

NIGERIAN MINERALS AND MINING BILL, 2019

PART V - FUNCTIONS OF THE MINISTER RESPONSIBLE FOR MINERALS AND MINING

ARRANGEMENT OF SECTIONS

Section: Formulation of Policy 22

CHAPTER I REGISTER 24

ESTABLISHMENT OF NIGERIAN MINERAL AND MINING COMMISSION

OBJECTIVES AND APPLICATION

PART I - OBJECTIVES AND APPLICATION

1. Objectives 28

2. Scope of Application 29

PART II - ESTABLISHMENT, FUNCTIONS AND MEMBERSHIP OF THE COMMISSION

3. Establishment of the Nigerian Mineral and Mining Commission 30

4. Functions of the Commission 31

5. Powers of the Commission 32

6. The Governing Board of the Commission 33

7. Appointment and Qualification of Commissioners 34

8. Remuneration and Allowances of Commissioners 35

9. Tenure of Commissioners 36

10. Resignation, Removal or Cessation from membership 37

11. Vacancy on the Board 38

PART III - STAFF OF THE COMMISSION

12. Secretary of the Commission 39

13. Staff of the Commission 40

14. Conditions of Service 41

15. Pensionable Appointment 42

PART IV - FINANCIAL PROVISIONS

21. Fund of the Commission 43

22. Borrowing Powers, Gift, etc 44

23. Budget and Expenditure 45

24. Audit 46

25. Annual Report for National Assembly 47

26. Exemption from Taxation 48

PART V - FUNCTIONS OF THE MINISTER, REGISTER, REGULATIONS,
GUIDELINES, ETC.

22. Functions of the Minister
23. Formulation of Policy
24. Register
25. Register of Titles
26. Access to register by public
27. Power to make Regulations.
28. Monitoring and reporting
29. Limitation of suits against the Commission, etc.
30. Service of court processes against the Commission
31. Restriction on execution against the Commission's properties
32. Indemnity against the Commission's officials

CHAPTER II

OWNERSHIP AND CONTROL OF MINERALS

33. Control of property in minerals, water, etc.
34. Prohibition of exploration or exploitation of minerals without authority
35. Land excluded from minerals exploration and exploitation

CHAPTER III

PERMITS, LICENCES AND LEASES

PART I - MINERALS EXPLORATION

36. Records and plans of exploration and exploitation
37. Prohibition of mineral exploration in certain areas
38. Discovery of radio-active minerals
39. Disclosure of confidential information
40. Grant of mineral titles
41. Qualification for Prospecting Permit
42. Qualification for Exploration Licence
43. Qualification for Small Scale Mining Lease
44. Qualification for Artisanal Small Scale Mining Licence
45. Qualification for Mining Lease
46. Qualification for Quarry Lease

47. Qualification for Water Use Permit
48. Amendment of water licence
49. Agreement of other interested persons
50. Prohibition of certain persons from obtaining mineral titles
51. Priority
52. Competitive bidding
53. Fees payable to the Commission
54. Priority of land for mining operations

PART II - STATE MINERAL RESOURCES AND ENVIRONMENTAL

MANAGEMENT COMMITTEE

55. Establishment of State Mineral Resources and Environmental Management Committee
56. Delegation of powers by the Minister
57. Working capital
58. Grant of Prospecting Permit
59. Conditions for grant of Prospecting Permit
60. Duration of Prospecting Permit
61. Rights of holder of Prospecting Permit
62. Technical Supervision of Prospecting under a prospecting permit
63. Grant of Exploration Licence
64. Rights of Exploration Licence holder
65. Obligations of an Exploration Licence Holder
66. Duration of an Exploration Licence
67. Technical Supervision of Exploration under an Exploration Licence
68. Payment of royalty for sale of mineral resources under Exploration Licence
69. Discovery of additional minerals

PART III - MINING LEASE

70. Grant of Mining Lease
71. Duration of Mining Lease
72. Area for Mining Lease

73.	Rights of Mining Lease holder	47
74.	Prohibition of sale of plants, animals, water obtained in the Mining Lease Area without authorization	48
75.	Obligations of Mining Lease holder	49
76.	Pre-conditions for commencement of development	50
77.	Rights to graze livestock by occupier of land or holder of certificate of occupancy	51
78.	Technical supervision of mining under a Mining Lease	52
79.	Rights of lessee to remove fixtures	53
PART IV - QUARRYING AND SMALL SCALE MINING		
80.	Prohibition of unauthorized quarrying	54
81.	Area and validity of quarry lease	55
82.	Rights of the holder of a Quarry Lease	56
83.	Survey	57
84.	Consequential amendments	58
PART V - SMALL SCALE MINING		
85.	The area of small-scale mining	59
86.	Technical supervision of small scale mining	60
87.	Rights of Small Scale Mining Lease holder	61
88.	Obligations of a Small Scale Mining Lease holder	62
89.	Duration of a Small Scale Mining Lease	63
90.	Payment of royalty by holder of a Small Scale Mining Lease	64
91.	Grant of Small Scale Mining Lease	65
92.	Duration of an Artisanal Small Scale Mining Licence	66
93.	Payment of royalty by holder of Artisanal Small Scale Mining Licence	67
94.	Operations of Artisanal Small Scale Miners	68
95.	Extension services	69
96.	Possession of minerals	70
97.	Permit to Purchase and Possess Minerals	71

- 100. Establishment of Mineral Buying Centres 129
- 101. Registration as a Mineral Buying Centre 130
- 102. Exemption 131

PART VII - ENVIRONMENTAL CONSIDERATIONS AND RIGHTS OF

HOST COMMUNITIES

- 103. Saving as to winning of certain minerals 133
- 104. Saving as to certain quarriable minerals 134
- 105. Notice to owner or occupier 134
- 106. Reservation of rights of owner or occupier 135
- 107. Surface rent 136
- 108. Land Use Allocation Committee 137
- 109. Compensation on Certificate of Occupancy 138
- 110. Acceptance of rent not to operate as waiver of forfeiture 140
- 111. Security 140
- 112. Compensation 141
- 113. Assessment of compensation 142
- 114. Non-payment of compensation 143
- 115. Payment of compensation an implied condition 144
- 116. Prevention of pollution of environment 145
- 117. Compensation to lessee 146
- 118. Compensation for crops, economic trees, etc 147
- 119. Restoration of mines land 148
- 120. Reclamation 149
- 121. Community Development Agreement 150
- 122. Objectives of the Community Development Agreement 151
- 123. Environmental obligations 152
- 124. Environmental Impact Assessment 153
- 125. Contents of the Environmental Protection and Rehabilitation Programme 154
- 126. Establishment of the Environmental Protection and Rehabilitation Fund 156
- 127. Service of demand notice 157
- 128. Pollution of watercourse prohibited 158

129. Purification of water
130. Compensation for damages and pollution
131. Deposit of tailings
132. Alterations in water supply prohibited
133. Restoration of river bank

PART VIII - MINING INCENTIVES, POWERS AND PROCEDURES OF

THE COMMISSION

134. Persons eligible for the Fiscal Regime
135. Capital allowances
136. Exemption from customs duty and other benefits
137. Permission to retain and use earned foreign exchange
138. Free transferability of funds
139. Tax relief period
140. Application of Cap. F34 L.F.N. 2004 and the NIPC Act
141. Deductibility of environmental costs
142. Pension Reform Act No.2, 2004
143. Annual capital cost indexation
144. Royalty
145. Establishment of the Solid Minerals Development Fund
146. Management board of the Fund
147. Functions and powers of the Solid Minerals Development Board
148. Custodian of the Fund
149. Financial provisions of the Board
150. Annual budget
151. Investment of surplus monies in the Fund
152. Accounts and audit
153. Annual reports

PART IX - GENERAL INVESTIGATION AND INQUIRY INTO ACCIDENTS, ETC.

154. General Investigation
155. Report of accident
156. Panel of inquiry
157. Matters to be determined on inquiry
158. Power of panel of inquiry

- 159. Inquiry by court.
- 160. Interpretation of this Part
- 161. Construction of roads
- 162. Use of mining road
- 163. Prohibition of obstruction of right of way

PART X - DISPUTE RESOLUTIONS

- 164. Dispute resolution

CHAPTER VII

MISCELLANEOUS PROVISIONS

- 165. Transfer of mineral title
- 166. Renewal of mineral title
- 167. Suspension of mineral title
- 168. Surrender of mineral title
- 169. Revocation of mineral title
- 170. Revocation of mineral title for failure to pay fees
- 171. Delivery of documents
- 172. Continuing obligations of mineral titleholder
- 173. Appeal of revocation
- 174. Relinquishment of part of mineral title
- 175. Contiguous areas
- 176. Abandonment or permanent cessation of production
- 177. Geological studies and mapping
- 178. Declaration by Exporter of minerals, etc.
- 179. Scientific specimen
- 180. Boundary
- 181. Power to seize

CHAPTER VIII

OFFENCES AND PENALTIES

- 182. Mining without Mineral Title.
- 183. Mining with expired Mineral Title.
- 184. Mining with Prospecting Permit or Exploration Licence
- 185. Possession and purchase of minerals without licence to possess and purchase

186. Illegal Exportation of minerals
187. Illegal mining and false statements
188. Use of false or fraudulent scales
189. Misrepresentation
190. Unlawful interference
191. Obstruction
192. Offences by body corporate
193. General penalties
194. Powers of entry and inspection by inspectors

CHAPTER IX

REPEAL AND SAVINGS PROVISION

TRANSITIONAL PROVISIONS

PART I - REPEAL AND SAVINGS

195. Repeal
196. Existing rights, interest, under the repealed Act
197. Outstanding obligations and liabilities under the repealed Acts
198. Pending proceedings or causes of actions under the Repealed Acts
199. Commission's assets, fund, etc. pursuant to repealed Acts
200. Savings in respect of Office holders
201. Savings provisions in respect of mineral titles granted under the repealed Act
202. Interpretation
203. Short Title

FIRST SCHEDULE

Supplementary Provisions Relating to the Board of Commissioners

SECOND SCHEDULE

Conflict Of Interest

A BILL

FOR

AN ACT TO REPEAL THE NIGERIAN MINERALS AND MINING ACT 2007 AND TO ESTABLISH THE NIGERIAN MINERALS AND MINING COMMISSION AND FOR RELATED MATTERS

Sponsored by Hon. Dachung M. Bagos

[] Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

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CHAPTER 1

ESTABLISHMENT OF NIGERIAN MINERAL AND MINING COMMISSION,

OBJECTIVES AND APPLICATION

PART I - OBJECTIVES AND APPLICATION

1. The primary objectives of this Act are to-

Objectives

(a) establish a regulatory framework for the Nigerian mining industry and create a regulatory authority;

(b) ensure fair competition in the mining sector and introduce innovative services and practices in accordance with international best practices and trends;

(c) encourage local and foreign investments in the Nigerian mining industry;

(d) enhance the development of the mining sector within the Nigerian economy and also encourage effective research and development efforts by all mining industry practitioners;

(e) protect the rights and interests of stakeholders in the mining industry within Nigeria;

(f) ensure efficient management, including planning, coordination, allocation, assignment, registration, monitoring and use of scarce national resources in the mining sector, and also promote and safeguard national interests, safety and security in the use of the scarce national resources; and

	1	(g) promote the implementation of the National minerals policy.
Scope of Application	2	2. This Act applies to all minerals and mining activities in Nigeria.
	3	PART II - ESTABLISHMENT, FUNCTIONS AND MEMBERSHIP OF
	4	THE COMMISSION
Establishment of the Nigerian Mineral and Mining Commission	5	3.-(1) There is established a Commission to be known as the Nigerian
	6	Minerals and Mining Commission (in this Act referred to as "the
	7	Commission").
	8	(2) The Commission shall be a body corporate with perpetual
	9	succession and a common seal, capable of suing and being sued in its corporate
	10	name, and shall have powers to-
	11	(a) enter into contracts and incur obligations;
	12	(b) acquire, hold, mortgage, purchase and deal howsoever with
	13	property, whether movable or immovable, real or personal; and
	14	(c) do all such things as are necessary or incidental to the carrying out
	15	of its functions and duties under this Act.
	16	(3) The Commission shall be structured into departments as the Board
	17	may from time to time deem appropriate for the effective discharge of its
	18	functions.
Functions of the Commission	19	4. The Commission shall-
	20	(a) receive and consider applications for mineral titles and permits in
	21	accordance with the provisions of this Act;
	22	(b) grant and renew mining licences, leases and permits;
	23	(c) receive and consider applications for the transfer, renewal,
	24	modification, relinquishment of mineral titles or extension of areas;
	25	(d) suspend mineral title and upon approval of the Board, revoke any
	26	mineral title; (e) maintain a chronological record of all applications for mineral
	27	title in-
	28	(i). a priority book which is to be used to ascertain the priority and
	29	registration of applications for exclusive rights on vacant areas, and
	30	(ii) general registry book which is to be used for all other types of

- 1 applications where registration of the priority is not required,
- 2 (f) fix and collect fees for grant of licences, leases, permits,
3 royalties and other regulatory services provided by the Commission;
- 4 (g) ensure the orderly and sustainable development of Nigeria's
5 mineral resource;
- 6 (h) develop a well-planned and coherent programme of
7 exploitation of mineral resources taking into account the economic
8 development, ecological and environmental factors;
- 9 (i) establish the procedure for monitoring developments in the
10 solid minerals sector and encourage private sector investment in mineral
11 resources development;
- 12 (j) ensure that in the exploitation of the mineral resources, an
13 equitable balance is maintained between foreign and indigenous interest;
- 14 (k) accelerate the development of technical and professional
15 manpower required in the mineral sector;
- 16 (l) establish environmental procedures and requirements
17 applicable to mining operations;
- 18 (m) prescribe measures for the general welfare and safety of
19 workers engaged in mineral resources operations;
- 20 (n) assist the private sector in identifying specific mining projects;
- 21 (o) initiate, organise and participate in promotion activities in
22 mineral resources development, such as exhibitions, conferences, seminars
23 and workshops geared towards the stimulation of investments in mineral
24 resources;
- 25 (p) provide and disseminate up to date information on incentives in
26 mineral resources available to investors under this Act;
- 27 (q) register and keep records of all enterprises and companies
28 established and engaged in mineral resources activities and allied projects;
- 29 (r) introduce investment-friendly local content measures for
30 mining projects;

1 (s) facilitate the development of indigenous technical and
2 professional manpower required in the mineral resources sector;

3 (t) sub-control the acquisition and use of explosives for mining and
4 related activities in accordance with the Explosives Act;

5 (u) prepare and implement programmes and plans that promote and
6 ensure the development of the mining industry;

7 (v) advise the Minister on the formulation of the general policies for
8 the mining industry;

9 (w) implement government policies for the mining industry;

10 (x) advise and assist the mining industry stakeholders with a view to
11 developing the industry and attaining the objectives of this Act; and

12 (y) perform such other functions as are necessary for giving effect to
13 the provisions of this Act.

Powers of the
Commission

14 5. The Commission shall have power to-

15 (a) supervise all reconnaissance, exploration and mining operations
16 to ensure their compliance with this Act;

17 (b) supervise and enforce compliance by mineral titleholders with all
18 health and safety regulations prescribed under this Act or any other law in
19 force;

20 (c) take custody of mineral resources required by any court to be
21 forfeited to the Government;

22 (d) dispose of any mineral resources forfeited to the Government,
23 with the prior approval of the Board;

24 (e) carry out investigations and inspections necessary to ensure that
25 all conditions relating to mineral titles and the requirements of this Act are
26 complied with;

27 (f) review all plans, studies and reports required to be prepared by
28 holders of mineral title in respect of their environmental obligations under this
29 Act;

30 (g) monitor and enforce compliance by holders of mineral title with

1 all environmental requirements and obligations established pursuant to this
2 Act, its regulations and by any other law;

3 (h) periodically audit the environmental requirements and
4 obligations established pursuant to this Act, its regulations and any other law
5 in force;

6 (i) enforce and implement the provisions of this Act, the Nigerian
7 Mineral and Mining Regulations and any other regulations made pursuant to
8 this Act;

9 (j) liaise with relevant agencies of Government with respect to the
10 social and environmental issues involved in mining operations, mine
11 closure and reclamation of land; and

12 (k) undertake any other activity necessary for carrying out its
13 duties and responsibilities under this Act.

14 6.-(1) There is established for the Commission a Governing Board
15 (in this Act referred to as "the Board").

The Governing
Board of the
Commission

16 (2) The Board shall consist of the following commissioners -

17 (a) a Chairman;

18 (b) a Chief Executive who shall also be the Executive Vice
19 Chairman;

20 (c) two executive commissioners; and

21 (d) five non-executive commissioners

22 (3) Notwithstanding any other provision of this Act, the President
23 shall ensure there is a duly constituted Board and a minimum of six (6)
24 serving Commissioners on the Board at all times, made up of-

25 (a) the Chief Executive;

26 (b) two (2) Executive Commissioners; and

27 (c) three (3) Non-Executive Commissioners.

28 (4) The supplementary provisions set out in the First Schedule to
29 this Act shall have effect with respect to the proceedings of the Board and
30 other matters contained therein.

Appointment
and qualification
of Commissioners

1 7.-(1) A Commissioner shall be appointed by the President on the
2 recommendation of the Minister in charge of Mineral Resources from the six
3 geo-political zones of Nigeria.

4 (2) A Commissioner shall be a person of recognised standing and
5 experience who possesses a qualification from a recognized University or
6 cognate institution; and has not less than ten years cognate experience in the
7 field of-

8 (a) mining, geology or geosciences and has registered with Council of
9 Mining Engineers and Geoscientist (COMEG);

10 (b) Law;

11 (c) Economics; or any other relevant qualification as the President
12 may deem fit to make.

13 (3) A person shall not be appointed or remain in office as a
14 Commissioner if-

15 (a) he is not a Nigerian citizen;

16 (b) he is not ordinarily resident in Nigeria;

17 (c) he is a serving member of the National Assembly, State House of
18 Assembly or any Local Government Council;

19 (d) he is incapacitated by any physical illness;

20 (e) he has been certified to be of unsound mind;

21 (f) he is an undischarged bankrupt;

22 (g) he has been convicted in Nigeria or elsewhere of a criminal
23 offence, being a misdemeanor or felony; or

24 (h) he has at any time been removed from an office of trust on account
25 of misconduct.

26 (3) The conflict of interest provisions contained in the Second
27 Schedule to this Act shall apply to all Commissioners.

28 (4) All Commissioners, except the Chief Executive and the Executive
29 Commissioners, shall hold office on part-time basis.

- 1 8. The remunerations and allowances, payable to the
2 Commissioners, including the Chief Executive and Executive
3 Commissioners, shall at the instance of the Board be determined and
4 reviewed from time to time by Revenue Mobilization and Fiscal
5 Commission.
6 9. Subject to section 11 (3) and(4) of this Act, a Commissioner
7 shall hold office for a term of five years from the date of his appointment
8 which may be renewable by the president for a further period of five years
9 and no more.
10 10.-(1) A Commissioner may resign his office by giving 3 months
11 written notice addressed to the President through the Minister.
12 (2) Subject to subsections (3), (4) and (5) of this section, a
13 Commissioner may be suspended or removed from office by the President if
14 he -
15 (a) is found to have been unqualified for appointment as a
16 Commissioner pursuant to Section 7 of this Act or is in breach of Section 7 of
17 this Act;
18 (b) has demonstrated inability to effectively perform the duties of
19 his office;
20 (c) has been absent from five consecutive meetings of the Board
21 without the consent of the Chairman except he shows good reason for such
22 absence;
23 (d) is guilty of a serious misconduct in relation to his duties as a
24 Commissioner;
25 (e) in the case of a person possessed of professional qualifications,
26 is or had been disqualified or suspended from practicing his profession in
27 any part of the world by an order of a competent authority; or
28 (f) is in breach of the conflict of Interest Rule(s) set out in the
29 Second Schedule to this Act.
30 (3) Prior to the suspension or removal of a Commissioner under
- Remuneration
and Allowances
of Commissioners
- Tenure of
Commissioners
- Resignation,
removal or
cessation from
membership

1 subsection (2) of this section, the President through the Minister shall inform
2 the Commissioner by written notice of his intention to suspend or remove the
3 Commissioner from office and the reasons thereof.

4 (4) The Commissioner mentioned under subsection (3) of this section
5 shall be given reasonable opportunity to make written submissions to the
6 President within a time period specified in the notice and such time period shall
7 not be less than 14 days from the date of the notice.

8 (5) The President shall consider the submission referred to in
9 subsection (4) of this section in making his final decision on the
10 Commissioner's suspension or removal from office.

Vacancy on the
Board

11 11.-(1) There is a vacancy in the Board if a Commissioner -

12 (a) dies;

13 (b) is removed from office in accordance with Sections 7 or 10 of this
14 Act;

15 (c) resigns from office; or

16 (d) upon the completion of his tenure of office.

