Government Gazette 14942

STATE PRESIDENT'S OFFICE

No. 1199. 16 July 1993

It is hereby notified that the Acting State President has assented to the following Act which is hereby published for general information:

NO. 103 OF 1993: MINERALS AMENDMENT ACT, 1993.

GENERAL EXPLANATORY NOTE:

Words in bold type indicate omissions from existing enactments.

Words in italics indicate insertions in existing enactments.

ACT

To amend the Minerals Act, 1991, so as to insert certain definitions and to replace or delete others; to further regulate the responsibility for the administration of the said Act; to provide for the furnishing of certain particulars about the ability of an applicant for a prospecting permit to rehabilitate surface disturbances that may be caused by his intended prospecting operations; to further regulate the period within which the holder of a prospecting permit may apply for a renewal thereof; to empower the regional director to suspend mining operations pending rectifying steps to be taken in respect of rehabilitation measures or the suspension or cancellation of a permit, permission or authorization by the Minister; to provide for the granting of consent for the removal of minerals found in the course of prospecting operations on land in respect of which the holder of the mineral right or an undivided share therein cannot be readily traced or where any person entitled to such right or undivided share therein by virtue of intestate succession or any testamentary disposition has not obtained cession thereof and a period of not less than two years has expired from the date on which he became so entitled; to provide for the investigation of geological formations by the State; to provide that certain approval for the division of the right to any mineral or minerals or an increase in the number of holders of undivided shares in such right shall only be required if the right concerned has been severed from the ownership of the land concerned or is about to be so severed by the registration of a deed; to extend certain powers of the regional mining engineer in relation to safety and health to any officer authorized thereto by the Director-General; to further regulate the enquiring into the cause of accidents at mines and works; to further regulate the appointment of a manager at a mine or works; to subject the

use of prescribed equipment to the issue of a permit and the requirements and conditions set or determined by the regional director and the regional mining engineer; to provide for adequate provision being made for the rehabilitation of a mining area within a certain period before mining operations are ceased; to empower the regional director to grant certain exemption or temporary authorization or to approve or effect amendments to environmental management programmes; to provide for consultation with each department charged with the administration of any law which relates to a matter affecting the environment before a decision regarding such a matter is taken; to provide that the Director-General may in certain circumstances require an environmental impact assessment; to provide that the registrar of deeds shall make a certain endorsement on a title deed under certain circumstances; to insert a transitional provision in relation to the granting of a mining lease for natural oil; to provide for the collection and payment by the Mining Commissioner of certain moneys to the owner of land comprising an alluvial digging or proclaimed land in so far as the continuation of mining rights is concerned; to provide in the transitional provisions for cases where the State is the holder of an undivided share in the right to a mineral in relation to prospecting and digging agreements; to authorize the Director-General to authorize officers of the Department to enter upon land to perform certain functions for the purposes of the said Act; to criminalize certain conduct; to authorize any Minister who may exercise any power under the said Act to delegate that power; and to further empower the Minister to make regulations; to repeal certain obsolete laws; and to provide for matters in connection therewith.

(English text signed by the Acting State President.)

(Assented to 28 June 1993.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:-

Amendment of section 1 of Act 50 of 1991

1. Section 1 of the Minerals Act, 1991 (hereinafter referred to as the principal Act), is hereby amended-

(a) by the deletion of the definitions of "boiler", "chair lift", "elevator" and "winding plant";

(b) by the insertion after the definition of "Department" of the following definition:

"*'department' means a department referred to in section 6 of the Public Service Act, 1984 (Act No. 111 of 1984);*".

(c) by the substitution for the definition of "mining area" of the

following definition:

"'mining area' means the area comprising the subject of any prospecting permit or mining authorization, including-

*(a)* any adjacent surface of land;

*(b) any non-adjacent surface of land, if it is connected to such area by means of any road, railway line, power line, pipe line, cableway or conveyor belt; and*

*(c) any surface of land on which such road, railway line, power line, pipe line, cableway or conveyor belt is located,* under the control of the holder of such permit or authorization and which he is entitled to use in connection with the operations performed or to be performed under such permit or authorization;

(d) by the substitution for the definition of "Minister" of the following definition:

" 'Minister' means the Minister of Mineral and Energy Affairs **and Public Enterprises**;";

(e) by the insertion after the definition of "officer" of the following definition:

" *'offshore installation' means an offshore structure or a vessel used at sea in connection with prospecting for or mining of minerals and on which persons are normally present;*";

(f) by the substitution for the definition of "serious bodily harm" of the following definition:

