

# **FINAL DRAFT**

## **MINERALS AND MINING BILL**

**FOR THE REPEAL**

**OF**

**THE MINERALS AND MINING ACT 1999**

# MINERALS AND MINING BILL 2005

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### **Explanatory Memorandum**



**“Companies and Allied Matters Act”** means the Companies and Allied Matters Act, Cap C20 Laws of the Federation Nigeria, 2004;

**“Committee”** or **“the Mineral Resources and Environmental Management Committee”** means the Committee established under section 12(1) of this Act;

**“Court”** means any duly constituted court, in the Federal Republic of Nigeria, other than a Customary Court or an Area Court;

**“Days”** means working days;

**“Environmental Protection and Rehabilitation Fund”** means the Environmental Protection and Rehabilitation Fund established under sub-section (1) of section 109 of this Act;

**“Environmental Protection and Rehabilitation Program”** means the Environmental Protection and Rehabilitation Program required to be provided under this Act;

**“Exclusive Economic Zone”** means the Exclusive Economic Zone of Nigeria as defined in the Exclusive Economic Zone Act Cap E17 Laws of Federation of Nigeria

**“Explore”** means the operations and works aimed at the discovery, the determination of characteristics and the evaluation of the economic value of Mineral Resources within an Exploration Licence Area;

**“Exploration Licence Area”** means an area that is the subject of an Exploration Licence;

**“Exploration Licence”** means Exploration Licence granted under the provisions of this Act;

**“Exploration Operations”** means the operations and works carried out in the course of exploration;

**“Federal Mines Officer”** means the head of the Mines Inspectorate Division of the Federal Ministry of Solid Minerals within a state;

**“Gazette”** means an official Gazette of the Federal Republic or Nigeria;

**“Government”** means the Government of the Federal Republic of Nigeria;

**“Holder”** of a Mineral Title means the person to whom such Mineral Title was granted and, where a Mineral Title has been validly transferred, includes a person in whom such Mineral

Title or a part of the rights thereunder has become vested by assignment but does not include a mortgagee or chargee or a holder of a security interest thereon;

**“Holder of a right of occupancy”** means a person entitled to a right of occupancy granted or deemed to be granted by virtue of the Land Use Act, Cap L5, Laws of the Federation of Nigeria, 2004 and includes any person to whom a right of occupancy has been validly assigned or has validly devolved on the death of a Holder of a right of occupancy but does not include any person to whom a right of occupancy has been sold or transferred without a valid assignment, nor a ‘mortgagee’; ‘sub-lessee’ or ‘sub-under lessee’ thereof;

**“Lapidary”** means an operation established to engage in the cutting and processing of gemstones’

**“Lawful Occupier”** in relation to any land means a person who is in actual occupation of the land or any part of it and where there are more than one person, means that one of them who is the owner, or who is responsible or would be so responsible if the land were let at a rent or otherwise occupied in circumstances in which consideration or damages for such occupation would be payable;

**“Lode”** includes any true mineralized fissure vein, contact vein, segregated vein, bedded vein, metalliferous blanket, stock work, such irregular deposits as conform generically, to the above classification, any igneous rock containing metalliferous or radio-active mineral when work for that mineral, and bed of any mineral, including bed of ironstone;

**“Mine”** when used as a noun, means any place, excavation or working in or on which any operation connected with mining is carried on together with all buildings, premises, erections, infrastructure water reservoirs, tailings, ponds, waste, overburden and other dumps, and appliances belonging or appertaining thereto, above or below the ground for the purpose of mining, treating or preparing Minerals, obtaining or extracting any Mineral or metal by any mode or method or for the purpose of dressing mineral ores but does not include a smelter or a refinery;

**“Mine”** when used as a verb, means to intentionally mine minerals, and includes any operations directly or indirectly necessary therefore or incidental thereto, including such processing of minerals as may be required to produce a first saleable product, and “mining” shall be construed accordingly;

**“Minerals”** or **“Mineral Resources”** means any substance whether in solid, liquid, or gaseous form occurring in or on the earth, formed by or subjected to geological processes including occurrences or deposits of rocks, coal, coal-bed gases, bituminous shales, tar sands, any substances that may be extracted from coal, shale or tar sands, mineral water, and mineral components in tailings and waste piles, but with the exclusion of Petroleum and waters without mineral content;

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**“Mineral Exploitation”** means operations and works related to the technical and economic utilization of Mineral Resources, including Mine development, extraction, treatment, processing and beneficiation of Mineral Resources as well as the activities necessary or related to the marketing of such Mineral Resources;

**“Mineral Resources for Construction”** means mineral substances and rocks of common occurrence used as building materials, including but not limited to Mineral Resources such as stones, diorities, rhyolites, laterite, barites, pebbles, gravels, sands, conglomerates, greywacke, sandstones, basalts, gabbros, obsidian, gneisses, fuller's earth, gypsum, marble, mica, china clay, pipe-clay or slate, common clay, non-refractory clays, limestone, and such other Mineral Resources that may be prescribed by regulations as Mineral Resources for industrial use;

**“Mineral Title”** means Reconnaissance Permit, Exploration Licence, Small Scale Mining Lease, Mining Lease, Water Use Permit, or Quarry Lease or any one of these titles, consistent with the context in which the term “Mineral Title” is used;

**“Mining Co-operative”** means a group of artisanal miners registered as a co-operative under relevant federal or state laws and Mining Co-operatives shall be construed accordingly;

**“Mining Lease”** means the Mining Lease granted under this Act;

**“Mining Operations”** means the operations and works carried out in the course of Mineral Exploitation, inclusive of the search for and exploration for Minerals;

**“Mining Lease Area”** means an area subject to a Mining Lease Area;

**“Minister”** means the Minister “appointed by the President” to be responsible for matters relating to mines and Mineral Resources, including but not limited to regulating the exploration, development and exploitation of Mineral Resources;

**“Ministry”** means the Ministry responsible for regulating matters relating to the exploration, development and exploitation of Mineral Resources;

**“Mineral Title “Mineral Title Area”** means an area in Nigeria that is subject to a Mineral Title;

**“Net Revenue Return”** means the gross revenues minus shipping, mineral processing and marketing costs calculated as described in the Regulations;

**“Permit”** means a Permit granted under this law;

**“Person”** means an individual or a corporate entity, partnership, joint venture, co-operative, trust, or other entity that is recognized by the law as a distinct body with the right to enter into contracts and to own property;

**“Petroleum”** means any naturally occurring hydrocarbons, or any naturally occurring mixture of hydrocarbons, or any naturally occurring mixture of one or more hydrocarbons, whether in a gaseous, liquid or solid state and any other substance, and including the substances already named, that has been returned to a natural reservoir, but does not include coal, bituminous shales, tar sands, any substance that may be extracted from coal, shale or tar sands or any other stratified deposits from which oil can be extracted by destructive distillation;

**“Pollution”** means contamination with any chemical or other substance in such quantity as to be injurious to human, animal, aquatic or plant life;

**“Prescribed”** means as prescribed in the Regulations;

**“President”** means the President of the Federal Republic of Nigeria;

**“Processing”** means the operations and works carried out in the course of mineral in order to obtain metals, alloys, or other mineral commodities requiring treatment from other mineral substances either as extracted or as previously subjected to treatment as provided for under this Act;

**“Protected trees”** means trees which are for the time being declared to be protected trees under the Forestry Law of a State and includes all trees within a forest reserve or a National Park;

**“Reconnaissance”** means the operations and works to carry out the search for Minerals through physical observation, rock sampling, geological surface analysis, geophysical surveys, geochemical surveys, photogeological surveys by other non-obstructive surveys or studies of surface geology or by other remote sensing techniques, laboratory testing and assays;

**“Reconnaissance Area”** means an area of land that is the subject of a Reconnaissance Permit;

**“Reconnaissance Operations”** means the activities conducted further to a Reconnaissance Permit;

**“Reconnaissance Permit”** means reconnaissance Permit issued under this Act;

**“Regulations”** means regulations made under this Act, which are from time to time, in force;

**“Road”, “Tramway” or “Railway”** includes a road, tramway or railway constructed by a local community or person and used in connection with exploration or mining operations;

**“Quarry”** means a surface working or uncovered excavation used for the purpose of extracting Mineral Resources for Construction;

**“Quarry operations”** includes any form of activity for the extraction of Mineral Resources for Construction, other than an activity conducted or to be conducted underground, and any activity preparatory or incidental to that activity thereto;

**“Security Minerals”** means a radioactive mineral which contains by weight at least one-twentieth of one percent (0.05%) of uranium, thorium, or any combination thereof including but not limited to monazite, sand and other ores containing thorium, caronite, pitch blend, and other ores containing uranium;

**“Small – Scale Mining”** means Artisanal, Alluvial and other forms of Mining Operations involving the use of low-level technology or application of methods not requiring substantial expenditure for the conduct of Mining Operations within a Small – Scale Mining Lease Area;

**“Small-Scale Mining Lease”** means the Small-Scale Mining Lease granted for exploitation of Mineral Resources under this Act;

**“Small-Scale Mining Lease Area”** means an area that is the subject of a Small-Scale Mining Lease;

**“State Government”** means the Government of a State within the Federal Republic of Nigeria and shall also include the Federal Capital Territory;

**“Treatment”** means operations having the objective of carrying out the concentration, beneficiation and purification of Mineral Resources as well as the separation of the respective mineral substances;

**“User or Occupier of land”** means any person occupying or using land in compliance with the Land Use Act, Cap L5, Laws of the Federation of Nigeria 2004 or customary law and includes the sub-lessees or sub-under lessee of a such User or Occupier of land;

**“Water Use Permit”** means a Water Use Permit issued under this Act;

**“Watercourse”** means any channel or duct whether natural or artificial, which confines, restricts or directs the flow of water;

“**Worker**” means a workman as defined in section 1 of the Workmen’s Compensation Act, Cap W6, Laws of the Federation of Nigeria, 2004;

“**Won**” means the production or extraction of Mineral Resources.

## **PART II - OWNERSHIP AND CONTROL OF MINERAL RESOURCES**

### **[Control of and property in Mineral Resources]**

3. The entire property in and control of all Mineral Resources in, under or upon any land in Nigeria, its continental shelf and all rivers, streams and watercourses throughout Nigeria, any area covered by its territorial waters and the Exclusive Economic Zone is and shall be vested in the Government of the Federation for and on behalf of the people of Nigeria.

### **[Property in Mineral Resources]**

4. The property in Mineral Resources shall pass from the Government to the person by whom the Mineral Resources are lawfully won upon their recovery in accordance with this Act.

## **PART III- ADMINISTRATION OF THE ACT**

### **[Functions of the Minister]**

5. Subject to the provisions of this Act, the Minister shall -
  - (a) ensure the orderly and sustainable development of Nigeria’s Mineral Resources;
  - (b) formulate, modify and issue policies and regulations duly made by the Federal Government in respect of the exploration, exploitation, processing and marketing of Nigeria’s Mineral Resources and notify the public in respect thereof;
  - (c) monitor the exploration, exploitation, processing and marketing of Nigeria’s Mineral Resources;
  - (d) exercise general supervision over all activities and operations under this Act;
  - (e) establish environmental procedures and requirements applicable to Mining Operations;
  - (f) define the roles to be played the Federal, State and Local Governments in the administration of mineral exploitation;

- (g) maintain liaison between investors and Government Departments and Agencies set up for the purpose of development of mineral resources and allied projects; and collaborate with other Ministries and agencies of the Federal Government whose functions relate to the objectives of this Act;
- (h) ensure the transfer of economic and social benefits of Mineral Exploitation to host communities;
- (i) prescribe measures for the general welfare and safety of workers engaged in Mineral Resources operations;
- (j) develop a geo – scientific databank, and collate detailed data concerning the identity, quantity and quality of Nigeria’s Mineral Resources;
- (k) assist the private sector in identifying specific mining projects;
- (l) initiate, organise and participate in promotion activities in mineral resources development, such as exhibitions, conferences, seminars and workshops geared towards the stimulation of investments in mineral resources;
- (m) Provide and disseminate up-to-date information on incentives in mineral resources available to investors under this Act;
- (n) register and keep records of all enterprises and companies established and pursuing activities in mineral resources and allied projects;
- (o) cause to be created a Mining Cadastre Office, and such departments and agencies as are necessary for the effective administration of this Act;
- (p) exercise general supervisory and oversight functions with regards to the Mining Cadastre Office;
- (q) introduce investment friendly local content measures for mining projects;
- (r) facilitate the development of indigenous technical and professional manpower required in the Mineral Resources sector;
- (s) cooperate on behalf of the Federal Government with other Governments and international agencies in respect of matters relating to Nigeria’s Mineral Resources;
- (t) do such other things as are necessary or expedient for the performance of his functions under this Act; and

- (u) have the power to designate any Mineral as a Security Mineral and by regulations make special provisions for the exploration, exploitation, possession, export or otherwise dealing in the Security Minerals.

### **[Establishment of Departments]**

- 6. (1) For the purposes of carrying out his functions under this Act, the Minister shall establish in the Ministry:
  - (a) a Mines Inspectorate Department;
  - (b) an Mines Environmental Compliance Department; and
  - (c) such other departments and agencies as he may consider expedient for the proper administration of this Act.
- (2) Such inspectors, officers and other employees as may be considered necessary for carrying out the objectives of this Act shall be appointed into the departments and agencies established pursuant to subsection (1) of this section.
- (3) The powers and duties of the inspectors, officers, or other employees appointed under sub-section (1) of this section shall be those assigned to them respectively under this Act, its Regulations and in accordance with the provisions of the Civil Service Rules in force.

### **[Functions of the Mines Inspectorate Department]**

- 7. The Mines Inspectorate Department shall in addition to any other functions prescribed by this Act and subject to the direction of the Minister –
  - (a) exercise general supervision over all reconnaissance, exploration and Mining Operations to ensure their compliance with this Act;
  - (b) supervise and enforce compliance by Mineral Title Holders with all mine health and safety regulations prescribed under this Act and any other law in force;
  - (c) organise, support and provide assistance to Small – Scale Mining operations;
  - (d) prepare and render records, reports and returns as required by the Minister or as prescribed by Regulations;
  - (e) take custody of Mineral Resources required by any Court to be forfeited to the Government;

- (f) with the prior approval of the Minister, dispose of any Mineral Resources forfeited to the Government ;
- (g) carry out investigations and inspections necessary to ensure that all conditions relating to Mineral Titles and the requirements of this Act are complied with;
- (h) discharge such other duties as may be assigned from time to time, by the Minister; and
- (i) review and recommend to the Minister, programmes for controlling Mining Operations.

**[Functions of the Mines Environmental Compliance Department]**

8. The Mines Environmental Compliance Department shall in addition to any other function prescribed by this Act and subject to the direction of the Minister –

- (a) review all plans studies and reports required to be prepared by Holders of Mineral Title in respect of their environmental obligations under this Act;
- (b) monitor and enforce compliance by Holders of Mineral Title with all environmental requirements and obligations established pursuant to this Act, its regulations and by any other law in force;
- (c) periodically audit the environmental requirements and obligations established pursuant to this Act, its regulations and by any other law in force and make recommendations thereon to the Minister; and
- (d) liaise with relevant agencies of Government with respect to the social and environment issues involved in Mining Operations, Mine closure and reclamation of land.

**[Delegation of powers by the Minister]**

9. (1) The Minister may, by notification in the Gazette, delegate to any department or officer of the Ministry the exercise or performance, subject to such conditions and restrictions as may be prescribed in the notification, of any function conferred on the Minister under this Act provided that it shall not apply to any function of the Minister to make Regulations.
- (2) An Officer authorized in writing by the head of the Mines Inspectorate Department may enter any Mineral Title Area where Mining Operations

are being carried out under this Act, or which is within the general area of the Mineral Title for the purposes of inspecting such work and operations and he shall be provided by the Mineral Title Holder with any information reasonably requested for the purpose of making a report.