17 (2) A vacancy in the Board shall be filled by the appointment of
18 another person to the vacant office by the President in accordance with Section
19 7 (1) of this Act, as soon as is reasonably practicable after the occurrence of
20 such vacancy.

21 (3) Except with respect to the filling of vacancy of executive
22 commissioners, any vacancy on the Board that is created consequent upon
23 death, removal or resignation of a Commissioner, any person thereafter
24 appointed shall hold office for the unexpired period of the term of office of his
25 predecessor.

26 PART III - STAFF OF THE COMMISSION

Secretary of
the Commission

27 12.-(1) The Board shall appoint a secretary for the Commission who
28 shall be a legal practitioner with not less than 10 years post-qualification
29 experience.

30 (2).The Secretary shall not be a Commissioner in the Commission.

1 (3). The Secretary shall keep the corporate records of the
2 Commission and perform such other duties and functions as the Board or the
3 Chief Executive may from time to time direct.

4 13.-(1). The Commission may from time to time appoint such other
5 categories of employees as may appear to it expedient and necessary for the
6 proper and efficient performance of its functions under this Act.

Staff of the
Commission

7 (2). The Staff of the Commission shall be public officers as defined
8 in the Constitution of the Federal Republic of Nigeria, 1999.

9 (3). The Secretary and staff of the Commission appointed shall be
10 appointed on such terms and conditions of service as the Commission may
11 determine.

12 (4). The Commission may make rules relating generally to the
13 conditions of service of employees of the Commission and without
14 prejudice to the generality of the foregoing, the rules may provide for-

15 (a) the appointment, promotion, disciplinary control of all
16 employees of the Commission;

17 (b) appeals by employees against disciplinary measures; and

18 (c) such other matters to ensure the efficient performance of the
19 functions of the Commission under this Act.

20 14.-(1) The Commission shall develop and implement appropriate
21 staff conditions of service with particular regard to the issues of
22 remuneration, pensions scheme and other fringe service benefits, sufficient
23 for the Commission to attract and retain quality and high caliber manpower.

Conditions of
Service

24 (2). The Board shall consider and, in consultation with the National
25 Salaries, Incomes and Wages Commission determine and review from time
26 to time, the remunerations and allowances payable to staff of the
27 Commission.

28 (3). The conflict of interest provisions contained in the Second
29 Schedule to this Act shall apply to all employees of the Commission.

1 of money as the Commission may require in the exercise of its functions
2 under this Act.

3 (2). The Commission may accept gifts or grants of money, aid or
4 any other property from national, bilateral and multi-lateral organisations
5 and upon such terms and conditions, if any, as may be agreed upon between
6 the donor and the Commission provided that such gifts are not inconsistent
7 with the objectives and functions of the Commission under this Act.

8 18. The Commission shall not later than 30th September in each
9 financial year prepare and present to the National Assembly a statement of
10 estimated income and expenditure for the following financial year.

Budget and
Expenditure

11 19.-(1).The financial year of the Commission shall start on 1st
12 January of each year and end on 31st December of the same year.

Audit

13 (2) The Commission shall keep proper records of its accounts in
14 respect of each year and shall cause its accounts to be audited within six
15 months from the end of each financial year by auditors whose appointment
16 shall be approved by the Board and shall be subject to reappointment on
17 annual basis provided that such auditors are on the list of auditors approved
18 from time to time by the Auditor - General for the Federation.

19 20. The Commission shall prepare and submit to the National
20 Assembly annually, not later than 6 months after the end of its financial year,
21 a report on the activities of the Commission for the preceding financial year
22 and shall include therein the Commission's audited accounts for the year
23 under review together with the auditor's report thereon.

Annual report
for National
Assembly

24 21. The provisions of any enactment relating to the taxation of
25 companies or trust funds shall not apply to the Commission.

Exemption from
Taxation

26 PART V - FUNCTIONS OF THE MINISTER, REGISTER, REGULATIONS,
27 GUIDELINES, ETC.

28 22.-(1) The Minister shall have the following responsibilities and
29 functions pursuant to this Act-

Functions of the
Minister

30 (a) the formulation, determination and monitoring, of the general

1 policy for the mining sector in Nigeria with a view to ensuring, amongst others,
2 the utilisation of the sector as a platform for the economic and social
3 development of Nigeria;

4 (b) the negotiation and execution of international mining treaties and
5 agreements, on behalf of Nigeria, between sovereign countries and
6 international organisations and bodies;

7 (c) the representation of Nigeria, in conjunction with the
8 Commission, at proceedings of international organisations and fora on matters
9 relating to mining;

10 (d) create an enabling environment for the private investors, both
11 foreign and domestic by providing adequate infrastructure for mining
12 activities, and identify areas where Government intervention is desirable in
13 achieving policy goals and proper perspective in mineral resources
14 development;

15 (e) maintain liaison between investors and Government Departments
16 and Agencies set up for the purpose of development of mineral resources and
17 allied projects; and collaborate with other Ministries and Agencies of the
18 Federal Government whose functions relate to the objectives of this Act; and

19 (f) do such other things as are reasonably necessary or expedient for
20 the performance of his functions under this Act.

Formulation
of Policy

21 **23.-(1)** Prior to the formulation or review of the general policy for the
22 Nigerian mining sector, the Minister shall cause the Commission on his behalf
23 to first carry out a public consultative process on the proposed policy
24 formulation or modification.

25 (2) In formulating and determining the policy or amendments, the
26 Minister and the Commission shall take into consideration the findings of the
27 consultative process under subsection (1) of this section.

Register

28 **24.-(1)** The Commission shall maintain a Central Register, of all
29 mining companies, mineral or mining services companies and any other
30 matters that are required to be registered under this Act.

- 1 (2) The Central Register shall contain the-
- 2 (a) name of company, mining cooperative or person;
- 3 (b) registered address of the company, mining cooperative or
- 4 person;
- 5 (c) authorized share capital of the company;
- 6 (d) names of directors of the company and their holdings; and
- 7 (e) name of the competent person in its employ.

8 The Commission may, at its discretion add to the contents of any material for

9 inclusion in the register and exclude any aspect of the material, where it

10 considers such exclusion necessary and justified on grounds of public

11 interest or safety, amongst others. Notwithstanding the provisions of

12 subsection (3) above, information mentioned in section (2) above shall not

13 be excluded from this Section.

14 A duly registered company shall be issued a "Certificate for Entry into

15 Mining" stating its category of activity as provided for in this Act or any

16 regulation made pursuant to this Act.

17 The Certificate for Entry into Mining gives the registered company access

18 into any land in the Federal Republic of Nigeria to conduct reconnaissance

19 activities which shall be limited to collection of surface samples,

20 photography and surveyor any other such activity as shall not disrupt the

21 ecology of the environment, provided that Lands prohibited for mining and

22 lands covered by any mineral title are exempted.

23 25. The Commission shall maintain a chronological record of all

24 applications for mineral titles in a-

Register of
Titles

25 (a) priority book which is to be specifically used to ascertain the

26 priority and registration of applications for exclusive rights on vacant areas;

27 (b) general registry book which is to be used for all other types of

28 applications where registration of the priority is not required.

29 26.-(1) A person may inspect, make a copy of or take extracts from

30 the register upon payment of a prescribed fee to be determined from time to

Access to Register
by public

1 time by the Commission.

2 (2) The Commission shall from time to time publish guidelines in
3 regard to its various registers giving details of the registers and indicating,
4 amongst others, access processes and procedures for members of the public.

Power to make
Regulations

5 27.-(1)The Commission may make and publish regulations in official
6 Gazette on any of the following issues-

7 (a) application for mineral titles, licences, leases and permits, granted
8 or issued under this Act;

9 (b) any fees, royalties, charges, rates or fines to be imposed pursuant
10 to or under this Act;

11 (c) any matter for which this Act makes express provision; and

12 (d) such other matters as are necessary for giving full effect to the
13 provisions of this Act..

14 (2)The Commission may also make and publish guidelines in the
15 official Gazette on any matter for which this Act makes express provision and
16 such other matters as are necessary for giving full effect to the provisions of this
17 Act.

18 (3) The Commission may, prior to making any regulation under this
19 Act, conduct an inquiry on the subject matter of the proposed regulation.

20 The Commission may from time to time review or revoke, as at it deems fit, any
21 rules, guidelines or regulations made under this Act.

Monitoring and
reporting

22 28.-(1) The Commission shall monitor matters relating to the
23 performance of all licencees, leases and permit holders and publish reports
24 thereon at the end of each financial year of the Commission.

25 (2) The Commission shall monitor and report on the following
26 matters-

27 (a) the operation and administration of this Act and any regulations or
28 guidelines made pursuant to this Act;

29 (b) the mining industry operations, including detailed exploration,
30 evaluation, mine development, production and beneficiation;

1 (c) compliance with environmental considerations provided under
2 this Act; and any other matter deemed necessary by the Commission ..

3 (3) The Commission shall publish the report, in the manner it
4 deems appropriate, provided that it is made publicly available.

5 29. Subject to the provisions- of this Act, the provisions of the
6 Public Officers Protection Act shall apply in relation to any suit instituted
7 against an official or employee of the Commission.

Limitation of suits against the Commission, etc.

8 30. A notice, summon or other document required or authorized to
9 be served on the Commission under the provisions of this Act or any other
10 law may be served by delivering it to the Commission or by sending it by
11 registered post, addressed to the Chief Executive or Secretary of the
12 Commission at the principal office of the Commission.

Service of court processes against the Commission

13 31. In any action or suit against the Commission, no execution or
14 attachment of process in any nature shall be issued against the Commission
15 unless not less than 3 months notice of the intention to execute or attach has
16 been given to the Commission.

Restriction on execution against the Commission's properties

17 32. A Commissioner, the Secretary or any official or employee of
18 the Commission shall be indemnified out of the assets of the Commission
19 against any liability incurred by him in defending any proceeding, whether
20 civil or criminal, if the proceeding is brought against him in his capacity as a
21 Commissioner, Secretary, officer or employee of the Commission.

Indemnity against the Commission's officials

22 CHAPTER II - OWNERSHIP AND CONTROL OF MINERALS

23 33.-(1) The property in and control of all mineral resources shall be
24 vested in the Government of the Federation where the mineral resources are
25 in, under or upon-

Control of property in minerals, water, etc.

26 (a) any land in Nigeria;

27 (b) its contiguous continental shelf and all rivers, streams and
28 watercourses throughout Nigeria;

29 (c) any area covered by its territorial waters or constituency; and

30 (d) the Exclusive Economic Zone.

Handwritten notes and markings in the right margin, including the number '30' and some illegible scribbles.

1 (2) The Government of the Federation shall, in accordance with the
2 Land Use Act acquire any land in which mineral is found in large quantities.

3 (3) The property in mineral resources shall pass from the Government
4 to the person by whom the mineral resources are lawfully won, upon their
5 recovery in accordance with this Act.

Prohibition of
exploration or
exploitation of
minerals without
authority

6 34.-(1) No person shall search for or exploit mineral resources in
7 Nigeria or divert or impound water for the purpose of mining except as
8 provided in this Act.

9 (2) The provisions of this Act in respect of reconnaissance,
10 exploration and exploitation of mineral resources in Nigeria shall apply to
11 radio-active minerals with such modifications as may be determined by health
12 and public policy considerations.

Land excluded
from minerals
exploration and
exploitation

13 35.-(1) No mineral title granted under this Act shall authorise
14 reconnaissance, exploration or exploitation of mineral resources, the erection
15 of beacons or the occupation of any land-

16 (a) designated for any military purpose except with the prior approval
17 of the President;

18 (b) within fifty metres of an oil pipeline licence area granted under the
19 Oil Pipeline Act;

20 (c) occupied by any town, village, market, burial ground or cemetery,
21 ancestral, sacred or archaeological site;

22 (d) designated for a railway or situated within fifty metres of a
23 railway;

24 (e) which is the site of, or within fifty metres of, any Government or
25 public building, reservoir, dam or public road;

26 (f) that is subject to the provisions of the National Commission for
27 Museums and Monuments Act, Cap. N19, Laws of the Federation of Nigeria,
28 2004 and the National Parks Service Act, Cap. N65, Laws of the Federation of
29 Nigeria, 2004; or

30 (g) over a subsisting mineral title granted by the Commission.

1 (2) Where an area is designated as closed for mining operations, no
2 reconnaissance activity shall be carried out and no mineral title shall be
3 granted under this Act.

4 CHAPTER III - PERMITS, LICENCES AND LEASES

5 PART I - MINERALS EXPLORATION

6 36.-(1) Any person who carries out reconnaissance, exploration or
7 exploitation of mineral resources under a mineral title or further to the
8 authorization of the Commission in accordance with the provisions of this
9 Act shall-

Records and plans
of exploration
and exploitation

10 (a) keep accurate plans of exploration or mining operations
11 conducted within the mineral title area;

12 (b) keep accurate records of every mineral found or reserved,
13 calculated on the area of his mineral title lease;

14 (c) supply to the Commission copies of the plans and records at
15 such time and periods and in such manner as the Commission may demand;

16 (d) provide the Commission a bi-annual report on its activities in
17 accordance with the template provided by the Commission;

18 (e) provide to the Nigerian Geological Survey Agency for storage
19 and archiving, a complete set of all geo-scientific data acquired in the course
20 of such activity, including maps, coring and samples; and

21 (f) shall keep the plans required as may be prescribed by the
22 Commission.

23 (2) No core obtained in the exercise of rights conferred by a
24 mineral title shall be destroyed or otherwise disposed of except for the
25 purposes of assay, identification, or analysis without the permission in
26 writing of the Commission, which shall be granted within 30 days of the
27 receipt of the application.

28 (3) Any person who destroys or disposes of core or samples in
29 contravention of sub-section (2) of this section commits an offence.

30 (4) The data required to be provided under subsection (1) of this

1 (g) a Water-Use Permit.

2 (2) Subject to the exceptions provided in this Act, any person who is
3 involved in the search for or exploitation of mineral resources without the
4 requisite mineral title or authority shall be guilty of an offence.

5 (3) Any mineral title issued under this Act shall be subject to such
6 conditions as may be prescribed in the licence or lease or by Regulation made
7 pursuant to a this Act.

8 (4) The Commission shall prescribe the form of all mineral titles.

Qualification
for prospecting
permit

9 41. An applicant for a Prospecting Permit shall be a-

10 (a) citizen of Nigeria or of foreign nationality with legal capacity and
11 who has not been convicted of a criminal offence;

12 (b) a body corporate duly incorporated under the Companies and
13 Allied Matters Act;

14 (c) a body corporate duly registered by the Commission, as a mining
15 company; or

16 (d) a Mining Co-operative.

Qualification
for Exploration
Licence

17 42.-(1) An applicant for an Exploration Licence shall be a-

18 (a) body corporate duly incorporated under the Companies and Allied
19 Matters Act;

20 (b) Mining Co-operative;

21 (c) Nigerian Citizen; duly registered with the Commission.

22 (2) The applicant referred to in subsection (1) of this section shall be a
23 holder of a Prospecting Permit granted in respect of the area subject to the
24 application, provided that the applicant has fulfilled all the conditions attached
25 to the Prospecting Permit.

Qualification
for Small Scale
Mining Lease

26 43.-(1) An applicant for a Small Scale Mining Lease shall be a citizen
27 of Nigeria, mining Co-operative or body corporate duly registered by the
28 Commission for mining purposes.

29 (2) The applicant referred to in subsection (1) of this Section shall be a
30 holder of a Prospecting Permit or Exploration Licence granted in respect of the

1 area subject to the application; provided that the applicant has fulfilled all
2 the conditions attached to the Prospecting Permit or Exploration Licence.

3 (3) The acquisition of small-scale mining lease is prohibited for
4 non-citizens or foreign companies.

5 44.-(1) An applicant for an Artisanal Small Scale Mining Licence
6 shall be-

Qualification for
Artisanal Small
Scale Mining
Licence

7 (a) a citizen of Nigeria or mining Co-operative of Artisanal Small
8 Scale Miners duly registered by the Commission for mining purposes;

9 (b) a Nigerian registered Co-operative of Artisanal small scale
10 miners;

11 (c) a citizen of Nigeria or mining co-operative body duly registered
12 by the Commission, as a mining individual or company, in accordance with
13 the categories as shall be provided for in subsequent regulations

14 (2) The acquisition of Artisanal Small-Scale Mining Licence is
15 restricted to Nigerian citizens only.

16 45. An applicant for a Mining Lease shall be a body corporate duly
17 incorporated under the Companies and Allied Matters Act or other legal
18 entity that has-

Qualification for
Mining Lease

19 (a) subject to any condition prescribed by the commission,
20 demonstrated that a commercial quantity of mineral resources exists in the
21 area in respect of which the application is made; and

22 (b) fulfilled all the conditions attached to the Exploration Licence
23 in respect of the area subject to the application.

24 46. An applicant for a Quarry Lease shall be-

Qualification for
Quarry Lease

25 (a) any individual citizen of Nigeria with legal capacity who has
26 not been convicted of a criminal offence;

27 (b) a Mining Co-operative;

28 (c) a body corporate duly registered under the Companies and
29 Allied Matters Act; or

30 (d) any person extracting construction materials for the

1 construction of roads, railway lines, dams and other engineering works or
2 structures of public interest.

Qualification
for Water Use
Permit

3 47. An applicant for a Water Use Permit shall be-
4 (a) the holder of the Exploration Licence, Mining Lease or Quarry
5 Lease at the time that the water right granted will be used; or
6 (b) an applicant for a Mining Lease, Small-scale Mining Lease or
7 Quarry Lease for which the water right will be required to be used.

Amendment of
water licence

8 48.-(1) A holder of a water licence may apply to the Commission for
9 an amendment to be made to the water licence with respect to the-
10 (a) volume of water that may be diverted;
11 (b) lease to observe by the water licence;
12 (c) name of the holder; or
13 (d) endorsement on the water licence.

14 (2) No amendment shall be made in respect of an increase in the
15 volume of water to be diverted unless-

16 (a) notice of the application for the increase is given in the manner
17 provided under this Act;
18 (b) and no objection is received concerning the application.

Agreement of
other interested
persons

19 49.-(1) An applicant for a water licence shall-
20 (a) reach agreement with all persons likely to be adversely affected by
21 the grant of such water licence at or before the time of making his application;
22 and
23 (b) inform the Commission of any conditions in the water licence.

24 (2) Where no agreement is reached pursuant to subsection (1) of this
25 section, the matter shall be referred to the Minister for appropriate action, and
26 where the Minister's action is not acceptable by either party, the matter should
27 be referred to arbitration.

Prohibition of
certain persons
from obtaining
mineral titles

28 50. The Commission shall not grant a mineral title under this Act to an
29 applicant if it is shown that within a period of five years before the date of the
30 application a shareholder with a controlling share of the applicant has been

1 convicted of an offence under this Act.

2 51.-(1) Where several applications are received on the same area or Priority
3 for overlapping areas from two or more persons on the same business day,
4 the application which is first received in the proper form shall be deemed to
5 have priority over the others.

6 (2) Where there are competing applications for the same exclusive
7 area, the Commission shall strictly apply the criteria of priority based on
8 registration in the priority register established by this Act.

9 (3) The Commission shall provide a receipt to an applicant for
10 mineral title evidencing-

11 (i) all documents and fees received from the applicant in respect of
12 the application; and

13 (ii) the date and time of the application.

14 52.-(1) The Commission shall by regulations determine areas Competitive
15 wherein an exploration licence and a mining lease shall be granted based on bidding
16 competitive bidding requirements.

17 (2) The Commission shall consider competing bids and shall,
18 through an open and transparent method, select the bid which will promote
19 the expeditious and beneficial development of the mineral resources of the
20 area having regard to the-

21 (a) programme of exploration and mining operations which the
22 applicant proposes to carry out and the commitments as regards expenditure
23 which the applicant is prepared to make;

24 (b) financial and technical resources of the applicant; and

25 (c) previous experience of the applicant in the conduct of
26 reconnaissance and mining operations.

27 53. The Commission shall collect-

28 (a) a fee for processing of applications for mineral titles; and

29 (b) an annual service fee established at a fixed rate per square

Fees payable to
the Commission

1 cadastral unit for administrative and management services rendered by
2 Commission.

Priority of land
for mining
operations

3 54.-(1) The use of land for mining operations shall have priority over
4 other uses of land, and be considered for the purposes of access, use and
5 occupation of land for mining operations as constituting an overriding public
6 interest within the meaning of the Land Use Act.

7 (2) In the event that a mining lease, a small-scale mining lease or a
8 quarry lease is granted over land subject to an existing and valid statutory or
9 customary right of occupancy, the Governor of the State within which such
10 rights are granted shall within sixty days of such grant or declaration revoke
11 such right of occupancy in accordance with the provisions of section 28 of the
12 Land Use Act.

13 PART II - STATE MINERAL RESOURCES AND ENVIRONMENTAL

14 MANAGEMENT COMMITTEE

Establishment
of State Mineral
Resources and
Environmental
Management
Committee

15 55.-(1) There is established for each State of the Federation a
16 committee to be known as the Mineral Resources and Environmental
17 Management Committee, in this section referred to as "the Committee".