" 'serious bodily harm' means any injury which is likely to be fatal or which results **in the loss of a joint or in permanent disability** *in a person being permanently disabled to perform his normal or similar work;*";

(g) by the substitution for the definition of "this Act" of the following definition:

" 'this Act' includes the regulations and any condition to which any permit, licence, permission, consent, exemption, approval, notice, **or** authorization, *environmental management programme or directive* issued, given, **or** granted *or approved* or deemed to be issued, given, **or** granted *or approved* in terms of this Act, is subject;"; and

(h) by the insertion after the definition of "this Act" of the following definitions:

" *'topsoil' means that layer of soil covering the earth and which provides a suitable environment for the germination of seed, allows the penetration of water, is a source of micro-organisms, plant nutrients and in some cases seed, and of a depth of 0,5 metre or any other depth as may be determined by the regional director for each mining area;*

*'township or urban area' means a township as defined in section 102(1) of the Deeds Registries Act, 1937 (Act No. 47 of 1937)*;".

Substitution of section 2 of Act 50 of 1991

2. The following section is hereby substituted for section 2 of the principal Act:

"Administration of Act

2. (1) This Act shall be administered *under the control of the Minister* in accordance with the instructions and directives **and under the control of the Minister, by** *of* the Director-General **and** by regional directors.

(2) The application of the provisions of this Act in respect of safety and health shall be done **after consultation with anal under the direction *and subject to the instructions* of a deputy director-general, who shall be a certificated mine manager or a certificated mechanical and electrical engineer (mines) and who shall be known as Government Mining Engineer and whose primary functions shall be supervision and control over safety, health and related matters at any mine or works.".**

**Substitution of section 4 of Act 50 of 1991**

**3. The following section is hereby substituted for section 4 of the principal Act:**

**"Appointment and functions of regional directors**

**4. The Minister shall, in respect of each region referred to in section 3, appoint an officer in the service of the Department with the necessary experience and qualifications as regional director to exercise the powers and perform the duties conferred upon or assigned to him by or in terms of this Act or any other law and to carry out or comply with the instructions and directives of the Minister and Director-General.".**

**Amendment of section 6 of Act 50 of 1991**

**4. Section 6 of the principal Act is hereby amended-**

**(a) by the deletion in subsection (2) of the word "and" at the end of paragraph (a);**

**(b) by the insertion in subsection (2) of the word "and" at the end of paragraph (b);**

**(c) by the addition to subsection (2) of the following paragraph:**

**"*(c) particulars about the applicant's ability to make the necessary provision to rehabilitate disturbances of the surface which may be caused by his intended prospecting operations,*"; and**

**(d) by the substitution for subsection (4) of the following subsection:**

**"(4) Any prospecting permit shall be issued for a period of 12 months or such longer period as the regional director may determine and the holder thereof may, from time to time, within *at least* one month prior to the expiration of the period for which such permit has been issued or renewed, on written application to the regional director concerned and on payment of the prescribed application fee, obtain a renewal of such permit for a period of 12 months or such longer period as the regional director may determine. if the regional director is satisfied with the manner in which such holder rehabilitates surface disturbances caused by his prospecting operations on the land concerned.".**

**Amendment of section 14 of Act 50 of 1991**

**5. Section 14 of the principal Act is hereby amended-**

**(a) by the substitution for subsection (2) of the following subsection:**

**"(2) Before any permit, permission or authorization referred to in subsection (1) is so suspended or cancelled, *and subject to subsection (4)*, the regional director concerned shall serve a written notice on the holder thereof ordering him to comply with the relevant provisions or take such rectifying steps as the Minister may require, within a period specified in the notice."; and**

**(b) by the addition of the following subsection:**

**"*(4) If a regional director is of the opinion that a***

*contravention or failure referred to in the proviso to subsection (1) has occurred or is occurring, he may order that the operations being conducted under the permit, permission or authorization concerned be suspended until such rectifying steps have been taken as may be required by him or until the Minister has suspended or cancelled such permit, permission or authorization in terms of the proviso to subsection (1).*".

