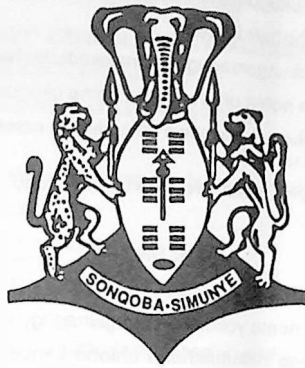


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UMongameli weZwe uyathokoza ngaphansi nangengunya lamandla anikezwe wona yisigaba 31 (2) soMthethosisekelo wemiBuso eziBusayo, 1971 (uMthetho 21 ka 1971) ukuba avume loMthetho olandelayo. (umbhalo wesiNgisi usayinwe nguMongameli weZwe. Kuvunywe mhlaka 20/12/1993).

UMTHETHO

Wokuqondisa ukuhlwaya kanye nokumbiwa, ukusetshenziswa nokusetshenziswa ngendlela engcono kakhulu kokungamagugu okumbiwa phansi, ukuhlinzekela ukuphepha nempilo yabantu abaqondene ezimayini nasezindaweni zemisebenzi, ukuqondisa ukusetshenziswa okuhlelekile kanye nokubuyisela umhlabathi ongaphezulu esimeni semvelo yawo ngesikhathi lapho nangasemuva lapho imisebenzi nokumba seyenziwe, kanye nokuhlinzeka izindaba eziqondene nalokho.

MAKUMISWE UMTHETHO nguMkhandlu waKwaZulu oShaya uMthetho, kanje: -

UKUHLELWA KOMTHETHO

ISAHLUKO I

ISINGENISO

IZIGABA

1. Izincazelo

ISAHLUKO II

UKUPHATHA

2. Ukusetshenziswa koMthetho
3. Ukuwehlukaniswa kwelaKwaZulu libe yiZifunda
4. Ukuqokwa nemisebenzi yabaqondisi bezifunda

ISAHLUKO III

UKUGUNYAZWA KOKUHLWAYA NOKUMBA OKUNGAMAGUGU

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6. Ukukhishwa kwemvume yokuhlwaya
7. Ukuwenqatshelwa komgoqo obekiwe mayelana nokuhlwaya endaweni ethile
8. Ukuwenqatshela kokususwa nokuthengiswa kokungamagugu okumbiwa phansi okutholakala ngesikhathi semisebenzi yokuhlwaya
9. Ukukhishwa kwengunya lokumbiwa kokungamagugu
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11. Isikhathi sokuphepha kwemvume yokuhlwaya noma ukugunyazwa kokumba okungamagugu
12. Ukuqhutshwa komsebenzi omele wenziwe kuze kukhishwe isitifiketi
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OKUMBIWA NOKUSETSHENZISWA NGENDLELA ENGCONO KAKHULU OKUNGAMAGUGU OKUMBIWA PHANSI

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18. Uphenyo oluthile olwenziwa uHulumeni maqondana nokubakhona uhlobo kanye nobungako bokungamagugu okuphakathi noma okungaphezulu komhlaba
19. Ulwazi maqondana nokuhlwaya olumele lulethwe kumqondisi wesifunda
20. Umgoqo mayelana nokwehlukanisa amalungelo kokungamagugu okumbiwa phansi
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22. Amandla kaNgqongqoshe maqondana nokwenziwa kwemisebenzi yokumba okungamagugu okuphambene nemigomo wokumbiwa kwakho konke okungamagugu
23. Amandla kaNgqongqoshe maqondana nokusebenzisa amalungelo kokungaphezulu komhlaba ngokuphambana nomgomo wokumbiwa kwakho konke okungamagugu
24. Amandla kaNgqongqoshe maqondana nokwemuka amalungelo angaphezulu komhlaba noma alokho okungamagugu okumbiwa phansi
25. Amandla kaNgqongqoshe okunqabela ukuphathwa kokungamagugu okumbiwa phansi namandla omphathi (iminenja) okusesha umuntu

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28. Ukuphenya ngezinguzi nezinye izindaba
29. Ukubakhona nokubuzwa imibuzo kofakazi ophenyweni
30. Ukuthiya isiphathimandla sophenyo noma esihlodayo kanye nokunganikezi usizo
31. Ukuqokwa nezibopho zomphathi (iminenja) kanye nezabanye abantu nezibopho zomnikazi
32. Ukwenqatshelwa kokusebenza kwabasha abathile nabesifazane ngaphansi komhlabathi
33. Izimvume zokusebenzisa impahla yokusebenza
34. Imithetho yokusebenza
35. Ukunikezwa noma ukukhandwa kwempahla yokusebenza ethile ngokuhambisana nokudingidwa ngumphathi (iminenja)
36. Ukwenqatshelwa kokutholwa kwesitifiketi sekhona ngendlela yokukhohlisa
37. Isenzo sobudedengu noma icala lokungenzi umsebenzi ngaphansi kwezimeko ezithile

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UKUBUYISELWA KOMHLABATHI ONGAPHEZULU ESIMENI SEMVELO

38. Ukubuyisela komhlabathi wezwe ongaphezulu esimeni sawo semvelo
39. Ukuhlelela umsebenzi nohlelo lokubuyisela esimeni semvelo
40. Ukususwa kwezindlu, izakhiwo nezinto
41. Imigoqo mayelana nokusetshenziswa komhlaba ongaphezulu wezwe
42. Ukutholwa noma ukuthengwa komhlaba othile kanye nokukhokhwa kwesinxephezelo ngaphansi kwezimeko ezithile

ISAHLUKO VII

43. Abantu abathile abacatshangwa ukuthi banamalungelo alokho okungamagugu okumbiwa phansi, nokukhokhwa kwesinxephezelo nguNgqongqoshe
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45. Ukuhoxiswa kwesimemezelwe ngendawo kanye nokuqhutshwa kwemithetho ethize mayelana nokumbiwa kwenhlabathi yezikhukhula zomfula wendawo emenyezelwe
46. Ilungelo emadayimaneni athize nokusebenzisa umhlaba ongaphezulu othile okucatshangwa ukuthi ungokaHulumeni waKwaZulu
47. Ukuqhubeka kwamalungelo okumba okungamagugu
48. Ukuqhubeka kokugodliweyo izimvume kanye namalungelo
49. Imisebenzi ethile kaKhomishani wezeziMayini eyenziwa umqondisi wesifunda
50. Ukubhekisa kukaNjiniyela weziMayini kaHulumeni, uMbhalisi wamaTayitela okuMba okungamagugu kanye noKhomishani weziMayini emibhalweni noma kweminye imithetho

ISAPHLUKO VIII

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51. Amandla okungena emhlabeni noma endaweni nokwenza ezinye izinto
52. Ukulethwa kwemibhalo ecelwa umqondisi wesifunda noma umuntu ogunyaziwe
53. Ubufakazi bezinto ezithile
54. Isaziso sokuqala noma sokuphela kwemisebenzi yokuhlwaya noma yokumba okungamagugu noma imisebenzi
55. UHulumeni waKwaZulu akanalo icala lokukhokha izibizo
56. Ukunikeza imibhalo nokuba namandla kwayo emithethweni
57. Ilungelo lokudlulisa isikhalo
58. Ukwenqatshelwa kokuhlukumeza
59. Ukwenqatshelwa ekuvimbeleni isiphathimandla noma umuntu (emsebenzini wakhe)
60. Amacala
61. Izijejiso
62. Ukunikezela amandla
63. Umthethonqubo
64. Ukudlulisela amalungelo okungamagugu okumbiwa phansi angakaHulumeni waKwaZulu
65. uMthetho ubopha uHulumeni
66. Isichibiyelo soMthetho woKubhaliswa kwamaTayitela okuMba okungamaGugu, 1967
67. UMthetho weMishini noKuphepha eMsebenzini KwaZulu, 1985, awusebenzi
68. Ukuchithwa kwemithetho nokonga
69. Izivumelwano neRiphablik yaseNingizimu Afrika
70. Isihloko esifingqiwe nokuqala ukusebenza

ISAPHLUKO I

ISINGENISO

Izincazelo.

1. KuloMthetho, ngaphandle noma ingqikithi ikhomba okunye- u" Bhayela" usho

(a) Noma yimuphi umshini wokwenza okuthile olungiselwe ukuguqula ngokuqhubekayo noma yikube isisi, umhwamuko noma igesi ngomfutho ongaphezulu kwalowo omele ukuba semoye ukushisa kutholakala kokunye ngaphandle kwesisi noma izinga lokushisa elizungezile macalalanganise noma yikuphi okokushisa kakhulu noma okonga okokubasela kunengxenye ehlangene

(b) yisiphi isongi sokubasela noma okokushisa kakhulu kungenayo ingxenye ehlangene yalomshini

futhi kuhlangukise konke okufakelwe neselekelelo okumaqondana nanoma yimuphi umshini onjena wokw isongi sokukubasela noma okokushisa kakhulu: Kuqikelelwe ukuthi uma noma yimuphi umshini, uhlangukise izingxenye ezimbili noma ngaphezulu kuyileyo ngayinye ekwazi ukuqondaniselwa ukuset hayela ohlukene ngokuvala esisodwa noma ezinye ezivimbo, yileyo naleyo ngxenye ngayinye iyothath hayela. Kuqikelelwe futhi ukuthi-

(i) ijeneretha yesisi (yesitimu) okufakwe kuyo ipayipi elimiyo noma okuphume phakathi kukhip emkhathini futhi okuphumele emkhathini kubanalezo zilinganiso ukuze kuvimbele ukwand umfutho owedlula 35KPa ngaphakathi komshini, futhi kuqikelelwe ukuthi akukho sivalwana n bayo okufakwe epayipini elimiyo noma okuphume phakathi ukuvimbela umshini ukuba ukhipi womkhathi.

(ii) noma yimuphi umshini wokwenza okuthile, umkhiquzo walowo okwenzayo unomfutho wokuseb futho omkhulu kakhulu ohlosiwe ngokwekilopascal kanye nomthamo ngokwekhubhikhi mitha ung

awuyikuthathwa ngokuthi ungubhayela:

"fakaziselwe" kusho ukuba ngumnikazi wesitifiketi esifaneleyo sekhono esikhishwe njengokusho komt

"ikheshe elinesihlalo" kusho noma iyiphi into esetshenziswayo noma inhlangukise yezinto ezise okuhloswe ukuba zisetshenziswe ekuthwaleni abantu noma izinto ezisetshenziswayo ngesihlalo nom zokuthwala ezilengiswe ngentambo (umkhumbi) wokudonsa okungapheliyo noma ngezihlalo noma ok ba entanjani noma phezu kwayo noma ngendlela kajantshi eyenzelwe intambo noma iketango lokudon

"Umnyango" kusho uMnyango wezangaPhakathi;

"okukuphakamisa" kusho noma yiliphi ikheshe, okokuthwala noma enye into esetshenziswayo nom kusetshenziselwe ukuthwala abantu noma izinto ezisetshenziswayo noma okungamagugu okumbi emhumeni phezu kokukhombisa indlela lapho uhlelo lokuqondisa lokuqhuba umshini ngokuvama l ziswa ngezandla kusuka enjinini noma endlini yenjini;

"isisebenzi" kusho noma yimuphi umuntu oqashiweyo noma osebenza emayini noma endaweni yom ise inkonkolela ezimele;

"injini" kusho noma yikuphi okuxhunywawo noma okuxhunywawo okuningi lapho amandla, kungah omuntu noma awesilwane, kungasetshenziswa ukwenza umsebenzi womshini;

"onlungelo" kusho, maqondana -

(a) nelungelo kokungamagugu okumbiwa phansi maqondana nomhlaba, noma yiliphi isheya elingah kusho umnikazi womhlaba:

Kuqikelelwe ukuthi -

(i) uma ilungelo kulokhu okungamagugu okumbiwa phansi noma kuliphi isheya elingahlukanis kulobobunikazi bomhlaba obuqondene, umuntu egameni lakhe lelilungelo noma lelishey kulokho libhaliswa ehhovisini lamatayitela aqondene, ngendlela yetayitela elahlukene noma la etayiteleni lomhlaba noma ngendlela yokugodla etayiteleni lomhlaba oqondene;

(ii) noma uma ilungelo kulokhu okuyigugu okumbiwa phansi noma esheveni elingahlukanisiwe noma ngayiphi indlela lingelalomuntu, lowomuntu,

uyoba ngonelungelo;

(b) nelungelo kokungamagugu okumbiwa phansi okutholakala phakathi noma ngaphezu kwezinsalela, umuntu onelungelo lokumba okungamagugu (maqondana nomhlaba) okukhishwe kukho lezi zinsalela: Kuqikekelwe ukuthi uma lelilungelo lokumba okungamagugu seliphelwe isikhathi noma lingazange libe khona noma lezizinsalela noma leli ilungelo lokumba okungamagugu seledluliselwe komunye kangangoba ubunikazi kulokho sebukwabanye abantu abahlukile -

(i) umuntu ngokomthetho wabantu bonke onelungelo kulezizinsalela;

(ii) noma uma kungekho muntu okhona okubhekiswe kuye endinyaneni (i) noma uma engaziwa noma engeze atholakala kalula, umnikazi womhlaba lapho kukhona khona izindunduma zezinsalela,

uyoba onelungelo lona oshiwo kuqala; futhi

(c) noma yiyiphi imvume, ilayisense, ukuvunyelwa, isitifiketi, ukugunyazwa noma yiyiphi enye incwadi yobufakazi ekhishiwe, enikezwe, noma esebenzayo ngokushiwo yiloMthetho, umuntu ekhishelwe yena, yanikezwa noma isebenza egameni lakhe;

"isiphathimandla esiphenyayo" kusho noma yimuphi unjiniyela omba okungamagugu wesifunda noma yisiphi isiphathimandla esikhethwe uNobhala ngokumaqondana nesigaba 28(1) noma (3);

"imishini" kusho noma yiyiphi injini, ubhayela noma okuxhunywayo noma inhlanganisela yalokhu okubekwe emayini noma ezindaweni zemisebenzi futhi okusetshenziswayo noma okuhloswe ukusetshenziswa-

(a) ukuphehla, ukuthuthukisa, ukwemukela ukugcina, ukuphendula, ukuguqula, ukuhambisa, noma ukuphakela noma yiluphi uhlobo lwamandla;

(b) noma ukuthwala abantu, izinto zokusebenza noma okungamagugu okumbiwa phansi, maqondana nemisebenzi/okwenziwayo okuphethwe yimenenja yalemayini noma yendawo yemisebenzi;

"imenenja" kusho noma yimuphi umuntu onekhono njengoba echazwe kumithethonqubo, eqokwe ngokushiwo yisigaba 31(1);

"imayini" kusho lapho -

(a) isetshenziswa njengebizo -

(i) noma yikuphi ukumba emhlabeni, kuhlanganise ingxenye ngaphansi kolwandle noma ngaphansi kwamanye amanzi noma yimuphi umgodi odonsa amanzi noma ngabe uyasetshenzwa noma awusetshenzwa owenzelwe umgomo wokucinga noma ukuzusa okungamagugu okumbiwa phansi; noma

(ii) noma yiyiphi enye indawo lapho okukhona khona okungamagugu okumbiwayo, kuhlanganisa indawo yokumba okungamagugu kanye nazo zonke izindlu, izakhiwo, umshini, izindunduma, imigwaqo yokungena noma izinto ezibekwe kulendawo futhi ezisetshenziswayo noma ezisoshwe ukusetshenziswa maqondana nalokhu ukucinga ukuzusa noma ukumba noma ukusetshenzwa kwalokhu okungamagugu okumbiwa phansi: Kuqikekelwe ukuthi uma okukodwa noma okubili noma ngaphezulu kwalokhu ukumba imigodi yokudonsa amanzi noma izindawo, noma ukumba, imigodi yokudonsa amanzi nezindawo, zisetshenzwa nokuxhumene nokunye, ziyocatshangwa njengemayini eyodwa ngaphandle kokuba umqondisi wesifunda azisa umnikazi ngalokho ngokubhala ukuthi lokhu ukumba imigodi yokudonsa amanzi noma izindawo noma ukumba, imigodi edonsa amanzi nezindawo, kunezimayini ezimbili noma ngaphezulu,

(b) futhi uma usetshenziswa njengesenzo noma yikuphi ukumba noma umgodi odonsa amanzi okubhekiswe kuwo endimeni (a) (i) noma ukumbiwa kwanoma yikuphi okuyigugu okukhona noma ngayiphi enye indlela, ngomgomo wokuzusa okungamagugu okumbiwa phansi, kuhlanganisa noma yikuphi ukuhlwaya maqondana nokuzusa lamagugu ambiwa phansi;

"okungamagugu okumbiwa phansi" kusho noma yiyiphi into, noma ngabe isesimeni esiqinile, esiwuketshezi noma umhwa-muko, okwenzeka ngokwemvelo phakathi noma ngaphezulu komhlaba, phakathi noma ngaphansi kwamanzi noma ezinsaleleni futhi kwenziwe noma kwaba okudaleke ngokusebenza komhlaba, kungahlanganisile amanzi kodwa kuhlanganise isihlabathi, amatshe, amadwala, uhlwayi nebumba kanjalo futhi nenhlabathi ngaphandle kwenhlabathi engaphezulu;

"ikomiti yokuphepha ezimayini" kusho ikomiti eyamiswa ngokwesigaba 26(1)(a);

"indawo yokumba okungamagugu" kusho indawo ephethe udaba lwanoma yiyiphi imvume yokuhlwaya noma ukugunyazwa kokumba okungamagugu, kuhlanganise noma yiyiphi indawo engaphezulu komhlaba eseduzane ephethwe onalemvume noma lokhu ukugunyazwa futhi onelungelo lokuyisebenzisa maqondana nemisebenzi eyenziwayo nokwesazokwenziwa ngaphansi kwalemvume noma lokhu ukugunyazwa;

"ukugunyaza ukumbiwa kokungamagugu" kusho noma yikuphi ukugunyaza okunikezwe ngaphansi kwemvume yokumba okungamagugu noma kwelayisense yokumba okungamagugu.

"ilayisense yokumba okungamagugu" kusho noma yikuphi ukugunyaza okukhishwe ngokushiwo yisigaba 9 ngenkathi eyeqa iminyaka emibili.

"imvume yokumba okungamagugu" kusho ukugunyaza okukhishwe ngokushiwo yisigaba 9 ngenkathi engeqi iminyaka emibili;

"ilungelo lokumba okungamagugu" kusho noma yiliphi ilungelo noma yiyiphi isheya kulokho etholakele ngaphansi kwanoma yisiphi isigaba esishiwo esigabeni 47(1) noma (5) noma yiliphi ilungelo lokumba okungamagugu elitholakele ngaphansi kwesivumelwano njengoba lichaziwe esigabeni 1 soMthetho wokuBhalisa aMatayitela okuMba okungamagugu, 1967 (uMthetho Na.16 ka 1967), noma yisiphi esinye isabelwana esitholakele ngenxa yelungelo elishiwo kuqala noma yiliphi isheya kulona;

"uNgqongqoshe" kusho uNgqongqoshe wezangaPhakathi;

"isivumelwano sokuphakamisa" kusho isivumelwano sokuphakamisa njengoba sichazwe esigabeni 1 soMthetho wokuBhalisa aMatayitela okuMba okungamagugu, 1967 (uMthetho Na. 16 ka 1967);

"iGazethi kaHulumeni" kusho iGazethi kaHulumeni waKwaZulu;

"Isiphathimandla" kusho noma yisiphi isiphathimandla noma omunye umuntu emsebenzini kaHulumeni ngokumaqondana noMthetho waKwaZulu weZisebenzi zoMphakathi, 1990 (uMthetho Na. 5 ka 1990); njengoba uchitshiyelwe;

"umnikazi" kusho maqondana -

(a) nomhlaba (izwe) ngaphandle kwelengenzelwe ingqalasizinda-kwelungalungisiwe futhi elingabhalisiwe lingelombuso, umnikazi njengoba echazwe esigabeni 102 soMthetho wokuBhalisa kwaMatayitela, 1937 (uMthetho Na. 47 ka 1937),

(b) imayini -

(i) onemvume yokuhlwaya noma ukugunyazwa okuqondene kokumba okungamagugu;

(ii) noma lemvume yokuhlwaya noma ukugunyaza ukumba okungamagugu kungekho, umuntu wokugcina osebenze emayini noma omlandelayo esikhundleni;

(c) noma ngokwemisebenzi, futhi oqashile noma yimiphi imisebenzi noma ingxenywe kulokho;

"isiphathimandla sokuthula" kusho noma yisiphi isiphathimandla emsebenzini woMnyango omenyezelwe njengesiphathimandla sokuthula ngaphansi kwesigaba 334 soMthetho weNqubo eMaCaleni eGazi, 1977 (uMthetho 51 ka 1977);

"umuntu" kusho noma yimuphi umuntu njengoba echazwe esigabeni 2 soMthetho wokuHumusha, 1957 (uMthetho 33 ka 1957) kuhlangukile uHulumeni futhi netrasti;

"okuyaliwe" kusho okuyalwe ngokomthethonqubo;

"ukusetshenzwa" kusho maqondana nanoma yikuphi okungamagugu okumbiwa phansi, ukusebenzisa okunye okungatholalaka ecaleni kwalokho, ukukhipha, ukuhlangukisa ndawonye, ukucolisa, ukushisa ukuze kukhishwe okugafuneki, ukwehlukanisa ngononisa, ukugaya, ukwela, ukuseza ukunciphisa, ukuncibilikisa noma ukuphendula kube igesi;

"ukuhlwaya" kusho ukufuna ngenhloso noma yiliphi igugu elimbiwa phansi ngaleyo ndlela ethikameza ingaphezulu lomhlaba, kuhlangukisa ingxenywe engaphansi kolwandle noma ngaphansi kwamanzi noma kwanoma yikuphi okuyizinsalela, ngokumba noma ngokuphehla (ukubhola) okudingekileyo ngokwalowo mgomo, kodwa kungahlangukisa ukumba okungamagugu njengesenzo;

"imvume yokuhlwaya" kusho ukugunyaza okukhishwa ngokushiwo yisigaba 6;

"umbhalo" uhlangukisa ulwazi okusephepheni lekompuyutha, ithephu noma idiski noma iyiphi indlela yokulondoloza lekhompuyutha;

"umqondisi wesifunda" kusho noma yisiphi isiphathimandla esiqokileyo ngokushiwo yisigaba 4;

"unjiniyela wesifunda wokumba okungamagugu" kusho noma yimuphi umuntu osebenzela uMnyango oyimenenja yemayini onesitifiketi maqondana nezindaba zokumba okungamagugu noma unjiniyela wemishini noma kagesi onesitifiketi ezimayini, maqondana nezinto zokusebenza, ngokuqondanisa, oqokelwe lesisikhundla somsebenzi nguNobhala;

"uthethonqubo" kusho noma yimuphi umthethonqubo owenziwe ngaphansi kwesigaba 63 noma osebenzayo ngokushiwo yisigaba 68(2);

"ukubuyisela into esimeni semvelo yayo" kusho, maqondana nengaphezulu lomhlaba nendawo, ukusetshenziswa kwemvume yokuhlwaya noma ukugunyazwa kokumba okungamagugu konakho ngokohlalo lokuqondisa emvelweni okubhekiswe kukho esigabeni 39 okwenelisa umqondisi wesifunda;

"uNobhala" kusho uNobhala wezangaPhakathi;

"ukulimaza kabi umzimba" kusho noma yikuphi ukulimaza okungabangela ukufa noma okungaholela ekulahlekelweni yisitho noma ukukhubazeka kwafuthi;

"izinsalela" kusho noma yimaphi amatshe angenamsebenzi, incikinciki noma okuyizinsalela okutholalaka nganoma yimuphi umsebenzi noma ukusetshenzwa kwanoma yiliphi igugu elimbiwa phansi;

"loMthetho" kuhlangukisa imithethonqubo kanye nanoma yimuphi umbandela noma yiyiphi imvume, ilayisense ukuvunyelwa, ukuvuma, inkululo ekwenzeni, ukuvumela, isaziso noma ukugunyaza okukhishwe, kwanikwa, kwabelwa, noma okucatshangwa ukuthi kukhishwe, kwanikwa noma kwabelwa ngokushiwo yiloMthetho, ngaphansi kwawo;

"ngaphansi komhlathi", maqondana nemayini, noma yiyiphi indawo emayini engaphansi kobuso bemvelo bomhlaba exhumene kuphela nobuso bomhlaba ngomgodi (ishafu), umgodi othambekile, noma ocishe unqume kabili oyofinyelela emgodini wemayini, umgodi oqonde phansi ongenisa nokhipha umoya, imbobo noma ukwehlela noma okubhanqe lokhu, kuhlangukisa lomgodi, umgodi othambekile, umgodi ocishe unqume kabili, umgodi oqonde phansi ongenisa nokhipha umoya ocishe unqume kabili, umgodi oqonde phansi ongenisa nokhipha umoya, umshini wokudonsa ikheshi, imbobo noma ukwehlela;

"umshini wokudonsa" kusho noma yikuphi kokudonsa noma okunye okuxhunywayo ukusetshenziswayo noma okuhloswe ukusetshenziswa ukuthwala abantu, izinto ezisetshenziswayo noma okungamagugu okumbiwa phansi ngokusebenzisa ikheshi, umgomo odonswa ngentambo yokukhipha abantu emgodini noma ezinye izindlela zokuthwala kunoma yimuphi umgodi noma umgodi oqonde phansi ongenisa nokhipha umoya lapho uhlelo lokuqondisa lwemishini oshayelwayo ngokuvama ingasetshenziswa ngezandla kusuka enjinini noma endlini yenjini, kodwa kungahlangukisa umshini wokukhuphula, ukudonsa ngentambo engapheli kanye nokufakwa komshini wokugugula;

"izindawo zemisebenzi" kusho noma yiyiphi indawo, kungahlangukisa imayini, lapho omunye noma eminye yalemisebenzi elandelayo futhi noma yimuphi umsebenzi odingekileyo noma maqondana nawo, yenzelwa khona, njengalena nje-

(a) ukuthumela nokwabela kunoma yimuphi osebenzisa noma yimaphi amandla avela emayini, ethunyelwa ngumnikazi, kuyofika endaweni yokugcina yezinto eziningi ezinikezwayo; lapho okunikezwayo kungekuningi, kuyofika kumitha yokunikezwa kwamandla kunoma kuziphi izakhiwo zalowo awasebenzisayo; noma

(b) ukuqeqeshwa kunoma yisiphi isikhungo sokutakula esiphakathi naphakathi.

