

Mining Act

Mining

CONTENTS

	<i>Page</i>
<i>Principal</i>	
Mining Act 1965 (No 25 of 1965)	
Table of Provisions	80,021
Table of Amendments	80,101
Mining Act 1965	80,201
<i>Subsidiary</i>	
Mining Regulations 1966	
Table of Provisions	86,441
Table of Amendments	86,541
Mining Regulations 1966	86,641

[The next page is 80,021]

Mining Act 1965

TABLE OF PROVISIONS

<i>Section</i>	<i>Title</i>	<i>Paragraph</i>
PART 1 — GENERAL		
1	Short title	[MIN 1]
2	Interpretation	[MIN 2]
3	Reservation to the State of minerals	[MIN 3]
4	Power to prohibit prospecting for specified minerals and to grant exclusive rights	[MIN 4]
5	Director may declare Government protection areas and grant mining tenements thereover	[MIN 5]
6	Disputes	[MIN 6]
7	Appointment of officers	[MIN 7]
8	Powers of inspectors	[MIN 8]
9	Right of entry and inspection	[MIN 9]
10	Constitution and appointment of Mining Appeals Board ..	[MIN 10]
11	Lands closed to prospecting etc	[MIN 11]
12	Adjacent land in certain cases to be closed to application .	[MIN 12]
13	Compliance with Companies Act 2015	[MIN 13]
14	Power of attorney etc	[MIN 14]
15	Partnership and company to appoint accredited agent	[MIN 15]
16	Deposits	[MIN 16]
PART 2 — PROSPECTING AND MINING		
17	Applicant or transferee to prove to Director that he or she has necessary means to prospect or mine	[MIN 17]
17A	Meaning of land	[MIN 17A]
18	Director may grant prospector's right and mining tenement .	[MIN 18]
19	Government officers prohibited from acquiring rights	[MIN 19]
20	Implied covenants in all mining tenements	[MIN 20]
21	Surrender of mining tenements	[MIN 21]
22	Surveys	[MIN 22]
23	Grant of prospector's right	[MIN 23]
24	Rights and obligations under prospector's right	[MIN 24]
25	Ancillary rights and restrictions under a prospector's right .	[MIN 25]
26	Grant of prospecting licences	[MIN 26]
27	Rights under a prospecting licence	[MIN 27]
28	Disposal of minerals obtained in prospecting	[MIN 28]
29	Grant of permit to mine or mining lease cancels prospecting licence	[MIN 29]

LAWS OF FIJI

<i>Section</i>	<i>Title</i>	<i>Paragraph</i>
30	Special prospecting licence	[MIN 30]
31	Grant of permit to mine	[MIN 31]
32	Grant of mining lease	[MIN 32]
33	Application for permit to mine and mining lease	[MIN 33]
34	Rights under permit to mine and mining lease	[MIN 34]
35	Provisions applicable when precious metals or stones are found on land held under permit to mine or mining lease for other minerals	[MIN 35]
36	Provisions applicable when person desires to mine other minerals	[MIN 36]
37	Special mining lease	[MIN 37]
38	Grant of special site right	[MIN 38]
39	Road access licences	[MIN 39]
PART 3 — DAMAGE AND COMPENSATION		
40	Compensation payable for damage to surface of land and improvements thereon	[MIN 40]
41	Surface rent payable for disturbance of surface rights	[MIN 41]
42	Director may suspend and cancel tenement	[MIN 42]
43	Restoration of land	[MIN 43]
PART 4 — REGISTRATION, APPROVAL AND STAMPING OF DOCUMENTS		
44	Registration of prospector's rights, prospecting licences and permits to mine	[MIN 44]
45	Mining leases, special site rights and road access licences to be registered by the Registrar of Titles	[MIN 45]
46	Director's consent required to deal in tenement	[MIN 46]
47	Agreements relating to mining tenements to be disclosed	[MIN 47]
48	Transmission of tenement on death, bankruptcy or unsoundness of mind	[MIN 48]
PART 5 — MISCELLANEOUS		
49	Indemnification of Director and inspector	[MIN 49]
50	Government not liable for rent etc unpaid and irrecoverable by the Director	[MIN 50]
51	Livestock not to be impounded	[MIN 51]
52	Proof of documents	[MIN 52]
53	Director may issue certified and duplicate copies of documents	[MIN 53]
54	Royalties	[MIN 54]
55	Recovery of rents etc	[MIN 55]
56	Disputes	[MIN 56]
PART 6 — PENALTIES		
57	Unlawful prospecting and mining	[MIN 57]
58	Penalty for failure to notify owner	[MIN 58]

MINING ACT 1965

<i>Section</i>	<i>Title</i>	<i>Paragraph</i>
59	Assault on authorised person etc	[MIN 59]
60	Fraud by applicant for mining tenement	[MIN 60]
61	Salting or fraudulent deposit of metal and fraudulent sampling	[MIN 61]
62	Attempts to injure underground mines	[MIN 62]
63	Penalty for obstructing holder of prospector's right or mining tenement	[MIN 63]
64	Penalty for injuring boundary marks	[MIN 64]
65	Cancellation of prospector's right or mining tenement	[MIN 65]
66	Penalty for mining minerals other than those specified in permit to mine or mining lease	[MIN 66]
67	General penalty	[MIN 67]
	PART 7 — REGULATIONS	
68	Regulations	[MIN 68]

[The next page is 80,101]

Mining Act 1965

TABLE OF AMENDMENTS

Mining Act 1965 (No 25 of 1965) commenced on 16 December 1966, as amended by:

Amending Legislation	Date of Commencement
Law Revision (Miscellaneous Amendments) Ordinance 1966 (No 7 of 1966)	24 February 1966
Law Revision (Miscellaneous Amendments) (No 2) Ordinance 1966 (No 37 of 1966)	13 January 1967
Constitution (Statutory Amendments) Order 1970 (LN 112 of 1970)	8 October 1970
Law Revision (Miscellaneous Amendments) Act 1975 (No 14 of 1975)	30 May 1975
Law Revision (Miscellaneous Amendments) Act 1977 (No 13 of 1977)	1 July 1977
Metrication (Mining Act, Chapter 125) Order 1978 (LN 95 of 1978)	21 July 1978
Fijian Affairs (Amendment) Decree 2010 (No 31 of 2010)	2 July 2010
Mining Act (Amendment) Decree 2010 (No 39 of 2010)	1 August 2010
Native Lands (Amendment) Decree 2011 (No 7 of 2011)	1 March 2011
Revised Edition of the Laws (Consequential Amendments) Act 2016 (No 31 of 2016)	1 December 2016
Stamp Duties (Repeal) Act 2020 (No 16 of 2020)	1 August 2020

[The next page is 80,201]

AN ACT TO REPEAL THE MINING ORDINANCE AND TO MAKE BETTER PROVISIONS RELATING TO PROSPECTING FOR AND MINING PRECIOUS METALS AND OTHER MINERALS

PART 1 — GENERAL

[MIN 1] Short title

1 This Act may be cited as the Mining Act 1965.

[MIN 2] Interpretation

2 In this Act, unless the context otherwise requires—

agent means a person appointed, in writing, to act on behalf of the holder of any mining tenement or having the care or direction of any mining tenement or part thereof;

alienated land means land which is the subject of a State grant or iTaukei grant or certificate of title or any land the subject of a registered lease;

[def am Decree 7 of 2011 s 4, opn 1 Mar 2011]

alluvial means all mineral deposits which result from the disintegration of older deposits, whose constituents have been brought to their present position by physical agencies;

authorised officer means any person authorised, in writing, by the Director to perform any of the duties or exercise any of the powers conferred or imposed by the provisions of this Act;

Board means the Mining Appeals Board as constituted under the provisions of section 10;

certified copy means a copy certified as true by any Magistrate, commissioner for oaths, barrister and solicitor, Justice of the Peace, police officer or any officer appointed under the provisions of this Act;

dealing means any transaction of whatsoever nature by which an interest in a mining tenement is affected and includes any option when exercised;

Director means the Director of Mines appointed under the provisions of this Act;

Government means the Government of the Republic of Fiji and for the purposes of avoiding doubt, the Minister by notice, may include or exclude any person from this definition;

[def am LN 112 of 1970 O 83, opn 8 Oct 1970]

holder means, in the case of a prospector's right, the person to whom such right was granted and, in the case of a mining tenement, includes a person in whom such mining tenement or part of the rights thereunder has become lawfully vested by transfer, assignment, transmission or otherwise;

improved land means the site or curtilage of any building or any garden, lawn, yard, nursery for trees, orchard, plantation, cultivated field (not being pasture land), sports ground, recreation ground, rifle range, reservoir, natural or artificial storage or accumulation of water, or any spring, dam, bore, artesian well, cemetery, burial

place or place of worship, or any land on which a railway, tramway, roadway, aerodrome, bridge or culvert is constructed, or any land used for stacking or storing or depositing material or mining requisites;

improvements means any house, store, stable, hut or other building or any fence, well, dam, tank, reservoir, trough, pump or other apparatus for raising water or any garden, plantation, cultivation, drain, road, railway, tramway, aerodrome, bridge or culvert;

inspector means an inspector of mines appointed under the provisions of this Act and includes any person authorised in writing by the Director to carry out the duties of such inspector;

iTaukei land means land which is neither State land, nor the subject of a State or iTaukei grant;

[def am Decree 7 of 2011 s 4, opn 1 Mar 2011]

land includes water and land covered by water;

livestock means any cattle, horses, donkeys, sheep, goats, pigs and all other domestic animals and their young;

machinery means all mechanical appliances of whatsoever kind, except motor vehicles, used for any mining purpose;

mine means any place, excavation or working wherein or whereby an operation for or in connection with any mining purpose is or shall be carried on;

minerals includes the following minerals—

- (a) **precious metals** which shall include gold, silver, platinum, palladium, iridium, osmium or ores containing them, and all other substances of a similar nature;
- (b) **precious stones** which shall include amber, amethyst, beryl, cat's eye, chrysolite, diamond, emerald, garnet, opal, ruby, sapphire, turquoise and all other stones of a similar nature;
- (c) **earthy minerals** which shall include asbestos, ball clay, barytes, bauxite, bentonite, china clay, fuller's earth, graphite, gypsum, marble, mica, nitrates, phosphates, pipeclay, potash, salt, slate, soda, sulphur, talc and all other substances of a similar nature;
- (d) **radioactive minerals** which shall include minerals either raw or treated (including residues and tailings) which contain by weight at least 0.05% of uranium or thorium or any combination thereof, including but not limited to—
 - (i) monazite sand and other ores containing thorium; and
 - (ii) carnotite, pitch blende and other ores containing uranium;
- (e) **coal** which shall include coal in all its varieties and all other substances of a similar nature;
- (f) **metalliferous minerals** which shall include aluminium, antimony, arsenic, bismuth, cadmium, chromium, cobalt, copper, iron, lead, manganese, mercury, molybdenum, nickel, tin, tungsten, vanadium, zinc and all ores containing them and all other minerals and mineral substances of whatsoever description but excluding only the minerals and mineral substances included in paragraphs (a), (b), (c), (d) and (e),

but shall not include clay, gravel, sand, stone or other common mineral substances, and for the purpose of avoiding doubt the Minister may from time to time by notice in the Gazette declare any mineral substance to be included in or excluded from this definition;

[def am LN 112 of 1970 O 83, opn 8 Oct 1970]

Minister means the Minister responsible for minerals and resources;

[def insrt Act 31 of 2016 s 137, opn 1 Dec 2016]

mining tenement means any lease, licence, right, permit, title, easement or privilege, other than a prospector's right, relating to prospecting and mining, lawfully granted or acquired under the provisions of this Act or any former Mining Ordinance, and includes the specific parcel of land the subject of such lease, licence, right, permit, title, easement or privilege;

occupier means the person in actual occupation of any land, or, if there is no person in actual occupation, the person entitled to possession thereof;

owner means the registered proprietor of land and includes a lessee, in relation to iTaukei land it means the iTaukei Land Trust Board acting on behalf of the registered iTaukei owners, and in relation to State land it means the Director of Lands;

[def am Decree 7 of 2011 s 4, opn 1 Mar 2011]

passageway means a highway, road, street, footpath, railway, tramway, wireline, cableway, chute, pipe, sewer, drain, tunnel, shaft or race and includes any right of way or easement;

prescribed means prescribed by or under the provisions of this Act, or, where the context specifies or implies, by any lease, licence, right or permit granted under the provisions of this Act;

prospect means to search for minerals and includes such working as may be prescribed to enable the prospector to test and assess the mineral bearing qualities of any land;

race means any artificial channel or ditch or flume or pipe for the conveyance of water or water and refuse;

Regulations means the Regulations and forms for the time being in force under the provisions of this Act;

rent unless otherwise specified means subsurface rent;

shaft means any vertical or inclined tunnel other than a stope which is or might be used for winding, travelling, draining or ventilation purposes in connection with prospecting or mining operations;

State land has the same meaning as in the State Lands Act 1945;

tailings means all gravel, sand, slime or other substance which is the residue of *bona fide* mining operations;

to mine means to disturb, remove, cart, carry, wash, sift, smelt, refine, crush or otherwise deal with any rock or earth by any mode or method whatsoever for the purpose of obtaining any mineral therefrom; and

unimproved land means any land other than improved land.

[MIN 3] Reservation to the State of minerals

3 (1) All minerals of every description, including crude oil as defined in the Petroleum (Exploration and Exploitation) Act 1978, in or under all lands of whatsoever ownership or tenure and in whosoever possession or enjoyment they may be, are, and shall be deemed always to have been, the property of the State and shall be deemed not to have been parted with under any alienation, dedication, lease, licence or permit of such

lands save in so far as such rights may in any case have been limited by any express grant made before the commencement of this Act.

(2) Subject to the provisions of Part 3, the State, either alone or in conjunction with any other person, shall have full liberty at all times to search, dig for and carry away all such minerals of every description and for that purpose to enter upon all lands throughout Fiji.

(3) The rights conferred upon the State under the provisions of subsection (2) may only be exercised by the Director, an inspector or any authorised officer.

[MIN 4] Power to prohibit prospecting for specified minerals and to grant exclusive rights

4 The Minister may by order prohibit or restrict prospecting for any specified mineral throughout the whole or any specified part of Fiji, and, by the same or by a subsequent order, grant the exclusive right to prospect for any mineral so specified to such person as may be named in the order and the provisions of this Act relating to prospector's rights shall apply to an exclusive right to prospect granted under the provisions of this section.

[s 4 am LN 112 of 1970 O 83, opn 8 Oct 1970]

[MIN 5] Director may declare Government protection areas and grant mining tenements thereover

5 (1) Notwithstanding any provision of this Act, the Director may, by notice in the Gazette, declare any area, not exceeding 250ha in extent in any instance, to be a Government protection area, and may in like manner cancel the declaration of any such Government protection area.

[subs (1) am Ordinance 37 of 1966 s 106, opn 13 Jan 1967; LN 95 of 1968 Sch, opn 21 July 1978]

(2) No person shall prospect or mine in a Government protection area without the consent of the Director, provided that this subsection shall not apply to the holder of any mining tenement in respect of any land the subject of such tenement included in any Government protection area.

(3) Subject to the approval of the Minister, the Director may call for tenders for the right to prospect or mine in any such area, and may grant a mining tenement to any person on such terms and conditions, whether in accordance with the provisions of this Act or not, as the Minister may think fit, but, save as varied by any such terms and conditions, the provisions of this Act shall be applicable to any such mining tenement.

[subs (3) am LN 112 of 1970 O 83, opn 8 Oct 1970]

[MIN 6] Disputes

6 At the request in writing of all parties thereto the Director may decide any dispute, other than a dispute which he or she is expressly empowered to decide under any other provisions of this Act, between persons engaged in prospecting or mining operations either amongst themselves or in relation to themselves and third parties, concerning any rights arising under the provisions of this Act relating to any of the following matters—

(a) disputed boundaries;

(b) acts, omissions or matters in the course of, connected with, or auxiliary to prospecting or mining operations,

provided that the Director may, in his or her discretion, refuse to decide any such dispute.

[MIN 7] Appointment of officers

7 The permanent secretary responsible for minerals and resources may appoint a

Director of Mines and such inspectors of mines and other officers as may be necessary for carrying into effect the provisions of this Act.

[s 7 am LN 112 of 1970 O 83, opn 8 Oct 1970; Act 31 of 2016 s 137, opn 1 Dec 2016]

[The next page is 80,221]

[MIN 8] Powers of inspectors

8 (1) An inspector may—

- (a) arrest without warrant any person whom he or she may find committing, or whom he or she reasonably suspects of having committed, any offence against the provisions of this Act. The person arrested shall be taken with as little delay as possible to the nearest police station to be dealt with according to law;
- (b) by notice in writing, require any holder of a prospector's right or mining tenement or any person employed by such holder of a mining tenement, to appear before him or her at any reasonable time and place and give such information regarding operations in or about the area being prospected or mined as such person may possess, who shall be legally bound to comply with such notice and to give such information;
- (c) by order in writing direct that prospecting or mining operations shall be suspended in any area, whether the subject of a mining tenement or not, until such arrangements, as are in his or her opinion necessary to prevent danger to life or property, have been made.

(2) Any person who contravenes or fails to comply with any notice or order made under the provisions of subsection (1)(b) or (c) shall be guilty of an offence and shall be liable to a fine not exceeding \$100 or to imprisonment for a term not exceeding 6 months.

[MIN 9] Right of entry and inspection

9 (1) In so far as it is necessary for the purpose of his or her duties under the provisions of this Act, the Director, an inspector or any authorised officer may, at all reasonable times by day or night, but so as not unreasonably to impede or obstruct the work in progress—

- (a) enter, inspect and examine any land for the purpose of assessing its mineral potential or any land on which prospecting or mining operations are being conducted or which is the subject of any mining tenement, provided that no person shall enter any land within the curtilage of a dwelling house without first informing the occupier of his or her intention to do so;
- (b) examine and make inquiry respecting the condition and ventilation of any mine and any building connected with prospecting or mining operations and all matters relating to the safety, welfare and health of the persons employed therein;
- (c) inspect and examine the state of the external parts of the machinery used upon or in the mine, and the state of all plant, works and passageways;
- (d) examine and take extracts from all books, accounts, vouchers and documents relating to prospecting or mining operations or to any minerals obtained by such operations; and
- (e) examine and take samples of any material being prospected or mined.

(2) Any officer of the Mineral Resources Division of the Government may exercise all or any of the powers conferred upon the Director by the provisions of subsection (1)(a).

[MIN 10] Constitution and appointment of Mining Appeals Board

10 (1) There shall be constituted an appeals board called the "Mining Appeals Board" which shall consist of a chairperson and 3 other members to be appointed by the Minister. One member shall be a barrister and solicitor. Three members shall form a quorum.

[subs (1) am LN 112 of 1970 O 83, opn 8 Oct 1970]

(2) The chairperson shall have an original vote and, in the event of equality of votes,

shall have a casting vote. In the absence of the chairperson from a meeting the members present shall elect one of their number to be chairperson.

(3) Any person aggrieved by any decision of the Director made under the provisions of this Act, may, within 30 days of the date of the receipt of such decision, or such longer period as the Board may in any case allow, appeal from such decision to the Board. Every such appeal shall be in writing and shall state the grounds thereof.

(4) The Board shall have power to summon and examine witnesses on oath and affirmation and to require the production of all documents relevant to an appeal, but shall not be bound by the rules of evidence in civil or criminal proceedings, provided that if any witness objects to answering any question or to producing any document on the ground that it will tend to incriminate him or her or on any other lawful ground, he or she shall not be required to answer such question or to produce such document, nor shall he or she be liable to any penalties for refusing to do so.

(5) Any person summoned as a witness under the provisions of subsection (4) who fails to attend at the time and place mentioned in the summons, or on adjournment, or without lawful excuse refuses to answer any question put to him or her or to produce any document which he or she is required to produce shall be guilty of an offence and shall be liable to a fine not exceeding \$20.

(6) The Board may make rules as to the procedure for appeals under the provisions of this Act.

(7) Any person, including the Director, aggrieved by a decision of the Board, may, within 30 days of the date of the receipt of such decision, or such longer period as the court may in any case allow, appeal from such decision to the High Court which on the determination of any such appeal may make such order as to it seems just. The decision of the High Court shall be final.

[MIN 11] Lands closed to prospecting etc

11 (1) Save as may be otherwise provided by the provisions of this Act, the following classes of land shall be closed to prospecting or mining or entry upon or occupation under any prospector's right or mining tenement—

- (a) any iTaukei village;
- (b) any land used as a place of burial or set apart for any public purpose;
- (c) any land within 30 m of an inhabited house or building, except with the consent in writing of the owner or occupier thereof;
- (d) any land under crop and land ploughed or otherwise cultivated and rendered fit for planting and habitually used for the planting of crops, except with the consent in writing of the owner or occupier thereof;
- (e) any land within the boundaries of any city or town except with the consent of the owner of surface rights;
- (f) any land reserved for the purpose of any railway or public road or within 15 m of any such railway or road, except with the consent of the owner thereof, or, as the case may be, the permanent secretary responsible for works;
- (g) any land within 60 m of any spring in use as a source of water supply or any area declared as a catchment area for water supply purposes or any artificial reservoir, waterworks or water supply buildings, except with the consent of the chief executive officer of the Water Authority of Fiji;
- (h) any reserved forest, declared as such under the provisions of the Forest Act 1992, except with the consent of the Conservator of Forests;

- (i) any land which the Minister may, by order, close to prospecting or mining or entry upon or occupation under any prospector's right or mining tenement.

[subs (1) am LN 112 of 1970 O 83, opn 8 Oct 1970; Act 14 of 1975 s 34, opn 30 May 1975; Decree 31 of 2010 s 4, opn 2 July 2010; Act 31 of 2016 s 137, opn 1 Dec 2016]

- (2) Should any question arise as to whether any particular land is closed under the provisions of subsection (1), it shall be referred to the Minister whose decision shall be final.

[subs (2) am LN 112 of 1970 O 83, opn 8 Oct 1970]

- (3) In any area so closed, the Director may, subject to the approval of the Minister, grant a mining tenement to any person on such terms and conditions, including conditions relating to immediate and prospective damage and compensation therefor, whether in accordance with the provisions of this Act or not, as the Minister may think fit, but, save as varied by any such terms and conditions, the provisions of this Act shall be applicable to any such mining tenement.

[subs (3) am LN 112 of 1970 O 83, opn 8 Oct 1970]

- (4) Where consent is refused under the provisions of subsection (1)(c), (d), (e), (f), (g) or (h), an appeal shall lie to the Board in the same manner as an appeal lies to the Board from any decision of the Director but the decision of the Board shall be final. If the Board gives consent it may impose such conditions as to prospecting or mining as it thinks fit whether in accordance with the provisions of this Act or not.

[MIN 12] Adjacent land in certain cases to be closed to application

12 At any time after the presentation of an application for a prospecting licence the Director may, by notice in the Gazette, declare that such adjacent land as may be specified in such notice shall be closed to marking out for the purpose of applying for a prospecting licence for such period as he or she may decide.

[MIN 13] Compliance with Companies Act 2015

13 (1) No mining tenement shall be granted to any company incorporated outside Fiji unless such company has first complied with the provisions of Part 6 of the Companies Act 2015.

[subs (1) am Act 31 of 2016 s 137, opn 1 Dec 2016]

(2) Any mining tenement granted to any incorporated company may be cancelled by the Director if such company fails to comply with any of the provisions of the Companies Act 2015 which may be applicable to such company.

[subs (2) am Act 31 of 2016 s 137, opn 1 Dec 2016]

[MIN 14] Power of attorney etc

14 (1) On payment of the prescribed fee, the holder of any mining tenement may authorise and appoint by power of attorney any person to act for him or her or on his or her behalf in respect of any share or interest in such tenement, and a certified copy of such power of attorney shall be filed with the Director.

(2) If the holder of a mining tenement does not reside on his or her tenement or, in the opinion of the Director, does not reside sufficiently near thereto to give continuous supervision of the prospecting or mining operations being conducted on such tenement he or she shall, at all times, have so residing a responsible person in charge of such operations and shall forthwith notify the Director of the appointment of every such person and of every change in such appointment.

[MIN 15] Partnership and company to appoint accredited agent

15 (1) Every partnership or company which applies for a mining tenement shall at the time of such application register at the office of the Director the name of an accredited agent residing in Fiji, and such agent shall, when registered be personally responsible under the provisions of this Act for all matters, acts and omissions in connection with such tenement in the same manner as if such tenement were granted in his or her name as his or her own property.

(2) If at any time any such partnership or company revokes the registration of its accredited agent, it shall register some other person as its accredited agent.

(3) A registered accredited agent may at any time resign his or her appointment by giving notice in writing to the Director, but such resignation shall not take effect until the expiration of 48 hours after the receipt of such notice by the Director.

(4) Within 48 hours after receipt of notice from the Director of the fact that its registered accredited agent has resigned, the partnership or company in question shall register some other person as its accredited agent.

(5) Nothing in this section shall be deemed to relieve a company or the members of a partnership of any obligations imposed under the provisions of this Act in regard to any mining tenement held by such company or partnership.

[MIN 16] Deposits

16 (1) As a guarantee for the due performance of any obligation imposed by the provisions of this Act, the Director may require any person, either on first making application for a mining tenement or at any time during the currency thereof, to deposit with him or her such sum as he or she may specify, or such guarantee in a like amount as may be approved by him or her, and if such person fails to make such deposit within 30 days or such further time as the Director may specify, the application may be refused or the mining tenement suspended or cancelled, provided that on the application of the owner or occupier of any land being prospected, the Director may require—

- (a) a deposit or an increased deposit from the holder of a prospector's right; or
- (b) an increased deposit from the holder of a mining tenement.

(2) Where, after due notice, a person has failed to meet any obligation imposed upon him or her by the provisions of this Act, the Director may take such steps as he or she shall deem practicable to fulfil such obligation and, for such purposes, may expend from any deposit whatsoever made by that person such sum as he or she shall consider reasonable. Any expense incurred by the Director in so doing shall be a lawful deduction from such deposit.

(3) Where any deposit or portion thereof has been expended in accordance with the provisions of subsection (2), the Director may by notice in writing require the depositor to deposit, within such time as the Director may specify in such notice, a further sum equal to the amount so expended. Failure to do so within the time so specified shall render any prospector's right or mining tenement held by the depositor liable to suspension or cancellation.

(4) Upon the cancellation of any prospector's right or mining tenement in respect of which any sum has been deposited with the Director, the person by whom such sum was deposited or in whom the right of refund has been vested by transfer, may make application in writing to the Director for the refund of such deposit or balance thereof and the Director may authorise such refund to be made, provided that—

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- (a) the Director shall withhold such refund for such time as he or she may think fit so that he or she may make any investigations he or she considers desirable into the obligations of the person entitled to such refund; and
 - (b) such refund shall be without prejudice to any claim or proceedings existing or which may arise through the breach by the holder or by his or her servants or agents of any of the provisions of this Act.
- (5) Upon the transfer of any mining tenement the right to a refund of any sum deposited under the provisions of this section shall be vested in the transferee.

[The next page is 80,421]

PART 2 — PROSPECTING AND MINING

[MIN 17] Applicant or transferee to prove to Director that he or she has necessary means to prospect or mine

17 The Director may call upon any applicant for a mining tenement, or any proposed transferee thereof, to prove in such manner as he or she may direct and to his or her satisfaction, that the applicant or proposed transferee has the working capital necessary to prospect or mine the area in question and for the payment of compensation which may be payable to the owners or occupiers of the land in respect of which the tenement is required, and is in a position to carry on *bona fide* and efficient prospecting or mining.

[MIN 17A] Meaning of land

17A (1) In this Part, the definition of “land” in section 2 of the Act shall not apply to licences granted under section 18(1)(c), and the following shall apply—

land includes water and land covered by water, and—

- (a) any interest in land;
- (b) inland waters including the bed of any river, stream, estuary, lake or swamp;
- (c) the foreshore, being that area between the mean high water spring level of the sea and the mean low water spring level of the sea;
- (d) the seabed and the deep seabed and subsoil of the area between the mean low water spring level of the sea and the outer boundary or boundaries of the exclusive economic zone within the meaning of the Marine Spaces Act 1977.

(2) The extended definition of “land” in subsection (1), shall be applicable only to the issuance of special prospecting licences.

