or
 - (ii) made an assignment, arrangement or composition with his or her creditors, which has not been rescinded or set aside;
- (c) has, within a period of 10 years immediately preceding the date of his or her appointment, been convicted —
 - (i) of a criminal offence in Botswana, or
 - (ii) outside Botswana, of an offence which if committed in Botswana, would have been a criminal offence, and sentenced to at least six months imprisonment without the option of a fine, and has not received a free pardon irrespective of whether the sentence has been suspended;
- (d) has, within a period of 10 years immediately preceding the date of his or her appointment, been disqualified or suspended by a competent authority from practising a profession on the grounds of misconduct or negligence;
- (e) or an immediate member of his or her family is a shareholder, partner, manager or owner of an entity regulated by the Institute; or
- (f) is the holder of any office in any political party or organisation of a political nature in Botswana.

- (2) The Minister shall remove a member from office, if the member —
- (a) becomes subject to a disqualification under subsection (1);
 - (b) has failed to comply with the provisions of sections 17 and 18;
 - (c) is convicted of an offence under this Act, or under any other Act and after a period of 30 days, from the date that a ruling against the member is made on all appeals made in respect of the conviction, he or she is sentenced to imprisonment for a term of six months or more without an option of a fine;
 - (d) is absent, without reasonable cause, from three consecutive meetings of which that member has had notice;
 - (e) is found to be physically and mentally incapable of performing his or her duties efficiently, and a medical doctor has issued a medical certificate to that effect;
 - (f) commits a material breach of the codes of professional conduct and ethics; or
 - (g) contravenes the provisions of this Act or otherwise misconducts himself or herself to the detriment of the objectives of or the proper performance of the functions of the Institute.
- (3) For purposes of subsection (2) (g) “misconduct” includes any act, done by a member without reasonable excuse, which —
- (a) amounts to a failure to perform in a proper manner, any duty imposed on him or her as such;
 - (b) is prejudicial to the efficient carrying out of the functions of the Institute; or
 - (c) tends to bring the Institute into disrepute.
- (4) A member may resign from the Board by giving 30 days’ notice, in writing, to the Minister.

Suspension of member

11. The Minister may, in writing, suspend from office a member against whom criminal proceedings are instituted for an offence in respect of which a sentence of imprisonment may be imposed, and whilst that member is so suspended, he or she shall not carry out any duties or be entitled to any remuneration or allowances as a member.

Vacation of office

12. A member shall vacate his or her office and the office of a member shall become vacant —

- (a) if he or she is summarily dismissed by the Minister, in accordance with section 10 (2);
- (b) upon the expiry of 30 days’ notice in writing to the Minister of his or her intention to resign from office; or
- (c) upon his or her death.

Filling of vacancies

13. (1) Where the office of a member becomes vacant before the expiry of the member’s term of office, the Minister may within four months from the date the vacancy occurred, in accordance with section 6, appoint another person to be a member in place of the member who has vacated office.

(2) Subsection (1) shall not apply where the remaining period in office for the member vacating office is less than six months.

(3) The person appointed under subsection (1) shall hold office for the remainder of the term of office of the member in whose place he or she was appointed and shall be eligible for re-appointment under section 9 (b).

14. A member shall be paid in connection with his or her service on the Board, out of the funds of the Institute, such remuneration and allowances as the Minister may from time to time determine.

Remuneration
and
allowances

PART III — *Meetings and proceedings of Board*

15. (1) At the first meeting of the Board, the members shall elect from among their number, a Vice Chairperson.

Election of
Vice Chair-
person

(2) The Chairperson and the Vice Chairperson shall hold office for a maximum period of five years.

(3) On the expiry of the term of office of the Chairperson or Vice Chairperson, or where the Chairperson or the Vice Chairperson vacates office, a new Chairperson shall be appointed by the Minister and a new Vice Chairperson shall be elected by the members from among their number at the next meeting of the Board or as soon thereafter as may be convenient.

(4) The Chairperson or Vice Chairperson may vacate his or her office as such even though he or she remains a member.

(5) The Vice Chairperson shall exercise the functions of the Chairperson during the period that the Chairperson is absent or unable to act as Chairperson.

16. (1) Subject to the provisions of this Act, the Board shall regulate its own proceedings.