ISAHLUKO II

UKUPHATHA

uMthetho
wokuPhatha.

2. (1) LoMthetho uyosetshenziswa maqondana nemiyalo neziqondiso futhi ngaphansi kokubheka kukaNgqongqoshe, nguNobhala.

(2) Ukusetshenziswa kwezimiso zaloMthetho maqondana nokuphepha nempilo kuyokwenziwa emva kokubonisana nanokuqondiswa ngumuntu oqokwe nguNobhala oyoba umphathi-imenenja yemayini enesitifiketi noma unjiniyela (wezimayini) wemishini negesi onesitifiketi futhi oyokwaziwa njengeMenenja eMba okungamaGugu kaHulumeni futhi imisebenzi yokuqala kuyobe ukwengamela nokubheka ukuphepha, impilo nezindaba eziqondene kunoma yiyiphi imayini noma imisebenzi.

Ukwehlukaniswa
kwelaKwaZulu
libe yiziFunda.

3. Ngemigomo yaloMthetho uNgqongqoshe, ngesaziso kuGazethi kaHulumeni angahlukanisa eLaKwaZulu libe yizifunda futhi nangezikhathi ngezikhathi, angachibiyela lemingcele yalezizifunda.

Ukuqokwa
nemisebenzi
yabaqondisi
bezifunda.

4. uNgqongqoshe, maqondana nesifunda ngasinye okubhekiswe kuso esigabeni 3, angaqoka umuntu onolwazi lwemisebenzi oludingekileyo nalufundele njengomqondisi wesifunda ukusebenzisa amandla futhi enze imisebenzi ebekwe phezu kwakhe noma ayinikeziwe yiloMthetho noma ngokushiwo yiwo noma yimuphi omunye umthetho futhi afeze noma agcine imiyalo neziqondiso zikaNgqongqoshe nezikaNobhala.

ISAHLUKO III

UGUNYAZWA KOKUHLWAYA NOKUMBA OKUNGAMAGUGU

iso zaloMthetho, onelungelo kunoma yikuphi okungamagugu okumbiwa phansi maqondana nomhlaba elala, njengalokhu kunokwenzeka, noma yimuphi umuntu othole imvume yokuba nalokhu ngokumaqongqaba 6(i)(b); noma 9(1)(b) uyoba nelungelo lokungena kulomhlaba noma omhlaba na lezizinsalela, njengalokhu kunokwenzeka, kanye nalomuntu, noma nalomshini noma izinto njengalokho kungadingeka ngokwemigomo yokuhlwaya noma yokumba okungamagugu futhi ahlwaye, koku okungamagugu kulomhlaba noma kulezizinsalela, njengalokhu kunokwenzeka, futhi akusebenzise.

u oyohlwaya noma ambe noma yikuphi okungamagugu ngaphandle kokugunyazwa okudingekileyo akungakumaqondana naloMthetho: Kuqikekelwe ukuthi -

yeMigwaqo yase Ningizimu Afrika emiswe isigaba 2 soMthetho waMaBhodi eMigwaqo yase Ningizimu 1988 (uMthetho Na. 74 ka 1988), iMinyango yeMisebenzi neyeZolimo naMahlathi futhi noma yikuphi hwa kwesifundazwe akuyikudinga noma yikuphi lokhu ukugunyazwa ngokucinga nokuthatha lesisihlahshe, idwala, uhlayi, ibumba kanye nenhlathi ngokwemigomo yokwakha imigwaqo ngaphansi kwemisebenzi nabob: Kuqikekelwe futhi ukuthi leBhodi yeMigwaqo, noma iMinyango yeZemisebenzi ilimo naMahlathi nokuphathwa kwezifundazwe, kunoma kukuphi kulokho ngokwemigomo yaloMthetho nangwa njengonayo lemvume yokuhlwaya noma lokhu ukugunyazwa ukumba okungamagugu noma ke isicelo salokho, maqondana nokuyigugu okumbiwa phansi nalomhlaba oqondene: Kuqikekelwe futhi ezizimvume zomhlaba nezamagugu ambiwa phansi azinakuthiywa ngokushiwo yizigaba 6(1)(b) no futhi

kulomhlaba ngenyindlela ethatha ngokomthetho isihlabathi, itshe, idwala, uhlayi, ibumba noma inhlangemigomo yokulima noma ngemigomo yokwenza ngcono maqondana nalemigomo kulomhlaba, udinga noma yikuphi ukugunyazwa futhi izimiso zaloMthetho aziyikusebenza kunoma yikuphi kwalokhu.

hi umuntu omba noma yikuphi okungamagugu ngaphansi kokugunyazwa kokumba okungamagugu, a lokhu okungamagugu, ebese futhi emba asebenzise noma yikuphi okanye okungamagugu angenayo pondana nakho kulokho, kodwa ukoncedingokuba kumbiwe ndawonye kanye nalokhu okungamagugu qala: Kuqikekelwe ukuthi lomuntu uyoxephezela onelungelo kulokho okanye okungamagugu okumbiwa ungamagugu kwakhe okumbiwa phansi ngalelonani abavumelene ngalo bobabili, noma uma kungekho abasebenzile, kube inani elinqunye ngokwesehlulelo maqondana noMthetho woKwahlulela 196 a.42 ka 1965), noma yiyiphi inkantolo efanele uma lomuntu oshiwo ekugcineni eqoka inqubo eshi. Kuqikekelwe futhi ukuthi ekunqumeni inani elishiwo ekugcineni, isigaba 12 soMthetho wokwePhuca 1975 (uMthetho No.63 ka 1975) uyosebenza ngokuguquka okudingekileyo ngokungathi ukwephucwa a ukuthathwa kwelungelo sekwenzekile ngokushiwo yiloMthetho oshiwo ekugcineni.

wesifunda, ngaphansi kwezimiso zaloMthetho, ngesicelo esifakiwe efomini enqunyelwe futhi a imali yesicelo enqunyelwe, uyokhipha imvume yokuhlwaya efomini enqunyelwe igunyaza ofake isicelo ye okungamagugu okumbiwa phansi okumaqondana nakho -

ume kulokho; noma

ole imvume ebhaliweyo ukuba ahlwaye ngokwakhe, ivela kulona onayo

nomhlaba noma izinsalela, njengalokho kunokwenzeka, kuqethe indaba yesicelo esifakiweyo.

i isicelo esifakiweyo ngemvume yokuhlwaya, siyonikezwa umqondisi wesifunda oqondene futhi kuyothi, zi olunye nezincwadi zobufakazi, angazidinga sihambisane -

kazi belungelo kokungamagugu okumbiwa phansi maqondana nomhlaba noma izinsalela, njengalokhu enzeka, kuqethe indaba yesicelo esifakiweyo; futhi

ngwane ngendlela ufaki wesicelo ehlose ukuhlwaya futhi abuyisele esimeni semvelo lokho amezekile kwengaphezulu okungadalwa yimisebenzi yakhe yokuhlwaya ehlosiwe,

a kumqondisi wesifunda.

meni waKwaZulu engonelungelo kunoma yikuphi okungamagugu okumbiwa phansi, imvume okubhekisatshaneni (i)(b), ngesicelo esifakiweyo sibhaliwe, inganikezwa nguNgqongqoshe, ngaphansi kwalemibandela njengalokhu inganqunywa nguye.

hi imvume yokuhlwaya iyokhishelwa inkathi yezinyanga eziyi 12 noma leyonkathi endana njengoba wesifunda enganquma futhi nonemvume yalokho, ngezikhathi ngezikhathi, phakathi nenyanga eyodwa kokuphela kwenkathi leyo imvume ebikhishelwe noma yavuselelwa, ngokufaka isicelo esibhaliwe wesifunda oqondene futhi ngokukhokha imali enqunyelwe yokufaka isicelo, angathola ukuvuselelwa inkathi eyizinyanga eziyi 12 noma lenkathi endanyana njengalokhu umqondisi wesifunda enganquma, disisi wesifunda enelisekile ngendlela onemvume abuyisela ngayo okuthikamezekile kwengaphezulu okubenzi yakhe yokuhlwaya emhlabeni lowo oqondene.

oMthetho wokuNgiwa KweMvelo KwaZulu, 1992 (uMthetho ka 1992) akukho muntu oyohlwaya phakathi komhlaba -

obha noma indawo yedolobha;

waqo womphakathi, noma ujangtshi wesitimela noma indawo yamaliba;

lwe noma usetshenziswa ngaphansi kwaloMthetho, noma yimuphi omunye umthetho, imigomo meni noma yomphakathi;

ngachazwa futhi unqunywe nguNgqongqoshe ngesaziso kuGazethi kaHulumeni,

kwemvume ebhaliwe kaNgqongqoshe futhi maqondana nalemibandela njengoba inganqunywa nguye.

wesifunda oqondene uyoba namandla okunquma noma ukwenza ukuba kunqunywe noma ukukhomba ukubakukhoniwe imingcele yezindawo okubhekiswe kuzo esigatshaneni (1) .

onemvume noma yiyiphi yokuhlwaya oyosusa noma yikuphi okungamagugu akutholile phakathi noma komhlaba noma ezinsaleleni ngesikhathi semisebenzi yokuhlwaya, kulomhlaba noma kulomhlaba lapho ona lezizinsalela noma asebenzise noma yikuphi okungamagugu, kungahlanganisiwe amasampula hi okungamagugu okuthathiwe ukuba kuhlole noma kubonwe noma kuhlaziwe ngaphandle kwemvume yonemvume kulokhu okungamagugu maqondana nalomhlaba noma izinsalela, futhi nemvume ebhaliwe ngumqondisi wesifunda oqondene, ngaphansi kwalemibandela maqondana nokuphepha nempilo, isiswa konke noma ukubuyiselwa esimeni semvelo njengalokhu kunganqunywa nguye futhi kubalulwe

Ukukhishwa
kwemvume yokumba.

9.

- (2) Uma uHulumeni waKwaZulu engonemvume kunoma yikuphi okungamagugu, imvume okubhekiswe kuyo esigatshaneni (1), ngesicelo esifakiweyo esibhaliweyo, inganikezwa nguNgqongqoshe, ngaphansi kwalemithetho nemibandela njengalokhu kunganqunywa nguye.
- (3) Noma yisiphi isicelo semvume okuqondiswe kuso esigabeni (1) siyofakwa ngokubhalwa kumqondisi sifunda ophathekile futhi siyophelekezelwa imali yesicelo emisiwe.
- (4) Noma iyiphi imvume yokuthutha okungamagugu enikezwe ngokuyala kwesigatshana (1), uyophela ekupheleni kwemvume yokuhlwaya kwaleyomvume okuqondiswe kuyo.
- (1) Umqondisi wesifunda uyothi, kuye ngezimiso zaloMthetho, esicelweni esenziwe efomini emisiwe futhi ekukhokhweni kwemali yesicelo emisiwe akhiphe imvume yokumba efomini emisiwe yenkathi enqunywe nguye egunyaza umfaki sicelo ukuba ambe futhi asebenzise okungamagugu okumbiwe maqondana nokuthi yena -
 - (a) Ungumuntu onelungelo lalapho; noma
 - (b) Uthole imvume ebhaliwe yokuba umuntu onelungelo lokumba ezimbela yena futhi asebenzise lokho okumbiwe, mayelana nendawo noma izinsalela njengoba kungenzeka, njengokuqokethwe udaba lwesicelo esifakiweyo.
- (2) Uma uHulumeni waKwaZulu kunguyena onelungelo lanoma yikuphi okungamagugu, imvume okuqondiswe kuyo esigatshaneni (1)(b) ingathi, esicelweni esibhaliwe, inikezwe uNgqongqoshe, kuye ngezimiso kanye nemibandela engase inqunywe nguye.
- (3) Akukho kugunyaza okuyokhishwa ngokushiwo yisigatshana (1), ngaphandle kokuba umqondisi wesifunda eneliseke-
 - (a) Ngendlela nangobungako bofake isicelo ahlose ukumba okungamagugu okuqondene ngokugcwele nangokuphepha ngaphansi kwalokhu ukugunyaza kokumba okungamagugu;
 - (b) ngendlela yofake isicelo ahlose ukubuyisela okuthikamezekile kwengaphezulu emvelweni yakho okungaban- gelwa ngumsebenzi wokumba okungamagugu;
 - (c) ukuthi lo ofake isicelo unamandla futhi angahlinzekela ngokudingekile ukumba lokhu okungamagugu ngokugcwele nangokuphepha futhi abuyisele emvelweni yakho okuthikamezekile kwengaphezulu;
 - (d) futhi nanokuthi okuyigugu okumbiwa phansi okuqondene imvume yokumba okungamagugu ekhishelwe maqon- dana nakho;
 - (i) kukhona ngezamba ezinomkhawulo phakathi noma ngaphezulu komhlaba noma ezinsaleleni, njengalokhu kunokwenzeka, kuqukethe udaba lwesicelo esifakiweyo;
 - (ii) noma okungamagugu kuyombiwa ngesilinganiso esinomkhawulo;
 - (iii) futhi okungamagugu kuyombiwa okwesikhashana;
 - (e) ukuthi kunezizathu ezanele ukukholwa ukuthi okungamagugu okumbiwa phansi okuqondene okuzokhishwa ilayisense yokumba okungamagugu maqondana nakho-
 - (i) kukhona ngokungaphezu kwezamba ezinomkhawulo phakathi noma ngaphezulu komhlaba noma ezinsale- leni, njengalokhu kunomkwenzeka, kuqukethe udaba lwesicelo esifakiweyo;
 - (ii) noma okungamagugu kuyombiwa ngesilinganiso esikhulu kunesinomkhawulo/esincane
 - (iii) futhi okungamagugu kuyombiwa inkathi endana kuneminyaka emibili;
- (4) Isigaba 7 siyosebenza ngokuguquka okudingekileyo maqondana nokwenziwa kwemisebenzi yokumba okunga- magugu ngaphansi kokugunyaza ukumba okungamagugu.
- (5) Noma yisiphi isicelo esifakiweyo sokugunyaza ukumba okungamagugu siyonikezwa umqondisi wesifunda oqondene, futhi phezu kolunye ulwazi nezincwadi zobufakazi ezingadingwa nguye, siyohambisana:-
 - (a) isiqiniseko selungelo kokungamagugu okumbiwa phansi maqondana nomhlaba noma izinsalela, njengalokhu kunokwenzeka, kuqukethe udaba lwesicelo esifakiweyo;
 - (b) nohlelo oludwetshiweyo olukhombisa ukubekela kwendawo yokumba okungamagugu ehlosiwe, umhlaba oqukethe udaba lwesicelo esifakiweyo, izindawo lapho kwenzelwa khona imisebenzi yokumba okungamagugu okuhlosiwe kanye nendawo yezakhiwo zangaphezulu ezimaqondana nalokho;
 - (c) imininingwane ngendlela nangesilinganiso ofake isicelo ahlose ukumba lokhu okungamagugu ngaphansi kwalokhu ukugunyaza ukumba okungamagugu ngokugcwele nangokuphepha futhi nokubuyisela lokhu okuthikamezekile kwengaphezulu okwenziwe yizinjongo zakhe zobumba;
 - (d) imininingwane mayelana nokumba okungamagugu kwindawo noma izinsalela, njengoba kungenzeka, buqukethe udaba lwesicelo esifakiweyo; futhi
 - (e) imininingwane mayelana namandla omfaki sicelo ukwenza isihlinzeko esidingekile okumba lokho okunga- magugu ngokugcwele futhi ngokuphehle nokubuyisela lokhu okuthikamezekile kwengaphezulu, kwemukeleke kumqondisi sifunda.
- (6) Umqondisi wesifunda angakhulula noma yimuphi ofake isicelo sokugunyazwa ukumba okungamagugu kwesisodwa noma ngaphezulu kwezimiso zesigatshana (5) ngaphansi kwalemibandela njengalokhu kunganqunywa nguye.

Ukugunyaza kwe-
sikhashana ku-
qhutshelwe ne-
misebenzi
yokuhlwaya okumba
okungamagugu

10.

- (1) Umqondisi wesifunda kuye, nganoma yisiphi isicelo esifakiweyo semvume yokuhlwaya noma sokugunyaza ukumba okungamagugu okugunyaza ukuqhutshwa kokuhlwaya noma imisebenzi yokumba okungamagugu emhlabeni oqukethe udaba lwalesicelo esifakiweyo futhi okugunyazwe ngaphansi kwemvume yokuhlwaya noma ukugunyaza ukumba okungamagugu esekuphelelwe isikhathi ngokuyala kwesigaba 16.

Isikhathi
nokuphela kwe-
mvume yoku-
hlwaya noma
ukugunyaza
ukumba oku-
ngamagugu.

11.

- (1) Noma yiyiphi imvume yokuhlwaya noma ukugunyaza ukumba okungamagugu kuyohlala kusebenza inkathi enqunyi- we kulokho, ngaphandle kokuba, kumisiwe, noma kwesuliwe noma kuyekiwe noma kuphelelwe isikhathi ngokuyala kwaloMthetho
- (2) Onanoma yiyiphi imvume yokuhlwaya noma ukugunyaza ukumba okungamagugu, noma ngasiphi isikhathi, ngesaziso esibhaliweyo esiya kumqondisi wesifunda oqondene angayiyeka noma ayeke noma yiyiphi ingxenye yomhlaba oqukethe udaba kulokho, futhi kulokho kuyocatshangwa ukuthi kuphelelwe yisikhathi kusukela osukwini lwalesisaziso kuze kuyofika lapho kukhunjwe khona.

- (3) Noma yiyiphi ingxenye yomhlaba uma iyekwa ngaphansi kwesigatshana (2), isaziso okubhekiswe kulesososigatshana siyohambisana nohlelo oludwetshweyo olwemukeleka kumqondisi wesifunda, lukhomba ingxenye leyo eyekwe.

Ukuqhutshwa kokulwa necala kuze kukhishwe isitifiketi.

12. Noma yiyiphi imvume yokuhlwaya noma ukugunyaza kokumba okungamagugu, uma kwesulwa, noma kuyekwa noma kuphelelwa isikhathi ngokuyalwa kwaloMthetho, noma yiyiphi ingxenye yomhlaba equkethe udaba lwalemvume noma ukugunyaza uma iyekwa ngaphansi kwesigaba 11(2) noma okwenziwayo ezindaweni zemisebenzi kuma, umuntu owayenalemvume noma ukugunyazwa masinyane ngaphambi kwalokhu ukumiswa, ukwesulwa, ukuyeka noma ukuphelelwa isikhathi noma onalemvume noma ukugunyazwa ukumba okungamagugu noma umnikazi walemisebenzi, njengalokhu kunokwenzeka, uyohlala enecala lokugcina izimiso eziqondene zaloMthetho kuze kuthi umqondisi wesifunda oqondene akhiphe isitifiketi salokhu ukuthi izimiso ezishiwo zigciniwe.

Imvume yokuhlwaya noma ukugunyazwa kokumba okungamagugu akuyikwe-dluliselwa komumunye noma kusindwe yisibambiso.

13. Imvume yokuhlwaya noma ukugunyazwa kokumba okungamagugu ayikunikezwa omunye, kwedluliselwe komunye, kunikezelwe noma kusindwe yisibambiso ngaphandle kokuthola kuqala ukuvuma kukaNgqongqoshe.

Ukumiswa noma ukwesulwa kwemvume yokuhlwaya ukuvunyelwa noma ukugunyaza ukumba okungamagugu.

14. (1) Ngaphansi kwesigatshana (2) uNgqongqoshe angamisa noma esule noma yiyiphi imvume yokuhlwaya, noma ukuvunyelwa okubhekiswe kukho 8(1) noma ukugunyaza ukumba okungamagugu uma onelungelo ephula noma engagcini noma yisiphi isimiso saloMthetho: Kuqikekelwe ukuthi uma lo onalelilungelo ephula noma engagcini noma yisiphi isimiso sesigaba 38, uNgqongqoshe uyomisa, noma esule imvume noma ukuvunyelwa noma ukugunyaza okuqondene, njengalokhu kunokwenzeka.

- (2) Ngaphambi kokuba noma yiyiphi imvume, ukuvunyelwa noma ukugunyazwa okubhekiswe kukho esigatshaneni (1) kumiswe noma kwesulwe kanjalo, umqondisi wesifunda oqondene uyonikeza isaziso esibhaliweyo kulowo onemvume emyala ukugcina izimiso eziqondene noma enze okuthile kokulungisa lokho njengoba uNgqongqoshe engakudinga, enkathini ebalulwe esazisweni.

- (3) Noma yiyiphi imvume yokuhlwaya, noma ukuvunyelwa ukuhlwaya okubhekiswe esigabeni 8(1) noma ukugunyaza ukumba okungamagugu kungesulwa uNgqongqoshe noma ukukhishwa noma ukunikezwa kulokho, nakulokhona ntoni ephikisana nalokho okukuloMthetho, ngokuyala kukaNgqongqoshe, kungenqatshwa, uma ngokubona kwakhe, ukuphepha kukaHulumeni waKwaZulu kungafakwa engozini ngokuba khona njalo noma ngokukhishelwa noma ngokunikezwa kulokho.

Ukuvunjelwa kokukhishwa ngaphezu kwe-mvume eyodwa yokuhlwaya noma ukugunyazwa kokumba okungamagugu maqondana kokungamagugu okumbiwa phansi nomhlaba ofanayo.

15. Akukho mvume yokuhlwaya noma ukugunyaza ukumba okungamagugu okuyokhishwa maqondana nanoma yikuphi okungamagugu okumbiwa phansi noma maqondana nomhlaba noma izinsalela njengalokhu kunokwenzeka, uma imvume yokuhlwaya noma ukugunyaza ukumba okungamagugu sekukhishwe maqondana nalamagugu ambiwa phansi nomhlaba noma izinsalela, njengalokhu kunokwenzeka, ngaphandle kokuba umqondisi wesifunda esenelisekile ukuthi lokhu ukukhishwa okushiwo kuqala akuyikulimaza umgomo waloMthetho maqondana nokumbiwa ngokugcwele kokungamagugu, ukuphepha, impilo noma ukubuyisela esimeni semvelo.