[s 17A insrt Decree 39 of 2010 s 2, opn 1 Aug 2010]

[MIN 18] Director may grant prospector’s right and mining tenement

18 (1) Subject to the provisions of this Act and to any general or special directions of the Minister, the Director may grant—

- (a) prospector’s rights;
- (b) prospecting licences;
- (c) special prospecting licences;
- (d) permits to mine;
- (e) mining leases;
- (f) special mining leases;
- (g) special site rights; and
- (h) road access licences.

[subs (1) am LN 112 of 1970 O 83, opn 8 Oct 1970]

(2) The Director shall keep a presentation book in which shall be entered the particulars of every application for a mining tenement which is presented to him or her with the date and time of presentation.

(3) Every applicant for a mining tenement shall, in the form prescribed, advertise such application in the Gazette and in one newspaper circulating in Fiji. The owner or occupier of any land affected by the application, or any other applicant for a mining tenement in respect of the whole or any part of such land, may, within 30 days of the date of

publication of the later of such advertisements, object to the grant of such tenement. Every objection made under the provisions of this subsection shall be made by notice in writing to the Director and the notice shall set out the grounds for such objection. Before granting the tenement the Director shall consider every such objection.

(4) Any sum of money deposited for rent or fees shall be forfeited if an application for a mining tenement is not proceeded with within a period of 60 days from the date on which the approval of the grant is notified by the Director to the applicant, or in the event of an appeal against such approval, within 60 days after the final determination of such appeal, whichever is the later date, provided that if the application is withdrawn within the period aforementioned, refund of the said sum shall be made less an amount to cover any costs incurred by the Director in dealing with the application.

[MIN 19] Government officers prohibited from acquiring rights

19 No public officer shall directly or indirectly acquire or hold any right or interest under any prospector's right or mining tenement, and any lease, licence, right, permit or other document or dealing purporting to confer any such right or interest on any such officer shall be null and void, provided that, with the permission of the permanent secretary responsible for civil service matters, a person temporarily employed by the Government may retain any such right or interest acquired prior to accepting Government employment.

[MIN 20] Implied covenants in all mining tenements

20 (1) In every mining tenement, unless a contrary intention appears therein, there shall be implied the following covenants against the holder, his or her executors, administrators, successors or assigns—

- (a) that he or she will pay rent or fees in advance without demand at the time prescribed; and
- (b) that he or she will use the land continuously and *bona fide* for the purposes for which the mining tenement was granted and in accordance with the provisions of this Act.

(2) Every mining tenement shall refer to a specific parcel of land which shall be deemed to be bounded by vertical planes from the surface boundary lines drawn downwards to an unlimited depth from the surface.

(3) The holder of a mining tenement shall not be entitled to take or use any water artificially conserved by the owner or occupier of any land without the consent of such owner or occupier.

(4) On any land the subject of a mining tenement, the holder of such tenement may, for the more convenient occupation and use of such land—

- (a) cut, take and use without payment therefore any tree not being a planted tree or a tree of the sandalwood species or Yasidina (*Santalum yasi*) or a tree included in class 1, 2 or 3 in Schedule 1 to the Forest Regulation 1955; and
- (b) remove any undergrowth growing thereon; but
- (c) shall not fell any planted tree or the sandalwood species or Yasidina (*Santalum yasi*) or any tree included in any of the aforesaid classes, without the consent of the owner or occupier of such land, provided that in the event of such owner or occupier refusing to consent to the felling of any such tree, the holder of such tenement may make representations to the Director, who shall decide the issue.

[s 20 am Act 13 of 1977 s 11, opn 1 July 1977]

[MIN 21] Surrender of mining tenements

21 Any mining tenement may, upon payment of the prescribed fee and with the consent of the Director, be surrendered at any time, provided that—

- (a) at the time of such surrender all terms, covenants and conditions thereof on the part of the holder to be observed or performed have been duly observed and performed;
- (b) such surrender shall not affect any liability incurred by the holder before such surrender shall have taken effect; and
- (c) no fees or rent shall be refunded.

[MIN 22] Surveys

22 (1) Every mining lease and special mining lease, and every road access licence and special site right held in connection with a mining lease or special mining lease, shall be surveyed in accordance with the provisions of the Surveyors Act 1969, subject to such modifications as may be required under the provisions of this Act.

(2) Every applicant for any such mining tenement shall, in addition to any other deposit required under the provisions of this Act, deposit with his or her application the sum of \$40 in respect of the survey fee, and if such application is refused before survey is made the amount so deposited shall be returned to the applicant.

(3) If the application for such a mining tenement is approved, the applicant shall be notified of the estimated amount of the survey fee, and if such fee is in excess of the amount specified in subsection (2), he or she shall be required to deposit the amount of such excess with the Director within 30 days of being so notified, provided that upon completion of survey and the receipt of plans in due order the Director shall determine the exact amount payable by the applicant and shall cause any corresponding adjustment to be made in the amount previously deposited by the applicant in respect of the survey fee.

(4) The Director may require a survey of any other mining tenement to be made in accordance with the provisions of this section and for such purpose may require the holder of, or applicant for, such tenement to deposit with him or her the estimated amount of the survey fee.

[MIN 23] Grant of prospector's right

23 (1) The Director or an authorised officer may grant to any person a prospector's right on application being made in the prescribed form in writing and upon the payment of the prescribed fee, provided that a prospector's right shall not be granted—

- (a) to any person who is under 21 years of age;
- (b) to any person who is unable to prove to the satisfaction of the officer issuing the right that he or she can understand the provisions of this Act to such extent as to enable him or her to carry out the obligations imposed by it;
- (c) to any person to whom there has previously been issued a prospector's right which has not been surrendered or cancelled and which is in all other respects still valid;
- (d) except with the consent of the Minister, to any person who has been convicted of an offence under the provisions of this Act or any other Act made in connection with mining, explosives or the employment of labour or of an offence involving dishonesty or fraud, since he or she was last issued with a prospector's right.

[subs (1) am LN 112 of 1970 O 83, opn 8 Oct 1970]

(2) A prospector's right shall not be granted in the name of a company or partnership but may be granted to an individual as agent of a company or partnership and in such case application shall be made by the individual in person who must either—

- (a) be the lawfully constituted attorney of the company or partnership; or
 - (b) produce a document in writing signed by a director or responsible manager or partner or agent of the company or partnership, containing an undertaking by the company or partnership to be responsible for the acts and omissions of the individual, who shall also be responsible for his or her own acts and omissions.
- (3) A prospector's right shall not be transferable and shall be in force for a period of one year from the date of grant.
- (4) A prospector's right shall be produced whenever demanded by an inspector, authorised officer or police officer or by the owner or occupier of any land on which the holder thereof is prospecting.

[MIN 24] Rights and obligations under prospector's right

24 (1) Subject to the provisions of this Act and to any law relating to drainage, land conservation and the control of natural water supplies, the holder of a prospector's right may—

- (a) enter any land open to prospecting having first given notice in writing to the owner or occupier of his or her intention to do so, such notice to include the name and address of the prospector and the number of his or her prospector's right, provided that he or she shall not enter on—
 - (i) unalienated iTaukei land unless he or she shall have sent copies of such notice to the iTaukei Land Trust Board and to the Commissioner for the Division in which such land is situated, and has complied with all reasonable directions given by such Commissioner for the maintenance of amicable relations between such prospector and the iTaukei owners;
 - (ii) land the subject of a prospecting licence or special prospecting licence except with the consent in writing of the holder of such prospecting licence or special prospecting licence;
 - (iii) land the subject of a permit to mine, mining lease or special mining lease, for precious metals or precious stones; or
 - (iv) land the subject of a permit to mine, mining lease or special mining lease, for minerals other than precious metals or precious stones except with the consent in writing of the holder thereof and then only for the purpose of prospecting for minerals other than those specified in the permit to mine, mining lease or special mining lease,

notwithstanding anything contained in this proviso the Director may, if in his or her opinion any consent required by subparagraphs (ii) or (iv) is being unreasonably withheld, waive the requirement for consent therein contained subject to such conditions as he or she may see fit to impose and any such waiver shall be a decision of the Director;

- (b) prospect for all minerals except minerals for which prospecting is forbidden or restricted under the provisions of section 4;
- (c) remove any undergrowth and cut, take and use for prospecting purposes without payment therefor, any tree not being a planted tree or a tree of the sandalwood species or *Yasidina (Santalum yasi)* or a tree included in class 1, 2 or 3 in Schedule 1 to the Forest Regulations 1955, provided that the Director may impose restrictions on or regulate the clearing of trees or bush when such clearing shall appear to him or her likely to interfere with the course of any stream or to cause erosion.

- (d) sink shafts and pits or dig holes and trenches but shall not remove over burden from ground which can reasonably be tested or sampled by pits not exceeding 4 feet square or by bore holes, provided that—
- (i) such excavations shall be fenced or secured, and on the prospector leaving the neighbourhood, filled up in such a manner as to prevent persons or livestock inadvertently entering therein; and
 - (ii) if any holder of a prospector's right neglects to comply with the provisions of this paragraph, the Director shall have the right to cause such excavations to be filled up or to take such other protective measures as may be necessary and for so doing may charge such holder such sum as the Director considers reasonable, and such sum shall be a lawful deduction from any amount deposited by such holder with the Director under the provisions of this Act. Such filling up by the Director and the payment of such sum by the holder shall not exempt the holder from his or her liability under the provisions of this Act or any other law for his or her failure to fill up such excavations;
- (e) use so much water from a watercourse as will enable him or her to test the mineral bearing qualities of the land by washing, sluicing or other means, provided that where, in the opinion of an inspector, such use of water interferes with or is likely to interfere with any existing user of water, or to interrupt or adversely affect the quality and flow of any water, the holder shall cease such use, on being required to do so by the inspector, until he or she has made such arrangements as will satisfy the inspector;
- (f) mark out and apply for a mining tenement.

[subs (1) am Act 13 of 1977 s 11, opn 1 July 1977; am Decree 7 of 2011 s 4, opn 1 Mar 2011]

(2) In the event of the owner or occupier of any land entered by any prospector under the provisions of subsection (1) making representations to the Director concerning the activity of such prospector on that land, the Director or an inspector may give such directions to the prospector as the Director or such inspector considers necessary for the purpose of avoiding friction between such prospector and the owner or occupier of such land and the prospector shall—

- (a) comply with such directions; and
- (b) if so required by the Director or an inspector, desist from prospecting on such land until amicable relations are, in the opinion of the Director or an inspector, established between him or her and the owner or occupier of such land.

(3) Every notice given under the provisions of subsection (1)(a) shall expire at the end of 3 months after it is given.

(4) The requirements of subsection (1)(a) as to the giving of the notice therein required to be given shall be sufficiently complied with by posting such notice by registered post to the last known address of the owner or occupier of the land, or if such address is not known to the prospector and cannot be ascertained by the exercise of reasonable diligence, by affixing such notice in a conspicuous position on such land in such manner that it can be easily seen by a person entering upon such land.

[MIN 25] Ancillary rights and restrictions under a prospector's right

25 (1) Whilst engaged in *bona fide* prospecting the holder of a prospector's right may—

(a) on any unimproved land—

(i) erect a temporary camp and such temporary structures as may be necessary and enter into temporary occupation thereof, provided that if the owner or occupier of such land shall so require, the camp and structures shall be erected in such suitable place thereon as he or she may select;

(ii) take fuel, other than standing timber, for domestic use;

(b) take water for his or her domestic use from any spring, water hole, lake, river or stream, provided that he or she shall not be entitled to take or use any water artificially conserved by the owner or occupier of any land without the consent of such owner or occupier.

(2) A prospector shall not burn any grass, bush, forest, undergrowth or other standing vegetation or cause or permit the same to be burned, except at such times and in accordance with such conditions as may, from time to time, be specified by the Director by notice in the Gazette and in one newspaper circulating in Fiji.

(3) The holder of a prospector's right shall pay compensation to the persons entitled thereto for all damage done to the surface of any land or to any improvements thereon, in exercise of the liberties and powers conferred by such right, and such compensation shall become payable at the time when such damage occurs.

[The next page is 80,441]

[MIN 26] Grant of prospecting licences

26 (1) Subject to the provisions of this Act and to any terms and conditions not inconsistent therewith that he or she may think fit, the Director may grant a prospecting licence over an area, not exceeding 400 ha to prospect for such minerals as are specified in the licence, to any person who, being the holder of a prospector's right, has, either personally or by an agent who is the holder of a prospector's right, given notice as required under the provisions of section 24(1)(a) and, before the expiry of such notice, marked out in the prescribed manner the area over which the licence is applied for, provided that the total area the subject of all prospecting licences held, directly or indirectly, by any one person shall not exceed 1,200 ha.

(2) Every application for a prospecting licence shall be made in the prescribed form and shall be accompanied by the prescribed fees.

(3) (a) Before granting any prospecting licence the Director may require the applicant to deposit a bond with or without sureties in the sum of \$100 or such greater sum as the Director may think fit.

(b) The bond shall be given to the Director by the applicant or by some other person approved by the Director and shall be conditioned upon the due execution and observance of all the covenants, terms and conditions of the licence when granted.

(c) The sum mentioned in the bond given under the provisions of this subsection shall not be a penalty but shall be liquidated damages and recoverable in full unless the person giving the bond proves performance of every condition upon which the bond is defeasible.

(4) On the application of the holder the Director may add to or vary the minerals specified in any prospecting licence.

(5) A prospecting licence may be granted for such period as may be prescribed and may be extended for such periods as the Director may determine.

[subs (5) am Ordinance 7 of 1966 s 41, opn 24 Feb 1966]

[MIN 27] Rights under a prospecting licence

27 (1) Subject to the provisions of this Act, the holder of a prospecting licence shall have the exclusive right to prospect for the mineral or minerals specified in his or her licence on the land the subject of his or her licence, and for such purposes may—

(a) enter upon such land with his or her servants and agents and thereon exercise all or any of the rights conferred upon the holder of a prospector's right by the provisions of this Act; and

(b) on and over any unimproved land the subject of his or her licence, erect and maintain such machinery and plant and construct such passageways, as may be necessary.

(2) The holder of a prospecting licence who shall have fulfilled all conditions attached thereto may, upon payment of the prescribed fees—

(a) apply for extension of such licence at any time before such licence expires or within 7 days thereafter;

(b) mark out any reduced area or areas within the land the subject of such licence if applying for an extension of such licence in respect of such reduced area or areas only; and

(c) mark out and apply for the grant of any other mining tenement or tenements over the whole or any part of the land the subject of his or her licence.

[subs (2) am Ordinance 7 of 1966 s 41, opn 24 Feb 1966]

[MIN 28] Disposal of minerals obtained in prospecting

28 All minerals obtained in the course of prospecting under a prospector's right or prospecting licence shall be the property of the State and shall not be removed from the vicinity whence they were obtained nor disposed of by the holder of the right or licence without the consent in writing of the Director, except in so far as may be necessary for the purpose of sampling and assay.

[MIN 29] Grant of permit to mine or mining lease cancels prospecting licence

29 A prospecting licence shall be cancelled automatically by the grant to the holder of such prospecting licence of a permit to mine, mining lease or special mining lease over the whole or any part of the land the subject of that prospecting licence, provided that if within 14 days after the grant of such permit or lease, as the case may be, the holder of the licence applies for a new prospecting licence in respect of the whole or any part of the land the subject of the licence so cancelled but not the subject of such permit or lease, his or her application for such new prospecting licence shall be given priority over all other applications in respect of the same land or any part thereof.

[MIN 30] Special prospecting licence

30 (1) Notwithstanding the provisions of section 26, the Director may, subject to the approval of the Minister, grant special prospecting licences upon such terms and conditions, whether in accordance with the provisions of this Act or not, as the Minister may think fit, but, save as varied by any such terms and conditions, the provisions of this Act applicable to a prospecting licence shall be applicable to all such special prospecting licences, provided that, unless an applicant satisfies the Director that there are unusual circumstances which warrant it, a special prospecting licence shall not be granted in respect of any area which is less than 1,300 ha in extent.

[subs (1) am LN 112 of 1970 O 83, opn 8 Oct 1970]

(2) The application for a special prospecting licence shall be in the form prescribed for a prospecting licence.

[MIN 31] Grant of permit to mine

31 (1) Subject to the provisions of this Act and to any terms and conditions not inconsistent therewith that he or she may think fit, the Director may grant a permit to mine—

- (a) to any person who, being the holder of a prospector's right, has, either personally or by an agent who is the holder of a prospector's right, given notice as required under the provisions of section 24(1)(a) and, before the expiry of such notice, marked out in the prescribed manner the area over which the permit to mine is applied for; or
- (b) to the holder of a prospecting licence in respect of the whole or any part of the land the subject of that licence.

(2) A permit to mine shall be of such shape and size as may be prescribed and may be granted for a period of 2 years commencing from the date of the grant of the permit.

(3) A permit to mine may be extended for a period of one year in respect of each such extension.

[subs (3) am Ordinance 7 of 1966 s 41, opn 24 Feb 1966]

(4) Whenever the Director shall be satisfied that the mineral bearing qualities of the land or any portion thereof the subject of a permit to mine are such as to justify the grant of a mining lease or mining leases over all or any part of such land, he or she may, by notice in writing served on the holder of such permit, cancel the permit to mine either in respect of the whole or any specified part of the land the subject of such permit, as from a date being not earlier than 3 months after the date of such notice. On making application therefore in the prescribed form and on payment of the prescribed fees, not later than one month before the expiry of such notice, the holder of such permit shall be entitled to the grant of a mining lease or mining leases over the whole or any part of the land specified in such notice and until the grant of any lease or leases so applied for such permit to mine shall remain in full force and effect in respect of the land the subject of such application.

(5) The holder of a permit to mine cancelled under the provisions of subsection (4) shall have a preferential claim to a permit to mine in respect of any portion of the land the subject of the cancelled permit for which no application for mining lease or mining leases is made within 6 months from such cancellation.

[MIN 32] Grant of mining lease

32 (1) Subject to the provisions of this Act and to any terms and conditions not inconsistent therewith that he or she may think fit, the Director may grant a mining lease—

- (a) to any person who, being the holder of a prospector's right, has, either personally or by an agent who is the holder of a prospector's right, given notice as required under the provisions of section 24(1)(a) and, before the expiry of such notice, marked out in the prescribed manner the area over which the lease is applied for;
- (b) to the holder of a prospecting licence in respect of the whole or any part of the land the subject of that licence; or
- (c) to the holder of a permit to mine in respect of the whole or any part of the land the subject of that permit.

(2) A mining lease may be granted for such term being not less than 5 nor more than 21 years as the Director may think fit. The date of commencement of such term shall be the date of the grant of the lease or such other date as the Director may decide, provided that if a mining lease is granted to the holder of a permit to mine over the whole or any part of the land the subject of such permit, such lease shall commence from the date of the grant of such permit.

(3) If at the expiration of the term originally granted or of any extension thereof the holder of a mining lease shall—

- (a) be conducting mining operations thereon in a normal and business like manner; and
- (b) have given 2 months' notice in writing in that behalf,

then he or she shall, on payment of the prescribed fees, be entitled to obtain an extension thereof for a further term not exceeding 21 years upon the conditions which are then generally applicable to new mining leases, provided that he or she shall not be so entitled if the lease is liable to cancellation under any of the provisions of this Act.

[subs (3) am Ordinance 7 of 1966 s 41, opn 24 Feb 1966]

(4) Subject to the provisions of section 21, a mining lease may be surrendered in the manner provided by section 62 of the Land Transfer Act 1971.

[MIN 33] Application for permit to mine and mining lease

33 (1) Every application for a permit to mine or mining lease shall be made in the

prescribed form and shall be accompanied by the prescribed fees, together with a deposit for the first half year's rent and such other deposits as may be required under the provisions of sections 16 and 22.

(2) An applicant for a permit to mine or mining lease shall, until the application is refused or otherwise disposed of, be deemed to have sufficient title to the land the subject of the application and to the minerals therein contained to support an action or prosecution for trespass.

[MIN 34] Rights under permit to mine and mining lease

34 (1) Subject to the provisions of this Act, the holder of a permit to mine or mining lease shall have the exclusive right to mine on or under the land the subject of his or her tenement for the mineral or minerals specified in his or her tenement and to remove or dispose of any such mineral or minerals, and for such purposes may—

- (a) make all necessary excavations;
- (b) erect, construct and maintain houses and buildings for the use of himself or herself, his or her servants and agents;
- (c) erect, construct and maintain such machinery and buildings, workshops and other erections as may be necessary or convenient;
- (d) stack or dump any products of mining;
- (e) lay water pipes and make water races and ponds, dams and reservoirs and divert any water on or flowing through the land the subject of his or her tenement, provided that any water so diverted shall be returned to its natural channel before it leaves such land; and
- (f) construct and maintain all such passageways, communications and conveniences as may be necessary or convenient.

(2) Before commencing any mining operations or any new mining operations on or under any land the subject of any permit to mine or mining lease, every person entitled to mine on or under such land shall give to the owner or occupier of such land, notice, in such manner as may be prescribed, of his or her intention to commence such operations and of the nature of any such operations of which previous notice has not been given.

[MIN 35] Provisions applicable when precious metals or stones are found on land held under permit to mine or mining lease for other minerals

35 (1) Any person who finds any precious metals or precious stones on or under any land the subject of an existing mining tenement held by any other person may, unless such precious metals or precious stones are specified in the mining tenement held by such other person, apply for a prospecting licence, permit to mine or mining lease for the purpose of prospecting for or mining such precious metals or precious stones and, subject to the compliance by such person with the provisions of this Act relating to the grant of the mining tenement so applied for, the Director may grant such mining tenement to such person over the whole or any part of the land the subject of the existing mining tenement.

(2) The holder of any mining tenement granted pursuant to the provisions of subsection (1) shall not be entitled to exercise any of the rights conferred by such mining tenement so as to interfere with any workings in the actual use of the holder of any other mining tenement previously granted in respect of the same land and shall not prospect or mine on or under any land within 185 m from any of the houses, buildings, machinery or workings or any of the crushing, smelting or other works used for the reduction or treatment of minerals of the holder of any such other mining tenement. In the event of any

dispute as to whether any workings are in actual use or whether any works are used for the reduction of treatment of minerals, the Director may decide the dispute or refer the same to arbitration.

[MIN 36] Provisions applicable when person desires to mine other minerals

36 On the application of the holder of any permit to mine or mining lease, the Director may alter or vary such permit to mine or mining lease so as to enable the holder thereof to mine for any mineral or minerals not specified in such permit or lease.

[MIN 37] Special mining lease

37 (1) Notwithstanding the provisions of section 32, the Director may, subject to the approval of the Minister, grant special mining leases upon such terms and conditions, whether in accordance with the provisions of this Act or not, as the Minister may think fit but save as varied by any such terms and conditions the provisions of this Act applicable to a mining lease shall be applicable to all special mining leases.

[subs (1) am LN 112 of 1970 O 83, opn 8 Oct 1970]

(2) The application for a special mining lease shall be in the form prescribed for a mining lease.

[MIN 38] Grant of special site right

38 (1) Subject to the provisions of this Act and to any terms and conditions not inconsistent therewith that he or she may think fit, the Director may grant a special site right to the holder of a mining tenement who, being the holder of a prospector's right, has, either personally or by an agent who is the holder of a prospector's right, given notice as required under the provisions of section 24(1)(a) and, before the expiry of such notice, marked out in the prescribed manner the area over which the right is applied for.

(2) Every application for a special site right shall be in the prescribed form and shall be accompanied by the prescribed fees, together with a deposit of the first half year's rent and such deposits as may be required under the provisions of sections 16 and 22.

(3) Notwithstanding any arbitration which may be requested or proceeding, the grant of a special site right shall be sufficient authority for the holder thereof to enter into occupation of the land the subject of such right for the purposes specified therein.

(4) Special site rights may be granted for such purposes, for such period and in such manner as may be prescribed, in respect of the following acts or things—

- (a) the construction and use of passageways other than roads;
- (b) water rights;
- (c) erection of machinery;
- (d) disposal of earth and tailings; and
- (e) erection of furnaces, provided that—
 - (i) the Director may issue special site rights for such other purposes in respect of water or land as may, in his or her opinion, be necessary or advisable for the conduct of prospecting or mining operations or for any other purposes connected with mining;
 - (ii) water rights for the generation of electric power shall not be granted under the provisions of this section unless such electric power is to be used by the holder of a mining tenement for the purpose of prospecting or mining operations conducted on such tenement; and

(iii) nothing in this Act shall affect any right to use water under the provisions of the Rivers and Streams Act 1880.

(5) Land the subject of a special site right shall be of such dimensions as may be prescribed or as near thereto as circumstances will permit.

(6) A special site right may be extended for such periods as the Director may determine.

[subs (6) am Ordinance 7 of 1966 s 41, opn 24 Feb 1966]

(7) Subject to the provisions of section 21 of this Act a special site right may be surrendered in the manner provided by section 62 of the Land Transfer Act 1971.

[MIN 39] Road access licences

39 (1) No person shall, in the exercise of any rights conferred on him or her under the provisions of this Act, construct any road on or over any land not being the subject of a mining tenement held by him or her without first obtaining a road access licence empowering him or her to do so, provided that the holder of a mining tenement shall have the right of pedestrian access for himself or herself, his or her servants and agents, to and from his or her tenement, and for that purpose may pass without hindrance over any unimproved land.

(2) Subject to the provisions of this Act and to any terms and conditions not inconsistent therewith that he or she may think fit, the Director may grant a road access licence to the holder of a mining tenement, who, being the holder of a prospector's right, has, either personally or by an agent who is the holder of a prospector's right, given notice as required under the provisions of section 24(1)(a) and, before the expiry of such notice, marked out in the prescribed manner the area over which the licence is applied for.

(3) A road access licence shall authorise the holder, his or her servants and agents, with or without vehicles and animals, to pass over the land the subject of such licence and to construct roads thereon.

(4) Every application for a road access licence shall be in the prescribed form and shall be accompanied by the prescribed fees together with a deposit of the first half year's rent and such deposits as may be required under the provisions of sections 16 and 22.

(5) A road access licence may be granted for such periods as may be prescribed and may be extended for such periods as the Director may determine.

[subs (5) am Ordinance 7 of 1966 s 41, opn 24 Feb 1966]

(6) Subject to the provisions of section 21, a road access licence may be surrendered in the manner provided by section 62 of the Land Transfer Act 1971.

(7) The Director may require the applicant for a road access licence to adjust his or her marking out to follow such route as the Director shall consider reasonable and convenient for all parties who may be affected by the road.

(8) Any right to any road conferred upon the holder of a mining tenement under the provisions of this Act shall expire when such mining tenement is terminated or abandoned for any reason whatsoever and thereupon the holder shall, if required by the owner or occupier, restore the surface of the land to its former state so far as is practicable, and the provisions as to compensation contained in section 40 shall apply, provided that the holder of any other mining tenement in the same vicinity who wishes to use such road may apply for a road access licence over the whole or any part of the land the subject of the expiring licence and if such licence is granted the obligations of the holder of the expiring licence under the provisions of this subsection shall cease in respect of the land the subject of the licence so granted.

(9) The holder of a road access licence shall not hinder or prevent any other person from passing over the land the subject of that licence, provided that—

- (a) where any person uses such road in such manner as to do appreciable damage thereto or to enhance substantially the cost of upkeep thereof, the holder of the licence may require him or her to contribute to the cost of making good such damage or to the cost of upkeep; and
- (b) where any person uses such road in such manner as to interfere materially with the free use and enjoyment thereof by the holder of the licence, the holder of the licence may require him or her to limit his or her use of the road so as to remove such interference.

(10) If any dispute arises in connection with damage, upkeep or interference under the provisions of subsection (9), any person affected by such dispute may lodge a complaint with the Director who shall decide the matter at issue.

(11) If any other mining tenement is granted in respect of any part of the land the subject of a road access licence the holder of such other tenement may require the holder of the road access licence to deviate the road and the cost of such deviation shall be borne by the holder of such other tenement, provided that the approval of the Director shall first be obtained before any such deviation may be required and, if he or she approves the deviation, the Director shall amend the road access licence accordingly.

[The next page is 80,641]

PART 3 — DAMAGE AND COMPENSATION

[MIN 40] Compensation payable for damage to surface of land and improvements thereon

40 (1) It shall be an implied condition of every mining tenement that the holder thereof shall pay compensation to the persons entitled thereto for all damage done to the surface of any land and to any improvements thereon by any prospecting, mining or other operations conducted on such land by the holder of such mining tenement under the authority of any of the provisions of this Act, provided that in determining the amount of any such compensation no allowance shall be made for any mineral known or supposed to be on or under any land.