Meetings of
Board

(2) The Board shall hold its first meeting on such date and at such place as the Minister may determine and thereafter the Board shall hold at least four meetings in each financial year, and such other meetings as are necessary for the efficient performance and exercise of its functions.

(3) Upon giving notice in writing, of not less than 14 days, a meeting of the Board may be called by the Chairperson provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving a short notice.

(4) A simple majority of members shall constitute a quorum at any meeting of the Board.

(5) There shall preside at any meeting of the Board —

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice Chairperson; or

(c) in the absence of the Chairperson or the Vice Chairperson, such member as the members present may elect from amongst themselves for the purpose of that meeting.

(6) The decision of the Board on any question shall be by the majority of the members present and voting at the meeting and, in the event of equality of votes, the member presiding shall have a casting vote in addition to that person's deliberative vote.

(7) The Chief Executive Officer's presence shall not count towards the constitution of the quorum and he or she shall not be entitled to vote in any matter before the Board.

(8) The proceedings of each meeting of the Board shall be recorded and confirmed at a subsequent meeting of the Board.

(9) The validity of any act or proceedings of the Board shall not be affected by any vacancy among its members or by any defect in the appointment of a member thereof.

Disclosure
of interest by
member

17. (1) If a member is present at a meeting of the Board at which any matter in which the member is directly or indirectly interested in a private capacity is the subject of consideration, he or she shall, immediately upon the commencement of the meeting, disclose such interest and shall not, unless the Board otherwise directs, take part in any consideration or discussion of, or vote on, any question concerning the matter.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(3) Where a member fails to disclose his or her interest in accordance with subsection (1), and a decision by the Board is made benefiting such member, such decision shall be void to the extent that it benefits such member.

(4) A member who fails to comply with the provisions of subsection (1) commits an offence and is liable to a fine not exceeding P5000, or to imprisonment for a term not exceeding 12 months, or to both.

Confidentiality

18. (1) A member and any person assisting the Board shall observe and preserve the confidentiality of all matters coming before the Board, and such confidentiality shall subsist even after the termination of the member's term of office or the person's mandate.

(2) A member or any person to whom confidential information is revealed through working with the Board shall not disclose that information to any other person unless he or she is required to do so in terms of any written law or for purposes of any judicial proceedings.

(3) A member or any person shall not use any confidential information obtained in the performance of the member or person's functions as a member or any person assisting the Board to obtain, direct or directly, financial or other benefit for that member or any person.

(4) A member or any person who contravenes the provisions of this section commits an offence and is liable to a fine not exceeding P5000, or to imprisonment for a term not exceeding 12 months, or to both.

19. (1) The Board may, for the purpose of performing the functions of the Institute, establish such committees as it considers appropriate, and may delegate, to any such committee, such functions as it considers necessary.

Committees
of Board

(2) The Board may appoint, to committees established under subsection (1), such number of members and such number of persons with specialised skills, as it considers appropriate, and the members of such committee shall hold office for such period as the Board shall determine.

(3) Subject to the specific or general directions of the Board, a committee established under this section may regulate its own procedure.

(4) The meetings of a committee shall be held at such times and places as the committee may determine, or as the Board may direct.

(5) The Chairperson of each committee, appointed by the Board from among its members shall —

(a) cause to be recorded and kept minutes of all the proceedings of the meetings of the committee; and

(b) keep the Board informed of the committee's activities in writing.

(6) The provisions of sections 10, 11, 12, 13, 17 and 18 shall apply, with the necessary modifications, to a member of a committee.

20. All documents made by, and all decisions of the Board may be signified under the hand of the Chief Executive Officer, any member of the Board or senior officer of the Institute generally or specifically authorised by the Board to do so.

Signification
of documents

21. (1) Subject to section 10, the Board may co-opt any such number of persons as may be necessary and capable of assisting the Board in the conduct of its regular business or to undertake occasional assignments.

Co-opted
members

(2) A person co-opted in accordance with subsection (1) shall —

(a) have no right to vote; and

(b) be remunerated at the standard rates for professional services, set by the Board and reviewed by the Board on a biennial basis.

(3) The provisions of sections 17 and 18 shall, with necessary modifications, apply to a person co-opted in accordance with subsection (1).

PART IV — Chief Executive Officer and other Staff of Institute

22. (1) There shall be a Chief Executive Officer of the Institute, who shall be appointed by the Minister, after consultation with the Board, and on such terms and conditions as may be specified in the instrument of appointment.