Ukuphelelwa yisikhathi kwemvume yokuhlwaya noma yokugunyaza ukumba okungamagugu.

16. Noma yiyiphi imvume yokuhlwaya noma ukugunyaza kokumba okungamagugu kuyophelelwa isikhathi noma nini lapho-

- (a) lapho inkathi, uma ikhona, okukhishelwa yona lemvume noma lokhu ukugunyaza ukumba okungamagugu, iphela;
- (b) onalemvume noma lokhu ukugunyaza futhi onalelilungelo kokungamagugu okumbiwa phansi okuqondene maqondana nomhlaba noma izinsalela, njengalokhu kunokwenzeka, kuqikele udaba lwalemvume noma ukugunyaza, eyeka ukuba onelungelo oshiwo ekugcineni; noma
- (c) ukuvuma okubhekiswe kukho esigabeni 6(1)(b) noma 9(1)(b) kuphelelwa isikhathi.

ISAPHLUKO IV

UKUMBIWA NOKUSETSHENZISWA NGOKUGCWELE KOKUNGAMAGUGU.

Amandla kaNgqongqoshe uma ukuvunyelwa ukuhlwaya noma ukumba okungamagugu kungatholakali.

17. (1) Uma ilungelo kunoma yikuphi okungamagugu linganyulwa ngokugcwele noma ingxenye ebunikazini bomhlaba futhi libhaliswa ngokugcwele egameni lonalo oyedwa noma emagameni abanalo abangaphezu koyedwa ngamasheya angahlukanisiwe, futhi noma yimuphi umuntu ohlose ukuhlwaya noma ukumba lokhu okungama gugu nakulomhlaba enelisa uNgqongqoshe ukuthi lelilungelo lokuhlwaya noma ukumba okungamagugu kanje alikwazi ukutholakala ngesizathu salokhu ukuthi -

- (a) onalelilungelo noma abanalamalungelo abakwazi ukutholakala kalula; noma
- (b) nokuthi yimuphi umuntu onikezwe lelilungelo kokungamagugu noma isheya elingahlukanisiwe kulokho, ngesizathu sokuthi ukulandelana ekutholeni ilungelo akuhlinzekelwanga ngaphambi kokuba kufike ukufa noma yisiphi isimo sesivumelwano, akazange athole ukunikezelwa lelilungelo futhi inkathi engengaphansi kweminyaka emibili isiphelile kusukela osukwini ayese-fanele ukunikezwa ngalo,

uNgqongqoshe, ngesicelo esifakiweyo ngokubhala sanoma yimuphi lomuntu ohlosile futhi ngokukhokha imali enqunyelwe yokufaka isicelo, naphezu kwanoma yini into ephikisana nalokho ekunoma yimuphi umthetho -

- (i) anganikeza ukuvunyelwa ukuhlwaya okudingwe yisigaba 6(1)(b) maqondana nalokhu okungamagugu okumbiwa phansi nomhlaba kulona ofake isicelo; noma
- (ii) ngaphansi kokushiwo yilemibandela njengalokhu kungavunyelwana kukho phakathi kwalofake isicelo noNobhala, futhi emva kokukhokhela lona wangemuva inani, uma likhona, okungavunyelwana ngalo, angakhiphela lofake isicelo isitifiketi esigunyaza umbhalisi wamatayitela oqondene ukubhalisa ukunikezela maqondana nalokhu okungamagugu okumbiwa phansi noma isheya engahlukanisiwe maqondene nalomhlaba.

- (2) Uma uNgqongqoshe ekhipha isitifiketi ngaphansi kwesigatshana (1) (ii), ilungelo kulokhu okungamagugu okuqondene noma isheya engahlukanisiwe kulokho, njengoba kuchazwe kulesisitifiketi, ngemigomo yesigaba 32 soMthetho

wokuBhaliswa kwaMatayitela, 1937 (uMthetho Na. 47 ka 1937), liyocatshangwa ukuthi lamukiwe uHulumeni waKwaZulu futhi likulowo elinikezelwe yena ogama lakhe lishiwo kulesisitifiketi, futhi noma yikuphi ukunikezelwa kwanoma yiliphi lelilungelo noma isheya engahlukanisiwe kulokho egunyazwe yilesisitifiketi, kunganakiwe izimiso zesigaba 14 yoMthetho osushiwo, kungabhaliswa ngqo maqondana nalo onikezelwe ngokumaqondana nesigaba 32 esishiwo.

- (3) Ekubhalisweni kokunikezela njengoba kucatshangwe esigatshaneni (2), uNobhala uyosebenzisa inani, uma likhona, okubhekiswe kulo esigatshaneni (1)(ii), uma ilungelo eliqondene noma isheya kulokho -
 - (a) lingaphansi kwebhondi yesibambiso ebhalisiwe, ngokukhokha inani lesikweletu sesibambiso esingakakhokha kumuntu okubanjiswe kuye, futhi ngokukhokha imali eseleyo yenani elishiwo kuqala, uma likhona; noma
 - (b) uma lingekho ngaphansi kwebhondi yesibambiso esibhalisiweyo, ngokukhokha lelinani,

uMbhali waMafa eNkantolo yamaJaji aMakhulu okuphakathi kwendawo elawulwa nguye okukhona khona lomhlaba oqondene.

- (4) Isigaba 21(2) no (3) soMthetho woKwemuka aMalungelo, 1975 (uMthetho Na. 63 ka 1975), uyosebenza ngokuguquka okudingekileyo ezimalini ezemukelwe uMbhali waMafa eNkantolo yamaJaji aMakhulu ngokushiwo yisigatshana (3).
- (5) Izindleko mayelana nanoma yikuphi ukunikezela okucatshangwe esigatshaneni (1)(ii) kuyokhokha onikezelwe oqondene, futhi uMthetho wokweDlulisa iNtela kaHulumeni ngeMpahla, 1949 (uMthetho Na. 40 ka 1949), uyosebenza kulokho.
- (6) (a) Noma yimuphi umuntu ohlose ukuhlwaya noma ukumba okungamagugu emhlabeni oqukethe udaba lwelungelo lokumba okungamagugu, ekupheleni kwenkathi okubhekiswe kuyo esigabeni 47(i)(c), enelisa uNgqongqoshe ukuthi ilungelo lokuhlwaya noma ukumba okungamagugu alikwazi ukutholakala kalula ngesizathu salokhu ukuthi-
 - (i) onelungelo lokumba okungamagugu okuqondene akanakutholakala kalula;
 - (ii) noma yimuphi umuntu onikezwe ilungelo lokumba lokhu okungamagugu noma isheya engahlukanisiwe kulokho ngesizathu sokuthi ukulandelana ekutholeni ilungelo akuhlinzekelwanga ngaphambi kokuba kufike ukufa noma yisiphi isimo sesivumelwano akazange athole ukunikezelwa lelilungelo kulokho futhi inkathi engengaphansi kweminyaka emibili isiphelile kusukela osukwini anikezwa ilungelo ngalo,

uNgqongqoshe, ngesicelo esifakiweyo esibhaliweyo sanoma yimuphi lomuntu ohlosileyo futhi ekukhokheni imali enqunyelwe yokufaka isicelo, nakuba kukhona ntoni ephikisana nalokho ekunoma yimuphi umthetho-

- (aa) anganikeza imvume yokuhlwaya edingwa yisigaba 6(1)(b), maqondana nalokhu okungamagugu okumbiwa phansi nalomhlaba kulofake isicelo;
- (bb) noma ngaphansi kwalemithetho nemibandela njengolokhu kungavunyelwana phakathi kofake isicelo noNobhala, futhi emva kokukhokhela lo wamva inani, uma likhona, okungavunyelwa ngalo, anganikeza lofake isicelo isitifiketi sokuthi ilungelo lokumba okungamagugu okuqondene kwedluliselwe kuye, futhi aqondise uNobhala ukwenza ukushicilela okudingekileyo okumaqondana nalokho ezincwadini zobufakazi eziqondene.

- (b) Izindleko maqondana nanoma yikuphi ukwedlulisa okucatshangwe endimeni (a) (bb) uma zikhona, ziyokhokha ofake isicelo oqondene.

- (7) Ekukhipheni isitifiketi okubhekiswe kuso esigatshaneni (6)(a)(bb), uNobhala uyosebenzisa inani, uma likhona okubhekiswe kulo kulesigatshana ngokuguquka okudingekileyo maqondana nesigatshana (3) kanye nesigaba 21(2) no (3) soMthetho woKwemuka aMalungelo 1975, kuyosebenza ngokuguquka okudingekile kunoma yiziphi izimali ezamukeliwe uMbhali waMafa eNkantolo yamaJaji aMakhulu.

Uphenyo oluthile lukuHulumeni waKwaZulu maqondana nobukhona, uhlobo nobungako lokungamagugu okubiwa phansi phakathi noma phezu komhlaba.

18. (1) Nakuba kukhona noma ntoni ephikisana nalokhu okuqukethwe kuloMthetho maqondana nokukhishwa kwemvume yokuhlwaya, uNgqongqoshe, uma ebona ukuthi kudingekile ngokuzosiza/kuthandwa yisizwe, futhi ngesaziso esibhaliweyo ngaphambili kwezinsuku ezingu 30 kumnikazi womhlaba oqondene nakulowo onemvume yokuhlwaya noma ukugunyazwa ukumba okungamagugu oqondene nokunesheya yedwa noma bonke abanamasheya angahlukanisiwe elungelweni kokungamagugu okuqondene maqondana nalomhlaba, angenza ukuba kwenziwe noma yiluphi uphenyo nguHulumeni waKwaZulu kulomhlaba ukuthola ukuthi lokhu okungamagugu kukhona phakathi noma ngaphezu kwalomhlaba, futhike uma kunjalo, ukuthola uhlobo nobungako kulokho.

- (2) Isinxephezelo njengalokhu singanqunywa uNgqongqoshe, siyokhokha nguye maqondana nanoma yimuphi umonakalo obonakalisiwe kunoma yimuphi umuntu njengomphumela wanoma yiluphi uphenyo olucatshangwe esigatshaneni (1).

Ulwazi maqondana nokuhlwaya lunikezwe umqondisi wesifunda.

19. (1) Ngaphansi kwesigatshana (4), onanoma yiyiphi imvume yokuhlwaya noma ukugunyazwa ukumba okungamagugu, kuyothi phakathi nonyaka owodwa emva kokuqeda ukumba noma yikuphi okumbiwayo noma ukumba umgodi odonsa amanzi, ngomgomo wokuhlwaya kusukela ngaphezulu kwanoma yimuphi umhlaba, anikeze ulwazi olugcwele nolulungileyo kumqondisi wesifunda oqondene maqondana -

- (a) nendawo eqondile yokumbiwayo noma umgodi odonsa amanzi;
- (b) usuku lokuqeda umsebenzi;
- (c) ubude obuya phansi;
- (d) amatshe nobude obuya phansi bezinto ezingaphakathi komhlaba ezimbiwayo noma eziphehlwa izimbobo;
- (e) imiphumela yanoma yikuphi ukuhlola noma ukuhlaziya okwenziwe kulokho okungamagugu okumbiwa phansi okutholakala kokumbiweyo nemigodi edonsa amanzi embiweyo;
- (f) lonke olunye ulwazi olutholiweyo ngumhlwayi maqondana nokungamagugu okumbiwa phansi, okumbiweyo noma imigodi edonsa amanzi embiweyo.

- (2) Ngaphandle kokuba kuhlinzekiwe ngenyindlela esigatshaneni (3) futhi ngaphansi kwesigaba 10 soMthetho waMalahle, 1983 (uMthetho Na. 32 ka 1983), isigaba 53 soMthetho waMandla, e Athomu, 1982 (uMthetho Na. 92 ka 1982), nesigaba 12A(1) soMthetho waMandla, 1987 (uMthetho Na. 42 ka 1987), akukho lwazi olunikeziwe ngokushiwo yisigatshana (1) noma isimiso esiqondene somthetho ongaphambili, oluyokhishwa noma lukhonjiswe noma yimuphi umuntu ngaphandle kwesiphathimandla noma isisebenzi esisemsebenzini woMnyango, ngaphandle kokuba lowo onemvume yokuhlwaya noma ukugunyazwa ukumba okungamagugu okubhekiswe kukho esigatshaneni (1) esekuvumile lokho ngokubhala phansi.

- (3) (a) uNobhala, emva kwenkathi eyiminyaka eyi 15 isiphelile kusukela ekuqedweni kwanomayikuphi okumbiwayo noma umgodi odonsa amanzi okumaqondana nawo, kulethwe ulwazi ngokushiwo yisigatshana (1) noma isimiso esiqondene emthethweni ongaphambili, ngesaziso kuGazethi kaHulumeni angayazisa inhloso yakhe yokukhipha noma ukuvezela umphakathi noma yikuphi kwalolulwazi, futhi noma yisiphi lesisaziso siyoba nohlu olukhombisa, ngangalokhu kwaziwa -

- (i) inombolo yokumbiweyo, noma umgodi odonsa amanzi;
- (ii) igama lomuntu okwambiwa noma kwaphehlwa imbobo ngalo;
- (iii) indawo lapho kukhona khona umhlaba okwambiwa noma kwaphehlwa izimbobo khona;
- (iv) usuku lokuqedwa kwalokho.

- (b) Noma yimuphi umuntu onothando ngokwezimali oluqondileyo noma ngenye indlela kunoma yikuphi okumbiweyo noma umgodi wamanzi okubhekiswe kuwo endimeni (a) futhi ofisa ukuphikisa lokhu okukhishwa noma ukuveza okubhekiswe kukho olwazini oluqondene, uyoletsha lokhu ukuphikisa nanezizathu okusekelwe phezu kwazo, kuNobhala ngokubhalwe phansi ezinyangeni eziyisithupha kusukela osukwini lokukhishwa kwesaziso okubhekiswe kuso kuleyondima.
- (c) uNobhala angakuthatha ukuphikisa okubekwe kuye maqondana nendima (b), noma akwale uma enelisiwe ukuthi ukukhishwa noma ukuveza kolwazi oluqondene aluyikulimaza noma yikuphi okufunwa ngokwezimali oluqondileyo noma ngenyindlela komphikisi, futhi masinyane ngokungenzeka, uyokwazisa umphikisi ngokumbalela ngesinqumo sakhe.
- (d) Ngaphansi kwesigaba 68(1)(iv) soMthetho waMandla e Athomu, 1982, noma yisiphi isinqumo esinikezwe ngaphansi kwendima (c) futhi umphumela wanoma yisiphi isikhalo esibekiwe ukuphikisa lesisinqumo ngaphansi kwesigaba 57(2), uNobhala ekupheleni kwenkathi yezinyanga eziyisithupha okubhekiswe kukho endimeni (b), angakhapha noma avezele umphakathi noma ngayiphi indlela angabona ifanele, noma yiluphi ulwazi oluqondene.

- (4) Umqondisi wesifunda, ngaphansi kwalemibandela, njengalokhu kunganqunywa nguye, angakhulula onanoma yiyiphi imvume yokuhlwaya noma ukugunyazwa kokumba okungamagugu, kunoma okukodwa noma ngaphezulu kwezimiso zesigatshana (1).

no 20. (1) Yize noma kukhona ntoni ephikisayo ekhona emthethweni kodwa ngaphansi kwesigaba 71(2)(a) kanye no 73 bis yoMthetho wokuBhaliswa kwamaTayitela 1937 (uMthetho No. 47 ka 1937), akukho tayitela uma lingabhaliswa, elingadala -

- (a) ukwehlukaniiswa kwanoma iliphi ilungelo kunoma yiliphi noma imaphi amagugu ambiwa phansi malungana nomhlaba, phakathi kwabantu ababili noma ngaphezulu ngamasheya okungahlukaniselwananga ngawo noma;
- (b) ukwanda kwesibalo sabantu abanamasheya angahlukaniselwananga kunoma yiliphi ilungelo kunoma yiliphi igugu emagugwini ambiwayo.

ayobhaliswa umbgalisi wamatayitela aqondene, ngaphandle kokuba uNobhala, phansi kwesigaba (3) ngokubhala avumele lokho kwahlukaniiswa noma ukwandiswa.

- (2) Noma yimuphi umuntu odinga imvume kaNobhala ekwahlukaniweni nasekwandisweni okuqondiswe kukho esigatshaneni (1) uyokwenza isicelo esibhaliwe asiqondise kumqondisi jikelele wesifunda afake futhi nemali enqunyiwe yokwenza isicelo, kanye nalawo maphepha anobufakazi adingekayo nanoma yikuphi okunye ukwazisa okungase kube nesidingo sokusiza uNobhala ekwenzeni isinqumo.

- (3) Emveni kokuba uNobhala esesihloliwe isicelo okubhekiswe kuso esigatshaneni (2) evuma ukuba ukwahlukaniiswa noma ukwandiswa kubandakanya ingqikithi yaleso isicelo esibhaliwe noma esenqaba isicelo uma aneliswa ukuthi lokho kwahlukaniiswa noma ukwandiswa kungase kube nomphumela ongalimaza ezinye zezinjongo zaloMthetho.

no 21. Uma kulandelwa ukwabiwa kwefa okubhaliwe noma umthetho wokwabiwa kwefa kungabhalisiwe kuzoba nomphumela wokwahlukaniiswa noma wokwandiswa ngokubhekiswe esigabeni (20) (1) futhi uma uNobhala ngegunya phansi kwesigaba (20)(3) enqaba ukuvumela ukwahlukaniiswa noma ukwandiswa futhi uma izindlalifa noma labo abanelungelo lefa bangafinyeleli esivumelwaneni esingayikuba nomphumela wokwahlukaniiswa noma ukwandiswa, umabi walelo lifa, yize noma kukhona ntoni ephikisayo kunoma yimuphi umthetho noma okubhaliwe encwadini yokwaba ifa ebona ilungelo lokumba okuligugu noma isheya elingahlukahlukaniswanga bese aba inzuzo esalayo njengoba kumiswe encwadini yokwabiwa kwefa noma ngesimiso somthetho ophathelene nokwabiwa kwefa okungabhaliwe, namafa, njengoba kungase kwenzeke.

ma 22. (1) Uma lowo ogunyaziwe ukuba emba, enza umsebenzi wakhe ngendlela, okuthi ngokubona kukaNgqongqoshe, kungase kube nomphumela wokulimaza injongo yalomthetho malungana namagugu ambiwa phansi angase-

- (a) enze ukuba kube nophenyo lwaleyo ndaba; futhi
- (b) emveni kokuba sekucutshunguliwe uvo olucatshangwe esigatshaneni (2), uma ekhona, futhi nomphumelo wophenyo olucatshangwe endimeni (a) akhiphe isiqondiso esinquelela lowo onelungelo ukuba athathe izinyathelo zokulungisa esikhathini esinqunyiwe esiqondisweni njengoba kungase kufunwe uNgqongqoshe.

- (2) ngaphambi kokuba kukhishwe isiqondiso okubhekiswe ngaso esigatshaneni (1)(b), umqondisi wesifunda uyothumela isaziso esibhaliweyo kulowo onelungelo okubhaliswe ngalo kuleso sigatshana, okuyothi ngaso aziswe ngezinyathelo okucetshwe ukuba zithathwe uNgqongqoshe, futhi anikezwe ithuba lokuba abeke owakhe umbono ngenhloso kaNgqongqoshe mayelana nalezo zinyathelo esikhathini esibaliwe esazisweni esingayikuba ngaphansi kwezinsuku ezingu 30.

wa 23. (1) Uma noma yimuphi umuntu noma ngayiphi indlela esebenzisa noma enza ukuba kusetshenziswe noma ufuna ukusebenzisa noma ukuba kusetshenziswe ngaphezulu lomhlaba noma kuyiphi indawo noma kubandakanya noma kwenziwe ukuba kubandakanywe noma kuhloswe ukuba kubandakanywe noma enze ukuba kubandakanywe kunoma yimaphi amapulani okwakhiwa kwamadolobha, okungase, ngokubona kuka Ngqongqoshe, kube nomphumela omubi enjongweni yalomthetho malungana nokumbiwa kuqedwe amagugu embiwayo anoma yintoni embiwayo ekhona noma engase ibekhona kakhulu kangangokuba ingathengiswa ilethe inzuzo enkulu noma endaweni noma emaphethelweni aleyo ndawo, uNgqongqoshe angase -

- (a) enze ukuba kube nophenyo lwaleyo ndaba; futhi
- (b) emveni kokuba esehloliwe amazwi alindelekile esigatshaneni (2), uma ekhona, futhi nomphumela wophenyo okubhaliswe ngawo endimeni (a) akhiphe isiqondiso esinquelela lowo onelungelo ukuba athathe izinyathelo zokulungisa esikhathini esinqunyiwe esiqondisweni, njengoba kungase kufunwe uNgqongqoshe.

- (2) Ngaphambi kokuba kukhishwe isiqondiso, ekubaliswe ngaso esigatshaneni (1)(b) umqondisi wesifunda uyothumela isaziso esibhaliweyo kulowo onelungelo okubhaliswe ngaso kuleso sigatshana, okuyothi ngaso aziswe ngezinyathelo okucetshwe ukuba zithathwe uNgqongqoshe futhi anikezwe ithuba lokuba abeke owakhe umbono ngenhloso kaNgqongqoshe malungana nalawo malungelo esikhathini esibaliwe esazisweni esingayikuba ngaphansi kwezinsuku ezingamashumi amathathu (30)

- Amandla ka Ngqongqoshe okwephuca amalungelo alokho okumbiwa phansi noma amalungelo angaphezulu.
24. (1) Uma uNgqongqoshe ekubona kufanele noma ngasiphi isikathi, uma kuzo siza umphakathi, engephuca noma yimpahi amalungelo (ngisho nawobunikazi) noma awengxenyekhona-
- (a) malungana nomhlaba ingaphezulu noma ingxenyekhona ngaphansi komhlaba; noma
- (b) okungamagugu okumbiwa phansi malungana nomhlaba engephuca lelo lungelo noma isheya. Kuphela nje uma lowo muntu ocela lelo lungelo noma isheya, uma likhona, uyoxephezela umuntu othathelwe ilungelo noma isheya lakhe ngemali ekuyovunyelwana ngayo, uma isivumelwano kungafinyelelwa kuso, noma uma kungafinyelelwa esivumelwaneni kusebenze inani elinqunywe umlamuli ngesimiso soMthetho wokuLamula, 1965 (uMthetho wokuLamula 42 ka 1965) noma ngayiphi inkantolo enelungelo uma lowo okusanda kukhulunywa ngaye eqoka inqubo yokugcina: Kuqikekelwe ukuthi ekunqumeni inani elisanda kunqunywa, isigaba 12 soMthetho woKwephuca, 1975 (uMthetho woKwephuca ka 1975) uyothi uma sezenziwe zonke izinguquko ezifanele usebenze sengathi ukwephuca umhlaba noma ukwephuca ilungelo kwenziwe ngezimiso noma zaloMthetho ongenhla.
- (2) Ilungelo lokusebenzisa umhlaba noma lokumba okuligugu noma isheya eliphuciwe phansi kwesigatshana (1) liyoba ngelalowo muntu ofake isicelo sokwephuca.
- Amandla ka-Ngqongqoshe okwehlisa isinqumo sokwenqabela ubunikazi bento eligugu namandla emenenja okusesha.
25. (1) UNgqongqoshe, uma anelisiwe ukuthi izinyathelo ezingqala ziyadingeka ekulweni nokuntshontshwa kokumbiwayo okuthile, kodwa kubekwe imibandela engase inqunywe uye ngesaziso esiphume eGazethini kaHulumeni esinquma ukwenqabela nobunikazi nokuthile okumbiwa phansi okungamagugu.
- (2) Imenenja yemayini noma yemisebenzi ingasesha noma yenze ukuba kuseshwe noma yimuphi umuntu osebenza kuleyo mayini noma osebenzela ukuthola noma yikuphi okungamagugu okwenqatshelwe ukuba kuphathwe ngaphansi kwesigatshana (1).

