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LEGISLATION

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MINES AND QUARRIES ORDINANCE 2012

An Ordinance to regulate prospecting, mining and quarrying.

G. E. STACEY
ADMINISTRATOR

25th September 2012.

BE it enacted by the Administrator of the Sovereign Base Areas of Akrotiri and Dhekelia as follows:—

Part 1

Preliminary

1. Short title and commencement

This Ordinance may be cited as the Mines and Quarries Ordinance 2012 and comes into force on 1 November 2012.

2. Interpretation

In this Ordinance—

“Acquiring Authority” has the meaning given in section 2 of the Land Acquisition Ordinance(a);

“the Crown” means Her Majesty in right of Her Government in the United Kingdom and in right of Her Administration in the Areas;

“Crown land” includes any land either vested in the Crown or owned, held or enjoyed by the Crown as Crown property;

“land” includes—

- (a) a building or other structure or erection on the land;
- (b) trees, other plants or standing crops;
- (c) water or water rights over or under the land; or
- (d) an interest, right, privilege, liberty or easement in, to or over the land;

“lessee” means the lessee of a mining lease;

“licence holder” means the holder of a quarry licence;

“mine” and “mining” have the meaning given in section 3(1);

“mineral oils” are hydrocarbons and include petroleum, pitch, asphalt and natural gas;

“minerals” includes all materials of economic value forming part of, or derived naturally from, the crust of the earth, but not minerals in suspension, peat, trees, timber and similar kinds of forest produce, mineral oils or any quarry materials;

“mines officer” means a person appointed under section 41;

“owner”, as applied to land, means the person entitled to be registered as the owner whether the person is so registered or not;

“pollute” and “pollution” include any contamination with a chemical or other substance in such a quantity as to be injurious to a human, an animal or to vegetation;

“private land” means any land which is owned, held and enjoyed as private property and includes land which is held or enjoyed as the communal property of a local community or municipality;

“permit holder” means the holder of a prospecting permit;

“prescribed” means prescribed in regulations made under this Ordinance or the Mines and Quarries (Regulation) Ordinance**(b)**;

“prospect” and “prospecting” include all operations connected with the search for minerals or quarry materials and as are reasonably necessary to enable the prospector to ascertain the mining or quarrying potential of the land;

“quarry” and “quarrying” have the meaning given in section 3(2);

“quarry materials” means sand, stone, slate, granite or other rocks, chalk, clay, flint, gravel, gypsum, limestone, marble, marl or quartz; and

“Tribunal” means the Compensation Assessment Tribunal established under the Compensation Assessment Tribunal Ordinance**(c)**.

3. Definitions of mine and quarry

(1) In this Ordinance—

- (a) “mine ” means an excavation or system of excavations made for the purpose of, or in connection with, the obtaining, wholly or substantially by means involving the employment of persons below ground, of minerals or products of minerals; and
- (b) includes so much of the surface (including buildings, structures and works) surrounding or adjacent to the shafts or outlets of the mine as is occupied together with the mine for the purpose of, or in connection with, the working of the mine, the treatment, preparation for sale, consumption or use, storage or removal from the mine of the minerals or products obtained from the mine or the removal of refuse from the mine; and
- (c) “mining” means any operation for obtaining or extracting minerals by any mode or method, or any purpose directly or indirectly connected with or incidental to mining.

(2) In this Ordinance—

- (a) “quarry”—
 - (i) means an excavation or system of excavations made for the purpose of, or in connection with, obtaining quarry materials (whether in their natural state or in solution or suspension) or products of quarry materials, being neither a mine nor merely a well or bore-hole; and
 - (ii) includes so much of the surface (including buildings, structures and works) surrounding or adjacent to the quarry as is occupied together with the quarry for the purpose of, or in connection with, the working of the quarry, the treatment, preparation for sale, consumption or use, storage or removal from the quarry of the quarry materials or other products obtained from the quarry or the removal of refuse from the quarry; and
- (b) “quarrying” means an operation for obtaining or extracting quarry materials by any method.

- (3) Premises in which a manufacturing process is carried on otherwise than for the purpose of the working of the mine or quarry or the preparation for sale of minerals or materials obtained from the quarry or mine do not form part of a mine or quarry.
- (4) For the purposes of this Ordinance the following form part of a mine or quarry if the Chief Officer makes a direction to this effect—
 - (a) premises used for depositing refuse from a single mine or quarry, being premises exclusively occupied by the owner of that mine or quarry; or
 - (b) premises used for depositing refuse from 2 or more mines or quarries, being premises occupied by the owner of 1 of those mines or quarries (either exclusively or jointly with the owner of the other or any of the others).
- (5) For the purposes of this Ordinance, a railway, conveyor or aerial ropeway provided for the removal from a mine or quarry of minerals, quarry materials or refuse obtained from the mine or quarry form part of the mine or quarry.
- (6) The functions of the Chief Officer under this section are general delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007(d).

Part 2

General Provisions

4. Ownership of minerals and quarry materials

- (1) The ownership in, and control of, all mineral oils, minerals and quarry materials in the Areas, including those that exist in the subsoil of the territorial waters, vest in the Crown.
- (2) The Administrator may not invite applications for prospecting permits, mining leases or quarry licences in respect of minerals or quarry materials in the subsoil of the territorial waters unless the Administrator invites applications to be made by way of a notice published in the Gazette.
- (3) The notice referred to in subsection (2) must specify the following—
 - (a) the type of application which may be submitted (prospecting permit, mining lease or quarry licence);
 - (b) the time period for submitting applications starting from the date of publication of the notice;
 - (c) the geographical area of the territorial waters;
 - (d) the type of mineral or quarry material for which applications may be submitted;
 - (e) the criteria for applicant evaluation;
 - (f) any additional information considered necessary in order to assess the suitability of the applicant;
 - (g) any additional applicable terms and conditions; and
 - (h) any other particulars or requirements emanating from this Ordinance.
- (4) Subject to subsection (5), a person may only apply to the Administrator for a prospecting permit, mining lease or quarry licence in the territorial waters which is the subject of a notice referred to in subsection (2).
- (5) For the purposes of this section, an applicant must obtain environmental approval from the Chief Officer in accordance with section 4 of the Environmental Impact Assessment Ordinance 2010(e) before a prospecting permit, mining lease or quarry licence may be issued.

5. Prohibition of prospecting, mining or quarrying

Except as provided for in this Ordinance, a person must not carry out any prospecting, mining or quarrying on any land in the Areas.

6. Ordinance does not apply to mineral oil

Nothing in this Ordinance or in any mining lease confers any right to prospect for, or to mine, mineral oils.