- (3) The failure of the Mineral Title Holder to provide access to an Officer for the purposes of inspection under subsection (2) shall constitute an offence.

#### **[Power to Seize]**

10. (1) A Federal Mines Officer or any other officer appointed pursuant to section 6(2) of this Act may seize –
  - (a) any tool, implement, equipment, or vehicle suspected to have been used in connection the offence; and
  - (b) any Mineral Resources won illegally.
- (2) A Federal Mines Officer may, by notice in writing, order any Mineral Title Holder, or any person employed by the Mineral Title Holder, to appear before him at a reasonable time, not exceeding seven days, and place and to give information regarding Mining Operations in the area subject to his Mineral Title, and the Holder of the Mineral Title or other person shall comply with the notice.
- (3) The failure of the Mineral Title Holder to comply with a request for information from a Federal Mines Officer made under subsection (2) of this subsection shall constitute an offence.
- (4) Where Mining Operations in any Mineral Title Area constitutes a clear and immediate danger to life or property, a Federal Mines Officer may, in writing, order Reconnaissance, Exploration or Mining Operations to be suspended, until such remediation measures as are in the officer's opinion necessary to prevent the danger to life or property are made in compliance with this Act.
- (5) An order made under sub-section (4) of this section shall lapse after ten days of its issuance, unless it is confirmed in writing by the head of the Mines Inspectorate Department who shall resolve the matter within thirty days.

#### **[ Use of Information and Required Disclosure]**

11. (1) Any officer or former officer responsible for the administration of this Act who has any confidential information, which if generally known might reasonably be expected to materially affect a Mineral Exploitation activity which –

- (a) such officer acquired by virtue of his official capacity or former official capacity, and
- (b) it would be reasonable to expect a person in his official capacity or former official capacity not to disclose except for the proper performance of the functions attached to that official capacity;

shall not make improper use of such information to gain, directly or indirectly, an advantage for himself or for any other person.

- (2) An officer appointed under this Act shall within thirty days of his appointment disclose any Mineral Title he may have or interest therein at the time of his appointment. No officer shall directly or indirectly acquire any Mineral Title under this Act during the term of his appointment.
- (3) Any officer who fails to comply with the provisions of sub-section (1) or (2) of this section commits an offence.

**[Establishment of State Mineral Resources and Environmental Management Committee]**

12. (1) There is hereby established for each state of the Federation a Committee to be known as the Mineral Resources and Environmental Management Committee, in this section referred to as “the Committee”.
- (2) The Committee in each state shall consist of -
- (a) a representative of the Mines Environmental Compliance Department in the Ministry who shall be the chairman of the Committee;
  - (b) the Federal Mines Officer responsible for the state;
  - (c) a representative of the State Environmental Department or Agency;
  - (d) a representative of the Federal Ministry of Environment in the State;
  - (e) a representative of the department or ministry with responsibility for land matters in the State;
  - (f) a representative of the State Ministry of Agriculture or Forestry;
  - (g) the Surveyor-General of the state or his representative; and
  - (h) a representative of the Local Government Council when matters

affecting the said Local Government Area are being considered by the Committee.

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

**[Functions of the Committee]**

13. (1) The Committee shall be responsible for:
- (a) advising the Minister in respect of matters connected with the implementation of this Act;
  - (b) providing advise to the Departments established pursuant to section 6 in the supervision of Mineral Exploitation and the implementation of social and environmental protection measures;
  - (c) providing advice to the Local Government Areas and communities on the implementation of programs for environmental protection and sustainable management of Mineral Resources;
  - (d) providing advise and other necessary assistance required by Holders of Mineral titles in their interaction with state governments, local government councils, communities, civil institutions, and other stakeholders;
  - (e) providing advice to the Minister in resolving conflicts between stakeholders;
  - (f) making necessary recommendations on issues relating to compensation to the Minister; and
  - (g) such other matters relating to Mineral Resources development within the state as the Minister may, from time to time, refer to the Committee.
- (2) The Committee shall meet at least quarterly and at such other times as the Minister may deem necessary, and -
- (a) the Chairman or the Federal Mines Officer for the state acting as alternate to the Chairman, and three other members shall form a quorum at a meeting of the Committee;

- (b) every meeting of the Committee shall be presided over by the Chairman or, in his absence, by the Federal Mines Officer for the state
  - (c) if on any question to be determined there is an equality of votes, the Chairman shall have a casting vote; and
  - (d) the Committee shall have the power to determine its own procedure.
- (3) The Chairman shall appoint a competent officer from the Mines Inspectorate Unit in the state to be the secretary of the Committee. The secretary shall have no right to vote at any meeting of the Committee.
- (4) The Committee, shall forward its report of its meetings to the Minister within thirty days of each meeting.

### **PART III – THE MINING CADASTRE OFFICE**

#### **[Establishment of the Mining Cadastre Office]**

14. (1) There shall be established a Mining Cadastre Office with the exclusive responsibility for the administration of Mineral Titles and the maintenance of the cadastral registers.
- (2) The Mining Cadastre Office –
- (a) shall be a body corporate with perpetual succession and a common seal;
  - (b) may sue and be sued in its corporate name;
  - (c) may acquire, hold and dispose of property, whether movable or immovable.
- (3) The Mining Cadastre Office shall be administered by a Director – General who shall be assisted by such officers as shall be required for the efficient functioning of the cadastre system.
- (4) In order to fulfill its functions under this Act, the Mining Cadastre Office shall operate as the sole agency in respect of all matters related to Mineral Titles.
- (5) Pursuant to the requirements of this Act, the Mining Cadastre Office shall have the exclusive power to undertake the following:-

- (a) consider applications for Mineral Titles and Permits, issue, suspend and may, upon the written advise of the Minister, revoke any Mineral Title;
- (b) receive and dispose of applications for the transfer, renewal, modification, relinquishment of Mineral Titles or extension of areas;
- (c) maintain a chronological record of all applications for Mineral Title in:
  - i. a Priority Book which is to be specifically used to ascertain the priority and registration of applications for exclusive rights on vacant areas:
  - ii. a General Registry book which is to be used for all other types of applications where registration of the priority is not required.
- (d) undertake such other activities necessary for the carrying out of its duties and responsibilities under the provisions of this Act.

**[Relationship between the Minister and the Mining Cadastre Office]**

- 15.** In the execution of his functions and relationship with the Mining Cadastre Office, the Minister shall, at all times ensure the independence of the Mining Cadastre Office in regard to the discharge of its functions and operations under this Act.

**[Central and Zonal offices of the Mining Cadastre Office]**

- 16.** A Central Mining Cadastre Office with exclusive authority and jurisdiction over the whole of the country shall be established in Abuja as the headquarters of the Mining Cadastre Office. The Mining Cadastre Office shall, according to administrative convenience, maintain an appropriate number of Zonal offices.

**[Mining Cadastre Office Registers]**

- 17.** The Mining Cadastre Office shall open a series of files to be known as Mining Cadastre Office Registers for the purposes of this Act, comprising of:
- (a) a register of Reconnaissance Permits;
  - (b) a register of Exploration Licences;
  - (c) a register of Mining Leases;
  - (d) a register of Small - Scale Mining Leases;
  - (e) a register of the Water Use Permits; and

(f) a register of Quarry Leases.

**[Fees payable to the Mining Cadastre Office]**

18. The Mining Cadastre Office shall collect -

- (a) a fee for processing of applications for Mineral Titles; and
- (b) an annual service fee established at a fixed rate per square cadastral unit for administrative and management services rendered by the Cadastre.

**[Revocation of Mineral Titles for failure to pay fees]**

19. A Mineral Title shall become liable to revocation where the holder thereof has failed to pay the prescribed fees.

**[Process for Revocation where Mineral Titleholder fails to pay fees]**

20. In case of default of payment of the annual service fee due to the Mining Cadastre Office, the Mining Cadastre Office shall give a thirty-day written default notice to the defaulting party and, if payment is not effected during that period, the Mining Cadastre Office shall record the default and cancel the Mineral Title.

**[Definition of fees payable]**

21. The amount of the fees payable under section 18, their administration, modalities for payment shall be determined in the regulations issued by the Minister.

**[Notice to Applicant]**

22. Any notice required to be sent by the Mining Cadastre Office to an applicant for or holder of a Mineral title shall be sent by courier service or registered mail to the last known address in Nigeria of the Mineral Title holder or given in person to an authorized representative of the applicant or Holder of the Mineral Title in Nigeria or published in the Gazette. The notice shall for all purposes be sufficient notice of the subject matter of the notice to the applicant for or Holder of a Mineral Title.

## **PART IV - MINERAL TITLES**

**[Grant of Mineral Titles]**

23. (1) No person shall search for or exploit Mineral Resources on any land in Nigeria or divert or impound water for the purpose of Mining except as provided in this Act.

(2) Subject to sections 70(1) and 113 of this Act, the right to search for or exploit Mineral Resources is obtained through one of the following Mineral Titles in the form of:

- (a) a Reconnaissance Permit;

- (b) an Exploration Licence;
  - (c) a Small - Scale Mining Lease;
  - (d) a Mining Lease;
  - (e) a Quarry Lease; and
  - (f) a Water Use Permit.
- (3) Subject to the exceptions provided in this Act, any person that undertakes or is involved in the search for or exploitation of Mineral Resources without the requisite Mineral Title or authority shall be guilty of an offence.
- (4) Any Mineral Title issued under this Act shall be subject to such conditions as may be prescribed in the licence or lease or by regulation made under this Act.
- (5) The form of all Mineral Titles shall be prescribed.
- (6) A Holder of a Mining Title shall at all times-
- (a) keep correct plans of Mining Operations conducted within the Mineral Title Area;
  - (b) keep correct records of every Mineral found and ore reserve calculated on the area of his Mining Lease;
  - (c) supply to the Mining Cadastre Office copies of the plans and records at such time and periods and in such manners as the Mining Cadastre Office may demand; and
  - (d) the plans required to be kept shall be prescribed.

**[Storage and archiving of geo-scientific data with the Nigerian Geological Survey Agency]**

24. (1) Any person that undertakes or is involved in the search for or exploitation of Mineral Resources under a Mineral Title or further to the authorization of the Minister in accordance with the provisions of section 113 shall:

- (a) keep correct plans of every prospecting or mining done;
- (b) keep correct records of every mineral found and ore reserve calculated on the area of the licence and;

- (c) supply to the Minister on request, copies of the plans and records at such time and period as the Minister may so demand
  - (d) provide, to the Nigerian Geological Survey Agency for storage and archiving, a complete set of all geo-scientific data acquired in the course of such activity inclusive of maps, corings and samples.
- (2) No core obtained in the exercise of rights conferred by a Mineral Title shall be destroyed or otherwise disposed of except for the purposes of assay, identification, or analysis without the permission in writing of the Minister, which permission shall not be unreasonably withheld.
- (3) Any person who destroys or disposes of core or samples in contravention of subsection (2) of this section shall be guilty of an offence.
- (4) The data required to be provided under subsection (1) of this section, shall be provided to the Nigerian Geological Survey Agency in such a manner as is sufficient for the identification of the core or sample and the location and geological horizon of its origin.
- (5) The data required to under subsection (1) of this section, shall be kept confidential and shall not be disclosed to the general public until the earlier of:
- (a) a period of 5 years after its submission; or
  - (b) a part of the Mineral Title Area is relinquished by the Mineral Title Holder; or
  - (c) when the Holder of the Mineral Title ceases to hold the title either as a result of revocation of the title or relinquishment thereof.
- (6) When disclosure of the data is required by the general public, it shall be made available in accordance with the format stated in the Regulations.
- (7) Any person that undertakes or is involved in the search for or exploitation of Mineral Resources in contravention of the provisions of subsection (1) of this section shall be guilty of an offence.

**[Security Minerals]**

**25.** The provisions of this Act in respect of Reconnaissance, Exploration and Exploitation of Mineral Resources in Nigeria shall apply to Security Minerals with such modifications as the Minister may consider necessary.

**[Obligation to Notify the Mines Inspectorate Department]**

26. (1) The Holder of a Mineral Title shall, if he discovers during the course of mining, any radioactive mineral or any mineral that may reasonably be expected to be radioactive, immediately notify the Mines Inspectorate Department of the discovery in writing.
- (2) The provisions of the Nuclear Safety and Radio-active Act, Cap 19 LFN 2004 shall apply to any radio-active mineral discovered pursuant to Mineral Exploitation under this Act.
- (3) The Mines Inspectorate Department may, in consultation with other relevant authorities and with the approval of the Minister, authorise the removal of the Security Minerals from the land where they have been obtained to any other place approved by the Minister for safe custody and in accordance with sub-section (2) of this section.

**[Conditions for grant of Mineral Title]**

27. (1) A valid application for the grant of a Mineral Title shall:
- (a) be submitted at the relevant issuing authority;
  - (b) be prepared by a qualified applicant;
  - (c) conform with the prescribed format;
  - (d) be completed and signed by an authorized representative of the applicant;
  - (e) comply with the requirements of this Act;
  - (f) in respect of Exploration Licence, Mining Lease and a Small – Scale Mining Lease not being an Alluvial or Artisanal Small – Scale Mining Lease, include details of the minimum work programme which the applicant is prepared to undertake or a programme for carrying out such minimum working obligations as may be prescribed by regulations issued pursuant to this Act; and
  - (g) include payment of the prescribed fees.
- (2) The issuing authority is the Central Mining Cadastre Office or the Zonal Mining Cadastre Office responsible for the location where the Mineral Operations in respect of the Mineral Title is to be conducted;
- (3) When more than one application for a Mineral Title is received in respect of the same area or for overlapping areas from two or more applicants,

the application which is first received, as evidenced by the time of registration of the application in the Priority Register at the Mining Cadastre Office, and in the proper form, shall have priority over all the other applications and shall be reviewed before the other applications.

- (4) The criteria of first come, first served, as evidenced by registration with the issuing authority according to an established procedure, which in the case of the Mining Cadastre Office shall be registration in the Priority Register established by this Act, shall be strictly applied by the Mining Cadastre Office in case of competing applications for the same exclusive area.
- (5) The Mining Cadastre Office shall provide a receipt to an applicant for Mineral Title evidencing:
  - i. all documents and fees received from the applicant in respect of the application; and
  - ii. the date and time of the application.

**[Grant of Mineral Title over lands, territorial waters, continental shelf etc]**

28. Except as otherwise provided in any other law and subject to this Act, a Mineral Title under this Act may be granted over any area within the lands, territorial waters, continental shelf and the exclusive economic zone of Nigeria.

**[Competitive Bids]**

29. (1) The Minister may, by regulation, determine areas wherein an Exploration Licence and a Mining Lease shall be granted based on competitive bidding requirements.
- (2) The Minister shall consider competing bids and shall select the bid which is most likely to promote the expeditious and beneficial development of the Mineral Resources of the area having regard to –
- (a) the program of Exploration and Mining Operations which the applicant proposes to carry out and the commitments as regards expenditure which the applicant is prepared to make;
  - (b) the financial and technical resources of the applicant; and
  - (c) the previous experience of the applicant in the conduct of Reconnaissance And Mining Operations;

and the successful application shall be treated as an application under sections 44 or 61.

**[Prohibition against destruction of sacred objects and trees]**

30. (1) No person shall, in the course of reconnaissance, exploration or mining, carry out operations on, in or under, any area held to be sacred or cause injury or destruction of any tree or other thing that is the object of veneration.
- (2) Where any question arises under this section as to whether an area is held to be sacred or a tree or thing is the object of veneration, the question shall be decided by the Minister under the advice of the Governor of the State;
- (3) A Mineral Title holder who causes injury or damage to any area, tree or thing mentioned in sub-section (1) of this section shall pay fair and adequate compensation to the persons or communities affected by the injury or damage.

