

# STATUTORY INSTRUMENTS

2004 No. 71.

THE MINING REGULATIONS, 2004.

ARRANGEMENT OF REGULATIONS.

*Regulation*

## PART I—PRELIMINARY.

1. Title.
2. Interpretation.

## PART II—PROSPECTING LICENCES.

3. Application for prospecting licence.
4. Grant of prospecting licence.
5. Prospectors to report operations.

## PART III—PRIORITY.

6. Priority between applicants for the grant of mineral right other than a prospecting licence.
7. Procedure where priority cannot be established.
8. Procedure on receipt of application for mineral right.

## PART IV—EXPLORATION LICENCES.

9. Shape of exploration area.
10. Beacons to be erected before application.
11. Application for exploration licence.
12. Documents to accompany application for exploration licence.
13. Form and processing of exploration licence.

*Regulation*

14. Number of exploration licence to be marked on all beacons.
15. Transfer instruments and surrender of exploration licence.
16. Working obligations of holder of exploration licence.
17. Application for renewal of exploration licence.
18. Application of Parts IX and X to exploration licence.

## PART—RETENTION LICENCES.

19. Application for retention licence.
20. Rights and obligations of holder of retention licence.
21. Transfer, surrender and renewal of retention licence.
22. Application of Parts IX and X to retention licence.

#### PART VI—LOCATION LICENCES.

23. Application for location licence.
24. Number of location licence to be marked on all notice boards.
25. Working obligations of holder of location licence.
26. Transfer, surrender and renewal of location licence.
27. Amalgamation of location licences.
28. Classification of areas and dimensions of location licence areas.
29. Shape of location licence area other than Class V and Class VII location licence.
30. Erection of beacons.
31. Classification of areas and dimensions of class V location licence areas.
32. Erection of beacons and measurements relating to class V location licence.
33. Marking out of area of class VII location licence.
34. Application of Parts IX and X to location licence.

#### PART VII—MINING LEASES.

35. Area and shape of mining lease.
36. Forms in connection with mining lease.
37. Marking out area of mining lease.
38. Application for mining lease.
39. Notice to land owners and lawful occupiers of land on grant of mining lease.

#### *Regulation*

40. Removal of certain land owners or lawful occupiers of land.
41. Grant of mining lease subject to survey.
42. Preparation of mining lease.
43. Application of Parts IX and X to mining lease.
44. Number of mining lease to be marked out on beacon.
45. Amalgamation of mining leases.
46. Labour or development work on amalgamated mining leases.
47. Working obligations of holder of mining lease.
48. Transfer, surrender and renewal of mining lease.

#### PART VIII—REPRESENTATIVES, RECORDS AND RETURNS.

49. Non-resident holder of mineral right to appoint an agent by power of attorney.
50. Appointment of an agent.
51. Service of notice relating to safety, health and welfare.
52. Records to be kept.
53. Monthly returns to be furnished.

#### PART IX—BEACONS, BOUNDARIES AND SURVEYS.

54. Erection and removal of beacons.
55. Temporary beacons.
56. Permanent beacons.
57. Boundaries.
58. Government protection area beacon.
59. Maintenance of beacons, boundaries and boundary marks.
60. Removal of obsolete beacons.
61. Additional demarcation and survey of area included in mineral right.

PART X—REGISTRATION.

- 62. Registers.
- 63. Mode of application for registration.

PART XI—PROTECTION OF THE ENVIRONMENT.

- 64. Preparation and submission of project brief.
- 65. Review of project brief.

*Regulation*

- 66. Submission of environmental restoration plan by holder of exploration licence or mining lease.
- 67. Environmental monitoring plan.
- 68. Environmental impact assessment.

PART XII—FINANCIAL PROVISIONS.

- 69. Miscellaneous fees.
- 70. Mineral rents.
- 71. Royalties.
- 72. Rates and method of calculation of royalties.

PART XIII—MISCELLANEOUS.

- 73. Disposal of tailings.
- 74. Mineral dealer's licence and export of minerals.
- 75. Goldsmith's licence, etc.
- 76. Inquiry proceedings.
- 77. Import of minerals.
- 78. Forfeiture of minerals by court.
- 79. Safety measures in respect of pits, excavations, etc.
- 80. Prohibition of the movement of minerals by night.
- 81. Liability of mineral dealers.
- 82. Evidentiary certificate.
- 83. Penalty for failing to keep records or giving false information, etc.
- 84. Replacement of original instruments.
- 85. General penalty.
- 86. Revocation of Mining Regulations, S.I. 248-3.

# STATUTORY INSTRUMENTS

## 2004 No. 71.

### The Mining Regulations, 2004.

*(Under section 121 of the Mining Act, 2003, Act No. 9 of 2003).*

IN EXERCISE of the powers conferred upon the Minister by section 121 of the Mining Act, 2003, these Regulations are made this 2nd day of September, 2004.

#### PART I—PRELIMINARY.

##### **1. Title**

These Regulations may be cited as the Mining Regulations, 2004.

##### **2. Interpretation**

(1) In these Regulations, unless the context otherwise requires—

“Act” means the Mining Act, 2003, Act 9 of 2003;

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

“mineral rent” means the amount payable under section 106 of the Act as specified in Third Schedule to these Regulations;

“NEMA” means the National Environment Management Authority established under the National Environment Statute, Cap. 153;

“win minerals” means intentionally to mine for minerals and includes any mining or mineral processing operations.

(2) Any word, term or expression used in these Regulations, and which has been defined in the Act, shall have the meaning assigned to it by the Act.

#### PART II—PROSPECTING LICENCES.

##### **3. Application for prospecting licence**

(1) An application for the grant of a prospecting licence under section 19 of the Act shall be made to the Commissioner in Form I in the First Schedule to these Regulations, and shall—

(a) contain the particulars required in the Form; and

(b) be accompanied by the fee specified in the Third Schedule to these Regulations.

(2) Where the application is required to be supported by a power of attorney, Form XVI in the First Schedule to these Regulations shall be used.

#### **4. Grant of prospecting licence**

A prospecting licence may be granted by the Commissioner or by an authorized officer and shall be in Form XVIII in the First Schedule to these Regulations.

#### **5. Prospectors to report operations**

(1) Every holder of a prospecting licence, who intends to prospect under the authority of his or her licence in any district, shall notify the Chief Administrative Officer concerned in writing of his or her entry into the district to prospect.

(2) Every holder of a prospecting licence when intending to leave a district in which he or she has been prospecting, shall notify the Chief Administrative Officer concerned in writing of his or her intended departure.

(3) The holder of a prospecting licence, unless prospecting in the area of his or her exploration licence, retention licence, location licence or mining lease, shall keep a record in triplicate in Form XXV in the First Schedule to these Regulations, showing the sub-county or administrative sub-divisions in which he or she prospects each day and the kinds and quantities of minerals obtained, if any, in the course of the prospecting operations.

(4) Every holder of a prospecting licence shall send a copy of the record referred to in sub-regulation (3) of this regulation to the nearest office of the Commissioner so as to be received by the Commissioner not later than fourteen days after the end of the month to which the record relates.

### **PART III—PRIORITY.**

#### **6. Priority between applicants for the grant of mineral right other than a prospecting licence**

Where more than one person applies for the grant of a mineral right, other than a prospecting licence, and the lands or areas which form the subject of the applications overlap, the person who, in the opinion of the Commissioner, has duly marked out the land or area in question and applied for the grant of mineral right in respect of such land or area, shall be accorded priority over the other applicants; and where two or more persons have, in the opinion of the Commissioner, duly marked out the land or area in question and duly applied for the grant of a mineral right, then the first person to mark out the area shall have priority over the other person or persons.

#### **7. Procedure where priority cannot be established**

Where priority cannot, in the opinion of the Commissioner, be established in accordance with regulation 6 of these Regulations, the Commissioner shall, in his or her reasonable discretion, decide which application shall be accorded priority and approved.

#### **8. Procedure on receipt of application for mineral right**

On the receipt of an application for a mineral right, other than a prospecting licence, at the office of the Chief Administrative Officer of a district, the Chief Administrative Officer concerned or an officer authorized by him or her shall—

- (a) certify in ink on each copy of the application the date and time at which the application was received;
- (b) append his or her signature in ink and an official stamp to the application; and
- (c) endorse each page of the application and any accompanying documents, after which the applicant shall submit the application to the Commissioner.