ISIAHLUKO V UKUPHEPHA KANYE NEMPILO

- Ukubunjwa kanye nemisebenzi ekomiti lokuphepha emayini.
26. (1) (a) Kumiswa ikomiti lokuphepha lasemayini.
- (b) Umsebenzi wekomiti lokuphepha lasemayini ukweluleka uNobhala ekusetshenzisweni kwalomthetho malungana nokuphepha nempilo yabantu abasebenza ezimayini nanoma iyiphi inqubo noma enye into engase ithikameze ukuphepha nempilo yabantu.
- (c) Ikomiti lokuphepha emayini liyohlangana-
- (i) okungenani kanye ezinyangeni ezine; noma
- (ii) ngesicelo esenziwe uMnyango noma ubani omunye okucatshangwa ngaye esigatshaneni (3)(d), (e) noma (f),
- ngesikhathi kanye nendawo eyonqunywa umgcinisihlalo wekomiti lokuphepha lasemayini.
- (2) Ikomiti lokuphepha liyoba namalungu angengaphezulu 10 aqokwe uNgqongqoshe njengokusho kwesigatshana (3)
- (3) UNgqongqoshe uyoqoka amalungu ekomiti lokuphepha emayini-
- (a) umuntu okubhekiswe kuye esigabeni 2(2), oyoba umgcini sihlalo ngokwesikhundla sakhe;
- (b) umuntu ofakazelwe ukuthi uyimenenja yezinto eziphathelene nemayini;
- (c) umuntu ofakazelwe ukuthi uyinjiniyela yemishini nogesi (izimayini) mayelana nezinto ezisetshenziswa emayini;
- (d) abantu abathathu abaqokwe umkhandlu noma imikhandlu, okuthi ngokubona kukaNgqongqoshe bamele abanikazi zimayini;
- (e) abantu abathathu abaqokwe umkhandlu noma imikhandlu okuthi ngokubona kukaNgqongqoshe umele izisebenzi zasezimayini futhi abangezona iziphathimandla ekubaliswe ngazo endimeni (f); futhi
- (f) umuntu oyedwa oqokwe umkhandlu noma imikhandlu okuthi ngokubona kukaNgqongqoshe, umele iziphathimandla ezisebenza emayini.
- (4) Ngokubona kwakhe uNgqongqoshe anganqaba noma imuphi umuntu oqokelwe ukuba ilungu lekomiti lokuphepha emayini ngokusho kwesigatshana (3)(d), (e) noma (f) uma enesizathu sokuthi lowo muntu akasifanele leso sikhundla.
- (5) (a) UNgqongqoshe ngokubhekela izigatshana (3) kanye no (4) angaqoka amalungu azobambelana kulelo nalelo komiti lokuphepha aqokwe phansi kwesigatshana (3)(b), (c), (d) (e) noma (f).
- (b) Noma nini lapho ilungu lekomiti lokuphepha lingaphumeleli ukuba khona emhlanganweni umbambeli walo uyowethamela lowo mhlango futhi akwazi ukuba nezwi ezingxoxweni.
- (6) (a) Umuntu oqokwe njengelunga ngokuyala kwesigatshana (3)(b) noma (c) noma umbambeli wakhe obekwe amalungu akhona ekomiti lokuphepha emayini ukuba abe ngumgcini sihlalo uma umgcini sihlalo engekho noma ngasizathu sini.
- (b) Iningi lamalungu ekomiti lokuphepha emayini liyoba ikhoramu lalowo mhlango.
- (c) Isinqumo seningi lamalungu ekomiti lokuphepha emayini kuyoba isinqumo salelo komiti lokuphepha emayini, futhi uma amavoti elingana ngapha nangapha, umgcini sihlalo ongamele umhlangano uyo sebenzisa ivoti lakhe elingumqamula-jaqu ukwenzela ilungelo lakhe elejwayelekile lokuvota.
- (7) (a) Noma iliphi ilungu lekomiti yokuphepha emayini noma umbambeli walo ongaqashiwe uHulumeni waKwaZulu uyoqokelwa iminyaka engengaphezulu kwemithathu phansi kwemibandela neholo nenkokhelo, imali yokwelekelwa nezinye izinsizakalo ezingakhonjwa uNgqongqoshe ngokuvumelana noNgqongqoshe weziMali.
- (b) Noma iliphi ilungu noma umbambeli okubhekiswe kuye endimeni (a) eseliphelelwe inkathi yokusebenza lingabuye liqokwe.
- (8) Noma iliphi ilungu lekomiti yokuphepha emayini noma umbambeli ongaqashiwe uHulumeni waKwaZulu, uyophuma esikhundleni uma -
- (a) ephuthe kane emhlanganweni ilandelana ngaphandle kwemvume yomgcini sihlalo;
- (b) uma unesikweletu ongakwazi ukusikhokha;
- (c) agule ngengqondo, noma kunqume inkantolo ukuthi ukulesosimo; noma
- (d) olahlewe icala wagwetshelwa ijele ngaphandle kwenhlawulo.

9. (a) uNgqongqoshe, esebonisene noNobhala, emibandeleni, eholweni, ezilinganisweni ezinqunyiwe ezimalini zokwelekelelwa nezinye izinkokhelo njengokubona kwakhe ngokuvumelana noNgqongqoshe weziMali, aqoke umuntu noma abantu abanolwazi olujulileyo ukweluleka ikomiti lokuphepha emayini uNobhala noma esinye isiphathimandla okubhaliswe ngaso kuloMthetho nganoma yiluphi udaba oludingidwa yikomiti lokuphepha emayini noma unobhala noma isikhulu ngokusho kwaloMthetho.
- (b) Noma yimuphi umuntu oqokwe phansi kwendima (a) angangena kunoma iyiphi imayini, uma egunyazwe ngencwadi ebhalwe uNobhala noma ngasiphi isikhathi, ahlole leyo mayini noma ingxenye yayo noma imuphi umshini okhona ukuze akwazi ukwenza umsebenzi wakhe okubhekiswe kuyo endimeni (a), kuphela nje uma engagxambukeli aphazamise umsebenzi.
27. (1) Uma Unjiniyela wesifunda ekholwa ukuthi isenzo esithile singaba nomphumela nokulimala noma kudale ingozi, kunoma yimuphi umuntu noma okungadala ubuthi empilweni yakhe noma kwenze ingozi ekuphepheni kwakhe noma ngayiphi indlela lowo njiniyela wesifunda anga-
- (a) tshela noma isiphi isiphathimandla, isisebenzi noma isithunywa saleyomayini noma isisebenzi ukuba silungise ngokushesha okungalungile; noma
- (b) akhiphe izwi lokuthi leyomayini make ime ukusebenza, futhi anikeze imiyalo mayelana nalokho njengoba angabona kudingekile.
- (c) isinqumo esenziwe phansi kwesigatshana (1)(b) siyoqiniswa noma senqatshwe umqondisi wesifunda, futhi uyokwazisa imenenja yemayini noma yemisebenzi ethintekayo ngencwadi ngesinqumo sakhe ngokushesha.
- (2) Umyalezo okukhulunywe ngawo esigatshaneni (1)(b) uyoqiniswa noma wenqatshwe umqondisi wesifunda futhi azise imenenja yemayini noma yemisebenzi ethintekayo ngencwadi ngesinqumo sakhe ngokushesha.
- (3) Umyalezo onikezwe phansi kwesigatshana (1)(b) uyosebenza kusukela kulesosikhathi esiyonqunywa unjiniyela wezi-mayini wesifunda esithintekayo futhi uyosebenza uze uhoxiswe umqondisi wesifunda noma imiyalezo kanjiniyela wesifunda isifeziwe.
- (4) Imenenja yemayini noma yemisebenzi okuqondiswe kuyo esigatshaneni (1) iyokwenza konke okusemandleni ukuqiniseka ukuthi -
- (a) amakhophi anoma yimiphi imiyalo enikezwe phansi kwendima (b) yaleso sigatshana kufuneka ukuba achonywe obala kuleyo mayini noma emisebenzini ngokushesha ezindaweni lapho izisebenzi ekuyizona ezithintekayo ngalesosiyalo ziywabona ngokushesha.
- (b) ikhophi lanoma yimuphi umyalo ekubhekiswe kuwo endimeni (a) liyonikezwa inhlangano yezisebenzi emele le, omayini noma umsebenzi.
- (5) Kuye ngezimiso zaloMthetho, izigatshana (1), (2), (3) no (4) ziyosebenza ngezinguquko ezidingekile kunoma yikuphi ukwephulwa ukusolwa kokwephulwa noma yikuphi ukwehluleka noma ukusolwa kokwehluleka ukugcina noma yisiphi isimisaloMthetho noma yimuphi umbandela ongase uvunyelwe ukuyekelwa noma imvume enikezwe ngokuyala kwaloMthetho kuyiyona ngqikithi.
28. (1) (a) Uma noma iyiphi ingozi ebanga ukufa noma ukulimala kunoma yimuphi umuntu yenzeka emayini noma emisebenzini, kuyokwenziwa uphenyo oluyoveza imbanga yaleyongozi, uphenyo lwenziwe injiniyela yesifunda noma omunye umuntu onolwazi olufanele futhi umuntu okufundele oqokwe uNobhala.
- (b) Uma noma iyiphi ingozi ngaphandle kwaleyo ekubhekiswe kuyo endimeni (a), noma ikuphi ukwephula umthetho noma ukungaphumeleli noma ukusola ukwehluleka ukuhambisana nezimiso zaloMthetho noma isiphi isehlakalo esimaqondana nokuphepha noma nempilo kunoma iyiphi imayini noma imisebenzi, uphenyo lungenziwa lwale-so shehlakalo lwenziwe uninjiniyela wesifunda noma omunye ofanelekile nokufundele oqokwe uNobhala.
- (2) (a) Noma iyiphi inhlangano yezisebenzi noma abaqashwa abangamalunga enhlangano abaqashwe emayini ethile noma umsebenzi benza isicelo esibhaliwe siqondiswa kuNobhala, sibalula izizathu, zophenyo okufanele lwenzeke mayelana nesehlakalo noma umbandela kuleyo mayini leyo noma imisebenzi ephathelene noma engase iphathelane nokuphepha noma impilo yabantu, uNobhala-
- (i) uyokwenza ukuba lesosehlakalo noma isimo ukuba siphenywe; futhi
- (ii) kungathi uma ekubona kufanelekile, emveni kokuhlaziya imiphumela yophenyo okubhekiswe kulo esigatshaneni (1) uyokwenza ukuba lesosehlakalo noma isimo siphenywe kuthi lolophenyo lwenganyelwe injiniyela yesifunda noma umuntu ofanelekile nokufundele.
- (b) Uma uNobhala enqaba ukwenza uphenyo ekubhekiswe kulo endimeni (a)(1) uyokwenza ukuba imiphumela yophenyo ekubhekiswe kuyo endimeni (a)(1) ithunyelwe enyumaneni nasenhlanganweni yezisebenzi ekubhekiswe kuyo endimeni (a).
- (3) UNobhala angase mhlawumbe ngaphambi kokuba kuqalwe noma ngasiphi isikhathi uphenyo olwenziwe phansi kwesigatshana (1), (2) noma (5) aqoke abemunye noma ngaphezulu onjiniyela bezifunda noma abanye abanolwazi olufaneleyo futhi bekufundele ukuzisa ekwenzeni uphenyo, futhi angaqoka uninjiniyela wesifunda noma omunye ofanelekile noma umuntu okufundele ukuba aphaathe uphenyo.
- (4) (a) Noma isiphi isikhulu esenza uphenyo lwanoma iyiphi indaba ngegunya lalesisigaba, uma kunesidingo siyofuna usizo lomhumushi, sibhale phansi noma siqophe ngomshini konke okukhulunywe bese sinikeze ikhophi lakho kanye nombiko kumqondisi wesifunda, oyowedlulisela kuNobhala, ngaphandle kokuba eyaliwe uNobhala ukuba enze okunye.
- (b) Ikhophi lobufakazi kanye nombiko ekukhulunywe ngalo endimeni (a) ngophenyo lwengozi ebangele ukuba kufe umuntu liyonikezwa omkhulu othintekayo.
- (c) Ikhophi lobufakazi kanye nombiko okuqondiswe kuyo endimeni (a) iyo, uma kunophenyo mayelana nembangela yengozi eyenze ukufa kwanoma yimuphi umuntu kodingeka ukuba ithunyelwe kuMshushisi Omkhulu othintekile.
- (5) Ekucubunguliseni ubufakazi kanye nombiko okuqondiswe kuwo esigatshaneni 4(a), uNobhala angathi, esebenzisa umbono wakhe acele ukuthi udaba lolo lubuye luphenywe futhi.
- (6) (a) Lesisigaba kasiyukubukeleka phansi kunoma yimuphi umthetho okuyothi ngezimiso zawo kwenziwe uphenyo noma kudingidwe ngokufa komuntu engazifelanga ngokwemvelo, futhi noma yiluphi uphenyo olucatshangwe esigatshaneni (1)(a) luyokwenziwa ngokwengezwa ophenyeni olunye noma olunjalo, kodwa ukudingidwa okuyokwenziwa ngokwezimiso zaleso sigatshana kuyothi, uma kufe noma yimuphi umuntu, kuyokwenziwa kanye kanye nanoma yiluphi uphenyo ngesimo nembangela yokufa okuyokwenziwa umthethi wecala ngaphansi koMthetho woPhenyo - lokufa, 1959, (uMthetho No. 58 ka 1959)
- (b) uMthethi wecala uyokwengamela noma iyiphi uphenyo okuqondiswe kulo endimeni (a) futhi uMthetho woPhenyo-lokufa, 1959, uyosebenza lapho, kodwa umphenyi wecala uyothumela ikhophi yobufakazi becala obubhaliwe noma oqoshwe lapho kanye nombiko wakhe awuqondise kuMqondisi wesifunda, oyokwedlulisela kuNobhala ngaphandle uma eyaliwe uNobhala enze okunye.

Ubukhona kanye kobufakazi uma kunophenyo.

29. (1) Isikhulu esiphenya noma yiluphi udaba ngokuyala kwesigaba 28(1), (2) noma (5) noma ozohlala esihlalweni noma ophethe isihlalo kulolo phenyo ngokwezidingo zalolo phenyo-
- angayala noma abize noma imuphi umuntu enkundleni ukuba avele phambi kwakhe ngesikhathi esithize kanye nasendaweni engase inqunywe wuyena; noma
 - angatshele noma imuphi umuntu okhona endaweni lapho kwenzelwa khona uphenyo-
 - anike ubufakazi;
 - akhiphe noma imaphi amaphepha anobufakazi noma into ayibona idingeka ukuze uphenyo luqhubeke kahle; noma
 - enze noma yini enye malungana naloMthetho angayala ukuba yenziwe.
- (2) (a) Uma noma ubani enesizathu sokuthi angase aphaheke odabeni lophenyo ngokusho kwesigaba 28(1), (2) noma (5) uyoba nalo ilungelo, kodwa ngaphansi kwesigatshana (1) akaphoqekile ukuba abekhona kulolo phenyo futhi ukuba asizwe noma amelwe omunye umuntu.
- (b) Uma, noma yiluphi uphenyo olwenziwa ngegunya lesigaba 28(1), (2) noma (5) ubufakazi sebunikeziwe noma busanikezwa kubonakala ukuthi umuntu othile angase abone ukuthi angabekwa icala lokwaphula izimiso zaloMthetho noma ehluleka ukuyigcina noma engase aboshezwe noma ngayiphi indlela ngendaba ephathe-lene nengqikithi yophenyo uyoba nelungelo, kodwa akaphoqiwe ukuba anike ubufakazi noma yena siqu sakhe noma ngommeli-
- ukuba akhulume;
 - abize noma yimuphi ufakazi noma acele isikhulu esiphenyayo ukuba sibizele enkundleni noma ubani ozomfakazela ukuba anike ubufakazi noma aveze amaphepha anobufakazi noma into;
 - ukuphenya noma ubani onikeze ubufakazi ophenyweni; futhi
 - ukufunda noma iyiphi into ebhaliwe enikeziwe njengobufakazi.
- (3) Noma ubani owanelisa isikhulu esiphenyayo, ukuthi uyathinteka ophenyweni olwenziwe phansi kwesigaba 28 (1) (2) noma (5) angabuzi imibuzo yena qobo lwakhe noma ummeli wakhe imibuzo esiyibona ifanele lolo phenyo, kufakazi onikeza ubufakazi.
- (4) (a) Noma yimuphi umphenyi ongathi, ophenyweni ngokuyala kwesigaba 28(1), (2) noma (5), athathise isifundo esivamise ukuthathiswa ofakazi enkantolo yomthetho, kunoma yimuphi ufakazi ngaphambi kokuba afakaze noma, uma engafuni ukuthatha isifundo engena isiqiniseko, futhi lesi siqiniseko siyoba nesisindo esifanayo kanye nomphumela wokuthi ubethathe isifundo.
- (b) Akukho muntu obizwe njengofakazi ophenyweni ngokuyala kwesigaba 28(1), (2) noma (5) oyothi, uma ecelwa ukwenza lokho, enqabe noma ehluleke ukuthatha isifundo noma, uma engafuni ukuthatha isifundo, ukwenza isiqiniseko.
- (c) Akekho umuntu othathe isifundo okubhekiswe kuso endimeni (a) noma othathe isiqiniseko okubhekiswe kuso, oyokwethula ubufakazi obungamanga azi ukuthi bungamanga noma enze isitatimende efungile noma isiqiniseko esiphikisana noma isiphi isitatimende asenzile efungile noma isiqiniseko asenze ngesikhathi esingaphambili.
- (5) Noma imuphi ufakazi ophenyweni olwenziwa namalungelo ngokuyala kwesigaba 28(1), (2) noma (5) uyoba nethuba malungana nokuphendula imibuzo noma akhiphe amaphepha noma izinto njengoba bekuyoba njalo uma ubebiziwe njengofakazi enkantolo yomthetho.
- (6) (a) Noma iluphi uphenyo noma iyiphi ingxenye yalo eyenziwe ngokwesigaba 28(1), (2) noma (5) okuyothi, ngokubona komphenyi njengoba kungenzeka, noma kudingekile, ukuba umphakathi ululalele.
- (b) Umphenyi angase anqume ukuthi ufakazi ozofakaza noma osazofakaza kunoma iluphi uphenyo ekubhekiswe kulo endimeni (a) uyoba khona uma ufakazi ethula ubufakazi bakhe.
30. Akukho muntu malungana nophenyo phansi kwesigaba 28(1), (2) noma (5)-
- okuyothi ngaphandle kwesizathu esizwakalayo ehluleke ukuhambisana nemiyalo, amasamaniso noma izinqubo ezikhishwe noma ezinikwe ngaphansi kwesigaba 29(1) noma ngegunya lesicelo phansi kwesigaba 29(2) (b) (ii);
 - enqabe noma angaphumeleli ukuphendula imibuzo ngolwazi lwakhe lonke lwemibuzo ebhekiswe kuye ngokomthetho noma ngokuvumelana nomphenyi: Kuqikelelwe ukuthi akukho muntu oyocindezelwa ukuphendula noma yimuphi umbuzo ongase umfake ecaleni;
 - noma ngayiphi indlela aluleke, akhuthaze, ahunge, ayale noma agqugquzele omunye umuntu oyaliwe, obiziwe noma oyalwe ngaphansi kwesigaba 29(1) noma ngegunya lesicelo ngaphansi kwesigaba 29(2) (b) (ii) ukuba angahambisani nalesosiyalo, isamaniso noma isiyalo noma ngayiphi enye indlela emvimbele ukuba enze njalo;
 - enqaba noma engaphumeleli, uma eceliwe umphenyi ukuba amnikeze lokho okuyophumelelisa noma amnike usizo olufanele ekwenzeni uphenyo;
 - enqaba noma engaphumeleli ukuba khona ophenyweni uma eceliwe umphenyi; noma
 - ngenhloso ethuke umphenyi noma ngenhloso athikameze ukuqhubeka kophenyo.
31. (1) Umnikazi wanoma iyiphi imayini esetshenzwayo noma yanoma yimiphi imisebenzi uyo-
- beka imenenja, eyo-
 - kwengamela, iphathe futhi ilawule izisebenzi kuleyo mayini noma imisebenzi;
 - yenze konke okusemandleni ukuba kuqiniseke ukuthi ukuphepha nempilo yezisebenzi iqikelelwe nedlela yokuziphatha ngendlela efanele, futhi
 - yenze konke okusemandleni ukuqiniseka ukuthi izimiso zaloMthetho ziyalandelwa mayelana naleyo mayini noma imisebenzi; futhi
 - ahlinzeke leyo menenja ngemali eyaneleyo namasu ukuze aphumelele ukufeza izibopho ekubhekiswe kuzo endimeni (a).
- (2) Noma ikuphi ukujutshwa ngaphansi kwesigatshana (1) kuyokwenziwa ngencwadi futhi ezinsukwini ezintathu emva kwalokho kubikelwe umqondisi wesifunda oqondene ngencwadi ihambisana nekhophi lencwadi yokujuba esayinwe umnikazi kanye nemenenja.

Uthikamezo lophenyo noma lomphenyi noma ukunganiki lusizo.

Ukuqokwa kanye nezibopho zika-Menenja kanye nabanye abantu nezibopho zika-mnikazi.