18 (2) The Committee in each State shall consist of-

19 (a) a representative of the Ministry with requisite skill and knowledge
20 In Mines Environmental Compliance who shall be the chairman of the
21 Committee;

22 (b) a representative of the Ministry responsible for Land matters or
23 Mineral related matters in the State;

24 (c) a representative of the Ministry of Agriculture or Forestry in the
25 State;

26 (d) a representative of the Surveyor-General of the State;

27 (e) a representative of the Federal Ministry of Environment in the
28 State;

29 (f) the Mines Officer responsible for the State;

1 (g) a representative of the State Environmental Department or
2 Agency;

3 (h) a representative of the Local Government Council when
4 matters affecting the said Local Government Area are being considered by
5 the Committee;

6 (3) The functions of the Committee are to -

7 (a) consider and advise the Minister on issues affecting returns of
8 necessary reports on grants of mining titles;

9 (b) consider issues affecting compensation and make necessary
10 recommendations to the Minister;

11 (c) discuss, consider and advise the Minister on the matters
12 affecting pollution and degradation of any land on which any mineral is
13 being extracted;

14 (d) advise on the supervision of mineral exploitation and the
15 implementation of social and environmental protection measures;

16 (e) advise the Local Government Areas and communities on the
17 implementation of programs for environmental protection and sustainable
18 management of mineral resources;

19 (f) advise and offer other necessary assistance required by holders
20 of mineral titles in their interaction with State Governments, Local
21 Government Councils, communities, civil institutions, and other
22 stakeholders;

23 (g) advise the Minister in resolving conflicts between
24 stakeholders;

25 (h) advise the Minister in respect of matters connected with the
26 implementation of this Act;

27 (i) consider such other matters relating to mineral resources
28 development within the State as the Minister may, from time to time, refer to
29 the Committee.

30 (4) The Committee shall-

1 (a) meet at least once every three months and at such times as the
2 Minister may deem necessary and the Committee shall forward its report to the
3 Minister after each meeting; and

4 (b) regulate its own procedure.

5 (5) The Chairman shall appoint a competent officer from the Mines
6 Inspectorate Unit in the State to be the secretary of the Committee, provided
7 that the secretary shall have no right to vote at any meeting of the Committee.

8 (6) Where the Committee desires to obtain the advice of a host
9 community or any other person on a particular matter, the Committee may co-
10 opt a representative of the relevant host community as a member for such
11 period as it deems fit, but such a person shall not be entitled to vote in any
12 meeting of the Committee and his attendance shall not count towards a
13 quorum.

14 (7) The Chairman and three other members shall form a quorum at a
15 meeting of the Committee.

16 (8) Every meeting of the Committee shall be presided over by the
17 Chairman or, in his absence, by the Mines Officer for the State.

18 (9) Where there is an equality of votes or any question to be
19 determined, the Chairman shall have a casting vote.

Delegation of
powers by the
Minister

20 56. The Minister may delegate to any department or officer of the
21 Ministry the exercise or performance, subject to such conditions and
22 restrictions as may be prescribed in the notification, of any function conferred
23 on the Minister under this Act.

Working capital

24 57.-(1) The Commission shall require an applicant for mineral title to
25 provide-

26 (a) proof of sufficient working capital and technical competence, as
27 may be prescribed by the Commission for the prospecting, exploration or
28 mining of the area applied for operation;

29 (b) a minimum work programme that will be carried out on the
30 Mineral Title with timelines and costs estimates;

1 (c) a bank statement showing a credit balance, equivalent to at least
2 50% of the cost of implementing the minimum work programme;

3 (d) a bank reference letter of good standing;

4 (e) a Bank Guarantee as indemnity for damages to environment not
5 resolve in the course of prospecting, exploration and mining operations to
6 the prescribe amount provided in the Regulations; and

7 (f) any other information as the Commission may require or
8 prescribe.

9 (2) Where an applicant fails to satisfy the Commission as provided
10 in sub- section (1) of this section, the Commission shall refuse the
11 application.

12 (3) The applicant may submit a new application to the Commission
13 where it fails to satisfy the Commission as mentioned in subsection (2) of
14 this section.

15 58.-(1) Subject to the provisions of this Act, the Commission shall,
16 within thirty days of the receipt of the application of any qualified applicant
17 and upon payment of the prescribed fees, grant to such applicant a
18 Prospecting Permit to search for mineral resources.

Grant of
Prospecting
Permit

19 59. A Prospecting Permit shall be granted subject to the condition
20 that the holder shall-

Conditions for
grant of Prospecting
Permit

21 (a) carry out prospecting on an exclusive basis;

22 (b) not engage in drilling, excavation or other sub-surface
23 techniques other than pitting and trenching not exceeding fifty feet depth;

24 (c) submit information and such periodical reports as may be
25 prescribed by the Commission;

26 (d) conduct prospecting activities in an environmentally and
27 socially responsible manner as may be prescribed by the Commission;

28 (e) compensate users of land for damage to land and property; and

29 (f) pay the prescribed fees.

30 (2) The activities allowed under a Prospecting Permit together with

1 corresponding environmental and social obligations shall be further specified
2 in regulations.

3 (3) Prospecting activity authorized by a Prospecting Permit shall not
4 constitute a land use right for the purposes, objectives, rents, fees and
5 requirements of the Land Use Act.

6 (4) A Prospecting Permit is not transferable.

Duration of
Prospecting
Permit

7 **60.** A Prospecting Permit shall be issued for a period of one year and
8 is renewable annually, provided the requirements of this Act and its regulations
9 are met.

Rights of holder
of Prospecting
Permit

10 **61.-(1)** A Prospecting Permit holder shall have the right to-

11 (a) enter upon the land with his agents and workmen;

12 (b) employ on the land any person for the purpose of such
13 prospecting;

14 (c) erect and maintain machineries and equipment;

15 (d) carry out examination of either the exposure (outcrop) of the
16 deposit or the loose fragments (float) that have weathered away from the
17 outcrop;

18 (e) carry out geologic studies of the entire area by means of aerial
19 photography, geologic maps, and structural assessment of an area;

20 (f) carry out survey and mapping of the area and erection of beacons;

21 (g) carry out structural analysis plus microscopic studies of samples
22 through pitting and trenching not beyond a depth of fifty feet of the surface to
23 enable location of the hidden as well as surface mineralization;

24 (h) carry out the detecting anomalies using physical measurements of
25 gravitational, seismic, magnetic, electrical, electromagnetic, and radiometric
26 variables of the earth;

27 (i) carry out the quantitative analysis of soil, rock, and water samples,
28 and geo-botany and the analysis of plant growth patterns;

29 (j) obtain and remove surface samples in small quantities; and

30 (k) subject to the provisions of this Act and its regulations, construct

1 such ways as may be necessary for or in connection with his prospecting
2 operations.

3 (2) Subject to the provisions of this Act, the Prospecting Permit
4 shall not be granted over any land that is or has become subject to an
5 Exploration Licence, Small-scale Mining Lease, Artisanal Small Scale
6 Mining Licence, Mining Lease or Water Use Permit.

7 62.-(1) A Prospecting Permit shall not be granted by the
8 Commission to any company unless the company has employed a person
9 who possesses adequate professional qualification and experience in
10 prospecting and the Commission is satisfied that the company shall, during
11 the subsistence of the licence, have such qualified person in its employment.

Technical
supervision of
prospecting under
a prospecting
permit

12 (2) Where a competent person with adequate prospecting
13 qualification and experience is not available to supervise the prospecting
14 operations being undertaken under a permit, the company shall cease
15 operations until a suitably competent person is available.

16 63.-(1) Subject to the provisions of this Act, the Commission shall,
17 upon receipt of a valid application from a qualified applicant, grant and issue
18 to that person, an Exploration Licence within thirty days of the filing of such
19 application.

Grant of
Exploration
Licence

20 (2) An Exploration Licence shall not be granted over any land that
21 is without a Prospecting Permit operated for at least six months or land that
22 is subject to an existing Exploration Licence, Mining Lease, Small-scale
23 Mining Lease, Artisanal Small Scale Mining Licence or Quarry Lease.

24 (3) An Exploration Licence shall not be granted in respect of an
25 area exceeding two hundred square kilometers.

26 (4). There shall be an environmental compliance certification,
27 issued under the applicable environmental laws by the relevant authorities
28 in respect of work carried out under the prospecting permit before the
29 application for an Exploration Licence is registered.

Rights of
Exploration
Licence holder

1 64.-(1) The holder of an Exploration Licence shall have the exclusive
2 right to conduct exploration upon the land within the area of his licence and for
3 that purpose may-

4 (a) enter upon the land with his agents and workmen;

5 (b) employ any number of persons for the purpose of such
6 exploration;

7 (c) erect and maintain thereon any machinery and plant and subject to
8 the provisions of this Act;

9 (d) explore on an exclusive basis for all mineral resources and to carry
10 out the operations and work necessary for the achievement of this objective;

11 (e) conduct full scale core drill geophysical exploration;

12 (f) take samples obtained by chipping outcrops, trenching, tunneling,
13 and drilling; in addition, borehole logs to study the geologic and structural
14 makeup of the deposit through Rotary, percussion, or diamond drills for
15 exploration purposes;

16 (g) take, remove and export specimens and samples not exceeding
17 such limit as may be prescribed by the Commission for purposes of analysis;

18 (h) conduct bulk sampling and trial processing of mineral resources
19 not exceeding such limit as is reasonably required for determining mining
20 potential;

21 (i) sell specimens and samples obtained from exploration activities or
22 from bulk sampling and trial processing;

23 (j) while engaged in exploration, take timber other than protected
24 trees and use water from any lake, or watercourse not the subject of a Water Use
25 Permit for domestic purposes, in accordance with Regulations; and sink or drill
26 shafts or wells and dig holes and trenches; and

27 (k) construct such ways as may be necessary for or in connection with
28 his exploration operations.

29 (2) Subject to the provisions of this Act or any other conditions as may
30 be prescribed by the Commission, an exploration licence holder shall be

1 entitled to the grant of a mining lease for the mineral which he was
2 authorized to explore in respect of any portion of the area included in the
3 licence.

4 65.-(1) Every holder of an exploration licence shall-

Obligation of an
Exploration
Licence Holder

5 (a) conduct exploration activities in a safe, friendly, efficient and
6 professional manner as may be prescribed by the Commission;

7 (b) conduct exploration activities in an environmentally and
8 socially responsible manner;

9 (c) before commencing exploration activities on the land occupied,
10 subject to a right of occupancy, give notice to the -

11 (i) ~~Chairman~~ of the affected Local Government Area concerned
12 and to the holder of the right of occupancy or the user or occupier of the land;

13 (ii) ~~to~~ respective chairmen of the Local Government Areas
14 concerned and the holders of rights of occupancy or the users and occupiers
15 of land affected ~~thereby~~ and where the mineral title area is within more
16 ~~than one~~ Local Government Area, the mineral titleholder shall give notice;

17 (d) maintain and restore the land that is the subject of the licence to
18 a safe state from any disruption resulting from exploration activities,
19 including, but not limited to filling up any shafts, wells, holes or trenches
20 made by the title holder, in compliance with applicable environmental laws
21 and regulations;

22 (e) not abstract, divert or discharge water or effluent from any
23 watercourse except in compliance with a Water Use Permit and Regulations;

24 (f) not explore in any forest reserve except with the approval of the
25 Commission and in consultation with other relevant authorities, subject to
26 such conditions as may be prescribed by the Commission;

27 (g) compensate users or occupiers of land for damage to land and
28 property resulting from activities in the exploration area;

29 (h) allow geological surveys and mapping by Government
30 agencies and scientific surveys by educational institutions provided for

- 1 under this Act if such activities will not interfere with exploration operations;
- 2 (i) submit information and such periodical reports as may be
3 prescribed by the Commission; and
- 4 (j) pay all applicable fees, annual rental and water usage charges.
- 5 (3) The Commission may, upon the application of the Holder and for
6 good cause shown, suspend the obligation to work in respect of the Licence and
7 may direct that any or part of the period of suspension shall not be reckoned in
8 the currency of the licence, if during that time no work is done by the holder on
9 the lands included in the area covered by the licence.
- 10 (4) The Commission shall further prescribe activities allowed under
11 an Exploration Licence together with corresponding environmental, social and
12 other obligations.
- 13 (5) Subject to the provisions of this Act, where the exploration
14 titleholder has complied with the obligations of the Exploration Licence, the
15 holder of such licence shall have the exclusive right to apply for, and be granted
16 one or more Small-scale Mining Leases, Mining Leases or Quarry Leases in
17 respect of any part or parts of the exploration area.

Duration of an
Exploration
Licence

- 18 **66.** The duration of an Exploration Licence shall be for 3 years
19 renewable for two further periods of 2 years, provided that-
- 20 (a) the title holder has complied with his minimum work obligation
21 commitments; and
- 22 (b) all other requirements of this Act and any Regulation made
23 pursuant to this Act are met.

Technical
supervision of
exploration under
an exploration
licence

- 24 **67.-(1)** An Exploration Licence shall not be granted by the
25 Commission to any company unless the company has employed a competent
26 person who possesses adequate professional qualification and experience in
27 exploration and the Commission is satisfied that the company shall, during the
28 currency of the licence, have such competent person in its employment.
- 29 (2) Where a person with adequate exploration qualification and
30 experience is not available to supervise the exploration operations being

1 undertaken under a licence, the company shall cease operations until a
2 suitably qualified person is available.

3 68. The holder of an Exploration Licence who sells any mineral
4 resources as provided for in this Act shall be subject to the payment of
5 royalty as if the mineral resources sold were obtained under a Mining Lease.

Payment of
royalty for sale
of mineral resources
under exploration
license

6 69.-(1) An applicant for an Exploration Licence, Mining Lease,
7 Small-scale Mining Lease and Quarry Lease shall indicate the minerals,
8 which he intends to explore or mine within his Lease, on his application.

Discovery of
additional minerals

9 (2) Where in the course of the exercise of his rights under this Act
10 the holder of a Mining Lease, Small-scale Mining Lease and Quarry Lease
11 discovers any mineral not specified in his lease, he shall, within thirty days
12 of the discovery, notify the Commission in writing of the discovery.

13 (3) The notice referred to subsection (2) of this section shall-

14 (a) contain particulars of the minerals discovered;

15 (b) contain the location and circumstance of the discovery; and

16 (c) have attach a proposed program for the orderly and timely
17 exploitation of the minerals discovered.

18 (4) Where the Commission is satisfied with the program proposed
19 by the mineral titleholder under subsection (3) (c) of this section, it shall
20 approve the application within thirty days of the submission of the
21 application and shall endorse the mineral titleholder with the right or
22 authority to mine the mineral discovered, provided, that where the minerals
23 subsequently discovered are security minerals,-

24 (a) the provisions of subsection (3) (c) of this section shall not
25 apply; and

26 (b) the mineral titleholder shall not have a right to mine such
27 mineral.

28 (5) A mineral titleholder or any of his agents or employees who
29 conducts mining operations with respect to any mineral not included in the

1 mineral title without complying with the provisions of this section commits an
2 offence.

3 PART III - MINING LEASE

Grant of Mining
Lease

4 70.-(1) Subject to the provisions of this Act, the Commission shall,
5 upon receipt of a valid application from a qualified applicant, grant and issue to
6 that applicant a Mining Lease for the purposes required, within 45 days of the
7 application.

8 (2) A Mining Lease shall not be granted in respect of any area within
9 an Exploration Licence Area or a Small-scale Mining Area except to the holder
10 of the Exploration Licence or Small-scale Mining Lease covering such area.

11 (3) A Mining Lease may be transferred in part or whole in accordance
12 with the provision of this Act provided that-

13 (a) the holder thereof has complied with his minimum work
14 obligation commitments; and

15 (b) all other requirements of this Act and regulations made pursuant to
16 this Act.

Duration of
Mining Lease

17 71. The duration of a Mining Lease shall not exceed 25 years, and
18 shall be renewable on the expiration of the years granted, provided that-

19 (a) the holder thereof has complied with his minimum work
20 obligation commitments; and

21 (b) other requirements of this Act and any regulations made pursuant
22 to this Act.

Area for
Mining Lease

23 72. The area of land in respect of which any Mining Lease is granted
24 shall be determined in relation to the ore body as defined in the feasibility study
25 submitted in respect of the Mining Lease, together with an area reasonably
26 required for the workings of the mineral resources, provided such area shall not
27 exceed fifty square kilometres.

Rights of Mining
Lease holder

28 73. A Mining Lease holder shall have the right within the Mining
29 Lease Area to-

30 (a) obtain access and to enter the Mining Lease Area;

1 (b) exclusively use, occupy and carry out mineral exploitation
2 within the Mining Lease Area;

3 (c) exclusively carry out exploration within the Mining Lease
4 Area;

5 (d) utilise the water, wood and other construction materials as
6 necessary for mineral exploitation in accordance with the permit and any
7 regulations as may be prescribed by the Act;

8 (e) store, remove, transport, submit to treatment, transform and
9 process the mineral resources, and dispose of any waste;

10 (f) market, sell, export or otherwise dispose of the mineral products
11 resulting from the mining operations; and

12 (g) use such portions as may be required for the purposes of
13 growing such plants and vegetables, or keeping such animals, poultry and
14 fish as may be reasonable for use of the employees at the mine.

15 74. The holder of a Mining Lease shall not, unless authorized under
16 any other Federal Law, remove beyond the boundaries of the Mining Lease
17 Area for commercial gain any of the timber or other forest produce, plants,
18 vegetables, animals, poultry, fish, or water obtained from or raised on the
19 Mining Lease Area.

Prohibition of
sale of plants,
animals, water
obtained in the
Mining Lease
Area without
authorization

20 75.-(1) A holder of a Mining Lease shall-

21 (a) unless circumstances justify an extension period, commence
22 mining development within eighteen months for a Mining Lease for Mineral
23 Resources and, twelve months for a Mining Lease for Mineral Water,
24 effective from the date in which the requirements of this Act are met;

25 (b) unless circumstances justify an extension of the period,
26 commence production not later than 36 months for a Mining Lease for
27 Mineral Resources and twelve months for a Mining Lease for Mineral
28 Water, effective from the date that the requirements of this Act have been
29 met;

30 (c) carry out mining operations in a skillful and efficient manner;

Obligations of
Mining Lease
holder

1 (d) maintain the Mining Lease Area and mining operations in a safe
2 manner in compliance with applicable mine health and safety regulations;

3 (e) not divert water from any watercourse in a manner contrary to the
4 provisions of this Act;

5 (f) comply with social obligations as may be prescribed by the
6 Commission;

7 (g) comply with all requirements for Environmental Impact
8 Assessment Studies and protection plans required under this Act and any other
9 relevant law;

10 (h) allow access to any adjoining land through the Mining Lease Area,
11 provided that such access shall not interfere with mining operations;

12 (i) allow the construction and use on the Mining Lease Area of such
13 waterways, canals, pipelines, sewers, drains, wires, transmission lines, public
14 roads, and public utilities as shall not interfere with mining operations;

15 (j) compensate owners or lawful occupiers of land for the revocation
16 of their rights to use the land under this Act;

17 (k) submit information and such periodical reports as may be
18 prescribed by the Commission;

19 (l) cause to be maintained in Nigeria, plans and books of account of
20 the mining operations and other businesses undertaken in the Mining Lease
21 Area, sale or other disposal of the mineral resources obtained; and

22 (m) produce such books as mentioned in subparagraph (l) of this
23 subsection, upon request from duly authorized officers of the Commission; and

24 (n) pay fees, annual rental, royalty and water usage charges, if any and
25 as may be prescribed by the Commission.

26 (2) The activities allowed under a Mining Lease and the
27 corresponding environmental and social obligations shall be further specified
28 in Regulations made pursuant to this Act.

29 (3) The Commission shall further prescribe activities allowed under a

1 Mining Lease including corresponding environmental, social and other
2 obligations

3 76.-(1) A holder of a Mining Lease shall not commence any
4 development work or extraction of mineral resources on the Mining Lease
5 Area until after the-

Pre-conditions
for commencement
of development

6 (a) submission of all Environmental Impact Assessment Studies
7 and mitigation plans required under applicable environmental laws and
8 regulations are made to the Commission;

9 (b) submission of the details of the work which the applicant is
10 prepared to undertake or a programme for carrying out any minimum work
11 obligations shall be made to the Commission;

12 (c) conclusion of a Community Development Agreement approved
13 by the Commission; and

14 (d) holder has duly notified, compensated, or offered
15 compensation to all users of land within the Mining Lease Areas as provided
16 for under this Act or in the event of a dispute, after the matter has been
17 resolved by arbitration;

18 (2) The holder of a Mining Lease, except a Mining Lease for
19 Mineral Water Exploitation, shall resolve the matters specified in subsection
20 (1) (a) and (b) of this section within three years from the issue of the Mining
21 Lease.