Chief
Executive
Officer

(2) The Chief Executive Officer shall be a person with considerable knowledge and experience in geosciences and administration and who has such other qualifications and experience or proven ability in other fields as the Board and the Minister may consider relevant.

- (3) The Chief Executive Officer shall be responsible to the Board.
- (4) The Chief Executive Officer shall not, while in the employment of the Institute, engage in paid employment outside the duties of his or her office in the Institute.
- (5) The Chief Executive Officer shall hold office for such a period as may be specified in the instrument of appointment.
- (6) The Minister may, after consultation with the Board, terminate the appointment of the Chief Executive Officer —
 - (a) if the Chief Executive Officer conducts himself or herself in a manner that is detrimental to the objective of, or the proper performance of the functions of the Institute; or
 - (b) if the Chief Executive Officer has been found to be physically or mentally incapable of performing his or her duties efficiently by his or her medical doctor or by an independent medical doctor.
- (7) The Chief Executive Officer may resign from his or her office by giving three months' notice, in writing, to the Minister.

Duties of
Chief
Executive
Officer

23. (1) The Chief Executive Officer shall, subject to the control of the Board on matters of policy, be responsible for —

- (a) the supervision of the day to day affairs of the Institute;
- (b) ensuring that the Institute is carrying out the functions and duties placed upon it in terms of this Act;
- (c) running the Institute on sound commercial and financial principles in accordance with policies and decisions made by the Board;
- (d) submitting business plans and estimates of income and expenditure to the Board for its approval;
- (e) implementing the decisions of the Board; and
- (f) carrying out any duty that may be conferred on him or her by the Board.

(2) In the performance of his or her duties, the Chief Executive Officer shall keep the Board fully informed of the affairs of the Institute and shall consult the Board from time to time, as may be necessary.

(3) The Chief Executive Officer may delegate to the Secretary, any member of staff of the Institute, as he or she considers appropriate, the exercise of any powers which he or she is authorised to exercise under this Act.

Secretary to
Board

24. (1) The Board shall, on the recommendation of the Chief Executive Officer, appoint a Secretary to the Board, on such terms and conditions as may be specified in the instrument of appointment.

(2) The Secretary shall, in addition to any function that may be assigned to him or her by the Board or the Chief Executive Officer, be responsible for —

- (a) taking minutes of the meetings of the Board;
- (b) keeping records of all decisions of the Board; and
- (c) keeping records of legal transactions of the Institute.

(3) The Secretary shall, unless the Board otherwise directs, in writing, giving the circumstances leading to its decision, attend all meetings of the Board but shall not have a right to vote on any matter before the Board.

(4) In the performance of his or her duties, the Secretary shall be accountable to the Chief Executive Officer.

(5) In the absence of the Secretary, the Chief Executive Officer may appoint any member of staff of the Institute to perform the functions of the Secretary until the Secretary resumes office or the vacancy is filled, as the case may be.

25. (1) The Board shall, on the recommendation of the Chief Executive Officer, appoint the senior staff of the Institute.

Appointment
of staff

(2) The senior staff shall, under the direction of the Chief Executive Officer, assist the Chief Executive Officer in the proper administration and management of the functions and affairs of the Institute, in accordance with the policies laid down by the Board.

(3) The Chief Executive Officer may appoint such other staff as may be necessary for the proper discharge of the functions of the Institute.

(4) The terms and conditions of employment of staff shall be determined by the Board, in consultation with the Minister.

PART V — *Financial provisions*

26. (1) The revenues of the Institute shall consist of —

Funds of
Institute

- (a) monies as may be appropriated by the National Assembly for the purposes of the Institute;
- (b) grants and donations as the Institute may receive from any body, organisation or person;
- (c) fees as may be charged for services rendered by the Institute under this Act;
- (d) income that the Institute may receive from investments;
- (e) monies borrowed with the approval of the Minister to cover short term cash flow requirements of the Institute; and
- (f) contributions and endowments from any other source as may be approved by the Minister.

(2) The Institute shall use the funds acquired under subsection (1) to meet the costs incurred for its operations and shall use any surplus funds in such a manner as the Minister may direct.

27. The Institute shall provide to the Minister information concerning the operations, plans and financial accounts of the Institute as the Minister may, from time to time, consider necessary.