7. Non-resident holder of prospecting permit, etc.

- (1) If a permit holder, lessee or licence holder (“A”) is a person not resident in the Areas or the Republic or a company not having its head office in the Areas or the Republic, A must appoint a person with a power of attorney (“an attorney”) and must at all times have an attorney resident in the Areas or the Republic with full powers to represent A in all matters relating to the permit, lease or licence except its surrender.
- (2) As soon as is reasonably possible after making the appointment in subsection (1) or any change to the appointment, A must send to the Chief Officer a copy of the power of attorney or a document by which such power of attorney is altered.
- (3) if A fails either to appoint an attorney or to confer adequate powers upon the attorney as provided in subsection (1), the Administrator may, by a notice published in the Gazette, prohibit the continuance of prospecting, quarrying or mining in the area of land comprised within the permit, lease or licence.
- (4) if no copy of a valid power of attorney conferring adequate powers on the attorney is received by the Chief Officer within 3 months of the publication of the notice mentioned in subsection (3), the Administrator may, by a further notice published in the Gazette, revoke the permit, licence or lease.
- (5) The functions of the Chief Officer under this section are general delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007.

8. Plans of prospecting, mining and quarrying operations

- (1) Every permit holder, lessee or licence holder must at all times keep correct plans of all prospecting, mining or quarrying done, and correct records of all mineral values found, and ore reserves calculated, in the area of land comprised in the prospecting permit, mining lease or quarry licence, and must supply to the Chief Officer on request, copies of the plans and records.
- (2) The functions of the Chief Officer under this section are general delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007.

9. Capital, etc.

- (1) The Chief Officer may require an applicant for a prospecting permit, mining lease or quarry licence to provide any of the following—
 - (a) any relevant technical, financial or environmental analysis;
 - (b) information which satisfies the Chief Officer that the applicant commands sufficient working capital to ensure the proper prospecting, development or working, as the case may be, of the area of land applied for;
 - (c) a banker’s guarantee for such amount as may be determined.
- (2) The Chief Officer may require an applicant, a permit holder, lessee or licence holder or an engineer to submit to the Chief Officer reports on the land comprised in the prospecting permit, mining lease or quarry licence concerning the progress made and any issues which have arisen.
- (3) If a person referred to in subsection (2) does not comply with the requirement imposed, the person commits an offence and, on conviction, is liable to a fine not exceeding €42 for every day during which the default continues.
- (4) The functions of the Chief Officer under this section are general delegated functions under the Delegation of Functions to the Republic Ordinance 2007.

10. Land excluded from prospecting, mining or quarrying

- (1) A prospecting permit, mining lease or quarry licence issued under this Ordinance must not authorise prospecting, mining or quarrying on or in, or the erection of beacons on, or the occupation of, any of the following land—
 - (a) land set apart or used for, appropriated or dedicated to, any public purpose, except with the consent of the Administrator and subject to such conditions as the Administrator may impose;
 - (b) subject to subsection (2), private land except with the written consent of the owner;

- (c) land used as a market, burial ground or cemetery except with the prior written consent of the Administrator and subject to such conditions as the Administrator may impose;
 - (d) land which is the site of, or is within 50 yards of, any Administration or public building, reservoir, dam or public road without the prior written consent of the Administrator and subject to such conditions as the Administrator may impose; or
 - (e) subject to subsection (3), land which is the site of, or is within 50 yards of, any building without the written consent of the occupier of the building.
- (2) If the consent required under subsection (1)(b) is unreasonably withheld, or it is impossible or impracticable to obtain, the provisions of section 14(3)(b) or section 26(3) to (5), as the case may be, apply.
 - (3) If the Administrator is satisfied that the consent required under subsection (1)(e) is unreasonably withheld, the Administrator may authorise the permit holder, lessee or licence holder to prospect, mine or quarry on or in any land subject to such conditions as the Administrator may impose.
 - (4) A person prospecting, mining or quarrying on or under land specified in subsection (1) without the requisite consent referred to in subsection (1) or, without authorisation under subsection (2) or (3), commits an offence.

11. Royalties

- (1) Subject to subsection (2), a permit holder, lessee or licence holder must pay royalties to the Chief Officer as may be prescribed on all minerals or quarry materials obtained in the course of prospecting, mining, quarrying or other extraction process.
- (2) Royalties are not payable on a mineral or quarry material sample certified by the Chief Officer as being exported solely for the purpose of analysis or experiments or as a scientific specimen and not being a greater quantity than, in the Chief Officer's opinion, is necessary for such purpose.
- (3) The functions of the Chief Officer under this section are general delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007.

Part 3

Prospecting

12. Lawful prospecting

- (1) Subject to subsection (2), prospecting is lawful if a prospecting permit is issued by the Administrator under the provisions in this Part.
- (2) The Administrator may, by notice made as a public instrument, prohibit prospecting for any specified mineral or quarry material.
- (3) If prospecting is prohibited under subsection (2), a prospecting permit, whether issued before or after the notice, must not authorise the permit holder to prospect for the specified mineral or quarry material, unless the contrary is expressly provided for in the prospecting permit.

13. Issue of prospecting permit

- (1) The Administrator may issue a prospecting permit to a person applying in the prescribed manner and on payment of the prescribed fee.
- (2) A prospecting permit must be in the prescribed form and may be subject to such terms and conditions as the Administrator may determine.
- (3) A prospecting permit is not transferable and any right or interest conferred by the permit is not assignable except with the prior consent of the Administrator.
- (4) Unless previously cancelled, a prospecting permit remains in force for 1 year from the date that it is issued, but it may be renewed by the Administrator in the prescribed manner.
- (5) Any person prospecting without a prospecting permit or a permit holder who contravenes a term or condition of the prospecting permit commits an offence.
- (6) The functions of the Administrator under this section are qualified delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007.