### PART IV—EXPLORATION LICENCES.

#### **9. Shape of exploration area**

An area which is the subject of an application for exploration licence, shall be rectangular in shape with a minimum width of not less than one-third of the length; except that the Commissioner may, in his or her discretion, allow the area to be other than rectangular in shape where it is desired that a boundary may be identical with the boundary of another area or for other good cause; and in such a case the minimum width may be less than one-third of the length.

#### **10. Beacons to be erected before application**

Before an application is made for an exploration licence, temporary beacons, as defined in regulation 55 of these Regulations, shall be erected and trenches dug in the following manner—

- (a) a temporary beacon, to be known as “the location beacon”, shall be erected at one corner of the proposed exploration area;
- (b) the remaining corners of the proposed exploration area shall be marked out with temporary beacons which shall be known as “corner beacons”;
- (c) a temporary beacon shall be erected on one of the boundary lines forming the corner at which the location beacon is placed, visible and at a distance of not less than thirty metres from the location beacon and such beacon shall be known as “direction beacon”;
- (d) temporary beacons shall be erected at points where paths, roads, railways, telegraph lines or water courses cross the boundaries of the

proposed exploration area in question, and such beacons shall be known as “boundary beacons”;

- (e) temporary beacons shall consist of a post as described in regulation 55(2) of these Regulations with a notice board fixed on it and shall bear the following information clearly written on the board—
  - (i) the number of the applicant’s prospecting licence;
  - (ii) the nature of the beacon, whether a corner, direction or boundary beacon;
  - (iii) the applicant’s name and the name of any person for whom the applicant is acting;
  - (iv) the date and time of the erection of the beacon;  
and in the case of location and corner beacons—
  - (v) the magnetic bearing and the length of the boundary line forming the corner; and
  - (vi) where the area is not rectangular, a plan of the area.

#### **11. Application for exploration licence**

An application for an exploration licence shall—

- (a) be in Form II in the First Schedule to these Regulations;
- (b) be lodged (in 5 copies) with the Chief Administrative Officer of the relevant district for processing in accordance with regulation 8 of these Regulations within thirty days of erection of a location beacon for forwarding to the Commissioner;
- (c) contain the required particulars;
- (d) be accompanied by the mineral rent and fees specified in the Third Schedule to these Regulations; and
- (e) comply with section 26 to section 29 of the Act.

#### **12. Documents to accompany application for exploration licence**

(1) An application for an exploration licence shall be accompanied by—

- (a) a map (in five copies) on the scale 1: 50,000 of the area concerned—
  - (i) showing the position of the proposed exploration area in such a manner as will enable it to be located by the Commissioner;
  - (ii) giving the dimensions of the proposed exploration area;

(iii) indicating any beacons bordering the area applied for; and

(iv) signed by the applicant;

(b) a programme of exploration operations which the applicant undertakes to perform on the area applied for if the licence is granted;

(c) a statement of the approximate number of workers the applicant intends to employ on continuous exploration if the licence is granted; and

(d) a project brief as outlined in regulation 64 (1) of these Regulations.

(2) All maps submitted with the application shall be certified to be correct by the applicant.

(3) For the purpose of preparing the maps referred to in sub-regulation 1(a) of this regulation, reference materials may be obtained from the Commissioner or the Department of Surveys and Mapping.

### **13. Form and processing of exploration licence**

(1) An application for an exploration licence under section 26 of the Act shall be dealt with in accordance with regulation 8 of these Regulations.

(2) An exploration licence granted by the Commissioner under section 27 of the Act shall be in Form XIX in the First Schedule to these Regulations.

### **14. Number of exploration licence to be marked on all beacons**

Within fourteen days after the receipt of an exploration licence, the holder shall clearly mark and keep marked during the period of the exploration licence the number assigned to the licence by the Commissioner on every notice board.

### **15. Transfer instruments and surrender of exploration licence**

An application for consent to transfer a share in an exploration licence shall be in Form VII and the transfer instrument shall be in Form XXIX both in the First Schedule to these Regulations; and an application to surrender a licence shall be in writing accompanied by a surrender instrument in Form XLI in the First Schedule to these Regulations and the fee specified in the Third schedule in these Regulations.

### **16. Working obligations of holder of exploration licence**

(1) The working obligations in respect of an exploration licence shall be as specified in the Second Schedule to these Regulations.

(2) An application for a certificate of cessation, suspension or curtailment of working obligations in an exploration area shall be in Form IX in the First Schedule to these Regulations and shall be accompanied by the fee specified in the Third Schedule to these Regulations.



(3) Where the Commissioner is satisfied that good cause has been shown for such cessation, suspension, or curtailment, the Commissioner may grant a certificate in Form XXXIII in the First Schedule to these Regulations for such period and subject to such conditions as he or she may determine.

(4) Where the Commissioner is satisfied that good cause has been shown for further cessation, suspension or curtailment, a certificate of cessation, suspension or curtailment of working obligations may be renewed for such further periods as the Commissioner may determine.

(5) Where work is not resumed at the expiration of the period of cessation, suspension or curtailment, or where the conditions specified in the certificate are not complied with, the licence may be revoked by the Commissioner.

(6) A certificate of cessation, suspension or curtailment obtained through fraud or misrepresentation shall be null and void and the licence shall be liable to revocation, without prejudice to any penalty specified under regulation 83 of these Regulations.

#### **17. Application for renewal of exploration licence**

(1) An application for the renewal of an exploration licence shall—

(a) be made to the Commissioner in Form X in the First Schedule to these Regulations;

(b) comply with the requirements of section 30 of the Act; and

(c) be accompanied by—

(i) the certified maps showing that beacons have been erected in accordance with these Regulations to demarcate the reduced area(s); and

(ii) the documents required under regulation 12 of these Regulations; except that—

(aa) failure to make an application by the date prescribed by section 31 of the Act without good cause shown to the satisfaction of the Commissioner, may be considered grounds for refusal of the renewal; and

(bb) an application for renewal received by the Commissioner after the date of expiration of the exploration licence shall not be considered.

(2) Mineral rent and fees as specified in the Third Schedule to these Regulations and the original licence shall accompany an application for the renewal of an exploration licence.

(3) Where an application under sub-regulation (1) of this regulation has been made but the holder has not received notice that his or her licence has been renewed before the date on which such licence expires, the holder may continue with exploration operations until so notified; and if granted, the renewal shall take effect from the date on which the licence would, but for such renewal, have expired.

**18. Application of Parts IX and X to exploration licence**

The provisions of Parts IX and X of these Regulations shall, with necessary modifications, apply to an exploration licence.

PART V—RETENTION LICENCES.

**19. Application for retention licence**

(1) An application for a retention licence shall be—

- (a) in Form III in the First Schedule to these Regulations;
- (b) lodged (in five copies) with the Chief Administrative Officer of the relevant district within thirty days of erection of a location beacon, for forwarding to the Commissioner,
- (c) contain the required particulars; and
- (d) accompanied by the applicable mineral rent and fees specified in the Third Schedule to these Regulations.

(2) An applicant for a retention licence shall mark out the area over which he or she desires a licence in accordance with regulation 10 of these Regulations.

(3) An application for a retention licence shall be dealt with in the office of the Chief Administrative Officer in accordance with regulation 8 of these Regulations.

(4) Where the Commissioner is satisfied that good cause has been shown for the grant of a retention licence, the Commissioner may grant the licence in Form XX in the First Schedule to these Regulations for a period not exceeding three years and subject to such conditions as the Commissioner may determine.

**20. Rights and obligations of holder of retention licence**

(1) The rights and obligations of the holder of a retention licence are as specified in section 39 of the Act.

(2) Without prejudice to sub-regulation (1) of this regulation, the holder of a retention licence shall clearly mark out and keep marked out during the period of the retention licence, the number assigned to the licence by the Commissioner on every concrete of the beacon.