**Amendment of section 17 of Act 50 of 1991**

**6. Section 17 of the principal Act is hereby amended-**

**(a) by the substitution for paragraph (i) of subsection (1) of the following paragraph:**

**"(i) grant the consent to-**

***(aa)* prospect required by section 6(1)(b) in respect of such mineral and land to such applicant; *and***

***(bb) remove any such mineral found in the course of prospection" operations in or on such land and to dispose thereof required by section 8(1), to such applicant subject to such terms and conditions, including compensation, as may be agreed upon between such applicant and the Director-General*; or"; and**

**(b) by the substitution for subsection (3) of the following subsection:**

**"(3) Upon *the receipt of the compensation, if any, referred to in subsection (l)(i)(bb) or after* the registration of any cession as contemplated in subsection (2), the Director-General shall dispose of *that compensation or* the amount, if any, referred to in subsection (1)(ii), if the right concerned or share therein-**

**(a) is subject to a registered mortgage bond, by paying the amount of the outstanding mortgage debt to the mortgagee, and by paying the balance of *that compensation or* the first-mentioned amount, if any; or**

**(b) is not subject to a registered mortgage bond, by paying *that compensation or* such amount, to the Master of the Supreme Court within whose area of jurisdiction the land concerned is situated.".**

**Substitution of section 18 of Act 50 of 1991**

**7. The following section is hereby substituted for section 18 of the principal Act:**

**"Special investigation regarding presence, nature and extent of minerals or geological formations in or on land**

**18. (1) Notwithstanding anything to the contrary contained in this Act in relation to the issuing of a prospecting permit, the Minister may, if in his opinion it is necessary in the national interest, land upon 30 days' prior written notice to the owner of the land concerned and the holder of a prospecting permit or mining authorization concerned and the sole holder of or all the holders of undivided shares in the right to the mineral concerned in respect of such and, cause any investigation to be conducted by the State on *any* such land to establish if *any* such mineral *or geological formation* occurs in or on such land, and if so, to establish the nature and extent thereof.**

**(2) Compensation as may be determined *agreed upon by the parties concerned or, in the absence of such agreement, determined by arbitration in accordance with the Arbitration Act, 1965 (Act No. 42 of 1965), or by any competent court if the person concerned prefers the last-mentioned procedure, shall be payable* by the Minister shall be paid by him in respect of any proven damage to any person as a result of any investigation contemplated in subsection (1).**

***(3) (a) No investigation shall take place under this section prior to the expiration of a period of 30 days after publication in the Gazette of a notice of the intention to conduct such investigation.***

***(b) No entering upon land shall take place under this section before reasonable steps have been taken to notify the owner or occupier or person in control of such land of the intention so to enter upon such land.***

***(c) No investigation involving prospecting shall take place under this section before reasonable steps have been taken to notify the holder of the right to the mineral concerned of the intention to conduct such investigation.*".**

**Amendment of section 20 of Act 50 of 1991**

**8. Section 20 of the principal Act is hereby amended by the substitution in subsection (1) for the words following paragraph (b) of the following words:**

**"*and if such right has been severed from the ownership of the land concerned or is about to be so severed upon the registration of such deed,* shall be registered by the registrar of deeds concerned, unless the Director-General has under subsection (3) in writing approved such**

**division or increase.".**

**Amendment of section 26 of Act 50 of 1991**

**9. Section 26 of the principal Act is hereby amended-**

**(a) by the substitution for paragraph (a) of subsection (7) of the following paragraph:**

**" (a) Any member of the mine safety committee and any alternate member to such member who is not in the full-time service of the State shall be appointed for a period not exceeding three years on such conditions and at such remuneration, allowances, subsidies and other benefits as may be determined by the Minister with the concurrence of the Minister of Finance *State Expenditure*."; and**

**(b) by the substitution for paragraph (a) of subsection (9) of the following paragraph:**

**"(a) The Minister may, after consultation with the Director General, on such conditions and at such remuneration, allowances, subsidies and other benefits as may be determined by him with the concurrence of the Minister of Finance *State Expenditure*, appoint one or more persons with specialized knowledge to advise the mine safety committee, the Director-General or any other officer referred to in this Act, on any matter with which the mine safety committee, the Director-General or such other officer has to deal in terms of this Act.".**

**Amendment of section 27 of Act 50 of 1991**

**10. Section 27 of the principal Act is hereby amended-**

**(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:**

**"If a regional mining engineer *or an officer authorized by the Director-General* believes that any practice or any other thing at a mine or works may cause bodily harm to any person or be injurious to his health or constitute a danger to his safety in any manner, such regional mining engineer *or officer* may-"; and**

**(b) by the substitution for subsection (3) of the following subsection:**

**"(3) Any order given under subsection (1)(b) shall take effect from the time fixed by the regional mining engineer *or officer* concerned and shall remain in force until set aside by**

**the regional director or until the instructions of the regional mining engineer *or officer* have been complied with.".**

**Amendment of section 28 of Act 50 of 1991**

**11. Section 28 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:**

**"(1) (a) If any accident causing the death of or serious bodily harm to any person occurs at a mine or works, an inquiry into the cause of such accident shall be held by a regional mining engineer or other officer designated by the Director-General *or the Government Mining Engineer.***