14. Rights of permit holder

- (1) The permit holder has the right to enter upon and prospect on land comprised in the permit which is Crown land or, subject to subsections (3) and (4), which is private land.
- (2) For the purpose of prospecting, the permit holder—
 - (a) may drill, dig trenches, sink shafts and generally make the necessary excavations; but
 - (b) must not take steps which have as their object or result the extraction or obtaining of minerals or quarry materials.
- (3) The permit holder has no right to prospect on private land unless the permit holder—
 - (a) obtains the previous written consent of its owner; or
 - (b) obtains the permission of the Administrator if the owner of the land unreasonably refuses to consent or it is impossible or impracticable to obtain the owner's consent.
- (4) The permit holder must, if so required by the owner of the land, give security by depositing with the Chief Officer such sum as the Chief Officer may direct for the payment of compensation for the disturbance of surface rights and for any damage to the land or to anything built, planted, grown or standing on the land.
- (5) The Administrator must not grant permission under subsection (3)(b) unless the permit holder—
 - (a) submits full particulars of the land, its owner or occupier, and of the nature of the minerals or quarry material the permit holder proposes to prospect; and
 - (b) provides an undertaking that the permit holder is liable to pay compensation to the owner or occupier of the land for any damage or loss which may be caused to the owner or occupier by the prospecting, accompanied by a banker's guarantee.
- (6) The Administrator may impose such terms and conditions in any permission granted under subsection (3)(b) as the Administrator thinks fit.
- (7) The functions of the Chief Officer under this section are general delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007.

15. Duties of permit holder

- (1) The permit holder must—
 - (a) carry on all prospecting on the land referred to in the permit in a safe and workmanlike manner in accordance with any regulations;
 - (b) keep registers and books and make returns as may be prescribed;
 - (c) permit at all reasonable times the Chief Officer or any other person authorised by the Chief Officer to inspect any prospecting or to inspect and take copies of any register or book of accounts in the possession or under the control of the permit holder and kept in connection with the prospecting;
 - (d) not divert water from a public river, stream, spring, well or water course without the prior consent in writing of the Chief Officer or, if water is privately owned, without the prior consent in writing of the owner;
 - (e) if not personally residing on the land comprised in the permit or sufficiently near as to give continuous supervision to the prospecting, at all times have a responsible agent supervising the prospecting.
- (2) A person who contravenes subsection (1) commits an offence.
- (3) The functions of the Chief Officer under this section are general delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007 except for the functions in subsection (1)(d) which are qualified delegated functions.

16. Ownership and disposal of minerals or quarry materials

- (1) Minerals or quarry materials obtained in the course of prospecting under a prospecting permit are the property of the Crown.

- (2) Subject to subsections (3), (4) and (5), the permit holder or another person must not remove from the land or dispose of any minerals or quarry materials except with the prior consent in writing of the Chief Officer.
- (3) Subsection (2) does not prohibit the permit holder from removing samples of minerals or quarry materials in sufficient quantities to enable them to be tested or analysed or experiments to be made for the purpose of ascertaining their contents and commercial value.
- (4) The Chief Officer may authorise the removal of minerals or quarry materials from the land from which they have been raised or obtained to any place approved by the Chief Officer for safe custody, subject to such conditions as the Chief Officer may impose.
- (5) If the permit holder wants to retain or dispose of minerals or quarry materials obtained in the course of prospecting, the permit holder must apply to the Chief Officer and, if the Chief Officer is satisfied that the permit holder has been conducting operations only as are reasonably necessary to enable the permit holder to test the mining or quarrying potential of the land, the Chief Officer may authorise the applicant to retain and dispose of the minerals or quarry materials in respect of which application is made on payment of the prescribed royalty.
- (6) A person who contravenes subsection (2) commits an offence.
- (7) The functions of the Chief Officer under this section are qualified delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007.

17. Payment of compensation by permit holder

- (1) A permit holder must, on demand being made by the owner or occupier of private land, pay to the owner or occupier fair and reasonable compensation for any disturbance of the surface rights or any damage to the land or anything built, planted, grown or standing on the land as a result of the prospecting.
- (2) If the permit holder fails to pay compensation when demanded or if the owner or occupier is dissatisfied with the compensation offered, the owner or occupier may apply to the Chief Officer who must assess and determine the amount of compensation payable and must notify the parties of the amount so awarded.
- (3) If either of the parties is dissatisfied with the award of the Chief Officer, the party may, within 15 days of being notified, appeal to the Administrator whose decision is final.
- (4) The amount awarded by the Chief Officer or, on appeal, by the Administrator must be paid by the permit holder to the Chief Officer for the account of the entitled person within 15 days of the date on which the amount of the award is notified to the permit holder.
- (5) If the amount is not paid within the time specified in subsection (4), it may be paid out of any moneys deposited by the permit holder under section 14(4).
- (6) If no moneys or insufficient moneys have been deposited under section 14(4), the owner or occupier may make a claim to the Court and the Administrator may suspend the prospecting permit until the amount awarded has been paid.
- (7) In any proceedings in court under subsection (6), a certificate under the hand of the Administrator specifying the amount of compensation awarded, without further proof, is conclusive evidence of the amount of compensation payable.
- (8) The functions of the Chief Officer under this section are general delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007.

18. Cancellation of prospecting permit

- (1) The Administrator may cancel a prospecting permit if, in the Administrator's opinion, the permit holder fails to comply with or observe any of the provisions of this Ordinance or any term or condition of the permit.
- (2) The functions of the Administrator under this section are qualified delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007.

19. No second prospecting permit for the same area

- (1) Subject to subsection (2), a prospecting permit must not be issued to a person in respect of an area of land for which a prospecting permit already subsists.

- (2) If the Administrator is satisfied that the rights and interests of the subsisting permit holder will not be prejudicially affected, the Administrator may issue a prospecting permit—
 - (a) for the same area of land to a person other than the permit holder; but
 - (b) for a mineral or quarry material other than that for which the subsisting permit was issued.
- (3) The functions of the Administrator under this section are qualified delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007.

20. Priority

- (1) If applications are received by the Administrator for the same area of land or for overlapping areas from 2 or more persons on the same day, the application which is first received and which complies with the provisions of this Ordinance must have priority over the others.
- (2) The decision of the Administrator on any question of priority is final.

21. Power to close areas to prospecting

- (1) The Administrator may, by notice made as a public instrument, declare any area of land to be closed to prospecting either generally or for any specified mineral or quarry material for such period as may be specified in such notice or indefinitely.
- (2) A person who prospects within an area of land which is closed to prospecting is guilty of an offence.
- (3) The Administrator may grant authority on such terms as the Administrator thinks fit to a person to prospect on land which has been declared to be closed to prospecting.
- (4) Except for the making of notices, the functions of the Administrator under this section are qualified delegated functions under the Delegation of Functions to the Republic Ordinance 2007.

Part 4

Mining

22. Lawful mining

- (1) Subject to subsection (2), mining is lawful under a mining lease issued by the Administrator under the provisions of this Part.
- (2) The Administrator may, pending the issue of a mining lease, grant permission to the applicant for a lease to carry out mining operations in the area of land applied for on such terms and conditions and subject to such restrictions as the Administrator thinks fit.
- (3) The Administrator may cancel the permission granted under subsection (2) at any time.
- (4) Any person mining without a mining lease or, pending its issue, without permission from the Administrator, commits an offence and on conviction is liable to a term of imprisonment not exceeding 2 years or to a fine not exceeding €40,000 (or to both).
- (5) The functions of the Administrator under this section are qualified delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007.