**21. Transfer, surrender and renewal of retention licence**

(1) Application for consent to transfer a retention licence shall be in Form VII in the First Schedule to these Regulations and the transfer shall be effected in accordance with the requirements of Form XXIX in the First Schedule to these Regulations.

(2) An application to surrender a retention licence shall be in writing accompanied by a surrender instrument in Form XLI in the First Schedule to these Regulations and the fee specified in the Third Schedule to these Regulations.

(3) An application for renewal of a retention licence shall be in Form X in the First Schedule to these Regulations and shall be accompanied by the applicable mineral rent and fees specified in the Third Schedule to these Regulations and by the original licence for endorsement.

(4) Where the Commissioner is satisfied that there is good cause for renewing a retention licence, the Commissioner may renew the licence for a single period not exceeding two years; and where no work has been done during the period of the retention licence or where the conditions specified in the retention licence have not been complied with, the licence shall be liable to revocation.

(5) A retention licence obtained through fraud or misrepresentation shall be null and void and the licence shall be liable to revocation without prejudice to any penalty specified in regulation 83 of these Regulations.

## **22. Application of Parts IX and X to retention licence**

The provisions of Parts IX and X of these Regulations shall, with necessary modifications, apply to a retention licence.

### PART VI—LOCATION LICENCES.

## **23. Application for location licence**

(1) An application for a location licence shall—

- (a) with respect to a location licence other than Class V and Class VII location licence, be in Form IV; and with respect to a Class V and Class VII location licence as specified in regulation 28 of these Regulations, in Form V both in the First Schedule to these Regulations;
- (b) be lodged (in five copies) with the Chief Administrative Officer of the district concerned within thirty days of the erection of a location beacon for forwarding to the Commissioner;
- (c) be accompanied by a map on scale 1: 50,000 (in five copies) signed by the applicant from available Government map showing the position of the location licence area in such a manner as will enable it to be identified by the Commissioner, and a sketch map (in five copies), giving the dimensions of the area;
- (d) contain the required particulars;

(e) be accompanied by a statement describing the state of the environment, the mining plan to be implemented and a costed reclamation plan; and

(f) be accompanied by the applicable mineral rent and fees as specified in the Third Schedule to these Regulations.

(2) The application shall be dealt with in the office of Chief Administrative Officer concerned in accordance with regulation 8 of these Regulations.

(3) A location licence shall be in Form XXI in the First Schedule to these Regulations.

#### **24. Number of location licence to be marked on all notice boards**

Within fourteen days after the receipt of a location licence the holder shall clearly mark and keep marked during the period of the location licence, the number assigned to the licence by the Commissioner on every notice board.

#### **25. Working obligations of holder of location licence**

(1) The working obligations of the holder of a location licence shall be as specified in the Second Schedule to these Regulations.

(2) An application for a certificate of cessation, suspension or curtailment of working obligations shall be in Form IX in the First Schedule to these Regulations and shall be accompanied by the fee specified in the Third Schedule to these Regulations.

(3) Where the Commissioner is satisfied that good cause has been shown for such cessation, suspension or curtailment, the Commissioner may grant a certificate in Form XXXIII in the First Schedule to these Regulations for such period and subject to such conditions as he or she may determine.

(4) Where the Commissioner is satisfied that good cause has been shown for further cessation, suspension or curtailment, a certificate of working obligations may be renewed for further periods as the Commissioner may determine.

(5) Where work is not resumed at the expiration of the period of cessation, suspension or curtailment, or where the conditions specified in the certificate are not complied with, the licence may be revoked by the Commissioner.

(6) A certificate of cessation, suspension or curtailment obtained through fraud or misrepresentation shall be null and void and the licence shall be liable to revocation, without prejudice to any penalty specified in regulation 83 of these Regulations.

#### **26. Transfer, surrender and renewal of location licence**

(1) An application for consent to transfer a location licence shall be in Form VII and the transfer shall be in Form XXX in the First Schedule to these Regulations.

(2) An application to surrender a location licence shall be in writing accompanied by a surrender in Form XLII in the First Schedule to these Regulations.

(3) An application for the renewal of a location licence under section 59 of the Act shall be made to the Commissioner in Form X in the First Schedule to these Regulations at least three months before the expiration of the location licence, and shall be accompanied by the applicable mineral rent and fees specified in the First Schedule of these Regulations and by the original licence for endorsement; and failure to make the application by such date without good cause shown to the satisfaction of the Commissioner may be considered grounds for refusal of the renewal.

(4) An application for renewal of a location licence received by the Commissioner after the date of expiration of the licence shall not be considered.

(5) Where the holder of a location licence has made an application for the renewal of his or her licence and has not received notification that his or her licence has been renewed before the date on which such licence expires, the holder of the licence may continue his or her prospecting and mining operations until so notified; and where the renewal is refused, the Commissioner may grant an extension of the licence for a period not exceeding two months subject to the payment of rent for the extended period at the rate of two and a half currency points per month.

## **27. Amalgamation of location licences**

(1) An application to amalgamate location licences for working purposes shall be made to the Commissioner in Form VIII in the First Schedule to these Regulations, and shall be accompanied by the applicable fees specified in the Third Schedule to these Regulations; and the Commissioner may grant a certificate of amalgamation in Form XXXII in the First Schedule to these Regulations.

(2) No application for amalgamation shall be entertained unless the applicant shows in a statement to be attached to his or her application, with maps in support where practicable, that—

- (a) some of the location licence areas that are the subject of the application have been extensively prospected, and amalgamation is desired for the purpose of fulfilling obligations in respect of all the location licence areas by concentrating prospecting operations on the unprospected location licence areas on a scale sufficient to meet obligations on the entire group; or
- (b) the mineral deposits in the location licence areas proposed to be amalgamated have been extensively prospected and amalgamation is desired for the purpose of conducting mining operations in a more efficient manner; or

(c) the lode deposits of a group of location licence areas can be best prospected by application of a comprehensive scheme which is not conducive to work being continued at the same time on all the location licence areas.

(3) Where the Commissioner grants certificate of amalgamations of a number of location licences, he or she shall permit the labour of development work due to be done in respect of all such location licence to be performed on any one or more of them.

## **28. Classification of areas and dimensions of location licence areas**

(1) The dimensions or area of a location licence which may be marked out by pegging shall not exceed the following dimensions or areas—

Class I - Lode locations for precious metals, five hundred metres (500m) in length along the supposed strike of the reef and three hundred metres (300m) in width;

Class II - Precious stone locations other than alluvial, sixteen (16) hectares;

Class III - Locations for non-precious minerals, sixteen (16) hectares;

Class IV - Alluvial locations for precious metals or precious stones, sixteen (16) hectares;

Class V - Locations within a river or a swamp and land adjoining such river or swamp, one thousand five hundred metres (1500m) measured along the middle of the course of the river or swamp and not more than one hundred metres (100m) on each side of the course of the river or swamp;

Class VI - Locations for limestone and chalk, eight (8) hectares;

Class VII - Locations for brine and salt, thirty five metres (35m) in length and ten metres (10m) in width;

(2) Where the class and dimensions or area of a location licence referred to in sub-regulation (1) of this regulation is found to exceed the maximum dimensions or area allowed, the applicant or holder of the licence shall be required either to reduce the area or to divide the licence into licences of such size as may be agreed to by the Commissioner.

## **29. Shape of location licence area other than Class V and Class VII location licence**

The shape of a location licence area other than Class V and Class VII Location shall, as nearly as circumstances permit, be that of a rectangular parallelogram and the length of the longer side shall not exceed thrice the length of the shorter side; except that when it is desired that a boundary should be identical with the boundary of another area or for any other good cause, the Commissioner may allow a departure from these requirements.

### **30. Erection of beacons**

(1) Before application is made for a location licence other than Class V and Class VII location licences, the applicant shall—

- (a) first erect at one corner of the location licence area applied for, a temporary beacon in accordance with regulation 55 of these Regulations, which shall be known as “location beacon” and shall bear the following information:

“LOCATION BEACON.

Class of location licence:

Name of applicant:

Prospecting licence number:

Date and hour of erection of beacon:

Length in metres:

Width in meters”;

- (b) within three days of the date of erection of the location beacon, place at each of the remaining corners of the location licence area applied for temporary beacons which shall comply with paragraph (e) of regulation 10 of these Regulations; and shall bear the following information:

“CORNER BEACON.

