

P.N.D.C.L.218
SMALL-SCALE GOLD MINING ACT, 1989
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Registration and Licensing of Small-scale Gold Miners

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P.N.D.C.L.218

SMALL-SCALE GOLD MINING ACT, 19891

AN ACT to provide for the licensing of small-scale gold mining operations and for related matters.

I. This Act was issued as the Small-scale Gold Mining Law, 1989 (P.N.D.C.L. 218) made on the 19th day of April, 1989 and notified in the *Gazette* on 2nd June, 1989.

(5) A person who does an act in contravention of a provision of subsection (I) commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

(6) Subject to subsection (I), an importer may import the seeds of a crop for the purposes of seed production for export if at the time of importation of the seed the importer makes a declaration in triplicate to the Commissioner, Customs, Excise and Preventive Service or an officer authorised by the Commissioner stating

- (a) that the seeds are for the personal use of that person,
- (b) that the seeds are to be used for experimental purposes only,
- (c) that the seeds produced from the imported seeds shall not be sold to a person in the Republic, and
- (d) that the production, distribution and disposal of the seeds shall be as authorised by the Minister.

(7) An importer who knowingly makes a declaration which is false commits an offence and is liable on summary conviction to a fine not exceeding two hundred penalty units or to a term of imprisonment not exceeding six months or to both the fine and the imprisonment.

(8) The Commissioner, Customs, Excise and Preventive Service shall forward two copies of the declaration to the Chief Seed Multiplication Officer.

2. Inspectors

(I) The Minister may designate a qualified person to act as an inspector for the purposes of enforcing this Act.

(2) An inspector may, for a purpose mentioned in subsection (I), at a reasonable time, on the production of the certificate of appointment,

- (a) enter a place where the inspector has reasonable grounds to believe that there are seeds to which this Act applies; or
- (b) inspect the seeds found in that place and take samples of the seeds; or
- (c) require a person in possession of a document in respect of seeds to which this Act applies to produce the document for examination or for the purposes of obtaining copies or extracts from the document; or
- (d) request a person to furnish an information which the inspector may require for the purposes of this Act.

3. Obstruction of inspectors

A person who

- (a) obstructs an inspector exercising powers under this Act, or
- (b) fails to comply with a request made in the exercise of a power under the Act, or
- (c) gives an information which that person knows to be false,

commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

4. Seizure of seeds or package

(1) An inspector may seize a seed or a package in respect of which an offence is committed under this Act.

(2) A seed or a package seized under subsection (1) shall be retained by the inspector, but

- (a) if proceedings are not commenced against the person from whom the seed or package was seized within six months of the seizure, the seed or package shall be restored to that person, or
- (b) if that person is convicted of an offence under this Act, the seed or package shall be forfeited by the Court before which that person was convicted.

(3) A seed or a package forfeited by the Court under subsection (2) (b) shall be delivered as soon as practicable to the Chief Seed Multiplication Officer who may dispose of the seed or package.

5. Analysts

For the purposes of this Act, the Minister may appoint a qualified person as an analyst who shall examine seeds or samples of seeds which an inspector may refer to the analyst.

6. Certificate of analyst

A certificate duly signed by an analyst stating that the analyst has examined seeds or the samples of seeds referred to the analyst by an inspector and stating the results of the examination is prima facie evidence of the facts contained in the certificate.

7. Offences by bodies of persons

(1) Where an offence under this Act is committed by a body of persons then,

- (a) in the case of a body corporate other than a partnership, every director, secretary or similar officer of the body corporate shall be deemed to have committed that offence;
- (b) in the case of a partnership, every partner or officer of the partnership shall be deemed to have committed that offence.

(2) A person shall not be convicted of an offence under subsection (1) if it is proved that the offence was committed without the knowledge or connivance of, and that due diligence to prevent the commission of the offence was exercised by, that person having regard to the circumstances.