22 (3) Where the holder of a mining lease fails to comply with
23 subsection (2) of this section, the Mining Lease may be suspended without
24 prejudice to rental payments that shall continue and the transfer right of the
25 titleholder under the provisions of this Act.

26 (4) The holder of a Mining Lease for Mineral Water Exploitation
27 shall comply with the conditions specified in subsection (1) (a) and (b) of
28 this section within two years from the issue of the Mining Lease for Mineral
29 Water, provided that the Mining Lease may be suspended by the
30 Commission for non-compliance.

Rights to graze
livestock by
occupier of land
or holder of
certificate of
occupancy

1 77. Subject to this Act and any other enactment, the lawful occupier
2 of any land within an area subject to Mining Lease shall retain the right to graze
3 livestock upon or to cultivate the surface of the land provided that the grazing
4 or cultivation does not interfere with the mining operations in the Mining Lease
5 Area.

Technical
supervision of
mining under a
Mining Lease

6 78.-(1) A Mining Lease shall not be granted by the Commission to any
7 company unless the company has employed a competent person who possesses
8 adequate professional qualification and experience in mining and the
9 Commission is satisfied that the company shall, during the currency of the
10 lease, have such qualified competent person in its employment.

11 (2) Where a competent person with adequate mining qualification and
12 experience in mining is not available to supervise the mining operations being
13 undertaken under a lease; the company shall cease operations until a suitably
14 qualified competent person is available.

Rights of lessee
to remove fixtures

15 79.-(1) The lessee of a Mining Lease who has paid all rents, royalties
16 and other payments due to be made by it under this Act or under the terms of its
17 lease may, within three months, in the case of alluvial lease, and six months, in
18 the case of lode lease, after the expiration or other determination of his lease,
19 remove all or any of the plants, buildings or other properties of the lessee.

20 (2) Where on the expiration of the lease, a lessee is in default in the
21 payment of any rent, royalty or other payments, and in the case of a lessee who
22 has not removed its property within-

23 (a) three months in the case of an alluvial lease;

24 (b) six months in the case of a lode lease; or

25 (c) such further period, if any, as the Commission may allow the plant,
26 building and property of the lessee on the land, the subject of the lease, shall
27 become the property of the Federal Government and may be dealt with and
28 disposed of in lieu of the rent, royalty or other payments, as the case may be.

29 PART IV - QUARRYING AND SMALL SCALE MINING

Application

30 80. This Part applies to all naturally occurring minerals found in a

1 quarry which shall include, asbestos, china clay, fuller's earth, gypsum,
2 marble, limestone, mica, pipe clay, slate, sand, stone, laterite, gravel, and all
3 other minerals which may also be lawfully extracted under Mining Leases.

4 **81.**-(1) Notwithstanding the provisions of any other enactment,
5 consent or approval provided for under an enactment and in particular, the
6 National Inland Waterway Authority Act, every operation for the purpose of
7 extracting any mineral from a quarry including sand dredging in the
8 navigable waterways or elsewhere, for industrial use (in this Part referred to
9 as a "quarrying operation") shall be conducted under a lease or licence
10 granted by the Commission.

Prohibition of
unauthorized
quarrying

11 (2) Every grant of a lease or licence shall be made subject to the
12 provisions of this Part, the prescribed Regulations and the terms of the lease
13 or licence.

14 (3) Pursuant to section 33 (1) of this Act, except as provided in this
15 Part, no person shall conduct any quarry operation-

16 (a) on any land in Nigeria;

17 (b) In Nigeria's contiguous continental shelf;

18 (c) on rivers, streams and watercourses throughout Nigeria;

19 (d) on any area covered by Nigeria's territorial waters or
20 constituency;

21 (e) in the Exclusive Economic Zone;

22 (f) or divert or impound water for that purpose.

23 (4) In this section, "industrial use" includes sale, bargain and usage
24 for or in connection with any industry or trade and excludes sand dredging
25 for the improvement of navigability of waterways, provided that the sand
26 dredged is not sold or used for commercial purposes.

27 **82.** A quarry lease shall-

28 (a) not be granted in respect of any area of land exceeding five
29 square kilometers; and

30 (b) unless previously revoked or otherwise determined, shall

Area and validity
of quarry lease

1 remain in force for a period of five years; or any lesser period for which the
2 lease has been granted, from the date of the grant of the lease and shall expire
3 where it is not being renewed.

Rights of the
holder of a
Quarry Lease

4 83.-(1) Subject to the provisions of this Act, a Quarry Lease shall
5 confer on the lessee the right to-

6 (a) enter on the land within the area of the lease or licence granted
7 under this Part;

8 (b) carry out quarrying operations on the land within the area of the
9 lease as shown on the plan supplied, by the applicant; and

10 (c) remove and dispose of any quarriable minerals specified in the
11 lease.

12 (2) Subject to the Act, the holder of a Quarry Lease who has complied
13 with the provisions of this Part and relevant regulations shall, for the purposes
14 of the quarrying operation, have on the land within the area of the lease, the
15 right to-

16 (a) make all necessary excavations;

17 (b) erect, construct and maintain such houses and buildings as, in the
18 opinion of the Commission, are necessary for his use and for the use of his
19 agents and servants;

20 (c) erect, construct and maintain such engines, machinery, buildings
21 and work-shops and other structures as may be necessary;

22 (d) stack or dump any of the products from the quarry;

23 (e) lay water pipes and make watercourses, ponds, dams and
24 reservoirs; and

25 (f) construct and maintain all such electrical transmission lines,
26 tramways, railway, roads, landing grounds, communication and conveniences
27 as may be necessary, subject to extant legislation.

28 (3) A lessee shall-

29 (a) cut, take and use any tree when necessary for quarrying operation
30 or for domestic purpose;

1 (b) not cut or take any protected tree except with the consent of the
2 proper Forestry Officer; and

3 (c) reimburse the Commission for any payment made by the
4 Commission in respect of any fee and royalty prescribed under the Forestry
5 Law of a State.

6 (4) A Quarry Lease shall not, except as provided under a water
7 licence granted under this Part convey any exclusive right or privilege in
8 relation to any lake, river, spring, stream or other body of water on, passing
9 through or adjacent to the land within the area of the lease.

10 (5) Nothing in this section shall authorize the holder of a Quarry
11 Lease to make such alteration in the flow of water in any navigable water as
12 would obstruct or interfere with or is likely to obstruct or interfere with the
13 free and safe passage of any vessel, boat, canoe or other craft.

14 84. Subject to the provisions of this section, the Commission shall, Survey
15 before granting a lease, require the area specified in the application to be
16 surveyed in accordance with the extant laws on survey and the cost of the
17 survey shall be paid by the applicant in accordance with the scale prescribed
18 under this Act.

19 85. A reference in any enactment except this Act, the Factories Act Consequential
20 and the Criminal Code Act, a mine or mining operations shall be construed, amendment
21 unless it is otherwise expressly provided or the context otherwise requires,
22 as including a reference to a quarry or quarrying operations and effect shall
23 be given to the enactment with any necessary modifications.

24 PART V - SMALL-SCALE MINING

25 86.-(1) The area covered by a Small-scale Mining Lease shall not The area of
26 be less than five acres and shall not exceed three square kilometres. small-scale lease

27 (2) All lease holders shall carry out effective rehabilitation of the
28 mined out areas to the satisfaction of the Commission and also pay
29 prescribed rehabilitation fee, proportionate to their profits as a way to defray
30 further cost of rehabilitation and reclamation.

1 (3) The Commission shall ensure that mining activities are restricted
2 to the established zones for mineralisation.

Grant of Small
Scale Mining
Lease

3 87.-(1) Subject to this Act, the Commission shall, upon receipt of a
4 valid application from a qualified applicant, grant and issue to that person, a
5 Small Scale Mining Lease within thirty days of the filing of such application.

6 (2) A Small Scale Mining Lease shall not be granted over any land that
7 is subject to an existing Small Scale Mining Lease, Artisanal Small Scale
8 Mining Licence, Exploration Licence, Mining Lease, or Quarry Lease.

Rights of Small
Scale Mining
Lease holder

9 88.-(1) Subject to the this Act, a Small Scale Mining Lease shall
10 confer on the lessee the right to-

11 (a) enter on the land within the area of the lease or licence granted
12 under this Part-

13 (b) carry out quarrying operations on the land within the area of the
14 lease as shown on the plan supplied, if required by the applicant; and

15 (c) remove and dispose of any minerals specified in the lease.

16 (2) Subject to this Part, the holder of a Small Scale Mining Lease who
17 has complied with the provisions of this Part and the relevant shall, for the
18 purposes of the quarrying operation, have on the land within the area of the
19 lease, the right to-

20 (a) make all necessary excavations;

21 (b) erect, construct and maintain such houses and buildings as, in the
22 opinion of the Commission, are necessary for his use and for the use of his
23 agents and servants;

24 (c) erect, construct and maintain such engines, machinery, buildings
25 and work-shops and other structures as may be necessary;

26 (d) stack or dump any of the products from the quarry;

27 (e) lay water pipes and make watercourses and ponds, dams and
28 reservoirs; and

29 (f) subject to extant laws, construct and maintain all such electrical
30 transmission lines, tramways, railway, roads, landing grounds, communication

1 and conveniences as may be necessary.

2 (3) A lessee under a lease shall -

3 (a) cut, take and use any tree when necessary for quarrying
4 operation or for a domestic purpose;

5 (b) not cut or take any protected tree except with the consent of a
6 proper forestry officer; and

7 (c) reimburse the Commission for any payment made by the
8 Commission in respect of any fee and royalty prescribed under the Forestry
9 Law of a State.

10 (4) A Small Scale Mining Lease shall not, except as provided under
11 a water licence granted under this Part convey any exclusive right or
12 privilege in relation to any lake, river, spring, stream or other body of water
13 on, passing through or adjacent to the land within the area of the lease.

14 89.-(1) A holder of a Small Scale Mining Lease shall

15 (a) conduct mining activities in a safe, friendly, skillful, efficient
16 and professional manner;

17 (b) conduct mining activities in an environmentally and socially
18 responsible manner;

19 (c) if intending to mine on land occupied subject to a right of
20 occupancy, give notice to the Chairman of the affected Local Government
21 Area concerned and to the holder of the right of occupancy or the user or
22 occupier of the land before commencing mining activities on the land; and
23 where the mineral title area is within more than one Local Government Area,
24 the mineral titleholder shall give notice to the respective chairmen of the
25 Local Government Areas concerned and the holders of rights of occupancy
26 or the users and occupiers of land affected accordingly;

27 (d) maintain and restore, the land that is the subject of the licence to
28 a safe state from any disturbance resulting from mining activities, including,
29 but not limited to filling up any shafts, wells, holes or trenches made by the

Obligations of
a Small Scale
Mining Lease
Holder

1 titleholder, and in compliance with applicable environmental laws and
2 regulations;

3 (e) not abstract, divert or discharge water or effluent from any
4 watercourse except in compliance with a Water Use Permit and Regulations;

5 (f) not mine in any forest reserve except with the approval of the
6 Commission and in consultation with other relevant authorities and subject to
7 such conditions as may be specified in the Regulations;

8 (g) not mine with heavy earth moving equipment unless a prior
9 Environmental Impact Assessment (EIA) is carried out and approved by the
10 Minister and relevant agencies in compliance with the provisions of this Act;

11 (h) compensate users or occupiers of land for damage to land and
12 property resulting from activities in the mining area;

13 (i) allow geological surveys and mapping by Government agencies
14 and scientific surveys by educational institutions as provided for in this Act,
15 where such activities will not interfere with mining operations;

16 (j) submit information and such periodical reports as may be
17 prescribed by this Act; and

18 (k) pay all applicable fees, annual rental and water usage charges.

19 (2) The activities allowed under a Small Scale Mining Lease together
20 with corresponding environmental, social and other obligations shall be further
21 prescribed.

Duration of a
Small Scale
Mining Lease

22 90. The duration of a Small Scale Mining Lease is for a period of five
23 years and is subject to renewal for another period of five years, provided that
24 the title holder has complied with all the requirements of this Act.

Payment of
royalty by holder
of a Small Scale
Mining Lease

25 91. A lessee shall pay royalty for any mineral obtained in the course
26 of mining operations under a Small Scale Mining Lease.

27 PART V - ARTISANAL SMALL-SCALE MINING

Grant of Small
Scale Mining
Lease

28 92.-(1) Subject to the provisions of this Act, the Commission through
29 a designated office in each state of the Federation and Federal Capital Territory
30 shall, upon receipt of a valid application from a qualified applicant, grant and

1 issue to that applicant, an Artisanal Small Scale Mining Licence within
2 thirty days of the filing of such application.

3 (2) The applicant mentioned in subsection (1) of this Section shall
4 include cooperative bodies.

5 (3) A holder of Artisanal Small Scale Mining Licence may apply to
6 convert it to a Small Scale Mining Lease in the manner as may be prescribed
7 in relevant regulations made pursuant to this Act.

8 (4) Artisanal Small Scale Mining Licence shall not be granted over
9 any land that is subject to an existing Artisanal Small Scale Mining Licence,
10 Small Scale Mining Lease, Exploration Licence, Mining Lease, or Quarry
11 Lease.

12 93. The area covered by an Artisanal Small-scale Mining Licence
13 shall not exceed two Cadastral Unit.

The area of
Artisanal Small-
Scale Licence

14 94. The duration of an Artisanal Small Scale Mining Licence is for
15 a period of three years and is subject to renewal for another period of three
16 years, provided that the mineral title holder has complied with all the
17 requirements of this Act and its Regulations.

Duration of an
Artisanal Small
Scale Mining
Licence

18 95. Any mineral obtained in the course of mining operations under
19 an Artisanal Small Scale Mining Licence shall be liable to payment of
20 royalty as prescribed by this Act.

Payment of
royalty by holder
of Artisanal Small
Scale Mining
Licence

21 96.-(1) A holder of Artisanal Small Scale Mining Licence shall
22 mine and produce minerals in an effective and efficient manner and observe
23 good mining practices, health and safety rules and pay due regard to the
24 protection of the environment.

Operations of
Artisanal Small
Scale Miners

25 (2) The Commission shall prescribe regulations for the rights,
26 obligations, protection and safe mining operation of holders of Artisanal
27 Small Scale Mining Licence.

28 (3) The sale of minerals won by a holder of Artisanal Small Scale
29 Mining Licence shall be subject to relevant regulations made pursuant to
30 this Act.

Extension
services

- 1 97. The Commission shall provide the following extension services to
2 duly registered and performing Mining Co-operatives of small-scale and
3 artisanal miners-
- 4 (a) prospecting and exploration services to determine the geological
5 setting, structure and nature of occurrence, quantity and quality of minerals
6 being mined;
- 7 (b) mineral testing standards and the determination of mineral grades;
- 8 (c) proven mineral reserve evaluation including feasibility reports;
- 9 (d) assistance to small-scale miners on mine design and planning
10 suitable for the deposit;
- 11 (e) training on adequate skills in mining to small-scale and artisanal
12 miners and regularly introduce them to new mining technology;
- 13 (f) teaching equipment and plant for hire on an arrangement with
14 manufactures of leasing companies and proper linkage and guarantees
15 provided;
- 16 (g) the introduction of appropriate mineral processing technology
17 skills in order to meet market demands and optimize profit;
- 18 (h) environmental impact assessment report and detailed guidelines
19 on waste and tailing disposal;
- 20 (i) introduction of health and safety procedure in the mines, provision
21 of water and health facilities to large mining camps;
- 22 (j) regular workshops to update miners knowledge on legal,
23 marketing, business skills and infrastructural support; and
- 24 (k) facilitate mineral testing and the determination of mineral grades.

Possession of
minerals

- 25 98. No person, other than an officer of the Commission authorized in
26 that behalf by the Commission and acting in the execution of his duty, shall
27 possess any mineral unless-
- 28 (a) the mineral is won from a mineral title area of which the person is
29 the holder and which entitles him to explore and exploit the minerals;
- 30 (b) The person holds a Mineral Buying Centre Licence which entitles

1 him to possess and purchase mineral issued under the provisions of this Act;

2 (c) the person holds a permit to possess or purchase that mineral
3 issued under the provisions of this Act; or

4 (d) the person is in respect of that mineral within the meaning of
5 regulations made under this Act, a duly authorized agent or employee of any
6 person permitted by paragraphs (a) and (b) of this subsection to possess that
7 mineral.

8 99.-(1) A permit to purchase and possess minerals shall be issued to
9 any person or corporate body who meets the requirements as provided for in
10 this Act or prescribed regulations.

Permit to
Purchase and
Possess Minerals

11 (2) No person shall purchase or be in possession of any mineral
12 unless he holds a permit to purchase and possess minerals issued under this
13 Act.

14 (3) The holder of the permit to purchase and possess minerals shall
15 keep valid and accurate records of purchase/ sales receipts for all
16 transactions and when required shall produce them for inspection by an
17 authorized officer of the Commission.

18 (4) Minerals purchased by the holder of a Permit to Purchase and
19 Possess Minerals may be sold to secondary user industries, other authorized
20 persons or licenced Mineral Buying Centres.

21 100.-(1) A Licence for a Mineral Procurement Center hereinafter
22 referred to as a "Mineral Buying Center" shall be obtained by companies or
23 persons who have evidence of appropriate processing, weighing and testing
24 facilities; in addition to other requirements as may be contained in this Act
25 and prescribed regulations.

Establishment
of Mineral
Buying Centres

26 (2) A licenced Mineral Buying Center may purchase minerals from
27 holder of Mining lease, Small-scale mining lease, Artisanal small scale
28 mining licence or a person who holds a permit to purchase and possess
29 minerals.

30 (3) The Obligations of the Mineral Buying Center Licence Holder

1 shall be to-

2 (a) keep valid and accurate records of purchase/ sale receipts for all
3 transactions and when required shall produce them for inspection by an
4 authorized officer of the Commission;

5 (b) sell minerals purchased to secondary user industries; other
6 authorized persons or exported by the licenced Mineral Buying Center; and

7 (c) keep records of valid receipt of sales for evidence of source of
8 supply for export purposes.

Resignation as
a Mineral Buying
Centre

9 **101.**-(1) The requirements for registration as a Mineral buying centre
10 shall be in accordance with this Act.

11 (2) A registered mineral buying centre shall be required to keep an up
12 to date record of all transactions on minerals acquired with details as to which
13 mine within the country the minerals were won and obtained.

Exemption

14 **102.** The provisions of the preceding sections on possession and
15 purchase of minerals shall not apply to bona fide specimens of mineralogical,
16 geological, or educational interest.

17 **PART VI - ENVIRONMENTAL CONSIDERATIONS AND RIGHTS OF**
18 **HOST COMMUNITIES**

Saving as to
winning of
certain minerals

19 **103.**-(1) Nothing in this Act shall be construed as preventing any
20 citizen of Nigeria from winning, subject to such conditions as may be
21 prescribed by the Commission, salt, soda, potash or galena from any land
22 (other than land within the area of mining lease or land) designated by the
23 Commission as security land pursuant to section 33(2) of this Act from which it
24 has been the custom of the members of the community to which such citizen
25 belongs to win before the coming into force of this Act.

26 (2) The Commission may by order published in the Gazette direct the
27 provisions of subsection (1) of this section to apply, within such local limits as
28 may be prescribed by the order, to any mineral which the Commission is
29 satisfied has before the commencement of this Act been customarily won by
30 any community.

1 (3) Where before the commencement of this Act, it was the custom
2 of the members of any community to win any of the minerals to which
3 subsections (1) and (2) of this section apply from any lands over which a
4 mining lease is granted, the leasee shall, during the continuance of the lease,
5 pay to the members of that community an amount as compensation as may
6 be determined by the means to determine by the Government.

7 104.-(1) Subject to subsection (2) of this section, nothing in this
8 Part shall be deemed to apply in relation to the extraction of sand, clay,
9 laterite and stone for personal use by the local inhabitants of an area in
10 accordance with the local custom of the community of that area.

Saving as to
certain quarriable
minerals

11 (2) No explosive shall be used for the extraction of any of the
12 minerals referred to in subsection (1) of this section.

13 105. When an application is made for a mineral title in respect of an
14 area which includes any private land or land occupied under a State lease or
15 right of occupancy, the notice of the application, shall be given in the
16 prescribed manner to the owner or occupier of the land whose consent shall
17 be sought and obtained after the licence is granted and before the
18 commencement of any major work.

Notice of owner
or occupier

19 106.-(1) The holder of a Mining Lease shall exercise his rights
20 under this section subject to such limitations relating to surface rights as the
21 Commission may prescribe in accordance with the Act.

Reservation of
rights of owner
or occupier

22 (2) The rights conferred by a mining lease shall be exercised in a
23 manner consistent with the reasonable and proper conduct of the operations
24 concerned.

25 (3) Subject to the provisions of subsection (2) of this Act, the
26 lawful occupier of any land within an area subject to a Mining Lease shall
27 retain the right to graze livestock upon or cultivate the surface of the land in
28 so far as the grazing or cultivation does not interfere with the mining
29 operations in the area.