**[Prohibition of grant of Mineral Title or Permit in respect of certain areas]**

31. No Mineral Title granted under this Act shall authorize Reconnaissance, Exploration or Exploitation of Mineral Resources on or in any land –
- (a) set apart for, or used for or appropriated or dedicated to any military purpose except with the prior approval of the President;
- (b) within fifty metres of an oil pipeline licence area granted under the Oil Pipeline Act;
- (c) occupied by any town, village, market, burial ground or cemetery, ancestral, sacred or archaeological site, appropriated for a railway or situated within fifty metres of a railway, or which is the site of, or within fifty metres of, any government or public building, reservoir, dam or public road;
- (d) that is subject to the provisions of the National Commission for Museums and Monuments Act, cap N19, Laws of the Federation of Nigeria, 2004 and the National Parks Service Act, Cap N65, Laws of the Federation of Nigeria, 2004.
- (e) No reconnaissance activity shall be carried out and no Permit or Mineral Title shall be granted under this Act over any area that is designated as closed to mining operations by any other law.

## PART V - QUALIFICATION CRITERIA FOR MINERAL TITLES

### **[Qualification for Reconnaissance Permit]**

32. A qualified applicant for a Reconnaissance Permit is:
- (a) a Citizen of Nigeria with legal capacity and who has not been convicted of a criminal offence; or
  - (b) a body corporate duly incorporated under the Companies and Allied Matters Act; or
  - (c) a Mining Cooperative.

### **[Qualification for Exploration Licence]**

33. A qualified applicant for an Exploration Licence is:
- (a) a body corporate duly incorporated under the Companies and Allied Matters Act,
  - (b) a Mining Cooperative.

### **[Qualification for Small-Scale Mining Lease]**

34. A qualified applicant for a Small - Scale Mining Lease is any:
- (a) a Citizen of Nigeria with legal capacity and who has not been convicted of a criminal offence;
  - (b) a Mining Cooperative;
  - (c) a body corporate duly incorporated under the Companies and Allied Matters Act.

### **[Qualification for Mining Lease]**

35. A qualified applicant for a Mining Lease is a body corporate duly incorporated under the Companies and Allied Matters Act or other legal entity that:
- (a) has demonstrated under conditions stated in the regulations that a commercial quantity of Mineral Resources exists in the area in respect of which the application is made, and
  - (b) has fulfilled all the conditions attached to the Exploration Licence in respect of the area subject to the Mining lease

**[Qualification for Quarry Lease]**

36. A qualified applicant for a Quarry Lease is any –
- (a) individual citizen of Nigeria with legal capacity and who has not been convicted of a criminal offence;
  - (b) a Mining Cooperative;
  - (c) a body corporate duly registered under the Companies and Allied Matters Act;
  - (d) any person extracting construction materials for the construction of roads, railway lines, dams and other engineering works or structures of public interest.

**[Qualification for grant of Water Use Permit]**

37. A qualified applicant for a Water Use Permit is:
- (a) the Holder of the Mining Lease or Quarry Lease at the time that the water right granted will be used; or
  - (b) an applicant for a Mining Lease, Small - Scale Mining Lease or Quarry Lease for which the water right will be required to be used.
38. The Mining Cadastre Office shall not grant a Mineral Title under this Act to an applicant if it is shown that any of the members or directors of the applicant or a shareholder holding a controlling share of the applicant has been convicted of a felony or an offence under this Act.

**PART VI - RECONNAISSANCE PERMIT**

**[Grant of Reconnaissance Permit]**

39. Subject to the provisions of this Act, the Mining Cadastre Office shall, within 30 days of the receipt of the application of any qualified applicant and upon payment of the prescribed fees, grant and issue to that person a Reconnaissance Permit to search for Mineral Resources except Security Minerals.

**[Conditions for grant of Reconnaissance Permit]**

40. (1) A Reconnaissance Permit shall be granted subject to the covenants and conditions that the Holder thereof shall:
- (a) carry out reconnaissance on a non-exclusive basis;
  - (b) not engage in drilling, excavation or other sub-surface techniques;

- (c) submit information and such periodical reports as may be prescribed to such officers as may be authorised;
  - (d) conduct reconnaissance activities in an environmentally and socially responsible manner;
  - (e) compensate users of land for damage to land and property; and pay the prescribed fees.
- (2) The activities allowed under a Reconnaissance Permit together with corresponding environmental and social obligations shall be further specified in regulations.
- (3) Reconnaissance activity authorized by a Reconnaissance Permit shall not constitute a land use right for the purposes, objectives, rents, fees and requirements of the Land Use Act.
- (4) A Reconnaissance Permit is not transferable.

**[Duration of Reconnaissance Permit]**

41. A Reconnaissance Permit shall be issued for a period of one year and is renewable annually provided the requirements of this Act and its regulations have been met.

**[Rights of Holder of Reconnaissance Permit]**

42. A Reconnaissance Permit, confers on the Holder the right to -
- (a) obtain access into, enter on or fly over any land within the territory of Nigeria available for Mining purposes to search for Mineral Resources on a non-exclusive basis; and
  - (b) obtain and remove surface samples in small quantities.
43. Subject to the provisions of this Act, the Reconnaissance Permit shall not be granted over any land that is or has become subject to an Exploration Licence, Small – Scale Mining Lease, Mining Lease or Water Use Permit.

**PART VII - EXPLORATION LICENCE**

**[Grant of Exploration Licence]**

44. (1) Subject to the provisions of this Act, the Mining Cadastre Office shall, upon receipt of a valid application from a qualified applicant, grant and issue to that person, an Exploration Licence within thirty days of the filing of such application;

- (2) An Exploration Licence shall not be granted over any land that is subject to an existing Exploration Licence, Mining Lease, Small - Scale Mining Lease or Quarry Lease.

**[Duration of Exploration Licence]**

45. The duration of an Exploration Licence is for three years and it may be renewed for two further periods of two years each provided:
- (i) the titleholder has complied with his minimum work obligation commitments; and
  - (ii) all other requirements of this Act and its regulations have been met.

**[Size of Exploration Licence Area]**

46. The area of land in respect of which any one Exploration Licence may be granted shall be as large as is required but shall not exceed one thousand square kilometres.

**[Rights of Exploration Licence Holder]**

47. (1) An Exploration Licence confers on the holder the right within the Exploration Area to -
- (a) obtain access and to enter upon the land;
  - (b) explore on an exclusive basis for all Mineral Resources and to carry out the operations and work necessary for the achievement of this objective;
  - (c) take, remove and export specimens and samples not exceeding such limit as prescribed in the Regulations to be reasonably required for purposes of analyses;
  - (d) conduct bulk sampling and trial processing of Mineral Resources not exceeding such limit as is reasonably required for determining mining potential;
  - (e) sell specimens and samples obtained from exploration activities or from bulk sampling and trial processing;
  - (f) occupy the land and erect any temporary installations, camps, or structures necessary for carrying out exploration;
  - (g) while engaged in exploration, take timber other than protected trees and use water from any lake, or Watercourse not the subject of a Water Use Permit for domestic purposes, in accordance with Regulations; and

- (h) sink or drill shafts or wells and dig holes and trenches.
- (2) Subject to the provisions of this Act, where the Holder is prevented from gaining entry into the area covered by his Exploration Licence by the holder of the right of occupancy or the User or Occupier of the land, or part thereof that is the subject matter of the Exploration Licence; the Holder of the Exploration licence shall apply to the Minister who shall issue an Access Order and the provisions of Part XIX of this Act shall thereon apply.

**[Payment of Royalty for Sale of Mineral Resources under Exploration Licence]**

48. The Holder of an Exploration Licence who sells any Mineral Resources as provided for in section 47(1)(e) of this Act shall be subject to the payment of royalty as if the Mineral Resources sold were obtained under a Mining Lease.

**[Obligations of Exploration Licence Holder]**

49. (1) Every Holder of an Exploration Licence shall:
- (a) conduct exploration activities in a safe, friendly, skilful, efficient and workmanlike manner in accordance with the regulations;
  - (b) conduct exploration activities in an environmentally and socially responsible manner;
  - (c) if intending to explore on land occupied subject to a right of occupancy, give notice to the Chairman of the affected Local Government Area concerned and, to the holder of the right of occupancy or the User or Occupier of the land before commencing exploration activities on the land; and where the Mineral Title area is within more than one Local Government Area, the Mineral Title holder shall give notice to the respective chairmen of the Local Government Areas concerned and the holders of rights of occupancy or the Users and Occupiers of land affected accordingly.
  - (d) maintain and restore, the land that is the subject of the licence to a safe state from any disturbance resulting from exploration activities, including, but not limited to, filling up any shafts, wells, holes or trenches made by the titleholder, and in compliance with applicable environmental laws and regulations;
  - (e) not abstract, divert or discharge water or effluent from any Watercourse except in compliance with a Water Use Permit and Regulations;
  - (f) not explore in any forest reserve except with the approval of the Minister and in consultation with other relevant authorities and subject to such conditions as may be specified in the Regulations;

- (g) compensate Users or Occupiers of land for damage to land and property resulting from activities in the exploration area;
  - (h) allow geological surveys and mapping by government agencies and scientific surveys by educational institutions as provided for in this Act, if such activities will not interfere with exploration operations;
  - (i) submit information and such periodical reports as may be prescribed in the Regulations; and
  - (j) pay all applicable fees, annual rental and water usage charges.
- (2) The Mining Cadastre Office may, upon the application of the Holder and for good cause shown, suspend the obligation to work in respect of the Licence and may direct that any or part of the period of suspension shall not be reckoned in the currency of the licence, if during that time no work is done by the Holder on the lands included in the area covered by the licence.
- (3) The activities allowed under an Exploration Licence together with corresponding environmental, social and other obligations shall be further prescribed.
- (4) The Holder of an Exploration Licence has the exclusive right to apply for, and to be granted subject to this Act, one or more Small - Scale Mining Leases, Mining Leases or Quarry Leases in respect of any part or parts of the exploration area, if the Exploration Title Holder has complied with the obligations of the Exploration Licence under this Act.

## **PART VIII - SMALL - SCALE MINING LEASE**

### **[Grant, Duration and Area of Small – Scale Mining Lease]**

50. (1) Subject to the provisions of this Act, the Mining Cadastre Office shall, upon receipt of the valid application of any qualified applicant, grant and issue to that person a Small - Scale Mining Lease for the purposes required within forty – five days of such application.
- (2) A Small - Scale Mining Lease shall not be granted in respect of any area within an Exploration Licence Area, Mining Lease area or Quarry Lease Area to any person except to the Holder of an Exploration Licence, Quarry Lease or Mining Lease covering the area.
- (3) The duration of a Small - Scale Mining Lease is:

- (i) five years in the case of Alluvial and Artisanal forms of Small – Scale Mining and, provided the requirements of this Act and its regulations have been met, is renewable for further periods of five years each under the same or different terms and conditions as the original designation;
  - (ii) ten years in the case of other types of Small – Scale Mining and, provided the requirements of this Act and its regulations have been met, is renewable for further periods of ten years each under the same or different terms and conditions as the original designation; provided further that:
    - (i) the Holder thereof has complied with his minimum work obligation commitments; and
    - (ii) all other requirements of this Act have been met.
- (4) The characteristics and limitations that distinguish Small-Scale Mining Operations for Alluvial and Artisanal purposes from other types of Small-Scale Mining Operations shall be prescribed.
- (5) The area of land in respect of which a Small -Scale Mining Lease is granted shall be as large as is required but shall not exceed three square kilometres.

**[Rights of Small – Scale Mining Lease Holder]**

51. A Small - Scale Mining Lease confers on the title-holder the right within the Small - Scale Mining Lease area to:
- (a) obtain access and to enter the Small - Scale Mining Lease Area;
  - (b) exclusively use, occupy and carry out Small-Scale Mining Exploitation of the Mineral Resources identified within the area, with the exception of mineral water, and to carry out the necessary operations and works thereof;
  - (c) utilize the land and construct the installations and infrastructure necessary to carry out small-scale Mineral Resources Exploitation;
  - (d) utilize the water, wood and other materials as necessary for the Mineral Resources resulting from the small-scale Mining Operations, and dispose of any waste in accordance with the conditions of the Permit and Regulations;

- (e) sell, market, export or otherwise dispose of the Mineral Resources and products resulting from the Small-Scale Mining Operations; and depending on the size and type of Small Scale Mining, to apply for a Mining Lease covering the Small - Scale Mining Lease.

**[Prohibition of removal of timber, forest produce, plants, animals, water etc for Commercial gain]**

52. The Holder of a Small - Scale Mining Lease shall not, unless authorized by any other law, remove beyond the boundaries of the Small - Scale Mining Lease Area for commercial gain or use any of the timber or other forest produce, plants, vegetables, animals, poultry, fish, Mineral Water or water obtained from or raised on the Small - Scale Mining Lease Area.

**[Obligations of the Holder of a Small – Scale Mining Lease]**

53. Every Holder of a Small - Scale Mining Lease shall:
- (a) give notice to the Chairman of the Local Government Area concerned and, to the occupier of the land before commencing any activity related to small-scale mining on the land; and where the Mineral Title area is within more than one Local Government Area, the Mineral Title Holder give notice to the respective chairmen of the Local Government Areas concerned and the Holders of rights of occupancy or the Users and Occupiers of land affected accordingly.
  - (b) carry out Mining Operations in a skillful and efficient manner;
  - (c) maintain the Small - Scale Mining Lease Area and Mining Operations in a safe manner in compliance with applicable Mine health and safety regulations;
  - (d) not divert water from any Watercourse save in the manner prescribed under Part XII;
  - (e) comply with social obligations prescribed in the Regulations;
  - (f) comply with applicable social and environmental protection, and mine rehabilitation obligations;
  - (g) allow access through the Small - Scale Mining Lease Area to any adjoining land insofar as such access shall not interfere with Mining Operations;
  - (h) allow the construction and use on the Small-Scale Mining Lease Area of such waterways, canals, pipelines, sewers, drains, wires,

transmission lines, public roads and public utilities as shall not interfere with Mining Operations;

- (i) pay appropriate compensation for the loss of use of land and damage to property that would result from Mining Operations;
- (j) submit information and such periodical reports as may be prescribed for Small-Scale Mining to such officers as may be authorised;
- (k) cause to be maintained in Nigeria plans, true and sufficient books of account of the Small-Scale Mining Operations and other businesses undertaken within the Small-Scale Mining Lease Area, and of the sale or other disposal of the Mineral Resources obtained therefrom; and to produce such books upon request by duly authorized officers;
- (l) pay applicable fees, annual rental, royalty and water usage charges as may be prescribed; and
- (m) comply with all conditions applicable to the Small Scale Mining Lease.

**[Pre-conditions for commencement of Small-Scale Mining]**

**54.** (1) The Holder of a Small - Scale Mining Lease shall not commence any development work or Mining on the Small-Scale Mining Lease Area until after:

(a) all environmental impact assessment studies and remediation plans required under applicable environmental laws and regulations have been submitted and approved; and

(b) users of land or holders of rights of occupancy thereto within the Small - Scale Mining Lease Area have been notified, and duly compensated or offered compensation as provided for in Part XIX of this Act.

(2) The activities allowed under a Small-Scale Mining Lease together with corresponding environmental, social and other obligations shall be further specified in regulations.

**[Obligations Not to Displace Occupier or User of Land]**

**55.** (1) The Holder of a Small – Scale Mining Lease shall not displace the User or Occupier of land included within the lease area until the land is required for Mining Operations.

(2) A Holder of a Small – Scale Mining Lease may, on the land within the area of the lease, cut, take and use any tree in the course of Mining Operations, provided that the lessee does not cut or take any protected

tree except with the consent of the forestry officer and on payment of the fees and royalties prescribed under the Forestry Law of the state.