**(b) If any *prescribed* accident, other than *excluding* that referred to in paragraph (a), any contravention or suspected contravention of or any failure or suspected failure to comply with any provision of this Act or any occurrence in connection with safety or health conditions occurs at any mine or works, an inquiry may be held into any such matter by a regional mining engineer or other officer designated by the Director-General *or the Government Mining Engineer.***

***(c) The regional director may cause any prescribed accident other than those referred to in paragraphs (a) and (b) to be enquired into in the prescribed manner.*".**

**Amendment of section 31 of Act 50 of 1991**

**12. Section 31 of the principal Act is hereby amended--**

**(a) by the substitution in subsection (1) for the expressions preceding subparagraph (i) of paragraph (a) of the following expressions:**

**"(1) *Subject to subsection (4A),* the owner of any mine which is being worked or of any works shall-**

**(b) appoint a manager *one or more managers, whose functions, duties and responsibilities shall not overlap, and*who shall-";**
**(b) by the substitution for paragraph (b) of subsection (1) of the following paragraph:**

**"(b) supply such manager *or managers* with sufficient funds and means in order to enable him *or them* to *properly* fulfil his *or their* responsibilities referred to in paragraph (a)."; and**

**(c) by the insertion after subsection (4) of the following subsection:**

**"*(4A) Unless the owner referred to in subsection (1) appoints a manager, he shall himself be deemed to be responsible for the performance or carrying out of all functions and duties required of a manager by this Act.*".**

**Substitution of section 33 of Act 50 of 1991**

**13. The following section is hereby substituted for section 33 of the principal Act:**

**"Permits for use of certain machinery and installations at mines and works**

**33. (1) No person shall *make* use f any winding plant, elevator, chair lift or boiler *prescribed machinery or offshore installations* at a mine or works unless a prescribed permit for the use thereof has been issued by the regional director concerned *subject to such conditions and requirements as he may deem necessary in the interest of safety and health* after it has *they have* been inspected and tested by a regional mining engineer and found suitable for use: Provided that such regional mining engineer may, after he has inspected, tested and found such winding plant, elevator, chair lift or boiler *machinery or offshore installations* suitable for use, grant temporary permission for its *the* use *thereof subject to such conditions and requirements as he may deem necessary in the interest of safety and health*.**

**(2) The operation of any winding plant, elevator, chair lift or boiler at a mine or works *A permit issued in terms of subsection (1)* may be suspended by a regional mining engineer subject to such conditions and instructions as he may deem necessary in the interest of safety *and health* and the regional director concerned may, on the recommendation of such regional mining engineer, by written notice cancel or amend any *such* permit issued in terms of subsection (1).".**

**Amendment of section 38 of Act 50 of 1991**

**14. Section 38 of the principal Act is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):**

**"*(2) (a) If the regional director is of the opinion that having regard to the known and disclosed mineral reserves of any mine, that mine is likely to cease mining operations within a period of five years, he shall in writing give notice accordingly to the owner of that***

*mine and such owner shall not dispose of any of his assets in relation to that mine without a certificate furnished by the regional director to the effect that the necessary steps have been taken or adequate provision has been made for the rehabilitation of the mining area concerned.*

*(b) Any certificate contemplated in paragraph (a) may be furnished in general terms or in respect of specified assets and may be made subject to such conditions as the regional director may determine.*".

**Substitution of section 39 of Act 50 of 1991**

**15. The following section is hereby substituted for section 39 of the principal Act:**

**"Environmental management programme**

**39. (1) A layout plan and rehabilitation** ***An environmental management*** **programme in respect of the surface of land concerned in any prospecting or mining operations or such intended operations, shall be submitted by the holder of the prospecting permit or mining authorization concerned to the regional director concerned for his approval before any such operations are commenced with** ***and, subject to subsection (4), no such operations shall be commenced with before obtaining any such approval.***

**(2) The regional director may-**

***(a)*** **on application in writing and subject to such conditions as may be determined by him, exempt the holder of any prospecting permit or mining authorization from one or more of the provisions of subsection (1) or** ***grant an extension of time within which to comply with any such provision*****;**

***(b)*** **approve of an amended layout plan or rehabilitation** ***environmental management*** **programme** ***on such conditions as may be determined by him; or***

***(c) without application being made therefor, but after consultation with such holder, amend any approved environmental management programme.***

**(3) Before the regional director-**

***(a)*** **approves any layout plan and rehabilitation** ***environmental management*** **programme referred to in subsection (1) or any amended layout plan or rehabilitation**