Surface rent

1 **107.**-(1) The lessee of a Mining Lease shall pay rent, in advance
2 without demand being made of it, at such rate per annum as shall be determined
3 by the Commission for all lands occupied or used by it in connection with its
4 mining operations.

5 (2) The Commission shall, before granting a Mining Lease on any
6 land-

7 (a) cause the owner or occupier of the land to be informed of the
8 intention of the Commission to grant the lease; and

9 (b) require the owner or occupier of the land to state in writing, within
10 the period specified by regulations made pursuant to this Act, the rate of annual
11 surface rent desired to be paid by the lessee for the land occupied or used by it
12 for or in connection with its mining operations.

13 (3) If within the time specified pursuant to subsection (2) of this
14 section, the owner or occupier states the desired rent payable, and the
15 Commission is satisfied that the rent is fair and reasonable, the surface rent
16 payable in respect of the land of the owner or occupier shall be the amount
17 specified and the rent shall be notified to the lessee as soon as possible.

18 (4) The rate of the surface rent, whether fixed by the owner, occupier
19 or by the Commission, shall be subject to revision by the Commission at
20 intervals of five years.

21 (5) In fixing the surface rent payable, the Commission shall take into
22 consideration the damage which may be done to the surface of the land by the
23 mining or other operations of the lessee, for which compensation is payable.

24 (6) The lessee shall pay all expenses incurred by the Government in
25 which surveying, measuring or otherwise ascertaining the extent of the land in
26 respect of which surface rent is payable.

27 (7) If in the opinion of the Commission it is impracticable or
28 undesirable to determine the extent of the land occupied or used by a mining
29 lessee, the Commission may permit the lessee to pay surface rent at such rate as
30 the Commission may determine over the whole area of the lease.

1 **108.** Any question arising as to-

2 (a) the extent of the land occupied or used by the lessee;

3 (b) the date on which the lessee commenced or ceased to occupy or
4 use any land; or

5 (c) the proportion of the surface rent payable to the persons entitled
6 to receive any portion of the surface rent shall be referred to the Land Use
7 Allocation Committee of the relevant State for determination, and the
8 Commission shall take into consideration the report of the Land Use
9 Allocation Committee in making its decision.

Land Use
allocation
Committee

10 **109.** Where, by reason of the grant or existence of a mining lease,
11 the President, in the case of Federal land, the Governor of a State, in any
12 other case, makes a right of occupancy over land, the subject of a
13 Certificate of Occupancy or resumes possession of any land occupied under
14 State lease, the mining lessee, shall pay to the Government the amount of the
15 compensation paid by the Governor to the holder of the Certificate of
16 Occupancy or the State lessee by reason of the revocation or resumption of
17 possession, as the case may be.

Compensation
on Certificate of
Occupancy

18 **110.** The acceptance of any rent by or on behalf of the State shall
19 not be held to operate as waiver by the State of-

20 (a) any forfeiture accruing by reason of the breach of any of the
21 provisions of this Act; or

22 (b) any covenant or condition, express or implied, in any lease
23 granted under any previous enactment or instrument.

Acceptance of
rent not to operate
as waiver of
forfeiture

24 **111.**-(1) The Commission may, before granting a mineral title to
25 any person, direct such person to-

26 (a) give security by depositing with the Government such sums as
27 may be prescribed; or

28 (b) reimburse the Federal Government for any compensation, paid
29 by the Federal Government to any State or occupier in respect of land on
30 which the lease or licence for the minerals is given.

Security

1 (2) The Commission may accept a banker's guarantee as prescribed in
2 Regulations made pursuant to this Act in lieu of the deposit prescribed by this
3 section.

Compensation

4 **112.** A holder of mineral title may, in addition to any other amounts
5 payable under the provisions of this Act and subject to a valuation report by a
6 Government licenced valuer, shall-

7 (a) pay to the occupier of land held under a State lease or the subject of
8 right of occupancy reasonable compensation for any disturbance of the surface
9 rights of the owner or occupier and any damage done to the surface of the land
10 on which the exploration or mining, is being or has been carried; and

11 (b) pay to the owner of any crop, economic tree, building or work
12 damaged, removed or destroyed by the holder of the mining title or by any of its
13 agents or servants, compensation for the damage, removal or destruction of the
14 crop, economic tree, building or work.

Assessment of
compensation

15 **113.** The amount of the compensation payable under this Part shall be
16 determined by the Commission after consultation with the State Minerals
17 Resource and Environmental Management Committee and a Government
18 licenced Valuer.

Non-payment
of compensation

19 **114.-(1)** Where the holder of a Mineral title defaults in payment of the
20 compensation six months after the grant of a mineral title, the Commission may
21 suspend the mineral title until-

22 (a) the amount awarded is paid; and

23 (b) the holder has deposited with the Government such further sum as
24 security or any further payment as the Commission may demand.

25 (2).If the holder does not make payment and deposit within 30 days
26 after the suspension of the mineral title in accordance with subsection (1) of
27 this section, the Commission may revoke the mineral title of the person in
28 default.

Payment of
compensation
an implied
condition

29 **115.** The holder of mining title shall pay the compensation prescribed,
30 in this Part of this Chapter to the person entitled to it.

1 116. The holder of a mineral title shall, in exercise of his rights
2 under the mineral title, have regard to the effect of the mining operations on
3 the environment and take the appropriate steps to prevent pollution of the
4 environment resulting from the mining operation.

Prevention of
pollution of
environment

5 117.-(1) The holder of a mineral title who surrenders any land as
6 provided under this Act shall be paid compensation for -

Compensation
to lessee

7 (a) any interference with any way, work building or plant;

8 (b) the expenses incurred in the exploration of the area required for
9 public purpose; or

10 (c) the loss or reasonable expectation of profits from proved
11 minerals on the land required for public purpose, in the case of a mining
12 lease.

13 (2) The Commission shall determine any question arising as to
14 what are proved minerals, after obtaining a report of a special committee set
15 up by the Board for that purpose.

16 (3) The compensation payable to any of the persons mentioned in
17 subsection (1) of this section shall, if not agreed between the parties, be
18 determined by the court.

19 (4) The holder of a mineral title shall not disturb the occupier of any
20 part of the land specified in the Mineral Title Area during the course of any
21 quarrying operation until the land is actually required for the purpose.

22 118.-(1) The holder of a Mineral title shall-

23 (a) in addition to any reimbursement payable to the Federal
24 Government, pay to the owner or occupier of any land within the area of the
25 lease or licence, compensation for any crop, economic tree, building or work
26 damaged, removed or destroyed by the holder of the lease or licence or by
27 his agent or servant; and

Compensation
for crops, economic
trees, etc.

28 (b) reimburse or make any payment required under paragraph of
29 this subsection (1) of this section in respect of any building erected, crop or
30 economic tree planted or work constructed on the land after the date on

1 which the surface rent became payable.

2 (2) Any compensation payable under this Chapter of this Act may,
 3 subject to the provisions of this Act and in any appropriate case, be determined
 4 by the Commission after giving consideration to the report of any committee
 5 set up for the consideration of any compensation to be paid by the Federal
 6 Government to the owner or occupier of land for which the lease or licence is or
 7 may be granted under this Part.

8 (3) Notwithstanding anything contained in this Act, a person who
 9 suffers any damage, loss or disturbance of his right by reason of the operation
 10 of any of the provisions of this Chapter of this Act shall be entitled to-

11 (a) be paid adequate compensation in respect of the damage, loss or
 12 disturbance; and

13 (b) refer any question of his interest in the subject-matter of the
 14 damage, loss or disturbance and as to the amount of compensation payable for
 15 determination to the Federal High Court having jurisdiction in the area in
 16 which the subject matter is situate.

Restoration of
mines land

17 **119.**-(1) The Commission shall by order require the grantee of a
 18 Mining Lease to restore any area in respect of which mining operation has
 19 been, is being, or is to be carried out, on or after the date on which this Act
 20 comes into operation.

21 (2) Any order made pursuant to subsection (1) of this section may
 22 contain covenants and conditions which may be imposed under the provision
 23 of that subsection and upon due service of the order, the provisions thereof shall
 24 be deemed to be covenants and conditions of the lease or grant concerned.

Reclamation

25 **120.** Where land which is the subject of a Mining Lease has been
 26 exploited, the reclamation of mined out areas shall be carried out by the
 27 applicant under the condition of its grant.

Community
Development
Agreement

28 **121.**-(1) Subject to the provisions of this section, the holder of a
 29 Mining Lease, Small- scale Mining Lease or Quarry Lease shall prior to the
 30 commencement of any development activity within the lease area, enter into an

1 agreement with the host community where the operations are to be
2 conducted referred to as a Community Development Agreement or other
3 such agreement that will ensure the transfer of social and economic benefits
4 to the community.

5 (2) The Community Development Agreement shall contain
6 undertakings with respect to the social and economic contributions that the
7 project will make to the sustainability of the community.

8 (3) The Community Development Agreement shall address any of
9 the following issues when relevant to the host community-

10 (a) educational scholarship, apprenticeship, technical training and
11 employment opportunities for indigenes of the communities;

12 (b) financial or other forms of contributory support for
13 infrastructural development and maintenance such as education, health,
14 roads, water, power or other community services;

15 (c) assistance with the creation, development and support of small
16 scale and micro enterprises;

17 (d) agricultural product marketing; and

18 (e) any method and procedures of environment and socio-
19 economic management and local governance enhancement.

20 (4) Where the failure of the host community and the lessee, after
21 several attempts to conclude the Community Development Agreement by
22 the time the titleholder is ready to commence development work on the lease
23 area, the matter shall be referred to the Commission for resolution.

24 (5) The Community Development Agreement shall be subject to
25 review every 5 years and shall, until reviewed by the parties to the
26 agreement, have binding effect on the parties.

27 **122.** The Community Development Agreement shall specify-

28 (a) appropriate consultative and monitoring frameworks between
29 the mineral titleholder and the host community; and

30 (b) the means by which the community may participate in the

Objectives of the
Community
Development
Agreement

1 planning, implementation, management and monitoring of activities carried
2 out under the Agreement.

Environmental
obligations

3 **123.** Every holder of a mineral title under this Act shall as far as it is
4 reasonably practicable-

5 (a) minimize, manage and mitigate any environmental impact
6 resulting from activities carried out under this Act; and

7 (b) rehabilitate and reclaim, where applicable, the land disturbed,
8 excavated, explored, mined or covered with tailings arising from mining
9 operations to its natural or predetermined state or to such state as may be
10 specified in this Act, its Regulations, any other law in force, and in accordance
11 with established best practices.

Environmental
Impact
Assessment

12 **124.** Every holder of an Exploration Licence, Small-scale Mining
13 Lease, Mining Lease, Quarry Lease and Water Use Permit shall-

14 (a) prior to the commencement of mining operations;

15 (b) upon application for an extension of the term; or

16 (c) upon an application for the conversion of a mineral title, submit to
17 the Commission-

18 (i) an environmental impact assessment statement approved by the
19 Ministry responsible for the Environment in respect of the exploration or
20 mining operations to be conducted within the Mineral Title Area, and

21 (ii) an environmental protection and rehabilitation programme
22 containing such details as may be provided for in the environmental
23 regulations issued pursuant to this Act.

Contents of the
Environmental
Protection and
Rehabilitation
Programme

24 **125.-(1)** The Environmental Protection and Rehabilitation Program
25 required under the provisions of this Act shall provide-

26 (a) rehabilitation and reclamation actions, inspections and annual
27 reports;

28 (b) a reasonable estimate of the total cost of rehabilitation;

29 (c) a cost estimate for each rehabilitation and reclamation action; and

30 (d) a timetable for the orderly and efficient rehabilitation and

1 reclamation of the Mineral Title Area to a safe and environmentally sound
2 condition suitable for future economic development or recreational use.

3 (2) The Commission shall exercise its powers in respect of
4 Environmental Protection and Rehabilitation Programs provided for in
5 Section 124 of this Act in consultation with the State Mineral Resources and
6 Environmental Management Committee established pursuant to this Act.

7 (3) The Commission may-

8 (a) approve or reject an Environmental Protection and
9 Rehabilitation Programme submitted by a mineral titleholder; and

10 (b) notify the holder of the mineral title of its decision thereon
11 within 60 days of the submission of the Environmental Protection and
12 Rehabilitation Programme.

13 (4) Where the Commission does not notify the holder of a mineral
14 title within the period specified under subsection (3) of this section, the
15 Environmental Protection and Rehabilitation Program shall be deemed to
16 have been approved as submitted.

17 (5) In the case of a rejection of the Environmental Protection and
18 Rehabilitation Program by the Commission, the mineral title holder may
19 submit-

20 (a) such other number of Environmental Protection and
21 Rehabilitation Programs as may be necessary in order to obtain the approval
22 of the Commission; or

23 (b) the matter to arbitration within thirty days of notification of the
24 decision under subsection (3) of this section where its application is rejected
25 twice.

26 (6) Where the Environmental Protection and Rehabilitation
27 Program has been approved, the Commission shall ensure that it is
28 implemented.

29 126.-(1) The Commission shall establish an Environmental
30 Protection and Rehabilitation Fund for the purpose of guaranteeing the

Establishment of
the Environmental
Protection and
Rehabilitation
Fund

1 environmental obligations of a holder of a mineral title as provided under this
2 Act.

3 (2) The Commission shall appoint a reputable institution engaged in
4 business as trustees or fund managers to administer the Environmental
5 Protection and Rehabilitation Fund.

6 (3) The trustees appointed pursuant to subsection (2) of this section
7 shall operate the fund in accordance with the provisions of the Trustees
8 Investments Act, Cap. T22 Laws of the Federation of Nigeria, 2004.

9 (4) A holder of a mineral title shall commence contributions to the
10 Environmental Protection and Rehabilitation Fund in accordance with the
11 amounts specified in the approved Environmental Protection and
12 Rehabilitation Program not later than one year from such approval.

13 (5) Where the Commission determines that the estimated cost of
14 implementing the approved Environmental Protection and Rehabilitation
15 Program is substantially less than the amount already deposited in the
16 Environmental Protection and Rehabilitation Fund, it may-

17 (a) refund any excess amount in the Fund to the holder of the mineral
18 title; or

19 (b) review the amount of future contributions or modify the
20 contribution schedule as the circumstances may require.

21 (6) Where a mineral title is renewed, the holder shall pay into the
22 Environmental Protection and Rehabilitation Fund such annual amounts as
23 may be specified in an amended Environmental Protection and Rehabilitation
24 Program approved under section 125 of this Act.

25 (7) The trustee shall keep proper records in respect of the operation of
26 the Fund, and shall cause to be prepared by an independent firm of chartered
27 accountants appointed by the Commission an audited statement of accounts in
28 respect of each financial year.

29 (8) The trustee shall, not later than 3 months after the end of each
30 financial year, cause a copy of the audited statement of account referred to in

1 subsection (7) of this section to be sent to the Commission and each member
2 of the State Mineral Resources and Environmental Management
3 Committee.

4 (9) The Environmental Protection and Rehabilitation Fund and any
5 sum accruing there from shall be applied only for the implementation of the
6 Environmental Protection and Rehabilitation Program to which they relate
7 in accordance with the timetable of payments established in the
8 Environmental Protection and Rehabilitation Programme.

9 (10) The holder of a mining lease shall implement and meet any
10 obligation described in the Environmental Protection and Rehabilitation
11 Program during the term of the Mining Lease.

12 (11) When the Environmental Protection and Rehabilitation
13 Program has been fully implemented and completed further to a
14 certification by an independent external audit that has confirmed that the
15 implementation of the Environmental Protection and Rehabilitation
16 Program has been satisfactorily completed, the Commission shall authorize
17 the refund of any sum remaining in the Environmental Protection and
18 Rehabilitation Fund to the titleholder within thirty days of the receipt of the
19 certification.

20 127.-(1) Where a holder of a mining lease is required to make a
21 payment to the Environmental Protection and Rehabilitation Fund under
22 section 126 of this Act and fails to do so within thirty days of a written notice
23 given by the Commission requesting payment of the amount owed, the
24 Commission shall-

25 (a) serve, or cause to be served, on the holder a thirty day demand
26 notice in writing; and

27 (b) cause a record of the service of the notice to be endorsed by the
28 Commission on the copy of the Mining Lease in the register to which it
29 relates.

30 (2) Where the whole of the sum demanded by the notice under

Service of
demand notice

1 subsection (1) of this section is paid to the Environmental Protection and
 2 Rehabilitation Fund within the time specified therein, the notice shall
 3 thereupon cease to have effect and the Commission shall cause to be cancelled
 4 in the Register of Title the record endorsed on the Mining Lease pursuant to
 5 subsection (1)(b) of this section.

6 (3) If by the end of the period specified in the demand notice the sum
 7 owed has not been paid to the Environmental Protection and Rehabilitation
 8 Fund, the Trustees to the Environmental Protection and Rehabilitation Fund
 9 shall-

10 (a) institute the necessary court proceedings to recover the amount;
 11 and

12 (b) suspend payment of any amount payable from the Environmental
 13 Protection and Rehabilitation Fund to the defaulting titleholder in accordance
 14 with the provisions of this Part, and the Mining Lease shall be suspended.

Pollution of
 watercourse
 prohibited

15 128. A Mineral title holder shall not, in the course of mining or
 16 exploration for minerals, pollute or cause to be polluted any water or
 17 watercourse in the area within the Mining Lease or beyond that area.

Purification
 of water

18 129. A person who uses water in connection with mining operation,
 19 for-

20 (a) the generation of power for mining purposes;

21 (b) the removal of mineral substance; or

22 (c) concentration, milling or otherwise, shall, whatever may be the
 23 nature and date of the document of title under which the use is enjoyed, make
 24 such provisions as shall ensure that the water so used does not contain injurious
 25 substances in quantities likely to prove detrimental to animal or vegetable life
 26 when the water leaves the mining area in which it has been so used.

Compensation
 for damages
 and pollution

27 130. A licensee or lessee shall pay compensation to an owner or
 28 occupier-

29 (a) whose land or interest in the land is adversely affected by the
 30 exercise of the rights conferred by the licence or lease, for any such injurious

1 effect not otherwise made good; and

2 (b) who suffers damages as a result of pollution of any source of
3 water, used for domestic and other purposes, as a consequence of the
4 exploration or operations in any work connected with the property, for any
5 such damage not otherwise made good.

6 131.-(1) The Commission may by regulations prescribe the
7 quantity of tailing that may be deposited in any natural watercourse by a
8 lessee under this Commission.

Deposit of
tailings

9 (2) A mineral titleholder shall not, deposit a greater quantity of
10 tailing in any natural watercourse than that prescribed by regulations
11 without permission obtained by applying in writing to the Commission.

12 (3) On the application of a mineral titleholder and on good cause
13 being shown, the Commission may grant a permit authorising the deposit of
14 greater quantities of tailing than that prescribed by the Regulations and may
15 make the grant subject to such conditions as may deem necessary and those
16 conditions shall be endorsed on the permit.

17 (4) The Commission may revoke or vary the conditions of any
18 permit granted under this section if the holder commits a breach of any of the
19 conditions of the permit.

20 132.-(1) A person shall not make or permit any other person to
21 make any alterations in the water supply of any land so as to prejudicially
22 affect the water supply enjoyed by any other person or land, without the
23 permission of the Commission.

Alteration in
water supply
prohibited

24 (2) Whenever the alteration referred to in subsection (1) of this
25 section is made the lessee benefiting from the alteration shall, in the absence
26 of proof to the contrary, be presumed to have made it.

27 133. The Commission shall by order in writing, direct any person
28 who, in the course of mining operations, unlawfully interferes with the bank
29 of any water course to-

Restoration of
river bank

30 (a) restore the bank to the condition in which it was immediately

1 prior to interference; or

2 (b) remake the bank in such a manner as may be specified in the order.

3 PART V - MINING INCENTIVES, POWERS AND PROCEDURES OF

4 THE COMMISSION

Persons eligible
for the Fiscal
Regime

5 134. The persons eligible for the fiscal regime set out in this Part of
6 this Act shall include any company or enterprise engaged in mining operations.

Capital allowances

7 135.-(1) Any licence holder eligible under the provisions of this Part
8 shall be entitled, in determining its total profits, to deduct from its assessable
9 profits a capital allowance of ninety-five percent of qualifying capital
10 expenditure incurred in the year in which the investment is incurred, all-

11 (a) certified prospecting, exploration, development and processing
12 expenditure, including feasibility study and sample assaying costs; and

13 (b) infrastructure costs incurred regardless of ownership and
14 replacement.

15 (2) The amount of any loss incurred by any person eligible under the
16 provisions of this Part of this Act shall be deducted as far as it is possible from
17 the assessable profits of the first year of assessment after that in which the loss
18 was incurred and in so far as it cannot be so made, then from such amounts of
19 such assessable profits of the next year of assessment, and so on up to a limit of
20 four years after which period any unrelieved loss shall lapse.