- (3) The owner of any protected tree cut or taken shall be entitled to any compensation payable in respect of such tree, and in the case of any other tree cut or taken, the compensation as may be agreed on between the owner and lessee, or in default of agreement, as may be determined in the manner prescribed in section 115 of this Act.
- (4) A lessee is not liable to pay compensation in respect of any tree, other than a protected or an economic tree, taken from the land in respect of which he is paying surface rent under this Act.

**[Right of lessee to remove fixtures, etc]**

56. (1) Upon the expiration or termination of the Small –Scale Mining Lease, the Holder of a Small-scale Mining Lease who has paid all rents, royalties and other payments due to be made by him under this Act or under the terms of his lease may, within three months, in the case of an alluvial lease, and six months, in the case of a lode lease, remove all or any of the plants, buildings or other property belonging to him.
- (2) Where upon the expiration or termination of the Small-Scale Mining Lease, a lessee is in default in the payment of any rent, royalty or other payments, and in the case of a lessee who has not removed his property within:
- (a) three months in the case of an alluvial operation; or
  - (b) six months in the case of a lode operation; or
  - (c) such further period, if any, as the Minister may allow;

the plant, buildings and property of the lessee on the land the subject of the Small – Scale Mining Lease, shall become the property of the Government and may be dealt with and disposed of in such manner as the Minister may direct.

**[Conversion to a Mining Lease]**

57. When the level of operations of Small-Scale Mining exceeds any of the criteria established in the definition of Small – Scale Mining Lease, the Holder shall convert such lease into a Mining Lease by submitting a written application for conversion to the Mining Cadastre Office.

**[Application for Conversion to a Mining Lease]**

58. Subject to confirmation by the Mines Inspectorate Department that the Small – Scale Mining Operations have reached a satisfactory operational level, the Mining Cadastre Office shall grant its approval of the application for conversion of a Small – Scale Mining Lease to a Mining Lease within thirty days of submission of the application.

**[Suspension of a Small – Scale Mining Lease]**

59. The Mining Cadastre Office, upon the written advise of the Minister, may for a period not exceeding sixty days suspend any Small-Scale Mining Lease, if it is satisfied that it is in the public interest to do so.

**[Assistance to Small – Scale Miners]**

60. The Minister shall provide such exploration and mining consultancy assistance to small scale miners as may improve Mining Operations, environmental management and treatment of Mineral Resources by small scale miners; and such other support and other advisory services required to assist the formal organization of mining activities and improvement of living conditions at Mine sites.

**PART IX - MINING LEASE**

**[Grant of Mining Lease]**

61. (1) Subject to the provisions of this Act, the Mining Cadastre Office shall, upon receipt of a valid application from a qualified applicant, grant and issue to that person a Mining Lease for the purposes required within forty – five days of such application.
- (2) No Mining Lease shall be granted in respect of any area within an Exploration Licence Area or a Small-Scale Mining Area except to the Holder of the Exploration Licence or Small-Scale Mining Lease covering such area.
- (3) A Mining Lease shall not be granted to any company unless the company has employed a person who possesses adequate professional qualification and experience in mining and the Mining Cadastre Office is satisfied that the company shall, during the currency of the lease, have such qualified person in its employment.
- (4) The Mining lease shall remain in force for such time only as the lessee employs a person who possesses adequate mining qualifications and experience to personally supervise the Mining Operations being undertaken by the company during the period of the Lease; or

- (5) Where a person with adequate mining qualifications and experience is not available to supervise the Mining Operations being undertaken, the company shall cease operations until a suitably qualified person is available.

**[Duration of Mining Lease]**

62. The duration of a Mining Lease is twenty-five years, and shall be renewable every twenty years provided that:

- (i) the Holder thereof has complied with his minimum work obligation commitments; and
- (ii) all other requirements of this Act and its regulations have been met.

**[Area for Mining Lease]**

63. The area of land in respect of which any Mining Lease is granted shall be determined in relation to the ore body as defined in the feasibility study submitted in respect of the Mining Lease together with an area reasonably required for the workings of the Mineral Resources, provided such area shall not exceed fifty square kilometres.

**[Rights of Mining Lease Holder]**

64. A Mining Lease confers on the holder the right within the Mining Lease Area to:

- (a) obtain access and to enter the Mining Lease Area;
- (b) exclusively use, occupy and carry out Mineral Exploitation within the Mining Lease Area;
- (c) exclusively carry out exploration within the Mining Lease Area;
- (d) utilize the water and wood and other construction materials as necessary for mineral exploitation in accordance with the Permit and Regulations;
- (e) use such portions as may be required for the purposes of growing such plants and vegetables, or keeping such animals, poultry and fish as may be reasonable for use of the employees at the Mine;
- (f) store, remove, transport, submit to treatment, transform and process the Mineral Resources, and dispose of any waste; and
- (g) market, sell, export or otherwise dispose of the mineral products resulting from the Mining Operations.

**[Prohibition of Sale of plants, animals, water obtained in the Mining Lease area without authorisation]**

65. The Holder of a Mining Lease shall not, unless authorized under any other federal law, remove beyond the boundaries of the Mining Lease area for commercial gain any of the timber or other forest produce, plants, vegetables, animals, poultry, fish, or water obtained from or raised on the Mining Lease area.

**[Obligations of Mining Lease Holder]**

66. (1) Every Holder of a Mining Lease shall:
- (a) commence mine development within eighteen months for a Mining Lease for Mineral Resources and, twelve months for a Mining Lease for Mineral Water, effective from the date that the requirements of section 67(a) of this Act have been met, unless circumstances justify an extension of the period;
  - (b) commence production no later than thirty-six months for a Mining Lease for Mineral Resources and twelve months for a Mining Lease for Mineral Water, effective from the date that the requirements of section 67(b) of this Act have been met, unless circumstances justify an extension of the period;
  - (c) carry out Mining Operations in a skilful and efficient manner;
  - (d) maintain the Mining Lease area and Mining Operations in a safe manner in compliance with applicable mine health and safety regulations;
  - (e) not divert water from any water course in a manner contrary to the provisions of Part XII of this Act;
  - (f) comply with social obligations prescribed in the regulations;
  - (g) comply with all requirements for Environmental Impact Assessment Studies and protection plans required under Section 106 of this Act;
  - (h) allow access to any adjoining land through the Mining Lease area insofar as such access shall not interfere with Mining Operations;
  - (i) allow the construction and use on Mining Lease area of such waterways, canals, pipelines, sewers, drains, wires, transmission lines, public roads, and public utilities as shall not interfere with Mining Operations;

- (j) compensate owners or lawful occupiers of land for the revocation of their rights to use the land pursuant to section 115 of this Act.
  - (k) submit information and such periodical reports as may be prescribed in the Regulations;
  - (l) cause to be maintained in Nigeria, plans and true and sufficient books of account of the Mining Operations and other businesses undertaken in the Mining Lease area, and of the sale or other disposal of the Mineral Resources obtained; and to produce such books upon request from duly authorized officers; and
  - (m) pay fees, annual rental, royalty and water usage charges, if any and as prescribed in the regulations.
- (2) The activities allowed under a Mining Lease together with corresponding environmental and social obligations shall be further specified in regulations.

**[Pre-Conditions for commencement of development]**

67. (1) The Holder of a Mining Lease shall not commence any development work or extraction of Mineral Resources on the Mining Lease Area until after:
- (a) the submission and approval by the Mines Environmental Compliance Department of all Environmental Impact Assessment Studies and mitigation plans required under applicable environmental laws and regulations;
  - (b) the submission and approval by the Mines Inspectorate Department of the details of the work which the applicant is prepared to undertake or a programme for carrying out any minimum work obligations imposed by the Mines Inspectorate Department;
  - (c) the conclusion of a Community Development Agreement approved by the Mines Environmental Compliance Department;
  - (d) the Holder has duly notified, compensated, or offered compensation to all users of land within the Mining Lease Areas as provided for in Part XIX of this Act or in the event of a dispute, after the matter has been resolved by Arbitration;
- (2) The Holder of a Mining Lease, except a Mining Lease for Mineral Water Exploitation, is required to have resolved the matters specified in subsection (1) (a) and (b) of this section within three years from the issue of

the Mining Lease, failing which the Mining Lease may be temporarily suspended without affecting the rental payments that shall continue and without prejudice to the transfer right of the title Holder under the provisions of this Act;

- (3) The Holder of a Mining Lease for Mineral Water Exploitation is required to have complied with the conditions specified in sub-section (1) (a) and (b) of this section within two years from the issue of the Mining Lease for Mineral Water, failing which the Mining Lease may be suspended.

**[Rights to graze livestock by occupier of land or Holder of certificate of occupancy]**

68. Subject to this Act and any other enactment, the lawful occupier of any land within an area subject to Mining Lease shall retain the right to graze livestock upon or to cultivate the surface of the land in so far as the grazing or cultivation does not interfere with the Mining Operations in the Mining Lease Area.

**PART XI - QUARRY LEASE**

**[Quarry Lease]**

69. (1) Subject to provisions of this Act, and notwithstanding the provisions of any other enactment, every operation for extracting any Mineral Resources for Construction from a quarry shall be conducted under a Quarry Lease issued under this Act.
  - (2) Subject to the provisions of this Act, the Mining Cadastre Office shall upon receipt of the valid application of any qualified applicant grant and issue to that person a Quarry Lease for the purposes required within forty – five days of such application.
  - (3) The Minister may, at any time, amend or suspend a Quarry Lease and thereafter require the Holder to subject such extraction to the procurement of a Mining Lease.

**[Extraction of Mineral Resources for Construction]**

70. (1) The extraction of Mineral Resources for Construction is permitted without a Mineral Title by –
  - (i) any Citizen of Nigeria to the extent and in the manner permitted by local custom and on land where it is usual to carry out such extraction, when such materials are to be used for the construction of that person's personal dwellings and out-buildings or for artisanal production of pottery;

- (ii) users of land for the purpose of the construction of dwellings, warehouses, storage facilities and out-buildings on their landholding;
  - (iii) the Holder of a Mining Lease or a Small-Scale Mining Lease, when such materials are to be used for the construction of buildings or other structures in connection with activities related to Mining Operations within the title area.
- (2) Upon the written advise of the Minister, the Mining Cadastre Office may, by notice in writing, suspend temporarily, limit or prohibit the extraction of Mineral Resources for Construction being carried under sub-section (1) of this section for social, environmental, health or safety reasons.

**[Duration of Quarry Lease]**

71. The duration of a Quarry Lease shall not exceed ten years and it may be renewed for further terms each one not exceeding the first term granted as often as required, provided the renewal application is made within three months before the expiry of the lease and the requirements of this Act and its regulations have been met.

**[Size of Quarry Lease]**

72. The area of land in respect of which a Quarry Lease is granted shall not exceed five square kilometres.

**[Rights of the Holder of a Quarry Lease]**

73. A Quarry Lease confers on the Holder the right:
- (a) of entry to the Quarry Lease Area;
  - (b) to exclusively use, occupy and carry out quarry operations and carry out the necessary operations and works thereof;
  - (c) to utilize the land and construct the temporary installations and infrastructure necessary to carry out the quarry operations;
  - (d) to utilize the water, wood and other materials as necessary for quarry operations;
  - (e) store, remove, transport, or submit to treatment the Mineral Resources for Construction, and dispose of any waste; and
  - (f) sell, market, export or otherwise dispose of the Mineral Resources for construction or products resulting from the quarry operations.

**[Obligations of Quarry Lease Holder]**

74. (1) Every Holder of a Quarry Lease shall:
- (a) cause to be maintained in Nigeria plans, true and sufficient books of account of the quarry activity and other businesses undertaken on the Quarry Lease Area, and of the sale or other disposal of the Mineral Resources for construction materials obtained; and to produce such books upon request of duly authorized officers;
  - (b) submit information and such periodical reports as may be prescribed to such officers as may be authorised;
  - (c) maintain the Quarry Lease area and quarry operations in a safe manner in compliance with quarry health and safety regulations;
  - (d) not divert water from any water course in contravention of the provisions of Part XII;
  - (e) comply with laws and regulations for environmental protection, management and rehabilitation under any law then in force;
  - (f) comply with social obligations prescribed in Regulations;
  - (g) allow access through the Quarry Lease area to any adjoining land insofar as such access shall not interfere with quarry operations;
  - (h) allow the construction and use on the Quarry Lease area of pipelines, sewers, drains, wires, transmission lines, public roads, and public utilities as shall not interfere with quarry operations;
  - (i) compensate users of land for damage to land and property resulting from quarry operations; and
  - (j) pay applicable fees, annual rental, taxes, royalty and water usage charges.
- (2) The activities allowed under a Quarry Lease together with corresponding environmental and social obligations shall be further specified in Regulations.

**[Prohibition of Sale or transfer of Mineral Resources under certain circumstances]**

75. Mineral Resources for Construction extracted pursuant to section 70 of this Act may not be sold or transferred for commercial gain.

**[Prohibition against removal of plants and animals from the quarry area]**

76. The Holder of a Quarry Lease shall not, unless authorized by relevant federal laws, remove beyond the boundaries of the Quarry Lease area for commercial gain or use any of the timber or other forest produce, plants, vegetables, animals, poultry, fish, mineral water or water obtained from or raised on the Quarry Lease area.

**[Pre-Conditions for commencement of quarry operations]**

77. The Holder of a Quarry Lease shall not commence any development or quarry work on the Quarry Lease Area until after -
- (a) all environmental certified statements required under applicable environmental laws and regulations have been submitted and approved; and
  - (b) users of land within the Quarry Lease area have been duly compensated or offered compensation. Provided that in the event of a dispute in respect of the amount of compensation payable the matter shall be referred to arbitration.

**[Control of the use of explosives]**

78. Explosives shall only be used for the extraction of any of the minerals referred to subsection (1) of this section as prescribed in the Explosives Act and Explosives Regulations, Cap E18, Laws of the Federation of Nigeria 2004.

**[Pre-condition for the Grant of certain Quarry Leases] [Cap N47, LFN]**

79. For a Quarry Lease to be issued under this Act, to win, dredge or mine sand within the Inland Waterways, a qualified applicant shall obtain the prior consent of the Authority established under the National Inland Waterways Authority Act, Cap N47 Laws of the Federation of Nigeria 2004.

**PART XII - WATER USAGE AND WATER USE PERMIT**

**[Grant of Water Use Permit]**

80. (1) Subject to the provisions of this Act, the Mining Cadastre Office shall, upon receipt of the valid application of a qualified applicant, grant and issue to that person a Water Use Permit.
- (2) No Water Use Permit shall be granted -
- (a) until after the expiration of one month from the date on which notice of an application for Water Use Permit is published in the *Gazette* and posted in a conspicuous place at the office of the Mining Cadastre Office; or

- (b) if it is shown to the satisfaction of the Mining Cadastre Office that the exercise of the right under the Permit shall not prejudicially affect any existing right in or over the water supply to which it relates.

**[Pre-conditions for the grant of a Water Use Permit Holder]**

81. (1) An applicant for a Water Use Permit shall -
- (a) inform the persons likely to be affected by the grant of the Water Use Permit and furnish the Mining Cadastre Office with their names and such other information as may be prescribed or required by the Mining Cadastre Office; and
  - (b) obtain the written consent of all persons likely to be adversely affected by the grant of a Water Use Permit and submit such written consent to the Mining Cadastre Office at the time of making the Water Use Permit application.
- (2) Where the consent required under subsection (1) (b) of this section is unreasonably withheld, the Mining Cadastre Office shall enter into consultation with all persons likely to be affected by the grant of the Water Use Permit and shall reach such necessary agreement with such persons as may be just and proper.

**[Area of Water Use Permit]**

82. The area of land in respect of which any Water Use Permit is granted shall not exceed the area reasonably required for the purposes of the Permit as defined in the Regulations.

