



THE HUNDRED AND TWENTY-SIXTH

ACT

OF THE PARLIAMENT OF THE REPUBLIC
OF GHANA

ENTITLED

THE MINERALS ACT, 1962

AN ACT to provide for the vesting of the ownership and control of minerals throughout Ghana in the President on behalf of the Republic of Ghana in trust for the People of Ghana, to enable the President to issue prospecting, mining, dredging and water licences, to repeal the Mineral Oil Pre-emption Ordinance (Cap. 154) and certain provisions of the Minerals Ordinance (Cap. 155) and of the Tema Town and Port (Acquisition of Land) Ordinance, 1952 (No. 38) and to provide for matters connected therewith or incidental thereto.

DATE OF ASSENT: *14th June, 1962*

Minerals,
etc., to be
vested in
President.

1. Subject as hereinafter expressly provided, the entire property in and control of all minerals in, under or upon, any lands in Ghana, all rivers, streams and watercourses throughout Ghana and land covered by territorial waters, are hereby declared to be vested in the President on behalf of the Republic of Ghana in trust for the People of Ghana:

Provided that nothing in this Act shall be deemed to affect—

- (a) the validity of any prospecting, mining, dredging, water or ferry right, lawfully held by any person immediately before the commencement of this Act under any law (customary or otherwise), such person being hereinafter in this Act referred to as an "existing holder"; or

- (b) any lawful rights or interests in the land in, under or upon which the minerals are situated.

The rights or interests referred to in paragraph (a) or paragraph (b) immediately preceding, shall continue, subject to the provisions of any other enactment and to such conditions as may be prescribed.

2. (1) The President, subject to this Act and any other enactment, may after holding such enquiry as may be prescribed—

President
to grant
mining
licences,
etc.

- (a) grant, upon payment of the appropriate rents and royalties and compliance with such conditions as may be prescribed, licences for—

- (i) prospecting minerals;
- (ii) dredging rivers, streams or watercourses;
- (iii) winning or obtaining minerals from any land; and
- (iv) obtaining, diverting, impounding or conveying water from any river, stream or watercourse for mining or other industrial purposes; and

- (b) declare that any land is required for the purposes of such licence, subject to such conditions as may be prescribed, if the holder of such licence is unable to secure the use of such land by private agreement.

(2) Where a declaration has been made in respect of any stool land under section 2 (1) (b), the provisions of section 7 of the Administration of Lands Act, 1962 (Act 123) shall *mutatis mutandis* apply to such land.

(3) Where a declaration has been made in respect of land other than stool land under section 2 (1) (b), the first-mentioned land shall be deemed to be vested in the President on behalf of the Republic of Ghana in trust for the People of Ghana. The President may prescribe, by executive instrument in the form of an order, the terms for the use of land referred to in the preceding provisions of this subsection by the holder of a licence. Moneys obtained under those terms shall be deemed to be revenue under section 4.

3. (1) Every holder of a licence granted under section 2 shall pay, subject to this Act and any other enactment—

Rents and
compensa-
tion.

- (a) in respect of stool land—

- (i) rent for the use of land required for the purposes of such licence; and
- (ii) compensation for any disturbance or injurious affection to such land; and

- (b) in respect of land other than stool land—

- (i) on which there were no improvements during the eight years immediately preceding the declaration by the President under section 2 (b),

compensation of not more than twice the value of the consideration paid by the present holder of rights in the land; and

- (ii) on which there have been improvements which are in existence at the time of the said declaration, compensation determined in accordance with the provisions of the State Lands Act, 1962 (Act 125).

(2) If there is any disagreement as to the amount of the rent to be paid under paragraph (a) (i) of section 3 (1), such amount shall be fixed by the Minister and his decision thereon shall be final.

(3) If there is any disagreement as to the amount of the compensation to be paid under paragraph (a) (ii) or (b) (i) of section 3 (1), such amount shall be fixed by the Minister from whose decision there shall be an appeal to the High Court within three months of such decision.

Account to which revenue paid, etc.

4. Revenue under this Act shall be paid into the appropriate account maintained for the purposes of the Administration of Lands Act, 1962 (Act 123), and shall be disbursed in accordance with the provisions of that Act.

President to have the right of pre-emption of minerals, etc.

5. (1) The President shall, on behalf of the Republic of Ghana in trust for the People of Ghana, have the right of pre-emption of all minerals raised, won, or gotten in Ghana or from lands covered by territorial waters by any existing holder or by any holder of a licence granted under this Act and of products derived from the refining or treatment of such minerals.

(2) The President may, by executive instrument in the form of an order, appoint any statutory corporation to act as his agent for the exercise of his right of pre-emption under subsection (1), subject to such conditions as may be specified in the instrument.