(2) The amount of compensation payable under this section shall be mutually agreed between the holder of the mining tenement and the persons entitled to such compensation.

(3) If the parties are unable to agree as to the amount of compensation payable, then the Director may, either of his or her own initiative or at the request of any of the parties, assess the amount of compensation payable or likely to become payable and shall thereupon give notice in writing of such assessment to the parties affected by it, and require the holder of the mining tenement to deposit with him or her the amount so assessed or, *in lieu* thereof, such guarantee in like amount as may be approved by him or her. Until such amount or guarantee *in lieu* thereof is deposited with the Director the holder of the mining tenement shall not be entitled to use or occupy the land the subject of his or her tenement.

(4) Any party affected by any assessment made by the Director under the provisions of subsection (3) who is dissatisfied with such assessment, may, by request in writing, require that the question be referred to arbitration, provided that every such request shall be made to the Director within 30 days of the date of such assessment or within such further time as the Director may think fit and a copy of every such request shall be delivered in like time to every other party affected by such assessment.

(5) Compensation payable under the provisions of this section for damage done to any improvements shall be payable at the time when such damage occurs but in the case of damage to the surface of any land compensation for such damage shall not become payable until the mining tenement is terminated, provided that the holder of a mining tenement may make an advance payment of compensation for any damage done or likely to be done to the surface of the land the subject of his or her tenement and such payment shall be set off against his or her liability on the termination of his or her mining tenement.

(6) When land is restored in accordance with the provisions of section 43, no compensation shall be payable in respect of any damage to the surface of the land so restored.

(7) When surface rent is payable pursuant to the provisions of section 41 in respect of any land the subject of a mining tenement, no compensation shall be payable under the provisions of this section for any damage done to any improvements effected to such land after the date on which surface rent began to be payable.

(8) Any person who has received compensation under the provisions of this section for damage done to any improvements on any land the subject of a mining tenement shall not be entitled to claim any further compensation in respect of the same damage but shall be entitled from time to time to receive such further compensation as the Director may determine for any further damage done to any improvements on such land by the operations of the holder of such mining tenement.

[MIN 41] Surface rent payable for disturbance of surface rights

41 (1) It shall be an implied covenant of every mining tenement, other than a prospecting licence, that the holder thereof shall pay surface rent to the person entitled to the surface rights of any land the subject of such tenement as compensation for any disturbance of such surface rights by any prospecting, mining or other operations conducted on such land by the holder of such mining tenement under the authority of any of the provisions of this Act, provided that, in respect of a permit to mine, mining lease or special mining lease, surface rent shall be payable only in respect of that portion of the surface of such land which the holder of such permit or lease is entitled to use and occupy.

(2) The amount of surface rent payable shall be mutually agreed in writing between the holder of the mining tenement and the person entitled to the surface rights of the land the subject of such tenement and every such agreement or a certified copy thereof shall be filed in the office of the Director on payment of the prescribed fee.

(3) If the parties are unable to agree as to the amount of surface rent payable the provisions of sections 40(3) and (4) as to assessment of compensation shall apply *mutatis mutandis*.

(4) Surface rent shall be paid to the person entitled thereto half-yearly in advance in each January and July and evidence of such payment shall be presented to the Director within 14 days of such payment, provided that before commencing any operations on the land the subject of his or her tenement the holder of every mining tenement in respect of which surface rent is payable shall pay surface rent on a *pro rata* basis up to the end of the next ensuing half year.

[MIN 42] Director may suspend and cancel tenement

42 If, in any case where the holder of a mining tenement is required to pay compensation under the provisions of this Part, payment is in arrears or the amount deposited is insufficient, the Director may suspend such mining tenement, until the amount payable has been paid and until such holder has deposited with him or her such further sums as may be demanded as security for further payments, and, if such payment and deposit is not made within such time as the Director may consider reasonable, the mining tenement may be cancelled in accordance with the provisions of section 65.

[MIN 43] Restoration of land

43 (1) During the currency of any mining tenement the Director may order the holder thereof to restore the surface of the land the subject of such tenement where such surface has been disturbed by prospecting or mining operations. Such requirements of restoration shall be embodied in an appendix to such tenement before issue or by attachment thereto upon due service of such order.

(2) When any mining tenement is terminated or abandoned for any reason whatsoever, the person whose tenement has been terminated or abandoned shall, not later than 30 days from the date of termination or abandonment of the tenement, fill up all shafts, pits, holes and other excavations or otherwise secure them in a permanent manner so as to prevent persons or livestock inadvertently entering therein, and shall remove all posts marking out the land the subject of the tenement; and shall within such period furnish a certificate to the Director that he or she has complied with the provisions of this section as to the fencing or filling up of shafts, pits, holes and other excavations and the removal of posts, provided that no such person shall be liable for filling up or securing any excavations made by other persons on the land the subject of his or her tenement, prior to the grant thereof, if, on application for the tenement, he or she has shown on the plans submitted

with his or her application, the position, of these excavations in relation to the boundaries of the land, or if he or she submits within a period of one month from the date of grant of the tenement, a plan showing the position of such excavation.

(3) If any person, whose mining tenement has been terminated or abandoned, neglects to fill up or secure any excavations or to notify the Director within the prescribed time, the Director shall have the right to cause such excavations to be filled up or secured and for so doing may charge such person such sum as the Director considers reasonable, and such charge shall be a lawful deduction from any amount deposited by such person with the Director under the provisions of this Act, provided that such filling up or securing by the Director and the payment of such charge shall not exempt such person from his or her liability under the provisions of this Act or any other law for his or her failure to fill up or secure such excavations.

(4) Where a mining tenement is renewed in respect of a reduced area only, the provisions of subsections (2) and (3) shall apply to the land not included in renewal.

[The next page is 80,841]

PART 4 — REGISTRATION, APPROVAL AND STAMPING OF DOCUMENTS

[MIN 44] Registration of prospector's rights, prospecting licences and permits to mine

44 (1) The Director shall keep a register called the "Register of Prospectors' Rights" in which shall be recorded the name in full, the place of residence and the occupation of every person to whom a prospector's right is granted.

(2) Every prospecting licence, special prospecting licence and permit to mine shall be recorded in registers to be kept by the Director called the "Register of Prospecting Licences" and the "Register of Permits to Mine".

[MIN 45] Mining leases, special site rights and road access licences to be registered by the Registrar of Titles

45 (1) Every mining lease, special mining lease, special site right and road access licence shall be recorded in registers, to be kept by the Registrar of Titles called the "Register of Mining Leases", the "Register of Special Site Rights" and the "Register of Road Access Licences".

(2) On registration, every mining lease, special mining lease, special site right and road access licence shall be subject to the provisions of the Land Transfer Act 1971 in so far as such provisions are not inconsistent with the provisions of this Act, in the same manner as if such lease, right or licence were a lease under the provisions of the Land Transfer Act 1971, and shall be dealt with in like manner.

(3) It shall be lawful for the Registrar of Titles to charge and collect in respect of any mining lease, special mining lease, special site right or road access licence, registered under the provisions of this Act, or in respect of any dealing with any such lease, right or licence, the fees prescribed under the Land Transfer Act 1971 (including the fees for registering any such lease, right or licence) in the same manner as if such lease, right or licence were a lease under the provisions of that Act.

(4) In the event of any mining lease, special mining lease, special site right or road access licence being granted over any alienated or iTaukei land the instrument of title of the owner of such land shall be referred to in such lease, right or licence and on registration thereof the Registrar of Titles shall give notice of such registration to the holder of the duplicate instrument of title to the land affected by such registration and shall enter a memorial of the lease, right or licence on the instrument of title and on the duplicate thereof, if produced to him or her.

[subs (4) am Decree 7 of 2011 s 4, opn 1 Mar 2011]

[MIN 46] Director's consent required to deal in tenement

46 (1) The holder of a mining tenement or of any interest therein shall not transfer or otherwise deal in his or her right or interest, or any part or share thereof in any manner whatsoever without first obtaining the approval in writing of the Director and no evidence of any such dealing shall be admissible in any court unless such prior approval has been obtained, provided that the Director shall not, without the prior consent of the Minister, grant such approval in the case of a mining tenement the grant of which is required by any of the provisions of this Act to be approved by the Minister.

[subs (1) am LN 112 of 1970 O 83, opn 8 Oct 1970]

(2) Every dealing in a mining tenement or interest therein shall be in writing and shall state the full and true consideration passing between the parties thereto, otherwise the dealing shall be null and void.

- (3) (a) Every dealing in a mining tenement shall be presented to the Director for the endorsement of his or her approval together with a certified copy which shall be retained by the Director, and, until so endorsed each such dealing shall be null and void.
- (b) Every such dealing shall be presented for endorsement and, where necessary, for registration in the appropriate Register within 21 days of the date thereof, provided that the Director or Registrar of Titles may in his or her discretion, on reasonable cause being shown, extend the time for endorsement or registration.

[subs (3) am Act 16 of 2020 s 4 and Sch, opn 1 Aug 2020]

[MIN 47] Agreements relating to mining tenements to be disclosed

47 Every applicant for or holder of a mining tenement, and every transferee or proposed transferee thereof shall disclose to the Director every agreement which he or she has entered into or intends to enter into with any other person relating to the disposition or working of the tenement and the financing of the prospecting or mining operations intended to be conducted on or under the mining tenement, together with the name, address and occupation of such person.

[MIN 48] Transmission of tenement on death, bankruptcy or unsoundness of mind

48 (1) In any case where the holder of any mining tenement shall—

- (a) die;
- (b) have a receiving order in bankruptcy made against him or her; or
- (c) be found to be of unsound mind under the provisions of any law relating to mental treatment for the time being in force in Fiji,

the obligations imposed upon such holder by this Act shall not be enforceable until after the expiration of 90 days—

- (i) from the date of the grant of probate or the issue of letters of administration;
- (ii) from the date of the receiving order; or
- (iii) from the date of the appointment of any committee of the estate of the person of unsound mind,

as the case may be, provided that the Director may extend any such period.

(2) The personal representative, receiver in bankruptcy or committee, as the case may be, of any deceased, bankrupt or person of unsound mind referred to in subsection (1) may make application to the Director or to the Registrar of Titles as may be appropriate, to be registered as the proprietor of any mining tenement held by such deceased, bankrupt or person of unsound mind. Upon production to him or her of the probate, letters of administration, receiving order, order of appointment or such other evidence as he or she may require, the Director or the Registrar of Titles, as the case may be, shall cause to be entered in the appropriate register a memorial of the date and hour of production of the same, with such further particulars as he or she may deem necessary and, upon such entry being made such personal representative, receiver in bankruptcy or committee, as the case may be, shall become the registered holder of such mining tenement and the Director or the Registrar of Titles, as the case may be, shall note such registration by memorandum on the probate, letters of administration, receiving order or order of appointment produced

to him or her, provided that the title to such mining tenement of such personal representative, receiver in bankruptcy or committee shall relate back and take effect from the date of death or the date of such receiving order or order of appointment, as the case may be.

[The next page is 81,041]

PART 5 — MISCELLANEOUS

[MIN 49] Indemnification of Director and inspector

49 Neither the Director nor any person acting under his or her authority nor an inspector shall be personally liable to any action, suit or proceeding for or in respect of any act or matter *bona fide* done or omitted to be done in the exercise or supposed exercise of any of the powers conferred on him or her by the provisions of this Act.

[MIN 50] Government not liable for rent etc unpaid and irrecoverable by the Director

50 Neither the Government nor the Minister nor the Director nor any person acting under their authority shall be liable to any action, suit, claim or proceeding for the recovery of any rent, compensation or other charges which may be due and payable but remaining unpaid by any holder of a mining tenement under the provisions of this Act.

[s 50 am LN 112 of 1970 O 83, opn 8 Oct 1970]

[MIN 51] Livestock not to be impounded

51 The holder of any mining tenement shall not have the right to impound, disturb, molest or in any way whatsoever prevent any livestock from depasturing on the land the subject of his or her mining tenement unless such land is enclosed by a substantial fence and he or she has paid surface rent in respect of such land pursuant to the provisions of section 41.

[MIN 52] Proof of documents

52 Subject to the provisions of section 46, in all proceedings in any court the production of any document purporting to be a lease, licence, permit, right, certificate or other document issued by the Director or any authorised officer under the provisions of this Act shall, until the contrary is proved, be sufficient evidence that the document is what it purports to be and that it was lawfully issued.

[s 52 am Act 16 of 2020 s 4 and Sch, opn 1 Aug 2020]

[MIN 53] Director may issue certified and duplicate copies of documents

53 (1) The Director may issue a certified copy of any prospector's right, prospecting licence, special prospecting licence, permit to mine, certificate or other document filed with him or her on payment of the prescribed fee and such certified copy shall be received in evidence in any court.

(2) Upon the application of the holder thereof the Director may, subject to payment of the prescribed fee and to such conditions as to proof of loss or destruction as he or she thinks fit, issue a duplicate of any prospector's right, prospecting licence, special prospecting licence or permit to mine which he or she is satisfied has been lost or destroyed, and such duplicate shall be available for all purposes and uses and have the same force and effect as the lost or destroyed right, licence or permit, provided that the Director shall not issue such duplicate unless the applicant therefore has given not less than 14 days notice in the Gazette and in one newspaper circulating in Fiji of his or her intention to make such application.

[MIN 54] Royalties

54 (1) All minerals obtained in the course of prospecting or mining operations shall be liable to the prescribed royalties and no mineral shall be exported unless such royalties are paid or secured in accordance with the prescribed conditions, provided that the Director may, by permit in writing, exempt from royalties from small quantities of such minerals exported as commercial samples or scientific specimens or for the purpose of analysis or experiment as he or she thinks fit.

(2) Whenever a mineral sample is exported solely for the purpose of analysis or experiment or as a scientific specimen the person exporting such sample shall obtain a certificate of the result of any analysis of such sample and shall deliver a certified true copy thereof to the Director within 6 months of the export of such sample.

(3) The Minister may, by notice in the Gazette, remit the whole or any part of any royalties payable by any person in respect of any mineral or minerals for such period as may be specified in such notice.

[subs (3) am LN 112 of 1970 O 83, opn 8 Oct 1970]

[MIN 55] Recovery of rents etc

55 Any arrears of rents, royalties or fees payable to the State under the provisions of this Act may, in addition to any other legal remedy, be recovered as a civil debt at the suit of the Director or an authorised officer.

[MIN 56] Disputes

56 (1) Any dispute referred to arbitration under the provisions of this Act shall be referred to a single arbitrator chosen by the parties, or, if they are unable to agree, to an arbitrator chosen by the Chief Justice. Each party shall have power to appoint an assessor to sit with the arbitrator but the arbitrator alone shall have the power to decide and the award shall be his or hers alone.

(2) Every arbitration shall take place at Suva or at such other place within Fiji as the single arbitrator shall decide and the procedure thereat shall be governed by the provisions of the Arbitration Act 1965.

[The next page is 81,241]

PART 6 — PENALTIES

[MIN 57] Unlawful prospecting and mining

57 (1) No person shall prospect for any minerals on any land in Fiji or mark out any land for the purpose of applying for a mining tenement unless he or she is the holder of a prospector's right, provided that it shall not be necessary that any person employed on the land the subject of a mining tenement shall be the holder of a prospector's right.

(2) No person shall mine or employ any other person to mine on any land in Fiji unless he or she has first obtained a permit to mine, mining lease or special mining lease entitling him or her to do so.

(3) Any person contravening any of the provisions of subsections (1) or (2) shall be guilty of an offence and shall be liable to a fine not exceeding \$400 or to imprisonment for a term not exceeding one year and to the forfeiture of all minerals obtained, or, if such minerals cannot be forfeited, shall pay such sum as the court may assess as the value thereof.

[MIN 58] Penalty for failure to notify owner

58 Any holder of a prospector's right who marks out for a mining tenement any land without first notifying the owner or occupier of the land in accordance with the provisions of section 24(1)(a), shall be guilty of an offence and shall be liable to a fine not exceeding \$100 or to imprisonment for a term not exceeding 3 months.

[MIN 59] Assault on authorised person etc

59 Any person who—

- (a) assaults, obstructs or resists the Director or an inspector or any authorised officer or any bailiff in lawfully entering upon any land in performance of his or her duty or in the exercise of his or her powers under the provisions of this Act; or
- (b) after being removed by any officer authorised under the provisions of this Act from any land the subject of a mining tenement, forcibly or clandestinely retakes or retains possession thereof or of any share therein; or
- (c) resists or prevents the taking, using or diverting of any water by any person authorised under the provisions of this Act to take, use or divert such water,

shall be guilty of an offence and shall be liable to a fine not exceeding \$200 or to imprisonment for a term not exceeding 6 months.

[MIN 60] Fraud by applicant for mining tenement

60 (1) Any person who represents that he or she has obtained the grant of a mining tenement and thereby induces or attempts to induce any person to invest capital in any company or syndicate connected therewith before he or she has obtained the grant of such mining tenement shall be liable to forfeit any claim to the grant thereof, and, if he or she already holds a prospector's right or any mining tenement, shall be liable to have his or her prospector's right and his or her tenement cancelled, provided that nothing in this section shall relieve any person from liability to civil action or criminal prosecution in respect of the said representation.

(2) Any applicant for a mining tenement or any holder thereof who wilfully or recklessly gives false information as to any of the matters in respect of which information

is or may be required to be given under the provisions of this Act, shall be guilty of an offence and shall be liable to a fine not exceeding \$200 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

[MIN 61] Salting or fraudulent deposit of metal and fraudulent sampling

61 Any person who, with intent to defraud, places or deposits, or is an accessory to the placing or depositing, of any mineral or ore in any place, or does any other act, for the purpose of misleading any person as to the nature, quality or quantity of the mineral naturally occurring at such place or who, with intent to defraud, mingles or causes to be mingled with any sample of mineral or ore any valuable mineral or any substance whatsoever which will increase the value or in any way change the nature of such mineral or ore, shall be guilty of a felony and shall be liable to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 5 years, or to both such fine and imprisonment.

[MIN 62] Attempts to injure underground mines

62 Any person who, with intent to injure or obstruct the working underground mine—

- (a) causes water to run into the mine or into any subterranean passageway communicating with the mine;
- (b) obstructs any shaft or passageway of the mine;
- (c) obstructs the working of any machine, appliance or apparatus appertaining to or used in connection with the mine, whether the thing in question is completed or not; or
- (d) injures or unfastens any rope, chain or other tackle used in or upon the mine or any passageway or work appertaining thereto or used therewith,

shall be guilty of a felony and shall be liable to imprisonment for a term not exceeding 7 years.

[MIN 63] Penalty for obstructing holder of prospector's right or mining tenement

63 Any person who interferes with or obstructs the holder of a prospector's right or the holder of a mining tenement, or his or her servants or agents, in the exercise of any right, power or liberty conferred by the provisions of this Act shall be guilty of an offence and shall be liable to a fine not exceeding \$100 or to imprisonment for a term not exceeding 6 months.

[MIN 64] Penalty for injuring boundary marks

64 (1) Any person who without lawful authority wilfully breaks, defaces, removes, alters or in any way interferes with any boundary mark, peg, pillar, post or notice erected or affixed for any of the purposes of this Act, shall be guilty of an offence and shall be liable to a fine not exceeding \$100 or to imprisonment for a term not exceeding 6 months.

(2) For the purposes of this section, unless otherwise expressly provided, it shall be unlawful for any applicant for a mining tenement or any holder thereof to move or interfere in any way with any boundary mark purporting to mark out the area applied for, or held by him or her, without first obtaining the consent in writing of the Director.

[MIN 65] Cancellation of prospector's right or mining tenement

65 (1) If the holder of a prospector's right or mining tenement—

- (a) commits a breach of any of the provisions of this or any other Act made in connection with mining, explosives or the employment of labour or of any of the covenants, terms or conditions of his or her right or tenement;
- (b) is convicted of any offence involving dishonesty or fraud; or
- (c) wholly discontinues operations under a permit to mine, mining lease or special mining lease for a continuous period of 6 months or more without the permission of the Director,

the Director may call upon such person to show cause, within such reasonable time as the Director may specify, why his or her prospector's right or mining tenement should not be cancelled and if such person fails to show cause within the time so specified or if the cause shown is, in the opinion of the Director, inadequate, the Director may cancel such prospector's right or mining tenement or, in the case of any breach mentioned in paragraph (a), may allow the holder of such right or tenement to remedy such breach within such time as the Director may specify, provided that in any case in which he or she allows the holder of any mining tenement to remedy any such breach the Director may require such holder to pay, in addition to the rent or fees normally payable in respect of that tenement, a penal rent not exceeding 3 times the amount of such rent or fees, for the period from the commencement of such breach until it is made good to the satisfaction of the Director. Such penal rent shall be payable monthly without demand and shall be recoverable as rent.

(2) On the cancellation of any prospector's right or mining tenement, all rights and privileges conferred thereby shall cease, provided that such cancellation shall not in any way affect the liability of any person to be sued or prosecuted for any breach of any of the provisions of this or any other Act or of any covenant, term or condition of any mining tenement or for the payment of any rent, fees, royalties or compensation.

(3) The allowance of any time or the payment of any penal rent under the provisions of subsection (1) shall not in any way affect the liability of any person to be sued or prosecuted for any breach of any of the provisions of this or any other Act or of any covenant, term or condition of any mining tenement.

[MIN 66] Penalty for mining minerals other than those specified in permit to mine or mining lease

66 If the holder of any mining tenement mines for any mineral other than as specified in his or her permit or lease, his or her tenement shall be liable to cancellation and he or she shall be guilty of an offence and shall be liable to a fine not exceeding \$100 and a further fine not exceeding \$10 for every day on which the offence continues.

[MIN 67] General penalty

- 67** (1) Any person who—
- (a) disobeys any of the provisions of this Act by—
 - (i) wilfully doing any act which it forbids; or
 - (ii) refusing or wilfully omitting to do any act which it requires to be done; or
 - (b) refuses or wilfully omits to carry out any lawful order, instruction or condition made, given or imposed by the Director, any inspector or authorised officer under the authority of this Act,

shall be guilty of an offence against this Act and shall, where no specific penalty is provided, be liable to a fine not exceeding \$200 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

(2) Whenever it is proved to the satisfaction of a court that an offence against this Act has been committed by any servant or agent of the holder of any mining tenement, such

holder shall be held to be liable for such offence and to the penalty provided therefore, unless he or she proves to the satisfaction of such court that the offence was committed without his or her knowledge or consent and that he or she had taken all reasonable means to prevent the commission of the offence, provided that nothing contained in this section shall be deemed to exempt any such servant or agent from the penalties provided for any such offence committed by him or her.

[The next page is 81,441]

PART 7 — REGULATIONS

[MIN 68] Regulations

68 (1) The Minister may make regulations prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act, and in particular for—

- (a) the application for and the form and registration of prospectors' rights and mining tenements and the fees payable therefore;
- (b) the conditions to be observed and the duties to be performed by holders of prospectors' rights and mining tenements;
- (c) the method of determining the priority of applicants;
- (d) the area, dimensions and shape of mining tenements and the manner in which the area, boundaries and other particulars of land the subject of a mining tenement are to be ascertained, described, marked out and maintained;
- (e) the duration of mining tenements;
- (f) the kinds of mining leases and permits to mine and the minerals which may be mined under them;
- (g) tribute agreements and contracts;
- (h) powers of attorney;
- (i) the extension, transfer, amalgamation, assignment, sublease, encumbrance, surrender and determination of mining tenements, and the registration thereof and the fees payable thereon;
- (j) the ascertainment and payment of royalties in respect of minerals;
- (k) the allocation of and payment of rents and fees;
- (l) the keeping of records of minerals found;
- (m) the keeping and verification of accounts and plans and sections of mines;
- (n) the mode of working mining leases and the disposal of waste and tailings;
- (o) the labour conditions to be observed and the housing and other accommodation required for labourers and the minimum number of labourers to be employed on mining tenements;
- (p) surveys and plans;
- (q) the regulation and use of the surface of the land and the cutting of timber and fuel;
- (r) the use of water and the cutting, constructing, use and maintenance of races, dams and reservoirs;
- (s) trespass;
- (t) the employment and registration of labourers, the payment of wages and duties of employers and the safety of employees;
- (u) the employment of persons having charge of winding machinery and providing for their periodical medical examination;
- (v) the issue of certificates and permits for managers and certain employees on mines;
- (w) the regulation of mines and the handling, storage and use of explosives therein;
- (x) the determination of disputes;
- (y) the sanitary regulation of lands the subject of mining tenements and adjacent thereto;
- (z) the examination, restriction of employment and exclusion from mines of all persons found to be infected with ankylostomiasis, pneumoconiosis, tuberculosis or other infectious or contagious diseases;

- (aa) the preservation of public health and the prevention of nuisances of all kinds arising from mining operations or the smelting or other treatment of any mineral product and the calculation and payment of compensation for any damage caused thereby;
- (bb) the disposal of forfeited minerals;
- (cc) the regulation of alluvial working by dredging, sluicing or otherwise and, among other things, the areas and methods of working;
- (dd) securing the bailing of water from mines so as to prevent injury from such water to any mine workings;
- (ee) the manner in which compensation shall be ascertained and paid;
- (ff) making provision for the compilation of mining statistics by requiring every person carrying on prospecting or mining operations to furnish to the Director periodical returns;
- (gg) the regulation, restriction and control of the disposal and export of ores and minerals;
- (hh) determining the distance, and enforcing the same, at which shafts and other mine workings are to be kept from public and private roads, ways and passages and from private land, dwellings and other buildings and for ensuring the fencing and protection of mines and works for the safety of man and beast;
- (ii) the inspection, supervision and control of machinery used for mining purposes and prescribing the fees to be paid therefore and for the certificates which shall be issued by an inspector after his or her examination of any machinery;
- (jj) the manner in which registers shall be kept;
- (kk) defining the powers and duties of persons appointed or deemed to have been appointed under the provisions of this Act in all cases where such powers and duties have not been defined by this Act;
- (ll) the manner in which certified copies of or duplicate certificates of lost documents may be issued and the fees therefore;
- (mm) the mode of recording documents issued under the provisions of this Act;
- (nn) the payment of rewards by way of moneys or mining leases to persons discovering precious metals or precious stones;
- (oo) the manner of doing or performing anything by this Act required to be done or performed;
- (pp) enabling the Director, an inspector or any authorised officer to enforce his or her orders.

[subs (1) am Ordinance 7 of 1966 s 41, opn 24 Feb 1966; Ordinance 37 of 1966 s 106, opn 13 Jan 1967; LN 112 of 1970 O 83, opn 8 Oct 1970]

(2) The regulations may be made to apply to the whole of Fiji or to any particular part thereof.