Class of location licence:

Name of applicant:

Prospecting licence number:

Date and hour of erection of beacon:

Length in metres.

Magnetic bearings of the boundaries forming the corner at which the location beacon is erected”;

- (c) comply with paragraph (e) of regulation 10 of these Regulations.

(2) During the period of the location licence, all bush, brushwood and high grass shall be cleared and kept cleared for a distance of five (5) metres from the location and corner beacons.

(3) All information required on the notice board shall be distinctly and legibly written so as not to be rendered illegible by rain or exposure.

### **31. Classification of areas and dimensions of class V location licence areas**

(1) Class V location licence may be marked out in—

- (a) a river and such land adjoining that river as the Comissoiner may determine;
- (b) a swamp and such land adjoining the swamp as the Commissioner may determine,

(2) The area of any Class V location licence shall not contain a length of more than one thousand five hundred (1500) metres measured along the middle of the course of a river or swamp; and unless approved by the Commissioner, not more than one hundred metres on each side of the course of a river or swamp.

**32. Erection of beacons and measurements relating to class V location licence**

Before application is made for Class V location licence, the applicant shall—

- (a) first erect above flood level and at the lowest point of the area for which he or she wishes to apply, a lower beacon which shall bear the following information, which may be abbreviated in accordance with sub-regulation (7) of regulation 55 of these Regulations—

“LOWER BEACON

Class V location licence

Name of applicant:

Name of corporate entity:

Prospecting licence number:

Date and hour of erection of beacon:

Length in metres (measured along the course of the river or swamp to the Upper

Beacon):

Width in metres (on each side of the centerline of the river or swamp)”;

- (b) measure upstream along the course of the river or swamp from the lower beacon until the upper point of the area for which he or she desires to apply is reached, and shall record the distance from the lower beacon of every stream junction, road and path crossing the river or swamp;

- (c) within three days of the erection of the lower beacon, erect a temporary beacon which shall be known as “upper beacon” and which shall mark the uppermost point of the part of the river or swamp in respect of which the location licence is required; and the upper beacon shall bear the following information, which may be abbreviated in accordance with sub-regulation (7) of regulation 55 of these Regulations—

“UPPER BEACON

Class V location licence

Name of applicant:

Name of corporate entity:

Prospecting licence number:

Date and hour of erection of beacon:



Distance in metres (from the lower beacon):  
Width in metres (on each side of center line)";

**33. Marking out of area of class VII location licence**

The applicant for a Class VII location licence shall mark out the area over which he or she desires a location within a salt lake or salt deposit with wooden pegs.

**34. Application of Parts IX and X to location licence**

The provisions of Parts IX and X of these Regulations shall, with necessary modifications, apply to a location licence.

PART VII—MINING LEASES.

**35. Area and shape of mining lease**

(1) The area of land in respect of which a mining lease may be applied for shall not be in excess of the area reasonably required to carry out the applicant's programme of proposed mining operations.

(2) The shape of the area shall be rectangular and the width of the rectangle shall not be less than one-third of its length; except that when it is desired that a boundary should be identical with the boundary of another area or for any other good cause, the Commissioner may allow a departure from the provisions of this regulation.

**36. Forms in connection with mining lease**

A mining lease, an application for the grant of a mining lease, an application to transfer a mining lease and the transfer of a mining lease shall be in Form XXII, VI, VII, and XXXI respectively in the First Schedule to these Regulations; and the surrender of a mining lease shall be in writing accompanied by Form XLII in the First Schedule to these Regulations.

**37. Marking out area of mining lease**

An applicant for the grant of a mining lease shall mark out the area over which he or she desires a lease in the manner described in regulation 10 of these Regulations; but where the lease is required for mining of an alluvial deposit of a river or swamp, the applicant shall mark out the area in accordance with regulation 32 of these Regulations;

**38. Application for mining lease**

(1) An application for the grant of a mining lease shall, subject to section 41 the Act—

(a) be in Form VI in the First Schedule to these Regulations;

(b) be lodged with the Chief Administrative Officer of the district concerned within thirty days of the erection of a location beacon for forwarding to the Commissioner;

(c) be accompanied by—

- (i) a map on scale 1:50,000; (in five copies), from the available Government map showing the position of the area applied for in such a manner as will enable it to be identified by the Commissioner, the approximate position of all dwellings, buildings, cultivated areas, plantations, and all streams and swamps in the area applied for;
- (ii) a map (in five copies) on scale 1:10,000 giving dimensions of the area applied for;
- (iii) a statement of the number of land owners or lawful occupiers of land in the area applied for;
- (iv) written proof that the applicant has reached an agreement with the land owner or lawful occupier of the area he or she intends to mine as required by section 42 (3) of the Act;
- (v) written proof that the applicant has secured the surface rights of the land the subject of his or her application as required by section 43 (3) (h) of the Act;
- (vi) the applicable mineral rent and fees as specified in the Third Schedule to these Regulations; and
- (viii) a certificate of approval of environmental impact assessment from NEMA.

(2) An application for the grant of a mining lease under section 41 of the Act shall be dealt with in accordance with regulation 8 of these Regulations.

### **39. Notice to land owners and lawful occupiers of land on grant of mining lease**

(1) The Commissioner shall notify an applicant for the grant of a mining lease and the Chief Administrative Officer of the district concerned of his or her decision; and where the decision is to grant a mining lease, the Chief Administrative Officer shall cause a notice in Form XLV in the First Schedule to these Regulations to be served on all land owners or lawful occupiers of land within the area of the proposed mining lease; except that a general notice having the same effect posted at the district and its sub-county headquarters and such other place as the Commissioner may specify shall be sufficient notice to those land owners or lawful occupiers of land.

(2) Where the Commissioner's decision under sub regulation (1) of this regulation is to grant a mining lease, he or she shall furnish the Chief Administrative Officer of the district concerned with a map showing the boundaries of the approved mining area.

#### **40. Removal of certain land owners or lawful occupiers of land**

At the written request of the holder of a mining lease, the Chief Administrative Officer of the district concerned shall, subject to the Constitution and any other applicable written law, take such lawful steps as he or she deems fit to remove any land owner or lawful occupier of land from the areas of the proposed mining lease; except that the holder of the mining lease shall pay on demand such compensation as is required by law.

#### **41. Grant of mining lease subject to survey**

(1) No mining lease shall be granted over land which has not been surveyed and consequently the Commissioner shall, as soon as convenient after approving the grant of a mining lease, cause the holder to submit to him or her the deed plan of the land in question.

(2) In this regulation, "deed plan" means a map showing the mining area in question as certified by the Commissioner responsible for the land survey.

#### **42. Preparation of mining lease**

(1) On receipt of the deed plan in respect of the mining area, the Commissioner shall prepare the mining lease document in Form XXII in the First Schedule to these Regulations and attach a copy of the deed plan to that document after which the document shall be signed by the parties.

(2) As required by section 44 (3) of the Act, the Commissioner shall cause the grant of a mining lease to be published in the Gazette at the expense of the holder of the lease.

#### **43. Application of Parts IX and X to mining lease**

The provisions of Parts IX and X of these Regulations shall, with necessary modifications, apply to a mining lease.

#### **44. Number of mining lease to be marked out on beacon**

Within fourteen days after the receipt of a mining lease, the holder of the mining lease shall paint and keep painted during the period of the mining lease, the number assigned to the lease by the Commissioner on every notice board of the relevant beacon.

#### **45. Amalgamation of mining leases**

(1) An application to amalgamate mining leases for working purposes shall be made to the Commissioner in Form VIII in the First Schedule to these Regulations and shall be accompanied by the applicable fees specified in the Third Schedule to

these Regulations; and the Commissioner may grant a certificate of amalgamation in Form XXXII in the First Schedule to these Regulations.