Provision of
information

- Financial year** **28.** The financial year of the Institute shall be a period of 12 months commencing on 1st April in each year and ending on 31st March of the following year.
- Accounts** **29.** (1) The Institute shall keep and maintain proper accounts and records of accounts in respect of every financial year related to the assets, liabilities, income and expenditure of the Institute.
- (2) The Institute shall cause to be prepared in respect of each financial year and not later than three months after the end of that financial year, a statement of accounts which shall include —
- (a) a balance sheet, a statement of income and expenditure and a statement of surplus and deficit; and
- (b) any other information in respect of the financial affairs of the Institute as the Minister responsible for finance may require.
- Audit** **30.** (1) The accounts of the Institute in respect of each financial year shall, within three months of the end of the financial year, be audited by an auditor appointed by the Board.
- (2) The auditor shall report in respect of the accounts for each financial year, in addition to any other matter on which the auditor deems it pertinent to comment on, whether or not —
- (a) the auditor has received all the information and explanation which, to the best of the auditor's knowledge and belief, were necessary for the performance of the auditor's duties;
- (b) the accounts and related records of the Institute have been properly kept;
- (c) the Institute has complied with all the financial provisions of this Act with which it is its duty to comply with; and
- (d) the statement of accounts prepared by the Institute was prepared on a basis consistent with that of the preceding year and represents a true and fair view of the transactions and financial affairs of the Institute.
- (3) The auditor's report and a copy of the audited accounts shall, within 14 days of completion, be forwarded to the Institute by the auditor.
- Annual report** **31.** (1) The Institute shall, within a period of six months after the end of each financial year or within such longer period as the Minister may approve, submit, to the Minister, a comprehensive report of its operations during that year which report shall include —
- (a) an auditor's report and a copy of the audited accounts; and
- (b) a record of all directions received from the Minister in the course of the year.
- (2) The annual report referred to under subsection (1) shall be presented to the Minister, who shall, within 30 days of receipt thereof, lay it before the National Assembly after which it shall be published in the *Gazette*.

32. (1) The Institute may, out of its revenues, establish and maintain such pension, superannuation, provident or other funds as it may consider desirable or necessary for the payment of benefits or other allowances on the death, sickness, injury, superannuation, resignation, retirement or discharge of its staff and may make rules providing for the payment of money out of its revenues to such funds and providing for contributions to such funds by its staff.

Pension and other funds

(2) The Institute may contract with insurance companies or such other bodies as may be appropriate for the maintenance and administration of the funds authorised under subsection (1).

PART VI — *Miscellaneous provisions*

33. No matter or thing done or omitted to be done by a member, member of staff of the Institute or any person authorised by the Institute shall, if the matter or thing is done *bona fide* in the course of the operations of the Institute, render that member, member of staff or any person authorised personally liable to an action, claim or demand.

Indemnity

34. (1) The Institute shall appoint authorised officers for purposes of this Act.

Power to enter premises for geosciences survey

(2) An authorised officer may enter upon any prospecting area, retention area, mining area, minerals permit area, farm or any premises or workings thereon or thereunder, other than a dwelling house, land owned or used by the Botswana Defence Force for the purpose of making a geosciences survey.

(3) An authorised officer shall before entering upon any prospecting area, retention area, mining area, minerals permit area or any premises or workings thereon or thereunder, give the owner or lawful occupier thereof seven days notice of the intended geosciences survey.

(4) An authorised officer may, at all reasonable times during normal business hours —

- (a) enter upon any prospecting area, retention area, mining area, minerals permit area or any premises or workings thereon or thereunder, for the purpose of making a geosciences survey;
- (b) enter upon any land with such persons, animals, vehicles, appliances, instruments and materials as are necessary;
- (c) break up the surface of such land for the purpose of ascertaining the rocks or minerals within or under the same;
- (d) take and carry away samples and specimens of the soil, and of the rocks or minerals found thereon, therein or thereunder;
- (e) fix any post, stone, mark or object to be used in the survey of any such land;
- (f) dig up any ground for the purpose of fixing any such post, stone, mark or object; and
- (g) enter into or upon any land through which it may be necessary to pass for the purposes of such survey:

Provided that —

- (i) it shall not be lawful to fix any post, stone, mark or object within any walled or fenced garden or orchard without the consent of the lawful occupier thereof,
- (ii) as little damage and inconvenience as possible shall be caused by the exercise of the powers conferred by this sub-section and the owner or lawful occupier thereof shall be entitled to compensation for any damage sustained in the exercise thereof, and
- (iii) before abandoning any land, all excavations shall be back-filled or otherwise made safe.