- (3) Imenenja iyoqasha abantu abakhonjiwe ukumzisa: Kuqikelelwe ukuthi ukuqashwa okunjalo akusoze kwawethula izibopho emahlombe akhe phansi kwesigatshana (1).
- (4) Imenenja iyobika ingozi ngendlela ebhaliwe yokubika izingozi iyiqondise kumqondisi wesifunda ophathekayo.
- (5) Umnikazi wanoma iyiphi imayini engasetshenzwa kuyothi ngaso sonke isikhathi enze konke okusemandleni ukuqiniseka ukuvimbela izingozi, ukufa noma luhloboluni lomonakalo noma olwaluphi uhlobo olungase lubangwe imayini.
- Ukunqatshelwa emsebenzini wasemgodini kwezingane nesifazane.
32. (1) Akukho muntu ongaphansi kweminyaka eyishumi nesithupha oyosebenza ngaphansi emgodini emayini, futhi akukho muntu oyokwenza noma avumele umuntu onjalo ukuba asebenze.
- (2) Akukho muntu wesifazane oyosebenza ngaphansi emgodini futhi akukho muntu oyokwenza noma avumele umuntu onjalo ukuba asebenze khona ngaphandle kokuba-
- (a) abesifazane abasezikhundleni zokuphatha futhi abangawenzi umsebenzi wezikhwepha;
- (b) abesifazane abaqashwe kwezempilo noma kwezenhlalakahle;
- (c) abesifazane okuthi uma befunda kudingeke ukuba babenesikhathi bengaphansi emgodini emayini uma beqeqeshwa noma becwaninga; noma
- (d) imuphi omunye owesifazane ongase kwenzeke ukuba aye ngaphansi emgodini engayelanga ukuyokwenza umsebenzi wezikhwepha.
- Imvume yokusebenza- 33. (1) Akukho muntu oyosebenzisa umshini ogwedlayo isikhuphuli, isihlalo sekheshi noma ubhayela emayini noma emsebenzini ngaphandle kwemvume ebhalelwe lowomsebenzi enikezwe umqondisi wesifunda oqondene emveni kokuba sekuhloliwe futhi kwavivinywa uninjiniyela wesifunda kwatholakala ukuthi kukulungele ukusetshenziswa: Kuqikelelwe ukuthi uninjiniyela wesifunda kungathi, emveni kokuba esehlolile, wavivinya wathola ukuthi umshini ogwedlayo, isikhuphuli, isihlalo sekheshi kanye nobhayela kukulungele ukusetshenziswa, akhiphe imvume yesikhashana ukuba kusetshenziswe.
- (2) Ukusetshenziswa kwomshini ogwedlayo, isikhuphuli, isihlalo sekheshi, kanye nobhayela emayini noma emisebenzini kungemiswa uninjiniyela wesifunda phezu kwemibandela nemyalezo angayibona ifanele okwenzelwa ukuphepha. Futhi umqondisi wesifunda esithintekayo kungathi ngezincomo zenjiniyela yesifunda angayesula ngesaziso esibhalile noma achibyele njengokusho kwesigatshana (1).
- Izindlela zenzqubo.
34. (1) Imenenja yanoma iyiphi imayini noma imisebenzi uma kukhona isidingo ngokubona komqondisi wesifunda esithintekayo, abhale asebenzise izindlela zenzqubo malungana nokungeniswa kwomoya emigodini izindlela zokuphatha umgodi, izindlela zokuthutha, ukuphathwa kweziquhumane, ukuvimbela nokucisha umlilo, izindlela zokuzisindisa nanoma iluphi olunye udaba aluphathelene nokuphepha kanye nempilo malungana nanoma iyiphi imayini noma umsebenzi ongase ufunwe umqondisi wesifunda esithintekayo, futhi lezizindlela zenzqubo ziyovunywa kumelwe zemkelwe ngencwadi umqondisi wesifunda esithintekayo emveni kokuba sekuhloliwe kwashiwo ukuthi kulungile ngokusho kwenjiniyela yezimayini emveni kokuba sekuhloliwe konke okulindelekile ngokwesigatshana (2) uma kukhona: Kuqikelelwe ukuthi uma lowo njiniyela wesifunda angase kuthi emveni kokuhlola nokusho ukuthi izindlela zenzqubo zifanele, akhiphe imvume yesikhashana ukuba zisetshenziswe.
- (2) Umqondisi wesifunda esithintekayo uyokwazisa ngencwadi izisebenzi zanoma iyiphi imayini ekubhekiswe kuyo esigatshaneni (1) noma kunoma iyiphi inonyana ebamele ukuthi lezo zisebenzi noma leyonyonyana inikezwe ithuba lokubeka owalo umbono kunoma isiphi isidingo esibekwe imenenja yemayini noma yemisebenzi njengokusho kwesigatshana (1) esithubeni esibhalile esazisweni, esingeyukuba ngaphansi kwezinsuku ezingu 30.
- (3) Ukusetshenziswa kwanoma iyiphi inqubo ecatshangwayo esigatshaneni (1) ingamiswa uninjiniyela yezimayini yesifunda phezu kwemibandela nezinye azibona zifanele ekuphepheni nasempilweni futhi umqondisi wesifunda othintekile, ngezincomo zalowo njiniyela wezimayini wesifunda, ngesaziso esibhalileyo esule imvume yaleyonqubo noma enze ukuba leyonqubo ichibiyelwe.
- (4) Akukho muntu oyokwephula noma ehluleke ukugcina imibandela yalenqubo evunywe ngokusho kwesigatshana (1).
- Ukuphakelwa noma ukukhandwa kwezinto ezithile ngokwemeneja.
35. (1) Uma imenenja yemayini noma yemisebenzi ikhomba izidingo zokunikezwa noma zokukhandwa kwa noma iziphi izinto zokusebenza, imishini noma izinto zokuphepha maqondana nokusetshenziswa ngokuphepha noma ukusetshenziswa kwazo, akukho muntu oyonikeza noma akhande lezizinto, imishini noma izinto zokuphepha ngendlela ephambene nalezo zidingo.
- (2) Ngezinhloso zesigatshana (1) noma iyiphi ingxenye yento, umshini noma into yokuphepha kuyothiwa iyiyo leyonto umshini noma yinto yokusetshenziselwa ukuphepha.
- Ukwengqaba ukuthola isitifiketi sobungcweti ngamanga.
36. Akukho muntu oyothola noma azame ukuthola noma isiphi isitifiketi sobungcweti ngokukhohlisa, ukungethembeki ukwenzisa sengathi noma ukuletha noma ukwethula amaphepha obufakazi abhalwe ngobuqili.
- Isenzo sokunganganaki noma icala lokuphutha ukwenza ezimweni ezithile.
37. Akukho muntu, ngesenzo sokunganganaki noma senseke kuyiphi indawo, noma ngasiphi isenzo sokushiya okufanele kwenziwe-
- (a) abeke esimweni esibucayi esinengozi ukuphepha noma impilo yanoma imuphi umuntu emayini noma.
- (b) abange ukulimala kanzima kunoma yimuphi umuntu emayini noma emsebenzini.

ISAHLUKO VI

UKUBUYISELWA KWENHLABATHI

- Ukubuyiselwa kwenhlabathi endaweni.
38. Ukubuyiselwa kwenhlabathi yangaphezulu endaweni ekade kune mayini kuyo kuyokwenziwa yilowo muntu onemvume yokufuna noma yokumba-
- (a) alandele uhlelo lokubuyisela inhlabathi yangaphezulu evunyelwe ngokusho kwesigaba 39, uma sikhona;
- (b) njengengxenye yemisebenzi yokuhlwaya okumbiwayo noma imisebenzi yemayini leyo ethintekayo;
- (c) ngaso lesi sikhathi kwenziwa leyomisebenzi ngaphandle kokuba kukhona okunye okushiwo ngencwadi umqondisi wesifunda; futhi
- (d) kwanelise umqondisi wesifunda esithintekayo.
- Ipulani lendawo nohlelo lokubuyisela inhlabathi.
39. (1) Ipulani lendawo kanye nohlelo lokubuyisela inhlabathi yangaphezulu maqondana nengaphezulu lendawo ethintekayo noma kuyiphi indawo ekufunwa kuyo okumbiwayo noma imisebenzi yemayini noma imisebenzi enjalo ehlosiwe liyonikezwa yilowo onemvume yokufuna okumbiwayo noma imvume yokusebenza imayini ayinikeze umqondisi wesi-

funda othintekayo ukuze athole imvume yakhe ngaphambi kokuba leyo misebenzi iqalwe.

- (2) Umqondisi wesifunda angase, uma ethola isicelo esibhaliwe, futhi phansi kwemibandela engase ibekwe uye amkhulule lowo onemvume yokufuna okumbiwayo noma onemvume yemayini kwesinye noma kwezinye izimiso zesigatshana (1) noma avume ipulani lendawo elichibiyelwe noma uhlelo lokubuyisela umhlabathi wangaphezulu.
- (3) Ngaphambi kokuba umqondisi wesifunda avume ipulani lendawo kanye nohlelo lokubuyiselwa kwenhlabathi wangaphezulu okubhekiswe kuye esigatshaneni (1) noma ipulani lendawo elichibiyelwe noma uhlelo lokubuyisela inhlabathi yangaphezulu elichibiyelwe okubhekiswe kulo esigatshaneni (2) noma enikeza isikhululo ngaphansi kwesigatshana (2) uyobuza ngalokho iziphathimandla eziqondene nalokho kuNgqongqoshe Wezolimo naMahlathi kanye neBhodi yaKwaZulu Yophiko Lwengcebo Yezemvelo.

Ukususwa kwezin-
ndlu izakhiwo
nezinto.

40. Noma yinini lapho imvume yokuhlwaya okumbiwayo noma yemayini imiswa, yesulwa noma iqedwa noma iphelelwa isikathi futhi ukufuna okumbiwayo noma ukumbiwa kwanoma iyiphi into eyigugu eyayinikezwe imvume phansi kwaleyo mvume isifinyelele esiphelweni lowo muntu owayenikezwe imvume, kuyothi maduzane ngaphambi kwalokho kumiswa, kwesulwa, kuqedwa noma ukuphelelwa isikathi njengoba kungenzeka, uyodiliza zonke izakhiwo nakho konke okwakwakhiwe maqondana nokufuna okumbiwayo noma umsebenzi wemayini ngaphezulu kuleyo ndawo futhi athuthe wonke amabibi nakho konke angakufuni umqondisi wesifunda, futhi enza ngakho konke okusemandleni ukuba abuyisele indawo esimweni sayo semvelo ngokweneliso esikhathini esiyomiswa umqondisi wesifunda: Kuqikelelwe ukuthi lokho kudiliza noma ukukhuculula akuyikwenziwa maqondana nezindlu, noma izakhiwo noma izinto-

- (a) okungafanele zibhidlizwe noma zisuswe njengokusho kwanoma yimuphi umthetho;
- (b) njengoba engase anqume umqondisi wesifunda, noma maqondana nalokho asekhululile phansi kwemibandela leyo engase inqunywe uyena; noma
- (c) lokho umnini mhlaba angase afise ukugcina ngakuye futhi asekwenze phezu kwesivumelwano esibhaliwe nalowo obekade enemvume noma ilungelo.

Ukubekwa kwemi-
gomo malungana
nokusetshenziswa
kwengaphezulu
lendawo.

41. (1) Umqondisi wesifunda angalawula futhi abeke imibandela malungana nokusetshenziswa kwengaphezulu lomhlaba ephathelene nemvume yokufuna okumbiwayo noma imvume yokumba noma lapho kukhona khona okwenziwayo ukuze kuncishiswe umonakalo noma ukuthikamezeka kwengaphezulu, okumilayo, indawo, noma iziphethu, kusetshenziswe ngangokwezidingo kuphela zokuhlwaya okumbiwayo noma imayini noma ukusetshenzwa kwamagugu embiwa phansi: Kuqikelelwe ukuthi lolu lawulo naleyo mibandela ayisoze yabonwa sengathi ibeka umuntu onemvume yokuhlwaya okumbiwayo noma yemayini noma umnikazi walokho okwenziwayo ithuba elingcono yena umnikazi womhlaba malungana nokusetshenziswa kwengaphezulu lalowo mhlaba.

- (2) Akukho muntu oyokwephula noma ehluleke ukulandela noma iluphi ulawulo noma umbandela okubhekiswe kuwo esigatshaneni (1).

Ukutholwa noma
ukuthengwa kwe-
ndawo ethile
nokukhokhwa
kwesinxephezelo
ezimweni ezithile.

42. (1) (a) Uma uNgqongqoshe, emveni kokuba imibono ebhaliwe seyenziwe umnikazi wendawo ngaphandle kwomhlaba ephethwe ngaphansi kwokuvikelwa, ilungelo lemivume okubhekiswe kulo esigabeni 48(1)(a) ngesikhathi sokusebenza kwalokho kuvikelwa imvume noma ilungelo noma yimuphi umuntu onelungelo lokumba kulowo mhlaba noma ombayo noma onenhloso yokumba noma imaphi amagugu futhi emveni kophenyo olungase lujutshwe uNgqongqoshe ngokubona kwakhe, futhi emveni kokubonisana noNgqongqoshe weZolimo naMahlathi aneliswa ukuthi-

- (i) ukusetshenziswa noma inhloso yokusebenzisa leyo ndawo noma ingxenye yayo yilowo muntu eyisebenzisela ukumba izinto ezingamagugu noma ngenjongo ephathelene nalokho, evimbela noma ethikameza noma engase ivimbele noma ithikameze ukusetshenziswa ngendlela efanele kwaleyo ndawo noma ingxenye isetshenziselwe ukulima; noma

- (ii) iyiphi enye ingxenye yendawo engasetshenziswa noma engase ingasetshenziswa yilowo muntu ngemayini noma isetshenziselwe izinto ezifana nalezo, izoba noma ingase itholakale ingese nayo inzuzo ekulimeni,

kuyothi ngencwadi azise umnikazi emveni kwalokho kuyothi amandla amalungelo abesezandleni zikaHulumeni waKwaZulu phezulu kwombandela wendima (d), kukhishelwe ngaphandle noma imuphi omunye umuntu, ukuba athole indawo, noma ingxenye yayo njengoba engase anqume uNgqongqoshe.

- (b) Uma uNgqongqoshe enganeliswa njengoba kulindlekile phansi kwendima (a)(i) noma (ii) kuyothi ngencwadi azise umnikazi kanye nomuntu onelungelo lokumba okubhekiswe kuye.

- (c) Ikhophi yanoma yiziphi izethulo eyenziwe ngokuyala kwendima (a) kuyothi uma lezozethulo zenziwe umnikazi ndawo othintekayo zethulwa yilowo mnikazi phambi kwalowo muntu onelungelo lokumba kuleyo ndawo noma, uma lezozethulo zenziwa yilowo muntu zethulwe yilowo muntu kulowo mnikazi.

- (d) Yize noma kukhona izimiso zendima (a) akukho, lungelo lokuthola umhlaba eliyoba semahlombe kaHulumeni waKwaZulu ngegunya lesaziso phansi kwaleyo ndima uma uNgqongqoshe noma uNobhala ezinyangeni ezintathu emva kosuku siphumile lesosaziso azisiwe ngencwadi-

- (i) umnikazi walowo mhlaba ukuthi ufisa ukubugcina ubunikazi baleyo ndawo noma ngabe leyondawo ingase iphathwe kanjani noma isetshenziselwe imayini yilowo muntu okubhekiswe kuyo endimeni (a); noma

- (ii) yilowo mnikazi nalowo muntu ukuthi sebenze isivumelwano sokukhokhela isinxephezelo somonakalo obangwe noma ongabangwa umphumela wemayini noma imisebenzi ephathelene nalokho phezulu komhlaba.

- (e) Uma uNgqongqoshe enelisiwe emveni kokubheka izethulo ezibhaliwe ezethulwe kuye umnikazi okubhekiswe kuye endimeni (d)(i) futhi emveni kophenyo olungase lwenziwe ngokubona kukaNgqongqoshe-

- (i) ukuthi lowomnikazi ulahlekelwe, noma angase alahlekelwe ngenxa-

(aa) yokuthikamezwa noma ngokukhukhuleka kwenhlabathi okungabangwa imisebenzi yemayini noma eminye imisebenzi ehlangene nalokho;

(bb) noma iyiphi into evimbelayo eyakhiwe emhlabeni yinoba ubani onelungelo lokumba kulowo mhlaba futhi ombayo noma onenhloso yokumba; futhi

- (ii) ukuthi umnikazi useyenze yonke imizamo yokuxoxisana ngesivumelwano sokukhokhwa kwesinxephezelo ngomonakalo okubhekiswe kuwo endimani (i),

kuyothi phansi kwendima (f) abhalele lowo muntu ukuba enze isivumelwano nomnikazi ndawo ngesinxephezelo ngalowo monakalo.

- (f) Umnikazi mhlaba akasoze abenelungelo lokuthola esinye isinxephezelo ngaphansi kwendima (e)-

- (i) malungana nomonakalo owenzekile noma ongase wenzeke ngesizathu sokuthikamezeka noma ngokukhukhuleka komhlabathi okucatshangwa ngakho endimeni (e) (i) (aa), uma isinxephezelo ngalokhu kuthikamezeka noma kukhukhuleka esekhokhele ngakho umnikazi ndawo noma umanduleli wakhe; Kuphela uma lokho kwenqatshelwa akuyikumvimbela umnikazi walowo mhlaba ukuba athole isinxephezelo malungana nokunye ukuthikamezeka noma ukukhukhuleka komhlabathi esikhathini esizayo noma-

- (ii) malungana nomonakalo owehle ngesizathu sokuvimbeleka okucatshangwa ngakho endimeni (e) (i) (bb) uma-
- (aa) ilungelo lokwakha lesi sithikamezo satholakala ngendlela yamalungelo agodliwe ngesikhathi amalungelo okumba okungamagugu asuswa ebunikazini bomhlaba; noma
- (bb) ilungelo lokwakha lesi sithikamezo latholwa umuntu owayenelungelo lokumba kulowo mhlaba nelungelo eligxile kuwona noma ngenye indlela.
- (g) uNgqongqoshe uyokwazisa ngencwadi umuntu okubhekiswe kuye endimeni (a) nganoma isiphi isaziso phansi kwendima (d) esitholwe uNgqongqoshe noma uNobhala sivela kumnikazi othintekayo.
- (h) Uma umnini mhlaba othintekayo esemazisile uNgqongqoshe noma uNobhala njengoba kucatshangwe endimeni (d), noma uma isivumelwano esivezwe indlela njengokucatshangwe endimeni (e) sesiphumelelisiwe, noma uma isinxephezelo sesinqunye ngokulamula noma yinkantolo phansi kusigatshana (3), lowo mnikazi noma oyolandela noma imuphi omunye umuntu ongase athole amalungelo kulowo mhlaba, ngesikhathi umuntu ekubhekiswe kuye endimeni (a) noma (c) noma oyoza emva kwakhe oyoba nelungelo lokumba kulowo mhlaba oyoba nelungelo lokufaka isicelo enkantolo sokwenza isinqumo sokwenqabela noma yini evunye ngokusho kwesivumelwano ekubhekiswe kuso endimeni (d) (ii), isivumelwano ngokusho kwendima (e) noma isilamulo noma isinqumo senkantolo phansi kwesigatshana (3) kuthi ngaleyo ndlela avimbele umuntu okugcinwe ngaye noma oqokwe wuye ekuqaleni noma ekuqhubeni umsebenzi kulowo mhlaba ngokumba okungamagugu.
- (i) Umnikazi -
- (i) osemazisile uNgqongqoshe noma uNobhala njengoba kushiwo endimeni (d) (i); noma
- (ii) osenze isivumelwano ekubhekiswe kuso endimeni (d) (ii) noma (e); ngokwahlukana noma
- (iii) osekuvunye umlamuli noma inkantolo ukuthi anganxephezelwa phansi kwesigatshana (3),
- kuyothi, esikhathini esingangenyanga kusukela osukwini okwakhishwa ngalo isaziso noma isivumelwano, noma ukukhokha kwesinxephezelo njengoba kungenzeka, ethule itayitela lakhe lalowo mhlaba alinikeze uNobhala ukuba aledlulisele kumbhalisi wamatayitela okunguyena oyobhala emabhukwini aqondene ukuze kukhoniwe umphumela wendima (h) maqondana nalowo mhlaba, futhi uma lowo mnikazi engaphumeleli ukwethula lelotalitela ngesikhathi esinqunye; umbhalisi wamatayitela noma kunjalo uyosifaka emabhukwini isicelo sikaNobhala, aphinde abhale uma itayitela lifethiwe kuye noma nini.
- (2) Uma uNgqongqoshe weZolimo naMahlathi ngokubona kwakhe ebona ukuthi noma imuphi umhlaba onamalungelo aphethwe uHulumeni waKwaZulu ngokusho kwesigatshana (1)(a)-
- (a) kufanele ithathwe uHulumeni waKwaZulu, lowo mhlaba kuyothiwa udingwa umphakathi, emveni kwalokho kuyosetshenziswa uMthetho wokuThathwa koMhlaba 1975 (uMthetho 63 ka 1975) emveni ngezinguquko ezidingekile, malungana nalokho kuthathwa kwomhlaba; noma
- (b) uma umhlaba ungathathwangwa uHulumeni waKwaZulu, amalungelo ayophelelwa isikhathi, emveni kwalokho uNgqongqoshe uyokwenza ukuba umuntu okubhekiswe kuye esigatshaneni (1)(a) anikezwe isaziso esimkhomba ukuba athenge futhi athathe, athole lowo mhlaba.
- (3) Uma noma imuphi umuntu othole isaziso okubhekiswe kuso esigatshaneni (2)(b) sesinikezwe kanye nomnikazi womhlaba bengaphumeleli ukuvumelana ngemali yentengo yomhlaba noma uma lowo muntu kanye nalowo mnikazi emveni kokujutshwa uNgqongqoshe, engaphumeleli ukwenza isivumelwano njengokusho kwesigatshana (1)(e), imali yentengo noma isinxephezelo siyokwenziwa umlamuli njengezimiselo zoMthetho wokuLamula 1965 (uMthetho 42 ka 1965) noma inkantolo uma umnini ndawo ekhetha inqubo okugcinwe ngayo: Kuqikelelwe ukuthi-
- (a) uma kunqunywa imali yentengo noma yesinxephezelo, umlamuli noma inkantolo, okuhlinzekiwe esigabeni 12 soMthetho wokuThathwa koMhlaba, 1975 kuyosetshenziswa wona emveni kokuba sezenziwe izinguquko ezidingekayo kube sengathi ukuthathwa kwomhlaba noma kwamalungelo sekwenziwe, futhi bese kuthi ekwenzeni isicelo esinjalo, noma ikuphi ukubhekisa okunjalo kuleso sigaba ku "usuku lwesaziso" kuyofundwa ngokungathi kubhekiswe osukwini lwesaziso sikaNgqongqoshe ngokusho kwesigatshana (1)(a); futhi
- (b) ekunqumeni isinxephezelo esinjalo kufanele kucatshangwe-
- (i) noma iyiphi into eyokwenziwa ukubuyisela umhlabathi esimweni esiyiso; futhi
- (ii) noma sinxephezelo sini lowo muntu noma omandulelayo asikhokhile noma avume ukusikhokha kulowo mnikazi noma kulowo omandulelayo.
- 4 (a) Uma noma imuphi umuntu ojutshwe ngokusho kwesigatshana (i)(e) noma lowo onikezwe isaziso ekubhekiswe kuso esigatshaneni (2)(b) engaphumeleli ukwenza isivumelwano esibhaliwe nomnikazi womhlaba ngokukhokha kwesinxephezelo noma ukuthenga lowomhlaba ezinyangeni ezintathu-
- (i) ukusukela osukwini lwalowo myalezo noma isaziso; noma
- (ii) uma impikiswano ngesinxephezelo ngomonakalo noma ngemali yentengo yomhlaba isithunyelwe kumlamuli noma enkantolo kusukela osukwini okwamiswa ngalo isinxephezelo noma imali yentengo yalowo mhlaba eshiwo umlamuli noma inkantolo.
- UNgqongqoshe, uma eneliswa ukuthi lokho kungaphumeleli kwabangelwa ubudedengu balowo muntu, angaminqabela ngencwadi ukuba aqale noma aqhubeka nomsebenzi wokumba kulowo mhlaba kuze kufike lesosikhathi esiyobonwa uNgqongqoshe.
- (b) uNgqongqoshe angaselula isikhathi sezinyanga ezintathu ekubhekiswe kuso endimeni (a) uma eneliswa ukuthi lokho kwelula kufanelekile.
- (5) Akukho muntu oyokwephula isenqabelo esiphezu kwakhe phansi kwesigatshana (4).
- (6) (a) Phezukokuba kukhonani noma yini ephikisayo emthethweni kodwa engehlukile esigatshaneni (i)(h), akukho muntu, maqondana nendawo ekwenziwe ngayo izethulo okubhekiswe kuzo esigatshaneni (i), oyoba nelungelo esikhathini esiyizinyanga eziyisishiyagalolunye emveni kosuku okwenziwa ngazo izethulo imibiko afake isicelo enkantolo sesinqumo esenqabela noma imuphi umuntu onelungelo lokumba kulowo mhlaba emba okungamagugu, ukuba aqale noma aqhubeka kulowo mhlaba nokumbiwa kwalawo magugu noma imisebenzi eqondene nalokho, ngaphandle kokuba uNgqongqoshe kuthe ngaphambi kokuba siphile isikhathi lesi, wazisa umnikazi kanye nomuntu okubhekiswe kuye esigatshaneni (i) ngokusho kwendima (b) yaleso sigatshana noma azise lowo muntu ngokusho kwendima (g) yaleso sigatshana.
- (b) Akukho myalo okubhekiswe kuwo endimeni (a) oyokhishwa inkantolo maqondana nemhlaba okubhekiswe kuyo, uma umuntu onelungelo lokumba kulowo mhlaba esenikeze isibambiso esenelisa umbhalisi wenkantolo, esizokwanelisa wonke umonakalo owehlela lowo ofake isicelo noma umonakalo ongase umehlele obangwe ukumba amagugu noma imisebenzi eqondene nalokho kulowo mhlaba yilowo muntu onelungelo noma lowo amqokile.
- (7) Izindleko eziqondene nokwedlulisa ubunikazi bomhlaba, esekukhishwe ngawo isaziso ekubhekiswe kuwo esigatshaneni (2)(b) sesinikezwe lowomuntu, ziyokhokhwa umuntu owemukele isaziso.
- (8) Kulesigaba-

- (a) "umhlaba" awumbandakanyi ilungelo lokumba okungamagugu; futhi
- (b) "okuvimbelayo" kusho noma yini eyakhiwe emhlabathini eyakhelwe ukumba, nom nalokho eyakhiwe umuntu enelungelo lokumba kulowo mhlaba, futhi kubandakanya i idwala noma okunye okuphumayo ngenkathi kumbiwa.
- (9) Nangaphezu kokuba uMthetho wokweNanela amaGugu aMbiwayo, (uMthetho 10 ka 1975) s 68(1) zonke izethulo ezethulwe ngencwadi ngokusho kwesigaba (6) salo Mthetho ezamukel kokusebenza kwaloMthetho, siyosebenza sengathi loMthetho awuzange ushaywe.