(2) No application for amalgamation shall be entertained unless the applicant shows in a statement to be attached to his or her application, with appropriate plans in support where practicable, that—

- (a) some of the mining areas that are the subject of the application, have been extensively prospected and amalgamation is desired for the purpose of fulfilling obligations in respect of all the mining leases, by concentrating prospecting operations under the lease on prospected mining areas on a scale sufficient to meet obligations on the entire group; or
- (b) the mineral deposits and ore in the mining areas proposed to be amalgamated have been extensively prospected and amalgamation is desired for the purpose of conducting mining operations in a more efficient manner;
- (c) the mineral deposits and ore in a group of mining areas can be best prospected by application of a comprehensive scheme which is not conducive to work being continued at the same time on all the mining areas.

#### **46. Labour or development work on amalgamated mining leases**

Where the Commissioner grants a certificate of amalgamation of a number of mining leases, he or she shall permit the labour or development work due to be done in respect of all such mining leases to be performed on any one or more of them.

#### **47. Working obligations of holder of mining lease**

(1) The working obligations of the holder of a mining lease shall be as specified in the Second Schedule to these Regulations.

(2) An application for a certificate of cessation, suspension or curtailment of working obligations shall be in Form IX in the First Schedule to these Regulations and shall be accompanied by the applicable fee specified in the Third Schedule to these Regulations.

(3) Where the Commissioner is satisfied that good cause has been shown for such cessation, suspension or curtailment, the Commissioner may grant a certificate in Form XXXIII in the First Schedule to these Regulations for such period and subject to such conditions as the Commissioner may determine.

(4) Where the Commissioner is satisfied that good cause has been shown for further cessation, suspension or curtailment, the certificate referred to in subregulation (3) of this regulation may be renewed for such further periods as the Commissioner may determine.

(5) Where work is not resumed at the expiration of the period of cessation, suspension or curtailment, or where the conditions specified in the certificate are not complied with, the lease may be revoked by the Commissioner.

(6) A certificate of cessation, suspension or curtailment obtained through fraud or misrepresentation shall be null and void and the lease shall be revoked without prejudice to any penalty specified in regulation 83 of these Regulations.

**48. Transfer, surrender and renewal of mining lease**

(1) An application for consent to transfer a share in a mining lease shall be in Form VII and the transfer instrument shall be in Form XXXI, both in the First Schedule to these Regulations; and an application to surrender a mining lease shall be in writing accompanied by a surrender instrument in Form XLII in the First Schedule to these Regulations.

(2) An application for renewal of a mining lease under section 47 of the Act shall be made to the Commissioner in Form X in the First Schedule to these Regulations not later than one year before expiration of the lease, and shall be accompanied by the applicable mineral rent and the fees specified in the Third Schedule to these Regulations and by the original mining lease document for endorsement; and failure to make the application by such date without good cause shown to the satisfaction of the Commissioner may be considered grounds for refusal of the renewal.

(3) An application for renewal of a mining lease received by the Commissioner after the date of expiration of the lease shall not be considered.

(4) Where the holder of a mining lease has made an application for the renewal of his or her lease and has not received notification that his or her lease has been renewed before the date on which the lease expires, the holder of the lease may continue his or her mining operations until so notified; and where the renewal is refused, the Commissioner may grant an extension of the lease for a period not exceeding eight months subject to the payment of mineral rent for the extended period at the rate of ten currency points per month.

PART VIII—REPRESENTATIVES, RECORDS AND RETURNS.

**49. Non-resident holder of mineral right to appoint an agent by power of attorney**

(1) Every person who proposes to become a sole or joint holder of a mineral right under the Act (including any member of a syndicate or an unincorporated association or body of persons), who does not propose to reside or is not resident in Uganda, shall appoint by power of attorney a person or persons resident in Uganda to represent him or her in all matters relating to all his or her existing mineral rights and any other mineral rights which may be subsequently granted to him or her.

(2) A power of attorney referred to in sub-regulation (1) of this regulation may, with the consent of the Commissioner, be drawn in Form XVI in the First Schedule to these Regulations where the representative is to take out a prospecting licence on behalf of his or her principal; and in Form XVII in the First Schedule to these Regulations where it is intended that the resident representative shall be

responsible for other existing mineral rights or other mineral rights that may subsequently be granted, other than a prospecting licence.

(3) Not later than fourteen days after appointing an attorney under sub-regulation (1) of this regulation, the holder of the mineral right shall submit the original and a copy of the relevant power of attorney to the Commissioner who shall retain the copy and return the original of the instrument to the person by whom it was submitted.

(4) The provisions of sub-regulations (1), (2) and (3) of this regulation shall be complied with where the holder of the mineral right in question is a corporate entity or body of persons incorporated outside Uganda.

#### **50. Appointment of an agent**

(1) Every holder of a mineral right, who is not personally and continuously in charge of operations under that mineral right, shall at all times have an agent at the site of the operations to be in charge of the operations and shall notify the Commissioner of every appointment or change of such agent.

(2) Every appointment or change of an agent under sub-regulation (1) of this regulation shall be subject to confirmation by the Commissioner; and where the Commissioner refuses to confirm an appointment or change, the Commissioner shall state reasons in writing for the refusal.

(3) Every holder of a mineral right shall ensure that every appointed agent shall notify acceptance of the agency in writing to the Commissioner, and no appointment of an agent shall be confirmed until the proposed agent has so notified his or her acceptance.

(4) No agent whose appointment has been confirmed may give up his or her agency without giving not less than one month's notice in writing to the holder of the mineral right concerned and to the Commissioner.

#### **51. Service of notice relating to safety, health and welfare**

(1) Where any notice relating to the safe conduct of prospecting, exploration or mining operations or the safety, health and welfare of persons engaged in such operations is required to be served under the Act or these Regulations, it shall be sufficient if the notice is served on the person who, in the reasonable opinion of the authorised officer serving the notice, is in charge of the prospecting, exploration or mining operations at the material time.

(2) Where at the time of serving the notice under sub-regulation (1) of this regulation there is no person in charge of the operations or the person in charge of the operations cannot be found, it shall be sufficient if the notice is posted on one of the beacons demarcating the area.

(3) Where no beacon referred to in sub-regulation (2) is to be found, it shall be sufficient if the notice is left at the site of the operations in question and is displayed as prominently as is reasonably possible in the circumstances.

## **52. Records to be kept**

(1) On every working day between sunrise and sunset, there shall be kept available for inspection by the Commissioner, Inspector of Mines or an authorized officer under the Employment Act, Cap. 219—

(a) in the exploration area, at the principal camp—

- (i) statistical data in respect of each employee, including his or her identification number, full names, place of birth and nationality, date of appointment, nature of work and rate of pay;
- (ii) drilling, pitting, trenching and sampling record books;
- (iii) maps showing systematic, intensive or detailed prospecting on a legible scale; except that where detailed work is in progress preliminary work may be shown on the same map;

(b) in the location licence area, mining area or group of adjoining location licence areas or mining areas belonging to one holder—

- (i) statistical data showing the information required in paragraph (a) (i) of sub-regulation (1) of this regulation;
- (ii) a map on a scale of not less than 1: 2,500 showing the mined area in relation to the boundaries;
- (iii) records of development, production, ore dressed, mineral(s) in stock and such other records as the Commissioner may from time to time require to be kept.

(2) All books, maps and records required to be kept under this regulation shall be kept in English and in such manner that the figures required to be kept under this regulation in respect of any mineral right may be readily extracted from those books, maps and records; and all records of production shall be kept as daily records.

(3) All maps referred to in sub-regulation (2) of this regulation shall be made from surveys having not less than the accuracy of a compass and tape survey.

(4) Every holder of a mineral right shall maintain at the area of his or her mineral right or a group of such areas, a person in charge of the statistical data referred to in sub-regulation (1) of this regulation and those records shall be available for inspection.

(5) Each employee shall be issued with an identification card by the employer which shall include the employer's name clearly written in ink or printed in block letters, the employee's identification number, photograph, age and nature of work.

(6) The identification card referred to in sub-regulation (5) of this regulation shall be authenticated by the employer by stamping and signing it.

### **53. Monthly returns to be furnished**

(1) Every holder of an exploration or retention licence shall, as soon as circumstances permit and in any case not later than fourteen days after the end of each quarter, lodge in triplicate at the nearest office of the Commissioner, statements in English in Form XXVI in the First Schedule to these Regulations; and in the case of the holder of a prospecting or location licence or a mining lease such statements shall be provided to the Commissioner in Forms XXV and XXVII in the First Schedule to these Regulations not later than fourteen days after the month reported on.