[The next page is 86,441]

Subsidiary Legislation

Subsidiary Legislation

Mining Regulations 1966

TABLE OF PROVISIONS

<i>Regulation</i>	<i>Title</i>	<i>Paragraph</i>
PART 1 — PRELIMINARY		
1	Short title	[MIN 10,005]
2	Interpretation	[MIN 10,010]
3	Forms	[MIN 10,015]
PART 2 — FEES, RENTS AND ROYALTIES		
4	Fees	[MIN 10,020]
5	Annual fees and rents	[MIN 10,025]
6	Royalties	[MIN 10,030]
7	Director may permit payment of royalties on a yield basis .	[MIN 10,035]
8	No minerals to be exported except under authority of a mineral export licence	[MIN 10,040]
PART 3 — MARKING OUT, APPLICATION, PRIORITY		
9	Shape of area	[MIN 10,045]
10	Marking out mining tenement	[MIN 10,050]
11	Beacons	[MIN 10,055]
12	Information to be shown on beacons	[MIN 10,060]
13	Beacons and trenches to be maintained	[MIN 10,065]
14	Defects in marking out	[MIN 10,070]
15	Trivial defects in beaconing or application do not invalidate, except in certain cases	[MIN 10,075]
16	Application for mining tenement Form 1	[MIN 10,080]
17	Plans to accompany application	[MIN 10,085]
18	Agent may be called upon to produce authorisation	[MIN 10,090]
19	Notice of application for mining tenement Form 2	[MIN 10,095]
20	Withdrawal of application for mining tenement Form 3 ...	[MIN 10,100]
21	Priority	[MIN 10,105]
22	Director may require applicant to adjust boundaries after survey of contiguous land	[MIN 10,110]
PART 4 — PROSPECTOR'S RIGHTS		
23	Application for a prospector's right. Form 4	[MIN 10,115]
24	Form of a prospector's right. Form 5	[MIN 10,120]
25	Period and post-dating of a prospector's right	[MIN 10,125]
26	Prospector's right to be produced	[MIN 10,130]

LAWS OF FIJI

<i>Regulation</i>	<i>Title</i>	<i>Paragraph</i>
PART 5 — PROSPECTING LICENCES		
27	Area and period for prospecting licence	[MIN 10,135]
28	Form of prospecting licence Form 6	[MIN 10,140]
29	Full particulars of prospecting licences to be entered in Register of Prospecting Licences	[MIN 10,145]
30	Conditions to which prospecting licences are to be subject ..	[MIN 10,150]
31	Reports on prospecting operations. Form 7	[MIN 10,155]
32	Special prospecting licences	[MIN 10,160]
PART 6 — PERMITS TO MINE AND MINING LEASES		
33	Areas for permits to mine and mining leases	[MIN 10,165]
34	Applications for permits to mine and mining leases	[MIN 10,170]
35	Form of permit to mine. Form 8	[MIN 10,175]
36	Full particulars of permits to mine to be entered in Register	[MIN 10,180]
37	Form of mining lease. Form 9	[MIN 10,185]
38	Execution of lease	[MIN 10,190]
39	Record to be kept of mining leases	[MIN 10,195]
40	Rights and conditions of permits to mine and mining leases	[MIN 10,200]
41	Director may order holder to stop mining operations	[MIN 10,205]
42	Notice of commencement of mining operations. Form 10 ..	[MIN 10,210]
43	Exemptions from labour covenants	[MIN 10,215]
44	Grounds for exemption	[MIN 10,220]
45	Resumption of work during currency of exemption	[MIN 10,225]
46	Keeping inspection and verification of accounts	[MIN 10,230]
47	Monthly report on mining operations. Form 13	[MIN 10,235]
48	Yearly report by mine holder. Form 14	[MIN 10,240]
49	Special mining leases	[MIN 10,245]
PART 7 — SPECIAL SITE RIGHTS		
50	Areas for special site rights	[MIN 10,250]
51	Purpose of special site rights	[MIN 10,255]
52	Application for special site right	[MIN 10,260]
53	Form of special site right. Form 15	[MIN 10,265]
54	Special site rights to be held in connection with mining tenement only	[MIN 10,270]
55	Record to be kept of special site rights	[MIN 10,275]
56	Water right not required for water within a mining tenement, limitation of height of dam	[MIN 10,280]
57	Bridges	[MIN 10,285]
58	Right of holder of passageway right	[MIN 10,290]
59	Unlawful use or pollution of water	[MIN 10,295]
60	Erection of machinery or furnaces	[MIN 10,300]
61	Period of special site right	[MIN 10,305]

MINING REGULATIONS 1966

<i>Regulation</i>	<i>Title</i>	<i>Paragraph</i>
62	Resumption of areas	[MIN 10,310]
PART 8 — ROAD ACCESS LICENCES		
63	Area for road access licence	[MIN 10,315]
64	Purpose of road access licence	[MIN 10,320]
65	Application for road access licence	[MIN 10,325]
66	Form of road access licence. Form 16	[MIN 10,330]
67	Road access licence to be held in connection with mining tenement only	[MIN 10,335]
68	Record to be kept of road access licences	[MIN 10,340]
69	Rights of holder of road access licence	[MIN 10,345]
70	Construction of road	[MIN 10,350]
71	Period of road access licence	[MIN 10,355]
72	Resumption of areas	[MIN 10,360]
PART 9 — SURVEYS AND PLANS OF MINING TENEMENTS		
73	Survey of mining tenements	[MIN 10,365]
74	General rules for surveys	[MIN 10,370]
75	Survey marks to be protected by holder of tenement	[MIN 10,375]
76	Plans of mines to be kept	[MIN 10,380]
77	Information to be shown on plans	[MIN 10,385]
78	Plans etc of abandoned mine required	[MIN 10,390]
PART 10 — GENERAL PROVISIONS		
79	Grant etc of prospector's rights and mining tenements to be gazetted	[MIN 10,395]
80	Export of minerals. Form 17	[MIN 10,400]
81	Particulars of boring operations to be supplied. Form 18 ..	[MIN 10,405]
82	Pollution of water	[MIN 10,410]
83	Tribute agreements	[MIN 10,415]
84	Names and addresses of all holders of a mining tenement to be supplied	[MIN 10,420]
85	Service and delivery of notices and process	[MIN 10,425]
86	Powers of attorney. Form 19	[MIN 10,430]
87	Transfers and other dealings. Forms 20 and 21	[MIN 10,435]
88	Surrender of mining tenements. Form 22	[MIN 10,440]
89	Action to be taken on termination of mining tenement. Form 23	[MIN 10,445]
90	Filling up or securing excavations	[MIN 10,450]
91	Right to remove fixtures	[MIN 10,455]
92	Duplicate copies of documents lost or destroyed	[MIN 10,460]
93	Certified true copies of documents	[MIN 10,465]
94	False representation	[MIN 10,470]

LAWS OF FIJI

<i>Regulation</i>	<i>Title</i>	<i>Paragraph</i>
PART 11 — SAFETY OF MINES		
DIVISION 1 — General		
95	Interpretation	[MIN 10,475]
96	Copies of Regulations to be possessed and displayed	[MIN 10,480]
97	Employment of women, children and young persons	[MIN 10,485]
98	Record of all employees to be kept	[MIN 10,490]
99	Intoxicated and crippled persons and intoxicating liquor not allowed in or about a mine	[MIN 10,495]
100	Protection of safety appliances	[MIN 10,500]
101	Duty of employees to satisfy themselves of safety of appliances and to report danger	[MIN 10,505]
DIVISION 2 — INSPECTORS AND INSPECTIONS		
102	Powers of inspectors	[MIN 10,510]
103	Obligations to remedy any dangerous practice, and procedure to be followed	[MIN 10,515]
DIVISION 3 — MANAGERS AND ACCIDENTS		
104	Mine manager to be appointed for every mine	[MIN 10,520]
105	Mine manager's certificate, Form 24 and Form 25	[MIN 10,525]
106	Duties and responsibilities of manager	[MIN 10,530]
107	Responsibility for accident occurring with incompetent workmen	[MIN 10,535]
108	Manager shall provide for the safety and discipline of workmen	[MIN 10,540]
109	Manager or deputy to inspect and report	[MIN 10,545]
110	Holder responsible for refusing manager necessary means	[MIN 10,550]
111	Notice of accident to Director or inspector	[MIN 10,555]
112	Interference with place of accident	[MIN 10,560]
113	Inquiries into accidents	[MIN 10,565]
114	Notice of special occurrences	[MIN 10,570]
115	Record Book	[MIN 10,575]
DIVISION 4 — SURFACE PROTECTION AND POISONS		
116	Fencing of surface subsidence or cavities	[MIN 10,580]
117	Prior permission of inspector required for certain excavations under the surface	[MIN 10,585]
118	Loose material not permitted near unprotected edges	[MIN 10,590]
119	Protection of shafts not in use and opencast workings	[MIN 10,595]
120	Storage of poisons	[MIN 10,600]
121	Antidotes and washes	[MIN 10,605]
122	Provision of gloves	[MIN 10,610]
123	Poisonous and injurious chemical solution — precautions necessary	[MIN 10,615]
124	Dust abatement	[MIN 10,620]
125	Construction of dams	[MIN 10,625]

MINING REGULATIONS 1966

<i>Regulation</i>	<i>Title</i>	<i>Paragraph</i>
126	Drinking water	[MIN 10,630]
DIVISION 5 — OPENCAST WORKINGS		
127	Undercutting	[MIN 10,635]
128	High vertical faces prohibited in alluvial and other workings unless securely timbered	[MIN 10,640]
129	Angle of slope and height of face	[MIN 10,645]
130	Safety helmets	[MIN 10,650]
131	Safety belts and lifelines	[MIN 10,655]
DIVISION 6 — UNDERGROUND WORKINGS		
132	Fencing of entrances to shafts, winzes etc	[MIN 10,660]
133	Dangerous workings to be properly secured	[MIN 10,665]
134	Supporting roof and sides	[MIN 10,670]
135	Safety helmet to be worn underground	[MIN 10,675]
136	Safety belts and lifelines	[MIN 10,680]
137	Advance boreholes when approaching water or gas	[MIN 10,685]
138	Second outlet may be necessary	[MIN 10,690]
DIVISION 7 — HOISTING AND ROPES		
139	Capacity of hoist not to be exceeded	[MIN 10,695]
140	Adequate brakes required for hoists	[MIN 10,700]
141	Connection between rope and conveyance	[MIN 10,705]
142	Factor of safety	[MIN 10,710]
143	Use of defective rope forbidden	[MIN 10,715]
144	Rope test certificates	[MIN 10,720]
145	Use of chains	[MIN 10,725]
146	Guides for conveyances in shafts	[MIN 10,730]
147	Winding prohibited during repairs	[MIN 10,735]
148	Materials forbidden in conveyances together with men ...	[MIN 10,740]
149	Securing materials during winding	[MIN 10,745]
150	Shaft signals required	[MIN 10,750]
151	Code of signals	[MIN 10,755]
152	Special signals	[MIN 10,760]
153	Code of signals to be posted	[MIN 10,765]
154	Appointment of hoist drivers	[MIN 10,770]
155	Hoist Driver's Certificate. Form 26	[MIN 10,775]
156	Hours during which hoist drivers to be on duty	[MIN 10,780]
157	Permission required to use hoist for carrying persons	[MIN 10,785]
158	Automatic brakes	[MIN 10,790]
159	Conditions to be observed where carrying persons is permitted	[MIN 10,795]
160	Protection at mouth of shaft during sinking	[MIN 10,800]
161	Blasting signals in shaft sinking	[MIN 10,805]
162	Filling of bucket	[MIN 10,810]
163	Bucket to be stopped before reaching bottom	[MIN 10,815]

LAWS OF FIJI

<i>Regulation</i>	<i>Title</i>	<i>Paragraph</i>
164	Protection of workmen in shaft sinking	[MIN 10,820]
165	Safety measures in the case of underground tramways	[MIN 10,825]
166	Hoist log books	[MIN 10,830]
DIVISION 8 — TRAVELLING-WAYS AND LADDERWAYS		
167	Ladders and ways of exit	[MIN 10,835]
168	Permanent ladderways	[MIN 10,840]
169	Travelling-ways in shafts to be partitioned or securely fenced	[MIN 10,845]
170	Platforms to be provided in ladderways	[MIN 10,850]
171	Construction of mine ladders	[MIN 10,855]
172	Fixing of ladders	[MIN 10,860]
173	Carrying tools etc in ladderway prohibited	[MIN 10,865]
174	Ladders in shaft sinking	[MIN 10,870]
DIVISION 9 — VENTILATION AND LIGHTING		
175	Underground working to be properly ventilated	[MIN 10,875]
176	Disused workings to be examined before being again used .	[MIN 10,880]
177	Working in foul air forbidden	[MIN 10,885]
178	Water blast to be provided in certain circumstances	[MIN 10,890]
179	Machine drilling	[MIN 10,895]
180	Adequate stationary lights to be provided	[MIN 10,900]
181	Machinery to be illuminated	[MIN 10,905]
182	Moving without a light prohibited	[MIN 10,910]
DIVISION 10 — MACHINERY		
183	Boilers etc to be in good condition	[MIN 10,915]
184	Exposed machinery to be fenced	[MIN 10,920]
185	Loose clothing	[MIN 10,925]
186	No repairing, oiling etc to be done under risk	[MIN 10,930]
187	Friction clutches or similar contrivances to be provided ..	[MIN 10,935]
188	Gauges and safety valves	[MIN 10,940]
189	Compressed air receivers to be tested	[MIN 10,945]
190	Use of compressed air apparatus	[MIN 10,950]
191	Dangerous places to be fenced	[MIN 10,955]
192	No admittance permitted to places where machinery or boilers are housed	[MIN 10,960]
DIVISION 11 — EXPLOSIVES		
193	Explosives Regulations to apply with certain modifications .	[MIN 10,965]
194	Distributing magazine	[MIN 10,970]
195	Restriction on transport of explosives in shaft conveyances .	[MIN 10,975]
DIVISION 12 — ELECTRICAL APPARATUS AND WIRING		
196	Surface installations	[MIN 10,980]
197	Underground installations	[MIN 10,985]
198	Control of underground feeders	[MIN 10,990]

MINING REGULATIONS 1966

<i>Regulation</i>	<i>Title</i>	<i>Paragraph</i>
199	Test certificate necessary	[MIN 10,995]
200	Rating of underground cables and control devices	[MIN 11,000]
201	Voltage of signal systems	[MIN 11,005]
202	Power conductors	[MIN 11,010]
203	Earthing of casings	[MIN 11,015]
204	Earthing of equipment	[MIN 11,020]
205	Room or junction box	[MIN 11,025]
206	Junction or joint boxes	[MIN 11,030]
207	Fire prevention about electrical installations	[MIN 11,035]
208	Fire protection	[MIN 11,040]
209	Transformers, type and location	[MIN 11,045]
210	Transformers and transformer rooms	[MIN 11,050]
211	Protection of signal and telephone wires	[MIN 11,055]
DIVISION 13 — MISCELLANEOUS		
212	First aid kit	[MIN 11,060]
213	Ambulance stations	[MIN 11,065]
214	Training of rescue teams and of persons in first aid	[MIN 11,070]
215	Hospital and nursing facilities	[MIN 11,075]
216	Manager responsible for sanitation	[MIN 11,080]
217	Drinking water	[MIN 11,085]
218	Drying and changing facilities	[MIN 11,090]
219	Housing	[MIN 11,095]
220	Each working place to be visited once a shift	[MIN 11,100]
221	Responsibility regarding dangerous conditions	[MIN 11,105]
222	Employees responsible for obeying safety rules	[MIN 11,110]
223	Manager responsible for non-compliance	[MIN 11,115]
224	Power to waive or suspend regulations in certain cases ...	[MIN 11,120]
	SCHEDULE 1 — FORMS	[MIN 11,220]
	FORM 1 — APPLICATION FOR A MINING TENEMENT (PROSPECTING LICENCE, PERMIT TO MINE, MINING LEASE, SPECIAL SITE RIGHT, ROAD ACCESS LICENCE)	[MIN 11,225]
	FORM 2 — NOTICE OF APPLICATION FOR MINING TENEMENT	[MIN 11,230]
	FORM 3 — WITHDRAWAL OF APPLICATION FOR MINING TENEMENT	[MIN 11,235]
	FORM 4 — APPLICATION FOR A PROSPECTOR'S RIGHT	[MIN 11,240]
	FORM 5 — PROSPECTOR'S RIGHT	[MIN 11,245]
	FORM 6 — PROSPECTING LICENCE	[MIN 11,250]
	FORM 7 — REPORT OF OPERATIONS ON PROSPECTING LICENCE	[MIN 11,255]
	FORM 8 — PERMIT TO MINE	[MIN 11,260]
	FORM 9 — MINING LEASE	[MIN 11,265]

LAWS OF FIJI

<i>Title</i>	<i>Paragraph</i>
FORM 10 — NOTICE TO OWNER, OCCUPIER OR LESSEE OF LAND SUBJECT TO A PERMIT TO MINE OR MINING LEASE	[MIN 11,270]
FORM 11 — APPLICATION FOR EXEMPTION	[MIN 11,275]
FORM 12 — MINING REGULATIONS CERTIFICATE OF EXEMPTION	[MIN 11,280]
FORM 13 — MONTHLY REPORT OF MINING OPERATIONS	[MIN 11,285]
FORM 14 — YEARLY REPORT OF MINING OPERATIONS	[MIN 11,290]
FORM 15 — SPECIAL SITE RIGHT	[MIN 11,295]
FORM 16 — ROAD ACCESS LICENCE	[MIN 11,300]
FORM 17 — MINERAL EXPORT PERMIT	[MIN 11,305]
FORM 18 — REPORT ON DRILLING OPERATIONS	[MIN 11,310]
FORM 19 — POWER OF ATTORNEY	[MIN 11,315]
FORM 20 — APPLICATION FOR APPROVAL OF DEALING IN A MINING TENEMENT	[MIN 11,320]
FORM 21 — TRANSFER OF MINING TENEMENT .	[MIN 11,325]
FORM 22 — SURRENDER OF MINING TENEMENT	[MIN 11,330]
FORM 23 — CERTIFICATE RELATING TO MINE WORKINGS	[MIN 11,335]
FORM 24 — APPLICATION FOR A MINE MANAGER'S CERTIFICATE	[MIN 11,340]
FORM 25 — MINE MANAGER'S CERTIFICATE FOR OPENCAST/UNDERGROUND MINES	[MIN 11,345]
FORM 26 — APPLICATION FOR HOIST DRIVER'S CERTIFICATE	[MIN 11,350]
FORM 27 — HOIST DRIVER'S CERTIFICATE	[MIN 11,355]
SCHEDULE 2 — SCALE OF FEES	[MIN 11,360]
SCHEDULE 3 — FEES STRUCTURE FOR ADMINISTRATION OF LICENCES FOR DEEP SEA MINERAL EXPLORATION	[MIN 11,365]

[The next page is 86,541]

Mining Regulations 1966

TABLE OF AMENDMENTS

Mining Regulations 1966 commenced on 25 November 1966, as amended by:

Amending Legislation	Date of Commencement
Mining (Amendment) Regulations 1968 (LN 64 of 1968)	17 May 1968
Mining (Amendment) (No 2) Regulations 1968 (LN 135 of 1968)	20 September 1968
Mining (Amendment) (No 3) Regulations 1968 (LN 204 of 1968)	27 December 1968
Constitution (Statutory Amendments) Order 1970 (LN 112 of 1970)	8 October 1970
Mining (Amendment) Regulations 1972 (LN 147 of 1972)	29 December 1972
Mining (Amendment) Regulations 1974 (LN 215 of 1974)	1 January 1975
Metrication (Mining Act, Chapter 125) Order 1978 (LN 95 of 1978)	21 July 1978
Mining (Amendment) Regulations 1978 (LN 120 of 1978)	1 September 1978
Mining (Amendment) Regulations 1979 (LN 60 of 1979)	1 April 1979
Quarries (Amendment) Regulations 1982 (LN 91 of 1982)	27 August 1982
Mining (Amendment) Regulations 1988 (LN 22 of 1988)	1 February 1988
Mining (Amendment) Regulations 1995 (LN 72 of 1995)	1 May 1995
Mining (Amendment) Decree 2010 (No 39 of 2010)	1 August 2010
Revised Edition of the Laws (Consequential Amendments) Regulations 2016 (LN 99 of 2016)	1 December 2016
Workmen's Compensation (Repeal) Act 2018 (No 30 of 2018)	1 January 2019
Stamp Duties (Repeal) Act 2020 (No 16 of 2020)	1 August 2020

[The next page is 86,641]

PART 1 — PRELIMINARY

[MIN 10,005] Short title

1 These Regulations may be cited as the Mining Regulations 1966.

[MIN 10,010] Interpretation

2 In these Regulations, unless the context otherwise requires—

beacon means a post with a noticeboard affixed thereto erected for the purpose of marking out an area of land for a mining tenement and includes the datum post, corner posts and boundary posts;

company means a company registered in accordance with the provisions of the Companies Act 2015;

[def am LN 99 of 2016 reg 165, opn 1 Dec 2016]

holder includes a company, and every person working or occupying the land the subject of a mining tenement either as manager, agent, transferee, sublessee, permittee or otherwise howsoever; and, when a mining tenement is held by a company includes the manager of such company or any person acting as the manager or secretary thereof;

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

mark out means to delimit an area by beacons and trenches in accordance with the provisions of these Regulations;

non precious minerals includes coal, earthy minerals, radioactive minerals and metalliferous minerals;

opencast means any uncovered excavation which has been made from the surface for the purpose of winning minerals;

peg means to mark out;

plan includes an original plan and a true copy or tracing thereof;

precious minerals includes precious metals and precious stones;

satisfactory means that which is, in the opinion of an inspector, satisfactory;

tribute agreement means an agreement between the holder of a mining tenement and any other person whereby such other person is required or permitted to carry out any mining operations on such tenement or on any part thereof in consideration of, instead of wages, a portion or percentage of all minerals won by him or her of the value of such minerals;

tributer means a person working under a tribute agreement;

workings includes all excavated portions of a mine; and

works means all plant, machinery, installations, buildings, dams and reservoirs used in connection with the operations of a mine.

[MIN 10,015] Forms

3 Any reference by number to a form in these Regulations shall be read as a reference to a form of that number in Schedule 1.

[The next page is 86,841]

PART 2 — FEES, RENTS AND ROYALTIES

[MIN 10,020] Fees

4 Fees and rents shall be payable to the Director in respect of the several matters set out in regulation 5 and Schedule 2 according to the scales therein prescribed and the amount thereof may, without prejudice to any other remedies, whether civil or criminal, be recovered by the Director by deduction from any sum whatsoever deposited by the person owing such fee or rent.

[MIN 10,025] Annual fees and rents

5 In addition to any fees prescribed in Schedule 2—

(a) the following annual fees shall be payable by the holder of a prospecting licence in respect of each such licence held by him or her—

(i) for the first 200 hectares or part thereof, \$30 for each 40 hectares or part thereof;

(ii) for each additional 40 hectares or part thereof in excess of 200 hectares, \$15,

provided that in the case of a prospecting licence granted or extended for a period not exceeding 6 months, half only of the abovementioned annual fees shall be payable.

(b) the following annual rents shall be payable—

(i) by the holder of a permit to mine or mining lease, in respect of each such permit or lease held by him or her, \$150 per hectare or part thereof, provided that the minimum annual rent payable in respect of each such permit or lease shall be \$500;

(ii) by the holder of a special site right or road access licence in respect of each such right or licence held by him or her, \$500.

[reg 5 subst LN 72 of 1995 reg 2, opn 1 May 1995]

[MIN 10,030] Royalties

6 (1) All royalties payable under the provisions of section 54 of the Act shall be paid to the Director, and, subject to the provisions of regulation 7, shall unless otherwise determined by the Director with the approval of the Minister, be calculated at the following rates—

(a) in the case of bauxite or iron ore, at the rate of 3% of their value; and

(b) in the case of any other minerals, at the rate of 5% of their value.

[subreg (1) am LN 204 of 1968 reg 2, opn 27 Dec 1968; LN 112 of 1970 O 256, opn 8 Oct 1970]

(2) In the case of minerals intended for export, all royalties payable thereon under the provisions of this regulation shall be paid by the person exporting such minerals, and shall become payable at the time of delivery of such minerals on board a ship or aircraft for export, and, for the purpose of calculating the amount of royalty payable thereon, the value of such minerals shall be the price which, in the opinion of the Director having regard to prevailing world market prices, a purchaser would pay for them at the time of their delivery on board a ship or aircraft for export.

(3) In the case of minerals intended for use within Fiji, all royalties payable thereon under the provisions of this regulation shall be paid by the holder of the mining tenement

from which such minerals are extracted and shall become payable at the time of their removal from such mining tenement, and, for the purpose of calculating the amount of royalty payable thereon, the value of such minerals shall be the price which, in the opinion of the Director having regard to prevailing world market prices, a purchaser would pay for them at the time of such removal.

[MIN 10,035] Director may permit payment of royalties on a yield basis

7 (1) Notwithstanding the provisions of regulation 6, in cases where the holder of any mining tenement or tenements keeps books of account to the satisfaction of the Director, the Director may, with the approval of the Minister permit such holder to pay royalties on all minerals extracted from all his or her tenements, including those subsequently granted, on a yield basis, calculated as follows—

- (a) where the yield expressed as a percentage of the annual sale value does not exceed 20% royalty shall be at the rate of 10% of the yield; and
- (b) where the yield expressed as a percentage of the annual sale value exceeds 20%, royalty shall be at the rate of 10% of the yield, together with an additional 0.2% of the yield for each 1% by which the yield expressed as such percentage exceeds 20%.

[subreg (1) am LN 112 of 1970 O 256, opn 8 Oct 1970]

(2) Wherever the holder of mining tenements is permitted to pay royalties on a yield basis under provisions of subregulation (1), he or she shall submit to the Director a statement of account in respect of all his or her tenements within 3 months after the end of each year or within such longer period as the Director may allow.

(3) All royalties assessed under this regulation shall be due and payable within one month of an assessment being made by the Director or such longer period as the Director may allow.

(4) For the purposes of this regulation, unless the context otherwise requires—

annual expenditure means the total of the following expenditure—

- (a) all expenses incurred by the holder, in relation to the mining tenement from which the minerals in respect of which the royalty is being determined were extracted, in the year for which royalty is being determined, in extracting, treating, refining and selling such minerals concerned including interest on loans, but excluding any head office expenses and any expenses other than such selling expenses as may in the discretion of the Director be included, incurred outside Fiji;
- (b) all expenses incurred by the holder of such tenement in the year for which royalty is being determined in experimentation, research or investigation (including prospecting) connected with the minerals in respect of which any royalty is being determined, as the Director may in his or her discretion allow; and
- (c) such expenditure as may be allowed as a set-off under the provisions of section 25(16) to (18) of the Income Tax Act 2015 for the year except to the extent it may have already been allowed under the provisions of paragraph (a) or (b).

[def am LN 64 of 1968 reg 2, opn 17 May 1968; LN 147 of 1972 reg 2, opn 29 Dec 1972; LN 99 of 2016 reg 165, opn 1 Dec 2016]

annual sale value means the total of all amounts received, whether directly or indirectly, from the sale or disposal of minerals, by the holder of the mining

tenement from which the minerals in respect of which the royalty is being determined were extracted, in the year for which royalty is being determined;

year means the calendar year, provided that for any company whose fiscal year is not the calendar year, **year** means such fiscal year; and

yield means the difference between annual expenditure and annual sale value.

(5) Where any doubt arises as to whether any expenses fall within paragraph (a) or paragraph (c) of the definition of "annual expenditure" the decision of the Director shall be final.

[MIN 10,040] No minerals to be exported except under authority of a mineral export licence

8 No mineral shall be exported from Fiji unless and until the exporter has complied with the provisions of regulation 80 and the Director has issued in relation thereto a mineral export licence duly endorsed with a certificate to the effect that—

- (a) all royalties payable thereon have been paid; or
- (b) all royalties payable thereon have been secured to the satisfaction of the Director; or
- (c) no royalties are payable thereon.

[The next page is 87,041]

PART 3 — MARKING OUT, APPLICATION, PRIORITY

[MIN 10,045] Shape of area

9 Wherever possible the area the subject of any mining tenement shall, unless the Director in any particular case otherwise directs, be rectangular in shape and have a minimum width of not less than one-third of the length, provided that the shape of a special prospecting licence and of a special mining lease shall be such as may be approved by the Minister.

[reg 9 am LN 112 of 1970 O 256, opn 8 Oct 1970]

[MIN 10,050] Marking out mining tenement

10 (1) No person other than the holder of a prospector's right shall erect a beacon for the purpose of marking out an area of land for a mining tenement.

(2) Before application is made for a mining tenement the intending applicant, or his or her agent, shall mark out the land for which he or she desires to obtain a mining tenement in the following manner or as near thereto as circumstances will permit, that is to say—

- (a) a beacon shall be erected at every corner of the land, which beacons shall be known as "corner posts" and one of which shall be the datum post which shall be the fixed point from which all calculations and measurements are to be made;
- (b) subject to the provisions of paragraph (3), boundary lines shall be marked between the corner posts at convenient intervals, being not more than 400 m apart, by beacons, which shall be known as "boundary posts" and shall as far as possible be erected at intervisible positions;
- (c) where the boundary line of the tenement is to follow the foreshore or the bed of a stream or watercourse, the boundary post shall be erected on or near to such foreshore, or the bank of such stream or watercourse, as the case may be, at intervals of not more than 200 m apart, and, in cases where the boundary line is to follow the bed of a stream or watercourse—
 - (i) such boundary post shall be erected on the same side of the stream or watercourse as the area being marked out; and
 - (ii) the actual boundary line shall be deemed to follow the middle of the stream or watercourse;
- (d) the direction of the boundary line on each side of every corner post and boundary post shall be indicated by a trench having a length of not less than 1.8 m along the boundary line and a depth and breadth of not less than 250 mm, provided that if any such trenches cannot conveniently be cut owing to the rocky or other nature of the soil, the direction of the boundary line may be indicated by a line of stones having a length of not less than 1.8 m and a height and breadth of not less than 250 mm, or by tree blazing or such other means as may be approved by the Director.