***environmental management*** **programme referred to in subsection (2)** ***(2)(b)*****; or**

***(b)*** **grants any exemption** ***or extension of time*** **under subsection (2)** ***(2)(a) or any temporary authorization under subsection (4); or***

***(c) effects an amendment under subsection (2)(c),*** **he shall consult as to that with the officers designated for that purpose by the Minister of Agriculture and the Minister of Environment Affairs, respectively** ***each department charged with the administration of any law which relates to any matter affecting the environment.***

***(4) The regional director may, pending the approval of the environmental management programme referred to in subsection (1), grant temporary authorization that the prospecting or mining operations concerned may be commenced with, subject to such conditions as may be determined by him.***

***(5) (a) The Director-General may, pending the approval of an environmental management programme referred to in subsection (1), require that an environmental impact assessment be carried out in respect of the intended prospecting or mining operations by a professional body designated by the Director-General.***

***(b) Any costs in respect of an environmental impact assessment referred to in paragraph (a) shall be borne by the holder of the prospecting permit or mining authorization referred to in subsection (1).".***

**Amendment of section 42 of Act 50 of 1991**

**16. Section 42 of the principal Act is hereby amended-**

**(a) by the substitution in subsection (1) for the words following subparagraph (iii) of paragraph (i) of the following words:**

**"shall, within a period of one month from the date of such notification, agreement or settlement or granting of compensation, as the case may be, submit his title deed in respect of the land concerned to the Director-General for transmission to the registrar of deeds concerned, who shall make such endorsement thereon and such entries in the appropriate registers as he may deem necessary in order to reflect the effect of paragraph (h)** ***or (j), as the case may be,*** **in respect of such land, and if such owner fails to submit the said title deed within such period, the registrar concerned shall nevertheless make such entries at the written request of the Director-General and make such endorsement if the**

**title deed is at any time lodged with him for any reason."; and**

**(b) by the addition to subsection (1) of the following paragraph:**

***"(j) If the owner of any land being land contemplated in paragraph (a) and any person who is entitled to mine on such land and who mines or intends to mine on such land for any mineral have entered into an agreement with each other for the payment of compensation for damage caused or likely to be caused as a result of mining operations or operations in connection therewith on such land then, notwithstanding that such agreement has been entered into without any representations having been made to the Minister as contemplated in paragraph (a), such agreement shall be deemed for the purposes of paragraph (i) to be an agreement referred to in paragraph (d) (ii). " .***

**Amendment of section 44 of Act 50 of 1991**

**17. Section 44 of the principal Act is hereby amended by the addition of the following subsection:**

***"(8) (a) The provisions of the Mining Rights Act, 1967, in relation to the granting of a mining lease for natural oil in terms of section 25(1)(g) of the said Act and any other matter in connection therewith shall, notwithstanding the repeal of the said Act by section 68(1), remain in force until the last existing prospecting lease granted in terms of section 14 mentioned in subsection (l)(a)(ii) has lapsed in accordance with subsection (l)(b).***

***(b) Any mining right granted or acquired by virtue of paragraph (a) or any share in such right shall, notwithstanding the repeal of the Mining Rights Act, 1967, by section 68(1), remain in force subject to the terms and conditions under which it was granted or acquired or deemed to have been granted or acquired and which are contained in the document or documents concerned.***

***(c) The provisions of section 47(1)(f) and (2) shall apply mutatis mutandis to a mining right referred to in paragraph (b).***

***(d) Notwithstanding anything to the contrary contained in any law, agreement, authorization or approval, no mining right referred to in paragraph (b) shall be ceded, transferred, let, sublet, tributed, subdivided, amended or mortgaged, either wholly or as to a part or parts, without the approval of the Minister granted in terms of this paragraph.***

***(e) For the purposes of this Act the holder of any mining right referred to in paragraph (b) or his successor in title shall, in relation to such mining right, be deemed to be the holder of-***

***(i) the right to the mineral concerned in respect of the land concerned; and (ii) a mining authorization.*".**

**Amendment of section 45 of Act 50 of 1991**

**18. (1) Section 45 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:**

**"(4) The provisions of the Precious Stones Act, 1964, and the Mining Rights Act, 1967, in relation to the collection and payment by the Mining Commissioner of moneys to the owner of land comprising an alluvial digging or proclaimed land referred to in subsection (1), as well as to the owner of such land which was deproclaimed prior to the commencement of this Act, or any other person to whom it may accrue, and the settlement of disputes, shall, notwithstanding the repeal of the said Acts by section 68(1), for the purposes of this section and section *sections 47 and* 48, remain in force for a period of two years.".**