Exemption from
customs duty and
other benefits

21 136.-(1) An operator in the mining industry shall be granted the
22 following benefits-

23 (a) exemption from payment of customs and import duties in respect
24 of plant, machinery, equipment and accessories imported specifically and
25 exclusively for mining operations;

26 (b) expatriate quota and resident permit in respect of the approved
27 expatriate personnel; and

28 (c) personal remittance quota for expatriate personnel, free from any
29 tax imposed by any enactment for the transfer of external currency out of
30 Nigeria.

1 (2) For the purpose of subsection (1) of this section the
2 Commission shall approve the appropriate machinery, equipment and
3 accessories to be imported by the holder of a mineral title for the purpose of
4 this section.

5 (3) The plant, machinery, equipment and accessories imported
6 pursuant to subsection (1) of this section may be disposed of by the holder of
7 a mineral title upon the full payment of customs and import duties in respect
8 thereof.

9 (4) The Commission shall ensure compliance with this section.

10 **137.** Where the holder of a mineral title earns foreign exchange
11 from the sale of his minerals he may be permitted by the Central Bank of
12 Nigeria to retain in a foreign exchange domiciliary account a portion of his
13 foreign exchange earnings for use in acquiring spare parts and other inputs
14 required for the mining operations which would otherwise not be readily
15 available without the use of such earning.

Permission to
retain and use
earned foreign
exchange

16 **138.**-(1) Subject to the provisions of this Act, a holder of a mineral
17 title shall be guaranteed free transferability through the Central Bank in
18 convertible currency of-

Free transferability
of funds

19 (a) payments in respect of loan servicing where a certified foreign
20 loan has been obtained by the holder for his mining operations; and

21 (b) the remittance of foreign capital in the event of sale or
22 liquidation of the mining operations or any interest therein attributable to
23 foreign investment.

24 **139.**-(1) The tax relief period of a company granted a mineral title
25 under this Act shall commence on the date of operation and subject to the
26 provisions of this Act or any other relevant financial enactment, the relief
27 shall continue for three years.

Tax relief period

28 (2) The tax relief period of a company granted a mineral title under
29 this Act may, by the end of the three years, be extended by the Board for a
30 further period of two years.

1 (3) The Board shall not extend the tax relief period of a company in
2 exercise of the power conferred under subsection (2) of this section where it is
3 satisfied as to the-

4 (a) rate of expansion, standard of efficiency and level of development
5 of the company in mineral operations for which the mineral title was granted;

6 (b) implementation of any conditions upon which the lease was
7 granted; and

8 (c) training and development of Nigerian personnel in the operation
9 of the mineral concerned.

Application of
Cap. F34 LFN,
2004 and the
NIPC Act

10 **140.**-(1) The provisions of the Foreign Exchange (Monitoring and
11 Miscellaneous Provisions) Act shall apply to any investment in foreign
12 currency made in respect of any mineral title granted pursuant to this Act.

13 (2) The provisions of the Nigerian Investment Promotion
14 Commission Act shall apply to any foreign investment made in respect of any
15 mineral title granted pursuant to this Act.

Deductibility
of environmental
costs

16 **141.**-(1) A tax deductible reserve for environmental protection, mine
17 rehabilitation, reclamation and mine closure costs shall be established by any
18 company engaged in the exploitation of mineral resources; provided however,
19 that the appropriateness of the reserve is certified by an independent qualified
20 person taking into account the determination made under the provisions of this
21 Act.

22 (2) The Company shall record the reserve in its audited financial
23 statements.

24 (3) The tax deductibility will be restricted to the actual amount
25 incurred for the purpose of the reclamation.

26 (4) A sum equivalent to the reserve amount shall be set aside every
27 year and invested in a dedicated account or trust fund managed by independent
28 trustees appointed pursuant to the provisions of this Act.

Pension Reform
Act No. 2, 2004

29 **142.** A tax deductible amount established in accordance with the
30 applicable rate set out in the Pension Reform Act shall be imposed on every

1 mining company or enterprise, towards the payment of pensions to each
2 employee.

3 **143.** An annual capital cost indexation, whereby the unclaimed Annual capital
4 balance of capital costs is increased yearly by five percent, shall apply to any cost indexation
5 mine starting production within five years from the date of enactment of this
6 Act.

7 **144.**-(1) A mineral title holder shall be liable to pay royalty for any Royalty
8 minerals obtained in the course of exploration or mining operations as
9 prescribed in the regulations made pursuant to this Act.

10 (2) The Commission may reduce or waive royalty on any mineral
11 which the Commission is satisfied is being exported solely for the purpose
12 of analysis or experiment or as a scientific specimen, not being in greater
13 quantity than is reasonably necessary for that purpose.

14 (3) The Commission may defer payment of royalty on any minerals
15 for a specific period, on the approval of the Board.

16 **145.**-(1) There is established a fund to be known as the Solid Establishment
17 Minerals Development Fund (in this Part referred to as "the Fund"). of the Solid
18 Mineral
19 Development
20 Fund

21 (2) The Fund shall be utilised for the-

22 (a) development of both human and physical capacity in the sector;

23 (b) funding for geo-scientific data gathering, storage and retrieval
24 to meet the needs of private sector-led mining industry;

25 (c) equipping the mining institutions to enable them perform their
26 statutory functions;

27 (d) funding for the extension services to small-scale and artisanal
28 mining operators pursuant to section 970 of this Act; and

29 (e) provision of infrastructure in mines land.

30 **146.**-(1) The Fund shall be managed by a body to be known as the Management
Solid Minerals Development Board which shall be a body corporate with board of the
perpetual succession and a common seal and may sue and be sued in its Fund
corporate name.

1 (2) The Solid Minerals Development Board shall comprise of-

2 (a) a chairman to be appointed by the President on the
3 recommendation of the Minister in charge of Solid Minerals Development;

4 (b) one person to represent the Central Bank of Nigeria;

5 (c) one person to represent the Bankers' Committee;

6 (d) three persons to be appointed by the Minister to represent private
7 mining operators and mineral processors; and

8 (e) the Secretary to the Solid Minerals Development Board.

9 (3) The quorum for meeting of the Solid Minerals Development
10 Board shall be three, of whom at least one shall be a member representing the
11 Central Bank.

12 (4) The Solid Minerals Development Board shall meet not less than
13 four times in each year and on any other occasion as the Board may consider
14 necessary.

15 (5) At any meeting of the Solid Minerals Development Board, the
16 Chairman shall preside, and where he is absent, the members present at the
17 meeting shall appoint one of their members to preside at the meeting.

18 (6) Subject to section 27 of the Interpretation Act the Solid Minerals
19 Development Board may make orders regulating its proceedings and those of
20 any of its committees.

21 (7) Where the Solid Minerals Development Board desires to obtain
22 the advice of any person on a particular matter, the Solid Minerals
23 Development Board may co-opt him as a member for such period as it deems
24 fit, but a person who is a member by virtue of this subsection shall not be
25 entitled to vote in any meeting of the Solid Minerals Development Board and
26 shall not count towards a quorum.

27 (8) The Secretariat of the Solid Minerals Development Board shall be
28 located in such a place as the Minister may determine.

29 (9) The administrative expenses of the Solid Minerals Development
30 Board shall be borne by the Federal Government.

1	147. Notwithstanding any other provision of this Act, the Solid	Functions and powers of the Solid Minerals Development Board
2	Minerals Development Board shall-	
3	(a) monitor the operation and evaluate the progress of the Fund;	
4	(b) advise the Minister as to any change required to improve the	
5	operation of the Fund;	
6	(c) receive and consider the report of the management agent	
7	appointed under the provision of this Act and advise the Minister on it;	
8	(d) determine the remuneration of any external auditor and	
9	solicitor;	
10	(e) publish names of defaulters of loans granted under this Act in	
11	the national newspaper;	
12	(f) pursue any defaulters through judicial action;	
13	(g) solicit the assistance of Government loan machinery in the	
14	recovery of loans granted under this Act; and	
15	(h) perform any other functions relating to the Fund as may be	
16	assigned to it by the Minister.	
17	148. The Central Bank shall be deemed to have been appointed as	Custodian of the Fund
18	the Custodian of the Fund for the purpose of this section.	
19	149. The Fund shall consist of any-	Financial provisions of the Board
20	(a) sum appropriated for Solid Minerals Development under the	
21	Revenue Act or any other applicable federal Law;	
22	(b) sum appropriated for Solid Minerals Development under the	
23	Small and Medium Industries Equity Investment Scheme (SMIEIS);	
24	(c) fund received as a grant, donation, foreign loan, bonds and	
25	long-term swap; and	
26	(d) sum appropriated to it by the Federal Government budgetary	
27	allocation.	
28	150. The Ministry in charge of Solid Minerals Development shall	Annual budget
29	each year present to the National Assembly a budget proposal for the	
30	administering of the Fund.	

Investment of
surplus monies
in the Fund

1 **151.** Where the money in the Fund is surplus to the current needs of
2 the Fund, the surplus may be invested in Government securities and bonds, as
3 may, from time to time, be determined by the Solid Minerals Development
4 Board.

Accounts and
audit

5 **152.**-(1) The Solid Minerals Development Board shall keep proper
6 accounts in respect of monies forming part of the Fund and proper records in
7 relation to those accounts and shall prepare annually, a statement of account.

8 (2) For the purpose of subsection (1) of this section, the financial year
9 of the Fund shall be from 1st January to 31st December of every year or any
10 other period as may be determined by the Solid Minerals Development Board
11 with the approval of the Minister.

12 (3) The account of the Fund shall be audited annually by an auditor
13 appointed by the Solid Minerals Development Board from a list of auditors
14 provided by the Auditor-General of the Federation.

Annual reports

15 **153.**-(1) It shall be the duty of the Solid Minerals Development Board
16 to prepare and submit to the Minister, not later than three months after the end
17 of each financial year, a report which shall be in such form as the Minister may
18 direct.

19 (2) The copy of the report shall be forwarded to the Commission for
20 its information and comments.

21 (3) The report shall include the audited account of the Fund in respect
22 of the specified period in question and the auditor's report on the accounts and
23 shall be presented by the Minister to the Federal Executive Council not later
24 than one month thereof.

25 PART IX - GENERAL INVESTIGATION AND INQUIRY INTO ACCIDENTS, ETC.

General
Investigation

26 **154.** Notwithstanding the provisions of any other applicable law, the
27 Commission may investigate any matter pertaining to the administration of this
28 Act or the regulations made pursuant to it where the Commission is of the
29 opinion that the provisions of this Act or the regulations made pursuant to it
30 have been infringed upon.

1 **155.**-(1) The holder of a Mining Lease or licence shall, if an
2 accident, involving loss of life or serious injury to a person, occurs in any
3 mine or in connection with the mining operations conducted under its lease,
4 temporary title or licence granted under this Act, report the accident as soon
5 as possible, with full details of the accident to the-

Report of
accident

6 (a) nearest Police Station; or
7 (b) office of the Mines Inspectorate Department In the State in
8 which the accident occurred.

9 (2) On receipt of the report made pursuant to subsection (1) of this
10 section, the Mines Inspectorate Department shall immediately inform the
11 Commission.

12 (3) Every accident occurring in connection with a quarrying
13 operation and involving loss of life or serious injury to any person shall be
14 reported to the inspector or quarry officer immediately, by the quickest
15 available means of communication.

16 (4) The place where the accident occurred shall be left undisturbed,
17 and no person shall interfere with the surface working or any part in which or
18 on which the accident has occurred until the place or anything at the place,
19 has been visited or examined by an Inspector or quarry officer.

20 **156.** Where an accident occurs in a mine, the Commission shall set
21 up a panel consisting of at least four members to inquire into the cause of the
22 accident.

Panel of inquiry

23 **157.**-(1) The panel of inquiry shall determine the cause of the
24 accident including-

Matters to be
determined on
inquiry

25 (a) whether the holder or its agent is guilty of negligence or took all
26 reasonable and proper precautions to prevent the accident;

27 (b) whether any person was killed or injured as a result of the
28 accident; and

29 (c) how future accidents might be prevented.

Power of panel
of inquiry

1 **158.**-(1) For the purposes of an inquiry under the provisions of this
2 Act, the panel appointed by the Commission to conduct the inquiry shall have
3 power to-

4 (a) authorise any person, where necessary, to have access to the
5 quarry or any surface working and remove anything from the place where the
6 accident occurred;

7 (b) summon witnesses, require witness to give evidence on oath or
8 produce any report, book or other document for the purposes of any
9 examination and payment of expenses of witnesses; and

10 (c) do or direct to be done such other things as may deem necessary for
11 the conduct of the inquiry.

12 (2) For the purpose of subsection (1) of this section, the panel holding
13 an inquiry shall have the powers of a judge under the Tribunals of Inquiry Act.

14 (3) A person who-

15 (a) is summoned to attend or produce any report, book or document
16 under subsection (1) of this section and refuses or neglects to do so; or

17 (b) refuses to answer any question put to him by the panel holding the
18 inquiry commits an offence and is liable on conviction to a fine of one hundred
19 thousand naira.

20 (4) No person summoned under this section shall be bound to
21 incriminate himself, and every witness shall, in respect of any evidence given
22 by him at the inquiry, be entitled to the same privileges to which he would have
23 been entitled if giving evidence before a court of law.

24 (5) A witness attending at the request of or on summons by a panel
25 holding an inquiry shall, subject to any order made by the panel, be entitled to
26 the like expenses as if summoned to attend the Court, and payment shall be
27 made in the same manner as if the person were a witness in a criminal trial.

Inquiry by court

28 **159.**-(1) Where in the opinion of a panel conducting an inquiry under
29 section 156 of this Act, the accident was not due to any of the causes mentioned
30 in that section panel may recommend that the report be referred to a Judge of

1 the Federal High Court who shall hold an inquiry into the cause of the
2 accident.

3 (2) The Judge shall within fourteen days of the determination of the
4 inquiry, send a copy of his findings to the Commission and, if so requested, a
5 copy of the record of the proceedings.

6 **160.** In this Part of this Act "serious injury" means-

Interpretation
of this Part

7 (a) a fractured skull, pelvis, arm, thigh, spine, forearm or leg;

8 (b) a dislocated shoulder;

9 (c) the amputation of an arm, a hand, one finger or more of the same
10 hand, a leg or foot;

11 (d) the loss of the sight of an eye; or

12 (e) any other serious bodily injury, including internal hemorrhage
13 or burns or asphyxia, if the injury is likely to endanger life, cause permanent
14 incapacity or impair efficiency subsequently.

15 **161.** A person shall not, in the course of exploration or carrying out
16 mining operations under this Act, construct a road, tramway or railway over,
17 on or under-

Construction of
roads

18 (i) any State land, other than that comprised within the area of the
19 Mining Lease, without the consent of the Commission after consultation
20 with the Officer in charge of Lands in the Federal Capital Territory, Abuja, or
21 in the State as the case may be;

22 (ii) any customary lands, other than those comprised within the
23 area of the Mining Lease, without the approval of the Commission, after
24 consultation with the Chairman of the Local Government Council or Area
25 Council, as the case may be without first giving notice in writing to the
26 lessee or holder or applicant and obtaining the consent of the Commission.

27 **162.**-(1) A person who has constructed a road, tramway or railway
28 in accordance with the provisions of this Act shall not hinder or prevent any
29 other person from having access to using the road, tramway or railway.

Use of mining
road

30 (2) A person who constructs a road, tramway or railway may call on

1 a user of such road tramway or railway to contribute to the cost of upkeep, if in
2 his opinion, the road, tramway or railway is being used by any other person in
3 such a manner as-

4 (a) will cause appreciable damage to the road, tramway or railway; or

5 (b) substantially increase the cost of its upkeep.

6 (3) Where a person uses a road, tramway or railway constructed by
7 another person in such a manner as to interfere materially with the free use and
8 enjoyment of it, the person who constructed the road, tramway or railway may
9 call on that user to limit his use of the road in order to stop the interference.

10 (4) A person who constructs a road, tramway or railway over any part
11 of the area of a Mining Lease under the provisions of this Act may be required
12 by the lessees or holder of the Mining Lease or mining title who wishes to mine
13 the area covered by the road to divert the road, tramway or railway to some
14 other part of the area of the lease or title and cost of the diversion shall be borne
15 by the person who constructed the road, tramway or railway.

16 (5) References to a person who constructs a road, tramway or railway
17 under the provisions of this Act shall be construed as references also to a person
18 who maintains the road, tramway or railway to which section 67 of this Act
19 applies.

20 (6) The person who constructed a road, tramway, or railway may close
21 it for the purpose of any inadequacy of the road, tramway or railway and shall
22 not be liable to any person to whom the notice is given.

23 (7) A person who is constructing a road, tramway or railway shall
24 display and keep displayed, adequate notice drawing attention to any bridges
25 or culverts and to any precautions necessary, in the use of the road, tramway or
26 railway and the user of a motor vehicle who neglects the precautions notified
27 shall be liable to reimburse the person who constructed it, the cost of any
28 damage occurring to a bridge or culvert by him.

29 (8) For the purpose of this section "road, tramway or railway"
30 includes a road, tramway or railway constructed by a local community or

1 person and used in connection with exploration or mining operations.

2 **163.** No person shall, except in relation to minerals designated by Prohibition of
3 the Commission as strategic in accordance with the provisions of this Act in obstruction of
4 the course of exploration or carrying on mining operations under this Act right of way
5 impede or obstruct the right of way over any public road.

6 **PART X - DISPUTE RESOLUTIONS**

7 **164.-(1)** Any dispute arising between the holder of a mineral title, Dispute resolution
8 any other person and the Government in respect of the interpretation and
9 application of this Act, its Regulations and the terms and conditions of
10 mineral titles shall be resolved, in the first instance, on an amicable basis.

11 (2) Where the dispute is in the nature of a bona fide investment
12 dispute, and such dispute is not amicably settled as provided under
13 subsection (1) of this section, it shall be resolved in accordance with the
14 provisions of the Nigerian Investment Promotions Commission Act, Cap.
15 N117, Laws of the Federation of Nigeria, 2004.

16 (3) Any other dispute between the holder of a mineral title and the
17 Government shall be resolved in the Federal High Court, if not settled in
18 accordance with the provisions of subsection (1) or (2) of this section.

19 **CHAPTER VII - MISCELLANEOUS PROVISIONS**

20 **165.-(1)** Subject to provisions of this section, a mineral title is Transfer of
21 transferable under this Act upon approval of the transfer by the Commission minerals title
22 and registration of the transfer with the Commission.

23 (2) The rights arising from a mineral title or permit that is
24 transferable under this Act may be wholly or partially assigned, sub-leased,
25 pledged, mortgaged, charged, hypothecated or subject to any security
26 interest.

27 (3) The mineral titleholder shall apply for approval of the transfer
28 of a mineral title to the Commission in the prescribed form.

29 (4) In the application for a transfer of a mining title, the holder shall
30 provide to the Commission such details of the assignment or transfer and

1 any other information that the Commission may require.

2 (5) The Commission shall approve a transfer of a mineral title under
3 this section if the transferee is a qualified applicant, provided that the
4 application for transfer shall be deemed automatically approved if not acted
5 upon by the Commission within thirty days from official receipt thereof.

6 (6) The approval of the Commission shall not be required for an
7 assignment to an affiliate, where the obligations of the affiliate are guaranteed
8 by the assignor or by a parent company.

9 (7) In the event of the death of the mineral titleholder the laws of
10 succession shall apply.

11 (8) The transferor of a mineral title shall remain liable for the
12 performance of any obligations arising out of acts or contracts made in respect
13 of the Mineral Title Area, including environmental obligations, incurred prior
14 to the date of the transfer as well as for any claims for damages or injuries by
15 bona fide third parties.

16 (9) Where a transfer under this section is in the nature of a security
17 interest, the holder of the mineral title shall remain liable for all obligations in
18 respect of the mineral title until the later in time of redemption of the security or
19 the expiration of the mineral title.

20 (10) No mineral title or rights may be assigned to a person to whom a
21 mineral title could not have been granted under this Act.

Renewal of
mineral title

22 **166.** Where the holder of a mineral title applies during the pendency
23 of his title for a renewal of the mineral title, the current mineral title shall
24 remain in force until the date of the renewal of the mineral title or the refusal of
25 the application.

Suspension of
mineral title

26 **167.-(1)** Without prejudice to any other provisions of this Act, upon
27 approval of the Board, the Commission may suspend a mineral title for a period
28 not exceeding 60 days, if the holder-

29 (a) fails to make any payments required by or under this Act on the due
30 date;

1 (b) has breached any condition of the mineral title;

2 (c) has contravened any provisions of this Act;

3 (d) has failed to comply with any lawful order given in connection
4 with his operations;

5 (e) makes any statement to the Commission which he knows or
6 ought to have known to be false; or

7 (f) for any reason becomes ineligible to apply for a mineral title
8 under the provisions of this Act.

9 (2) A mineral title shall only be suspended after-

10 (a) 30 days' notice of the intention to suspend the mineral title
11 containing the grounds thereof is given to the holder; and

12 (b) the holder fails to remedy the breach or remove the grounds for
13 suspension within the required period.