[subreg (2) am LN 95 of 1978 Sch. opn 21 July 1978]

(3) Notwithstanding the provisions of paragraph (2), where some or all of the boundaries of a proposed mining tenement can be readily described by reference to prominent natural features or otherwise, the Director may, at the request in writing of the intending applicant for such tenement, or his or her agent, vary or dispense with any of the requirements of that paragraph, provided that the consent of the Director to such variation or dispensation shall be obtained in writing before the intending applicant makes any application for such tenement.

[MIN 10,055] Beacons

11 Every beacon shall consist of a post to which a noticeboard of wood or metal not less than 300 mm square shall be firmly affixed at a height of not less than 0.9 m from the surface of the ground and placed so as to face outwards from the area marked out, and each such post shall be of substantial materials such as hardwood, standing not less than 1.2 m from the surface of the ground, and being not less than 75 mm square or, in the case of a round post, of a diameter of not less than 100 mm, provided that a beacon used as a boundary post may consist of "X" marks not less than 250 mm high with the arms cut to a depth of not less than 12.5 mm and a width of not less than 25 mm on 2 opposite sides of a tree, such marks being placed in the direction of the boundary line.

[reg 11 am LN 95 of 1978 Sch, opn 21 July 1978]

[MIN 10,060] Information to be shown on beacons

12 (1) Every noticeboard on a beacon shall have the following information distinctly and legibly written, printed or painted on it in such a manner that it cannot be rendered illegible by rain or exposure—

- (a) "PL" if the area is required for a prospecting licence or special prospecting licence;
"PM" if the area is required for a permit to mine;
"ML" if the area is required for a mining lease or special mining lease;
"SSR" if the area is required for a special site right;
"RAL" if the area is required for a road access licence;
- (b) the date of erection;
- (c) the name of the person, company or partnership on whose behalf the application is being made, abbreviated if necessary;
- (d) the letters "PR" followed by the number of the prospector's right of the person erecting the beacon; or
- (e) such of the following groups of letters as is appropriate—
"DP" if a datum post;
"BP" if a boundary post;
"CP" if a corner post other than the datum post, followed by a figure indicating the number of the corner.

(2) Within one month of the grant of a mining tenement, the holder shall add to the information appearing on every beacon marking out the area thereof the official number of the tenement after the letters "PL", "PM", "ML", "SSR" or "RAL", as the case may be.

(3) Upon the transfer of any mining tenement the transferee shall, as soon as possible after he or she has been notified of the registration of the transfer, substitute his or her own name for that of the transferor on every noticeboard on all beacons marking out the area of such tenement.

[MIN 10,065] Beacons and trenches to be maintained

13 All beacons and all notices thereon, and all trenches marking out the boundaries of any mining tenement or proposed mining tenement, shall be maintained in good condition and repair by the holder of or the applicant for the mining tenement or proposed mining tenement, as the case may be, to which they refer, and such holder or applicant shall at all times keep every beacon clear of high grass and brushwood for a distance of not less than 4.5 m on all sides of such beacon and shall, if so required by the Director or

an inspector, clear all vegetation away from the boundary lines for a width of not less than 600 mm on each side of the actual boundary line.

[reg 13 am LN 95 of 1978 Sch. opn 21 July 1978]

[MIN 10,070] Defects in marking out

14 (1) If it appears to the Director that the area marked out differs materially in position, shape or area from the area over which a mining tenement is applied for or is held, the Director may at the cost of the applicant or holder, as the case may be, make such adjustments of the beacons or boundaries as he or she may think fit in order to ensure that the area marked out coincides with the area applied for, and may charge the applicant or holder the cost of so doing, and such adjusted boundaries shall be deemed to be the boundaries of the area applied for or held.

(2) If the area applied for cannot be identified on the ground by means of the plan and the beacons or if the area of the land marked out differs from the area applied for by more than 20%, the Director may refuse the application.

[MIN 10,075] Trivial defects in beaconing or application do not invalidate, except in certain cases

15 Any departure from the provisions of these Regulations in respect of the marking out of an area or an application for a mining tenement shall not invalidate such marking out or such application if the Director is satisfied that a *bona fide* attempt has been made to comply with such provisions and that the defect or irregularity is of a minor nature; but where—

- (a) the applicant, on receiving notice in writing from the Director to remedy such defect, fails to do so or fails to inform the Director that he or she has remedied such defect in the time specified in such notice, such defect or irregularity shall invalidate such marking out or such application;
- (b) a number of such defects or irregularities occur, the whole may be regarded by the Director as invalidating such marking out or such application; or
- (c) such defect is calculated, in the opinion of the Director, to mislead another possible applicant for a mining tenement over the area marked out, or any part thereof, or over any land adjacent to the area marked out, such defect may be held to invalidate such marking out or such application.

[MIN 10,080] Application for mining tenement Form 1

16 (1) Every application for a mining tenement shall be in Form 1 or to like effect, addressed to the Director, and shall be signed by each applicant or his or her agent or, in the case of a company, by the manager or secretary of the company.

(2) Every such application shall be accompanied by all relevant fees prescribed in Schedule 2 together with—

- (a) in the case of an application for a prospecting licence, a deposit of all fees payable under the provisions of regulation 5(1)(a) for the duration of the term of the licence applied for; or
- (b) in the case of an application for any other mining tenement, a deposit of the first half year's rent payable under the provisions of subparagraph (b) of that paragraph.

(3) In the case of an application for a mining lease, or for a special site right or road access licence which is to be attached to a mining lease, the applicant shall, in addition to

any amount deposited under the provisions of paragraph (2), deposit with the Director the sum of \$40 as part payment of the survey fees.

(4) Upon the grant of an application for a mining tenement, so much of the fees and rents paid or deposited under the provisions of paragraph (2) as shall represent the fees and rents payable in respect of the area over which the tenement is granted, shall be paid by the Director to the Consolidated Fund, and the balance, if any, shall be returned to the applicant, or should the application be refused, the whole of all amounts deposited by the applicant under the provisions of this regulation, less the filing fees, shall be returned to him or her.

(5) No deposit as security for fulfilment of the condition specified in section 43 of the Act shall be required to accompany an application for a mining tenement over land of which the applicant or one of them is the owner, provided that, if the application is granted and the mining tenement or the ownership of the land is subsequently transferred by such person, such deposit must be lodged with the Director at the time of applying for his or her approval of the transfer, or the registration of the transfer of the ownership of the land, as the case may be.

[MIN 10,085] Plans to accompany application

17 (1) Every application for a mining tenement shall be accompanied by a copy of, or tracing from, an official plan published by the Lands Department on the largest practical scale which shall show the following details—

- (a) the scale and plan reference number;
- (b) the relative positions of the datum, corner and boundary posts with an outline of the boundaries;
- (c) the true or magnetic bearing and distance of the datum post from some fixed point which is shown on such official plan and the true or magnetic bearing and length of each boundary line;
- (d) the approximate position of the chief local landmarks, and any other beacons or mining tenements in the neighbourhood;
- (e) the topographical features in such a manner as will show clearly the position of the boundary lines and permit of their being identified on the ground;
- (f) in the case of a tracing, sufficient detail to enable the position to be marked accurately on another copy of the official plan from which the tracing is taken; and
- (g) the name and signature of the applicant.

(2) On, or at any time after, the approval of an application for a mining tenement, the Director may require the holder to submit a more accurate plan and on receipt thereof may amend the description of the land the subject of the mining tenement to agree with such plan, and such amended description shall thereupon become the description of the land the subject of the mining tenement.

[MIN 10,090] Agent may be called upon to produce authorisation

18 If an application for a mining tenement is lodged by an agent or person purporting to act on behalf of the applicant, the Director may require confirmation of the authority under which such agent or other person acts before accepting such application and proceeding with such notification and dealing as may be required.

[MIN 10,095] Notice of application for mining tenement Form 2

19 Upon receipt of an application for a mining tenement, the receiving officer at the Mines Department shall prepare a notice in quadruplicate in Form 2 and shall cause one

copy thereof to be placed upon the noticeboard at the office of the Mines Department at Suva and shall deliver the others to the applicant, who shall, as soon as possible after receipt thereof—

- (a) cause one of them to be placed inside a receptacle attached to the datum post of the area applied for and kept intact and legible until such time as the application has been dealt with by the Director, provided that the requirements of this paragraph may be dispensed with by the Director or an inspector upon it being proved to his or her satisfaction that such area is situated in a remote and unoccupied locality; and
- (b) publish the notice of application in the Gazette and in one newspaper published and circulating in Fiji.

[MIN 10,100] Withdrawal of application for mining tenement Form 3

20 An application for a mining tenement may be withdrawn by the applicant therefore at any time before it has been granted or refused by the Director by lodging a notice of withdrawal in duplicate with the Director in Form 3 or to like effect and, on acceptance by the Director of such withdrawal, all rents and fees paid by the applicant in respect of such application, less the filing fee, shall be refunded to him or her after deduction of the withdrawal fee.

[MIN 10,105] Priority

21 (1) An application for a prospecting licence, permit to mine or mining lease shall have priority of consideration over an application for a special site right or road access licence where the areas the subject of the applications overlap or cover the same piece of land.

(2) Subject to the provisions of paragraph (1)—

- (a) where more than one person applies for a mining tenement in respect of the same piece of land, the person who, in the opinion of the Director, has first correctly marked out the area and first applied for such mining tenement over such land in accordance with the provisions of these Regulations shall have priority of consideration;
- (b) where 2 or more applications in proper order in respect of the same piece of land are received simultaneously, the applicant who, in the opinion of the Director, first marked out the land shall have priority of consideration; and
- (c) where it appears that 2 or more persons have simultaneously marked out the same land for a mining tenement in accordance with these Regulations or where the Director is unable to determine which applicant was the first to mark out the land, the Director shall decide which application shall have priority of consideration and his or her decision shall be final.

[MIN 10,110] Director may require applicant to adjust boundaries after survey of contiguous land

22 Where the plan accompanying an application for a mining tenement shows that any of the boundaries of the area applied for are contiguous with any of the boundaries of another mining tenement which has not been surveyed, the Director may, upon completion of the survey of such other mining tenement, require the applicant for or holder of the tenement the subject of such application to move any of the beacons constituting the datum post, corner posts or boundary posts of the area the subject of such

application and to adjust the boundary lines of such area so that such boundaries, as marked out, remain contiguous with the surveyed boundaries of such other mining tenement.

[The next page is 87,241]

PART 4 — PROSPECTOR'S RIGHTS

[MIN 10,115] Application for a prospector's right. Form 4

23 Every application for a prospector's right shall be in writing in Form 4 or to like effect, addressed to the Director, and shall be accompanied by the fee prescribed in Schedule 2, and shall set out in full the name of the applicant and his or her place of residence and occupation, together with his or her normal postal address and such other details as are stipulated in such form.

[MIN 10,120] Form of a prospector's right. Form 5

24 (1) Prospector's rights shall be prepared in duplicate in Form 5.

(2) Such forms shall be numbered in consecutive series from first to last and shall be bound in book form in such manner and numbers as may be convenient.

[MIN 10,125] Period and post-dating of a prospector's right

25 (1) A prospector's right shall continue in force for one year from the date thereof, and shall not be renewable.

(2) At any time within 30 days before the expiration of a prospector's right the holder thereof may apply to the Director for a new prospector's right to be dated as of the date of such expiration. Such application shall be accompanied by the ordinary fee payable for a prospector's right.

[MIN 10,130] Prospector's right to be produced

26 A prospector's right shall be produced whenever demanded by the owner or occupier of any land on which the holder thereof is prospecting, or by the Director, an inspector, authorised officer or police officer.

[The next page is 87,441]

PART 5 — PROSPECTING LICENCES

[MIN 10,135] Area and period for prospecting licence

27 (1) The area of land over which a prospecting licence may be granted shall be such as the Director thinks fit, but shall not exceed 400 ha.

[subreg (1) am LN 95 of 1978 Sch, opn 21 July 1978]

(2) The Director may grant more than one prospecting licence to any person but the aggregate of the areas of all prospecting licences held by one person shall not exceed 1,200 ha

[subreg (2) am LN 95 of 1978 Sch, opn 21 July 1978]

(3) A prospecting licence may be granted for such period, not exceeding 5 years, as the Director thinks fit.

(4) Where the provisions of the Act and the conditions of the licence have been observed and performed to the satisfaction of the Director and on application being made therefore and the prescribed fees paid within 30 days immediately preceding the date of expiry of the licence, the holder of a prospecting licence shall be entitled to an extension thereof for such further periods as the Director may determine on the same conditions as are then generally applicable to new prospecting licences.

(5) Notwithstanding the provisions of paragraph (4), the Director may in his or her discretion grant an extension of a prospecting licence for such period as he or she may think fit upon receipt of an application therefore together with the prescribed fees at any time within 14 days after the expiry of such licence.

[MIN 10,140] Form of prospecting licence Form 6

28 Prospecting licences shall be in Form 6 with such alterations as may be required to meet the circumstances of each particular case.

[MIN 10,145] Full particulars of prospecting licences to be entered in Register of Prospecting Licences

29 The full particulars of every prospecting licence granted, together with a copy of the description of the land the subject thereof as set out in the Schedule to the prospecting licence, shall be entered in the Register of Prospecting Licences, which particulars shall include—

- (a) the name of the area (if any);
- (b) the number of the prospecting licence;
- (c) the date on which it was issued and the date of its expiry;
- (d) the name of every holder;
- (e) the shares held by each holder;
- (f) all transfers, agreements and assignments;
- (g) all suspensions granted under the provisions of regulation 30; and
- (h) all special site rights and road access licences attached thereto.

[MIN 10,150] Conditions to which prospecting licences are to be subject

30 (1) Every prospecting licence shall, in addition to any special conditions contained therein, be deemed to be subject to the following conditions—

- (a) that the holder will vigorously and continuously prosecute prospecting operations on the land the subject thereof to the satisfaction of the Director; and
- (b) that the holder will employ in the prospecting operations not less than one person, who in the opinion of the Director or an inspector, is qualified and competent to prospect, for every 200 ha or part thereof the subject of the tenement, and not less than one other workman for every 10 ha of such land, provided that—
 - (i) the Director may, on application in writing by the holder, suspend in whole or in part any of the obligations imposed by this subparagraph for such time as the Director may think fit; and
 - (ii) where machinery is used, the number of workmen employed may be reduced in the proportion of one workman for each horsepower of machinery used, but so that the number of workmen employed shall not be less than one-third of the number prescribed by this subparagraph.

[subreg (1) am LN 95 of 1978 Sch. opn 21 July 1978]

(2) The land the subject of a prospecting licence shall be deemed to be continuously worked if 6 hours' *bona fide* work per working day is performed thereon by the prescribed number of men for 200 working days per annum, provided that involuntary cessation of work during the continuance of stress of weather, epidemics or strikes, shall not be deemed to be a breach of any of the conditions imposed by the provisions of paragraph (1).

[MIN 10,155] Reports on prospecting operations. Form 7

31 The holder of a prospecting licence shall within 14 days after the expiration of each period of 3 months from the date of issue thereof submit to the Director a report in Form 7 as to the nature and extent of the prospecting operations conducted upon the land the subject of such licence during such period of 3 months; and shall, if required by the Director, submit with such report true copies of any plans of survey made on or below the surface of the land and true copies of any engineering or geological reports relating to the area and any specimens of material obtained in the course of prospecting operations.

[MIN 10,160] Special prospecting licences

32 (1) An application for a special prospecting licence shall, in addition to complying with the provisions of regulations 16 and 17, be accompanied by—

- (a) a statement of the approximate number of workmen the applicant guarantees to employ on continuous prospecting during the currency of the licence if the licence be granted; and
- (b) a programme of prospecting work which the applicant undertakes to perform on the area applied for if the licence be granted and an estimate of the expenditure to be incurred in such work.

(2) Special prospecting licences shall be prepared in Form 6 with such alterations as may be required to meet the circumstances of each particular case, and shall be endorsed "Special".

[The next page is 87,641]

PART 6 — PERMITS TO MINE AND MINING LEASES

[MIN 10,165] Areas for permits to mine and mining leases

33 (1) The area of land over which a permit to mine or mining lease may be granted shall be in the discretion of the Director but shall not, except with the prior approval of the Minister, exceed the following areas—

- (a) in the case of a permit or lease for precious minerals, 40 ha; or
- (b) in the case of a permit or lease for non precious minerals, 128 ha.

[subreg (1) am LN 112 of 1970 O 256, opn 8 Oct 1970; LN 95 of 1978 Sch, opn 21 July 1978]

(2) Every application for the grant of a permit to mine or mining lease over an area in excess of that specified in paragraph (1) shall be accompanied by a scheme in writing outlining the nature and extent of the proposed operations together with evidence to the satisfaction of the Director that the applicant has the working capital necessary to carry out such scheme.

[MIN 10,170] Applications for permits to mine and mining leases

34 (1) An applicant for a permit to mine or mining lease shall report fully to the Director the nature of the mineral deposit in respect of which such mining tenement is applied for and the Director may require the applicant to submit copies of assays and reports made by engineers, geologists or prospectors.

(2) The plan accompanying the application shall, in addition to the information required by the provisions of regulation 17, show all roads, paths, fences, buildings, crops or other improvements within the boundaries or within 30 m of the area applied for.

[subreg (2) am LN 95 of 1978 Sch, opn 21 July 1978]

(3) An applicant for a permit to mine or mining lease shall also state and describe in his or her application the area of surface which he or she desires to occupy and use.

(4) On receipt of an application therefor the Director may approve the grant of a permit to mine or mining lease or may require the applicant to continue prospecting operations.

[MIN 10,175] Form of permit to mine. Form 8

35 Permits to mine shall be in Form 8 with such alterations as may be required to meet the circumstances of each particular case.

[MIN 10,180] Full particulars of permits to mine to be entered in Register

36 The full particulars of every permit to mine granted, together with a copy of the description of the land as set out in the Schedule to the permit to mine, shall be entered in the Register of Permits to Mine, which particulars shall include—

- (a) the name of the mine;
- (b) the number of the permit to mine;
- (c) the date on which it was issued and the date of expiry;
- (d) the name of every holder;
- (e) the share held by each holder;
- (f) all transfers, assignments and tribute agreements made;
- (g) all exemptions granted or cancelled; and
- (h) all special site rights and road access licences attached thereto.

[MIN 10,185] Form of mining lease. Form 9

37 Mining leases shall be in Form 9 with such alterations as may be required to meet the circumstances of each particular case.

[MIN 10,190] Execution of lease

38 Every mining lease shall be executed by the lessee, if he or she be resident within Fiji, within a period of 60 days from the date of issue of the notice that the lease is ready for execution, or in the case of a lessee residing outside Fiji, within a period of 6 months from the date of issue of such notice. Failure on the part of the lessee to execute a lease within the prescribed period shall render the approval of the lease liable to cancellation.

[MIN 10,195] Record to be kept of mining leases

39 A book shall be kept at the Mines Department to be called the "Record of Mining Leases" in which shall be entered in relation to each mining lease—

- (a) the name of the mine;
- (b) the registered number of the lease;
- (c) the date on which it was issued and the date of its expiry;
- (d) the name of every lessee;
- (e) the share which each lessee holds;
- (f) all transfers, assignments, subleases and tribute agreements made;
- (g) all exemptions granted or cancelled; and
- (h) all special site rights and road access licences attached thereto,

provided that any system of recording such information by cards shall be sufficient compliance with the provisions of this regulation.

[MIN 10,200] Rights and conditions of permits to mine and mining leases

40 (1) A permit to mine or mining lease shall entitle the holder to work underground for the purpose of mining at a depth of not less than 15 m below the surface throughout the whole area the subject of such tenement and also to occupy and use for the purpose of mining or purposes ancillary thereto, such portion of the surface as may be allowed by the Director and specified in the tenement. The holder of a permit to mine or mining lease may, at any time, apply to the Director for an extension of the surface area which he or she may occupy and use. If the application is granted such extension shall be endorsed on the permit to mine or mining lease.

[subreg (1) am LN 95 of 1978 Sch, opn 21 July 1978]

(2) Every permit to mine and mining lease shall, in addition to any special conditions contained therein, be deemed to be subject to the following conditions—

- (a) that the holder shall commence mining operations on the land the subject thereof within 30 days after the issue of such permit or lease and thereafter vigorously and continuously prosecute mining operations thereon with reasonable diligence and skill to the satisfaction of the Director; and
- (b) that the holder shall at all times employ in such operations a minimum of one workman for every 4 ha or part thereof included in the tenement,

provided that when machinery is used for mining purposes the number of workmen employed may be reduced in the proportion of one workman for each horsepower of machinery so used but so that the number of workmen employed shall not be less than one-third of the number prescribed by this subparagraph.

[subreg (2) am LN 95 of 1978 Sch, opn 21 July 1978]

(3) Mining operations on a permit to mine or mining lease shall be deemed to be continuous if 6 hours *bona fide* work per working day is performed thereon by the prescribed number of workmen for 200 working days per annum, provided that involuntary cessation of work during the continuance of stress of weather, epidemics or strikes, shall not be deemed to be a breach of any of the conditions imposed by the provisions of this paragraph.

(4) For the purpose of compliance with the provisions of this regulation, mining operations shall be deemed to include, together with any exploration, development or exploitation carried out by workmen or tributors within the area, all work done in the construction, erection, operation and maintenance of machinery, or in preparations indispensable to the actual commencement of mining operations.

[MIN 10,205] Director may order holder to stop mining operations

41 (1) If the Director considers that mining operations on any permit to mine or mining lease are being carried out in an inefficient or unworkmanlike manner he or she may order the holder to stop mining operations and the holder shall thereupon stop all mining operations and submit to the Director a scheme of operations for future mining.

(2) If, on receipt of a scheme of operations submitted under the provisions of paragraph (1), the Director is satisfied that such scheme of operations will be adequate to ensure efficient and workmanlike mining operations, the Director may revoke the order to stop mining operations.

(3) In the event of a second or subsequent order to stop mining operations being issued to the same holder, the mining tenement concerned shall be liable to cancellation.

(4) All orders to stop mining operations shall be endorsed by the Director on the permit to mine or mining lease concerned.

[MIN 10,210] Notice of commencement of mining operations. Form 10

42 Before commencing any mining operations, or any new mining operations of which notice has not been given under the provisions of this paragraph, the holder of a permit to mine or mining lease shall serve a notice in Form 10 on the owner, occupier or lessee of all land which will be affected by such operations and, within 14 days of the service thereof, shall forward to the Director a copy of such notice endorsed with an affidavit of service of the same, duly completed and sworn by the person who effected such service.

[MIN 10,215] Exemptions from labour covenants

43 (1) The holder of a permit to mine or mining lease may apply to the Director for exemption from compliance with any of the provisions of regulation 40 for a period not exceeding 3 years.

(2) Every application made under the provisions of this regulation shall be in Form 11 and accompanied by the fee prescribed in Schedule 2, and shall state the grounds upon which it is made.

(3) Upon receipt of an application made under the provisions of this regulation, the Director may, if satisfied that any of the grounds specified in regulation 44 exist, grant the exemption applied for upon such conditions as he or she thinks fit or, if not so satisfied, may refuse the application.

(4) Every exemption granted under the provisions of this regulation shall be in Form 12.

(5) Failure on the part of the holder to observe any conditions of any exemption granted under the provisions of this regulation shall render such exemption liable to cancellation.

[MIN 10,220] Grounds for exemption

44 The grounds upon which exemption may be granted under the provisions of regulation 43 are as follows—

- (a) lack of capital, after a fair sum shall have been expended on the mine in work, labour or materials; or
- (b) time is required for the erection of machinery; or
- (c) influx of water into the mine or scarcity of water in the vicinity of the mine; or
- (d) scarcity of labour; or
- (e) collapse of the working shaft or other main working place in the mine; or
- (f) the mine is, for some other cause, temporarily unworkable; or
- (g) the death of the holder or one of the several joint holders; or
- (h) absence of the holder or manager for some sufficient reason from the locality or his or her inability by reason of sickness or other sufficient cause, to work the mine; or
- (i) the title to the mine is in dispute; or
- (j) bankruptcy proceedings are pending; or
- (k) the holder of several adjacent mines desires to concentrate the labour complement of such mines on one or more of them; or
- (l) the purchase price of a mineral in Fiji is so low that the working by an efficient miner of the mine producing such mineral is uneconomic.

[MIN 10,225] Resumption of work during currency of exemption

45 When exemption has been granted in respect of any permit to mine or mining lease under the provisions of regulation 43, the resumption or performance of any work during the currency of such exemption shall not be deemed to cancel the exemption.

[MIN 10,230] Keeping inspection and verification of accounts

46 (1) The holder of every permit to mine and mining lease shall keep to the satisfaction of the Director, full, true and proper accounts, account books, receipts, vouchers and other documents verifying the accounts and account books, and showing the nature and extent of the operations carried on upon and in respect of such tenement and the mining thereon. In the event of the failure or neglect of the holder to keep to the satisfaction of the Director the accounts, account books, receipts, vouchers and other documents as abovementioned, the tenement concerned shall be liable to cancellation.

(2) Any person authorised for that purpose by the Director shall at any time have access to the books and accounts of any such mining tenement and may examine the same for the purpose of checking if the terms of the tenement have been complied with and ascertaining the amount of royalty payable in respect of the minerals obtained from such mining tenement.

(3) The person so authorised as aforesaid may make copies of any entries or matters contained in the said books and accounts, and on completion of his or her examination shall report to the Director.

(4) Any person so authorised as aforesaid who shall reveal any information so obtained by him or her, except to his or her official superiors in the course of his or her duties, or under the authority of a court of competent jurisdiction, shall be guilty of an offence and liable to a fine not exceeding \$100.

(5) Any person who obstructs any person carrying out an examination required under the provisions of this regulation, or who without lawful excuse refuses or neglects to produce any book under his or her control, or to answer any question asked in the course of such examination, shall be guilty of an offence and liable to a fine not exceeding \$100.

[MIN 10,235] Monthly report on mining operations. Form 13

47 Every holder of a permit to mine or mining lease shall not later than the 14th day of every month submit to the Director a report in Form 13 which shall show the amount of minerals obtained therefrom during the preceding month and the estimated value thereof together with the other information required by such form.

[MIN 10,240] Yearly report by mine holder. Form 14

48 Every holder of a permit to mine or mining lease shall, not later than 31 January in each year, submit to the Director a report in Form 14, under the hand of the holder, agent, company manager or secretary setting forth in respect of such permit or lease the particulars mentioned in such form for the preceding year.

[MIN 10,245] Special mining leases

49 (1) An application for a special mining lease shall, in addition to complying with the provisions of regulations 16 and 17, be accompanied by—

- (a) a statement of the terms required for such special mining lease and the reasons, supported by documentary evidence, why such terms should be granted; and
- (b) a programme of work which the applicant undertakes to perform on the area applied for if the lease be granted and an estimate of the cost of such work.

(2) Special mining leases shall be prepared in Form 9, with such alterations as may be required to meet the circumstances of each particular case, and shall be endorsed "Special".

[The next page is 87,841]

PART 7 — SPECIAL SITE RIGHTS

[MIN 10,250] Areas for special site rights

50 (1) The area of land over which a special site right may be granted shall be in the discretion of the Director but shall not, except with the prior approval of the Minister, exceed the following areas—

- (a) for a water right, sufficient area to include the dam, reservoir and pumping station;
- (b) for a passageway right, an area being the shortest reasonable distance between the start and finish of the passageway in length and not less than 5 m nor more than 10 m in width; and
- (c) for a general site right, 10 ha.

Every application for the grant of a special site right over an area in excess of any of those specified in this regulation shall be accompanied by a scheme in writing outlining the nature and extent of the proposed usage together with evidence to the satisfaction of the Director that the applicant has the working capital necessary to carry out such scheme.

[subreg (1) am LN 112 of 1970 O 256, opn 8 Oct 1970; LN 95 of 1978 Sch, opn 21 July 1978]

(2) No special site right shall be granted over any area which, in the opinion of the Director, is required for mining purposes or which would interfere prejudicially with mining operations.

[MIN 10,255] Purpose of special site rights

51 A special site right shall entitle the holder thereof to the exclusive occupation of the surface of the land comprised therein for the following purposes—

- (a) in the case of a water right, to divert such maximum quantity of water as may be specified therein and to erect such works at the point of intake as may be necessary for the purpose of diverting such water;
- (b) in the case of a passageway right, to cut a race or lay pipes on or beneath the surface for the conveyance or distribution of water, oil, air or any other substances for mining purposes, or to construct a tramway or aerial ropeway or conveyor belt to facilitate the transport of materials and the products of mining operations;
- (c) in the case of a general site right, to use the site for such of the following purposes as may be specified therein—
 - (i) the erection of machinery;
 - (ii) the disposal of earth and tailings;
 - (iii) the treatment of ore or minerals;
 - (iv) the erection of plant and furnaces;
 - (v) stockpiling the products of mining;
 - (vi) the erection of loading and shipping facilities; or
 - (vii) otherwise as is specified in such right.