**(2) Subsection (1) shall be deemed to have commenced on 1 January 1992.**

**Amendment of section 47 of Act 50 of 1991**

**19. Section 47 of the principal Act is hereby amended-**

**(a) by the substitution in subsection (1) for subparagraph (iii) of paragraph (a) of the following subparagraph:**

**"(iii) in terms of section 13, 13A, 17, 21, 52, 68, 74, 89 or 126(2) of the said Precious Stones Act, 1964, *excluding any right referred to in subsection (5)(a) and (b) of this section;*";**

**(b) by the substitution in subsection (1) for subparagraph (vi) of paragraph (a) of the following subparagraph:**

**"(vi) in terms of section 59, 68, 75, 83, 88, 93(4) (as far as it relates to a right to dig or to mine granted or acquired under section 75 of the Precious and Base Metals Act, 1908 (Act No. 35 of 1908), of the Transvaal), 144(1)(e), 160, 161 or 188(2) of the said Mining Rights Act, 1967, *excluding any right referred to in subsection (S)(c) of this section,*"**

**(c) by the substitution in subsection (1) for paragraph (b) of the following paragraph:**

**"(b) Any mining right which could be ceded, transferred, let, sublet, tributed, subdivided, *amended* or mortgaged wholly or as to a part or parts immediately prior to the commencement of this**

**Act, may be so dealt with, and such dealing shall be registered in the Mining Titles Office if it could be so registered immediately prior to the commencement of this Act.";**

**(d) by the substitution in subsection (1) for paragraph (h) of the following paragraph:**

**"(h) Any exemption from the payment of transfer duty or stamp duty in respect of any mining right or in respect of a cession thereof *contained in any condition on which such mining right was granted or acquired or deemed to have been granted or acquired,* shall lapse upon the expiration of the period referred to in paragraph (c)."; and (e) by the substitution in subsection (5) for paragraphs (a) up to and including (i) and the words in between, of the following paragraphs and words:**

**"(a)section 20 of the Precious Stones Act, 1964, *or a corresponding provision of a prior law*;**

**(b) section 35 of the Precious Stones Act, 1964, *or a corresponding Provision of a prior law;* or**

**(c) section 48 read with section 56 of the Mining Rights Act,1967, *or a corresponding provision of a prior law,***

**or a corresponding provision of a prior law, and which was in force immediately prior to the commencement of this Act: Provided that such right granted or acquired in terms of a provision referred to in-**

**(i) paragraph (a) in respect of which the State is the holder of the right to the mineral concerned *or an undivided share therein*;".**

**Amendment of section 51 of Act 50 of 1991**

**20. Section 51 of the principal Act is hereby amended-**

**(a) by the substitution for subsection (1) of the following subsection:**

**"(1) In order to *enable a person to* exercise any power or perform any duty conferred or imposed by *or under* this Act or any other law on a such person authorized in writing by *or to perform any function in the application of any provision of this Act,* the Director-General *may authorize* such person may *in writing to enter* without any warrant, at any time, without prior notice, enter upon any land or place, including any *offshore installation,* vehicle, vessel or aircraft, which may be necessary for the proper exercising**

**of such power or the performance of such duty *or function.*";**

**(b) by the substitution for paragraphs (c) and (d) of subsection (2) of the following paragraphs:**

**"(c) examine and deal in any manner as he may deem fit with an' portion of the land, place, *offshore installation*, vehicle. vessel or aircraft so referred to or any mineral, machinery. book, record, document, object, article, plan or drawing kept, displayed or used on such land or at or in such place *offshore installation*, vehicle, vessel or aircraft; and**

**(d) enquire generally into any accident or condition on such lane or at *or in* such place *or offshore installation*."; and**

**(c) by the substitution for subsection (3) of the following subsection:**

**"(3) Any person requested thereto by any authorized person referred to in subsection (1), shall accompany him or *and* provide him with the necessary assistance in order to enable him to exercise his powers or to perform his duties *or functions* conferred or imposed on him by *or under* this Act or any other law.".**

**Amendment of section 60 of Act 50 of 1991**

**21. Section 60 of the principal Act is hereby amended-**

**(a) by the substitution for subparagraph (i) of paragraph (a) of the following subparagraph:**

**"(i) section 5(2), 8(1),31(1), (3) or (4), 37(a), 38 *38(1)*,39(1),40, 41(2), 42(5), 52 or 54;";**

**(b) by the substitution for subparagraph (iii) of paragraph (a) of the following subparagraph:**

**"(iii) section 19(1) or (2), 29(4)(b), 30(b), (c), (d), (e) or (f), *38(2)(a)*, 58 or 59;";**

**(c) by the substitution for subparagraph (i) of paragraph (b) of the following subparagraph:**

**"(i) any direction, *notice*, suspension, order, instruction or condition issued, given or determined under section 22(1), 23(1), 27(1) or (5), 33(2), or 34(2) *or 38(2)(b)*;"; and**