(2) Without prejudice to sub-regulation (1) of this regulation, the Commissioner may from time to time require any information to be supplied to him or her by way of statements or plans from any holder of a mineral right.

(3) The statements required to be lodged under sub-regulation (1) of this regulation shall be signed and certified to be correct by the holder of the mineral right or his or her attorney or agent.

## **PART IX—BEACONS, BOUNDARIES AND SURVEYS.**

### **54. Erection and removal of beacons**

(1) Where the holder of a mineral right erects beacons in pursuance of any of these Regulations, he or she shall personally supervise the erection of the beacons and the marking out of the boundaries.

(2) Where the holder of a prospecting licence or an exploration licence decides not to make application for the grant of a retention licence, location licence or mining lease after erecting beacons in an area, he or she shall personally supervise the removal of the beacons marking out the boundaries.

(3) No person shall erect a beacon or anything purporting to be a beacon between five o'clock in the evening and eight o'clock in the morning.

(4) The holder of a mineral right which has expired, been cancelled, revoked or surrendered shall not be allowed to apply through marking out any area covered by that mineral right either directly or indirectly, until after a period of ninety days from the date of notification by the Commissioner of such expiry, cancellation, revocation or surrender.

### **55. Temporary beacons**



(1) A temporary beacon shall consist of a post with a notice board fixed on it and firmly held in the ground.

(2) A post referred to in sub-regulation (1) of this regulation shall—

(a) be not less than one metre long, five centimetres in diameter if round, or twenty five centimetres square;

(b) consist of one piece of material;

(c) stand in an upright position and the lower end shall be fixed into the ground to a depth of not less than ten centimetres;

(d) project not less than one metre above the ground.

(3) A notice board referred to in sub-regulation (1) of this regulation shall be—

(a) of wood or metal and shall be not less than half metre square;

(b) securely fixed to the upper portion of the post.

(4) All bush, brushwood and high grass shall be cleared and kept cleared during the period of the mineral right concerned for a distance of five metres from the location beacon and corner beacons.

(5) Inscriptions on any notice board shall be distinctly and legibly marked.

(6) The notice board of a temporary beacon shall bear the following information—

(a) in the case of an exploration licence, the information required to be given under paragraph (e) of regulation 10 of these Regulations;

(b) in the case of a location licence, the information required to be given under regulations 30 or 32 of these Regulations, as the case may be;

(c) in the case of a mining lease, such information as is required to be given under paragraph (e) of regulation 10 of these Regulations; except that where a proposed mining lease operation is in respect of an alluvial deposit of a river or swamp, the information shall be as is required to be given under regulation 32 of these Regulations.

(7) In lieu of the following words, the abbreviations in the brackets shall apply and may be used on notice boards: “prospecting licence” (P.L.), “exploration licence (E.L.), “retention licence” (R.L.), “location licence” (L.L.), “mining lease” (M.L.), “location beacon” (L.B.), “direction beacon” (D.B.), “corner beacon” (C.B.), “boundary beacon” (B.B.), “lower beacon” (Low.B), “upper beacon” (U.B.), and “pegged” (p).

(8) Where a beacon by reason of its position may be regarded as common to contiguous exploration and mining areas, that beacon may be reckoned as one beacon in respect of each of the areas, provided there is information affixed to the concrete, as specified, in respect of each area.

(9) Nothing in these Regulations shall be construed as preventing a person authorized under these Regulations to erect a temporary beacon from erecting a permanent beacon in place of the temporary beacon at any time.

(10) A transferee of any mineral right shall, as soon as possible after he or she has been notified of the registration of the transfer, substitute his or her own name for the name of the transferor on all beacons in the area covered by his or her mineral right.

#### **56. Permanent beacons**

(1) A permanent beacon shall consist of either—

- (a) an iron pipe measuring one and a half metres long and eight centimetres in diameter set in a concrete pillar of hundred centimetres square built on a rock foundation or sunk to a depth of a quarter of one metre below the ground; or
- (b) an iron rod or angle iron bar measuring one and a half metres long set in a concrete pillar of hundred centimetres square built on rock foundation, or sunk to a depth of a quarter of a metre below the grounds;

(2) A permanent beacon referred to in sub-regulation (1) of this regulation shall have a stout metal plate of half a metre square bolted on it and bearing the information specified sub-regulation 10(e) of these Regulations.

#### **57. Boundaries**

A boundary shall be demarcated in accordance with paragraph (d) of regulation 10 of these Regulations.

#### **58. Government protection area beacon**

(1) The specifications for a beacon in respect of a Government protection area shall be substantially the same as those of a temporary beacon under regulation 55 of these Regulations, and shall bear the following particulars—

Government protection area:

Hour and date of erection of beacon:

Name, address and designation of public officer erecting the beacon:

(2) In this regulation Government protection area means land reserved for prospecting or exploration operations by the Government.

#### **59. Maintenance of beacons, boundaries and boundary marks**

All beacons and boundary marks shall be maintained in good condition and repair by the holder of the mineral right to whom or to which the beacons relate, and every such holder shall—

- (a) at all times keep the area around every beacon clear of high grass, bush and brushwood within a radius of five metres of the beacon; and

(b) in addition clear and keep clear of vegetation the boundary line of his or her mineral right for a distance of one metre on each side of every beacon and for a width of one metre along the actual boundary line.

#### **60. Removal of obsolete beacons**

(1) Upon the withdrawal or refusal of an application for grant or renewal of a mineral right other than a prospecting licence, the applicant shall, within thirty days of the date of the withdrawal or refusal, remove all beacons erected to demarcate the area concerned.

(2) Where a beacon is removed under sub-regulation (1) of this regulation, the applicant or holder of the mineral right in question or his or her agent shall personally supervise the removal of the beacons erected and shall obtain an all clear certificate from the Chief Administrative Officer of the district(s) concerned in Form XLVI in the First Schedule to these Regulations and shall submit the certificate to the Commissioner.

(3) Where an applicant or a holder of the mineral right contravenes sub-regulations (1) or (2) of this regulation he or she commits an offence and on conviction is liable to a fine not exceeding one hundred currency points or imprisonment for a term not exceeding one year.

(4) Without prejudice to sub-regulation (3) of this regulation, where an applicant for or the holder of a mineral right fails to comply with sub-regulations (1) or (2) of this Regulation, the Commissioner shall cause the removal of the beacons to be effected by another person at the expense of the applicant or former holder of the mineral right concerned.

#### **61. Additional demarcation and survey of area included in mineral right**

(1) The Commissioner may require the holder of a mineral right other than a prospecting licence, or the applicant for such right to demarcate his or her boundaries by additional beacons, and clear the boundary lines, or such parts of those lines as he or she may specify, of bush, brushwood and long grass for a width of one metre along the actual boundary line or may cause the clearing and demarcation of such boundaries at the expense of the holder or the applicant of the mineral right other than a prospecting licence.

(2) Where the Commissioner is satisfied that a survey or check survey of the area of a mineral right other than a prospecting licence is necessary, the Commissioner may—

(a) cause the survey to be made and a map prepared;

(b) demand from the applicant for or holder of the mineral right in question the cost of the survey and map;

and the applicant or holder shall, within such time as may be specified in the notice of demand, pay to the Commissioner the cost of the survey and map and lodge the original of the licence or lease concerned with the Commissioner for amendment.

(3) The boundaries of any area covered by a mineral right shall be such as are marked out by beacons on the ground by the applicant or a holder of mineral

right other than a prospecting licence; and the area may be adjusted by the Commissioner in the exercise of his or her powers under sub-regulations (1), (2) and (4) of this regulation.

(4) Where the Commissioner is satisfied that the area marked out on the ground differs materially in position, shape or area from the area over which the mineral right concerned was applied for or is held, the Commissioner shall, at the expense of the applicant or holder of the mineral right concerned, make such adjustments to the beacons and boundaries as he or she may think fit and the adjusted boundaries shall be deemed to be the boundaries of the area applied for or held.