ISAHLUKO VII

IZIMISO NGESIKHATHI SENGUQUKO

Abantu abathile abanelungelo lokumba izinto ezingamagugu nokukhokhelwa kwesinxephezelu uNgqongqoshe.

43. (1) Noma imuphi umuntu ngisho nomeiamayo noma oqokiwe ongathi unelungelo ngokusho k wamaTshe aliGugu 1964 (uMthetho 73 ka 1964) noma isigaba 12 soMthetho wamaLungelo 20 ka 1967) ngaphambi kokuqala kwaloMthetho ukuhlwaya okungamagugu lapho amalungel ekuqondene nayo isibekelwe uHulumeni waKwaZulu kuyothi ngenjongo yokunikeza imvum iyona kuphela ephethe ilungelo kulawo magagu embiwayo malungana nalowomhlaba okwer isikhathi esidanyana esingabonwa uNgqongqoshe ngokwesizelo esibhaliwe: Kuqikele sesivumelwano malungana nalawo magugu kanye nomhlaba kukhona, umuntu oqokiwe ku langene nalowo oyomlandela ngegunya noma oqokelwe ukwamukela imvume yokuhlwaya u amalungelo kulawo magugu malungana nalowo mhlaba ngesikhathi sokuqokelwa leso si kweminyaka emihlanu noma esingaphezulu esivunyiweyo.
- (2) (a) Akukho lungelo kunoma yimaphi amagugu embiwayo abekelwe uHulumeni waKwaZulu gatshaneni (1) esikhathini esiyiminyaka emihlanu noma ngaphezulu ngemvume kaNgqo gatshana (1) eliyodluliselwa noma akukho mvume okubhekiswe kuyo esigabeni 8(2) namagugu ambiwayo eyokhishwa ngaphandle kokuba ikhishelwa umuntu, noma oqokiwe kwesigatshana (1) ukuba nelungelo kulawo magugu ambiwayo kulowo mhlaba.
- (b) Uma uNgqongqoshe, emva kokuba sekuphele iminyaka emihlanu noma leso sikhathi es nguye phansi kwesigatshana (1)-
- (i) phansi kwesigaba 64(1) edlulise ilungelo lokumba okubhekiswe kulo endimeni (a); n
- (ii) anikeze imvume okubhekiswe kuyo esigabeni 8(2) noma 9(2) malungana namagugu kumuntu ngaphandle kwalowo okubhekiswe kuye esigabeni (a), uNgqongqoshe uye kulowo muntu ekubhekiswe kuye kuleyo ndima evumelana nokukhokhwa kwezindlek lahlekela okwehlile ngenxa yalokho kwedluliswa kwendawo noma ukunikezwa kw akugweme futhi okwakungeke kumehlele uma loMthetho wawungazange ushaywe.
- (c) Uma kungafinyeleleki esivumelwaneni sokuthi ungakanani umonakalo owenzeka nok ephezelo esizokhokhwa ngokusho kwendima (b) kuyokhishwa isinqumo umlamuli ngok 1965 (uMthetho 42 ka 1965), noma sikhishwe inkantolo uma umuntu oqondene ekhetha
- (3) Noma ibuphi ubufakazi obuhlaliweyo obukhomba ilungelo ngokwesigatshana (1) maqondana noma amqokile, aqoke omunye phansi kwesigatshana (2)(a) ongase anikezwe lelo lungelo n iswe kuyo esigabeni 8(2) noma 9(2) malungana namagugu anjalo angase awanikezwe, kuyo kuqokwa okuyoba seminyakeni emihlanu noma isikhathi esidanyana ngemvume ekubhekisi (1), ngokusebenza kwaloMthetho kanye noMthetho wamaTayitela aseziMayini 1967 (u uyothathwa njengesivumelwano sokuqoka futhi kuyothi uma sesibhalisiwe ngokusho ko amaTayitela 1967 ukuba umbophezele olandelayo.
44. (1) (a) Noma imuphi umqasho wokuhlwaya, incwadi yemvume yokuhlwaya noma imvume ngokusho -
- (i) kwesigaba 4 no 6 soMthetho waMatshe ayiGugu 1964 (uMthetho 73 ka 1964);
- (ii) kwesigaba 7(2)(a), (b) noma (c), 13, 14 noma 16 soMthetho wokuMba 1967 (uMthet
- (iii) kwesigaba 4 soMthetho wokweNanela lowo weZinto ezingamaGugu eziMbiwayo 1975); noma
- (iv) kwesigaba 47 soMthetho waMandla eNuzi, 1982 (uMthetho 92 ka 1982), futhi owa kokuqala kwaloMthetho kuyothi ngembandela yendima (c) kuyothiwa iyimvume ngokusho kwesigaba 6 malungana namagugu kanye nomhlaba othintekayo, futhi no koMthetho okukhulunywa ngawo ngesigaba 68(1) uhlale usebenza embadeleni ng eyayikhishwe ngaphansi kwayo noma okuthiwa yakhiswa ngaphansi kwayo kuze eyophela ngaso ngokusho kwendima (b) nayo yonke imithetho eqondene n yokusebenzisa umhlaba osetshenziswayo nephoqelelwe ukuba ikhokhwe ngaph ukusebenza yize noma umthetho uchithiwe, uyohlala usebenza.
- (b) Usuku lokugcina malungana nokuqashela ukuhlwayo, okuqalwe ukukhulunywa ngalo n ekubhekiswe kuyo endimeni (a) liyohlala lisebenza, noma, uma usuku lokugcina lwalur lusebenza inkathi engeqi eminyakeni emibili.
- (c) Indima (a) iyosebenza kuphela kuleyo mvume yokuhlwaya ekhiswe phansi kwemibar noma (c) soMthetho wamaLungelo ezeziMayini, 1967, uma indawo okuhlwaywa kuyo ifak ibikiwe ngaphambi kokuqala kokusebenza kwaloMthetho kanye nangokulandela wamaLungelo ezeziMayini, 1967 oshiwo.
- (2) Akukho lungelo lokumbiwa phansi - endaweni ephethwe nguHulumeni waKwaZulu futhi sokuhlwaya kuyo, kumbe imvume yokuhlwaya ebalulwa yisigatshana (1) - eliyokwedlulise akukho mvume ebalulwa yisigaba 8(2) noma 9(2) maqondana nalokho okumbiwa phansi eyo sikhathi kusasebenza esinye isivumelwano, noma imvume efuze leyo, ngaphandle kwalowo os
- (3) (a) Noma iyiphi imvume yokuhlwaya ekhishwe ngaphansi kwesigaba 5 soMthetho waMatsh esuke isebenza esikhathini esiseduze ngaphambi kokuqala kokusebenza kwalo njengemvume ekhishwe ngaphansi kwemibandela yesigaba 6 eqondene nalokho okumb dawo ethintekile, futhi iyohlala isebenza phansi kwemibandela eyakhishwa ngayo leso s nakuba uMthetho oshiwo kuqala wesulwa yisigaba 68(1).
- (b) Noma iyiphi ilayinsense yokuhlwaya ekhishiwe noma ethathwa njengekhishwe ngaphan gaba 12 soMthetho wamaLungelo ezeziMayini, 1967, futhi eyobe isebenza esikhathini kokuqala kokusebenza kwaloMthetho, iyothathwa njenge mvume yokuhlwaya ekhishwe dela yesigaba 6 kumuntu othathwa njengokunguye yedwa onelungelo lalokho okumbiwa p

Ukuqhubeka kwamalungelo okuhlwaya okumbiwayo.

ethintekile, njengokulandisa kwesigaba 43, futhi iyohlala isebenza isikhathi esingeqile eminyakeni emibili, phansi kwezimiso eyakhishwa kuzo, nakuba loMthetho oshiwo wesulwa yisigaba 68(1).

- (4) Noma yimuphi umuntu obenelungelo lokuhlwaya okumbiwa phansi ngokugunyazwa yisitifiketi esibaluliwe esigabeni 3 soMthetho waMatshe ayiGugu, 1964, noma phansi kwesigaba 2(1)(b) soMthetho wamaLungelo ezeziMayini, 1967, esikhathini esiseduze ngaphambi kokuqala kokusebenza kwaloMthetho, kumbe noma yimuphi umuntu othole lelo lungelo elinjalo kunoma yimuphi umuntu obenalelo lungelo esikhathini esiseduze ngaphambi kwalokho kuqalisa, uyothathwa njengonemvume yokuhlwaya ekhishwe phansi kwemibandela yesigaba 6 maqondana nalokho okumbiwa phansi kanye nendawo ethintekile, isikhathi esingeqile kunyaka owodwa.
 - (5) Noma iyiphi imvume yokuthatha noma yikuphi okumbiwa phansi kanye nokuchithwa kwakho, enikeziwe noma etholakele kumbe ethathwa njengenikeziwe noma etholakele phansi kwesigaba 9(5) soMthetho waMatshe ayiGugu, 1964, noma isigaba 21 soMthetho wamaLungelo ezeziMayini, 1967, futhi esisebenzayo esikhathini esiseduze ngaphambi kokuqala kokusebenza kwaloMthetho, iyothathwa njengemvume enikezwe phansi kwemibandela yesigaba 8(1), futhi iyohlala isebenza ngokwemibandela nezimo eyakhishwa phansi kwakho kumbe eyanikezwa noma eyatholakala noma ethathwa njengeyanikezwa noma yatholakala phansi kwayo, phezu kokuthi leMithetho eshiwo iyisulwa yisigaba 68(1).
 - (6) Ngokuphela kwezikhathi ezikhonjwa yizigatshana (1)(b), (3) no (4), umhlwayi othintekile, ukuze akwazi ukuqhubeka nokuhlwaya, kuyofanele athole imvume yokuhlwaya kumqondisi wesifunda oqondene njengokulandisa kwesigaba 6.
 - (7) Ngezikhathi ezikhonjwa yisigatshana (1)(b), (3)(a) noma (b) noma (4), isigaba 14 asiyusebenza kunoma iyiphi imvume yokuhlwaya ethathwa njengekhishwe ngemibandela yesigaba 6 ngokulandela izigatshana (1)(a), (3)(a) noma (b) noma 4.
45. (1) Izigatshana (2), (3) no (4) konke ukugujwa kwenhlabathi emfuleni njengoba kuchaziwe esigabeni 1 soMthetho waMatshe ayiGugu ka 1964, (uMthetho ongunombolo 73 ka 1964), yonke indawo emenezelwe njengoba kuchaziwe esigabeni 1 soMthetho wamaLungelo ezeziMayini, 1967 (uMthetho ongunombolo 20 ka 1967), njengoba kade kukhona esikhathini esiseduze ngaphambi kokuqala kwaloMthetho, kuyaxoxiswa.
- (2) (a) Izimiso zoMthetho waMatshe ayiGugu, 1964, kanye noMthetho wamaLungelo ezeziMayini, 1967, maqondana nokukhishwa nokuvuselelwa kwama layinsense ezindawo ezihlinzekelwe izimayini, ukufakwa kwezikhonkwane kanye nokwedlulisela kwabanye amalungelo okugubha inhlabathi emfuleni nendawo emenezelwe njengokulandisa kwesigaba (1) kumbe noma yiluphi udaba oluphathelele nayo, iyohlala isebenza isikhathi esiyiminyaka emibili, nakuba leMithetho yesulwa yisigaba 68(1).
 - (b) Isigaba 47(1), (2), (3), 5(b) kanye no (c) nezigatshana (ii) no (iii) zombandela oqondaniswe nesigaba 47, siyosebenza ngokulandela izinguquko ezidingekayo elungelweni lokugubha noma lokuqhuba umsebenzi wezi-mayini, elinikezwa noma elitholakala ngegunya lendima (a).
 - (3) Maqondana nezinjongo zezigatshana (2) yonke imisebenzi yokugujwa kwenhlabathi emfuleni nendawo emenezelwe njengokulandisa kwesigatshana (1) njengoba kade ikhona esikhathini esifushane ngaphambi kokuqala kwaloMthetho, iyothathwa njengekhona isikhathi esiyiminyaka emibili njengokulandisa kwesigatshana (2).
 - (4) Izimiso zoMthetho waMatshe ayiGugu, 1964, kanye noMthetho wamaLungelo ezeziMayini, 1967, maqondana nokuqoqwa nokukhokha kwezimali nguKhomishani weziMayini kumnikazi wendawo embiwayo kumbe emenezelwe, okuqondiswe kuyo kusigatshana (1), kanjalo nakumnikazi ndawo okwahoxiswa isimemezero ngayo ngaphambi kokuqala kwaloMthetho, kumbe kunoma ngubani okuyoba ngeyakhe, iyohlala isemthethweni iminyaka emibili, nakuba leMithetho yesulwa yisigaba 68(1), ngokwezinhloso zalesisigaba kanye nesigaba 48.
46. (1) Ngokwezinjongo zaloMthetho, ilungelo ledayimane endaweni egujwayo njengoba kuchazwa yisigaba (1) soMthetho waMatshe ayiGugu, 1964, esikhathini esiseduze ngaphambi kokuqala kwaloMthetho, kubandakanya nelungelo lokusbenzisa ingaphezulu lomhlabathi wendawo eshiwo njengoba kuyodingeka maqondana nokumbiwa nokuse-tshenzwa kwedayimane, iyothathwa ngokuthi lingelikaHulumeni waKwaZulu, uma sekwedlule isikhathi esiyiminyaka emibili okuqondiswe kuso esigabeni 45(2) (a).
- (2) Ngezikhathi ezithonde uNgqongqoshe, ngasimemezero ayosenza ngeGazethi kaHulumeni, angaziqeda izimiso zesiga-tshana (1) maqondana nendawo noma ingxenye yayo okuqondiswe kuyo kulesosigatshana.
 - (3) Noma yisiphi isinxephezero esiyonqunywa nguNgqongqoshe maqondana nemvume ekhishwe phansi kwesigaba 6(3) noma 9(2) yokuhlwaya noma ukumba idayimani endaweni eshiwo yisigatshana (1), siyokhokha yilowo onikezwe leyo mvume kumnikazi waleyo ndawo.
47. (1) (a) Noma yiluphi ilungelo lokumba elinikeziwe noma elitholakele kumbe elithathwa njengelinikeziwe noma elitholakele eliqhubekayo nokuba khona noma elisebenzayo-
- (i) ngokuyala kwesigaba 4 soMthetho ongunombolo 1 ka 1883 wase Transvaal, noma umbandela ohan-bisanayo womthetho omdala;
 - (ii) ngokugunyazwa yisitifiketi esishiwo esigabeni 3(1)(a) noma yimayini eshiwo esigabeni 3(1)(b) soMthetho waMatshe ayiGugu, 1964 (uMthetho ongunombolo 73 ka 1964);
 - (iii) ngokuyala kwesigaba 13, 13A, 17, 21, 52, 68, 74, 89 noma 126(2) soMthetho waMatshe ayiGugu, 1964 osewushiwo;
 - (iv) ngokuyala kwesigaba 25 noma 42 soMthetho wamaLungelo ezeziMayini, 1967 (uMthetho ongunombolo 20 ka 1967);
 - (v) ngokugunyazwa yisitifiketi esikhishwe phansi kwesigaba 57 kanye nemvume enikezwa ngokwesigaba 58 esifundwa ngokuhlanganiswa nesigaba 56 soMthetho wamaLungelo ezeziMayini, 1967;
 - (vi) ngokuyala kwesigaba 59, 68, 75, 83, 88, 93(4) (uma kuqondene nelungelo lokumba noma lemayini elinikezwa noma elitholakala phansi kwesigaba 75 soMthetho waMatshe ayiGugu, nangelona iGugu, 1908, (uMthetho No. 35 ka 1908), wase Transvaal), 144(1)(e) 160, 161 noma 188(2) soMthetho wamaLungelo ezeziMayini, 1967 osushiwo;
 - (vii) ngokuyala kwesigaba 3 soMthetho wokuPhathwa Kwetshe i-Tiger Eye, 1977 (uMthetho ongunombolo 77 ka 1977); noma
 - (viii) ngokuyala kwesigaba 47 noma 83(9) soMthetho waMandla eNunzi (uMthetho ongunombolo 92 ka 1982), njengoba kunokwenzeka; noma iyiphi ingxenye kulelo lungelo, futhi ebisemthethweni esikhathini esiseduze ngaphambi kokuqala kokusebenza kwaloMthetho, nakuba kukhona ubuchithwa kweMithetho kuyoqhubeka nokuba semthethweni ngokwemibandela nezimo okwanikezwa noma okwatholakala kumbe okuthathwa njenge-gokwanikezwa noma kwatholakala phansi kwayo futhi okuqukethwe embhalweni noma emibhalweni eqondene futhi esebenzayo esikhathini esiseduze ngaphambi kokuqala kwaloMthetho, nakuba leMithetho yesuliwe, ngaphandle uma kunesinye isimo esihlinzekiwe yiloMthetho.
- (b) Noma yiluphi ilungelo lokuqhuba umsebenzi wemayini elinokwedluliselwa komunye, liqashiswe, liqashiswe ngoliqashile, libe yisipho, liqenjulwe noma lenziwe isibambiso ngothi lwalo kumbe ingxenye noma izingxenye

zalo, ngaphambi kokuqala kwaloMthetho, liyothathwa kanjalo futhi lokho kuyobhaliswa eHhovisi lamaTayitela eziMayini uma lokho kuzokwenziwa ngaphambi kokuqala kokusebenza kwaloMthetho.

- (c) Ekupheleni kweminyaka emibili kusekela uqalile ukusebenza loMthetho, noma ngubani onelungelo lokuqhuba umsebenzi wemayini noma onesabelo kulo, uyokhokha (isinxephezelo) kumnikazi wendawo leyo kumbe kunoma ngubani oqondene nalokho kukhokhelwa, isinxephezelo esilinganayo nalokho abezokuzuya ngezikhathi ezithize umnikazi noma ngubani omunye ngamandla alelo lungelo kumbe isabelo kulo, esikhathini esifishane ngaphambi kokuphela kwaleso sikhathi esiyiminyaka emibili ngaphandle uma lawo maqembu athintekile enze esinye isivumelwano.
 - (d) Ekupheleni kwesikhathi esiyiminyaka emibili esibaluliwe endimeni u(c), noma yisiphi isabelo senzuzo okumele sikhokhelwe uHulumeni waKwaZulu maqondana nanoma yiliphi ilungelo lokuqhuba umsebenzi wezimayini uHulumeni waKwaZulu angenalo igunya kulokho okumbiwa phansi, kayiseyikukhokhwa.
 - (e) Ngokwezinjongo zaloMthetho, eminyakeni emibili eshiwo endimeni (c), lowo onelungelo lokuqhuba umsebenzi wezimayini kumbe onesabelo kulo noma lowo omlandelayo, uyothathwa nejngonegunya lokuqhuba umsebenzi wemayini, futhi ukuze akwazi ukuqhubeka nokumba emva kokuphela kwaleso sikhathi, imvume yokuqhuba umsebenzi wemayini iyotholakala kumqondisi wesifunda oqondene, njengokulandisa kwesigaba 9, futhi lowo umnikazi - lungelo oshiwo kuqala kumbe omlandelayo ekuphatheni itayitela uyothathwa njengonelungelo lalokho okumbiwa phansi kuleyondawo ethintekile noma izinsalela.
 - (f) Lowo onelungelo lokuqhuba umsebenzi wemayini angaliyeka ngokupheleleyo noma ingxenye kumbe izingxenye zalo, ngesaziso esibhalelwe umqondisi wesifunda oqondene, okuyothi ngalokho lelo lungelo noma ingxenye kumbe izingxenye zalo ezithintekile kuthathwe njengokungasasebenzi kusukela osukwini isaziso esenziwe ngalo.
 - (g) Noma yiliphi ilungelo lokuqhuba umsebenzi wemayini elitholakale ngokugunyazwa yilayinsense ebalulwe esigabeni 35 soMthetho waMatshe ayiGugu, 1964, noma yisigaba 48 soMthetho wamaLungelo ezeziMayini, 1967, kanye nanoma yiliphi ilungelo lokuqhuba umsebenzi wezimayini elishiwo endimeni (a) elikade livuselelwa ngokukhokha imali emva kwezikhathi ezithize kuKhomishani wezimayini ngokwemibandela yanoma yimuphi umthetho owesulwa yisigaba 68(1), futhi elikade lisebenza ngaphambi kokuphela kwesikhathi esishiwo endimeni (c), liyothathwa njengelitholakale isikhathi esinganquniwe, ngokulandela indima (f), isigatshana 5(b) no (c) kanye nezindimana (ii) no (iii) njengoba kuhlizeka isigatshana (5).
 - (h) Noma yikuphi ukukhululwa ekukhokheni imali yokwedlulisela komunye noma yiliphi ilungelo lokuqhuba umsebenzi wezimayini liyophela ngokuphela kwenkathi ebaluliwe esigabeni (c).
- (2) Lowo onelungelo lokuqhuba umsebenzi wemayini noma omlandelayo ebunikazini balelo tayitela, uyokuba namalungelo afanayo ekusetshenzisweni kwengaphezulu lendawo lelo lungelo eliqondene nayo njengalow onelungelo ngokomthetho ongalotshiwe kulokho okumbiwa phansi.
 - (3) Uma ikheli lomnikazi-ndawo ethintekile noma umuntu obalulwa yisigatshana 1(c) kungaziwa yilowo onelungelo lokuqhuba umsebenzi wemayini, futhi okuholela ekwehlulekeni kwalowo onelungelo ukukhokha isinxephezelo noma ingxenye yaso oqondene nalowo mnikazi kumbe omunye umuntu njengokulandisa kwaleso sigatshana, kungeze kwashiwo ukuthi, ngesizathu salokho kwehluleka ukukhokha, akuhlangatshezwananga nesimiso salelo lungelo lokumba elisebenza ngaphansi kwaso.
 - (4) (a) Noma ngubani, ngaphambi kokuqala kwaloMthetho, onelungelo lokumba noma yimuphi umcebo ombiwa phansi elatholakala kuHulumeni weSizwe saKwaZulu noma eNhlanguanweni yokutshalwa nokwebolekiswa kweZimali, nalapho onamalungelo okumbiwa phansi kunguHulumeni weSizwe saKwaZulu, uyothathwa njengonegunya lokuqhuba umsebenzi wezimayini njengokulandisa kwaloMthetho isikhathi esingeqile eminyakeni emibili.
 - (b) Ekupheleni kweminyaka emibili eshiwo endimeni (a), lowo muntu uyothola igunya lokuqhuba umsebenzi wemayini ngokulandela isigaba 9 kuMqondisi wesiFunda ukuze akwazi ukuqhubeka nokumba.
 - (5) Isigatshana (1) siyosebenza ngokuhambisanayo nokugquka okudingekayo kulelo lungelo lokumba noma lokuqhuba umsebenzi wemayini elinikeziwe noma elitholakale phansi kwemibandela ye-
 - (a) sigaba 20 soMthetho waMatshe ayiGugu, 1964;
 - (b) sigaba 35 soMthetho waMatshe ayiGugu, 1964;
 - (c) sigaba 48 sifundwa nesigaba 56 soMthetho wamaLungelo ezeziMayini, 1967,kumbe ngokuhlizeka okuvumelanayo komthetho ongapheleli futhi okade usebenza ngaphambi kokuqala kwaloMthetho: Kuqikelelwe ukuthi lelo lungelo elinikeziwe noma elitholakale ngokwemibandela eshiwo-
 - (i) esigabeni (a) lapho kunguHulumeni waKwaZulu onamalungelo kulowomcebo ombiwayo;
 - (ii) esigabeni (b) lapho umdwebo wendawo ozogculisa umqondisi wesifunda ungakethulwa kuye; noma
 - (iii) esigabeni (c) lapho umdwebo obalulwa nguMthetho wamaLungelo ezeziMayini, 1967 ungabhalisiwe ngokwemibandela yoMthetho wokuBhaliswa kwamaTayitela eziMayini, 1967 (uMthetho ongu Nombolo 16 ka 1967).

isikhathi esiyiminyaka emibili noma lize liphelelwe yisikhathi ngokwezimo elanikezwa noma elatholakala phansi kwazo, kuye ngokuthi yisiphi isikhathi esifishane kunesinye, futhi-ke ngokwezinjongo zaloMthetho lowo onalelilungelo uyothatwa njengonelungelo lokumba elinikezwe phansi kwemibandela yaloMthetho leyominyaka emibili noma isikhathi esifushane kunalokho, kuye ngesimo leso: Kuqikelelwe ukuthi lowo mdwebo wendawo oshiwo endimaneni (ii) noma umdwebo oshiwo endimaneni (iii), inokwethulwa noma ibhaliswe kuleso sikhathi esiyiminyaka emibili noma kwesingaphansi kwalokho, kuye ngodaba lolo.