**(d) by the addition of the following subsection, the existing section**

**becoming subsection (1):**

**"*(2) Any person who contravenes or fails to comply with a provision of this Act, a regulation or any condition, notice, order, instruction, prohibition, authorization, permission, consent, exemption, certificate or document determined, given, issued, promulgated or granted by or under this Act by the Director-General, the Government Mining Engineer, a regional director, a regional mining engineer or any other officer in the service of the Department duly authorized thereto ex officio or by the Director-General shall, if any such contravention or failure is not declared an offence elsewhere, be guilty of an offence.*".**

**Amendment of section 61 of Act 50 of 1991**

**22. Section 61 of the principal Act is hereby amended by the substitution in subsection (1) for paragraphs (a) up to and including (j) of the following paragraphs:**

**"(a) in the case of an offence referred to in section 60(a)(i) or 60(b)(i) or (ii) *60(1)(a)(i) or (b)(i) or (ii)*, to a fine not exceeding R5 000 or to imprisonment for a period not exceeding one year or to both such *a* fine and such imprisonment, and to a further fine not exceeding R1 000 or to further imprisonment not exceeding five days *per day* for every day upon which he so contravened the provision concerned or failed to comply therewith: Provided that the period of such further imprisonment shall not exceed six months;**

**(b) in the case of an offence referred to in section 60(a)(ii) *60(1) (a) (ii)*, to a fine not exceeding R10 000 or to imprisonment for a period not exceeding two years or to both such *a* fine and such imprisonment, and to a further fine not exceeding R2 000 or to further imprisonment not exceeding 10 days *per day* for every day upon which he so contravened the provision concerned or failed to comply therewith: Provided that the period of such further imprisonment shall not exceed one year;**

**(c) in the case of an offence referred to in section 60(a)(iii) *60(1)(a)(iii))*, to a fine not exceeding R10 000 or to imprisonment for a period not exceeding two years or to both such *a* fine and such imprisonment;**

**(d) in the case of an offence referred to in section 60(a)(iv) *60(1)(a)(iv)*), to a fine not exceeding R5 000 or to imprisonment for a period not exceeding one year or to both such *a* fine and such imprisonment;**

**(e) in the case of an offence referred to in section 160(a)(v)** *60(1)(a) (v)* or 63(5), to a fine **not exceeding R2 500** or to imprisonment for a period not exceeding six months or to both **such** *a* fine and such imprisonment, and to a further fine not exceeding R200 or to further imprisonment not exceeding one day *per day* for every day upon which he so contravened the provision concerned or failed to comply therewith: Provided that the period of such further imprisonment shall not exceed 90 days;

(f) in the case of an offence referred to in section **60(a)(vi)** *60(1)(a)(vi)*, to a fine **not exceeding R15 000** or to imprisonment for a period not exceeding three years or to both **such** *a* fine and such imprisonment;

(g) in the case of an offence referred to in section **60(a)(vii)** *60(1)(a)(vii)*, to the penalty that may be imposed in law for perjury;

(h) in the case of an offence referred to in section **60(a)(viii)** *60(1)(a)(viii)*, to the penalty applicable to a similar offence in a magistrate's court;

(i) in the case of an offence referred to in section **60(h)(iii)** *60(1)(b)(iii)*, to a fine **not exceeding R50 000** or to imprisonment for a period not exceeding 10 years or to both **such** *a* fine and such imprisonment; or

(j) in the case of any conviction of an offence in terms of any provision of this Act for which no penalty is expressly determined, to a fine **not exceeding R2 500** or to imprisonment for a period not exceeding six months or to both **such** *a* fine and such imprisonment.".

Amendment of section 62 of Act 50 of 1991

23. Section 62 of the principal Act is hereby amended by the addition of the following subsection:

"*(5) Subject to subsection (1), a Minister who may or shall exercise any power conferred upon him by this Act, may delegate such power to an officer in the service of the department for which that Minister is responsible.*".