(5) Any survey or map made under this regulation shall be subject to the approval of the Commissioner.

#### PART X—REGISTRATION.

### **62. Registers**

The Commissioner shall keep registers of mining instruments, which shall include—

- (a) exploration licences;
- (b) retention licences;
- (c) mining leases;
- (d) location licences;
- (e) mineral agreements;
- (f) endorsements evidencing amalgamations, renewals or transfers in whole or in part of mineral rights;
- (g) agreements and any other documents evidencing the creation of interests in any mineral right other than a prospecting licence, or transfers of rights under such agreements and other documents of a similar nature; and
- (h) change of address.

### **63. Mode of application for registration**

(1) An application for registration of a mining instrument under regulation 62 of these Regulations shall be made to the Commissioner in Form XI in the First Schedule to these Regulations and shall be accompanied by—

- (a) the original or a certified copy of the mineral right concerned;
- (b) any map attached to such instrument in duplicate; and
- (c) the applicable fee specified in the Third Schedule to these Regulations.

(2) Where the Commissioner is satisfied that there is no objection to the registration of a mining instrument, the Commissioner shall, after satisfying himself or herself that the instrument has been duly stamped if liable to stamp duty, register it.

(3) Registration under subregulation (2) of this regulation shall be effected by the Commissioner in the following manner—

(a) in the case of a mineral right other than a prospecting licence when first prepared, by filing the duplicate copy and by entering particulars of the mineral right concerned in the appropriate register;

(b) in the case of renewal of any of the instruments referred to in paragraph (a) of this sub-regulation, by entering the particulars of the instrument in the appropriate register and endorsing on the original instrument and the duplicate instrument the word “Registered” together with the date on which the instrument was presented for registration, and by appending his or her signature to the endorsement;

(c) in the case of a mining instrument of a type other than those referred to in paragraph (a) of this sub-regulation by—

(i) filing the duplicate copy of the instrument, or where no duplicate is presented the original;

(ii) entering the particulars of the instrument in the appropriate register;

(iii) endorsing on the original instrument, and also on the duplicate if one has been presented to him or her, the word “Registered”, together with the date on which the instrument was presented for registration; and

(iii) appending his or her signature to the endorsement;

except that nothing mentioned in this paragraph shall preclude the Commissioner from making such further entries, cross entries and endorsements on instruments in his or her office as he or she considers necessary for facilitating the work of his or her office.

## PART XI—PROTECTION OF THE ENVIRONMENT.

### **64. Preparation and submission of project brief**

(1) A holder of an exploration licence shall prepare a project brief before commencement of work, in which the following shall be indicated—

(a) the activities involved in the programme of exploration in a sequential order;

- (b) the projected area to be affected by each activity;
  - (c) the materials that are to be used in construction and the necessary inputs;
  - (d) the number of people projected to be employed;
  - (e) the likely environmental effects of the materials to be used, products and by-products to be generated, the duration of the environmental effects and their prevention and mitigation; and
  - (f) any other activities that may arise during the implementation of the project.
- (2) Ten copies of the project brief shall be submitted to the Commissioner.

**65. Review of project brief**

(1) The project brief shall be reviewed in the manner specified under the guidelines for environmental impact assessment in the mineral sector developed by NEMA.

(2) Where the environmental impacts have been identified and the mitigation measures specified and incorporated in the project brief, the Commissioner shall, after consultation with NEMA, approve the brief and issue a certificate in Form XXXIV in the First Schedule to these Regulations.

(3) Where the environmental impacts are likely to be significant and the mitigation measures are not readily prescribed, the Commissioner shall after consultation with the NEMA call on the holder of exploration licence in question to carry out an environmental impact assessment.

(4) The Commissioner shall inform the Executive Director of NEMA about his or her decision within ten days of making it.

**66. Submission of environmental restoration plan by holder of exploration licence or mining lease**

(1) The holder of an exploration licence or a mining lease shall submit to the Commissioner a costed environmental restoration plan, which shall address restoration of worked out areas.

(2) At the request of the Commissioner, the holder of an exploration licence or a mining lease shall deposit with the Commissioner an environmental bond commensurate with the cost of the environmental restoration plan submitted to the Commissioner under sub-regulation (1) of this Regulation.

(3) The holder of an exploration licence or mining lease shall, subject to sub-regulation (2) of this regulation, commence development under his or her

exploration licence or mining lease upon approval of the environmental restoration plan.

(4) The custody and management of any environmental bond deposited under sub-regulation (2) of this regulation shall be in accordance with the provisions of the Public Finance and Accountability Regulations for the time being in force; and in the absence of any applicable regulation, as determined by the Accountant General.

(5) For the purposes of this regulation, “Accountant General” means the person designated as such under the Public Finance and Accountability Act, 2003.

#### **67. Environmental monitoring plan**

(1) There shall be included in every exploration licence or mining lease granted under the Act, a condition that the holder of the exploration licence or mining lease shall submit a self-monitoring plan of the project implementation and the environmental quality of the surroundings of the project.

(2) The environmental monitoring plan shall include the following—

(a) the name of the person (who is qualified for the purpose) responsible for monitoring compliance with mitigation measures and the quality of the environment;

(b) the methodology for monitoring compliance;

(c) the key indicators of environmental impact and their tiered threshold values; and

(d) a schedule for monitoring each indicator and for reporting on the performance of mitigating measures.

(3) The holder of an exploration licence or a mining lease shall make and submit quarterly reports in Form XXVIII in the First Schedule to these Regulations to the Commissioner and the Executive Director of NEMA on the findings of the activities under the self monitoring plan not later than fourteen days after the end of each quarter.

(4) Where the impacts are worse than anticipated during the environmental impact assessment process, the holder of the exploration licence or the mining lease shall propose to the Commissioner and the Executive Director of NEMA new mitigation measures for improved environmental conservation.

(5) The Commissioner, after consultation with the Executive Director of NEMA, shall advise the holder of the exploration licence or mining lease on the necessary remedies to correct any negative impacts of the activities on the environment, including the carrying out of environmental impact assessment study.

(6) Where the holder of the exploration licence or mining lease fails to comply with the advice given under sub-regulation (5) of this regulation, the Commissioner shall publicize the facts, contents and recommendations given and

the name of the holder of the exploration licence or mining lease concerned in a national media without prejudice to any penalty or sanction prescribed against such failure.

(7) The costs incurred by the Commissioner in carrying out the provisions of sub-regulation (6) of this regulation shall be borne by the holder of the exploration licence or mining lease concerned, and shall be a debt due to Government and recoverable as such by civil action in a court of competent jurisdiction, without prejudice to any other remedy or sanction, civil or criminal.

#### **68. Environmental impact assessment**

(1) Every holder of an exploration licence or a mining lease shall, at the request of the Commissioner, carry out an environmental impact assessment study of the effects of his or her activities on the environment.

(2) The environmental impact study shall consider the impacts of the activities in magnitude, extent, duration and persistence of the effects on the environment.

(3) The environmental impact study shall culminate in a statement the contents of which shall be as provided under the guidelines for environmental impact assessment in the mineral sector developed by NEMA.

(4) The holder of an exploration licence or a mining lease shall submit ten copies of the environmental impact assessment to the Executive Director of NEMA for review in accordance with Environmental Impact Assessment Regulations.

### **PART XII—FINANCIAL PROVISIONS.**

#### **69. Miscellaneous fees**

The fees specified in the Third Schedule to these Regulations shall be paid in respect of the matters and things specified in that Schedule, and the amount of any fee payable under this regulation is a debt owed to the Government and is recoverable as such by civil action in a court of competent jurisdiction, without prejudice to any other remedy or sanction, civil or criminal.

#### **70. Mineral rents**

(1) The annual mineral rents specified in the Third Schedule to these Regulations shall be paid to the Commissioner by an applicant for, or the holder of, a mineral right other than a prospecting licence.

(2) The annual mineral rent payable under sub-regulation (1) of this regulation is payable on the application for the grant of a mineral right other than a prospecting licence; and thereafter annually on the anniversary of the grant until the termination or expiry of the mineral right concerned.

#### **71. Royalties**



(1) Royalties payable under section 98 of the Act shall be paid to the Commissioner.