Ukuqhutshwa kokwenqatshelwa izimvume kanye namanye amalungelo.

48. (1) (a) Noma yikuphi ukwenqatshelwa noma imvume kumbe ilungelo lokusebenzisa amanzi noma ingaphezulu lendawo, kuyohlala kusebenze ngokwemibandela nezimo okwanikezwa, noma okwatholakala noma okuthathwa nje ngokwanikezwa noma kwatholakala phansi kwakho futhi okuqubekwe embhalweni noma emibhalweni eqondene futhi okusebenzayo ngaphambi kokuqala kwaloMthetho, futhi okuqhubekayo nokuba khona noma okusebenzayo-
 - (i) njengokulandisa kwesigaba 75 soMthetho waMatshe ayiGugu nayisendlalelo 1908 (uMthetho ongu Nombolo 35 ka 1908) waseTransvaal;
 - (ii) njengokulandisa kwesigaba 24, 56, 57, 58, 60, 64 noma 126(2) soMthetho waMatshe ayiGugu 1964 (uMthetho No. 73 ka 1964);
 - (iii) njengokulandisa kwesigaba 18, 47, 90, 91, 92, 93(4) noma (7)95, 100, 102, 103, 111, 113 noma 116 soMthetho wamaLungelo okuMba, 1967 (uMthetho No. 20 ka 1967);
 - (iv) njengokulandisa kwesigaba 127, 128, kanye no 129 kufundwa kanye nesigaba 130 sawo loMthetho wamaLungelo okuMba, uMthetho 1967;
 - (v) njengokulandisa kwesigaba 131 noma 132 sawo lowo Mthetho wamaLungelo okuMba, uMthetho 1967.

(vi) ngegunya lokubekela eceleni phansi kwesigaba 158 sawo loMthetho wamaLungelo okuMba 1967; noma

(vii) njengokulandisa kwesigaba 179 noma 188(2) sawo loMthetho wamaLungelo okuMba 1967,

njengalokhu kunokwenzeka usebenze ngaphambi kokuqala kwaloMthetho, nangaphezu kokuba ichithiwe leyoMithetho uyohlala usebenza phezu kwemilando kanye nemibandela eyanikezwa phansi kwayo noma eyatholakala noma okubonwa sengathi yatholakala futhi ibhaliwe ezincwadini eziqondene futhi ezazisebenza phambi kwalokho kuqala, ngaphandle kokuba kuhlinzekwe ngenye indlela kuloMthetho.

(b) Isigaba 47(1)(b) siyosebenza ngokuguquka okudingekayo kunoma iyiphi indawo ebekelwe eceleni, imvume noma ilungelo ekubhekiswe kulo endimeni (a).

(2) (a) Ekupheleni kweminyaka emibili uqalile loMthetho, ophethe, osebenzisa noma othola okubekwa eceleni, imvume noma ilungelo ekubhekiswe kulo esigatshaneni (1)(a) uyokhokha kumnikazi wezwe oliphetheyo noma nanoma umuphi umuntu okungase kube ngowakhe, isinxephezelo esiyoba inani elilingana nalelo elalakanyana ngokuhamba kwesikhathi kulowo minikazi noma omunye umuntu ngegunya laloku kubekelwa eceleni imvume noma ilungelo ngaphambi kokuphela kwesikhathi ngaphandle kokuba kuvunyelwene abantu abathintekayo.

(b) Uma ikheli lomnikazi mhlaba noma umuntu okuqondiswe kuye endimeni (a) lingaziwa ilowo ophethe, osebenzisa noma otholayo, imvume noma ilungelo okuqondiswe kulo esigatshaneni (1)(a) futhi ngaleso sizathu lowo ophethe, osebenzisayo noma otholayo ukwazi ukukhokha ingxenye yesinxephezelo okufanele sikhokhele umnikazi noma yimuphi umuntu ngokuyala kwale yondima, ngeke kushiwo ngezizathu zokuhluleka ukukhokha, kuthiwe umbandela walokho okubekele eceleni, imvume noma ilungelo alizange linliseke.

(3) (a) Ophethe, osebenzisa noma othole imvume yokubekelwa eceleni noma ilungelo ekubhekiswe kulo esigatshaneni (1) (a) angalilahla lonke noma ingxenye noma izingxenye noma ngasiphi isikhathi ngesaziso esibhaliwe sithunyelwe kumqondisi wesifunda esithintekayo bese kuthi emveni kwalokho ingxenye noma izingxenye ezithintekayo kuyothiwa seziphelile isikhathi ukusukela osukwini lwaleso saziso.

(b) (i) Uma noma ubani umnikazi womhlaba othinta udaba lwendawo ebekwe eceleni imvume noma ilungelo ekubhekiswe kulo esigatshaneni (i)(a) noma imuphi ophethe ilungelo lokumba noma ilungelo lanoma imaphi amagugu ambiwayo malungana nelungelo lokumba kuleyo ndawo yenelisa uNgqongqoshe ukuthi izimeko ekubhekiswe kuzo esigabeni 17(6)(a)(i) noma (ii) malungana nelungelo lokumba likhona ngokuguquka okudingekayo maqondana naleyo ndawo ebekelwe eceleni, imvume noma ilungelo, uNgqongqoshe angase, ngesicelo esibhaliwe yilowo minikazi noma ophethe futhi isikhokhiwe imali enqunyiwe yokufaka isicelo noma ngabe kukhona ntoni ephikisayo emthethweni phezu kombandela njengokulandisa kanye nezimiselo ezingase kuvunyelwane ngazo phakathi komfaki sicelo noNobhala futhi emveni kokuba sekukhokhiwe kuNobhala inani, uma likhona okungase kuvunyelwane ngalo anqume ukulandisa kuNobhala esule leyondawo ebekwe eceleni, imvume noma ilungelo, futhi bese kubhalwa ngokufanelekile malungana nalawo maphepha afanele.

(ii) Noma yiziphi izindleko maqondana nokwesulwa endimaneni (i) okubhekiswe kukho endimaneni (i) umqondisi jikelele uyolikhokha inani.

(c) Ekukhishweni kwesiyalo okuqondiswe kuso endimeni (b)(i), uNobhala uyoyisebenzisa lelona le mali, uma likhona, okuqondiswe kulo endimeni leyo ngezinguquko ezidingekile kuye ngokuyala kwesigaba 17(3), kanye nesigaba 2(2) kanye (3) woMthetho wokuThatha koMhlaba 1975 (uMthetho No. 63 ka 1975) uyosebenza ngezinguquko ezidingekile.

(4) Noma imaphi amalungelo okusebenzisa amanzi anikeziwe phansi kwesigaba 60 soMthetho wamaTshe angamaGugu 1964 noma isigaba 18 noma 95 soMthetho waMalungelo okuMba 1967, kuyothi, nangaphandle kokuba isichithiwe leyoMthetho ichithwa yisigaba 68(1), uhlale usebenza isikhathi esingengaphezulu kweminyaka emihlanu noma lesi sikhathi esifishanyane esasinikeziwe noma esivuselelwe kabusha.

(5) (a) Nangaphezu kokuba uMthetho wamaTshe aliGugu usuchithiwe uMthetho, 1964 kanye noMthetho wamaLungelo okuMba 1967 wesigaba 68(1) noma isiphi isicelo sanoma iyiphi imvume noma ilungelo lokusebenzisa amanzi noma ingaphezulu lomhlaba esenziwe ngokwezidingo zesigaba 56, 57, 58, 60 no 64 soMthetho ekuphawulwe ngawo ekuqaleni noma isigaba 18 noma izahluko X kanye no Xi zoMthetho ekuphawulwe ngawo okokugcina owemukelwa ngaphambi kokuqala kwaloMthetho, iyosetshenzwa sengathi loMthetho awuzange ushaywe.

(b) izigatshana (1), (2), (3) kanye no (4) ziyo setshenziswa ngokuguquka okudingekayo kunoma iyiphi imvume noma ilungelo elinikeziwe ngegunya lendima (a): Kukikelelwe ukuthi ngezidingo zesigatshana (2) (a) isinxephezelo uma sikhona siyokhokha kusukela osukwini okwakhishwa ngalo leyo mvume noma ilungelo.

49. Ngezinhloso zezigaba 44, 45, 47 kanye no 48 umqondisi wesifunda othintekayo, lapho kwenzeka khona uyokwenza imisebenzi, okuthi ngokwemithetho yangaphambili ekubhekiswe kuyo esigabeni esesishiwo eyayingenziwa uKhomishani weMayini uma loMthetho wawungashaywanga.

50. Noma kukhonani ebhekiswe-

(a) kunoma isiphi isivumelwano sokuqoka,

(b) noma ikuphi ukuqashela ukuhlwaya, incwadi yemvume yokuhlwaya, noma imvume yokuhlwaya enikezwe noma ekhiswe ngokusho kwesigaba esishiwo esigabeni 44(1) (a);

(c) iphepha noma amaphepha anobufakazi athintekayo ekubhekiswe kuwo esigabeni 47(1) (a) noma 48(1) (a); noma

(d) yinoma imuphi omunye umthetho-

(i) kuNjiniyela weMayini wakwaHulumeni noma umBhalisi wamaTayitela iyothathwa ngokuthi ibhekiswe kuNobhala; futhi

(ii) uKhomishani weMayini uyothathwa ngokuthi ubhekiswe kuMqondisi wesifunda.

ISAHLUKO VIII

IZIMISO EZINGXUBEVANGE

51. (1) Ukuze kusetshenziswe amandla noma kwenziwe ezinye izinto ezinikezwe noma ezigidlabezwe yi loMthetho noma imuphi omunye umthetho phezu komuntu onikezwe ilungelo ngencwadi uNobhala, lowo muntu, ngaphandle kwencwadi emgunyazayo, noma ngasikhathi sini, ngaphandle kokwazisa angene kunoma imuphi umhlaba noma indawo esebenzisa noma ntoni ehamba ngamasondo isikebhe noma ibhanoyi okungase kudingeke ekusebenziseni kahle amandla akhe noma ekwenzeni lowo msebenzi.

- (2) Noma imuphi umuntu ogunyaziwe okubhekisiwe kuye esigatshaneni (1) esebenza phansi kwunikezwe amandla oku-
- thatha lowo muntu, izimoto, izinto zokusebenza, nezinto ezisetshenziswayo, lezo abona ukuthi
 - aphenye noma imuphi umuntu futhi athathe isitatimende kuye, uma kunjalo isigaba 29 ngokuguquka okudingekayo;
 - ahlale futhi enze noma ngayiphi indlela angayibona ifanele nanoma iyiphi ingxenye yomhlaba isikebhe noma ibhanyo noma okumbiwayo, umshini, incwadi, irekhodi iphepha elinobufakazi, i-lani noma umdwebo ogciniwe, ohlobisile noma endaweni enjalo, emotweni, esikebheni noma e-
 - abuze kabanzi ngengozi noma imibandela kulowo mhlaba noma kuleyo ndawo.
- (3) Noma imuphi umuntu oceliwe yilowo ogunyaziwe okubhekisiwe kuye esigatshaneni (1) uyohamba linzeke ngosizo oludingekayo ukuze akwazi ukusebenzisa amandla akhe noma enze umsebenzi wona yiloMthetho noma imuphi omunye umthetho.
52. Noma imuphi umuntu, ngakuloMthetho ophethe noma okufanele abenephomede, ilayinsense, noma inkugunyazwa, noma yiphi enye incwadi uyoyikhipha leyo mume ebhaliwe, ilayinsense, imvume, isitifikat incwadi uma icelwa umqondisi wesifunda noma yimuphi omunye umuntu ogunyaziwe okubhekisiwe kuye e-
- Ukwethula amaphapha ngesicelo somqondisi wesifunda noma umuntu ogunyaziwe.
53. (1) Emacaleni ngokwezimiso zaloMthetho noma isiphi isitatimende, okubhaliwe irekhodi noma ulwazi iphepha elinobufakazi, ipulani, umdwebo noma ikhompuyutha equkethe ulwazi kuyovunyelwa ebufakazi vuma amaqiniso kuleso sitatimende okubhaliwe, irekhodi noma ulwazi yilowo muntu owenze wafakazi noma wakulondoloza, ngaphandle kokuba kubonakele ukuthi leso sitatimende, okubhaliwe, irekhodi yilowo muntu owenze wafaka, warekhoda noma wakulondoloza, ngaphandle kokuba kubonakele ukuthi umende, okubhaliwe, irekhodi noma ulwazi, kwakungenziwanga, kwafakwa kwarekhodwa noma umuntu okwaku umsebenzi wakhe ukwenza lokho.
- (2) Noma ngasiphi isikhathi emacaleni ngokuyala kwaloMthetho, kubonakala ukuthi kukhona isitatimende irekhodi noma ulwazi olungamanga kuyavela ebhukwini, ephapheni elinobufakazi, ipulani, umdwebo kuyothathwa ngokuthi lawo mazwi ebiwe, kuze kuvele ubufakazi obuphikisayo.
54. (1) Umuntu ophethe noma ofake isicelo semvume yokuhlwaya noma igunya lokumba noma umnika kuyothi ezinsukwini eziyishumi nane ngaphambi kokuba aqale noma imuphi umsebenzi phansi kwinkugunyazwa noma emisebenzini noma uqonde ukuyeka leyo misebenzi okwesikhashana noma umqondisi wesifunda othintekayo ngencwadi ngaleyo njongo yokufaka noma ykuyeka futhi ahlinzeka maqondana, nendawo, imvelo kanye nobukhulu baleyo misebenzi.
- (2) Umuntu ophethe noma ofake isicelo okubhekisiwe kuso esigatshaneni (1) kuyothi, ezinsukwini ez ngaphambi kokufaka noma imiphi imisebenzi phansi kwa noma iyiphi imvume noma igunya lokumba emhlabeni ophathekayo emvumeni noma egunyeni elibhaliwe ngesifiso sakhe sokuba aqale ukusebenza.
55. Ngaphandle kokuba kuhlizekwe ngenye indlela kuloMthetho, uHulumeni waKwaZulu akasoze akhokhiswa dalwa ukulimala, ukufa, ukulahlekelwa noma umonakalo wanoma iluphi uhlobo okungase kuvezwe isicelo isimisaloMthetho noma ukusetshenziswa kwanoma imaphi amandla noma ukwenza noma imuphi umsebenzi noma ogidlabezwe wona yiloMthetho uma isicelo esinjalo, ukusisebenzisa noma ukusbenza kwenzel kobudedengu futhi wenziwa ngenhloso enhle.
56. (1) Ngaphandle kokuba kuhlizekwe ngenye indlela kuloMthetho, noma isiphi isaziso, isiyalo noma iyiphi edingekayo ngokusho kwaloMthetho ukuba kunikezwe noma kunikwe noma imuphi umuntu iyothathwa ayegcine ehlala khona noma kufakwe isaziso eGazethini kaHulumeni.
- (2) Noma isiphi isaziso, umyalo noma enye incwadi ekhishwe ngenhloso enhle ngokusho kwaloMthetho iyweni ngokwezimiso zalowomthetho, yize noma isimo kingesona noma ukweswela amandla yilowo ayikhiphe noma aqiniseke ukuthi isemthethweni, kuqikelelwe ukuthi lawo mandla, ngemva kwesikhathi lowo muntu.
57. (1) Noma imuphi umuntu ongenelisiwe nganoma isiphi isenzo noma isinqumo esenziwe umqondisi wesifunda kwaloMthetho, kungathi esikhathini esingangenyanga kusukela esikhathini okwenziwa ngaso lesosersinqumo umqondisi wesifunda afake isedluliso sesikhalo sakhe ngencwadi asibehekise kuNobhala noma isinqumo, emveni kwalokho uNobhala angasivumela, esule isigwebo noma asichibiyele leso sen-
- (2) Noma imuphi umuntu ongenelisiwe nganoma isiphi isenzo noma isinqumo esenziwe uNobhala kwaloMthetho kungathi esikhathini esingangenyanga kusukela esikhathini okwenziwa ngaso leso sen-sinqumo sazisiwe uNobhala afake isedluliso sesikhalo sakhe ngencwadi asiqondise kuNgqongqoshe noma isinqumo, emveni kwalokho uNgqongqoshe angasivumela, esule isigwebo noma asichibiyele isen-
58. Akukho muntu oyothatha noma isiphi isinyathelo noma avumele noma isiphi isinyathelo nganoma ngamuphi noma ngandlelani engase imlimaze, noma ishintshe isikhundla sakhe noma yenze ukuba isikhundla sakhe ngandlelani engamlimaza maqondana nezinye izisebenzi, ngesizathu sokuthi, noma ngabe lowo muntu esolalwa, noma ngabe lokho kusola noma lokho kukholwa kuqinisekile noma kufanelekile, ukuthi leso sisebenzi sawunika uNgqongqoshe noma kumuphi omunye umuntu onikezwe umsebenzi phansi kwaloMthetho malunini ekudingeka ukuba yenziwe noma ingenziwa ngokusho kwaloMthetho noma ophathelele nawo, noma sokuthi uhambanokwenqaba okusemthethweni, isiyalo, isicelo noma umyalezo wenjininiyela yemayini yesunikeze ubufakazi phambi kwenkantolo yomthetho noma ngesikhathi kwenziwa uphenyo noma wenzeni ar yelwe ukuba ayenze ngokusho kwaloMthetho.
59. Akukho muntu oyothikameza aphikise noma avimbele noma isiphi isiphathimandla noma imuphi omunye ekusebenziseni amandla akhe noma ekwenzeni umsebenzi wakhe anikezwe wona noma athweswe wona yil-
- Amacala.
60. Noma imuphi umuntu owephula noma owehlulekayo ukulandela-
- noma imiphi imibandela-
 - yesigaba 5(2), 8(1), 31(1), (3) noma (4), 37(a), 38, 39(1) 40, 41(2), 42(5), 52 noma 54;
 - isigaba 7(1), 31(5), 33(1) noma 34(1);
 - isigaba 19(1) noma (2), 29(4)(b), 30(b), (c), (d), (e) noma (f), 58 noma 59;

- (iv) isigaba 35(1) noma 36;
- (v) isigaba 32(1) noma (2) noma 34(3);
- (vi) isigaba 37(b);
- (vii) isigaba 29(4) (c); noma
- (viii) isigaba 30(a), noma
- (b) noma isiphi isimiso-
 - (i) sanoma yisiphi isiyalo, ukumiswa, umyalo, noma umbandela okhishiwe, onikeziwe noma oqokiwe phansi kwesigaba 22(1), 23(1), 27(1) noma (4) 33(2) noma 34(2);
 - (ii) noma isiphi isicelo ekubhekisiwe kuso esigabeni 51(3); noma
 - (iii) noma isiphi isimemezelo esikhishwe phansi kwesigaba 25(1), uyobekwa icala.

Izizeziso.

61. (1) Noma imuphi umuntu olahwe icala njengokusho kwalomthetho, kuyothi-

- (a) uma icala ekubhekiswe kulo esigabeni 60(a) (i) noma 60(b) (i) noma (ii), ahlawuliswe imali engengaphezulu kuka R5000 noma angene ejele isikhathi esingeqile onyakeni noma ajeze ngakho kokubili imali nejele futhi aphinde ahlawuliswe imali engeqile ku R1000 noma angene ejele isikhathi esingeqile ezinsukwini ezinhlanu ngalo lonke usuku ephula ngalo izimiso okukhulunywa ngazo noma ehluleka ngazo ukuhambisana nazo: Kuqikelelwe ukuthi lesosikhathi sokungena ejele futhi singeqi izinyanga ezinyisithupha;
- (b) ecaleni okubhekiswe kulo esigabeni 60(a)(ii), inhlawulo ayiyukweqa ku R10 000 noma ijele isikhathi esingeqile eminyakeni emibili noma kokubili leyo inhlawulo nalelo jele, futhi kwenye inhlawulo engeqile ku R2 000 noma ijele kungeqi izinsuku eziyishumi kulolo nalolo suku okwephulwa ngalo izimiso okukhulunywa ngazo noma ukwehluleka ukuhambisana nazo: Kuqikelelwe ukuthi lesosikhathi salokho kungena ejele futhi singeqi unyaka;
- (c) ecaleni okubhekiswe kulo esigabeni 60(a) (iii) inhlawulo ayiyu kweqa ku R10 000 noma ijele isikhathi esingeqile eminyakeni emibili noma kokubili inhlawulo leyo nejele;
- (d) ecaleni okubhekiswe kulo esigabeni 60(a) (iv) inhlawulo ayiyukweqa u R5 000 noma ijele isikhathi esingeqile unyaka noma kokubili inhlawulo leyo nejele;
- (e) ecaleni okubhekiswe kulo esigabeni 60(a)(v) noma 63(5), inhlawulo ingeqi R2 500 noma ijele isikhathi esingeqile izinyanga eziyisithupha noma kokubili inhlawulo noma ijele futhi kwenye inhlawulo engeqile ku R200 noma ijele futhi kungeqi usuku olulodwa kuzo zonke izinsuku okwephulwa ngazo izimiso okukhulunywa ngazo noma ukungaphumeleli ukuhambisana nazo: Kuqikelelwe ukuthi isikhathi esinjalo sokubuyela ejele singeqi izinsuku ezingu 90;
- (f) ecaleni okubhekiswe kulo esigabeni 60(a)(vi), inhlawulo ingeqi ku R15 000 noma ijele isikhathi esingeqile eminyakeni emithathu noma kukho kokubili inhlawulo nejele;
- (g) ecaleni okubhekiswe kulo esigabeni 60(a)(vii) kuba isijeziso esingase sinqunywe umthetho ngecala lokwaphula isifungo sokukhuluma iqiniso;
- (h) ecaleni okubhekiswe kulo esigabeni 60(a)(viii) isigwebo siyofana naleso esethulwa imantshi enkantolo ecaleni elifana naleli;
- (i) ecaleni okubhekiswe kulo esigabeni 60(b)(iii) inhlawulo ingeqi ku R50 000 noma ijele isikhathi esingeqile eminyakeni eyishumi noma kokubili inhlawulo nejele; noma
- (j) ekulahlweni icala ngokusho kwezimiso zaloMthetho lapho isijeziso singashiwongo, inhlawulo ingeqi ku R2 500 noma ijele isikhathi esingeqile ezinyangeni eziyisithupha noma kukho kokubili inhlawulo nejele.

- (2) Nakuba kukhona noma yini ephambene equkethwe kunoma yimuphi uMthetho, inkantolo yematshi iyoba namandla okwetshwesa noma yisiphi isijeziso esihlinzekelwe kulomthetho.

Ukunikezela amandla.