**[Duration of Water Use Permit]**

83. A Water Use Permit shall remain in force as long as the Mining Lease, Small-Scale Mining Lease or Quarry Lease for which use it was granted remains valid.

**[Rights of Water Use Permit Holder]**

84. (1) A Water Use Permit, confers on the Holder of the Permit the right to -
- (a) obtain and convey such volume of water as may be required for the purpose of Mining Operations but not to exceed any limit specified in the Permit;
  - (b) occupy such land as may be specified in the Permit for a dam, reservoir or pumping station and for the conveyance of the water by means of pipes, ducts, flumes, furrows or otherwise; and

- (c) construct and maintain any works necessary for the collection, storage or conveyance of the water.

**[Conditions for grant of Water Use Permit]**

85. (1) Every Water Use Permit shall be granted subject to the covenants and conditions that the Holder thereof shall:
- (a) maintain the area subject to the Permit in a safe manner and in compliance with Mine health and safety regulations;
  - (b) comply with requirements for Environmental Impact Assessment studies and reclamation plans under applicable environmental laws and regulations;
  - (c) compensate users of land for damage to land and property resulting from the construction and operation of water supply, storage and conveyance work;
  - (d) submit information and such periodical reports as may be prescribed to such officers as may be authorised; and
  - (e) pay fees as prescribed in the Regulations.
- (2) The Mining Cadastre Office may require a person to whom a Water Use Permit is granted to allow, on such terms and conditions as are just, any other Mineral Title Holder to draw water from the water supply obtained under the Water Use Permit.
- (3) The Mining Cadastre Office may grant to the other Mineral Titleholder, a Water Use Permit to construct and maintain any pump, pipe, duct, flume or furrow as may be necessary to convey the water to the required area of the lease.

**[Amendment of Water Use Permit]**

86. (1) A Holder of a Water Use Permit may apply to the Mining Cadastre Office for an amendment to the Water Use Permit with respect to:
- (a) the volume of water which may be diverted;
  - (b) the operation to be served by the Water Use Permit;
  - (c) the land area that may be occupied; and
  - (d) by endorsement on the Water Use Permit.

- (2) No amendment shall be made in respect of an increase in the volume of water to be diverted unless notice of the application for the increase is given in the manner provided in sub-section (1) of section 89 and no objection is received concerning the application.

**[Precautions for Water Use Permit Holder]**

87. Every Mineral Title holder or any person who uses water in connection with activities carried out under a Mineral Title shall take such measures and make such provisions as shall ensure that the water so used does not contain injurious substances in quantities deleterious to human, animal, aquatic or plant life when the water leaves the area where it has been so used.

**[Payment of compensation for water usage]**

88. (1) A Mineral Title holder shall pay compensation to the User or Occupier
- (a) whose land or interest in the land is injuriously affected by the use of water in the exercise of the rights conferred by the Mineral Title for any such injurious effects not otherwise made good; and
  - (b) who suffers damage as a result of Pollution of any source of water, used for domestic and other purposes, in consequence of the operations carried out in relation to a Mineral Title.
- (2) The amount of compensation shall be determined in accordance with section 115 of this Act if the Mineral Title holder and the User or Occupier of the land fail to reach an agreement.

**[Restrictions on Water Use Permit]**

89. (1) No Holder shall make or permit any other person to make, without the permission of the Mines Inspectorate Department, any alterations to the water supply of any land that will prejudicially affect the water supply enjoyed by any other person, or group of persons, or community using that same source of water.
- (2) Whenever any alteration to the water supply of any land is made, without the permission of the Mines Inspectorate Department the Mineral Title or Permit Holder benefiting by the alteration shall, in the absence of proof to the contrary, be presumed to have made it.

**[Contravention of certain provisions]**

90. A person who contravenes the provisions of sections 86, 87 or 88 of this Act may be required by the written order of the Mines Inspectorate Department to take such steps as may prevent a continuance or recurrence of the contravention within such time as may be directed in the order. Failure to comply with such an order shall constitute an offence.

## PART XIII – DISCOVERY OF MINERALS NOT INCLUDED IN A MINERAL TITLE

### [Discovery of Minerals]

91. (1) A Mining Lease, Small-Scale Mining Lease and Quarry Lease shall specify the Minerals, which the Lease is entitled to Mine within his Lease.
- (2) Where in the course of the exercise of his rights under this Act the Holder of a Mining Lease, Small-Scale Mining Lease and Quarry Lease discovers any Mineral not specified in his Lease, he shall, within thirty days of the discovery, notify the Mining Cadastre Office in writing of the discovery.
- (3) The notice given to the Mining Cadastre Office under Subsection (1) of this section shall-
- (a) contain particulars of the Minerals discovered;
  - (b) the location and circumstance of the discovery; and
  - (c) have appended thereto a proposed program for the orderly and timely exploitation of the minerals discovered therewith.
- (4) Where the Mining Cadastre is satisfied with the programme proposed by the Mineral Title holder under subsection (2) (c) of this section, it shall approve the application within thirty days of the submission of the application and shall accordingly endorse the Mineral Title with the right or authority to the holder to mine the Mineral discovered; provided however that where the Minerals subsequently discovered are security Minerals:
- (i) The provisions of subsection (3) (c) of this Section shall not apply;
  - (ii) The Mineral Titleholder shall not have a right to mine such Mineral.
- (5) It shall be an offence for a Mineral Title Holder or any of his agents or employees to conduct Mining Operations with respect to any Mineral not included in the Mineral Title without complying with the provisions of this section.

**PART XIV - TRANSFER, RENEWAL, SUSPENSION, REVOCATION,  
RELINQUISHMENT AND SURRENDER OF MINERAL TITLE**

**[Transfer of Mineral Title]**

- 92.** (1) Subject to sub-sections (2), (5) and (6) of this section, a Mineral Title is transferable under this Act subject to the approval of and registration of the transfer with the Mining Cadastre Office as provided in sub-sections 3) and (4) of this section
- (2) The rights arising from a Mineral Title or Permit that are transferable under this Act can be wholly and partially assigned, sub – leased, pledged, mortgaged, charged, hypothecated or subject to any security interest.
- (3) The Mineral Title Holder shall make an application for approval of the transfer of a Mineral Title to the Mining Cadastre Office in the prescribed form.
- (4) In the application for a transfer of a Mining title, the Holder shall provide to the Mining Cadastre Office such details of the assignment or transfer as may be required together with any other information that the Mining Cadastre Office may require.
- (5) The Mining Cadastre Office shall approve a transfer of a Mineral Title under sub-section (1) of this section if the transferee is a qualified applicant, provided that the application for transfer shall be deemed automatically approved if not acted upon by the Mining Cadastre Office within thirty days from official receipt thereof.
- (6) The approval of the Mining Cadastre Office shall not be required for an assignment to an affiliate, where the obligations of the affiliate are guaranteed by the assignor or by a parent company.
- (7) In the event of the death of the Mineral Title Holder the laws of succession shall apply.
- (8) The transferor of a Mineral Title shall remain liable for the performance of any obligations arising out of acts or contracts made in respect of the Mineral Title Area, including environmental obligations, incurred prior to the date of the transfer as well as for any claims for damages or injuries by bona fide third parties.
- (9) Where the transfer under this section is in the nature of a security interest, the Holder of the Mineral Title shall remain liable for all

obligations in respect of the Mineral Title until the later in time of redemption of the security or the expiration of the Mineral Title.

- (10) No Mineral Title or rights therein may be assigned to a person to whom that Mineral Title could not have been granted under this Act.

**[Renewal of Mineral Title]**

93. Where the Holder of a Mineral Title applies during the pendency of his title for a renewal of the Mineral Title, the current Mineral Title shall remain in force until the date of the renewal of the Mineral Title or the refusal of the application.

**[Suspension of Mineral Title]**

94. (1) Without prejudice to any other provisions of this Act, upon the written advise of the Minister, the Mining Cadastre Office may suspend a Mineral title for a period not exceeding sixty days if the Holder –
- (a) fails to make any payments required by or under this Act on the due date;
  - (b) has breached any condition of the Mineral Title;
  - (c) has contravened any provisions of this Act, or
  - (d) has failed to comply with any lawful order given in connection with his operations;
  - (e) makes any statement to the Mining Cadastre Office which he knows or ought to have known to be false; or
  - (f) for any reason becomes ineligible to apply for a Mineral title under the provisions of this Act.
- (2) A Mineral Title shall only be suspended after thirty days notice of the intention to suspend the Mineral Title containing in detail the grounds thereof is given to the Holder and during the period fixed the Holder has failed to remedy the breach or remove the grounds for suspension within the required period.

**[ Surrender of Mineral Title]**

95. (1) The Holder of a Mineral Title may, upon application in the prescribed form and manner, and upon meeting prescribed conditions, surrender the Mineral Title.

- (2) The Mining Cadastre Office shall approve an application made under sub-section 1 of this section to surrender the Mineral Title if he is satisfied that:
- (a) the Holder of the Mineral Title has submitted the request for surrender in the prescribed form and manner;
  - (b) the surrender will not affect any liability incurred by the Mineral Title Holder before the surrender of the Mineral Title, including environmental obligations;
  - (c) all rents due and fees prescribed, if any, have been paid by the Holder of the Mineral Title; and
  - (d) the Holder of the Mineral Title has surrendered the original title document.

**[Revocation of Mineral Title]**

96. (1) Without prejudice to the power of the Mining Cadastre Office to determine a Mineral Title in any other manner, the Mining Cadastre Office may, revoke any Mineral title if-
- (a) the Holder is convicted by any court of competent jurisdiction for an offence under this Act or its regulations and the time for appealing against the conviction, if any, has lapsed or the appeal has been dismissed or withdrawn or struck out for want of prosecution; or
  - (b) the Holder breaches any provision of this Act or regulations made or of any terms or conditions of his Mineral title whether express or implied; or
  - (c) the Holder breaches any order or notice issued or given under this Act or regulations made under it, or on being required by the Mining Cadastre Office by notice to show cause within a time specified in the notice why the Mineral title should not be revoked, the Holder fails to comply or show adequate cause; or
  - (d) the Mineral Title holder before the expiration of the term of the licence, surrenders the Mineral title in the manner prescribed; or
  - (e) the Holder is declared by a Court of competent jurisdiction to be insolvent or bankrupt or goes into forced liquidation, except as part of a scheme for reorganization, amalgamation or an arrangement with its creditors; or

- (f) the Mineral Title is held jointly by more than one person and the provisions of sub-section (1) (a) of this section apply to any one of the joint Holders unless the other joint Holders are able to assume the obligations of the former and adopt measures which will guarantee the performance of these obligations;
  - (g) no progress is made in the organization of the Mining Operations in the case of all Mineral Title other than a Reconnaissance Permit by the end of the period provided for in the Mineral Title;
  - (h) in the case of a Small – Scale Mining Lease or Mining Lease, the Holder wholly discontinues operations under the Lease during a continuous period of six months.
- (2) A Mineral Title shall be revoked upon written advice of the Minister and after thirty days notice of the intention to revoke the Mineral Title containing in detail the grounds thereof is given to the Holder and during the period fixed the Holder has failed to remedy the breach or remove the grounds for revocation within the required period.
- (3) Any notice issued by the Mining Cadastre Office and sent by registered mail to the last known address in Nigeria or given in person to an authorized representative of the Mineral Title Holder in Nigeria or published in the Gazette, shall for all purposes be sufficient notice of the revocation of the Mineral Title to the Mineral Title Holder.

**[Obligation of Mineral Title holder upon Revocation]**

97. Upon the revocation of a Mineral Title, the former Holder thereof shall deliver to the Mines Officer responsible for the area -
- (a) all records which the Holder is obliged to submit under the provisions of this Act and regulations;
  - (b) all plans or maps of the area covered by the Mineral Title prepared by the Holder or at his instructions; and
  - (c) such other documents relating to the Mineral Title as the Mines Officer may request.

**[Notice requesting delivery Documents]**

98. Upon revocation of a Mineral Title, a notice in the prescribed form requesting the delivery of the documents specified under section 97 shall be sent to the former Mineral Title Holder.

**[Failure to deliver Documents given]**

99. The failure of the recipient of the notice under section 96 to deliver the said documents, within thirty days of the delivery of the notice shall be an offence under this Act.

**[Continuing Obligation of Mineral Title holder]**

100. Notwithstanding the revocation of a Mineral Title in accordance with section 96, the Mineral Title or Permit Holder, shall remain liable for the performance of any obligations arising out of the Mineral Title, including environmental obligations, incurred prior to the date of revocation as well as for any claims for damages or injuries by bona fide third parties.

**[Appeal of Revocation]**

101. The decision of the Mining Cadastre Office to revoke a Mineral Title shall be subject to appeal in accordance with the provisions of this Act.

**[Relinquishment of part of Mineral Title]**

102. (1) The Holder of a Mineral Title may at any time during the period of the validity of such Mineral Title, upon application to the Mining Cadastre Office in the prescribed form and manner and upon meeting prescribed conditions, relinquish the area or part of area covered by the Mineral Title, provided, the geometry and dimensions of each surrendered area shall satisfy the prescriptions of this Act and its regulations.
- (2) Upon relinquishment of the area or part of the area covered by the Mineral Title in accordance with the provisions of sub-section (1) of this section, the fees payable on the basis of the area covered by the Mineral Title shall be adjusted proportionally taking into account the area relinquished.
- (3) The relinquishment of the area or part of the area covered by the Mineral Title shall not affect the duration of the Mineral Title.
- (4) The relinquishment of the area or part of the area shall not affect any liability incurred by the Mineral Title Holder in respect of the area relinquished prior to the relinquishment, including environmental obligations.

**[Contiguous Areas]**

103. (1) The Holder of several Mineral Titles whose areas are contiguous may at any time during the period of the validity of such Mineral Titles, upon application to the Mining Cadastre Office in the prescribed form and manner and upon meeting prescribed conditions, consolidate some or all of the contiguous areas covered by the Mineral Titles under a single one of such Mineral Titles, provided the geometry and dimensions of the

consolidated area shall satisfy the prescriptions of this Act and its regulations.

- (2) After the consolidation of Mineral Title areas under sub-section (1) of this section, the validity of the resulting Mineral Title and the surface rents payable for the new area shall be the period of the validity and the surface rents payable for the oldest of the Mineral Title whose area was part of the consolidation.

## **PART XV - COMMUNITY, SOCIAL AND ECONOMIC BENEFITS**

### **[Community, social and economic benefits]**

- 104.**
- (1) Subject to the provisions of this section, the Holder of a Mining Lease, Small-Scale Mining Lease or Quarry Lease shall prior to the commencement of any development activity within the lease area, conclude with the host community where the operations are to be conducted an agreement referred to as a Community Development Agreement or other such agreement that will ensure the transfer of social and economic benefits to the community.
  - (2) The Community Development Agreement shall contain undertakings with respect to the social and economic contributions that the project will make to the sustainability of such community.
  - (3) The Community Development Agreement may address all or some of the following issues when relevant to the host community -
    - (a) educational scholarship, apprenticeship, technical training and employment opportunities for indigenes of the communities;
    - (b) financial or other forms of contributory support for infrastructural development and maintenance such as education, health or other community services, roads, water and power;
    - (c) assistance with the creation, development and support to small-scale and micro enterprises;
    - (d) agricultural product marketing; and
    - (e) methods and procedures of environment and socio-economic management and local governance enhancement.
  - (4) In the event of the failure of the host community and the lease Holder after several attempts to conclude the Community Development Agreement by the time the title Holder is ready to commence

development work on the lease area, the matter shall be referred to the Minister for resolution and the decision of the Minister thereon shall be final.

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

**[Obligations in the Community Development Agreement]**

105. The Community Development Agreement shall specify appropriate consultative and monitoring frameworks between the Mineral Title Holder and the host community, and the means by which the community may participate in the planning, implementation, management and monitoring of activities carried out under the agreement.