23. Issue of mining lease

- (1) The Administrator may, subject to the provisions of this Part, issue a mining lease to a person who applies in the prescribed manner if satisfied that the mineral-bearing qualities and quantities of the land in the area applied for are such as to justify the issue of a mining lease and that the applicant possesses or commands sufficient working capital and technical knowledge or assistance to ensure the proper development and exploitation of the area comprised in the application.
- (2) If there is more than 1 applicant for a mining lease and if prospecting has been carried out, the person who has carried out adequate prospecting operations in the area of land under a prospecting permit, is to be preferred.

- (3) If the preferred person (B) is unable to obtain a mining lease on the grounds that B does not command sufficient working capital, technical knowledge or assistance to ensure the proper development and exploitation of the area of land, the person who obtains a mining lease in respect of the area must compensate B in such an amount as is determined by the Administrator.
- (4) A mining lease must—
 - (a) be in the prescribed form;
 - (b) specify the geographical area of land and the minerals in respect of which it is granted; and
 - (c) be subject to the payment of such rents, fees, royalties and other payments and to such covenants and conditions as the Administrator may provide.
- (5) The Administrator, when issuing a mining lease, may require—
 - (a) the reasonable restoration of any area of land used for mining operations by the replacement of the surface soil;
 - (b) the filling in of worked areas; or
 - (c) the removal of any tailing, other dumps or heaps caused by mining operations or such other methods as may reasonably be required.
- (6) Notwithstanding anything in this Ordinance or in a mining lease, the Administrator may direct the lessee to take such action as may reasonably be necessary to make the area of land safe to the satisfaction of the Chief Officer.
- (7) A lessee who fails to comply with or contravenes a covenant, term or condition of the mining lease or a direction made under subsection (6) commits an offence.
- (8) The functions of the Administrator in this section except those in subsection (6) are qualified delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007, and those of the Chief Officer are qualified delegated functions for the purposes of that Ordinance.

24. Duration, renewal and surrender of mining lease

- (1) A mining lease may be issued for such term, not being more than 50 years, as the Administrator may determine.
- (2) Subject to subsection (4), if, on the expiry of the term originally granted, all the conditions in subsection (3) are satisfied, on payment of the prescribed fee, the lessee is entitled to obtain a renewal of the lease—
 - (a) for such term as may be approved, not exceeding 50 years;
 - (b) on the conditions which are applicable to new leases; and
 - (c) subject to all covenants and conditions which may be imposed under the provisions of this Ordinance.
- (3) The conditions are that—
 - (a) the lessee is carrying on work in a normal and businesslike manner;
 - (b) the mining lease is not at that time liable to be forfeited under any of the provisions of this Ordinance; and
 - (c) the lessee has given 6 months' notice in writing to the Administrator before the lease expires that the lessee wishes to renew the lease.
- (4) The Administrator may direct a lessee who has applied for the renewal of a mining lease under subsection (2) to surrender any part of the land covered by the lease which has been worked out or is no longer reasonably required for mining.
- (5) If a direction is given under subsection (4), the lease must not be renewed until the surrender has been effected and if the surrender is not made within a reasonable time of the service of the direction the lessee loses the right to renew.
- (6) On the renewal of a mining lease, if the Administrator considers it desirable to correct any defects existing in the plan of the geographical area of the lease, the Administrator may give a direction that a corrected plan must be made and, when endorsed on or attached

to the lease, is deemed to be the plan of the area of land.

- (7) Subject to subsections (8) and (9), a lessee who has given 6 months' notice in writing to the Administrator may surrender the mining lease in whole or, with the consent of the Administrator, in part on—
 - (a) giving the original lease to the Administrator;
 - (b) payment of all sums due and of all fees and charges prescribed for the surrender of a lease; and
 - (c) carrying out all obligations in respect of the lease.
- (8) The applicant must obtain the consent of any person who may have an interest in the mining lease before making an application to surrender it in whole or in part.
- (9) A surrender of a mining lease must be in the prescribed form.
- (10) For the purposes of this section a person who has an interest in a mining lease includes a shareholder of a company which has been granted a mining lease.
- (11) The functions of the Administrator under this section are qualified delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007.

25. Implied and express conditions in mining lease

- (1) In the absence of an express condition to the contrary, there must be implied in every mining lease, the covenants and conditions in subsection (2) on the part of the lessee.
- (2) The lessee must—
 - (a) pay the rent and any royalty that may become due to the Administrator at such time and place and in such manner as may, from time to time, be prescribed and to such persons as may, from time to time, be authorised to receive the rent or royalty;
 - (b) maintain all beacons in good condition and repair and keep a clear line of sight between any 2 beacons marking a boundary line;
 - (c) subject to the provisions of this Ordinance, commence mining operations in the area of the mining lease within a period of 6 months from the date of the lease, and subsequently, during the continuance of the lease, unless prevented by circumstances beyond the lessee's control or authorised in writing by the Administrator, continuously and effectively, carry on mining operations in the area of land comprised in the lease;
 - (d) fulfil the working obligations prescribed by regulations;
 - (e) carry on all mining in a safe and workmanlike manner and not cause danger or damage to any occupiers of the land comprised in the lease and observe and perform all regulations and orders made, and directions given, in accordance with the provisions of this Ordinance;
 - (f) not use any portion of the land comprised in the mining lease for any purpose other than mining or purposes ancillary to mining;
 - (g) allow a person duly authorised by the Administrator, at all reasonable times, to have free access to the land comprised in the lease and to all the workings in the area;
 - (h) keep, or cause to be kept, plans and accurate and sufficient books of accounts of the mining carried on within the area of land comprised in the lease, and of the disposal of the minerals obtained, and, if so required, produce or cause to be produced the plans or books for the inspection of the Chief Officer or of any person duly authorised by the Chief Officer; and
 - (i) take all due and proper precautions and comply with all requirements of the mines officer as to the safety of all persons employed by the lessee in mining operations.
- (3) When issuing a mining lease, additional express conditions may be imposed on the lessee taking account of—
 - (a) the prevailing social, financial, technical or other conditions;
 - (b) satisfaction of the demand for minerals to be extracted under the lease or their products in the market;
 - (c) optimal exploitation of minerals or their products;

- (d) protection of the environment;
 - (e) safety of employees and the public; and
 - (f) the fulfilment of any obligations of the lessee to the Administration under this or any other Ordinance.
- (4) The functions of the Administrator under this section are qualified delegated functions and the functions of the Chief Officer are general delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007.