(4) An authorised officer shall be appointed by the Minister by notice published in the *Gazette*.

(5) Any person who obstructs, hinders or delays an authorised officer in the performance of his or her duties under this Act, commits an offence and is liable —

- (a) in the case of a first offence, to a fine not exceeding P5000, or to imprisonment for a term not exceeding 12 months or to both; and
- (b) in the case of a second or subsequent offence, to a fine not exceeding P10 000, or to imprisonment for a term not exceeding 24 months, or to both.

Discoveries,
inventions
and
improvements

35. (1) The rights in all discoveries, inventions or improvement made in respect of processes, apparatus and machines made by —

- (a) staff of the Institute; or
- (b) persons or any authorised officer assisting with any research or investigation,

shall vest in the Institute.

(2) The Institute may make the discoveries, inventions or improvement made under subsection (1) and the rights in which are vested in the Institute available for use in the public interest subject to such conditions as the Board may determine.

(3) The provisions of this section shall not apply in respect of a discovery, an invention or improvement referred to in subsection (1), if, in the opinion of the Board, the discovery, invention or improvement was made by the person concerned and not connected with —

- (a) his or her employment as an employee of the Institute; or
- (b) any research or investigation with which he or she assisted the Institute.

Regulations

36. The Minister may make regulations —

- (a) for anything which may be prescribed under this Act; and
- (b) for the better carrying out of the provisions of this Act.

37. (1) All rights, assets and property vested in or in any manner held on behalf of or for the purposes of the Department of Geological Survey immediately before the commencement of this Act shall, with the approval of the Minister, be vested in the Institute.

(2) On the coming into operation of this Act, all liabilities and obligations subsisting against the Government in respect of the Department of Geological Survey immediately before the commencement of this Act shall continue to subsist against the Government.

(3) Every contract in respect of any matter, being a contract between the Department of Geological Survey and any other party immediately before the commencement of this Act shall thereafter continue to subsist between the Institute and such other party.

(4) All rights, powers and duties, whether arising under any written law or otherwise, which immediately before the coming into operation of this Act were vested in the Department of Geological Survey shall, by virtue of this subsection, be transferred to, vested in, imposed on, or be enforceable by or against the Institute.

(5) On the coming into operation of this Act, all actions, suits or legal proceedings by or against the Government pending in respect of the Department of Geological Survey shall be carried out on or prosecuted by or against the Institute and no such suit, action or legal proceedings, shall abate or be affected by the coming into operation of this Act.

(6) The annual estimates approved for the Department of Geological Survey in respect of the financial year in which this Act comes into operation shall be deemed to be annual estimates of the Institute for the remainder of the financial year but those estimates may be varied by the Institute in such manner as the Minister may approve.

(7) Any person who is an officer or employee of the Department of Geological Survey immediately before the coming into operation of this Act shall not be an officer or employee of the Institute but shall continue to be such officer or employee in the Civil Service and shall be deemed to be on secondment to the Institute for a period of 18 months from the coming into operation of this Act.

(8) A person seconded to the Institute under subsection (7) who, within 18 months from the coming into operation of this Act —

(a) has been offered and has accepted to enter into a written contract of service with the Institute, shall be deemed to have terminated his or her service with the Government without right to severance of pay but without prejudice to all other remunerations and benefits payable upon the termination; or

(b) has not been offered, or has not accepted, to enter into a written contract of service with the Institute shall be redeployed by the Government.

(9) A person seconded in terms of subsection (8) (a) shall be employed on such terms and conditions as may be offered by the Institute and agreed to by the Institute and the person.

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(10) A person referred to in subsection (9) who is transferred from the civil service to the employment of the Institute shall be permitted to continue the contribution to the Pensions Act or Pensions and Provident Funds Act or any other enactment in terms of which they are contributing towards a pension immediately before the transfer, subject to such terms and conditions as the Board, with the approval of the Minister, may determine.

PASSED by the National Assembly this 17th day of July, 2014.

BARBARA N. DITHAPO,
Clerk of the National Assembly.