[MIN 10,260] Application for special site right

52 The plan accompanying an application for a special site right shall, in addition to the information required by the provisions of regulation 17, show the following details—

- (a) all roads, paths, fences, buildings, crops or other improvements within the boundaries or within 30 m of the area applied for;
- (b) in the case of a water right, the proposed point of diversion and the proposed site of any dam, reservoir or pumping station;
- (c) in the case of a passageway right, the position of all proposed trestles, bridges, culverts or works or appurtenances;
- (d) in the case of a general site right, the position of all proposed buildings, roads, dumps, dams or works.

[reg 52 am LN 95 of 1978 Sch, opn 21 July 1978]

[MIN 10,265] Form of special site right. Form 15

53 Special site rights shall be in Form 15 with such alterations as may be required to meet the circumstances of each particular case.

[MIN 10,270] Special site rights to be held in connection with mining tenement only

54 (1) On the issue of a special site right the Director shall enter, or cause to be entered, a memorial thereof on the mining tenement to which such special site right is attached.

(2) On the transfer of the mining tenement to which a special site right is attached the special site right shall also be transferred to the transferee of such mining tenement, provided that, with the written consent of the transferee, the transferor of any mining tenement may apply to the Director for the cancellation of any special site right attached thereto and on payment of the prescribed fees may reapply for the special site right to be attached to any other mining tenement held by him or her in the same vicinity.

(3) The Director shall not approve the transfer of a special site right unless the mining tenement to which it is attached is also transferred to the transferee of the special site right.

(4) At any time prior to the abandonment, forfeiture, cancellation or surrender of a mining tenement, the holder thereof may apply to the Director for the cancellation of any special site right attached thereto and, on payment of the prescribed fees, may reapply for such special site right to be attached to any other mining tenement held by him or her in the same vicinity.

[MIN 10,275] Record to be kept of special site rights

55 A book shall be kept at the Mines Department to be called the "Record of Special Site Rights" in which shall be entered in relation to each special site right—

- (a) the number of the mining tenement, to which such special site right is attached;
- (b) the registered number of the special site right;
- (c) the purpose for which it was issued;
- (d) the date on which it was issued and the date of expiry;
- (e) the names of the holders;
- (f) the share which each person holds; and
- (g) all transfers, assignments, subleases and other dealings therein.

[MIN 10,280] Water right not required for water within a mining tenement, limitation of height of dam

56 The holder of a mining tenement may divert or impound water for prospecting or mining purposes without obtaining a water right, provided that—

- (a) the diverted water is returned to its original channel and that the points of intake and return of the diverted water both lie within the area the subject of the mining tenement and that both the original watercourse between such points of intake and return and the water race to which the water is diverted lie wholly within such area; and
- (b) any dam constructed for the impounding of water on a mining tenement shall be only of such height and at such a distance from the boundary as in no way to interfere with the natural level of the stream above such boundary to the injury of any landowner or the holder of any other mining tenement.

[MIN 10,285] Bridges

57 Where a water race is constructed within a passageway right, bridges shall be constructed and maintained by the holder of the right to the satisfaction of the Director or an inspector at all points where the water race crosses any roads or paths.

[MIN 10,290] Right of holder of passageway right

58 (1) The intervention of a mining tenement on the line of route of a proposed passageway shall not debar the grant of a passageway right through or across such intervening mining tenement; and the holder of such passageway right shall be entitled to cut his or her race or drain or lay his or her water or other pipe or construct his or her tramway or aerial ropeway or conveyor belt through such intervening mining tenement or over or under any race, fence, drain, pipe, road or tramway, provided that if injury is done to such mining tenement, race, fence, drain, pipe, road or tramway and is not promptly made good by or at the expense of the holder of such passageway right, compensation shall be determined in accordance with the provisions of section 40 of the Act.

(2) The original line of a passageway may, with the permission of the Director, be altered or deviated from provided that—

- (a) no substantial interference or injury is caused to the holder of any prior mining tenement;
- (b) the Director may in his or her discretion require a survey of such deviation; and
- (c) such deviation shall be noted on the passageway right.

[MIN 10,295] Unlawful use or pollution of water

59 Any person who—

- (a) takes water from any race, pipe, dam or reservoir without the consent of the holder of any special site right relating thereto; or
- (b) permits sludge or other noxious matter to flow into or otherwise pollute the water therein; or
- (c) injures the banks of a race, dam or reservoir, or the works connected therewith, shall be guilty of an offence and liable to a fine not exceeding \$100.

[MIN 10,300] Erection of machinery or furnaces

60 (1) The holder of a special site right shall commence the erection of machinery, furnaces or other works thereon within a period of 12 months from the date of commencement of the right.

(2) If the holder of a special site right desires to obtain an extension of the time within which he or she must commence the erection of machinery, furnaces or other works, he or she shall make application to the Director, and, upon payment of the exemption fee

prescribed in Schedule 2, the Director may grant such extension of time for any period not exceeding 6 months. Every such extension shall be noted on the special site right.

[MIN 10,305] Period of special site right

61 (1) The period for which a special site right may be granted shall be in the discretion of the Director, but shall not exceed the period for which the mining tenement to which the special site right is attached has been granted or extended.

(2) At the expiration of the period originally granted, on one month's notice being given to the Director and on payment of the fee prescribed in Schedule 2, a special site right may be extended for a further period which shall not exceed the period for which the mining tenement to which such special site right is attached has been granted or extended and provided that the right is not at that time liable to cancellation. The conditions of any such extension shall be such as are then generally applicable to new special site rights.

[MIN 10,310] Resumption of areas

62 The Director may, with the approval of the Minister and upon payment of compensation to the holder, cancel a special site right in respect of any part of the land the subject of the right when such land is required for public or mining purposes.

[reg 62 am LN 112 O 256, opn 8 Oct 1970]

[The next page is 88,041]

PART 8 — ROAD ACCESS LICENCES

[MIN 10,315] Area for road access licence

63 The area of land over which a road access licence may be granted shall be in the discretion of the Director, provided that the course of the road shall follow the shortest reasonable distance from a public road or from a road held under any other road access licence to the boundary of the mining tenement, and the width of the land the subject of such licence shall be not less than 4.5 m nor more than 20 m.

[reg 63 am LN 95 of 1978 Sch, opn 21 July 1978]

[MIN 10,320] Purpose of road access licence

64 A road access licence shall entitle the holder thereof to construct a road on the land the subject of the licence for the purpose of obtaining access to the mining tenement to which the road access licence is attached.

[MIN 10,325] Application for road access licence

65 The plan accompanying an application for a road access licence shall, in addition to the information required by the provisions of regulation 17, show the following details—

- (a) the position of the proposed road from a public road or other road to the point of entry to the mining tenement;
- (b) all roads, paths, fences, buildings, crops or other improvements within the boundaries or within 30 m of the area applied for;
- (c) all iTaukei villages and other settlements along or near to the proposed road; and
- (d) the position of all proposed trestles, bridges, culverts, gates or cattle stops.

[reg 65 am LN 95 of 1978 Sch, opn 21 July 1978; Decree 7 of 2011 s 4, opn 1 Mar 2011]

[MIN 10,330] Form of road access licence. Form 16

66 Road access licences shall be in Form 16, with such alterations as may be required to meet the circumstances of each particular case.

[MIN 10,335] Road access licence to be held in connection with mining tenement only

67 (1) On the issue of a road access licence, the Director shall enter, or cause to be entered, a memorial thereof on the mining tenement to which such road access licence is attached.

(2) On the transfer of the mining tenement to which a road access licence is attached, the road access licence shall also be transferred to the transferee of such mining tenement, provided that, with the written consent of the transferee, the transferor of any mining tenement may apply to the Director for the cancellation of any road access licence attached thereto and on payment of the prescribed fees may reapply for the road access licence to be attached to any other mining tenement held by him or her in the same vicinity.

(3) The Director shall not approve the transfer of a road access licence unless the mining tenement to which it is attached is also transferred to the transferee of the road access licence.

(4) At any time prior to the abandonment, forfeiture, cancellation or surrender of a mining tenement, the holder thereof may apply to the Director for the cancellation of any road access licence attached thereto, and on payment of the prescribed fees may reapply for such road access licence to be attached to any other mining tenement held by him or her in the same vicinity.

[MIN 10,340] Record to be kept of road access licences

68 A book shall be kept at the Mines Department to be called the "Record of Road Access Licences" in which shall be entered in relation to each road access licence—

- (a) the number of the mining tenement to which such road access licence is attached;
- (b) the registered number of the road access licence;
- (c) the date on which it was issued and the date of expiry;
- (d) the names of the holders;
- (e) the share which each person holds; and
- (f) all transfers, assignments, subleases and other dealings therein.

[MIN 10,345] Rights of holder of road access licence

69 (1) The intervention of a mining tenement on the line of route of a proposed road shall not debar the grant of a road access licence through or across such intervening mining tenement; and the holder of such road access licence shall be entitled to construct his or her road through any intervening mining tenement or over or across any race, fence, drain, pipe, road or tramway, provided that—

- (a) if injury is done to such mining tenement, race, fence, drain, pipe, road or tramway and is not promptly made good by or at the expense of the holder of such road access licence, compensation shall be determined in accordance with the provisions of section 40 of the Act; or
- (b) where such road passes through any fence, a good and substantial gate shall be provided in the fence or a satisfactory cattle stop shall be constructed to prevent stock enclosed by the fence from escaping.

(2) The original line of the road may, with the Director's permission, be altered or deviated from, provided that—

- (a) no substantial interference or injury is caused to the holder of any prior mining tenement;
- (b) the Director may require a survey of such deviation; and
- (c) such deviation shall be noted on the road access licence.

[MIN 10,350] Construction of road

70 The holder of a road access licence shall commence the construction of a road thereon within a period of 3 months from the date of issue of the licence.

[MIN 10,355] Period of road access licence

71 (1) The period for which a road access licence may be granted shall be in the discretion of the Director, but shall not exceed the period for which the mining tenement to which such road access licence is attached has been granted or extended.

(2) At the expiration of the period originally granted, on one month's notice being given to the Director and on payment of the fee prescribed in Schedule 2, a road access licence may be extended for a further period which shall not exceed the period for which the mining tenement to which such road access licence is attached has been granted or

extended and provided that the licence is not at the time liable to cancellation. The conditions of such extension shall be such as are then generally applicable to new road access licences.

[MIN 10,360] Resumption of areas

72 The Director may, with the approval of the Minister and upon payment of compensation to the holder, cancel a road access licence in respect of any part of the land the subject of the licence when such land is required for public or mining purposes.

[reg 72 am LN 112 of 1970 O 256, opn 8 Oct 1970]

[The next page is 88,241]

PART 9 — SURVEYS AND PLANS OF MINING TENEMENTS

[MIN 10,365] Survey of mining tenements

73 If any question or dispute arises as to the actual land comprised in any application for a mining tenement or in any unsurveyed mining tenement, the Director may direct such survey as he or she deems necessary to be made either by the applicants or holders or at their expense.

[MIN 10,370] General rules for surveys

74 The following general rules shall apply with respect to surveys required by or under the provisions of the Act—

- (a) the datum post and corner posts of the land to be surveyed shall be marked by survey marks consisting of concrete pegs 600 mm in length, or galvanised iron piping not less than 12.5 mm internal diameter and 600 mm in length, sunk 500 mm into the ground;
- (b) subsidiary angles and intermediate points on the boundary lines shall be marked by galvanised iron piping not less than 12.5 mm internal diameter and 600 mm in length, sunk 500 mm into the ground;
- (c) the survey marks at the datum post and corner posts shall be connected by bearings and distance to a broad arrow mark 75 mm long chiselled on a suitable nearby tree in the manner specified in the Surveyors Regulations, and beneath such broad arrow mark the surveyor shall chisel the appropriate letters and figures, 75 mm long, as are specified in those Regulations;
- (d) topographical features of the land surveyed shall be shown on all survey plans of mining tenements;
- (e) if the land required to be surveyed is wholly or partially included in alienated land, the surveyor shall connect his or her survey with the existing survey of such alienated land and, if the boundary of such alienated land crosses the boundary of the land being surveyed, the surveyor shall define and mark the points of interception of such boundaries and show the same upon his or her plan;
- (f) any crops, fences, buildings or other improvements found to be within the boundaries of or within 30 m of any land surveyed under the provisions of these Regulations shall be shown upon the survey plan, and the surveyor's report shall specify the nature and state of such improvements that lie within the land surveyed;
- (g) if the whole or any part of the land to be surveyed is under growing crops, the surveyor shall avoid doing any damage to such crops. No boundary line shall be cleared through growing crops except with the consent of the owner thereof, but if any survey mark situated within the planted area can be marked without causing damage, it shall be so marked;
- (h) in the event of the surveyor being unable to establish a survey mark on the boundary line without causing damage, a reference mark shall be established as near to the true boundary as is reasonably possible, and the surveyor shall show upon his or her plan all necessary information to enable the correct boundary to be established if and when required.

[reg 74 am LN 95 of 1978 Sch, opn 21 July 1978]

[MIN 10,375] Survey marks to be protected by holder of tenement

75 (1) The holder of any mining tenement, the boundaries of which have been

surveyed, shall maintain and protect the survey marks from loss or damage and shall keep such marks and his or her boundary lines reasonably clear of bushes, reeds, vines or other undergrowth in sufficient degree so as to enable such survey marks and boundary lines to be readily found and followed at any time.

(2) No post, peg or other survey mark established by a surveyor shall be moved, replaced or otherwise interfered with, by any person other than a registered surveyor, and, in the event of any survey mark being moved, replaced or otherwise interfered with in contravention of the provisions of this paragraph, the holder of the mining tenement to which such survey mark relates shall be liable, in addition to any penalty imposed under the provisions of this Act or of the Surveyors Act 1969, to pay the cost of re-establishing, by survey, such survey mark.

[MIN 10,380] Plans of mines to be kept

76 (1) The holder of every permit to mine, mining lease or special mining lease in which 10 or more men are ordinarily employed in mining operations, or if the Director so directs, upon which any less number of men are so employed, shall keep at the mine office accurate plans made from actual surveys by a surveyor, mining engineer or mine manager showing the workings and such other information as is required under the provisions of regulation 77. Such plans shall be revised at intervals of not less than 3 months.

(2) All plans kept under the provisions of paragraph (1) shall be produced to an inspector or authorised officer on demand, and the holder shall, if so requested by the inspector or authorised officer, mark or cause to be marked on such plans, within a reasonable time after such request, the progress of the workings of the mine since the time of last revision, and allow such inspector or authorised officer to examine and take a copy thereof.

(3) In the month of March of every year the holder shall send to the Director true copies of all plans required to be kept under the provisions of this regulation showing the workings up to the end of the preceding calendar year.

(4) Every such copy shall be filed by the Director and no copy or tracing thereof shall be furnished to, nor information in relation thereto given to, nor shall any such plans or tracings be open to inspection by, any person other than the Director, an inspector or an authorised officer, except with the prior consent of the holder of the mining tenement to which they relate, or by order of the Director.

(5) If any officer, without such consent or order, furnishes to any person, or allows any person to inspect, any such plan or copy or tracing of any such plan, or gives any information in relation thereto, he or she shall be guilty of an offence and liable to a fine not exceeding \$100.

(6) Any holder of a mining tenement who—

- (a) fails to keep any plans required to be kept under the provisions of this regulation, or fails to send copies of such plans to the Director in accordance with the provisions of paragraph (3); or
- (b) refuses to produce any such plans to an inspector or authorised officer on demand or to comply with any request made by an inspector or authorised officer under the provisions of paragraph (2),

shall be guilty of an offence and liable to a fine not exceeding \$200.

(7) If the Director has reason to believe that any plan required to be kept under the provisions of this regulation is inaccurate or incomplete, he or she may cause a check survey to be made, and if such plan is proved to be inaccurate or incomplete in any material respect, the holder of the mining tenement to which such plan relates, shall pay

the costs of such check survey and all expenses incurred in connection therewith, and such costs and expenses shall be recoverable as a debt due to the Director.

[MIN 10,385] Information to be shown on plans

- 77 All plans required to be kept under the provisions of regulation 76 shall include—
- (a) a plan of the mining tenement showing the boundaries of all mining tenements worked in association therewith by the same holder in one mine and the position of all buildings, shafts, opencast workings, openings from the surface to underground workings and other improvements erected, effected or made by the holder on such mining tenements;
 - (b) a general plan of all underground workings to a scale not greater than 1:240 and not less than 1:720. If the lower levels cannot be so shown clearly, owing to those at higher levels being superimposed, there shall also be furnished such plans of each level, or of successive groups of levels, as are sufficient to show clearly the workings in each level;
 - (c) if required by an inspector or authorised officer, longitudinal sections, to the same scale as the plans of the workings, showing all stopping and sufficient cross sections to the same scale as to show clearly all lodes and workings;
 - (d) an assay plan corrected at least once in every 3 months showing on vertical and horizontal projections of the mine workings the position and values of all samples assayed during the course of such workings.

[reg 77 am LN 95 of 1978 Sch, opn 21 July 1978]

[MIN 10,390] Plans etc of abandoned mine required

78 (1) Before a mine or any part of a mine is closed down or abandoned or rendered inaccessible, all plans required to be kept under the provisions of these Regulations shall be brought up to date and, within 3 months after the closing down or abandonment of such mine, copies of all such plans together with all calculation books and survey notebooks kept by the holder of the mining tenement or tenements concerned shall be sent by such holder to the Director and shall become the property of Government.

(2) All the information contained in any plans or records required to be sent to the Director under the provisions of paragraph (1) shall become the property of Government which shall have the right to publish or otherwise use such information in any manner that it sees fit.

(3) Any holder of a mining tenement who fails to comply with the provisions of paragraph (1) shall be guilty of an offence and liable to a fine not exceeding \$100.

[The next page is 88,441]

PART 10 — GENERAL PROVISIONS

[MIN 10,395] Grant etc of prospector's rights and mining tenements to be gazetted

79 Within the first week of every month the Director shall cause a list of all prospector's rights granted, cancelled or which expired, and all mining tenements granted, renewed, cancelled or surrendered, or which expired, during the preceding month to be posted on a noticeboard at the Mines Department and published in the Gazette.

[MIN 10,400] Export of minerals. Form 17

80 (1) Before delivering any minerals on board a vessel or aircraft for export the intending exporter shall notify the Director of the quantity and value thereof, the mining tenement from which they were obtained, the port or airport from which they are to be exported and the place to which they are to be exported.

(2) On receipt of such notification and on being satisfied that all royalties payable on such minerals have been paid or secured to his or her satisfaction or that no royalties are payable thereon, the Director shall issue to the exporter a mineral export licence in Form 17 duly endorsed with the appropriate certificate as to royalties as required under the provisions of regulation 8, and shall send a copy of such licence to the Collector of Customs at the port or airport from which such minerals are to be exported.

[MIN 10,405] Particulars of boring operations to be supplied. Form 18

81 (1) Every holder of every mining tenement who in the exercise of his or her rights thereunder proposes to put down a bore hole or drill hole for the purpose of any mineral survey or to extend any such existing bore hole or drill hole shall, before commencing the work, notify the Director of his or her intention and shall furnish particulars of the location of such bore hole or drill hole, and shall also, either before or after commencing the work, furnish such additional particulars as may be required by the Director.

(2) Where in the course of drilling a bore hole or drill hole to which this regulation applies a core is obtained, the core, other than material therefrom required for purposes of assay, shall be labelled in such manner that its origin may be readily determined and shall be preserved for at least 3 months after the completion of the bore hole or such longer period as the Director may in any case specify. If no core is obtained, samples of the material obtained in drilling shall be taken, labelled and preserved as aforesaid, provided that—

- (a) no samples need be kept where the bore hole is sunk in surface gravel or alluvial ground; and
- (b) before disposing of any such core or samples, a least one month's notice shall be given by the holder of the mining tenement to the Director.

(3) Cores and samples preserved as aforesaid shall at all times be available for examination by an inspector or authorised officer and specimens may be taken for purposes of assay or other treatment, but no information obtained as a result of such examination or treatment shall, while the mining tenement remains in force, be made public without the consent of the holder thereof.

(4) Reports upon the progress of drilling operations shall be forwarded in Form 18 to the Director at the expiration of each week of such operations.

[MIN 10,410] Pollution of water

82 (1) Any person who, in the course of prospecting or mining operations, except under the authority of a permit in writing issued under the provisions of paragraph (2), causes or permits the deposit or discharge of any rubbish, dirt, filth or debris or any waste water from any sink, sewer or drain or other dirty water or any chemical or other substance deleterious to animal or vegetable life, or any other noxious matter or thing, into any watercourse shall be guilty of an offence, and shall be liable to a fine not exceeding \$100.

(2) The Director may on the application of the holder of any mining tenement grant a permit in writing authorising such holder to deposit or discharge sludge, tailings or other mining debris into any watercourse at such times and in such places and subject to such conditions as the Director thinks fit.

(3) In granting any permit under the provisions of paragraph (2), the Director may, in addition to any other conditions which he or she may think fit to impose, require the holder of such mining tenement to provide at his or her own expense an alternative water supply, to the satisfaction of the Director to any person whose water supply may, in the opinion of the Director, be adversely affected by the deposit or discharge of any sludge, tailings or other mining debris into any watercourse under the authority of such permit.

[MIN 10,415] Tribute agreements

83 (1) The holder of any mining tenement may, subject to the approval of the Director, enter into a tribute agreement for the working of the whole or any portion of such tenement.

(2) Every tribute agreement shall be in writing in triplicate, signed by or on behalf of the holder of the mining tenement to which it relates and by every tributer thereunder, and shall, within 28 days after its execution, be lodged together with the fee prescribed in Schedule 2, at the office of the Director for his or her approval and, if approved, for registration.

(3) The Director may refuse to approve any tribute agreement if, in his or her opinion, any of the terms or conditions thereof are unreasonable, and shall refuse such approval unless satisfied that—

- (a) it is for a period of not less than 3 months;
- (b) it is in respect of a specified and defined area of land;
- (c) all of the terms and conditions thereof and on which any tributer thereunder may use any of the mining plant, machinery, tools and supplies of the holder of the mining tenement to which such agreement relates, are set out fully in such agreement; and
- (d) such agreement is subject to cancellation on any breach by any of the parties thereto of any of the terms or conditions thereof.

(4) Notwithstanding any provision to the contrary contained in any tribute agreement, the holder of the mining tenement to which any such agreement relates shall remain liable for the fulfilment of all obligations imposed on him or her by or under the provisions of the Act.

[MIN 10,420] Names and addresses of all holders of a mining tenement to be supplied

84 No mining tenement shall be granted in the name of any firm, syndicate or partnership unless the names and addresses of all of the members thereof are submitted to

the Director in writing signed by each of such members or his or her registered attorney, and each of such members shall, for all purposes, be deemed to be the holder of such mining tenement and shall be subject to all of the obligations imposed on the holder thereof by or under the provisions of the Act.

[MIN 10,425] Service and delivery of notices and process

85 Any notice or process required under the provisions of these Regulations to be served on or delivered to any person shall be deemed to have been sufficiently served on or delivered to such person if delivered to him or her personally or if sent to him or her by prepaid registered post to his or her last known place of residence or business within Fiji.

[MIN 10,430] Powers of attorney. Form 19

86 (1) Every holder of a mining tenement who is not resident in Fiji, or, if a company, has its principal place of business outside Fiji, shall, by executing a power of attorney in Form 19, appoint, and shall at all times have resident in Fiji, an attorney with full powers to act on behalf of such holder in respect of all matters relating to such tenement.

(2) A duplicate and a certified copy of every such power of attorney shall be lodged with the Registrar of Titles and the certified copy shall be deposited with the Director, accompanied by the fee prescribed in Schedule 2, and the Director shall cause particulars thereof to be entered in a book to be kept for that purpose and to be called the Register of Powers of Attorney.

[subreg (2) subst LN 135 of 1968 reg 2, opn 20 Sep 1968]

(3) A power of attorney may be revoked by the donor at any time by the endorsement of the words "This power of attorney is hereby revoked" on the original of such power of attorney with the date of such revocation, and such endorsement shall be signed by the donor and attested by a witness, and on presentation to him or her of the original so endorsed the Director shall cause a memorial to that effect to be entered in the Register of Powers of Attorney and shall cause a like memorandum to be entered on the copy of such power of attorney deposited with him or her.

[subreg (3) am LN 135 of 1968 reg 2, opn 20 Sep 1968]

[MIN 10,435] Transfers and other dealings. Forms 20 and 21

87 (1) Applications for the approval of the Director to any transfer or other dealing with a mining tenement shall be made to the Director in Form 20 and shall be accompanied by the fee prescribed in Schedule 2.

(2) Every transfer of a mining tenement or any estate or interest therein shall be in Form 21 with such alterations as may be required to meet the circumstances of each particular case.

[MIN 10,440] Surrender of mining tenements. Form 22

88 Notice of intention to surrender a mining tenement shall be in Form 22 with such alterations as may be required to meet the circumstances of each particular case, accompanied by the fee prescribed in Schedule 2, and shall be submitted in duplicate to the Director not less than one month before the date upon which such surrender is intended to take effect.

**[MIN 10,445] Action to be taken on termination of mining tenement.
Form 23**

89 (1) If a mining tenement expires or is cancelled, terminated, abandoned or surrendered, or if an application for a mining tenement is withdrawn, the holder or applicant, as the case may be, shall—

- (a) remove all beacons marking out the land;
- (b) fill up all directional trenches;
- (c) fill up or render safe all holes made; and
- (d) repair any other damage done to the surface of the land or pay compensation therefore in accordance with the provisions of section 40 of the Act.

(2) Within 30 days after expiry, cancellation, termination or abandonment of a mining tenement or within 30 days after giving notice of surrender of a mining tenement or withdrawal of an application for a mining tenement the holder or applicant as the case may be shall furnish to the Director a certificate in Form 23.

(3) Before refunding any fees, rents, deposits or any other moneys due to the holder of or applicant for a mining tenement and before accepting a surrender or withdrawal of a mining tenement the Director shall satisfy himself or herself that the provisions of paragraph (1) have been complied with and in the event of non-compliance therewith the Director may recover the cost of removal of beacons, filling up trenches and restoration of land from such holder or applicant.

[MIN 10,450] Filling up or securing excavations

90 (1) The following requirements, to the satisfaction of an inspector, shall apply to all excavations which any person is required under the provisions of the Act to fill up or secure in a permanent manner—

- (a) all prospecting pits and trenches shall be filled up;
- (b) all shafts shall be filled up or shall be surrounded by dry stone walls or substantial fences of a height adequate to secure the safety of persons and livestock;
- (c) all steep faces in alluvial or detrital workings shall be broken down sufficiently to be safe;
- (d) all water furrows shall be filled up;
- (e) all steep faces in rock shall be surrounded by dry stone walls or substantial fences.

(2) If, upon the termination or abandonment for any reason whatsoever of a mining tenement, the holder is in default of payment of any rents, fees, royalties or other payments and continues in such default for a period of 30 days, it shall be lawful for the Director to sell some or all of the plant, buildings or other fixtures of the holder situated on the land the subject of the mining tenement and to deduct from the proceeds of any such sale all amounts remaining due and unpaid to the Director at the date of such sale together with all costs, charges and expenses incurred in such sale and thereafter to pay the remainder, if any, of the proceeds of such sale to such holder.

[MIN 10,455] Right to remove fixtures

91 (1) Upon the termination or abandonment for any reason whatsoever of a mining tenement the holder may, if he or she has paid all rents, fees, royalties and other payments required to be made by him or her under the provisions of the Act or these Regulations or under the terms of his or her tenement, at any time within 120 days after the date of such

termination or abandonment, remove all of his or her plant, buildings or other fixtures thereon, but shall not remove or interfere with any timber in any mine.

(2) If any such plant, buildings or other fixtures are not removed within such time as aforesaid or within such extended time as the Director may allow, they shall be deemed to have been abandoned by such holder and to have become the property of the Government to be dealt with or disposed of in such manner as the Director thinks fit, provided that the provisions of this paragraph shall not apply in any case in which the holder or any of the holders of such mining tenement is also the owner of the land upon which such plan, buildings or other fixtures are erected.