26. Rights under mining lease

- (1) Subject to subsection (2), a mining lease confers on the lessee the right to carry out mining operations of any description below the surface of the ground within the land for which the lease has been issued, but does not confer the right to carry out mining on the surface of the ground except on Crown land included within the land comprised in the lease.
- (2) The lessee may carry out surface mining operations on private land within the area for which the mining lease has been issued if the lessee obtains the consent of the owner of the private land on which surface mining operations are to be carried out.
- (3) If the consent of the owner of the private land cannot be obtained, land may be acquired if—
 - (a) the land is needed for an undertaking of public interest as determined by the Land Acquisition Ordinance; and
 - (b) the conditions in subsection (4) are complied with.
- (4) The lessee must submit to the Acquiring Authority—
 - (a) particulars of the land and its owner;
 - (b) an undertaking that the lessee is liable to pay any compensation required; and
 - (c) a relevant banker's guarantee.
- (5) The amount of compensation payable under subsection (4) must be double the purchase price of the land, as evaluated by the Tribunal, but, on payment of the amount, the lessee is discharged from paying rent for the land under this Ordinance.
- (6) Subsections (2) to (5) also apply to land which is reasonably required by the lessee for—
 - (a) access to the area of land for which the mining lease has been issued;
 - (b) processing and supplying the mineral and its products; or
 - (c) disposal of waste derived from mining operations.

27. Transfer or assignment of mining lease

- (1) The lessee must not transfer or assign the mining lease or any of the rights or privileges conferred by the lease without the prior consent in writing of the Administrator endorsed on the mining lease.
- (2) The functions of the Administrator under this section are qualified delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007.

28. Diversion or pollution of waters prohibited

- (1) A mining lease must not be construed as authorising the lessee—
 - (a) to divert the waters of any public river, stream, spring, well or water course, without the prior consent in writing of the Chief Officer;
 - (b) to divert any water privately owned, without the prior consent in writing of the owner; or
 - (c) to pollute or permit to become polluted any water or in any way to make such water unfit for the purpose for which it is being used.
- (2) A lessee who contravenes a provision of subsection (1) may, without prejudice to any other remedy, be required by the Administrator to take such action as may be directed to prevent a continuance or recurrence of such contravention and within such time as may be specified.

- (3) If a lessee fails to comply with a direction made under subsection (2), the Administrator may suspend the lease until the lessee complies with the order.
- (4) The functions of the Chief Officer and the Administrator under this section are qualified delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007.

29. Purification of water

Every person who uses water in connection with mining operations, whether for the generation of power or for the removal of mineral substances or for concentrating, milling or otherwise must make such provisions as will ensure that all water so used does not contain injurious substances in quantities likely to prove detrimental to human, animal or vegetable life when the person leaves the mining area in which the water was used.

30. Power to enter land and inspect, etc.

- (1) The Chief Officer or any other person authorised by the Chief Officer may—
 - (a) enter land on which mining is being carried out or which is the subject of a mining lease and inspect the mining or works connected with the mining;
 - (b) inspect and take copies of registers, books, documents or plans connected with the mining; or
 - (c) take samples, make surveys or perform any operation considered necessary for the purpose of making a report to the Administrator.
- (2) The functions of the Chief Officer under this section are general delegated functions under the Delegation of Functions to the Republic Ordinance 2007.

31. Power to close mine

- (1) If at any time it is shown to the satisfaction of the Administrator that a mine is in such condition as to cause mining to be dangerous to the safety or health of persons employed in or about the mine, the Administrator may direct—
 - (a) that the mine must be closed, and a notice to that effect must be published in the Gazette; or
 - (b) that such works must be executed as will enable mining to be carried out with due regard to the safety or health of persons employed in or about the mine.
- (2) Any person who fails to comply with a direction made under this section is guilty of an offence.
- (3) Except for the publication of notices in the Gazette, the functions of the Administrator under this section are qualified delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007.

32. Power to determine mining lease

- (1) Subject to subsection (3) and without prejudice to a claim against the lessee which has already arisen, the Administrator may determine the mining lease if—
 - (a) there is a continued breach on the part of the lessee of any of the covenants, terms or conditions implied or contained in the lease; and
 - (b) the lessee does not make good the breach within such period as the Administrator may decide (not being less than 30 days) from the date of receiving a notice in writing from the Administrator to do so; or
 - (c) the lessee wholly discontinues mining during a continuous period of 6 months unless prevented by circumstances beyond the lessee's control or authorised in writing by the Administrator.
- (2) The lessee has sufficient notice of the Administrator's decision to determine the mining lease if the decision is published in the Gazette.
- (3) The Administrator may, instead of determining the mining lease, direct the lessee to pay, in addition to the ordinary rent, an additional rent of such amount as the Administrator may determine (not exceeding 3 times the amount of the ordinary rent payable under the mining lease) from the date on which the breach commenced until the date it is rectified.

- (4) Except for publication of notices in the Gazette, the functions of the Administrator under subsection (1) and (2) are qualified delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007.

33. Mine plans, etc. to be lodged on abandonment or closure of mine

- (1) The lessee of a mining lease under which mining or development operations are being carried on must—
- (a) not less than 31 days before the mine is abandoned or closed down, give notice to the Chief Officer of the intention to abandon or close down the mine; and
 - (b) within 31 days after the date of the abandonment or closure, lodge with the Chief Officer a plan or plans, which must show details of all work done on the mine, together with any further particulars as the Chief Officer may require.
- (2) The lessee commits an offence if the lessee—
- (a) fails to give the notice or to lodge the plans in accordance with subsection (1);
 - (b) refuses to produce the plans or to allow them to be examined or copied by the Chief Officer or another officer authorised by the Chief Officer;
 - (c) conceals any part of the workings of the mine; or
 - (d) knowingly produces or transmits an imperfect or inaccurate plan.
- (3) The functions of the Chief Officer under this section are general delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007.

34. Right of lessee to remove fixtures

- (1) A lessee who has paid all rents, royalties and other payments to be made by the lessee under this Ordinance or under the terms of the lease may, within 6 months from the expiry or other determination of the lease, or within such further time as the Administrator may allow, remove all or any of the lessee's plant, buildings or other property.
- (2) In the case of a lessee who, on the expiration or determination of the mining lease, is in default in the payment of rent, royalties or other payments, and in the case of a lessee who has not removed the lessee's property within 6 months or within such further time, if any, as the Administrator may allow, all the plant, buildings and property of the lessee on the land, the subject of the lease becomes the property of the Crown and may be dealt with and disposed of in such manner as the Administrator may direct.