Amendment of section 63 of Act 50 of 1991

24. Section 63 of the principal Act is hereby amended-

(a) by the substitution for paragraphs (a) and (b) of subsection (1) of

the following paragraphs:

"(a) the safety *and* health **and welfare** of persons concerned in mines and works and safety standards, codes of practice and the provision of *protective clothing*, equipment and facilities in connection with safety *and* health **and welfare**;

(b) discipline and orderly operations at mines and works, *disciplinary measures which may be taken by a manager* and the functions of peace officers

*(bA) the conditions on which equipment, structures, surface of land and water sources may be undermined, the prohibition on or restriction of the erection of equipment and structures and the use of the surface of land and water sources in the vicinity of the working places of a mine;*";

(b) by the substitution for paragraph (d) of subsection (1) of the following paragraph:

"*(d)(i) the conservation of the environment at or in the vicinity of any mine or works;*

*(ii) the management of the impact of any mining operations on the environment at or in the vicinity of any mine or works;*

*(iii) the rehabilitation of disturbances of the surface of land where such disturbances are connected to prospecting or mining operations;*

*(iv) the prevention, control and combating of pollution of the air, land, sea or other water, including ground water, where such pollution is connected to prospecting or mining operations;*

*(v) pecuniary provision by the holder of a prospecting permit or mining authorization for the carrying out of an environmental management programme;*

*(vi) the establishment of accounts in connection with the carrying out of an environmental management programme and the control of such accounts by the Department;*

*(vii) the assumption by the State of responsibility or coresponsibility for obligations originating from regulations made under subparagraphs (i), (ii), (iii) and (iv) of this paragraph; and*

*(viii) the monitoring and auditing of environmental management programmes;*";

(c) by the substitution for paragraph (f) of subsection (1) of the following paragraph:

"(f) qualifications for employment in **specified** occupations *determined by the Minister*, conditions for acceptance as a candidate for examinations, the issuing of certificates of competency in respect of **specified** *such* occupations, and the powers, duties. functions and responsibilities of persons employed at mines and works *and of the owners thereof;*"

(d) by the substitution for paragraph (1) of subsection (1) of the following paragraph:

"(l) the *manner of* reporting of *prescribed* accidents at mines and works, *the keeping of records in relation to such accidents* and the provision of ambulances and medical aid in the event of such accidents;";

(e) by the substitution for paragraphs (p) and (q) of subsection (1) of the following paragraphs:

"(p) the form, conditions, issuing, renewal, abandonment, *suspension* or cancellation of any *environmental management programmee*, permit, licence, certificate, permission, receipt, authorization or *other* document which may or shall be issued, granted, *approved, required* or renewed in terms of this Act;

(q) the form of any register, record, notice, **or** sketch plan *or information* which may or shall be kept, given, published or submitted in terms of or for the purposes of this Act,"

(f) by the substitution for paragraphs (u) and (v) of subsection (1) of the following paragraphs:

"(u) the establishment of one or more accounts with a view to the funding of research and surveys regarding, and for the promotion of, **industrial** safety *and health* at mines *and works and the control of such accounts by the Department*;

(v) the payment of levies based on a safety risk, by mines and works for research and surveys regarding, and for the promotion of, **industrial** safety *and health* at mines and works;

*(vA)(i)the establishment, constitution, powers, duties and functions of one or more committees to advise the Minister, the Director-General or any other officer referred to in this Act, and the matters about which they shall so advise the Minister, Director-General or the said officer;*

*(ii) the remuneration and allowances which may be paid to members of such a committee who are not in the full-time service of the State;*

*(iii) the qualifications for appointment as, the terms of office of, and the vacation of their offices by, members or temporary members of such a committee, and the filling of casual vacancies in such a committee;*

*(iv) the appointment of a chairman or an acting chairman of such a committee;*

*(v) the convening of, the procedure at and the quorum for meetings of such a committee, and the manner in which decisions shall be taken by such a committee;*

*(vi) the designation of persons in the service of the Department to perform the work connected to the performance of the functions of such a committee;*";

(g) by the substitution for subsection (2) of the following subsection:

"(2) No regulation relating to State revenue or expenditure or to any health matter shall be made by the Minister except with the concurrence of the Minister of Finance *or the Minister of State Expenditure* or after consultation with the Minister **of** *for* National Health and **Population Development** *Welfare*, respectively."; and

(h) by the deletion of subsection (4).

Substitution of expression in Act 50 of 1991

25. The principal Act is hereby amended by the substitution for the expression "rehabilitation programme" wherever it occurs in the principal Act of the expression "environmental management programme.".

Repeal of Act 12 of 1991

26. The Mining Rights Amendment Act, 1991 (Act No. 12 of 1991), is hereby repealed.

Repeal of Act 13 of 1991

27. The Mines and Works Amendment Act, 1991 (Act No. 13 of 1991), is hereby repealed.

Short title and commencement

28. This Act shall be called the Minerals Amendment Act, 1993, and shall subject to section 18(2), come into operation on a date fixed by the State President by proclamation in the Gazette.