**PART XVII – ENVIRONMENTAL OBLIGATIONS**

**[Environmental obligations]**

106. Every Holder of a Mineral Title under this Act shall as far as it is reasonably practicable:
  - (a) minimize, manage and mitigate any environmental impact resulting from activities carried out under this Act; and
  - (b) rehabilitate and reclaim, where applicable, the land disturbed, excavated, explored, mined or covered with tailings arising from Mining Operations to its natural or predetermined state or to such state as may be specified in this Act, its regulations and other pertinent laws in force, and in accordance with established best practices.

**[Submission of environmental impact assessment and protection plans]**

107. Every Holder of an Exploration Licence, Small Scale Mining Lease, Mining Lease, Quarry Lease and Water Use Permit shall:
  - (a) prior to the commencement of Mining Operations; or
  - (b) upon application for an extension of the term; or
  - (c) upon an application for the conversion of a Mineral Title;submit to the Mines Environmental Compliance Department:
  - (i) an environmental impact assessment statement approved by the Federal Ministry of the Environment in respect of Mining Operations to be conducted within the Mineral Title Area; and

- (ii) an Environmental Protection and Rehabilitation Program containing such details as may be provided for in the environmental regulations issued pursuant to this Act.

**[Contents of the Environmental Protection and Rehabilitation Programme]**

- 108.** (1) The Environmental Protection and Rehabilitation Program required under section 107 of this Act shall:
- (a) provide for specific rehabilitation and reclamation actions, inspections, annual reports;
  - (b) a reasonable estimate of the total cost of rehabilitation;
  - (c) cost estimates for each specific rehabilitation and reclamation action; and
  - (d) a timetable for the orderly and efficient rehabilitation and reclamation of the Mineral Title area to a safe and environmentally sound condition suitable for future economic development or recreational use.
- (2) The Mines Environmental Compliance Department shall exercise all its powers in respect of Environmental Protection and Rehabilitation Programs provided for in section 107 in consultation with the State Mineral Resources and Environmental Management Committee established pursuant to Section 13 of this Act.
- (3) The Mines Environmental Compliance Department may approve or reject an Environmental Protection and Rehabilitation Program submitted by a Mineral Title Holder and shall notify the Holder of the Mineral Title of its decision thereon within sixty days of the submission of the Environmental Protection and Rehabilitation Program;
- (4) If the Mines Environmental Compliance Department does not notify the Holder of a Mineral Title within the period specified under sub-section (3) of this section, the Environmental Protection and Rehabilitation Program shall be deemed to have been approved as submitted.
- (5) In the case of a rejection of the Environmental Protection and Rehabilitation Program by the Mines Environmental Compliance Department, the Mineral Title Holder may –
- (a) submit such other number of Environmental Protection and Rehabilitation Programs as may be necessary in order to obtain the approval of the Mines Environmental Compliance Department ; or

- (b) if its application is rejected twice, the Holder may submit the matter to arbitration within thirty days of notification of the decision under subsection (3) of this section.
- (6) In the case of its approval, the Mines Environmental Compliance Department shall ensure the implementation of the Environmental Protection and Rehabilitation Program.

**[Establishment of the Environmental Protection Fund]**

- 109.** (1) The Minister shall establish an Environmental Protection Fund for the purpose of guaranteeing the environmental obligations of Holders of Mineral Titles as provided under this Act.
- (2) The Minister shall appoint a reputable institution customarily engaged in business as trustees or fund managers to administer the Environmental Protection Fund.
  - (3) The trustees appointed pursuant to subsection (2) of this section shall operate the fund in accordance with the provisions of the Trustees Investments Act, Cap T22 Laws of the Federation of Nigeria 2004 or amendments thereof.
  - (4) Every Holder of Mineral Exploitation Title shall commence contributions to the Environmental Protection and Rehabilitation Fund in accordance with the amounts specified in the approved Environmental Protection and Rehabilitation Program not later than one year from such approval.
  - (5) If the Mines Environmental Compliance Department determines that the estimated cost of implementing the approved Environmental Protection and Rehabilitation Program is substantially less than the amount already deposited in the Environmental Protection and Rehabilitation Fund, he may:
    - (i) refund any excess amount in the Fund to the Holder of the Mineral Title; or
    - (ii) review the amount of future contributions or modify the contribution schedule as the circumstances may require.
  - (6) Where a Mineral Exploitation Title is renewed, the titleholder shall pay into the Environmental Protection and Rehabilitation Fund such annual amounts as may be specified in an amended Environmental Protection and Rehabilitation Program approved under section 107 of this Act.

- (7) The trustee shall keep proper records in respect of the operation of the Fund, and shall cause to be prepared by an independent firm of chartered accountants appointed by the Minister an audited statement of accounts in respect of each financial year.
- (8) The trustee shall, not later than three months after the end of each financial year, cause a copy of the audited statement of accounts referred to in sub-section (6) of this section to be sent to the Minister and each member of the State Mineral Resources and Environmental Management Committee.
- (9) The Environmental Protection and Rehabilitation Fund and any sum accruing therefrom shall be applied only for the implementation of the Environmental Protection and Rehabilitation Program to which they relate in accordance with the timetable of payments established in the Environmental Protection and Rehabilitation Program.
- (10) The Holder of a Mining Lease shall implement and meet all obligations described in the Environmental Protection and Rehabilitation Program during the term of the Mining Lease.
- (11) When the Environmental Protection and Rehabilitation Program has been fully implemented and completed further to a certification by an independent external audit has confirmed that the implementation of the Environmental Protection and Rehabilitation Program has been satisfactorily completed, the Head of the Mines Environmental Compliance Department shall authorize the refund of any sum remaining in the Environmental Protection and Rehabilitation Fund to the title holder within thirty days of the receipt of the certification.

**[Service of Demand Notice]**

- 110.** (1) Where a Holder of a Mining Lease is required to make a payment to the Environmental Protection and Rehabilitation Fund under section 108 of this Act and fails to do so within thirty days of a written notice given by the Mines Environmental Compliance Department requesting payment of the amount owing, the Mines Environmental Compliance Department shall –
- (a) serve, or cause to be served, on the titleholder a thirty day demand notice in writing; and
  - (b) cause a record of the service of the notice to be endorsed by the Mining Cadastre Office on the copy of the Mining Lease in the register to which it relates.

- (2) If the whole of the sum demanded by the notice under sub-section (1) of this section is paid to the Environmental Protection and Rehabilitation Fund within the time specified therein, the notice shall thereupon have effect, cease to and the Mines Environmental Compliance Department shall cause to be cancelled in the Cadastre register the record endorsed on the Mining Lease pursuant to sub-section (1) (b) of this section.
- (3) If by the end of the period specified in the demand notice the sum owed has not been paid to the Environmental Protection and Rehabilitation Fund, The Trustees to the Environmental protection and rehabilitation fund shall:
  - (a) institute the necessary court proceedings to recover the amount;
  - (b) suspend payment of any amount payable from the Environmental Protection and Rehabilitation Fund to the defaulting titleholder in accordance with the provisions of this Part, and the Mining Lease shall thereon become liable to suspension.

## **PART XVIII - ABANDONMENT AND SUSPENSION**

### **[Abandonment or Cesser of Production]**

- 111.**
- (1) A Holder of a Mining Lease, Small - Scale Mining Lease, and Quarry Lease intending to abandon or permanently cease production from the Lease Area shall provide a written notice to the relevant departments established under this Act three months before such intended abandonment or cessation of production. A copy of such a notice shall also be given at the same time to the Mining Cadastre Office.
  - (2) The notification shall be accompanied by a report outlining details of the intended abandonment or permanent cessation of production and the reasons thereof together with a plan, showing the workings of the Mine up to the time of the notice.
  - (3) Upon receipt of the notice in the prescribed form the relevant department shall make appropriate recommendations to the Minister with regards to the abandonment plan.
  - (4) Upon receipt of this recommendation the Minister shall within ten days cause the matter to be investigated.
  - (5) After investigation of the abandonment or permanent cessation of the production, if the Mineral Title holder maintains the notice, the Mining Cadastre Office shall take note of the abandonment or cessation of production.

- (6) In case of abandonment or permanent cessation of production within the title area, the Mineral Title holder shall -
  - (a) securely seal, fence or cover every mine shaft and audit;
  - (b) make safe all tailings and water retention areas; and
  - (c) demolish, fence or lock all potentially hazardous buildings, structures, plant and equipment.
- (7) In case of suspension of production due to weather, labour situation, market problems or other reasonable causes, the Mineral Title Holder shall inform the Mines Inspectorate Department of the situation as soon as possible.
- (8) If the suspension exceeds three months, the Mineral Title Holder shall send a notice to the Mines Environmental Compliance Department stating the reasons for the extended shut down of the mine and indicating the measures taken in respect of site maintenance, or if abandonment is contemplated the measures that will be taken in accordance with the Environmental Protection and Rehabilitation Program established under the provisions of this Act in the eventuality of the title being transferred to a new operator or surrendered.
- (9) The requirements to be met and the procedure to follow in case of abandonment, permanent cessation or suspension of production by a titleholder shall be defined in the regulations.

**[Removal of fixtures]**

- 112.** (1) If all or part of a Mineral Title area becomes subject to surrender, revocation or expiration -
- (i) all movable assets related to mining operations and located in the area no longer subject to the Mineral Title can be removed or sold by the Holder of Mineral Title; and
  - (ii) all immovable assets related to the Mining Operations and located in the area no longer subject to the Mineral Title that can be dismantled and removed shall be dismantled and removed and all other immovable assets remaining shall be destroyed or otherwise made permanently safe by the respective Mineral Title holder and they shall revert to the Government.
- (2) If the Mines Environmental Compliance Department determines that the Mineral Title holder has failed to remove moveable and immovable assets as provided for in sub-section (1) (i) and (ii) of this section, it shall cause to be served on the Mineral Title holder a notice describing such failure.

- (3) If the Mines Environmental Compliance Department determines that the Mineral Title holder has failed to leave immovable assets in a permanently safe condition as provided in sub-section (1) (ii) of this section, it shall cause to be served on the Mineral Title holder a notice describing such failure.
- (4) If the Mineral Title holder fails to substantially comply to the notice pursuant with sub-section (2) of this section within sixty days from its receipt, the Mines Environmental Compliance Department may take such action as may be necessary in the circumstances at the expense of the Mineral Title holder, and the expense incurred shall become a debt due to Government and recoverable as defined in the regulations.

## **PART XIX - GEOLOGICAL STUDIES AND MAPPING BY GOVERNMENT AND SCIENTIFIC STUDIES BY EDUCATIONAL INSTITUTIONS**

### **[Geological Studies and mapping]**

- 113.** (1) For the purpose of determination of the characteristics and undertaking of an inventory of mineral occurrences, the Minister may approve the conduct of geological studies and mapping of the national territory by specialized agencies of the Government, without obtaining a Mineral Title, on any land that is not closed by any other law, provided that if such activity is required to be conducted in an area subject to an Exploration Licence, a Mining Lease, a Small-Scale Mining Lease or a Quarry Lease, a written notice of the proposed activity shall be given by the Minister to the Mineral Title holder.
- (2) Educational institutions regulated under the laws of Nigeria may carry out similar studies of a scientific nature as provided in sub-section (1) of this section without obtaining a Mineral Title on the same condition as specified for the Government in sub-section (1) of this section.
- (3) No agency or educational institution authorized to perform any activity described in sub-sections (1) or (2) of this section may be granted, directly or indirectly and for a period of five years, thereafter, a Mineral Title on any land where studies have been carried out.
- (4) Where an agency of Government or an educational institution undertakes scientific studies authorized under sub-sections (1) and (2) of this section, compensation shall be paid by the agency or educational institution to the User or Occupier of that land or to the holder of Mineral Title to such land for any damage to the land or any property therein.
- (5) The compensation payable pursuant to sub-section (4) of this section may in default of an agreement be claimed and determined by arbitration

and shall, in case of any disturbance or damage caused by any employee of Government or by staff or student of the educational institution, be payable by the Government or the educational institution as the case may be.

## **PART XX - ACCESS, USE AND OCCUPATION OF LAND**

### **[Priority of Mining Operations] Cap L5, LFN**

- 114.** (1) The use of land for Mining Operations shall have a priority over other uses of land and be considered for the purposes of access, use and occupation of land for Mining Operations as constituting an overriding public interest within the meaning of the Land Use Act, Cap L5, Laws of the Federation of Nigeria, 2004.
- (2) In the event that a Mining Lease, a Small-Scale Mining Lease or a Quarry Lease is granted over land subject to an existing and valid statutory or customary right of occupancy, the Governor of the state within which such rights are granted shall within sixty days of such grant or declaration revoke such right of occupancy in accordance with the provisions of section 28 of the Land Use Act.

### **[Compensation]**

- 115.** (1) The Holder of a Mineral Title shall pay, in addition to any other amounts payable under the provisions of this Act -
- (a) to the owner or the Lawful Occupier or the User or Occupier of land, reasonable compensation:
    - (i) for the loss of his title to the land;
    - (ii) for any crop, economic tree, buildings planted or erected within the land area;
    - (iii) for improvements if any on the land
  - (b) to the owner of water rights or user of water, compensation for the total or partial loss of title to the use of the water or for the degradation thereof caused by the Mineral Title Holder or by any of his agents or servants.
- (2) The amount of the compensation payable under the provisions of this Part shall be negotiated between the parties and failing an agreement on the compensation, it shall be determined by the Minister after consultation with the appropriate authority in accordance with the provisions of the Land Use Act.

- (3) The decision of the Minister may be referred to Arbitration by any one of the parties involved and the Arbitration shall operate as a stay of execution of the decision of the Minister.
- (4) When any payment is required to be made under this Act as compensation to the owner of any land or other property governed by customary law, the Minister may direct that the payment be made to the individual, the head of the family, the chief or the community in possession of the land to be disposed of in compliance with customary law provided that, in the case of a community, the Minister may direct that the money be paid into a special fund designated by the Minister for the benefit of the members of the community.

**[Access Orders]**

- 116.**
- (1) The Holder of a Mineral Title shall in writing inform the Occupier or User of land of the compensation offered.
  - (2) After the offer has been made, if no agreement can be reached with the Occupier or User of land, the Holder of a Mineral Title may:
    - (a) refer the matter for determination by the Minister pursuant to the provisions of subsection (2) of section 115; or
    - (b) request an Access Order from the Minister.
  - (3) In order to procure an Access Order, the Holder shall notify the Minister in writing, providing details of the situation and of the unresolved issues and request for an Access Order within thirty days of providing the notice under subsection (2) hereof.
  - (4) The Minister shall, as soon as is practicable after receiving the notification for an Access Order, but not exceeding thirty days, conduct a hearing for the purposes of determining –
    - (a) whether an Access Order should be granted; and
    - (b) the terms and conditions of the Access Order.
  - (5) An Access Order may include the following matters -
    - (a) the date on which the Access Order will come into force, provided however, that the date shall not exceed thirty days from the date the Access Order is given;

- (b) the amount of the compensation to be paid;
  - (c) the amount of security, to be deposited by the Holder with the Minister as payment for damages;
  - (d) the manner of resolving any dispute arising in connection with the Access Order;
  - (e) the manner of verifying the Access Order; and
  - (f) such other matters as the Minister may deem appropriate.
- (6) If the Mineral Title Holder does not make the payment deposit within ninety days from the date on which notice of the amount of the compensation is given to him, the Mining Cadastre Office upon the recommendation of the Minister may suspend the Mineral Title until payment is effected.
- (7) Any Occupier or User of land or Holder of Mineral Title aggrieved by the decision of the Minister on the issue of compensation or to the grant or refusal of an Access Order or with the terms of any such Access Order made under this section, may, within thirty days, after the date the Access Order is made or refused, refer the decision to Arbitration.
- (8) Where a reference to Arbitration is made under sub-section (7) of this section, the Access Order shall have no effect until the conclusion of the arbitral proceedings.
- (9) Without affecting any proceeding which may be brought against the Holder in respect of the contravention of an Access Order, where the Holder contravenes such order, an Occupier or User of land to which the order relates may deny the Holder access to the land until the contravention is remedied to the reasonable satisfaction of the Occupier or User of land.
- (10) Where the Holder has been denied access to the land by the Occupier or User of land under sub-section (9) of this section, the Holder may appeal in writing to the Minister for the determination of whether there has been a contravention of the Access Order and if such denial by the Occupier or User is justified.
- (11) If the Minister determines under sub-section (10) of this section that land access was denied by the Occupier or User of land unreasonably or in contravention of the Access Order, the Occupier or User of land shall be guilty of an offence under this Act.