35. Acceptance of rent does not waive forfeiture

The acceptance by or on behalf of the Administrator of rent does not operate as a waiver by the Administrator of any forfeiture accruing by reason of a breach of a provision of this Ordinance, or of a covenant or condition, express or implied, in a lease issued under this Ordinance.

Part 5

Quarrying

36. Control of quarries in the Administrator

The control of all quarries in the Areas vests in the Administrator.

37. Lawful quarrying

- (1) Subject to section 10, a person may apply to the Administrator to carry out quarrying operations on the land described in the application.
- (2) The Administrator may issue a quarry licence to the applicant in the prescribed form.
- (3) A person carrying out quarrying operations without a quarry licence or a licence holder who fails to comply with or contravenes a term or condition contained in a quarry licence commits an offence and on conviction is liable to a term of imprisonment not exceeding 2 years or to a fine not exceeding €40,000 (or to both).

- (4) The functions of the Administrator under this section are qualified delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007.

38. Covenants, etc. for quarry licence

- (1) Quarry licences may be issued subject to covenants, terms and conditions in respect of an area of land and subject to the payment of rents and fees as may, from time to time, be determined by the Administrator.
- (2) Subject to subsection (3), quarry licences may be issued for a period not exceeding 25 years and may be renewed for a further period or periods not exceeding 25 years at any 1 time.
- (3) In cases where considerable capital expenditure in respect of the quarry or processing plant at or near the site is needed, the Administrator may issue a quarrying licence for a period not exceeding 50 years renewable for a further period not exceeding 50 years in accordance with any regulations.
- (4) The following provisions apply, with all necessary changes, to quarry licences and quarrying as they do to mining leases and mining—
 - (a) section 22(2), (3), (4) and (5);
 - (b) section 24(7), (8), (9), (10) and (11); and
 - (c) sections 25, 26, 27, 28, 29, 31 and 34.
- (5) The functions of the Administrator under sub-section (1) are qualified delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007.

39. Power to inspect or close quarries

- (1) The Chief Officer, a mines officer or any other person authorised by the Chief Officer may—
 - (a) enter any quarry or any land the subject of any quarry licence and inspect the quarry, quarrying operation or works in connection with it;
 - (b) demand the production of a quarry licence by the licence holder who must comply with the demand.
- (2) Whenever, as a result of an inspection as provided for in subsection (1), the person carrying out the inspection considers that the quarry or any part of the quarry is in such condition as to render quarrying operations dangerous to the safety or health of persons employed in or about the quarry—
 - (a) if the person carrying out the inspection is the Chief Officer, the Chief Officer may either direct that the quarry or part of the quarry must be closed, or that such works be carried out as will enable quarrying operations to continue with due regard to the safety or health of persons employed in or about the quarry; or
 - (b) if the person carrying out the inspection is a person other than the Chief Officer, the person must direct that any work in the quarry must cease immediately and the person must immediately report the matter to the Chief Officer who may issue a direction for the quarry or any part of it in accordance with paragraph (a);
- (3) If the Chief Officer directs the execution of works under subsection (2)(a), the Chief Officer may direct that the works are carried out at the expense of the licence holder.
- (4) A person who does not comply with a direction made under subsection (2) commits an offence.
- (5) The functions of the Chief Officer under this section are general delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007.

40. Power to terminate quarry licence

- (1) If there is a breach by the licence holder of a covenant, term or condition contained in the licence, the quarry licence may be terminated by the Administrator without prejudice to any claim against the licence holder which has already accrued if—

- (a) the licence holder fails to make good the breach within such period as the Administrator may direct, starting from the date of receiving notice in writing from the Administrator to do so; or
 - (b) having received and complied with a notice from the Administrator to rectify a breach of a specific covenant, term or condition contained in a quarry licence, the licence holder commits a further breach of the covenant, term or condition.
- (2) The functions of the Administrator under this section are qualified delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007.

Part 6

Miscellaneous

41. Appointment and duties of mines officers

- (1) The Chief Officer may appoint, from time to time, mines officers if the Chief Officer considers it necessary for carrying out the purposes of this Ordinance.
- (2) The duties of the officers are those assigned to them by this Ordinance.
- (3) The functions of the Chief Officer under this section are general delegated functions for the purpose of the Delegation of Functions to the Republic Ordinance 2007.

42. Offences and penalties

- (1) A person commits an offence and on conviction is liable to a term of imprisonment not exceeding 1 year or to a fine not exceeding €20,000 (or to both) if the person—
 - (a) interferes with any prospecting, mining or quarrying authorised by or under this Ordinance;
 - (b) obstructs any person in the exercise of any right conferred by or under this Ordinance;
 - (c) interferes with any machinery, plant, works or property established on, in, under or over any land in exercise of a right conferred by or under this Ordinance;
 - (d) pollutes any water or permits any water to become polluted or in any way to be rendered unfit for the purpose for which it is being used; or
 - (e) does not fulfil an obligation under this Ordinance.
- (2) A person who commits an offence under this Ordinance for which no penalty is expressly provided is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding €20,000 (or to both).
- (3) In addition to a penalty which may be imposed under this Ordinance, on conviction, the Court may impose a sum, to be paid to the Chief Officer and which will be collected as a fine—
 - (a) equal to the value of minerals or quarry materials extracted, used, sold or made available in breach of this Ordinance or regulations, the sum to be estimated by the Chief Officer;
 - (b) corresponding to the outstanding fees and charges;
 - (c) estimated by the Chief Officer as necessary to restore safety in the area of land where the unlawful act took place and in the case of Crown land the amount required to pay for its environmental recovery; or
 - (d) corresponding to any expenses incurred by the Chief Officer to take the measures provided by this Ordinance or regulations in order to suppress the illegal act.
- (4) Irrespective of whether criminal proceedings have been taken under this Ordinance, in the case of mining or quarrying operations being carried out without a mining lease or quarry licence, the Chief Officer may apply to the Court requesting an order for the immediate termination of any operation carried on and for the immediate removal of all equipment used for executing or facilitating the execution of the operations.
- (5) The application for an order under subsection (4) may be made *ex parte*, in which case the Court may make an interim order pending the substantive hearing.