[MIN 10,460] Duplicate copies of documents lost or destroyed

92 For the purposes of the issue of duplicate copies of lost or destroyed documents relating to any mining tenement the following provisions shall apply—

- (a) the application for the duplicate copy shall state the full particulars of the lost or destroyed document and shall be accompanied by a statutory declaration by the applicant stating the facts of the case to the best of his or her knowledge and belief;
- (b) before issuing a duplicate copy the Director shall require the applicant to give at least 14 days' notice in the Gazette and in one newspaper published and circulating in Fiji of his or her application;
- (c) the Director shall, if satisfied with the proof of the loss of a prospector's right, prospecting licence, permit, certificate, or other document not affecting a mining lease, special site right or road access licence, issue to the applicant a copy of such document;
- (d) the copy shall be a true copy of the original and shall bear the following endorsement—

“Duplicate copy, issued this day of 20 , *in lieu* of the original which has been lost (or destroyed).
Director of Mines”;
- (e) the applicant shall pay for each duplicated copy of any lost or destroyed document the fee prescribed in Schedule 2.

[MIN 10,465] Certified true copies of documents

93 An applicant for a certified true copy of any document filed with the Director shall state in his or her application the purpose for which such copy is required, and if satisfied that the applicant has a reasonable need for the certified copy, the Director shall, upon payment by the applicant of the fee prescribed in Schedule 2, issue to such applicant a copy of such document which shall be a true copy of the original and shall bear the following endorsement—

“Certified true copy, issued this day of 20 .
Director of Mines”.

[MIN 10,470] False representation

94 Any person who, by any false representation, fraudulent concealment of fact or collusion, obtains any mining tenement or any interest therein whether by way of grant, transfer or otherwise, or who by any such means obtains exemption from any of the provisions of the Act or these Regulations shall be liable to forfeit his or her interest in such mining tenement.

[The next page is 88,641]

PART 11 — SAFETY OF MINES

DIVISION 1 — General

[MIN 10,475] Interpretation

95 In this Part, unless the context otherwise requires—

adit means an artificial pit or hole of an inclination not more than 3 degrees from the horizontal;

braceman means a person who is appointed by the manager to be stationed at the shaft top to supervise the loading and unloading of men and materials in a shaft conveyance and to give the necessary signals to the hoist driver and cageman;

breaking load means the breaking load as shown in the test certificate most recently issued for a rope;

cageman means a person appointed by the manager to have charge underground of a shaft conveyance and to give the necessary signals to the hoist driver and braceman;

factor of safety means the number of times the breaking load is greater than the total weight supported by a rope;

length of lay means the distance between the point where a strand in a rope commences a twist and the point where the strand completes that twist;

magazine means a magazine for the storage of explosives;

manager, unless otherwise specified, means the person registered under the provisions of these Regulations as responsible for the control, management and direction of a mine or works, or failing such registration, the agent appointed under the provisions of section 14 or 15 of the Act, or failing such appointment the holder of the mining tenement within the boundaries of which mining or prospecting operations are being carried on;

maximum allowable weight means the maximum weight which may be supported by a rope without the factor of safety being reduced below the prescribed value;

mine, except in regulations 104 and 105, includes prospecting operations;

mine foreman means the person in charge of the workings of a mine and acting under the direction of the manager;

original test certificate means a certificate issued by the manufacturer of a rope stating the following—

- (a) name and address of manufacturer;
- (b) manufacturer's number;
- (c) date of manufacture;
- (d) diameter or circumference;
- (e) length;
- (f) number of strands;
- (g) number of wires in each strand;
- (h) type of construction;
- (i) class of core;
- (j) quality and strength of steel from which the rope is made;

- (k) weight;
- (l) breaking load;

rope means a wire rope or cable;

serious injury means bodily injury of such a nature as would entitle the injured person to compensation under the provisions of the Accident Compensation Act 2017 and subsidiary legislation made under that Act;

[def am Act 30 of 2018 s 3, opn 1 Jan 2019]

shaft means an artificial pit or hole of greater inclination than 3 degrees from the horizontal;

shaft conveyance means a cage, skip, bucket, tank or carriage used for carrying men or materials in a shaft or winze;

shift means any body of workmen whose time for beginning and ending work is the same or approximately the same;

shift boss means any person in charge of a shift and acting under the direction of the manager or mine foreman;

steeply inclined in connection with a shaft or winze or other underground excavation, means an inclination to the horizontal of more than 45 degrees;

stope means a working in which a section or block of reef has been removed;

test certificate means a certificate issued by a testing station stating the breaking load and the maximum extension of a rope after it has been tested;

testing station means a rope testing station or laboratory approved by the Director;

water blast means a continuous spray of water projected by means of compressed air; and

winze means an interior shaft.

[MIN 10,480] Copies of Regulations to be possessed and displayed

96 (1) Every holder of a mining tenement shall have in his or her possession a printed copy of this Part and, where any explosives are handled, stored or used thereon, of all regulations made under the provisions of the Explosives Act 1937 relating to the handling, storage and use of explosives, and he or she shall ensure that—

- (a) every manager, mill superintendent, opencast foreman, mine foreman and shift boss in his or her mine also has copies of such Regulations in his or her possession;
- (b) printed copies of such Regulations are kept in the mine office; and
- (c) abstracts of those portions of such Regulations directly concerning the men employed in the mine are posted up in suitable places where they can be conveniently read, and, whenever they become defaced, obliterated or destroyed, are renewed.

(2) No person shall pull down, injure, deface or destroy a notice posted up as required by the provisions of the Act or these Regulations.

[MIN 10,485] Employment of women, children and young persons

97 (1) No male person under the age of 14 years shall be employed in or about a mine, and no male person under the age of 16 years shall be employed underground in a mine or at the working face of any opencast workings except with the written permission

of an inspector, which permission shall not be given unless such inspector is satisfied that such employment is carried out under a training programme approved by him or her and subject to such conditions as he or she may specify.

(2) No female person shall be employed at a mine except on the surface in a technical, clerical or domestic capacity or such other capacity as requires the exercise of normal feminine skill or dexterity but does not involve strenuous physical effort.

[MIN 10,490] Record of all employees to be kept

98 (1) A sufficient record shall be kept in the mine office of all persons employed in and about the mine.

(2) A satisfactory method of recording the persons underground shall be installed at the surface of every shaft and the shift boss shall not leave the mine until he is sure that every man working on his shift has reached the surface.

[MIN 10,495] Intoxicated and crippled persons and intoxicating liquor not allowed in or about a mine

99 (1) No person who is under the influence of alcohol, and no person who has any physical deformity which may render him or her incapable of taking care of himself or herself or of men under his or her charge, shall be allowed to enter a mine or to be in proximity to any working place on the surface or near to any machinery in motion within any mining tenement; and any person who may have entered a mine or who may be found in any working place above or below ground when he or she is under the influence of alcohol may be arrested by the manager or a person authorised by the manager, and on such arrest shall be handed over to the police.

(2) No person shall take any intoxicating liquor into a mine or into any working place except with the special permission of the manager.

[MIN 10,500] Protection of safety appliances

100 No person shall wilfully damage, or without proper authority use, remove or render useless, any timber or other support, fencing, covering, casing, lining, guide, means of signalling, rope, chain, flange, horn, brake, indicator, ladder, platform, steam gauge, water gauge, safety valve, or other appliance or thing provided for the maintenance of safety in a mine.

[MIN 10,505] Duty of employees to satisfy themselves of safety of appliances and to report danger

101 Every person employed in or about a mine shall use ordinary and reasonable precautions to ascertain that his or her working place and the tubs, buckets, chains, tackle, windlass, ropes or other appliances he or she uses are not unsafe and shall cease to use anything unsafe. Every such person shall forthwith report to the manager, mine foreman or shift boss if he or she sees anything likely to produce danger of any kind and on leaving work shall report to the man relieving him or her on the state of his working place.

[The next page is 88,741]

DIVISION 2 — INSPECTORS AND INSPECTIONS

[MIN 10,510] Powers of inspectors

102 (1) An inspector may in addition to the powers conferred upon him or her under the provisions of the Act—

- (a) initiate and conduct prosecutions against persons offending against the provisions of these Regulations;
- (b) appear at all inquiries into mining accidents, and, if he or she thinks fit call and examine and cross-examine witnesses; and
- (c) exercise such other powers as are necessary for carrying the provisions of the Act or of these Regulations into effect.

(2) Whenever an inspector has inspected a mine or any machinery he or she shall enter in the Record Book a report of the actual condition of the mine and machinery at the time of the inspection, and he or she shall also record what alterations or requirements he or she thinks are necessary.

(3) Nothing contained in or omitted from such report shall be held to limit or affect the responsibility imposed upon the holder or manager by the provisions of these Regulations.

[MIN 10,515] Obligations to remedy any dangerous practice, and procedure to be followed

103 (1) If, in the opinion of an inspector, any mine or any works, matter, thing or practice in or connected with prospecting or mining operations is dangerous or so defective that it may cause bodily injury to or be detrimental to the welfare or health of any person, or cause injury to livestock he or she shall give notice in writing thereof to the holder of the mining tenement or his or her agent or the manager of the mine and shall state in such notice the particulars in which he or she considers such mine, works, matter, thing or practice to be dangerous and shall require the same to be remedied, either forthwith or within such time as he or she may specify, and he or she may order work to be suspended until the danger is removed to his or her satisfaction.

(2) On receipt of such notice the holder or his or her agent or manager shall comply therewith, or, if he or she objects thereto, he or she shall immediately state his or her objection in writing to the Director and inform the inspector thereof and shall, if so ordered in such notice, cease to use the said mine, or part thereof, works, matter, thing or practice to which such notice refers, and shall withdraw all men from the danger indicated by the inspector until such time as the objection shall have been determined by the Director, provided that if, in the opinion of the inspector, it is safe to do so, he or she may allow work to proceed until the objection has been determined, subject to such restrictions and conditions to ensure safety as he or she shall consider necessary and shall specify in writing.

[The next page is 88,841]

DIVISION 3 — MANAGERS AND ACCIDENTS

[MIN 10,520] Mine manager to be appointed for every mine

104 (1) No mining operations shall be carried out at any mine on any land the subject of a permit to mine, mining lease or special mining lease unless there is resident on such mining tenement, or sufficiently near thereto as to have effective supervision of such operations, a manager appointed under the provisions of this regulation as being responsible for the control and direction of all such operations, and the appointment of such person as such manager has been notified to the Director in accordance with the provisions of this regulation, provided that—

- (a) with the consent of an inspector, where the operations carried out at any mine are so extensive as to render impractical the personal supervision by any one person of all mining operations carried out thereat, more than one manager may be appointed in respect of such mine, each of such managers being responsible for the control and direction of such of the operations carried out at such mine as may be approved by an inspector;
- (b) no person shall without the consent of an inspector be appointed as the manager of, nor shall he or she manage, more than one mine unless—
 - (i) the total number of persons employed at all of the mines in respect of which he or she is appointed manager does not exceed 100; and
 - (ii) all of the workings in use at all of such mines are situated within a circle having a radius of less than 3 km;
- (c) no person, except a person appointed as an acting manager under the provisions of subregulation (3), shall be appointed as the manager of, nor shall he or she manage, any mine or mines or any part thereof, other than any mill or workshop, at which more than 10 men are employed, or where explosives or machinery are used, unless he or she is the holder of a current Mine Manager's Certificate issued under the provisions of regulation 105.

[subreg (1) am LN 95 of 1978 Sch. opn 21 July 1978]

(2) The appointment of every manager under the provisions of subregulation (1) shall be notified in writing to the Director within 14 days after such appointment and every such notice shall be signed by the holder of the mining tenement on which the mine in respect of which such appointment is made is situated, or his or her agent, or where such mine is being worked by a tributer, by such tributer, and in every case by the person so appointed.

(3) In any case where any manager appointed under the provisions of this regulation is unable by reason of illness, absence from the mining tenement or otherwise to perform his or her duties as such for any period in excess of 14 days, the holder of the mining tenement on which the mine in respect of which he or she is appointed is situated, or his or her agent, or the tributer, as the case may be, shall appoint an acting manager to perform the duties of such manager during the period of his or her illness, absence or other incapacity, and every such appointment shall be forthwith notified in writing to the Director, providing that no mine or any part thereof shall be under the charge of any acting manager for any period exceeding 28 days unless such acting manager is the holder of a current Mine Manager's Certificate.

(4) If any mining operations are carried out on any mining tenement in contravention of any of the provisions of subregulation (1) for any period in excess of 14 days, the holder and, in any case where the mine in respect of which such breach occurs is being

worked by a tributer, such tributer shall be guilty of an offence and liable to a fine not exceeding \$1,000, and to a further fine not exceeding \$100 for every day, during which the offence continues.

(5) Any person who manages any mine in contravention of any of the provisions of this regulation, and any person who knowingly employs him or her in that capacity, shall be guilty of an offence and liable to a fine not exceeding \$100 and to a further fine not exceeding \$10 for every day during which the offence continues.

[MIN 10,525] Mine manager's certificate. Form 24 and Form 25

105 (1) Application for a Mine Manager's Certificate may be made to an inspector in Form 24 and shall be accompanied by the fee prescribed in Schedule 2, and such inspector shall, if satisfied, on the information supplied in or enclosed with such application and after such written or oral examination of an applicant as he or she considers necessary, that such applicant—

- (a) is of good character;
- (b) has attained the age of 23 years;
- (c) has had not less than 3 years practical experience in mining;
- (d) is fully conversant with the provisions of this Part and of all regulations made under the provisions of the Explosives Act 1937, relating to the handling, storage and use of explosives;
- (e) is proficient in rendering first aid to injured persons; and
- (f) is otherwise a fit and proper person to hold such a certificate.

issue such applicant with a Mine Manager's Certificate in Form 25, and shall enter, or cause to be entered, the full particulars thereof in a book, to be known as the "Register of Mine Manager's Certificates", to be kept at the office of the Mines Department in Suva.

(2) A Mine Manager's Certificate shall, unless previously cancelled under the provisions of paragraph (3) remain in force for a period of 2 years from the date of issue thereof, and may, on application being made to an inspector, accompanied by the fee prescribed in Schedule 2, and subject to the applicant undergoing to the satisfaction of such inspector such further written or oral examination as such inspector considers necessary and otherwise satisfying such inspector that he or she is a fit and proper person to hold such a certificate, be extended for further periods not exceeding 2 years on each occasion.

(3) If, at any time during the currency of any Mine Manager's Certificate, the Director becomes satisfied that the holder thereof is not, by reason of incompetence or bad character or any serious breach of any of the provisions of this Part or of any regulations made under the provisions of the Explosives Act 1937, relating to the handling, storage and use of explosives, a fit and proper person to hold such a certificate, the Director may cancel such certificate and such cancellation shall be sufficiently notified by written notice to that effect sent to the holder of such certificate at his or her last known place of address and by publication in the Gazette.

[MIN 10,530] Duties and responsibilities of manager

106 Every manager shall be responsible for enforcing the observance of all the provisions of this Part and of all regulations made under the provisions of the Explosives Act 1937, relating to the handling, storage and use of explosives, at the mine and works under his or her charge, and shall, immediately after the occurrence thereof, report in writing to the nearest inspector or the Director, any contravention of any of such provisions, committed at such mine or works, whether the person committing the same was employed at such mine or works or not.

[MIN 10,535] Responsibility for accident occurring with incompetent workmen

107 Where an accident occurs at any mine or in any part thereof as a result of the incompetence or inexperience of any workman employed thereat, the manager of such mine or part thereof shall be held responsible for such accident unless he or she can prove that he or she took all proper precautions to prevent such an accident occurring.

[MIN 10,540] Manager shall provide for the safety and discipline of workmen

108 (1) Every manager of a mine or part thereof shall provide for the safety and proper discipline of the men employed at such mine or in the part thereof under his or her charge, and shall appoint such persons as may be necessary to ensure that the provisions of this Part and of all regulations made under the provisions of the Explosives Act 1937 relating to the handling, storage and use of explosives, are observed correctly.

(2) For the purpose of subregulation (1), the manager of a mine or any part thereof may make and publish special rules as to the general conduct of the work, the duties of particular persons and the exclusion of unauthorised persons from the mine or any of the works thereof.

[MIN 10,545] Manager or deputy to inspect and report

109 Every manager, or his or her deputy approved by an inspector, shall, once in each week, carefully examine the mine and works under his charge, and shall record in writing, in the Record Book his opinion as to their condition and safety, and any repairs and alterations required to ensure greater safety to the persons employed therein.

[MIN 10,550] Holder responsible for refusing manager necessary means

110 If the manager of any mine or any part thereof can prove that the necessary means for carrying out the provisions of these Regulations have been refused him or her by the holder of the mining tenement on which such mine is situated, or his or her agent, the holder of such mining tenement shall be liable for the consequences.

[MIN 10,555] Notice of accident to Director or inspector

111 The manager of any mine or part thereof shall, with the least possible delay after the occurrence of an accident attended by loss of life or serious injury to any person in such mine or part thereof under his or her charge, give notice thereof by telephone or by telegram to an inspector or to the Director and forthwith confirm such notice in writing.

[MIN 10,560] Interference with place of accident

112 The place where any accident attended by loss of life or serious injury has occurred shall be left as it was at the time of the accident until the expiration of at least 3 days from the giving of the notice by telephone or by telegram or until the place has been inspected by an inspector or authorised officer, whichever shall be the earlier, unless compliance with the provisions of this regulation would tend to increase or continue any danger in or seriously impede the operation of the mine.

[MIN 10,565] Inquiries into accidents

113 (1) In the event of any accident attended by loss of life or serious injury to any person occurring at any mine the Director may direct that an inquiry be held into such accident by a Board of Inquiry.

(2) A Board of Inquiry shall consist of a chairperson who shall be appointed by the Director and 2 assessors who shall wherever possible be persons having experience in mining and shall be appointed by the chairperson, provided that no person having any personal interest in, or who is employed in the management of, the mine at which the accident in respect of which the Board of Inquiry is appointed occurred, shall be appointed to such Board of Inquiry.

(3) For the purpose of any inquiry held by a Board of Inquiry under the provisions of this regulation the chairperson shall have all of the powers of a Magistrates Court of compelling the attendance of witnesses and the production and giving of evidence as well as of taking the evidence of witnesses on oath or affirmation.

(4) Any person who, having been summoned to appear before a Board of Inquiry fails to appear before the Board of Inquiry at the time and place appointed in such summons, or fails to produce any document in his or her possession, or having appeared before the Board of Inquiry refuses to take the oath or affirmation or to answer any questions put to him or her by the Board of Inquiry, shall be guilty of an offence and liable to a fine not exceeding \$50.

(5) On completion of an inquiry held under the provisions of this regulation the Board of Inquiry shall state its opinion on the cause of the accident the subject of such inquiry and forward such opinion in writing signed by the chairperson and the assessors to the Director.

[MIN 10,570] Notice of special occurrences

114 Where, in or about any mine—

- (a) any accident involving any hoist, sheaves, hoisting rope, shaft conveyance, or any shaft or winze timbering;
- (b) any inrush of water from old workings or otherwise;
- (c) any failure of an underground dam or bulkhead;
- (d) any outbreak of fire below ground, or any outbreak of fire above ground if it endangers any structure of the mine or works;
- (e) any premature or unexpected explosion or ignition of explosives;
- (f) any inflammable or noxious gas in the mine workings; or
- (g) any unexpected and non-controlled extensive subsidence or caving in of mine workings,

occurs, whether or not loss of life or serious injury is caused thereby, the manager shall, within the 24 hours next after such occurrence, send notice in writing to the Director or an inspector and shall furnish, upon request, such particulars in respect thereof as the Director or an inspector may require.

[MIN 10,575] Record Book

115 (1) At every mine there shall be kept a book to be known as the "Record Book" in which the managers shall record the following matters—

- (a) the condition of the mine and all works thereof, on the occasion of his or her weekly inspection;
- (b) the name of his or her deputy for the purpose of regulation 109;
- (c) particulars of any accident involving loss of life or serious injury to any person;
- (d) particulars of any special occurrence as described in regulation 114; and
- (e) particulars of any other occurrences affecting the safety of the mine or works or the safety, health or welfare of the men employed therein.

(2) The Record Book shall be kept at the mine office and shall be available for examination by an inspector at all times.

{The next page is 88,941}

DIVISION 4 — SURFACE PROTECTION AND POISONS

[MIN 10,580] Fencing of surface subsidence or cavities

116 Where mining operations have resulted in subsidences of or cavities on the surface of any mining tenement, or where such are likely to occur, the manager shall cause all such places to be securely fenced and conspicuous noticeboards to be erected in the immediate vicinity to warn persons of the existence of such subsidences and cavities.

[MIN 10,585] Prior permission of inspector required for certain excavations under the surface

117 No excavations which are likely to result in subsidence of the surface shall be made under the surface area of any mining tenement except with the prior permission in writing of an inspector and subject to such conditions as he or she may consider necessary for the prevention of subsidence and the protection and safety of the surface.

[MIN 10,590] Loose material not permitted near unprotected edges

118 No soil, material, tools, implements or other loose articles of any kind shall be left or deposited or permitted to remain within 2 feet of the unprotected edge of any shaft, winze, stope or other opening in any mine.

[MIN 10,595] Protection of shafts not in use and opencast workings

119 The mouth of every shaft or entrance to a mine which is out of use or used only as an airway or as an ore pass and the edge of every opencast working shall be kept securely fenced or otherwise protected.

[MIN 10,600] Storage of poisons

120 (1) All mercury, cyanide and other poisonous substances used in any mining or milling process shall be stored in a separate compartment specially set aside for the storage of such poisonous substances, which compartment shall be kept locked and shall be under the charge of a responsible person duly authorised by the manager in that behalf.

(2) No person shall remove from a mine any mercury, cyanide or other poisonous substance without the prior written permission of the manager.

(3) Wherever possible cyanide drips shall be screened.

[MIN 10,605] Antidotes and washes

121 At every mine or works where poisonous or dangerous compounds, solutions or gases are used or produced there shall be kept in a conspicuous place, as near to the same as is practicable, an adequate supply of antidotes and washes for the treatment of all injuries likely to be received from such compounds, solutions or gases. All such antidotes and washes shall be properly labelled with explicit directions for their use affixed to the boxes containing them.

[MIN 10,610] Provision of gloves

122 Where persons are required to handle mercury or cyanide or substances containing mercury or cyanide, the manager shall provide free of charge an adequate supply of suitable rubber gloves for the use of such persons.

[MIN 10,615] Poisonous and injurious chemical solution — precautions necessary

123 All land on which water containing any poisonous or injurious chemical solution is stored shall be effectually fenced to prevent inadvertent access and noticeboards shall be erected in suitable places warning persons of the danger of making use of such water.

[MIN 10,620] Dust abatement

124 Where quartz or any other substance is crushed or handled in a dry state, there shall be used such appliances as in the opinion of an inspector will effectually keep the air fresh and prevent the accumulation of dust.

[MIN 10,625] Construction of dams

125 Every dam built for the purpose of impounding water or tailings shall be properly constructed in such manner as not to endanger life or limb or to cause damage to property and shall be provided with a satisfactory spillway.

[MIN 10,630] Drinking water

126 An adequate supply of wholesome drinking water shall be provided at convenient places around every mill and assay office, and this supply shall be distinctly labelled "Drinking Water".

[The next page is 89,041]

DIVISION 5 — OPENCAST WORKINGS

[MIN 10,635] Undercutting

127 In opencast workings no undercutting shall be allowed unless satisfactory support is provided for all material undercut.

[MIN 10,640] High vertical faces prohibited in alluvial and other workings unless securely timbered

128 In opencast workings of alluvium, soil, soft rock, gravel, clay, tailings, slimes, ashes, debris or other weak ground, no vertical face, unless securely timbered, shall have a height of more than 2.5 m, provided that an unsupported face may be worked in terraces or at such angle of slope as may be determined by an inspector under the provisions of regulation 129.

[reg 128 am LN 95 of 1978 Sch, opn 21 July 1978]

[MIN 10,645] Angle of slope and height of face

129 An inspector may determine from time to time the maximum height of face permitted and the angle of slope to be maintained on any opencast workings to ensure the safety thereof, and in such case shall give notice in writing to the manager of the maximum height of face permitted and the angle of slope to be maintained.

[MIN 10,650] Safety helmets

130 (1) Except when exempted in writing by an inspector, no person shall work in any opencast working more than 3 m deep or on stepped faces in rock, or in trenches more than 3 m deep unless he or she wears a safety helmet of a type approved by an inspector.

[subreg (1) am LN 95 of 1978 Sch, opn 21 July 1978]

(2) The manager shall not allow any person to work in any opencast workings unless he or she wears a safety helmet in accordance with the provisions of paragraph (1) or has been exempted by an inspector from the provisions thereof.

[MIN 10,655] Safety belts and lifelines

131 All persons working on the face of any opencast workings in places where there is danger of their falling shall be provided with and use safety belts or lifelines of a pattern approved by an inspector, provided that notwithstanding the employment of lifelines an inspector may, where he or she deems it necessary for safety, require the use of safety belts in addition to lifelines.

[The next page is 89,141]

DIVISION 6 — UNDERGROUND WORKINGS

[MIN 10,660] Fencing of entrances to shafts, winzes etc

132 Every entrance to any vertical or steeply inclined shaft, winze, sump or chute shall at all times be kept properly fenced by means of barriers or gates, provided that such barriers or gates may be temporarily removed for the purpose of repairs or other necessary operations, if proper precautions are taken to prevent danger to persons.

[MIN 10,665] Dangerous workings to be properly secured

133 Where the ground is not naturally safe, every shaft and every travelling road, airway or working place, and all adits, levels, crosscuts, stopes, winzes and other underground passages in any mine shall be securely timbered, walled or otherwise made secure, and kept in safe condition so long as they are in actual use, and a sufficient supply of suitable timber shall be at hand for immediate use for the purpose of making the ground safe.

[MIN 10,670] Supporting roof and sides

134 (1) If an inspector considers that the system of props or pillars used for supporting the roof or sides of any underground working or passage in any mine is inadequate he or she may require the manager to change the system.

(2) Where a hanging wall in any mine is friable all props shall be provided with headboards or with caps between adjacent timbers.

[MIN 10,675] Safety helmet to be worn underground

135 (1) Except when exempted in writing by an inspector, no person shall travel or work underground in any mine unless he or she wears a safety helmet of a type approved by an inspector.

(2) The manager shall not allow any person to remain underground in any mine unless he wears a safety helmet in accordance with the provisions of paragraph (1) or has been exempted by an inspector from the provisions thereof.

[MIN 10,680] Safety belts and lifelines

136 All persons working underground in any mine in places where there is danger of their falling shall be provided with and use safety belts or lifelines of a pattern approved by an inspector, provided that notwithstanding the employment of lifelines an inspector may, where he or she deems it necessary for safety, require the use of safety belts in addition to lifelines.

[MIN 10,685] Advance boreholes when approaching water or gas

137 Where any place in any mine is likely to contain a dangerous accumulation of water or noxious gases, unless other measures have been authorised in writing by an inspector, any working approaching that place shall have boreholes kept at least 3 m in advance and such additional precautionary measures shall be taken as may be necessary to obviate the danger of a sudden influx of such water or gases.

[reg 137 am LN 95 of 1978 Sch, opn 21 July 1978]

[MIN 10,690] Second outlet may be necessary

138 Where underground workings in any mine are served by one outlet to the surface only, and an inspector considers that a second outlet is necessary, either for the safety of

the men employed therein or for proper ventilation, he or she may require the manager to provide another such outlet within such reasonable time as such inspector may direct.

[The next page is 89,241]

DIVISION 7 — HOISTING AND ROPES

[MIN 10,695] Capacity of hoist not to be exceeded

139 No hoist used in any mine shall carry any weight greater than the maximum weight which the hoist is capable of handling as stated in the manufacturer's specification or as certified by a mine hoist design engineer approved by the Director.

[MIN 10,700] Adequate brakes required for hoists

140 (1) An adequate brake, in proper working order, shall be provided for every drum of a hoist used in any mine, which brake shall be so arranged that whether the hoist is in motion or at rest it can be easily and safely manipulated by the driver thereof.

(2) An inspector shall at all times have the power to order or conduct a test of the efficiency of all brakes on any hoist used in any mine.

(3) Lowering from an unclutched drum of a hoist used in any mine is prohibited.

[MIN 10,705] Connection between rope and conveyance

141 The connection between the rope and shaft conveyance on every hoist used in any mine shall be of such a nature that no accidental disconnection can take place.