Price to be paid on pre-emption.

6. The price to be paid for minerals or products taken, in the exercise of the right of pre-emption, under section 5 shall—

- (a) if it has been provided for in a written agreement, be the price specified therein; and
- (b) if it has not been so provided for, be the publicly quoted market rate ruling for such minerals or products as delivered at the mine or plant, as the case may be, at which such right of pre-emption in respect of such minerals or products was exercised;

Provided that where there is no such written agreement or no such rate, the price shall be decided upon by the High Court.

7. The right of pre-emption provided for by this Act shall extend to all minerals or products sold to other customers by the person against whom such right is exercised, but which have not left the boundaries of Ghana or territorial waters or the air space of Ghana and the price to be paid for such minerals and products shall be the rate referred to in section 6 or the actual contract price at which such minerals or products were sold, whichever is less, together with—

Right of pre-emption to extend to minerals, etc., already sold.

- (a) the actual costs of transport from the mine or plant, as the case may be, to the port, railway station or locality at which such minerals or products were taken in the exercise of such right; and
- (b) any actual penalties or damages which such person may prove that he has suffered by reason of the cancellation or alteration of sea, rail, road or air transport or of charters of vessels or planes for the conveyance of such minerals or products; and
- (c) any actual costs of insurance of such minerals or products:

Provided that such penalties or damages shall only be payable on a charter or freight agreement actually entered into for a particular voyage or despatch by sea, air, rail or road and not on any general charter or freight agreement in respect of any prospective voyage or despatch.

8. Every person, who upon the President or his agent making known his intention of exercising his right of pre-emption in respect of any minerals or products under this Act prevents or obstructs the exercise of such right shall, on conviction by a court of competent jurisdiction, be guilty of an offence which shall be a misdemeanour, and shall in addition to any other punishment imposed by that Court, be liable to pay an amount equivalent to twice the value of such minerals or products and to the cancellation of any licence held by him under this Act or of any rights mentioned in paragraph (a) of the proviso to section 1 of this Act.

Obstruction of exercise of right of pre-emption.

9. (1) The Minister may for the purposes of this Act require in writing any person to furnish him, within the period specified in his request, such information and documents as may be mentioned therein.

Furnishing of information and documents.

Provided that in the case of a person non-resident in Ghana the request shall be made to the attorney appointed in accordance with section 9 of the Concessions Act, 1962 (Act 124).

(2) Every person requested to furnish any information or document under subsection (1) shall, within the period specified in the request, furnish such information or document.

(3) Every person contravening the preceding provisions of this section shall, on conviction by a court of competent jurisdiction, be guilty of an offence which shall be a misdemeanour, and shall in addition to any other punishment imposed by that Court, be liable to a fine of £G100 for every day in which he has been in default, such default to be deemed to commence one week after the date of the receipt of the request of the Minister referred to in subsection (1).

Offences by
bodies of
persons.

10. In the case of an offence under this Act committed by a body of persons—

- (a) where the body of persons is a body corporate, every director and officer of that body corporate shall be guilty of that offence; and
- (b) where the body of persons is a firm, every partner of that firm shall be deemed to be guilty of that offence.

Provided that no such person shall be deemed to be guilty of that offence if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

Regulations.

11. (1) The President may by legislative instrument, make regulations prescribing the form and terms of licences under this Act.

(2) Subject to the provisions of subsection (1), the Minister may by legislative instrument make such regulations as may be necessary for giving effect to the purposes and provisions of this Act.

Interpre-
tation.

12. In this Act, unless the context otherwise requires—

- “minerals” include minerals and ores of all kinds including precious stones, coal, mineral oil and gases;
- “Minister” means the Minister to whom functions under this Act are assigned by the President;
- “port” includes an airport;
- “rivers” include the tidal waters and estuaries of rivers;
- “stool land” shall have the same meaning as in the Administration of Lands Act, 1962 (Act 123);
- “territorial waters” means the territorial waters of Ghana below low water mark;
- “watercourses” include lakes with visible inlets or outlets but do not include lakes the inlets or outlets to which are not visible.

Repeals.

13. The provisions of the Mineral Oil Pre-emption Ordinance (Cap. 154), of section 3 (1), 29, 45, 48, 55 and 86 of the Minerals Ordinance (Cap. 155) and of section 5 of the Tema Town and Port (Acquisition of Land) Ordinance, 1957 (No. 38) are hereby repealed:

Provided that any statutory instrument made under those provisions and in force immediately before the commencement

of this Act, shall, until such instrument is altered, revoked or otherwise modified under this Act, continue in force as if such instrument had been made under this Act.