- (6) Pending the substantive hearing the Court may also make an interim order which may remain in force until the Court judgment has been delivered allowing the Chief Officer to immobilise or seal the tools, parts, machinery or installations (“the equipment”) used to continue executing or assisting in the execution of the operations.
- (7) During the period in which an order made under subsection (6) remains in force, the equipment which is the subject of the order, remains the responsibility of the owner, occupier or operator.
- (8) The functions of the Chief Officer under subsections (3)(b) to (3)(d) and (6) are general delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007.

43. Liability of employer for offences committed by employees

- (1) Where an offence under this Ordinance is committed by the employee of C, C is liable for the offence and the penalty provided for, unless C proves to the satisfaction of the Court that the offence was committed without C’s knowledge or consent or that C had taken all reasonable means to prevent the commission of an offence.
- (2) If an offence committed by C is committed with the consent of, or is attributable to the negligence of, an employee of C, the employee also commits an offence.
- (3) For the purposes of this section, “C” is a permit holder, a lessee, a licence holder or a person with temporary permission under this Ordinance.

44. Bounding of prospecting permits, etc.

All prospecting permits, mining leases and quarry licences must be bounded by vertical planes from the surface boundary lines drawn downwards to an unlimited depth from the surface.

45. Materials required for public works

- (1) Subject to subsection (2), the issue of a prospecting permit, mining lease or quarry licence under this Ordinance does not limit the power of the Administrator to take from the land, the subject of the permit, lease or licence, materials required for the construction of roads, buildings or other public works.
- (2) The taking of materials must not interfere with or hinder any quarrying or mining operations carried on under the permit, lease or licence.

46. Power to make regulations

- (1) The Administrator may make regulations by way of public instrument for fully and effectively carrying out, and giving effect to, all or any of the purposes, provisions and powers in this Ordinance.
- (2) In particular, and without prejudice to the generality of the foregoing power, regulations may provide for any of the following—
 - (a) all matters which by this Ordinance are required or permitted to be prescribed;
 - (b) the manner in which applications for prospecting permits, mining leases and quarry licences are to be made, and the form to be used;
 - (c) the information to be supplied by the applicant or permit holder, lessee or licence holder and the notices to be published in the Gazette in respect of the information;
 - (d) the fees, dues and rents to be paid for prospecting permits, mining leases, and quarry licences;
 - (e) the size and shape of the areas of land over which prospecting permits, mining leases and quarry licences may be issued;
 - (f) the manner in which areas of land and boundaries are to be surveyed and marked, and the fees payable;
 - (g) the working conditions to be applied to mining leases and quarry licences;
 - (h) the construction and use of roads;

- (i) the construction and erection of houses, pits, shafts, machinery and other works to be used for mining or quarrying purposes;
- (j) the grazing of animals and the cutting down and use of timber for the purpose of carrying out prospecting, mining or quarrying;
- (k) the registration in the office of the Chief Officer of prospecting permits, mining leases and quarry licences, and the instruments under which any right or interest is to be transferred or surrendered, and the fees payable;
- (l) the returns to be provided and the accounts, registers, books and plans to be kept by the permit holder, lessee or licence holder;
- (m) the manner in which a permit holder of who has been successful in finding minerals or quarry materials may secure the prospecting area in order to be given the opportunity to apply for a mining or quarrying permit;
- (n) the disposal of any poisonous or noxious products resulting from prospecting, mining or quarrying operations;
- (o) the amount of royalties payable for mining and quarrying and the form and manner in which royalties must be collected and paid as well as the measures required for their successful collection and payment;
- (p) the securing of the safety and health of persons employed in or about mines or quarries, and for the carrying out of mining or quarrying in a safe, proper and effectual manner;
- (q) the reporting to the Chief Officer by a permit holder, a licence holder or a lessee or by the manager or person in charge of a mine or quarry of any loss of life or serious injury to a person employed in or about a mine or quarry by reason of an accident or mishap at the mine or quarry;
- (r) the holding of an inquiry where evidence may be taken upon oath into any accident occurring in a mine or in connection with mining or prospecting operations conducted under a mining lease, mining right, temporary title or exclusive prospecting licence involving loss of life or serious injury to any person and the summoning and expenses of witnesses;
- (s) the seizure and detainment of mineral or quarry materials extracted, processed, sold, purchased or possessed in contravention of the provisions of this Ordinance, and any tools, tractors, bulldozers, loaders or other machinery used during the commission of an offence in contravention of this Ordinance;
- (t) the fees to be paid in respect of anything done under this Ordinance;
- (u) an offence for breach of a regulation, with a penalty of a term of imprisonment not exceeding 1 year or a fine not exceeding €20,000 (or both); or
- (v) the procedure on appeal to the Administrator.

47. Savings and transitional provisions

- (1) A prospecting permit, mining lease or quarry licence which is valid on the day immediately before this Ordinance comes into force, issued under the provisions of the Mines and Quarries (Regulation) Ordinance, remains valid.
- (2) A prospecting permit, mining lease or quarry licence issued under the Mines and Quarries (Regulation) Ordinance is subject to the provisions of this Ordinance.
- (3) The renewal, suspension or cancellation of a prospecting permit, mining lease or quarry licence issued under the Mines and Quarries (Regulation) Ordinance is subject to the provisions of this Ordinance.
- (4) Regulations made under the Mines and Quarries (Regulation) Ordinance continue to have effect.

48. Repeal

The following Ordinances are repealed—

- (a) Mines and Quarries (Regulation) Ordinance;
- (b) Mines and Quarries (Regulation) (Amendment) Ordinance 1963(f);
- (c) Mines and Quarries (Regulation) (Amendment) Ordinance 1995(g);
- (d) Mines and Quarries (Regulation) (Amendment) Ordinance 1999(h); and
- (e) Mines and Quarries (Regulation) (Amendment) Ordinance 2003(i).

49. Application to the Crown

- (1) Subject to subsection (2), this Ordinance does not apply to the Crown.
- (2) This Ordinance applies to the Crown to the extent that its provisions impose duties or confer powers on the Administrator or the Chief Officer.

Notes

- (a) Cap 226, Statute Laws of Cyprus revised edition 1959, as applied to and adapted in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom). Schedule 2 to the Interpretation Ordinance 2012 (Ordinance 8/12) provides for the interpretation of such legislation.
- (b) Cap 270, Statute Laws of Cyprus revised edition 1959, as applied to and adapted in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom). Schedule 2 to the Interpretation Ordinance 2012 (Ordinance 8/12) provides for the interpretation of such legislation.
- (c) Cap 216, Statute Laws of Cyprus revised edition 1959, as applied to and adapted in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom). Schedule 2 to the Interpretation Ordinance 2012 (Ordinance 8/12) provides for the interpretation of such legislation.
- (d) Ordinance 17/07.
- (e) Ordinance 26/10.
- (f) Ordinance 14/63.
- (g) Ordinance 15/95.
- (h) Ordinance 9/99.
- (i) Ordinance 20/03.