8. Regulations

The Minister may, by legislative instrument, make Regulations

- (a) establishing a national seed committee and prescribing the functions of the committee;

10. Small-scale gold mining committees

- (1) There shall be established in every designated area a small-scale gold mining committee.
- (2) The committee shall consist of
 - (a) the district secretary or the representative of the district secretary who shall be the chairman,
 - (b) the officer-in-charge of the district centre,
 - (c) one representative of the town development and planning committee of the district, and
 - (d) *omitted*⁵
- (3) The committee shall assist the district centre to effectively monitor, promote and develop small-scale gold mining operations in the designated area.
- (4) The members of the committee shall hold office for the periods and on the terms and conditions determined by the Minister.

*Operations of Small-scale Gold Miners***11. Operations of small-scale gold miners**

A person licensed to mine gold under this Act may win, mine and produce gold by an effective and efficient method and shall in the operations observe good mining practices, health and safety rules, and pay due regard to the protection of the environment.

12. Compensation for use of land

Where a licence is granted in a designated area to a person other than the owner of the land, the licensee shall pay to the owner of the land the compensation for the use of the land that the Minister may in consultation with the Minerals Commission and the Lands Valuation Board determine.

13. Use of explosives prohibited

A small-scale gold miner shall not use explosives in the operations of that mine.

14. Purchase of mercury

A small-scale gold miner may purchase from an authorised mercury dealer quantities of mercury reasonably necessary for the purposes of the mining operations.

15. Exemptions from income tax and royalties

For a period of three years from the date of the coming into force of this Act, persons engaged in small-scale gold mining operations shall be exempted from the payment of income tax and royalties in respect of those mining operations.

5. The Committee for the Defense of the Revolution does not now exist, and thus the reference to two of its representatives is omitted.

*Miscellaneous Provisions***16. Licence to buy and deal in gold**

Without prejudice to an enactment empowering a person or body to purchase and deal in gold the Minister may in consultation with the Minerals Commission in writing, license a person the Minister considers fit, to buy and deal in the types and forms of gold, and under the terms and conditions specified in the licence.

17. Sale of gold

(1) A licensed small-scale gold miner or a person in possession of gold may sell the gold in the possession of that miner or person to an authorised buyer only.

(2) A person shall be presumed to be lawfully in possession of gold until the contrary is proved.

18. Sale of jewellery

This Act or any other enactment shall not be construed as precluding a person from dealing with or disposing of the gold jewellery, gold artefact or gold coin of that person to an authorised dealer or to any other person.

19. Offences and penalties

(1) A person who buys or sells gold without a licence granted under this Act or without a valid authority granted under an enactment commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding five years or to both the fine and the imprisonment.

(2) A person who

(a) without a licence granted by the Minister undertakes a small-scale gold mining operation contrary to subsection (1) of section I, or

(b) acts in contravention of any other provision of this Act in respect of which an offence has not been prescribed,

commits an offence and is liable on conviction to a fine not exceeding one hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment.

(3) A Court before which a person is convicted under this Act may in addition to the penalty that it may impose order the forfeiture to the Republic of the gold or other mineral in respect of which the offence was committed.

(4) Where an alien is convicted of an offence under this Act the alien is liable after paying the fine or serving the imprisonment imposed to deportation under the Immigration Act, 2000 (Act 573).

20. Regulations

The Minister may on the advice of the Minerals Commission and the chief inspector of mines make Regulations for the effective implementation of this Act.

21. Interpretation

In this Act, unless the context otherwise requires,

"authorised buyer" means a person authorised by the Minister to buy gold;

"citizen" has the same meaning as provided in section 84 (1) of the Minerals and Mining Act, 1986 other than a public corporation;

"committee" means a small-scale gold mining committee established under section 10;

"designated area" means an area designated as a small-scale mineral operation area by the Minister by a notice published in the *Gazette*;

"district centre" means the centre established by the Minerals Commission under section 8;

"gold" means gold dust, gold bullion, retorted gold, gold, ore gold amalgam, gold alloy, precipitates containing gold, slag, concentrates, tailings and residue containing gold;

"licensed small-scale gold miners" means a person licensed under this Act to win and mine gold;

"Minister" means the Minister responsible for Lands and Natural Resources;

"prescribed" means prescribed by or under the Act or by or under the Regulations; "Regulations" means Regulations made under this Act;

"small-scale gold mining operations" means the mining of gold by a method not involving substantial expenditure by an individual or group of persons not exceeding nine in number or by a co-operative society made up of ten or more persons.