**[Payment of Surface Rent]**

117. The Holder of a Mineral Title shall pay surface rent in respect of land where the Mineral Title Area is located to the Government of the relevant state, provided that where the Mineral Title Area is located within two or more contiguous states, surface rents in respect of each portion of the Mineral Title Area shall be paid to the relevant state governments in such amounts as shall be determined by the respective state governments.

**[Prohibition of activities in certain areas]**

118. (1) Where the area in respect of which a Reconnaissance Permit or an Exploration Licence is granted includes land statutorily reserved for special purposes by any other Act, the Holder shall not carry out any work, other than that conducted from aerial observation or by remote sensing methods, in or in respect of such reserved land, other than a Forest Reserve, unless such activity is carried out in such manner and subject to such requirements as may be prescribed under the law or order constituting the reservation.
- (2) Where the law under which the reservation is constituted or declared does not prescribe the manner in which exploration or reconnaissance shall be carried out thereon then the Holder shall obtain the prior permission of the person having the charge or control over such land before commencing exploration or reconnaissance on such land.

**[Mining when lawful]**

119. (1) The Holder of a Mineral Title shall not disturb the Occupiers or Users of any part of the land included within the Mineral Title area or occupy the Mineral Title area or any parts thereof until the land is actually required for any of the purposes for the Mineral Title or of the purposes set out in this Act.
- (2) Any question arising with respect to:
- (a) the extent of the land to be used or occupied by the lessee, or
  - (b) the date on which the lessee commenced or ceased to occupy or use the land, or
  - (c) the surface rent payable to the state government and the amount of compensation payable to the persons entitled to receive any portion of the compensation

shall be referred to the State Mineral Resources and Environmental Committee and the report of the State Mineral Resources and

Environmental Committee thereon shall be taken into consideration by the Minister.

## **PART XXI - TRANSPORTATION AND OTHER INFRASTRUCTURE**

### **[Transportation and other infrastructure]**

- 120.** (1) No Holder of an Exploration Licence shall in the course of activities under his title under this Act, construct, or cause to be constructed, a road, tramway or railway, without obtaining the approval of the Mines Inspectorate Department after consultation with the relevant authorities.
- (2) A Holder of a Mining Lease, Small-Scale Mining Lease or Quarry Lease shall have the right to build roads, tramways, railroads, ditches, canals, pipelines, power lines and such other infrastructure as may be required for the purposes of the Mineral Title upon or below the land the subject of the Mineral Title.

### **[Approval by Mines Inspectorate]**

- 121.** No Holder of a Mining Lease, Small-Scale Mining Lease or Quarry Lease shall in the course of Mining Operations under this Act, construct, or cause to be constructed, a road, tramway, railway, canal, pipeline or other transportation infrastructure over, on or under:
- (a) any Federal land, other than that comprised in the area of the Mining Lease, Small-Scale Mining Lease or Quarry Lease, without the approval of the Mines Inspectorate Department, after consultation with the Federal Lands Officer or the officer in charge of lands in the Federal Capital Territory, or in the relevant State;
- (b) any customary lands, other than those within the area of the Mining Lease, Small-Scale Mining Lease or Quarry Lease, without the approval of the Mines Inspectorate Department, after consultation with the Chairman of the Local Government Area.
- (c) any area covered by any part of a Mining Lease Or Small-Scale Mining Lease, other than its own without first:
- (i) giving notice in writing to the Mineral Title Holder, and
- (ii) obtaining the approval of the Mines Inspectorate Department.

### **[Contribution for road maintenance]**

- 122.** (1) A Holder of a Mineral Title who has constructed a road in accordance with the provisions of section 120 of this Act shall not hinder or prevent any other person from having access to or using the road, except in the

Mineral title area where the title Holder may restrict or prohibit access to the roads in the event of danger to the users or company personnel or nuisance or obstruction to the operations.

(2) Where a road constructed by the Holder of a Mineral Title is being used by any person in such a manner as:

(a) will cause appreciable damage to the road; or

(b) substantially increase the cost of its upkeep

the person who constructs the road may call on the user to contribute to the cost of upkeep.

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

#### **[Cost of construction]**

**123.** A person who constructs a road, tramway or railroad over any of the area of a Mining Lease, Small-Scale Mining Lease or Quarry Lease under section 120 of this Act may be required by the Holder of the Mineral Title who wishes to mine the area covered by the road to divert the road, tramway or railway to some other area of the mining lease and the cost of the diversion shall be borne by the Holder of the Mineral Title.

#### **[Definitions]**

**124.** References to a person who constructs a road, tramway or railway under this section and section 120 of this Act shall be construed as also references to a person who maintains the road, tramway or railway to which section 120 of this Act applies.

#### **[Indemnity]**

**125.** The person who constructed a road, tramway or railway shall not be liable for any damage or injury by reason of any inadequacy of the road, tramway or railway, to any one using it and that person may close it for the purpose of maintenance.

**[Precautions; warning signs for Road Users]**

**126.** A Holder of a Mining Lease, Small-Scale Mining Lease or Quarry Lease or any one working for him who is constructing a road, tramway or railway shall display and keep displayed, adequate notice drawing attention to any bridges or culverts and to any precautions necessary in the use of the road, tramway or railway, and the user of a motor vehicle who neglects the precautions notified shall be liable to reimburse the cost of any damage occurring to a bridge or culvert by him to the person who constructed it.

**[Causing obstruction on public road]**

**127.** No Mineral Title Holder or any person working for him shall in the course of activities conducted under a Mineral Title or under this Act impede or obstruct the right of way over any public road.

**PART XXII - INQUIRY INTO ACCIDENTS**

**[Report of accident]**

- 128.**
- (1) A Mineral Title Holder shall maintain Workmen's Compensation insurance and any other insurance coverage required to be procured for Workers by any law in Nigeria for the time being in force in line with policies existing for such workers in Nigeria, and it shall be an offence for any Mineral Title Holder not to maintain any of the insurances stipulated under this Act;
  - (2) A Mineral Title Holder shall, upon the occurrence of an accident in any Mining Operation in connection with the Mineral Title resulting in death, permanent total incapacity, permanent partial incapacity, or temporary incapacity within the meaning of the Workmen's Compensation Act, report the accident as soon as possible, with full particulars of the accident -
    - (a) to the Mines Inspectorate, and
    - (b) to the nearest police station.

**[Inquiry into cause of accident]**

- 129.** On receipt of the report made pursuant to section 128 (2) of this Act, where it appears to the Mines Inspectorate or any other officer authorized in that regard, that there is reason to believe that the accident was due to:
- (a) a failure to comply with a provision of this Act or its Regulations; or
  - (b) a failure to comply with any other health safety and environmental standards contained in any applicable Legislation for the time being in force, or
  - (c) the neglect of any lawful order given by the Minister or any other authorized officer of the Ministry;

the Mines Inspectorate may, within a reasonable time after the conclusion of the investigation into the accident, set up a panel of inquiry consisting of not more than four persons to investigate the accident.

**[Terms of Reference of the Panel of Enquiry]**

- 130.** (1) The terms of reference of the panel of inquiry shall include the determination of:
- (a) the immediate and remote causes of the accident;
  - (b) the status of the person(s) killed or injured in the accident, that is to say whether the person was a Worker in the mine or a Worker in connection with Mining Operations at the time of the accident;
- (2) For the purpose of an inquiry under section 129 of this Act, the panel of inquiry may summon any person as a witness, compel the production of records and documents, and examine any witness and party concerned under oath.
- (3) The summons shall be in such form as may be prescribed and shall be served on the addressee thereof by a police officer or any other person authorized by the panel issuing the summons.
- (4) The expenses of a witness called by the panel of inquiry shall, unless otherwise ordered, be deemed to be the costs of the panel and such expenses may be paid in the first instance by the Secretary of the panel or an officer authorized by the Minister in the same way as the expenses of a State witness and be recovered in such manner as the panel may direct.
- (5) The report of the panel of inquiry shall be presented to the Mines Inspectorate within the time prescribed in the terms of reference and where the report contains any indictment, the Mines Inspectorate may:
- (i) refer the report to the Director of Public Prosecution of the relevant state; and
  - (ii) take such measures or issue such direction necessary to prevent the re-occurrence of the accident or injury.

**[Calling of witnesses]**

- 131.** (1) A person summoned as a witness by a panel of inquiry shall not be excused from answering any question relating to an offence connected to the accident on the grounds of privilege when the answer to the question might incriminate or tend to incriminate the witness.

- (2) Where a person is summoned to attend before a panel of inquiry or to produce records or documents before the panel and refuses or neglects to do so, or refuses to answer any question put to him by or with the concurrence of the panel he, shall be guilty of an offence.

## **PART XXIII - FISCAL REGIME**

### **[Persons Eligible]**

- 132.** The persons eligible for the fiscal regime set out in this Part of this Act shall include companies or enterprises engaged in Mining Operations, including mineral beneficiation, processing and treatment; contractors engaged in the development and construction of a mine up to the start of commercial production and, contractors engaged during the commercial production period when the method of Mining selected is contract Mining.

### **[Liability for Companies Income Tax]**

- 133.** A person eligible under the provisions of this part of this Act shall be liable to the payment of companies income tax at the rate set out in the Companies Incomes Tax Act Cap C21 Laws of the Federation of Nigeria 2004 or modifications thereof.

### **[Liability for Capital Gains Tax and Stamp Duties]**

- 134.** (1) Any person eligible under the provisions of this part of this Act shall not be liable to the payment of capital gains tax in respect of the amount by which the value of a transaction exceeds such sum as may be prescribed pursuant to this Act.
- (2) Any person eligible under the provisions of this part of this Act shall not be liable to the payment of Stamp duty in respect of the amount by which the value of a transaction exceeds such sum as may be prescribed pursuant to this Act.

### **[Liability for Royalty]**

- 135.** (1) Subject to the proviso in section 136, a Mineral Title holder shall be liable to pay royalty on the value of any Mineral won within a Mineral Title Area.
- (2) Where a Mineral Title is held in common by many, all persons having an interest in the Mineral Title shall be held jointly and severally liable for the payment of the royalty in respect of the Mineral Title.
- (3) The royalty payable under subsection (1) shall be paid by the Mineral Title holder at such time, in such manner and in such place as may be prescribed.

### **[Royalty Rates]**

- 136.** (1) The royalty payable under section 135 shall be at such rate as may be prescribed in the regulations; provided however, that no Royalty shall be paid on any quantity of minerals:

- (a) exported solely for the purpose of analysis or experiment or as a scientific specimen, not being in greater quantity than is reasonably necessary for that purpose; or
  - (b) utilized for construction purposes on the land subject to the Mineral Title, not being in greater quantity than is reasonably necessary for that purpose.
- (2) The Minister may, by publication in the Gazette, defer the payment of Royalty on any Mineral won or produced for a specific period as he may deem appropriate.
  - (3) The Minister, or any other person so authorized by him, may inspect and examine any samples, books, records and accounts and obtain all information necessary to ascertain the quantity or value of mineral resources produced or obtained from any mineral title and any information necessary to verify the amount of any royalty payable.

**[Incentives for Holders of Mineral Titles]**

- 137.** (1) Any person eligible under the provisions of this part of this Act shall be entitled to the grant of an appropriate number of expatriate quotas and resident permits in respect of approved expatriate personnel.
- (2) The provisions of the Nigerian Investment Promotion Commission Act shall apply to any foreign investment made in respect of any Mineral Title granted pursuant to this Act.

**[Cap. F34 Laws of the Federation of Nigeria, 2004]**

- 138.** The provisions of the Foreign Exchange (Monitoring and Miscellaneous Provisions) Act Cap. F34 Laws of the Federation of Nigeria, 2004 shall apply to any investment in foreign currency made in respect of any Mineral Title granted pursuant to this Act.

**[Special Conditions for Domiciliation of Funds Overseas]**

- 139.** (1) Upon an application to it in the prescribed form, the Central Bank of Nigeria shall permit any person eligible under the provisions of this part of this Act to retain a percentage of its foreign exchange earnings derived from the sale of Mineral Resources won or produced from the lease area in an external account for the purchase of spare parts and other inputs required for the Mining Operations which would otherwise not be readily available without the use of such earnings.
- (2) Subject to the provisions of this Act, a Holder of an Exploration Licence, Mining Lease, Small-Scale Mining Lease or Quarry Lease shall be

guaranteed free transferability through an Authorised Dealer in convertible currency of:

- (a) payments in respect of loan servicing where a foreign loan certified by an Authorised Dealer has been obtained by an eligible person for his mining operations; and
- (b) the remittance of foreign capital in the event of sale or liquidation of an interest in any Mineral title or Mining Operations or any enterprise eligible under the provisions of this part of this Act attributable to foreign investment.

**[Allowances]**

**140.** (1) Any company eligible under the provisions of this part of this Act shall be entitled, in determining its total profits, to deduct from its assessable profits a capital allowance of one hundred per cent of Qualifying Capital Expenditure incurred in the year in which the investment is incurred without any limit; provided however, that for the purposes of the Second Schedule of the Companies Income Tax Act, Cap C21 Laws of the Federation of Nigeria 2004, Qualifying Capital Expenditure shall include:

- (a) all certified exploration, development and processing expenditure, including feasibility study and sample assaying costs; and
  - (b) all infrastructure costs incurred regardless of ownership and replacement.
- (2) The amount of any loss incurred by any person eligible under the provisions of this part of this Act shall be deducted as far as is possible from the assessable profits of the first year of assessment after that in which the loss was incurred and in so far as it cannot be so made, then from such amount of such assessable profits of the next year of assessment, and so on without limit as to time until the loss has been completely set off against the company's subsequent assessable profits.

**[Value Added Tax]**

**141.** For Value Added Tax purposes:

- (a) Any person eligible under the provisions of this part of this Act shall be entitled to the assessment of mineral exports at a zero rate for Value Added Tax purposes;
- (b) mining companies and enterprises are entitled to a refund of the amount by which input value added tax exceeds the output value added tax, and

- (c) value added tax refunds shall be paid to the persons entitled thereto within one year of the filing of the tax return, unless the Federal Inland Revenue Service has raised an assessment in respect of that tax return.

**[Exemptions from Customs Duties]**

- 142.** All equipment and materials imported for use during Mineral Exploitation phases of Mineral Operations shall be exempt from the payment of custom duties.

**[Exemptions from Education Tax]**

- 143.** Any enterprise eligible for incentives under this part of the Act shall be exempt from the payment of Education Tax.

**[Deductibility of Environmental Costs]**

- 144.** A tax deductible reserve for environmental protection, mine rehabilitation, reclamation and mine closure costs shall be established by companies engaged in the exploitation of Mineral Resources; provided however, that: -

- (a) the appropriateness of the reserve is certified by an independent qualified person taking into account the determination made under section 109 (5) of this Act;
- (b) the reserve is recorded in the audited financial statements of the companies;
- (c) a sum equivalent to the reserve amount is set aside every year and invested in a dedicated account or trust fund managed by independent trustees appointed pursuant to the provisions of section 109(2) of this Act; and
- (d) income or interest income earned by the investment fund shall be exempt from the payment of income tax, provided however, that any surplus over and above amount required to effect the reclamation shall be subject to income tax.