[MIN 10,710] Factor of safety

142 No rope shall be used for winding in any shaft or winze if the factor of safety at any point in such rope becomes less than—

- (a) 9.5 for men or 8 for materials, where the rope is used for winding for a distance of not more than 150 m;
- (b) 8 for men or 7 for materials, where the rope is used for winding for a distance of more than 150 m but not more than 300 m;
- (c) 7 for men or 6 for materials, where the rope is used for winding for a distance of more than 300 m but not more than 600 m;
- (d) 6 for men or 5 for materials, where the rope is used for winding for a distance of more than 600 m.

[reg 142 am LN 95 of 1978, opn 21 July 1978]

[MIN 10,715] Use of defective rope forbidden

143 No rope shall be used for winding in any shaft or winze if—

- (a) the breaking load of the rope is less than 90% of the breaking load shown on the original test certificate;
- (b) the number of broken wires in any section of the rope equalling a length of lay of such rope exceeds 3; or
- (c) marked corrosion has occurred to any portion of such rope.

[MIN 10,720] Rope test certificates

144 (1) No rope shall be used for winding in any shaft or winze in which men travel or are carried in a shaft conveyance, unless the original test certificate for such rope has been forwarded to an inspector, and at intervals of 6 months, commencing from the date of its first installation, the rope is tested at a testing station and the test certificate forwarded to an inspector.

(2) An inspector may by notice in writing to the manager of any mine or to the holder of the mining tenement on which such mine is situated require him or her to have tested for breaking load any rope in use for winding in any shaft or winze in such mine, and every such manager or holder, as the case may be, shall within one month of the receipt of such notice have such rope tested at a testing station and forthwith thereafter forward the test certificate to the inspector.

[MIN 10,725] Use of chains

145 No chain shall be used for carrying men in any shaft or winze except for short chains used to couple the shaft conveyance to the rope, in which cases 2 single link chains of uniform size shall be used, which chains shall each have a breaking load not less than 8 times the weight of the load upon them, and all such chains shall be removed and annealed at least once in every 6 months.

[MIN 10,730] Guides for conveyances in shafts

146 Subject to any written exemption granted by an inspector, all vertical shafts exceeding 30 m in depth shall be provided with guides for the shaft conveyance, which guides shall be extended as near to the shaft bottom as practicable.

[reg 146 am LN 95 of 1978 Sch. opn 21 July 1978]

[MIN 10,735] Winding prohibited during repairs

147 Except to the extent necessary for such repairs, no winding shall be carried on in any shaft or winze whilst repairs are being carried out in the winding compartment.

[MIN 10,740] Materials forbidden in conveyances together with men

148 No truck, iron, timber, tools (other than tools of trade carried in closed receptacles) or other materials shall, except when the shaft is being repaired, be carried in any shaft conveyance in which men are also being carried.

[MIN 10,745] Securing materials during winding

149 When tools, wood or other materials are to be carried in any shaft conveyance, the ends, if projecting above the top of the conveyance, shall be securely fastened to the rope or the bow.

[MIN 10,750] Shaft signals required

150 (1) Every shaft or winze exceeding 30 m in depth which is used for winding by mechanical power shall have an efficient means of signalling whereby men engaged in sinking or in shaft inspections or repairs may signal effectively from any depth in the shaft to the hoist driver and shall be equipped with some efficient means of interchanging distinct and definite signals between the hoistroom, the surface and all shaft stations in use.

[subreg (1) am LN 95 of 1978 Sch. opn 21 July 1978]

(2) Only persons duly authorised by the manager or mine foreman may give any signal, other than the accident signal.

[MIN 10,755] Code of signals

151 (1) In winding, the following signals shall be used—
Knocks or rings

- 1 — Raise, when hoist is at rest;
- 1 — Stop, when hoist is in motion;
- 2 — Lower;
- 3 — Change gear;
- 4 — Men about to enter or leave a shaft conveyance;
- 4 — In reply, men may enter or leave a shaft conveyance;
- 5 — Danger signal;
- 6 — Caution, move slowly;
- 8 — All clear;
- 12 — Accident signal, followed by the signal for the level on which the accident has occurred.

(2) After the danger signal has been given, if it should be necessary to move the shaft conveyance in order to remove the danger, all movements of the hoist shall be made slowly and carefully until the all clear signal has been given.

(3) Where men are about to enter or leave a shaft conveyance the braceman or cageman shall not open the gate until he or she has received the reply signal from the hoist driver.

(4) The hoist driver shall in every case, except for the “Stop” signal, ring back before acting on any signal.

(5) The hoist driver shall not act on any signal if he or she is not sure of its meaning or if he has been unable to do so within 60 seconds after receiving it but shall await a fresh signal.

[MIN 10,760] Special signals

152 Special signals in addition to the above may be used at any mine provided that they are easily distinguishable by their sound or otherwise from the foregoing code and do not interfere with it in any way.

[MIN 10,765] Code of signals to be posted

153 The code of signals used at a mine shall be painted on a board or enamelled plate, in the form of a distinctly legible notice in English, iTaukei and Hindustani, and shall be posted up in the hoistroom, at the surface, and at all shaft stations in use.

[reg 153 am Decree 31 of 2010 s 4, opn 2 July 2010]

[MIN 10,770] Appointment of hoist drivers

154 (1) No person under the age of 18 years shall be permitted to have charge of a hoist of any kind.

(2) No person shall have charge of a hoist which is used for carrying men or is used in a shaft in which men may be travelling unless he or she holds a Hoist Driver's Certificate issued by an inspector under the provisions of regulation 155.

(3) On the appointment of any person as a hoist driver at any mine the manager shall make a written entry of such appointment in the hoist log book.

[MIN 10,775] Hoist Driver's Certificate. Form 26

155 (1) Application for a Hoist Driver's Certificate may be made to an inspector in Form 26 and shall be accompanied by the fee prescribed in Schedule 2 together with a

medical certificate by a registered medical practitioner or Government medical officer to the effect that the applicant is physically fit to carry out the duties of a hoist driver, and such inspector shall, if satisfied after such written or oral examination of the applicant as he or she considers necessary, that such applicant—

- (a) has attained the age of 21 years;
- (b) has had adequate experience in the operation of a re-reversing hoist; and
- (c) is fully conversant with the provisions of this Division of this Part,

issue such applicant with a Hoist Driver's Certificate in Form 27 and shall enter, or cause to be entered, the full particulars thereof in a book to be known as the "Register of Hoist Driver's Certificates", to be kept at the office of the Mines Department in Suva.

(2) A Hoist Driver's Certificate shall, unless previously suspended under the provisions of paragraph (3) or cancelled under the provisions of paragraph (4), remain in force for a period of 2 years from the date of issue thereof, and may, on application being made to an inspector, accompanied by the fee prescribed in Schedule 2 together with a medical certificate by a registered medical practitioner or Government medical officer to the effect that the applicant is physically fit to carry out the duties of hoist driver, and subject to the applicant undergoing to the satisfaction of such inspector such further written or oral examination as the inspector considers necessary, be extended for further periods not exceeding 2 years on each occasion.

(3) At any time during the currency of any Hoist Driver's Certificate an inspector may require the holder of such certificate to undergo such further medical examination as such inspector may consider necessary or advisable and may suspend any such certificate until satisfied on the certificate of a registered medical practitioner or Government medical officer that the holder of such Hoist Driver's Certificate is physically fit to carry out the duties of a hoist driver.

(4) If, at any time during the currency of any Hoist Driver's Certificate, the Director becomes satisfied that the holder thereof is not, by reason of physical or mental infirmity or incompetence, a fit and proper person to hold such certificate the Director may cancel the same and such cancellation shall be sufficiently notified by written notice to that effect being sent to the holder of such certificate at his or her last known place of address and by publication in the Gazette.

[MIN 10,780] Hours during which hoist drivers to be on duty

156 (1) A hoist driver shall be on duty at every hoist during the whole time that any person who is expected to be carried by such hoist is underground in the mine.

(2) Save in exceptional circumstances or where it is necessary by virtue of a normal change of shift no hoist driver engaged in winding men shall be employed for more than one shift in 24 hours and no such shift shall exceed 8.5 hours.

[MIN 10,785] Permission required to use hoist for carrying persons

157 (1) No hoist shall be used for carrying persons without the permission in writing of an inspector. Every such permit shall state the maximum number of persons that may be carried by such hoist at any one time and the maximum speed of winding, and under no circumstances shall the speed of winding or the number of persons carried in any hoist be in excess of that specified in such permit. A notice specifying the maximum number of persons that may be carried by such hoist at one time shall be posted at all places where the code of signals is posted.

(2) Permission shall not be granted under the provisions of subregulation (1) unless all of the applicable provisions of this Division of this Part have been complied with, and every such permit shall be subject to the following additional conditions—

- (a) by actual test it shall be proved to the satisfaction of the inspector that—
- (i) the hoist running at various speeds with light and heavy loads can be readily retarded and stopped, and after stopping can be immediately started again in either direction;
 - (ii) each drum, unclutched from the hoist, can be maintained, by the unaided effort of its own brake or brakes, in a position of rest without slipping when bearing double the authorised load of the shaft conveyance. (In estimating the authorised load 75 kg weight shall be allotted for each person);
 - (iii) in the case of a hoist where no part of the rope is rigidly fixed to the drum, there shall be no slipping of the rope on the drum under any possible working condition;
- (b) the shaft conveyance may travel 7.5 m past its highest and lowest passenger landing places without striking any obstruction;
- (c) the ropes shall be made of steel of the best quality and manufacture, free from any defect and the wires used in the construction of the ropes shall be of sizes suitable for use with the sheaves and drums fitted, and at least one spare rope shall always be kept in reserve ready for use;
- (d) ropes newly put on, and the connections between the rope and the shaft conveyance, shall be carefully examined and properly tested as to their working strength by a competent person authorised by the manager, and shall be used for carrying persons only after having run 2 complete trips up and down the working portion of the shaft with the shaft conveyance loaded to the full authorised extent (the result of the above examination shall be immediately recorded in the hoist log book);
- (e) shaft conveyances, except buckets used in shaft sinking, shall have a proper roof or cover and shall have proper safety catches;
- (f) the weight of the shaft conveyance and the weight of all attachments shall be certified by the maker and shown on the shaft conveyance in such a position that it may be readily accessible for reading;
- (g) there shall be on the drum of the hoist such flanges or horns, and also, if the drum is conical or spiral, such other appliances as may be sufficient to prevent the rope from slipping laterally;
- (h) there shall be not less than 3 rounds of rope upon the drum when the shaft conveyance is at the lowest point of the shaft; and when this is applicable, the end of the rope shall be properly fastened round an arm or the shaft of the drum;
- (i) if considered necessary by an inspector, every such hoist shall be provided with a reliable depth indicator in addition to any marks on the rope, which will, in shafts exceeding 90 m in depth, ring a bell in the hoist room when the conveyance is 18 m from the top landing place;
- (j) a reliable speed indicator shall be attached to the hoist if considered necessary by an inspector;
- (k) a suitable automatic device to prevent overwinding of the shaft conveyance shall be fitted, provided that, if the hoist cannot be fitted with such an automatic device, the shaft conveyance, when persons are being carried, shall not travel at a speed exceeding 60 m per minute when the shaft conveyance is within 30 m of the surface or bottom, nor 150 m per minute in any other part of the shaft.

[subreg (2) am LN 95 of 1978 Sch, opn 21 July 1978]

[MIN 10,790] Automatic brakes

158 All electrically driven hoists which are used for carrying persons shall be fitted with mechanically operated brakes which shall be so installed that—

- (a) the brakes shall, on failure of the power supply, be applied automatically by mechanical means, preferably gravity, and shall in no case be operated by an auxiliary electric current;
- (b) in case of a heavy overload, such as would be caused by the shaft conveyance leaving the rails or becoming jammed in the shaft, a circuit breaker will cut off the power and thus apply the brakes automatically; and
- (c) a suitable overwind device, which can be set to engage the shaft conveyance at any point in the headframe, will cut off the power in case of an overwind past this point, and thus apply the brakes automatically, provided that with the consent of an inspector some other form of satisfactory and dependable overwind device may be fitted *in lieu* thereof.

[MIN 10,795] Conditions to be observed where carrying persons is permitted

159 Where the use of a hoist for carrying persons is permitted, the following conditions shall be observed—

- (a) a competent person, authorised by the manager, and whose name is registered in the hoist log book shall carefully examine—
 - (i) at least once a day, the aerial gear, the rope and its connections to the shaft conveyance and to the drum, the brakes, overwind devices, depth indicators, the shaft conveyance and its safety catches, the sheaves and every external part of the hoist upon the proper working of which safety depends;
 - (ii) at least once a week, the guides or rails and the winding compartments generally, the signalling apparatus and the external parts of the hoist;
 - (iii) at least once a month, the structure of the rope for the purpose of discovering the amount of deterioration (for the purpose of this examination the rope must be carefully cleaned at the connections and at intervals along its length);
 - (iv) at least once a month, the operating efficiency of the safety catches. For this purpose a drop test shall be conducted on all shaft conveyances;
 - (v) at least once a year, the hoist as to the working condition of the internal parts;
- (b) a report of the result of every such examination shall be recorded without delay in the hoist log book and shall be signed by the person who made the inspection, and should, as a result of such examination, any weakness or defect be discovered, the weakness or defect shall be reported immediately to the manager and remedied, and no person shall be carried by the hoist until the defect is made good;
- (c) special instructions shall be issued by the manager forbidding access to knocker lines to any persons other than those in charge of them, and care shall be taken to guard against the knocker lines being accidentally put into operation;
- (d) no person shall be carried or order or permit any other person to be carried on the top of a cage or on the side, bow, rim, bail or carriage of any cage, skip, bucket, truck or other shaft conveyance, or on the top of a loaded, or in a partially loaded, skip, bucket, truck or other similar conveyance, provided that men engaged in sinking operations or shaft repairs or a shaft examination may ride on the top of an unloaded or partially loaded cage, skip or bucket if this is necessary for their duties;

- (e) no person travelling in a shaft conveyance shall change his or her position therein whilst the conveyance is in motion;
- (f) after any stoppage of winding for repairs or for any other purpose exceeding 2 hours' duration each shaft conveyance, before any person is carried therein, shall be run at least one complete trip up and down the working portion of the shaft with a view to ensuring that everything is in good working order;
- (g) when persons are carried the hoist driver shall take care that shocks in starting, running and stopping are avoided and that the shaft conveyance is brought gently to rest at landing places; and
- (h) no person shall speak to or in any way distract the attention of the hoist driver whilst the hoist is in motion.

[MIN 10,800] Protection at mouth of shaft during sinking

160 The mouth of every shaft in the course of sinking shall be protected by doors fixed below the head gear in such a position as will prevent material falling down the shaft, or every such shaft shall be provided with a trolley to run over the shaft's mouth and receive the load when brought to the surface. Such trolley shall be large enough to cover the opening at the shaft top.

[MIN 10,805] Blasting signals in shaft sinking

161 (1) Where a hoist is used in the course of shaft sinking, the manager shall see that the hoist driver is notified of a pre-arranged signal indicating that blasting is about to take place.

(2) On receipt of such pre-arranged signal, the hoist driver shall raise the bucket not less than 3 m and lower it again as an acknowledgement that he or she is ready to act immediately on the receipt of the final signal to raise the men employed in blasting. .
[subreg (2) am LN 95 of 1978 Sch, opn 21 July 1978]

[MIN 10,810] Filling of bucket

162 In shaft sinking the bucket or other receptacle shall not be filled above the level of the brim; and before it leaves the top or bottom of the shaft or winze, it shall be steadied by one of the men at the top or bottom, as the case may be.

[MIN 10,815] Bucket to be stopped before reaching bottom

163 The bucket or other receptacle shall not be directly lowered to the bottom of the shaft when persons are there present, but shall be stopped at least 4.5 m above the bottom until the signal to lower further has been given by a person at the bottom.
[reg 163 am LN 95 of 1978 Sch, opn 21 July 1978]

[MIN 10,820] Protection of workmen in shaft sinking

164 (1) In shaft sinking where there is no separate ladder way under which the men may find shelter during the winding of rock, materials or water, sufficient protection shall be provided by a suitable covering.

(2) Whilst winding, other than for the purposes of shaft sinking, is going on, men employed at the bottom of the shaft shall be securely protected by a cover overhead.

[MIN 10,825] Safety measures in the case of underground tramways

165 (1) In all underground tramways where men are allowed to travel, places of

refuge (manholes) to give at least 600 mm clearance between the moving trucks and the wall shall be provided at intervals of not more than 15 m and every such place of refuge shall be kept clear at all times.

[subreg (1) am LN 95 of 1978 Sch, opn 21 July 1978]

(2) Where the track of an underground tramway is inclined at more than 4 degrees but not more than 14.5 degrees and the trucks are attached to a moving rope, the track and equipment shall be known as an "inclined haulage" and the following special conditions shall apply—

- (a) the haulage mechanism shall be fitted with efficient and satisfactory braking devices;
- (b) the tracks shall be fitted with satisfactory runaway trip devices;
- (c) the opening through which the haulage travels shall not be used as a travelling way for men;
- (d) there shall be provided adequate protection from trucks running out of control for men working at or operating such inclined haulage;
- (e) the trucks shall be attached to the rope by a device approved by an inspector.

[MIN 10,830] Hoist log books

166 (1) At every hoist room there shall be kept a hoist log book in which shall be entered the following particulars—

- (a) the names of all persons authorised to drive the hoist;
- (b) the name of a competent person authorised to carry out the examinations referred to in regulation 159;
- (c) a daily report by each hoist driver on the condition and operation of the hoist;
- (d) a report of the fitting or refitting of the rope and the result of the test run carried out thereafter;
- (e) reports of the daily, weekly, monthly and yearly inspections;
- (f) reports of drop tests carried out on the shaft conveyances;
- (g) reports of all stoppages exceeding 2 hours duration, the reason therefore and the result of the test run conducted thereafter; and
- (h) a report of any other matter affecting the safe operation of the hoist or the safety of persons carried by it.

(2) The hoist log book shall be available for examination by an inspector at all times.

[The next page is 89,341]

DIVISION 8 — TRAVELLING-WAYS AND LADDERWAYS

[MIN 10,835] Ladders and ways of exit

167 Every manager of any mine shall provide and maintain to the satisfaction of an inspector, such ladder or other ways at such mine as will furnish effectual means of exit from all underground workings without the assistance of the hoist.

[MIN 10,840] Permanent ladderways

168 At every mine where a shaft affords the regular means of ingress and egress such shaft shall be fitted with a proper and permanent ladderway approved by an inspector.

[MIN 10,845] Travelling-ways in shafts to be partitioned or securely fenced

169 In all vertical or steeply inclined shafts where any compartment is used regularly as a foot travelling-way it shall be securely partitioned from the other compartments, and in all other shafts all foot travelling-ways shall be adequately railed so as to prevent any person from falling into the winding compartment, provided that when a shaft is in course of sinking no partition shall be required to be installed between the lowest working level and the shaft bottom.

[MIN 10,850] Platforms to be provided in ladderways

170 In permanent ladderways which have an inclination of more than 70 degrees from the horizontal and which form a main means of exit from the workings or a permanent travelling-way between levels, platforms (resting places) shall be fixed at intervals of not more than 9 m apart.

[reg 170 am LN 95 of 1978 Sch, opn 21 July 1978]

[MIN 10,855] Construction of mine ladders

171 Every ladder used in any mine shall be—

- (a) of strong construction and, with the exception of any chain ladders used in any rise or required to be used at the bottom of any ladderway under the provisions of regulation 174, the staves shall be bolted together at not less than 2 places and the distance between the centres of the rungs shall be not greater than 300 mm nor less than 250 mm, provided that, in the case of small mines, an inspector may give written permission for the use of ladders with rungs set in notches in the staves and nailed to the staves, subject to such conditions as he or she may think fit;
- (b) securely fastened to the timbering or walls of the shaft, winze or stope, but, except in the case of a chain ladder, so that in no case is any rung closer than 100 mm to the wall or to any timber underneath the ladder.

[reg 171 am LN 95 of 1978 Sch, opn 21 July 1978]

[MIN 10,860] Fixing of ladders

172 (1) Every ladder used in any mine shall be so fixed that it covers any lower manhole, provided that this shall not apply to ladders installed in exploratory winzes or in manways in stopes where the width is not sufficient to allow ladders to be fixed at a slope sufficient to cover any lower manhole.

(2) No ladder in use in any mine may be fixed in an overhanging position.

(3) Every ladder used in any shaft or winze shall project at least 0.9 m above the collar of the shaft or winze and above every platform therein, except where strong handrails are fixed at such places.

[subreg (3) am LN 95 of 1978 Sch, opn 21 July 1978]

[MIN 10,865] Carrying tools etc in ladderway prohibited

173 No tools or any loose materials may be carried up or down any ladderway in any vertical or steeply inclined shaft or winze except where absolutely necessary for the normal operations of the mine or for the purpose of rendering aid to injured persons or rendering safe any danger.

[MIN 10,870] Ladders in shaft sinking

174 Where a shaft is in course of sinking the fixed ladderway shall finish sufficiently far from the shaft bottom to be secure from damage from blasting, and a chain ladder shall extend from the lower end of such ladderway to the bottom of the shaft at all times while men are at the bottom.

[The next page is 89,441]

DIVISION 9 — VENTILATION AND LIGHTING

[MIN 10,875] Underground working to be properly ventilated

175 All parts of every underground working in any mine shall be properly and sufficiently ventilated to the satisfaction of an inspector.

[MIN 10,880] Disused workings to be examined before being again used

176 Underground workings, especially shafts, sumps and winzes, which have not been in use for more than 7 days, shall be tested with a candle flame which shall burn strongly therein before they are used again, in order to ascertain whether or not any foul air or other dangerous gases have accumulated therein, and, until such places have been so tested and are found free of foul air or other dangerous gases, no person other than the person carrying out such test shall be allowed to enter therein.

[MIN 10,885] Working in foul air forbidden

177 No person shall work or remain or be permitted or ordered to work or remain, in any place in a mine if any foul air or other dangerous gases are perceptible by sight, smell or other senses.

[MIN 10,890] Water blast to be provided in certain circumstances

178 Where an inspector considers it to be necessary for the abatement of dust, a water blast shall be provided at all such working places in any mine as he or she may specify.

[MIN 10,895] Machine drilling

179 (1) Except in the case of popholing, no dry machine drilling shall be carried out either at the surface of, or underground in, any mine without the written permission of an inspector.

(2) Auxiliary ventilation equipment shall be provided and shall be used in all development ends where machine drilling is carried out.

[MIN 10,900] Adequate stationary lights to be provided

180 Adequate stationary lights shall be provided during working hours at all shaft stations in use in any mine and at night at all working places on the surface of any mine.

[MIN 10,905] Machinery to be illuminated

181 All places where winding, driving, pumping or other machinery is erected, and in proximity to which persons are working or moving about at any mine, shall be so lighted that whilst such machinery is in operation its external moving parts can be clearly distinguished.

[MIN 10,910] Moving without a light prohibited

182 No person shall move about or work in any unilluminated part of a mine without a light.

[The next page is 89,541]

DIVISION 10 — MACHINERY

[MIN 10,915] Boilers etc to be in good condition

183 All boilers, engines, brakes, ropes, winding gear and other mechanical appliances in use at any mine shall be kept in good condition and repair.

[MIN 10,920] Exposed machinery to be fenced

184 All exposed machinery at any mine, which when in operation may be dangerous to persons, shall be securely fenced so that no person can inadvertently come into contact with it, and efficient guards shall be provided to the satisfaction of an inspector to all such parts of any such machinery as may in his or her opinion be a source of possible danger to any person.

[MIN 10,925] Loose clothing

185 No person wearing any loose outer clothing shall be employed in the operation of, or permitted to work in the vicinity of, any machinery whilst such machinery is in operation.

[MIN 10,930] No repairing, oiling etc to be done under risk

186 (1) The repairing, adjusting, cleaning or lubricating of machinery shall not be carried out whilst such machinery is in operation where there is any risk of personal injury to any person.

(2) All machinery requiring to be lubricated whilst in operation shall wherever practicable be fitted with automatic lubricating devices.

[MIN 10,935] Friction clutches or similar contrivances to be provided

187 (1) Belt driven machinery, which it is necessary to start or stop without interfering with the speed of the prime mover, shall be permanently fitted with a satisfactory mechanical appliance for that purpose.

(2) With the exception of the customary shifting of light belts on the coned pulleys of machine tools for the purpose of altering the working speed, the shipping and unshipping of driving belts shall not be carried out without the use of a belt shipper whilst the machinery is in operation.

[MIN 10,940] Gauges and safety valves

188 All vessels, other than portable gas cylinders, used at any mine for receiving or storing air or gas at a higher pressure than that of the atmosphere shall be fitted with—

- (a) a gauge or other device for showing accurately at all times the pressure of the air or gas contained in such vessel;
- (b) a relief or safety valve or other device capable of preventing any undue accumulation of pressure above the safe working limit of the vessel.

[MIN 10,945] Compressed air receivers to be tested

189 Every manager shall ensure that all compressed air receivers used in any mine or part thereof under his or her charge are tested at intervals not exceeding 3 years by hydraulic pressure to the extent of one and one-third times the working pressure, and shall

keep a written record of such tests, signed by the person conducting them, and shall submit all such records for inspection by an inspector.

[MIN 10,950] Use of compressed air apparatus

190 (1) All compressed air receivers and intercoolers, and their connections to air cylinders, shall be kept clean and free from carbonised oil or other material liable to ignition.

(2) The supply of air for air compressors shall be drawn from as pure and cool a source as possible.

[MIN 10,955] Dangerous places to be fenced

191 All places in and about a mine which from their nature are likely to be dangerous to persons working or travelling about the mine shall be properly fenced and in particular all elevated platforms and gangways shall be so fenced.

[MIN 10,960] No admittance permitted to places where machinery or boilers are housed

192 No unauthorised person shall be permitted to enter any place in the vicinity of machinery or boilers at any mine, and notices to this effect shall be posted at all entrances to the places where such machinery or boilers are housed.

[The next page is 89,641]

DIVISION 11 — EXPLOSIVES

[MIN 10,965] Explosives Regulations to apply with certain modifications

193 Subject to the following provisions of this Division of this Part, the Explosives Regulations made under the provisions of the Explosives Act 1937 shall apply to all mining operations.

[MIN 10,970] Distributing magazine

194 (1) Notwithstanding the provisions of the Explosives Regulations 1937, a quantity of explosive not exceeding that which is reasonably sufficient for use during the following 6 consecutive days may be stored in a distributing magazine in any mine or any part thereof for distribution to the workings, provided that the manager shall, before using a distributing magazine, notify an inspector of the place of storage, the period during which it is to be used for this purpose, the type and quantity of explosive to be stored therein and any other information relating to such distributing magazine that may be required by the inspector, and shall obtain the inspector's permission before using such distributing magazine for the storage of explosive.

(2) A distributing magazine may be—

- (a) a drive, tunnel or other excavation. The passage connecting such distributing magazine with the workings or travelling-ways shall describe in its course at least one right angle, and such distributing magazine shall be situated not less than 9 m away from any working place or travelling-way. If, in the opinion of an inspector, owing to the nature of the country and the quantity of explosives to be stored this distance is too short, it shall be increased to such distance as the inspector shall specify; or
- (b) where the quantity of explosives to be stored does not exceed 45 kg of dynamite or 100 detonators, a stout wooden box with sides, bottom and top at least 50 mm thick and with the cover acting as a door, which box shall be kept closed and securely locked, and shall be securely fastened in place.

[subreg (2) am LN 95 of 1978 Sch. opn 21 July 1978]

(3) No explosive shall be stored in a distributing magazine unless it shall have been issued from a licensed magazine at the mine and conveyed directly from such magazine to the distributing magazine.

(4) Where the location and structure of a distributing magazine is such that unauthorised entry might be possible, the contents shall be removed from the magazine when the workmen leave the vicinity.

[MIN 10,975] Restriction on transport of explosives in shaft conveyances

195 (1) No person shall place in, or take out of, any shaft conveyance, any explosive except under the immediate supervision of a person authorised by the manager, mine foreman or shift boss for that purpose.

(2) Before any explosive is carried in any shaft conveyance, the person in charge of such operation shall give, or cause to be given, notice thereof to the person or persons in charge of the cage and to the hoist driver.

(3) No other materials shall be carried with any explosive in any shaft conveyance.

[The next page is 89,741]