14 **168.-(1)** The holder of a mineral title may, surrender the mineral
15 title upon application in the prescribed form and upon satisfying the
16 prescribed conditions, surrender the mineral title.

Surrender of
mineral title

17 (2) The Commission shall approve an application made under
18 subsection (1) of this section where-

19 (a) the holder of the mineral title has submitted the request for
20 surrender in the prescribed form;

21 (b) the surrender will not affect any liability incurred by the
22 mineral titleholder before the surrender of the mineral title, including
23 environmental obligation;

24 (c) all rents due and fees prescribed, if any, have been paid by the
25 holder of the mineral title; and

26 (d) the holder of the mineral title has surrendered the original title
27 document.

28 **169.-(1)** Without prejudice to the power of the Commission to
29 determine a mineral title in any other manner, the Commission may revoke
30 any mineral title if-

Revocation of
mineral title

1 (a) the holder is convicted by any court of competent jurisdiction for
2 an offence under this Act or its Regulations and the time for appealing against
3 the conviction, if any, has lapsed or the appeal has been dismissed or withdrawn
4 or struck out for want of prosecution;

5 (b) the holder breaches any provision of this Act or regulations made
6 or of any terms or conditions of his mineral title whether express or implied;

7 (c) the holder breaches any order or notice issued or given under this
8 Act or Regulations made under it;

9 (d) the holder fails to comply with or show adequate cause on being
10 required by the Commission to show cause within a time specified in the notice
11 as to why the mineral title should not be revoked;

12 (e) the holder, before the expiration of the term of the licence,
13 surrenders the mineral title in the manner prescribed;

14 (f) the holder is declared by a court of competent jurisdiction to be
15 insolvent or bankrupt or goes into insolvent liquidation, except as part of a
16 scheme for re- organisation, amalgamation or an arrangement with its
17 creditors;

18 (g) the mineral title is held jointly by more than one person and the
19 provisions of subsection (1) (a) of this section apply to anyone of the joint
20 holders unless the other joint holders are able to assume the obligations of the
21 former and adopt measures which will guarantee the performance of these
22 obligations;

23 (h) no progress is made in the organisation of the mining operations in
24 the case of all mineral title other than a Reconnaissance Permit by the end of the
25 period provided for in the mineral title; or

26 (i) in the case of a Small-scale Mining Lease or Mining Lease, the
27 holder wholly discontinues operations under the Lease during a continuous
28 period of six months.

29 (2) A mineral title shall be revoked -

30 (a) upon resolution of the Board;

1 (b) after thirty days' notice of the intention to revoke the mineral
2 title containing the grounds of such revocation is given to the holder;

3 (c) the holder fails to remedy the breach or remove the grounds for
4 revocation within the required period; and

5 (d) Any notice issued by the Commission and sent by registered
6 mail to the last known address in Nigeria or given in person to an authorized
7 representative of the mineral title holder in Nigeria or published in the
8 Gazette, shall for all purposes be sufficient notice of the revocation of the
9 mineral title to the mineral titleholder.

10 170.-(1) A mineral title shall become liable to revocation where the
11 holder thereof has failed to pay the prescribed fees.

Revocation of
mineral title for
failure to pay fees

12 (2) Where there is default in payment of the prescribed fee, the
13 Commission shall give a thirty days written default notice to the defaulting
14 party and, if payment is not effected during that period, the Commission
15 shall record the default and revoke the mineral title.

16 171.-(1) Upon the revocation of a mineral title, the former holder
17 thereof shall deliver to the Commission or Mines Officer responsible for the
18 area-

Delivery of
documents

19 (a) all records which the holder is obliged to submit under the
20 provisions of this Act and Regulations;

21 (b) all plans or maps of the area covered by the mineral title
22 prepared by the holder or at his instructions; and

23 (c) such other documents relating to the mineral title as the Mines
24 Officer may request.

25 (2) Upon revocation of a mineral title, a notice in the prescribed
26 form requesting the delivery of the documents specified under subsection
27 (1) of this section shall be sent to the former mineral titleholder.

28 (3) The failure of the recipient of the notice under this section to
29 deliver the said documents, within thirty days of the delivery of the notice
30 shall be an offence under this Act.

- Continuing obligations of mineral title holder
- 1 **172.** Notwithstanding the revocation of a mineral title in accordance
2 with this Act, the mineral title or permit holder, shall remain liable for the
3 performance of any obligations arising out of the mineral title, including
4 environmental obligations, incurred prior to the date of revocation and any
5 claim for damages or injuries by bona fide third parties.
- Appeal of revocation
- 6 **173.** A person whose mineral title is revoked by the Commission may
7 appeal to the Board for a review, within fifteen days from the date of receipt of
8 the letter of revocation in accordance with the provisions of this Act.
- Relinquishment of part of mineral title
- 9 **174.-(1)** The holder of a mineral title may at any time during the
10 period of the validity of such mineral title, upon application to the Commission
11 in the prescribed form and upon meeting prescribed conditions, relinquish the
12 area or part of area covered by the mineral title, provided that the geometry and
13 dimensions of each surrendered area shall satisfy the prescriptions of this Act
14 and regulations made pursuant to this Act.
- 15 (2) Upon relinquishment of the area or part of the area covered by the
16 mineral title in accordance with the provisions of subsection (1) of this section,
17 the fees payable on the basis of the area covered by the mineral title shall be
18 adjusted proportionally taking into account the area relinquished.
- 19 (3) The relinquishment of the area or part of the area covered by the
20 mineral title shall not affect the duration of the mineral title.
- 21 (4) The relinquishment of the area or part of the area shall not affect
22 any liability incurred by the mineral titleholder in respect of the area
23 relinquished prior to the relinquishment, including environmental obligations.
- Contiguous areas
- 24 **175.-(1)** The holder of several mineral titles whose areas are
25 contiguous may at any time during the period of the validity of such mineral
26 titles, upon application to the Commission in the prescribed form and upon
27 meeting prescribed conditions, consolidate some or all of the contiguous areas
28 covered by the mineral titles under a single one of such mineral titles, provided
29 that the geometry and dimensions of the consolidated area shall satisfy the
30 prescriptions of this Act and any regulations made pursuant to this Act.

1 (2) After the consolidation of mineral title areas under subsection
 2 (1) of this section, the validity of the resulting mineral title and the surface
 3 rents payable for the new area shall be the period of the validity and the
 4 surface rents payable for the oldest of the mineral title whose area was part of
 5 the consolidation.

6 **176.-(1) A holder of a Mining Lease, Small-scale Mining Lease**
 7 **and Quarry Lease intending to abandon or permanently cease production**
 8 **from the Lease Area shall-**

Abandonment
or permanent
cessation of
production

9 (a) provide a written notice to the relevant departments in the
 10 Commission within three months before such intended abandonment or
 11 cessation of production; and

12 (b) give a copy of such a notice shall also be given at the same time
 13 to the Commission.

14 (2) The notification shall be accompanied by a report outlining
 15 details of the intended abandonment or permanent cessation of production
 16 and the reasons thereof together with a plan, showing the workings of the
 17 mine up to the time of the notice.

18 (3) Upon receipt of the notice in the prescribed form the relevant
 19 department shall make appropriate recommendations to the Commission
 20 with regards to the abandonment plan.

21 (4) Upon receipt of this recommendation the Commission shall
 22 within ten days, cause the matter to be investigated.

23 (5) After investigation of the abandonment or permanent cessation
 24 of the production, if the mineral titleholder maintains the notice, the
 25 Commission shall take note of the abandonment or cessation of production.

26 (6) In case of abandonment or permanent cessation of production
 27 within the title area, the mineral titleholder shall-

28 (a) securely seal, fence or cover every mine shaft and adit;

29 (b) make safe all tailings and water retention areas; and

30 (c) demolish, fence or lock all potentially hazardous buildings,

1 structures, plant and equipment.

2 (7) In case of suspension of production due to weather, labour
3 situation, market problems or other reasonable causes, the mineral titleholder
4 shall inform the Commission of the situation immediately.

5 (8) where the suspension exceeds three months, the mineral
6 titleholder shall send a notice to the Mines Environmental Compliance
7 Department stating the reasons for the extended shut down of the mine and
8 indicating the measures taken in respect of site maintenance, or if
9 abandonment is contemplated the measures that will be taken in accordance
10 with the Environmental Protection and Rehabilitation Program established
11 under the provisions of this Act in the event of the title being transferred to a
12 new operator or surrendered.

13 (9) The requirements to be met and the procedure to be followed in
14 case of abandonment, permanent cessation or suspension of production by a
15 titleholder shall be prescribed in Regulations.

Geological
studies and
mapping

16 177.-(1) For the purpose of determination of the characteristics and
17 undertaking of an inventory of mineral occurrences, the Minister may approve
18 the conduct of geological studies and mapping of the national territory by
19 specialised agencies of the Government, without obtaining a mineral title, on
20 any land that is not closed by any other law; provided that if such activity is
21 required to be conducted in an area subject to an Exploration Licence, a Mining
22 Lease, a Small-scale Mining Lease or a Quarry Lease, a written notice of the
23 proposed activity shall be given by the Minister to the mineral titleholder.

24 (2) Educational institutions regulated under the laws of Nigeria may
25 carry out similar studies of a scientific nature as provided in subsection (1) of
26 this section without obtaining a mineral title on the same condition as specified
27 for the Government in subsection (1) of this section.

28 (3) No agency or educational institution authorized to perform any
29 activity described in subsections (1) or (2) of this section may be granted,
30 directly or indirectly and for a period of five years, thereafter, a mineral title on

1 any land where studies have been carried out.

2 (4) Where an agency of Government or an educational institution
3 undertakes scientific studies authorized under subsections (1) and (2) of this
4 section, compensation shall be paid by the agency or educational institution
5 to the user or occupier of that land or to the holder of mineral title to such
6 land for any damage to the land or any property therein.

7 (5) The compensation payable pursuant to subsection (4) of this
8 section may in default of an agreement be claimed and determined by
9 arbitration and shall, in case of any disturbance or damage caused by any
10 employee of Government or by staff or student of the educational
11 institution, be payable by the Government or the educational institution as
12 the case may be.

13 178.-(1) An exporter of any mineral shall-

14 (a) declare the state from which the mineral was extracted before
15 the consignment containing the mineral is accepted for export processing;

16 (b) on demand made by the prescribed authority, furnish
17 information relating to quality, quantity, price and details of the recipient of
18 the mineral consignment to be exported under paragraph (a) of this
19 subsection within the time and in the manner as may be required.

20 (2) The Nigerian Customs Service mineral export desk shall allow
21 for export only mineral consignments accompanied by a Country Certificate
22 of Origin issued by the Commission and an Export Warrant issued by the
23 Central Bank of Nigeria.

24 (3) A person who fails to comply with the provisions of subsections
25 (1) and (2) of this section, commits an offence and is liable on conviction-

26 (a) at the first instance, to a fine not exceeding Five million Naira or
27 to imprisonment for a term not exceeding 2 years or both; and

28 (b) on a subsequent offence, to a fine not exceeding ten million
29 naira or to imprisonment for a term not exceeding 5 years or both.

30 (4) A proper officer of the Nigerian Customs Service may refuse to

Declaration by
Exporter of
minerals, etc.

PART 3

1 accept the entry of any mineral in respect of which he is satisfied that the
 2 provisions of subsection (1) and (2) of this section have not been complied
 3 with.

Scientific
specimen

4 **179.-(1)** Where any mineral is exported solely for the purpose of
 5 analysis or experiment or as a scientific specimen, the certificate shall be
 6 forwarded to the Commission and the person exporting the sample shall obtain
 7 a certificate of the result of analysis of the sample and deliver, a true copy of the
 8 certificate to the Commission within six months of the exports of the sample.

9 **(2)** A person who fails to comply with the provisions of this section
 10 commits an offence and is liable on conviction to a fine of not more than
 11 N1,000,000.00 and not less than N100,000.00.

Boundary

12 **180.** A mineral title, temporary title or mining lease shall be bounded
 13 by vertical planes from the surface boundary lines drawn downwards to an
 14 unlimited depth from surface.

Power to seize

15 **181.-(1)** An officer of the Commission authorized in that behalf may
 16 arrest without warrant, any person whom he finds committing or reasonably
 17 suspects to have committed an offence under this Act or regulations made
 18 under it and may seize-

19 (a) any tool, implement, or vehicles used in committing the offence;
 20 and

21 (b) any mineral won illegally.

22 **(2)** A person arrested and the items seized, shall be kept in the custody
 23 of the Police and taken within 48 hours before the Court and if the person is
 24 found guilty, he shall in addition to any other punishment provided for under
 25 this Act or any enactment, forfeit the seized items to the Federal Government.

26 **(3)** The Commission may, by notice in writing require any lessee, or
 27 any person employed by the lessee or holder of Mineral title to appear before
 28 the mines officer at a reasonable time and place and give information regarding
 29 mining operations in or about the area of the mining which he possesses, and
 30 the lessee, holder or any other person acting for the lessee or holder shall

1111.1000 comply with the notice and give information as may be required.

2.11.1000 (4) The Commission may, in writing, direct that prospecting or
3.11.1000 mining operations be suspended in an area, whether it is the subject of a
4.11.1000 mining lease or exploration licence or not, until such arrangements as are in
5.11.1000 its opinion necessary to prevent danger to life or property or to compliance
6.11.1000 with the act are made.

7.11.1000 (5) The Commission may cancel or vary the terms of any notice or
8.11.1000 directions issued by it under subsection (4) of this section.

9.11.1000 (6) A direction issued under subsection (4) of this section shall
10.11.1000 lapse after 14 days of its issuance, unless it is varied or cancelled by the
11.11.1000 Commission.

12 CHAPTER VIII - OFFENCES AND PENALTIES

13.11.1000 182. Any person who carries out mining operation without mineral
14.11.1000 title commits an offence and is be liable upon conviction to forfeit the
15.11.1000 minerals won and the equipment used in the illegal mining or to a fine of not
16.11.1000 exceeding N20,000,000.00 or to imprisonment for a term not exceeding five
17.11.1000 years or both.

Mining without Minerals Title

18.11.1000 183. Any mineral title holder or person who carries out mining
19.11.1000 operation with an expired mineral title commits an offence and is be liable
20.11.1000 upon conviction to a fine of not exceeding N10,000,000.00 or to
21.11.1000 imprisonment for a term not exceeding three years or both. Provided that
22.11.1000 any mining operation after applying for renewal of mineral title and before
23.11.1000 the renewal shall not be construed to be an offence under this section.

Mining with expired Mineral Title

24.11.1000 184. A holder of Prospecting Permit or exploration licence who is
25.11.1000 engaged in mining operation with the Exploration Licence commits an
26.11.1000 offence and is liable upon conviction to forfeit the minerals won in addition
27.11.1000 to fine of not exceeding N20,000,000.00 or to imprisonment for a term not
28.11.1000 exceeding five years or to both.

Mining with Prospecting Permit or Exploration Licence

29.11.1000 185. Any person who without licence to possess and purchase
30.11.1000 minerals granted under this Act, purchases any minerals whether from a

Possession and purchase of minerals without licence to possess and purchase

1 mineral title area or not commits an offence and shall be liable upon conviction
2 to forfeit the minerals purchased in addition to fine of not exceeding
3 N10,000,000.00 or to imprisonment for a term not exceeding three years or to
4 both fine and imprisonment. Provided that any person who possess or
5 purchased sand, laterite and stone aggregate from any mineral title holder or
6 mineral title area shall not be liable under this section.

Illegal Exportation
of minerals

7 **186.-(1)** Any mineral title holder or person who engages in exporting
8 of minerals without licence to possess and purchase minerals, and without
9 payment of royalty and export clearance commits an offence under this Act and
10 shall be liable upon conviction to forfeit the minerals sought to be exported in
11 addition to a fine of not less than N10,000,000.00 or to imprisonment for a term
12 not exceeding five years or to both.

13 (2) Any person who abates, conspires or conceals the commission of
14 an offence under subsection (1) of this section commits an offence and upon
15 conviction shall be liable to a fine of not exceeding one million naira or to
16 imprisonment for a term not exceeding one year or to both.

Illegal mining
and false
statements

17 **187.-(1)** A person who-

18 (a) conducts exploration or mines minerals or carries out quarrying
19 operations otherwise than in accordance with the provisions of the Act;

20 (b) in making application for mineral title, knowingly makes a
21 statement which is false or misleading in any material particular;

22 (c) in any report, return or affidavit submitted in pursuance of the
23 provisions of this Act, knowingly gives any information which is false or
24 misleading or fails to declare in any material particular;

25 (d) removes, possesses or disposes of any mineral contrary to the
26 provisions of this Act, commits an offence and is liable upon
27 conviction to a revocation of his licence in the first instance, to a fine not
28 exceeding N20,000.00 and imprisonment of not more than five years or both.

29 (2) where the offence mentioned in subsection (1) of this section is a
30 continuing one, whether or not it is a first offence, the person convicted shall, in

1 addition, be liable to a fine of N20,000.00 in respect of each day during
2 which the default continues.

3 188. A person who keeps or uses any false or fraudulent scale or
4 weight for weighing ores, metals or minerals, or uses any false or fraudulent
5 assay scale or weight or enriched fluxes used for ascertaining the assay value
6 of minerals, commits an offence under this Act, and is liable on conviction to
7 a fine of not less than N100,000.00 or more than N1,000,000.00 or to
8 imprisonment for a term not less than 1 year or to both.

Use of false or
fraudulent scales

9 189.-(1) A person who falsely represents that he obtained the grant
10 of an exploration licence, temporary title, mining, or other mining title and
11 by that representation, induces or attempts to induce any person to invest
12 capital in a company or syndicate connected with the company, before he
13 actually obtains the grant of the mining title, shall forfeit any claim to the
14 grant of the mining title.

Misrepresentation

15 (2) Where a person who makes a false representation as in
16 subsection (1) of this section is a holder of another mining title, that mining
17 title shall be revoked.

18 (3) Nothing in this section shall be construed as preventing a
19 person who makes a false representation from liability to civil action or a
20 criminal prosecution in respect of the representation.

21 190. A person who without lawful authority willfully breaks,
22 defaces or removes or in any other way interferes with any boundary mark,
23 beacon pillar or post erected for any of the purposes of this Act or the
24 Regulations made under it, without necessary approval or authority under
25 this Act commits an offence.

Unlawful
interference

26 191.-(1) A person commits an offence where, without lawful cause
27 he-

Obstruction

28 (a) interferes with or obstructs any mining or quarrying operations
29 authorized by or under this Act; or

30 (b) interferes with any machinery, plant work or property on, in,

1 under or over land in exercise of a right conferred by or under this Act,

2 (2) A person who commits an offence under section 194 and
3 subsection (1) of this section is liable on conviction-

4 (a) at the first instance, to a fine not exceeding Five hundred thousand
5 naira or to imprisonment for a term not exceeding 2 years or both; and

6 (b) on a second or subsequent offence, to imprisonment for a term not
7 exceeding 5 years.

8 (3) If the offence is a continuing one whether or not it is a first offence,
9 the person convicted shall, in addition, be liable to a fine of N1 0,000.00 in
10 respect of each day or part of a day the default continues.

Offences by
body corporate

11 192. Where a body corporate commits an offence under this Act a
12 person who at the time of the commission of the offence was a director, chief
13 executive officer, manager, secretary or other similar officer of the body
14 corporate or any person purporting to act in any such capacity or was
15 responsible for the management of any of the affairs of the body corporate may
16 be-

17 (a) may be charged severally or jointly in the same proceedings with
18 the body corporate; and

19 (b) if the body corporate is found guilty of the offence, shall be
20 deemed to be guilty of that offence unless, having regard to the nature of his
21 functions in that capacity and to all circumstances, he proves that-

22 (i) the offence was committed without his knowledge, consent or
23 connivance, and

24 (ii) he had taken all reasonable precautions and exercised due
25 diligence to prevent the commission of the offence.

General penalties

26 193. Where no specific penalty is prescribed in this Act or the
27 regulations for any offence, a person found guilty of such offence shall-

28 (a) as a first offender, be liable to a fine not exceeding N5,000,000.00
29 or to imprisonment for a term not exceeding 1 year or to both such fine and
30 imprisonment; and

1 (b) for a subsequent conviction, to a fine not less than
2 N5,000,000.00 or to imprisonment for a term not exceeding 3 years or to
3 both such fine and imprisonment.

4 194. The Commission may in writing authorise any of its officials
5 or appoint external inspectors on its behalf to exercise the powers of
6 monitoring and enforcement vested in the Commission under this Act.

Powers of entry
and inspection by
inspectors

7 (2) The Commission may direct its authorized officials or
8 appointed inspectors to investigate the activities of any mineral title holder
9 or other person material to his compliance with this Act or the regulations
10 pursuant to its information-gathering, monitoring, enforcement and other
11 related powers under this Act.