EXPLANATORY NOTE

(This note is not part of the Ordinance)

Introduction

1. This explanatory note relates to the Mines and Quarries Ordinance 2012 (“the Ordinance”). It has been prepared by the Office of the Attorney General and Legal Adviser in order to assist the reader of the Ordinance. It does not form part of the Ordinance.

2. The note should be read in conjunction with the Ordinance. It is not, and is not meant to be, a comprehensive description of the Ordinance. So when a section or part of a section does not seem to require any explanation or comment, none is given.

Background

3. This Ordinance regulates mining, quarrying and prospecting. It consolidates and amends the Mines and Quarries (Regulation) Ordinance (Cap 270) and the amending legislation which it also repeals. Although there are currently no mining operations carried out in the Areas, these provisions have been retained. This is because many of the functions imposed on the Administration’s officers are delegated to Republican officers, under the Delegation of Functions to the Republic Ordinance 2007, and therefore it is considered particularly important that the effect of the provisions and their order reflect closely the provisions of the Republican Regulation of Mines and Quarries Law (Cap 270 and Republican Laws 5/1965, 88(I)/1995, 132(I)/2001, 63(I)/2003, 76(I)/2009, 9(I)/2010, 12(I)/2010, 35(I)/ 2011)). Where functions are delegated it is expressed at the end of the relevant provision. Where a function is expressed to be subject to qualified delegation, the consent of the relevant Administration’s officer must be obtained by the Republican official before the function is carried out.

Parts of the Ordinance

4. Part 1 sets out the definitions.

5. Part 2 (sections 4 to 11) contains general provisions applying to mining, quarrying and prospecting. Section 4 provides that, in relation to the territorial waters of the Areas, an application for a prospecting permit, mining lease or quarry licence will only be considered if, by way of a notice published in the Gazette, the Administrator invites applications. In these circumstances, an applicant must obtain environmental approval from the Chief Officer before an application can be granted.

6. Section 5 provides that no prospecting, mining or quarrying may be carried out except in accordance with the Ordinance and section 6 states that the Ordinance does not apply to the extraction of mineral oil.

7. If the holder (being either a person or a company) of a lease, licence or permit is not resident in the Areas or the Republic, section 7 provides that the holder must appoint a person with power of attorney resident in either the Areas or the Republic to represent the holder and provides sanctions if no appointment is made.

8. Section 8 addresses the keeping of records, and section 9 the technical, environmental and financial information required by an applicant in order to satisfy the Administrator that an applicant is suitable and, once the lease, licence or permit is granted, records of progress and mineral values.

9. Section 10 describes land which is excluded from prospecting, mining or quarrying operations. Land privately owned where the owner does not consent and land which is close to a building where the occupier of the building does not consent, are included in the list. However, these exceptions may be overridden in certain specified circumstances if the Administrator authorises it.

10. Section 11 addresses the payment of royalties on minerals extracted as a result of mining, quarrying or prospecting.

11. Part 3 (sections 12 to 21) applies to prospecting. Section 12 gives the Administrator the power to prohibit prospecting. Section 13 provides that the Administrator may grant a prospecting permit which remains in force for 1 year but may be renewed. Section 14 permits a permit holder to prospect on Crown land or private land if the owner consents or, in the event that the owner unreasonably refuses consent or it is impracticable to obtain, if the Administrator consents. If required by the owner, the permit holder must pay a deposit as security.

12. Section 15 imposes duties on the permit holder which include health and safety and environmental conditions.
13. Except for samples taken for testing, section 16 provides that materials obtained as a result of prospecting are the property of the Administration and must not be removed without the Chief Officer's permission.
14. Section 17 imposes a duty on the permit holder to pay compensation to the owner or occupier of private land for any damage to the land and assessment and appeal mechanisms if the amount of compensation can not be agreed.
15. Section 18 permits the Administrator to cancel the prospecting permit if the holder does not comply with the Ordinance or conditions of the permit.
16. Sections 19 and 20 provide that a prospecting permit may not, in general, be granted if there is already a permit for the area of land and where more than 1 application is received for the same area the first 1 received has priority.
17. Section 21 permits the Administrator to close areas to prospecting either generally or for particular minerals or quarry materials.
18. Part 4 (sections 22 to 35) applies to mining. If the Administrator grants permission, section 22 authorises an applicant for a mining lease to start mining operations pending the issue of a lease.
19. Section 23 gives the Administrator the power to issue a mining lease to an applicant with the sufficient level of technical expertise and financial backing. A person who already has carried out prospecting in the area is to have preference over other applicants.
20. Sections 24 to 26 address the terms and conditions of a mining lease including the duration of the initial term (not more than 50 years), surrender and renewal (not exceeding a further 50 years), conditions dealing with the health and safety aspects of the mining operation and rights concerning surface mining.
21. Section 27 prohibits the transfer of a mining lease without the Administrator's prior consent endorsed on the lease.
22. Section 28 prohibits the lessee from diverting or polluting a river or other types of natural water. Section 29 provides that if water is used as part of the operation, the lessee must ensure that the used water does not contain harmful substances when the lessee stops mining in the area.
23. Section 30 gives the Chief Officer the power to inspect and sections 31 and 32 give the Administrator the power to close mines and determine the lease.
24. If a mine is to close, section 33 imposes a duty on the lessee to warn the Chief Officer and lodge plans of the mine workings. On closure, section 34 permits the lessee to remove fixtures if there are no outstanding payments.
25. On determination of a lease, section 35 states that the acceptance of outstanding rent does not waive forfeiture of the lease.
26. Part 5 (sections 36 to 40) applies to quarries. Section 37 gives the Administrator the power to issue a quarry licence which, in accordance with section 38, may contain conditions and is subject to an initial duration which, generally, cannot exceed 25 years and which may be extended by 1 or more terms, each term, generally, cannot exceed 25 years.
27. Section 38 imports provisions which apply to mining in relation to authorising quarrying pending the issue of a quarry licence, the terms and conditions of a quarry licence and determination, the power of the Administrator to close a quarry and the right of the licence holder to remove fixtures.
28. Sections 39 and 40 give the powers to inspect and close quarries and terminate the licence.
29. Part 6 (sections 41 to 48) contains miscellaneous provisions including providing for the appointment of mines officers and criminal offences.

(SBA/AG/2/EN/203)