(2) Except as otherwise provided in the Act or these Regulations, royalty on any mineral produced in Uganda is payable by—

(a) the holder of the mineral right concerned and shall be paid within a period not exceeding thirty days after assessment by the Commissioner based on monthly returns submitted by the holder of the mineral right concerned and any other information obtained during field inspection;

(b) a licenced mineral dealer within thirty days after buying or coming into possession of the mineral concerned; except where royalty has already been paid on the mineral.

(3) The Commissioner may issue an export permit in Form XXXVII in the First Schedule to these Regulations for the export of minerals only where the royalty due on the minerals under section 98 of the Act has been paid or secured.

(4) Minerals shall be used locally only after the royalty due on the minerals under Section 98 of the Act has been paid or secured.

## **72. Rates and method of calculation of royalties**

(1) Rates of royalties shall be as specified in the Third Schedule of these Regulations.

(2) The value of a precious metal or a non-precious mineral shall, for the purpose of computing the royalty payable on such precious metal or non-precious mineral, be deemed to be the latest price on the London Metal Exchange or any other Metal Exchange or market as known to the Commissioner; and in the absence of proof to the contrary—

(a) gold shall be deemed to be ninety-five per centum fine;

(b) tin ore shall be deemed to contain seventy-five per centum tin;

(c) the valuable contents of other metals, ore or minerals shall be such as the Commissioner may determine;

except that where a precious mineral or non-precious metal is exported to a refinery approved by the Commissioner, the value shall be the gross sum realized as shown by the original sales account to be produced to the Commissioner.

(3) For the purposes of paragraph (c) of sub-regulation (2) of this regulation, the gross sum realized shall be the sum realized without any reduction or abatement for transport, marketing, insurance, returning or any other charges or whatsoever.

PART XIII—MISCELLANEOUS.

**73. Disposal of tailings**

(1) The holder of a location licence or mining lease who has access to a watercourse may, subject to the provisions of the Water Act, Cap. 152, and the NEMA Act, Cap.153 and applicable Regulations, dispose of tailings from his or her mining operations or mineral processing operations in that water course.

(2) Disposal of tailings on land is subject to provisions of the NEMA Act, Cap.153 and applicable Regulations.

**74. Mineral dealer's licence and export of minerals**

(1) An application for a mineral dealer's licence under section 70 of the Act shall be in Form XIV and a mineral dealer's licence shall be in Form XXIII in the First Schedule to these Regulations; and there shall be paid for every such licence the applicable fee specified in the Third Schedule to these Regulations.

(2) Minerals obtained under a mineral right or under a mineral dealer's licence may only be exported under an export permit granted by the Commissioner.

(3) An application for an export permit under section 116 of the Act shall be in Form XIII in the First Schedule to these Regulations, accompanied by the applicable fee specified in the Third Schedule to these Regulations; and an export permit shall be in Form XXXVII in the First Schedule to these Regulations.

**75. Goldsmith's licence, etc**

(1) An application for a goldsmith's licence under section 73 of the Act shall be made to the Commissioner in Form XV of the First Schedule to these Regulations, accompanied by the applicable fee specified in the Third Schedule to these Regulations, and the licence shall be in Form XXIV in the First Schedule to these Regulations.

(2) An application by a retail shopkeeper under section 74 of the Act shall be made to the Commissioner in writing; and the Commissioner may authorize the applicant to manufacture and sell articles partly manufactured from precious minerals without being licensed as a goldsmith.

**76. Inquiry proceedings**

A memorandum of complaint under section 62 of the Act shall be in Form XLIII in the First Schedule to these Regulations; and a notice of complaint to the defendant shall be in Form XLIV in the First Schedule to these Regulations.

**77. Import of minerals**

(1) A declaration under section 117 of the Act by a person seeking to import any mineral(s) into Uganda shall be in Form XXXIX in the First Schedule to these Regulations.

(2) A permit to import minerals shall be in Form XXXVIII in the First Schedule to these Regulations and shall be issued only after payment of the applicable fee specified in the Third Schedule to these Regulations.

#### **78. Forfeiture of minerals by court**

Upon the forfeiture by a court of any mineral under section 4 (4) of the Act, the order for forfeiture shall be in Form XL in the First Schedule to these Regulations.

#### **79. Safety measures in respect of pits, excavations, etc**

(1) The following requirements or obligations shall apply to all shafts, pits, holes and other excavations which are required to be secured under the Act, any other written law, or these Regulations—

- (a) all prospecting pits shall, while in use, be secured so as not to constitute a danger or hazard to persons and livestock, and be filled up after use;
- (b) all shafts shall, while in use, be surrounded by dry stone walling of a height adequate to ensure safety of persons and livestock according to their surroundings, and be filled up after use;
- (c) all large prospecting works such as test paddocks and trenches shall, while in use, be enclosed by dry stone walling, and be filled up after use;
- (d) all steep faces in alluvial or detrital workings shall be broken down sufficiently to be safe;
- (e) all water furrows shall, while in use, be secured so as not to constitute a danger or hazard to persons, and be filled up after use;
- (f) all workings in rock shall, while in use, be surrounded by dry stone walls and filled up after use; except that in excavations of a quarry-like nature, it shall be necessary to wall off only those parts which are steep-sided.

(2) Notwithstanding sub-regulation (1) of this Regulation, the Commissioner, an Inspector of Mines or an authorized officer may, at his or her discretion, allow or require any other protective device.

#### **80. Prohibition of the movement of minerals by night**

(1) No person shall, without the prior written permission of the Commissioner, move or cause to be moved any minerals out of or into any area where mining or prospecting operations are being carried on between the hours of six o'clock at night and seven o'clock in the morning.

(2) An application for a permit under sub-regulation (1) of this regulation shall be in Form XII in the First Schedule to these Regulations, and the permit shall be in Form XXXVI in the First Schedule to these Regulations.

#### **81. Liability of mineral dealers**

(1) In accordance with section 71 of the Act, every holder of mineral dealer's licence shall be liable for the due payment to the Commissioner of all royalties due on any minerals bought, received or exported by the holder of a mineral dealer's licence.

(2) The Commissioner may require the holder of a mineral dealer's licence to furnish him or her with security in such form and amount as he or she may determine, for the due payment of any royalty referred to in sub-regulation (1) of this regulation.

#### **82. Evidentiary certificate**

An evidentiary certificate which the Commissioner may issue under subsection (1) of section 97 of the Act shall be Form XXXV in the First Schedule to these Regulations or as adapted.

#### **83. Penalty for failing to keep records or giving false information, etc**

(1) Any person who fails to keep any record or information required to be kept under regulation 52 of these Regulations, or who in connection with any return, statement or document in respect of which information is or may be required to be given under the Act or these Regulations willfully or recklessly gives false information or makes a false statement, whether orally or in writing shall, if no other penalty is prescribed in these Regulations, be liable to a fine not exceeding one hundred currency points or to imprisonment for a term not exceeding one year.

(2) Any person who represents that he or she holds a mineral right and thereby induces, or attempts to induce, any person to buy any interest in such mineral right or to invest capital in any corporate entity connected with the mineral right, before he or she has obtained the grant of that mineral right, or where the right has been forfeited, revoked or determined, as the case may be, shall be liable to forfeit any right to the grant of such mineral right; and if he or she is the holder of any other mineral right, shall be liable to have such right revoked; except that nothing in this subsection shall relieve any person from liability to civil action or a criminal prosecution in respect of the said representation.

#### **84. Replacement of original instruments**

Where the original of any instrument creating or evidencing any right is lost or destroyed or obliterated so as to become illegible, the Commissioner may, at the written request of the holder of the instrument, and upon payment of the applicable fee specified in the Third Schedule to these Regulations, cause a copy of the instrument to be prepared and endorsed in accordance with section 96 of the Act.

#### **85. General penalty**

Any person who contravenes or commits a breach of any of these Regulations for which no penalty is expressly prescribed shall be liable, on summary conviction, to a fine not exceeding one hundred currency points or to imprisonment for a term not exceeding one year.

**86. Revocation of Mining Regulations, S.I. 248-3**

The Mining Regulations, S.I. 248-3 are revoked.

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**SCHEDULES**