12 (3) In exercising any of the powers specified in subsection (2) of
13 this section and notwithstanding any other provision of this Act, an
14 authorized official of the Commission or its appointed inspector-

15 (a) shall on demand produce to the person against whom he is
16 acting, the authority issued to him by the Commission; and

17 (b) may at any reasonable time and without prior notice, enter any
18 affected person or mineral title holder's premises and-

19 (i) inspect and make copies of or extracts from books, records,
20 documents or other information storage systems,

21 (ii) demand the production of and inspect the relevant licence,
22 leases, permit, certificate or authority; and

23 (iii) inspect any mining apparatus or other mining equipment or
24 facilities on the premises:

25 Provided that the officer or appointed inspector shall have in his
26 possession for the purposes of entering any affected person's premises who
27 is not a mineral title holder, a warrant for that purpose obtained from a
28 Magistrate or Judge prior to the entry into such premises.

1 CHAPTER IX

2 REPEAL AND SAVINGS PROVISION

3 TRANSITIONAL PROVISIONS

4 PART I - REPEAL AND SAVINGS

Repeal

5 **195.**-(1) The Nigerian Minerals and Mining Act, 2007 is hereby
6 repealed.

7 (2) The repeal of the Nigerian Minerals and Mining Act, 2007
8 ("Repeal Act") shall not affect anything done or purported to be done under the
9 repealed Act.

Existing rights,
interest, under
the repealed Act

10 **196.**-(1) The rights, interests, obligations and liabilities of the
11 Commission's predecessors in office existing before the commencement of
12 this Act under any contract or instrument, or in law or in equity shall by virtue
13 of this Act be deemed to have been preserved, assigned to and vested in the
14 Commission established by this Act to the extent that they are not inconsistent
15 howsoever with any of the provisions of this Act.

16 (2) Any such contract or instrument as is mentioned in sub-section (1)
17 of this section shall be of the same force and effect against or in favour of the
18 Commission established by this Act and shall be enforceable as fully and
19 effectively as if instead of the Commission's predecessors in office or similar
20 agency existing before the commencement of this Act the Commission
21 established by this Act had been named therein or had been a party thereto
22 provided that such contract or instrument is not inconsistent with any of the
23 provisions of this Act.

Outstanding
obligations and
liabilities under
the repealed Acts

24 **197.** The Commission established by this Act shall be subject to all the
25 obligations and liabilities to which the Commission's predecessors in office or
26 similar agency existing before the commencement of this Act was subject to
27 immediately before the commencement of this Act and all other persons shall
28 have the same rights, powers and remedies against the Commission established
29 by this Act as they had against the Commission's predecessors in office or
30 similar agency existing before the commencement of this Act provided that

1 such obligations, liabilities, rights, powers and remedies are not inconsistent
2 with any of the provisions of this Act.

3 198. Any proceeding or cause of action pending or existing
4 immediately before the commencement of this Act by or against the
5 Commission's predecessors in office or similar agency in respect of any
6 right, interest, obligation or liability of the Commission's predecessors in
7 office or similar agency pursuant to the repealed Act may be continued or, as
8 the case may be, commenced and any determination of the court of law,
9 tribunal or other authority or person may be enforced by or against the
10 Commission established by this Act as if such proceeding or cause of action
11 or determination was continued, commenced or enforced by or against the
12 Commission under this Act provided that such proceeding or cause of action
13 or determination is not inconsistent with any of the provisions of this Act.

Pending proceedings
or causes of actions
under the repealed
Acts

14 199. All assets, funds, resources and other moveable or
15 immoveable property which immediately before the commencement of this
16 Acts were vested in the Commission's predecessors in office or similar
17 agency pursuant to the repealed Act shall be vested in the Commission
18 established by this Act.

Commission's
assets, fund, etc.
pursuant to
repealed Acts

19 200. Any person who, immediately before the commencement of
20 this Act, was holding any Office to which appointments may be made under
21 this Act shall continue in that Office and be deemed for the purposes of this
22 Act to

Savings in
respect of Office
holders

23 201.-(1) Any person who, immediately before the appointed date,
24 was the holder of a right or a lease or a licence under the repealed Act shall be
25 deemed to have become on the appointed date the holder of an interim right,
26 lease or licence.

Savings provisions
in respect of
mineral titles
granted under the
repealed Act

27 (2) During the interim period, the holder of an interim right or lease
28 or licence is authorised to carry on the operations which he was authorised to
29 carry on immediately before the appointed date under the right, lease or
30 licence of which he was the holder, and in carrying on those operations the

1 holder of the interim right, lease or licence shall in respect of those operations
2 enjoy the same rights and be subject to the same liabilities as if the repealed Act
3 were still in force.

4 (3) The holder of existing mineral title under the repealed Act shall
5 immediately upon the commencement of this Act, apply for and be entitled, as
6 the case may be, to the grant of-

7 (a) a Prospecting Permit;

8 (b) an Exploration Licence under this Act in respect of the area
9 covered by the interim right or licence;

10 (c) a Small-scale Mining Lease;

11 (d) a Mining Lease;

12 (e) a Quarry Lease; or

13 (f) a Water Use Permit.

14 (4) A mineral title granted under subsection (1) of this section shall be
15 deemed to have been granted on the date on which the mineral title under the
16 repealed Act was granted, and shall remain in force, subject to this Act, for a
17 period equal to the unexpired period of the mineral title under that Act.

18 (5) A Small-scale Mining Lease granted under subsection (1) of this
19 section shall-

20 (a) remain in force, subject to this Act, for such period, not exceeding
21 the unexpired period of the mining licence or lease which remained at the
22 appointed date, or the period of five years, whichever is lesser; and

23 (b) require compliance with the programme of development and
24 mining under the repealed Act.

25 (6) A Mining Lease granted under this section shall-

26 (a) remain in force, subject to this Act, for a period equal to the
27 unexpired residue of the Mining Lease held under the repealed Act;

28 (b) require compliance with the programme of development and
29 mining under the repealed Act;

30 (c) require compliance with an Environmental Protection and

1 Rehabilitation Program drawn up by the holder of the interim lease which
2 shall be approved by the Commission as may be established and shall form
3 part of the conditions of the Mining Lease, provided that-

4 (i) it meets the requirements of this Act; and

5 (ii) where the Commission considers that the program does not
6 meet the requirement of this Act, the matter in dispute shall be referred to an
7 independent expert chosen by agreement between the Committee and the
8 holder of the interim lease, whose decision shall be binding; and

9 (iii) in the event that the Committee and the interim holder are
10 unable to agree on the choice of the expert, the expert shall be appointed by
11 the Chief Judge of the Federal High Court.

12 (7) Where the holder of an interim lease who, immediately before
13 the appointed date, held a Mining Lease under the repealed Act elects to
14 apply for a Small-scale Mining Lease under this Act, the Commission may,
15 if the holder of the interim lease has before the appointed date been carrying
16 on mining operations on a substantial scale, direct the applicant to apply for
17 a Mining Lease and in any such case the provisions set out in this Section
18 shall apply as though the holder of the interim lease had elected to apply for a
19 Mining Lease.

20 (8) The holder of an interim lease who, immediately before the
21 appointed date, held a Mining Lease or Quarrying Lease for building or
22 industrial minerals granted under the repealed Act, may apply for, and shall
23 be granted, in respect of the area covered by his interim Mining Licence or
24 Lease under this Act or a Quarry Lease.

25 (9) A Quarry Lease granted under this Section shall-

26 (a) be granted for such period as may be applied for, but not
27 exceeding the unexpired period of the Mining Licence or Lease which
28 remained at the appointed date, or the period of ten years, whichever is
29 greater; and

30 (b) comply with the requirements attached to the Mining Licence

1 or Lease granted under the repealed Act.

2 (10) The holder of an interim right or lease or licence for water who,
3 immediately before the appointed date, held a right, lease or licence for water
4 granted under the repealed Act may apply for, and shall be granted, in respect of
5 the area covered by his interim right, or lease or licence a Water Use Permit.

6 (11) A Water Use Permit granted under this section shall-

7 (a) be granted for as long as the Mining Lease, Small-scale Mining
8 Lease or Quarry Lease for which use it was granted remains valid; and

9 (b) Comply with the requirements attached to the water right, lease or
10 licence granted under the repealed Act.

11 (12) During the interim period and thereafter, if the transformation
12 has been effected in accordance with this Act, the right, lease or licence held
13 under the repealed Act shall be adapted to the geometry and boundaries
14 introduced by the Commission and shall be granted subject to the procedures
15 and requirements of the Commission, including the payment of the rental and
16 other fees.

Interpretation

17 **202.** In this Act-

18 "access order" means an order issued by the Commission to the owner,
19 occupier, or user of land to compel the user or occupier of land subject to the
20 mineral title to give the holder of the mineral title access to the land for the
21 exercise of his rights under such title or permit;

22 "alluvial" includes any form of mineral deposit, other than carbonaceous
23 deposit, which does not fall within the definition of "lode";

24 "application" means an application for the grant or modification of a mineral
25 title made in accordance with this Act;

26 "arbitration" means arbitration in accordance with the Arbitration and
27 Conciliation Act (Chapter 19 of the Laws of the Federation of Nigeria, 1990);

28 "artisanal mining" means mining operations limited to the utilisation of non-
29 mechanised methods of reconnaissance, exploration, extraction and
30 processing of mineral resources within an Artisanal Small-scale Mining

- 1 Licence Area;
- 2 "beneficiation" means the crushing and separating of mineral ore into
3 valuable substances or waste by any of a variety of techniques;
- 4 "Board" means the Board of Commission established under this Act;
- 5 "Companies and Allied Matters Act" means the Companies and Allied
6 Matters Act, Cap. C20 Laws of the Federation of Nigeria, 2004;
- 7 "Competent Person" means a person with the requisite qualification to plan,
8 and carry out a prospecting, exploration and mining activities in the
9 prescribed manner and is a member of a certified professional bodies
10 including Council Of Mining Engineers and Geoscientist (COMEG);
- 11 "Commission" means the Nigerian Minerals and Mining Commission
12 established under this Act;
- 13 "Committee" or "the Mineral Resources and Environmental Management
14 Committee" means the Committee established under section 45 (1) of this
15 Act;
- 16 "Consolidated Revenue Fund" means the Fund established by section 80 of
17 the Constitution of the Federal Republic of Nigeria 1999;
- 18 "Council" means the Federal Executive Council of the Federal Republic of
19 Nigeria;
- 20 "Court" means a court of law of competent jurisdiction;
- 21 "Environmental Protection and Rehabilitation Fund" means the
22 Environmental Protection and Rehabilitation Fund established under this
23 Act;
- 24 "Environmental Protection and Rehabilitation Program" means the
25 Environmental Protection and Rehabilitation Program required to be
26 provided under this Act;
- 27 "Exclusive Economic Zone" means the Exclusive Economic Zone of
28 Nigeria as defined in the Exclusive Economic Zone Act, Cap. E17 Laws of
29 Federation of Nigeria, 2004;
- 30 "explore" means the operations and works aimed at the discovery, the

- 1 determination of characteristics and the evaluation of the economic value of
2 mineral resources within an Exploration Licence Area;
- 3 "Exploration Licence Area" means an area that is the subject of an Exploration
4 Licence;
- 5 "Exploration Licence" means Exploration Licence granted under the
6 provisions of this Act;
- 7 "exploration operations" means the operations and works carried out in the
8 course of exploration;
- 9 "Equipment" means any equipment or apparatus used or intended to be used for
10 mining and that is part of or connected to or comprises mining activities;
- 11 "Federal Government" means the Federal Government of the Federal Republic
12 of Nigeria;
- 13 "Federal Mines Officer" means the head of the Mines Inspectorate Division of
14 the Federal Ministry of Solid Minerals within a State;
- 15 "Gazette" means an Official Gazette of the Federal Republic of Nigeria;
- 16 "holder of a mineral title" means the person to whom such mineral title was
17 granted and, where a mineral title has been validly transferred, includes a
18 person in whom such mineral title or a part of the rights thereunder has become
19 vested by assignment but does not include a mortgagee or charge or a holder of
20 a security interest thereon;
- 21 "holder of a right of occupancy" means a person entitled to a right of occupancy
22 granted or deemed to be granted by virtue of the Land Use Act, Cap. L5, Laws
23 of the Federation of Nigeria, 2004 and includes any person to whom a right of
24 occupancy has been validly assigned or has validly devolved on the death of a
25 holder of a right of occupancy but does not include any person to whom a right
26 of occupancy has been sold or transferred without a valid assignment, nor a
27 'mortgagee', 'sub-lessee' or 'sub-under lessee' thereof;
- 28 "lawful occupier" in relation to any land means a person who is in actual
29 occupation of the land or any part of it and where there is more than one person,
30 means that one of them who is the owner, or who is responsible or would be so

1 responsible if the land were let at a rent or otherwise occupied in
2 circumstances in which consideration or damages for such occupation
3 would be payable;

4 "lode" includes any true mineralised fissure vein, contact vein, segregated
5 vein, bedded vein, metalliferous blanket, stock word, such irregular deposits
6 as conform generically, to the above classification, any igneous rock
7 containing metalliferous or radioactive mineral when work for that mineral,
8 and bed of any mineral, including bed of ironstone;

9 "mine" when used as a noun, means any place, excavation or working in or
10 on which any operation connected with mining is carried on together with all
11 buildings, premises, erections, infrastructure, water reservoirs, tailings,
12 ponds, waste, overburden and other dumps, and appliances belonging or
13 appertaining thereto, above or below the ground for the purpose of mining,
14 treating or preparing minerals, obtaining or extracting any mineral or metal
15 by any mode or method or for the purpose of dressing mineral ores but does
16 not include a smelter or a refinery;

17 "mine" when used as a verb, means to intentionally mine minerals, and
18 includes any operations directly or indirectly necessary therefore or
19 incidental thereto, including such processing of minerals as may be required
20 to produce a first saleable product, and

21 "mining" shall be construed accordingly;

22 "minerals" or "mineral resources" means any substance whether in solid,
23 liquid or gaseous form occurring in or on the earth, formed by or subjected to
24 geological processes including occurrences or deposits of rocks, coal, coal
25 bed gases, bituminous shales, tar sands, any substances that may be
26 extracted from coal, shale or tar sands, mineral water, and mineral
27 components in tailings and waste piles, but with the exclusion of petroleum;

28 "mineral exploitation" means operations and works related to the technical
29 and economic utilisation of mineral resources, including mine development,
30 extraction, treatment, processing and beneficiation of mineral resources as

- 1 well as the activities necessary or related to the marketing of such mineral
2 resources;
- 3 "mineral title" means Prospecting Permit, Exploration Licence, Small-scale
4 Mining Lease, Artisanal Small-scale Mining Licence, Mining Lease, Water
5 Use Permit, or Quarry Lease or anyone of these titles, consistent with the
6 context in which the term "mineral title" is used;
- 7 "Mining Co-operative" means a group of artisanal miners registered as a co-
8 operative under relevant Federal or State laws and Mining Co-operatives shall
9 be construed accordingly; "Mining Lease" means the Mining Lease granted
10 under this Act;
- 11 "mining operations" means the operations and works carried out in the course
12 of Mineral Exploitation, inclusive of the search for and exploration for
13 Minerals, beneficiation, processing and contract mining;
- 14 "Mining Lease Area" means an area subject to a Mining Lease Area;
- 15 "Minister" means the Minister responsible for Solid Minerals Development;
- 16 "Ministry" means the Federal Ministry for the time being charged with the
17 responsibility for mineral resources; "Mineral Title Area" means an area in
18 Nigeria that is subject to a mineral title;
- 19 "permit" means a permit granted under this Act;
- 20 "person" means an individual or a corporate entity, partnership, joint venture,
21 co- operative, trust, or other entity that is recognised by the law as a distinct
22 body with the right to enter into contracts and to own property;
- 23 "petroleum" means any naturally occurring hydrocarbons, or any naturally
24 occurring mixture of hydrocarbons, or any naturally occurring mixture of one
25 or more hydrocarbons, whether in a gaseous, liquid or solid state and any other
26 substance, and including the substances already named, that has been returned
27 to a natural reservoir, but does not include coal, bituminous shales, tar sands,
28 any substance that may be extracted from coal, shale or tar sands or any other
29 stratified deposits from which oil can be extracted by destructive distillation;
- 30 "pollution" means any change in the environment caused by substances, radio-

1 active or other waves, noise, odours, dust or heat emitted from any activity,
2 including the storage or treatment of waste or substances, construction or the
3 provision of services where that change has an adverse effect on human
4 health or well-being or on the composition or resilience and productivity of
5 natural or managed ecosystems or on materials useful to people, or will have
6 such an effect in the future and "pollutes" shall be construed accordingly;
7 "prescribed" means as prescribed by the Regulations;
8 "President" means the President of the Federal Republic of Nigeria;
9 "processing" means the operations and works carried out in the course of
10 mineral exploration in order to obtain metals, alloys, or other mineral
11 commodities requiring treatment from other mineral substances either as
12 extracted or as previously subjected to treatment as provided for under this
13 Act;
14 "protected trees" means trees which are for the time-being declared to be
15 protected trees under the Forestry Law of a State and includes all trees
16 within a forest reserve or a National Park;
17 "Prospecting" means the operations and works to carry out the search for
18 minerals through physical observation, pitting, trenching, rock sampling,
19 geological surface and sub- surface analysis, (not beyond 15 meters depth)
20 geo-physical surveys, geo-chemical surveys, photo-geological surveys by
21 other non-obstructive surveys or studies of surface geology or by other
22 remote sensing techniques, laboratory testing and assays;
23 "Prospecting area" means an area of land that is the subject of a Prospecting
24 Permit;
25 "Prospecting operations" means the activities conducted further to a
26 Prospecting Permit;
27 "Prospecting Permit" means a Prospecting Permit issued under this Act;
28 "Reconnaissance" means activities which shall be limited to collection of
29 surface samples, photography and surveyor any other such activity as shall
30 not disrupt the ecology of the environment in areas other than lands cover by

1 SECOND SCHEDULE

2 *Sections 7(3) & 14(3)*

3 CONFLICT OF INTEREST

4 1. Subject to the provisions of this Schedule, no Commissioner or
5 staff of the Commission shall have a direct or indirect financial interest or
6 investment in any Nigerian Mining company throughout the tenure of his
7 office or employment with the Commission.

8 2. Subject to paragraphs 3 and 4 hereof, each Commissioner or staff
9 of the Commission shall on an annual basis present a written declaration
10 affirming the non- existence of any such interest as is specified in paragraph 1
11 and shall pledge to disclose and inform the Commission of any such
12 relationship or interest that arises or is likely to arise during his tenure or
13 employment with the Commission.

14 3. Serving Commissioners and staff of the Commission as at the
15 commencement date of this Act shall be entitled to a maximum of 6 months
16 from the said commencement date within which to divest themselves of their
17 direct or indirect financial interests or investment in any Nigerian Mining
18 company, if any.

19 4. All newly appointed Commissioners and staff of the Commission
20 after the commencement of this Act shall be entitled to a maximum of 6 months
21 from their respective dates of appointments within which to divest themselves
22 of their direct or indirect financial interests or investments in any Nigerian
23 Mining company, if any.

24 5. Each Commissioner or staff of the Commission shall declare on
25 appointment or at the commencement of employment and annually thereafter,
26 for as long as he serves the Commission, any interest or investment that he-

27 (a) knowingly has; or

28 (b) knows any member of his immediate family to have in any aspect
29 of the Nigerian Mining industry.

30 6.-(1) If a Commissioner contravenes the provisions of paragraphs 1

1 and 2 of this Schedule, or gives false information under paragraph 5 of this
2 Schedule, he shall be liable, on conviction, to the payment of a fine not
3 exceeding N10,000,000.00 or imprisonment of a term not exceeding 1 year
4 or to both.

5 (2) If a staff of the Commission contravenes the provisions of
6 paragraphs 1 and 2 of this Schedule, or gives false information under
7 paragraph 5 of this Schedule, he shall be liable, on conviction, to the
8 payment of a fine not exceeding N5,000,000.00 or imprisonment of a term
9 not exceeding 1 year or to both.

10 7. The Commission in determining whether or not the interest of a
11 Commissioner or staff of the Commission is minimal or not of a material
12 nature shall consider factors including but not limited to the following-

13 (a) the revenues, investments, profits and managerial efforts of the
14 relevant company or other entity in regard to its mining activities compared
15 with other aspects of the company's or such entity's businesses;

16 (b) the extent to which the Commission regulates and oversees the
17 activity of such company or entity;

18 (c) the degree to which the economic interests of such company or
19 other entity may be affected by an action of the Commission; and

20 (d) the perceptions held or likely to be held by the public regarding
21 the relevant person's financial interest or investment in that company or
22 other entity.

23 8. For the purposes of this Schedule-

24 "company" includes mineral title holder;

25 "immediate family" means a person's spouse and children who are above the
26 age of 18 years.

EXPLANATORY MEMORANDUM

This Bill seeks to repeal the Nigerian Minerals and Mining Act 2007 and to establish the Nigerian Minerals and Mining Commission.