**[Deductibility of Pensions Contributions]**

**[Federal Republic of Nigeria Official Gazette, No. 2 2004]**

- 145.** A tax deductible amount established in accordance with the applicable rate set out in the Pensions Reform Act shall be imposed on mining companies or enterprises, towards the payment of pensions to each employee.

**[Annual Capital Cost Indexation]**

- 146.** An annual capital cost indexation, whereby the unclaimed balance of capital costs is increased yearly by five per cent, shall apply to mines starting production within five years from the date of enactment of this Act.

## **PART XXIV- DISPUTE RESOLUTION**

### **[Dispute resolution]**

- 147.** (1) Any dispute arising between the Holder of a Mineral Title and the Government in respect of the interpretation and application of this Act, its regulations and the terms and conditions of Mineral Titles shall be resolved, in the first instance, on an amicable basis.
- (2) Where the dispute is in the nature of a bona fide investment dispute, and such dispute is not amicably settled as provided under sub-section (1) of this section, it shall be resolved in accordance with the provisions of the Nigerian Investment Promotions Commission Act Cap. N117 Laws of the Federation of Nigeria 2004.
- (3) Any other dispute between the Holder of a Mineral Title and the Government shall be resolved in the Federal High Court, if not settled in accordance with the provisions of subsection (1) of this section.

## **PART XXV - OFFENCES AND PENALTIES**

### **[Offences]**

- 148.** A person who fails neglects or refuses to comply with any directive lawfully given under this Act commits an offence under this Act.

### **[False and misleading statements]**

- 149.** A person who:
- (a) in making an application for the grant or renewal of a Mineral Title under this Act knowingly makes a statement which is false or misleading in any material particular; or
- (b) in any report, return or affidavit submitted in pursuance of the provisions of this Act, knowingly gives information which is false or misleading in any material particular,

commits an offence under this Act, and shall upon conviction, have his Mineral Title forfeited in addition to the penalties stipulated under S.158 of this Act.

**[Conduct of Mining Operations in contravention of the Act]**

**150.** A person who:

- (a) conducts reconnaissance, exploration exploitation of Mineral Resources or uses of water otherwise than in accordance with the provisions of this Act; or
- (b) removes or disposes of any Mineral Resources contrary to the provisions of this Act;

commits an offence under this Act and shall upon conviction be liable to the penalties stipulated under S.158 of this Act

**[Pollution of environment, etc]**

**151.** A person who pollutes the environment or in any way acts contrary to the provisions of this Act and its regulations or any other existing statutes in force commits an offence and shall upon conviction, have his Mineral Title forfeited in addition to the Penalties stipulated under the relevant Environmental laws of Nigeria.

**[Pollution of Water]**

**152.** Any person who pollutes or uses water contrary to sections 86,87 and 88 of this Act commits an offence under this Act.

**[Mingled samples]**

**153.** A person who -

- (a) places or deposits, or causes to be placed or deposited in a place any mineral, with the intention to mislead any other person as to the mineral potentials of the place; or
- (b) mingles or causes to be mingled, with samples or ore, any substances which may enhance the value or in any way change the nature of the ore, with the intention to cheat, deceive or defraud other persons

commits an offence under this Act and shall upon conviction:

- (i) forfeit all Mineral Resources obtained by him or if the Mineral Resources are such as cannot be forfeited, pay such sum as the court shall assess as being the value of the Mineral Resources; and
- (ii) be liable to a fine of five million naira or upon conviction be liable to a term not exceeding two years or both.

**[Use of false or fraudulent scales]**

**154.** A person who keeps or uses any false or fraudulent scale or weight for weighing ores, metals or Mineral Resources, or uses any false or fraudulent assay scale or weight or enriched fluxes used for ascertaining the assay value of Mineral Resources, knowing them to be false or fraudulent commits an offence under this Act, and shall upon conviction be liable to the penalties stipulated under S.158 of this Act

**[Obstruction]**

**155.** A person who:

- (a) fails to assist authorised person or causes obstruction;
- (b) fails, neglects or refuses to allow or provide all reasonable facilities and assistance to any officer exercising any power under this Act; or
- (c) obstructs, hinders or delays an authorized officer in the performance of his duties under this Act

commits an offence under this Act and shall upon conviction be liable to the penalties stipulated under S.158 of this Act

**[Misrepresentation]**

**156.** (1) A person who falsely represents that he has obtained the grant of an Exploration Licence, Mining Lease, Small-Scale Mining Lease, Quarry Lease or other Permits and by that representation induces or attempts to induce any person to invest capital in a company or syndicate or mining venture, before he actually obtains the grant of such lease or permit shall forfeit any claim to the grant of the lease or permit.

- (2) Nothing in this section shall be construed as preventing a person who makes a false representation from liability to both civil action and a criminal prosecution in respect of the representation.

**[Unlawful interference]**

**157.** Any person who:

- (a) unlawfully interferes with or obstructs any Mining Operations authorized by or under this Act; or
- (b) unlawfully interferes with any machinery, plant, work or property on, in, under or over any land in exercise of a right conferred by or under this Act; or
- (c) breaks, defaces or removes, or in any other way interferes with any boundary mark, beacon, pillar or post erected for any of the purposes of

this Act or the regulations, without the necessary approval or authority under this Act;

commits an offence under this Act and shall upon conviction be liable to the penalties stipulated under S.158 of this Act.

**[Penalties]**

- 158.** (1) A person who is guilty of an offence under this Act in respect of which specific penalties have not been provided shall be liable on conviction;-
- (a) at first instance, to a fine not exceeding N5,000,000 or to imprisonment for a term not exceeding one year; or
  - (b) at a second or subsequent offence, to a fine not below N10,000,000 or to imprisonment not exceeding five years and not below two years or to both fine and imprisonment; or
  - (c) If the offence is a continuing one, whether or not it is a first offence, the person convicted;
- (2) Any person who is guilty of an offence under sections 9 (3), 90 (4), 148, 149(a), 149(b), 149(b), 150, 151, 152, 153, 154, 155, 156 shall upon conviction, in addition to any penalty stipulated under this Act, have his Mineral Title forfeited.
- (3) Any person who is guilty, a second time, of an offence under section 10(3) shall have his Mineral Title forfeited.
- (4) Any agent or employee who commits an offence under section 90(4) shall on conviction be liable to a term of imprisonment not exceeding five years and not below two years.

**[Penalty for other offences]**

- 159.** A Mineral Title-Holder who is guilty of an offence under the provisions of section 156 of this Act is liable on conviction
- (a) at the first instance, to a fine not exceeding N20,000,000; and
  - (b) if the offence is a continuing one, whether or not it is a first offence, the person convicted shall, in addition, be liable to a fine of N20,000 in respect of each day during which the offence continues.

**[Power of Minister to adjust monetary penalties]**

160. The Minister may, from time to time adjust the monetary amount of any penalty stipulated in this Act by Regulation, in order to reflect current rates of inflation.

**[Jurisdiction of the Federal High Court]**

161. Jurisdiction over the matters and offences referred to in this Act shall lie with the Federal High Court.

**PART XXV - MISCELLANEOUS PROVISIONS**

**[Mineral Agreements]**

162. The Minister may, on behalf of the Government, enter into a Mineral Agreement, not inconsistent with this Act or any other written Federal law, with the Holder of a Mineral Title or an applicant for a Mineral Title, to facilitate the conduct of Mining Operations or the financing of any Mining Operation.

**[Regulations]**

163. (1) The Minister shall make Regulations in respect of any matter required to be prescribed by Regulations under this Act and generally for giving full effect to the provisions of this Act, including prescribing, amending or withdrawing any form that may be required under this Act.
- (2) The Minister may, without prejudice to any other power to make regulations under this Act, by regulations make provisions generally for carrying into effect the provisions of this chapter of this Act, and in particular and without prejudice to the generality of the foregoing power, make such provisions as appear to him to be necessary-
- (a) for the rates of royalties to be paid, the method of calculation of the amount of the royalties and the manner and time of payment of the royalties;
  - (b) for the adoption in or around a quarry of any precaution necessary or desirable for the safety, welfare or health of persons in a quarry, for the regulation of any quarrying operation, and in relation to the administration and control of quarries;
  - (c) prescribing the circumstance in which an applicant wishing to make an application for a lease or licence may enter on a land to erect beacons;
  - (d) as to the procedure for applications and the information to be furnished by an applicant for a lease or licence;

- (e) specifying the rents and fees to be paid in respect of the grant of a lease or licence or any matter or thing done under this part of this Act and also for waiver or remission of rents and fees by the Minister in such circumstances as he may consider desirable;
- (f) as to conditions, not otherwise specified under this part of this Act under which a lease or licence may be granted, including the requirement for plans or other particulars or necessary consents;
- (g) as to the circumstance when a lease or licence may be surrendered and the procedure for surrender and the steps to be taken after any revocation or any other determination of the lease or licence);
- (h) for the working conditions to be applied to leases and licences;
- (i) for the fencing off of any excavation made for or in connection with any quarrying operation;
- (j) for the housing conditions of persons employed in any quarrying operation in safe sanitary, proper, economic and effectual manner;
- (k) for the prevention of pollution of any natural water supply, environment generally and the disposal of wastes;
- (l) for prescribing the offence and penalties which may be imposed for breach of regulations under this Part of this Act not exceeding, in any case, a fine of one hundred thousand Naira and in the case of a continuing offence a fine of ten thousand Naira, each day in which the offence continues;
- (m) exempting from any provision of this Part of this Act or regulations made under it (except provisions as to reimbursement, inquiry into accidents and provisions for the safety welfare and health of persons in a quarry) any quarrying operation in respect of which a licence is required.
- (n) prescribing forms and any other matter or thing referred to under this part of this Act as prescribed or to be prescribed.

### **[Annual Reports]**

**164.** (1) The Minister shall:

- (a) collect, compile and publish an annual report concerning government revenues and other direct or indirect economic benefits received from Mineral Activities in accordance with internationally accepted norms respecting transparency in the extractive industries.



- (b) for the purposes of preparing such reports, require the Holders of Mineral Titles and all other state or public agencies and public officers to submit annual returns, including production and financial data, concerning all revenues and other direct or indirect economic benefit received by them and all amounts paid by them in connection with mineral activities in the mining sector.

## **PART XXVII – REPEALS, CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL AND SAVINGS PROVISIONS**

### **[Repeal of Cap M 12 LFN 2004]**

- 165.** (1) The Minerals and Mining Act 1999, in this Act referred to as the Repealed Act, is hereby repealed save for the purpose of giving effect to the transitional provisions of this Act.
- (2) The repeal of the Act shall not affect anything done or purported to have been done under the Repealed Act.

### **[Savings provisions in respect of office Holders]**

- 166.** Any person who, immediately before the commencement of this Act, was holding any office to which appointments may be made under this Act shall continue in that office and be deemed for the purposes of this Act to have been so appointed.

### **[Savings provisions in respect of Mineral titles granted under the Repealed Act]**

- 167.** (1) Any person who, immediately before the appointed date, was the Holder of a right or a lease or a licence under the Repealed Act shall be deemed to have become on the appointed date the Holder of an interim right, lease or licence.
- (2) During the interim period, the Holder of an interim right or lease or licence is authorised to carry on the operations which he was authorised to carry on immediately before the appointed date under the right, lease or licence of which he was the Holder; and in carrying on those operations the Holder of the interim right, lease or licence shall in respect of those operations enjoy the same rights and be subject to the same liabilities as if the Repealed Act were still in force.

### **[Other savings provisions]**

- 168.** (1) The Holder of an existing prospecting right or exclusive prospecting licence under the Repealed Act shall immediately upon the commencement of this Act, apply for and be entitled, as the case may be, to the grant of:

(a) A Reconnaissance Licence; or

(b) an Exploration Licence;

under this Act in respect of the area covered by the interim right or licence:

(2) An Exploration Licence granted under sub-section (1) of this section shall be deemed to have been granted on the date on which the right or Licence under the Repealed Act was granted, and shall remain in force, subject to this Act, for a period equal to the unexpired period of the right or licence under that Act.

(3) The Holder of a temporary mining lease, mining lease or special mining lease under the Repealed Act shall immediately upon the commencement of this Act, apply for and be entitled to as the case may be to the grant of:

(a) Small-Scale Mining Lease; or

(b) Mining Lease.

(4) A Small-Scale Mining Lease granted under sub-section (1) of this section shall-

(a) remain in force, subject to this Act, for such period, not exceeding the unexpired period of the mining licence or lease which remained at the appointed date, or the period of five years, whichever is lesser; and

(b) require compliance with the programme of development and mining under the Repealed Act.

(5) A Mining Lease granted under this section shall-

(a) remain in force, subject to this Act, for a period equal to the unexpired residue of the Mining Lease held under the Repealed Act

(b) require compliance with the programme of development and mining under the Repealed Act

require compliance with an Environmental Protection and Rehabilitation Program drawn up by the Holder of the interim lease which shall be approved by the Environment Compliance

Department established under this Act and shall form part of the conditions of the Mining Lease provided that:

- (i) it meets the requirements of this Act; and
  - (ii) if the Mines Environmental Compliance Department considers that the program does not meet of this Act any requirements, the matter or matters in dispute shall be referred to an independent expert chosen by agreement between the Committee and the Holder of the interim lease, whose decision shall be binding; and in the event that the Committee and the interim Holder are unable to agree on the choice of the expert, the expert shall be appointed by the Chief Judge of the Federal High Court.
- (6) Where the Holder of an interim lease who, immediately before the appointed date, held a Mining Lease under the Repealed Act elects to apply for a Small-Scale Mining Lease under this Act, the Minister may, if the Holder of the interim lease has before the appointed date been carrying on mining operations on a substantial scale, direct that the applicant apply for a Mining Lease and in any such case the provisions set out in this paragraph shall apply as though the Holder of the interim lease had elected to apply for a Mining Lease.
- (7) The Holder of an interim lease who, immediately before the appointed date, held a Mining Lease or quarrying lease for building or industrial minerals granted under the Repealed Act, may apply for, and shall be granted, in respect of the area covered by his interim Mining Licence or lease under Part XI of this Act a Quarry Lease.
- (8) A Quarry Lease granted under this paragraph-
- (a) shall be granted for such period as may be applied for, but not exceeding the unexpired period of the mining licence or lease which remained at the appointed date, or the period of ten years, whichever is greater; and
  - (b) shall not derogate from the compliance requirements attached to the mining licence or lease granted under the Repealed Act.
- (9) (a) The Holder of an interim right or lease or licence for water who, immediately before the appointed date, held a right, lease or licence for water granted under the Repealed Act may apply for, and shall be granted, in respect of the area covered by his interim right, or lease or licence a Water Use Permit.

- (b) A Water Use Permit granted under this section -
  - (i) shall be granted for as long as the Mining Lease, Small-Scale Mining Lease Or Quarry Lease for which use it was granted remains valid; and
  - (ii) shall not derogate from the compliance requirements with the conditions attached to the water right, lease or licence granted under the Repealed Act.
- (10) During the interim period and thereafter, if the transformation has been effected in accordance with this Act, the right, lease or licence held under the Repealed Act shall be adapted to the geometry and boundaries introduced by the Mining Cadastre Office and shall be granted subject to the procedures and requirements of the Mining Cadastre Office, including the payment of the rental and other fees.

#### **EXPLANATORY MEMORANDUM**

This Bill seeks to repeal the Minerals and Mining Act 1999 and re-enacts a new Act for the reconnaissance and exploitation of Mineral Resources in Nigeria.