62. (1) UNgqongqoshe angase anikezele ngamandla anikezwe yena yiloMthetho, ngaphandle kwamandla okwenza imithethonqubo phansi kwesigaba 63, kuNobhala noma yisiphi esinye isiphathimandla esisebenzela uMnyango noma, kuthi ngokubhekela izinjongo ekuyizona ezenza ukuba kwakhiwe lesosizinda, anikwe inhloko elawulayo.
- (2) uNobhala anganikezela ngamandla awanikezwe wona yiloMthetho kumqondisi wesifunda noma kusiphi esinye isiphathimandla esisebenzela uMnyango noma kuthi ngokubhekela izinjongo ekuyizona ezenza ukuba kwakhiwe lesosizinda, anikwe inhloko elawulayo.
- (3) Noma imuphi umqondisi wesifunda anganikezela amandla anikezwe wona phansi kwaloMthetho awanikezele noma isiphi isiphathimandla esisebenzela uMnyango.
- (4) Noma yiziphi izithunywa phansi kwesigatshana (1), (2) noma (3) aziyikumvimbela uNgqongqoshe, uNobhala noma imuphi umqondisi wesifunda ekusebenziseni amandla okubhekiswe kuwo yena qobo lwakhe.

Imithethonqubo.

63. (1) Ngesaziso eGazethini kaHulumeni, uNgqongqoshe angenza imithethonqubo malungana-
- (a) nokuphepha, impilo kanye nezenhlalakahle yabantu abathintekayo ezimayini nasemisebenzini nemiyalo yokuphepha kanye nokufakelwa kwemishini kanye nezinto eziphathelele nokuphepha, nempilo kanye nezenhlalakahle;
 - (b) ukusebenza ngendlela efanelekile emayini nasemisebenzini yezikhulu ezibhekele ukuthula;
 - (c) ukuvikelwa kwezinto zokusebenza, izakhiwo, ingaphezulu lomhlaba kanye nemithombo yamanzi, ukuphephiswa kwendawo embiwe ngaphansi kwayo kanye nokuphanda okunengozu, ukwemboza izilini eziphuma obondeni, izindawo okulahlwa khona umlotha nezinto ezinhlobonhlobo ezenzekayo ngesikhathi kuhlwaywa noma kumbiwa nezinto eziphathelele nalezozenzo, ukumiselwa ngezimali kanye nezinye izindingo okumelwe kubhekwane nazo noma eziphathelele nokuphephisa abantu okuyibona ababemba noma ababephanda, izembozo lapho kulahlwa khona udoti, umlotha noma izakhiwo noma izimo eziyingozi, nokuthi ubani oyohlomula kulokhu kuphephisa nokuthathwa uHulumeni waKwaZulu akubeke emahlombe akhe ukuphepha okunjalo ezindaweni ezithile;
 - (d) ukubuyiselwa kwomhlaba ezindaweni ekuthikamezeke kuzo ingaphezulu lomhlaba kanye nokulwa nokunukubezeka komoya, umhlaba ulwandle noma amanye amanzi lapho lokho kuhlukumezeka kanye nokunukubezeka kuhlalane nokuhlwaya kanye nemisebenzi yemayini kanye nokugidlabezwa ngezintela kanye nokwakhiwa kwama khawunti aqondene nalokho;
 - (e) ukusetshenzwa nokusetshenziswa noma ukulahlwa kwanoma yini embiwa phansi;
 - (f) lokho okufundelwe ekuqashelweni umsebenzi othile, imibandela yokwamukelwa njengomuntu ozohlalela

ukuhlolwa, ukukhishwa kwezitifiki zobungcweli maqondana nemisebenzi ethile kanye namagunya, imisebenzi kanye nezimiselo zomuntu oqashiwe ezimayini nasemisebenzini;

- (g) izinqumo mayelana nokudluliswa kwezicelo ezifakiwe ngaphansi kwaloMthetho;
 - (h) izimali ezikhokwayo ekufakeni isicelo malungana-
 - (i) nemvume yokuhlwaya;
 - (ii) nemvume yokumba;
 - (iii) nelaysense yokumba;
 - (iv) nezimvume ezikhishwe ngokusho kwesigaba 33;
 - (v) nokuhlolwa;
 - (vi) nokwedluliswa kwezikhalo;
 - (vii) nokuntulwa kolwazi nokunikezwa kwamakhophi amaphepha anobufakazi;
 - (viii) nokwabiwa kwamalungelo okumba okungamagugu;
 - (ix) noma iyiphi imvume okubhekiswe kuyo kwisigaba 8(1);
 - (x) noma iyiphi imvume noma isitifiketi ekubhekiswe kuyo esigabeni 17(1)(i) noma (ii) noma (6)(a)(aa) noma (bb); noma
 - (xi) noma ikuphi ukwesulwa okubhekise kukho esigabeni 48(3)(b)(i);
 - (i) ukudwetshwa nokulondolozwa kwamapulani emayini kanye nokunikezwa kwezibalo kanye neminye imibiko maqondana nokumbiwayo, izimayini imisebenzi kanye nemishini;
 - (j) ukuhanjiswa, ukuphathwa, ukulondolozwa kanye nokusetshenziswa kweziqhumane maqondana nezinto ezenziwayo emayini noma lapho kusetshenzwa khona kanye nokuxutshwa kwemithi yokwenza iziqhumane ezindaweni okusetshenzwa kuzo zemayini ezingaphambene nezimiso zanoma imuphi omunye umthetho;
 - (k) imibandela okufanele imishini yenziwe noma isetshenziswe ngazo ezimayini kanye nomsebenzi.
 - (l) ukubikwa kwezingozi ezimayini nasemisebenzini kanye nokuhlinzekwa kwama ambulensi kanye nemithi ngezikhathi zezingozi;
 - (m) indlela yokubakhona kofakazi ngesikhathi sophenyo okuqukethwe ngaphansi kwesigaba 28(1), (2) noma (5) ayotholakala kanye nezindlela eziyolandelwa ngezikhathi zophenyo;
 - (n) ukugcinwa kwamarekhodi amayelana nezisebenzi noma emayini nasemisebenzini.
 - (o) indlela yanoma isiphi isicelo esingenziwa noma esiyokwenziwa ngaphansi kwaloMthetho noma ngayiphi imvume noma incwadi eyodungeka ukuba ilethwe kanye nalesisicelo, kanye nolwazi noma imibandela eyohambisana nalesisicelo.
 - (p) indlela, izimo, ukukhishwa, ukuvuselelwa, ukuyekelwa, noma ukwesulwa kwanoma iyiphi imvume, ilayisensi, isitifiketi, imvume, ukwamukelwa, ukugunyazwa noma iyiphi imvume engakhishwa noma eyokhishwa, ivunye, noma ivuselelwe ngaphansi kwaloMthetho.
 - (q) indlela yanoma iyiphi irejista, irekhodi, isaziso, noma umdwebo wepulani ongagcinwa noma uyogcinwa, unikezwe, usakazwe noma udluliswe ngokwaloMthetho noma ngenhloso yaloMthetho.
 - (r) ukuyekelwa ngezimiso zanoma imuphi umthethonqubo.
 - (s) ukwenqatshelwa ekulahleni kwanoma iyiphi into embiwayo noma ukusetshenziswa kwayo isetshenziselwa noma sizathu sini noma ngandlelani;
 - (t) imigomo ebekiwe noma imithethonqubo malungana nokulahlwa noma ukusetshenziswa kwanoma iyiphi into embiwayo.
 - (u) ukuvulwa kwe akhawunti eyodwa noma ngaphezulu ngenjongo yokufaka izimali zophenyo kanye nokuhlola malungana, kanye nokuhlinzekela ukuphepha ezindaweni zemisebenzi ezimayini kanye nalapho kusetshenzwa khona;
 - (v) ukukhokha kwentela egxile ekuphepheni ikhokha izimayini kanye nemisebenzi benzela uphenyo kanye nokuhlola malungana, kanye nokuqhubezela ukuphepha ezindaweni zokusebenza ezimayini nasemisebenzini.
 - (w) indlela okuyo kwaziswa ngazo amazinga okuphepha, imithetho yenqubo kanye nezimiso zaloMthetho, kwaziswe abaqashiwe nabanye abantu kunoma iyiphi imayini noma lapho kusetshenzwa khona kanye nendlela ekuyothi amakhophi amazinga okuphepha imithetho yenqubo nezimiso bazithole ngayo ukuze bazifunde labo abaqashiwe kanye nabanye abantu;
 - (x) ukwenqatshelwa ukubamba imali emholweni womqashwa noma ukukhokha malungana noma yini okuthi umnikazi noma imenja yemayini noma umsebenzi ngokusho kwaloMthetho odinga ukuba kuhlinzekwe noma kwenziwe kwenzelwa impilo noma ukuphepha kwalowomqashwa;
 - (y) noma iyiphi indaba engase idingidwe ngokusho kwaloMthetho; noma
 - (z) noma iyiphi enye indaba, enqubo yayo, ngokubona kukaNgqongqoshe, kugadingeka noma kufaneleke ukuze kufezekwe izinjongo zaloMthetho.
- (2) Akukho mthethonqubo ophathelene noHulumeni waKwaZulu ngezimali ezingenayo neziphumayo noma ludaba luni lwezempilo oluyobekwa kuNgqongqoshe ngaphandle kokuvumelana noNgqongqoshe weziMali noma emveni kokubonisana noNgqongqoshe WezeMpilo, ngokulandelana kwabo.
- (3) (a) UNgqongqoshe angafaka isimemezelo eGazethini likaHulumeni eshlanganisa imithethonqubo yanoma imaphi amazinga okuphepha, engayazisanga ingqikithi yayo, ngenombolo yenkomba, ngesihloko kanye nonyaka eyakhishwa ngawo noma kweminye imininigwane engabonwa ngayo ngokwanele.
- (b) Noma imaphi amazinga okuphepha afakwe emthethweninqubo phansi kwendima (a) ngokwezidingo zaloMthetho, uma engaphikisani nanoma imuphi umthethonqubo, ayothathwa ngokuthi uwumthethonqubo, kodwa kungabi ngaphambi kokuphelelwa kwenkathi eyizinyanga ezimbili kusukela osukwini lwalokho kufakwa.
- (c) Noma ngasiphi isikhathi uma kuchibiyelwa amazinga okuphepha emveni kokuba esefakiwe phansi kwendima (a) noma kufakwe ezinye endaweni yazo ifakwa umuntu osemandleni, isaziso ekuyofakwa ngaso lawo mazinga okuphepha emithethweninqubo, kuyothi, ngaphandle kokuba kuvezwe okunye kuyothatwa ngokuthi ibhekise kulawo mazinga okuphepha njengoba kuchibiyelwe noma kufakwe okunye esikhundleni sokunye, njengoba kungase kwenzeke.

- (d) Umqondisi wesifunda uyogcina ehhovisi lakhe ikhophi yengqikithi yalelo nalelo zinga lokuphepha elifakwe emthethweniqubo phansi kwendima (a) futhi laleso naleso sichibiyelo noma okuthathe indawo yokunye bese kuthi uma kukhona owenza isicelo ngencwadi, amnikeze ikhophi ukuze alihlole noma ukwenza ikhophi endaweni evunye umqondisi wesifunda: Kuqikelelwe ukuthi umqondisi wesifunda akasoze aphokeka ukuba agcine ehhovisini lakhe ikhophi lalawo mazinga okuphepha noma okuchibiyelwe noma okuthathe indawo yokunye abhaliwe emaphepheni noma emabhukwini atholakalayo KwaZulu: Kuqikelelwe ukuthi uma ebhala kwi Register yonke imininingwane yalelo bhuku ekubhalwe kulo lawo mazinga okuphepha noma izichibiyelo noma okuthathe indawo yokunye futhi nendawo KwaZulu lapho lelobhuku litholakala khona noma lapho lingahlolwa khona bese kuthi leyo Register enze ukuba itholakale kulabo abayidingayo ukuba bayihlole.
- (e) Isigaba 33 soMthetho, waMazinga, 1982 (uMthetho No. 30 ka 1982), asiye kuthikameza ukufakwa kwezinga lokuphepha phansi kwendima (a) noma kwanoma isiphi isichibiyelo noma okuthathe indawo yokunye ekubhekiswe kukho endimeni (c).
- (4) Akukho nkantolo yemantshi eyoba nelungelo lokuphenya noma ukukhipha isinqumo ngamandla okusebenza komthethonqubo.
- (5) Noma imuphi umthethonqubo owenziwe ngaphansi kwesigatshana (1) ungasho ukuthi noma imuphi umuntu owephula noma ongaphumeleli ukuhambisana nanoma yiziphi izimiso zazo uyoba necala.
- Ukwedluliselwa kwamalungelo kaHulumeni wa-KwaZulu amagugu ambiwayo. 64. (1) UNgqongqoshe kungathi ngemvume yeKhabinethi futhi phezu kwesigaba 43(2) kanye no 44(2) edlulisele ilungelo lamagugu ambiwayo angakuHulumeni waKwaZulu, phezu kwemibandela angase ayibone ifanele.
- (2) UNdunankulu, ngesimezelo eGazethini kaHulumeni, anqume ukuthi kusukela osukwini alinqumile noma liphi ilungelo noma umthwalo kaHulumeni waKwaZulu maqondana nanoma yini embiwayo futhi esendaweni yaKwaZulu, phezu kwemibandela yalomthetho futhi imbandela emisiwe kuleso Simemezelo iyoba kulowomuntu noma umaziphathe endaweni yaKwaZulu.
- (3) Isigatshana (1) asiye kusebenza maqondana nanoma iliphi ilungelo emadayimaneni okubhekiswe kuwo esigabeni 46(1) njengoba izimiso zalesosigaba zingakachithwa phansi kwesigaba 46(2).
- uMthetho obophezela uHulumeni waKwaZulu. 65. Izimiso zaloMthetho ziyombophezela uHulumeni waKwaZulu, ngaphandle kokwethweswa icala lobugebengu noma ngaphandle kokuba uNgqongqoshe ebona ngokunye afake isaziso eGazethini kaHulumeni.
- Ukuchibiyelwa koMthetho woKubhalisa ama-Tayitela ezi-Mayini 1967. 66. UMthetho wokuBhalisa amaTayitela eziMayini, 1967 (umthetho Na 16 ka 1967) ngalokhu uyachibiyelwa ngokufakelwa kwamagama athi "ukuBhaliswa kwamaTayitela eziMayini" esikhundleni samagama athi "uMqondisi Jikelele: IziNdaba zokuMbiwa phansi okungamagugu kanye naMandla" noma kuphi lapho evela khona kuloMthetho.
- uMthetho weMishini noKuphepha eMsebenzini, 1985, awusebenzi. 67. uMthetho waKwaZulu weMishini nokuPhepha eMsebenzini, 1985 (uMthetho Na. 10 ka 1985) awusoze wasebenza kunoma yiluphi udaba maqondana nanoma yisiphi isimiso zaloMthetho lapho usebenza khona.
- Ukuchithwa kwemithetho nokongiwe. 68. (1) Kuye ngokwezigatshana (2) kanye no (3) imithetho ebhalwe kwiSheduli iyachibiyelwa noma iyachithwa kanjengalokho okukhoniwe ohleni lwesithathu yawo.
- (2) Noma imuphi umthethonqubo owenziwe phansi koMthetho weziMayini neMisebenzi, 1956 (uMthetho Na. 27 ka 1956), osebenze ngaphambi kokuqala kwalomthetho uyohlala usebenza uze uchibiyelwe noma uchithwe phansi kwesigaba 63 futhi noma imuphi umthetho, isaziso, isinqumo, ukwalelwa, ukugunyazwa, imvume, ukuyekelwa isitifiketi noma incwadi enobufakazi ekhishiwe ngokomthetho nanoma iziphi ezinye izinyathelo ezithathiwe ngokwezimiso zanoma imuphi umthethonqubo ngaphambi kokuqala ukusebenza kwalomthetho, futhi nawo uyohlala usebenza.
- (3) Noma iyiphi imvume ekhishiwe ngokusho kwesigaba 8 soMthetho weziMayini neMisebenzi, 1956, futhi osebenzayo ngaphambi kokuqala kwalomthetho uyohlala usebenza noma ngabe umthetho okubhekiswe kuwo ekuqaleni esigatshaneni (1) uchithiwe.
- (4) Ukwamukelwa, noma isitifiketi esikhishiwe ngokusho kwesigaba 2 noma 5 weSengezo soMthetho wokuMbiwayo okungamagugu, 1975 (uMthetho Na. 10 ka 1975), ngokulandelwa futhi osebenzayo ngaphambi kokuqala kwalomthetho kuyothiwa ukhishiwe phansi kwesigaba 20 noma 17(1) (ii) ngokulandelana.
- (5) Izimiso zaloMthetho, ngaphandle kokuba kukhona okunye ukuqikelela ukuthi eSahlukweni (vii) azisoze zathikanyezwa nanoma imuphi umbandela noma isivumelwano, noma ngabe leso sivumelwano senziwa ngaphandle noma ngemuva kokuqala kwalomthetho.
- Izivumelwano neRiphabliki yaseNingizimu Afrika. 69. Uma uHulumeni waKwaZulu njengoba kuchaziwe esigabeni 38 soMthethosisekelo waMazwe aZibusayo 1971 (uMthetho Na. 21 ka 1971) kanye noHulumeni waseRiphabliki yaseNingizimu Afrika, bevumelana, isiphathimandla esisebenzela uMnyango weziNdaba zamaGugu aMbiwayo naMandla angawenza umsebenzi noma owaluphi uhlobo KwaZulu, onikezwe noma isiphi isiphathimandla esisebenza kaHulumeni waKwaZulu ngokusho kwanoma imuphi umthetho kaHulumeni waKwaZulu maqondana nezindaba zamagugu ambiwayo futhi nanoma imuphi umsebenzi owenziwayo yilowo okuphawulwe ngawo ekuqaleni emibandeleni okuvunyelwane ngayo phakathi kwohulumeni okuphawulwe ngabo.
- Isihloko esifinyezwe kanye nokuqalisa. 70. (1) LoMthetho uyobizwa ngokuthi uMthetho wamaGugu aMbiwayo, 1992.
- (2) LoMthetho nokuba kukhona ilanga omenezelwe ngalo, uyothathwa ngokuthi uqale ukusebenza ngomhlaka 1 Januwari, 1992.
- (3) Noma yikuphi ukugunyazwa, ilungelo noma imvume enikeziwe, noma yisiphi isivumelwano esenziwe noma yisiphi isenzo esenziwe phezu komcabango ukuthi loMthetho uyokwaziswa, uma sivunyiwe noma senziwe ngawo ngomhlaka 1 Januwari, 1992 siyothathwa ngokuthi sivunyelwe noma senziwe ngaphansi kwezimiso ezifanelekile zaloMthetho.

ISHEDULI

IMITHETHO ECHITSHIYELWE NOMA ECHITHIWE (ISIGABA 68)

INOMBOLO NONYAKA WOMTHETHO	ISIHLOKO ESIFINGQIWE	UBUNGAKO BOKWESULIWE
uMthetho uNomb. 15 ka 1919	uMthetho sichibiyelo waMatshe aliGugu, (ambiwa emfuleni) 1919	Wonke

INOMBOLO NONYAKA WOMTHETHO	ISIHLOKO ESIFINGQIWE	UBUNGAKO BOKWESULIWE
uMthetho uNomb. 26 ka 1932	uMthetho waMalungelo okuMbiwayo (Ningizimu-Ntshonalanga Afrika) 1932	Wonke.
uMthetho uNomb. 27 ka 1946	uMthetho weSikhumbuzo Sokucwaninga okuMbiwayo kuShonise phansi kwileveli, 1946	Wonke.
uMthetho uNomb. 27 ka 1956	uMthetho Wezemisebenzi Nezimayini, 1956	Wonke, ngaphandle kwezincazelo zamagama "uNgqongqoshe" ne "Sonto" "Usuku luka Khisimusi" "Usuku lweSethembiso" "Usuku lwePhasika" kanye noSuku lweRiphabliki" eSigabeni 1 nesigaba 9.
uMthetho uNomb. 51 ka 1959	uMthetho Sichibiyelo Wezimayini Nemisebenzi, 1959	Wonke.
uMthetho uNomb. 46 ka 1964	uMthetho sichibiyelo Wezimayini Nemisebenzi Bezuqgynabe, 1964	Izigaba 1 kuya ku 11.
uMthetho uNomb. 73 ka 1964	uMthetho waMatshe ayiGugu, 1964	Wonke.
uMthetho uNomb. 88 ka 1964	uMthetho Wokuthuthukisa uMcebo Wokwenza Izikhali	Wonke.
uMthetho uNomb. 91 ka 1965	uMthetho sichibiyelo wezeMisebenzi Nezimayini, 1965	Wonke.
uMthetho uNomb. 20 ka 1967	uMthetho Wamalungelo Ezimayini, 1967	Wonke, ngaphandle kwezincazelo "okusansimbi okuyigugu" kanye "nokusansimbi okuyigugu okungakasetshenzwa" esigabeni 1 kanye naseSahlukweni XVI.
uMthetho uNomb. 42 ka 1968	uMthetho Wezimayini Nezemisebenzi, 1968	Wonke.
uMthetho uNomb. 48 ka 1969	uMthetho sichibiyelo waMatshe ayiGugu, 1969	Wonke.
uMthetho uNomb. 40 ka 1971	uMthetho sichibiyelo Wezimayini neMisebenzi, 1971	Wonke.
uMthetho uNomb. 80 ka 1971	uMthetho sichibiyelo oMkhulu, ka 1971	Izigaba 18 no 19.
uMthetho uNomb. 62 ka 1973	uMthetho sichibiyelo oMkhulu, ka 1973	Izigaba 11 no. 12
uMthetho uNomb. 14 ka 1974	uMthetho sichibiyelo Wokuthuthukisa Ingcebo yokwenza Izikhali, 1974	Wonke.
uMthetho uNomb. 10 ka 1975	uMthetho Wokwengeza Emithethweni Yokumbiwayo, 1975	Wonke.
uMthetho uNomb. 16 ka 1975	uMthetho sichibiyelo waMatshe ayiGugu, 1975	Wonke.
uMthetho uNomb. 47 ka 1976	uMthetho sichibiyelo Wamalungelo Ezimayini, 1976	Wonke.
uMthetho uNomb. 77 ka 1977	uMthetho wokuPhathwa Kwetshe Elinombala Weso lengwe, 1977	Wonke.
uMthetho uNomb. 83 ka 1977	uMthetho sichibiyelo weziMayini neMisebenzi	Wonke.
uMthetho uNomb. 44 ka 1978	uMthetho sichibiyelo waMalungelo eziMayini, 1978	Wonke.
uMthetho uNomb. 48 ka 1979	uMthetho sichibiyelo wokuPhathwa Kwetshe Elinombala Weso lengwe, 1979	Wonke.
uMthetho uNomb. 23 ka 1981	uMthetho sichibiyelo wokweNgeza eMithethweni yokuMbiwayo, 1981	Wonke.
uMthetho uNomb. 41 ka 1981	uMthetho sichibiyelo waMatshe ayiGugu, 1981	Wonke.

INOMBOLO NONYAKA WOMTHETHO	ISIHLOKO ESIFINGQIWE	UBUNGAKO BOKWESULIWE
uMthetho uNomb. 86 ka 1981	uMthetho sichibiyelo waMalungelo eziMayini, 1981	Wonke.
uMthetho uNomb. 15 ka 1982	uMthetho sichibiyelo waMatshe ayiGugu, 1982	Wonke.
uMthetho uNomb. 92 ka 1982	uMthetho waMandla Enuzi, 1982	Wonke.
uMthetho uNomb. 50 ka 1983	uMthetho sichibiyelo waMalungelo eziMayini, 1983	Wonke.
uMthetho uNomb. 62 ka 1986	uMthetho sichibiyelo waMatshe angamaGugu, 1986	Wonke.
uMthetho uNomb. 38 ka 1987	uMthetho sichibiyelo weziMayini neMisebenzi, 1987	Wonke.
uMthetho uNomb. 73 ka 1988	uMthetho sichibiyelo waMalungelo eziMayini, 1988	Wonke.
uMthetho uNomb. 77 ka 1988	uMthetho sichibiyelo wokweNgeza eMithethweni yokuMbiwayo	Wonke.

KWAZULU GOVERNMENT NOTICE NO. 46 OF 1994

KWAZULU LEGISLATIVE ASSEMBLY

ACT 16 OF 1992

KWAZULU MINERALS ACT, 1992

The State President has been pleased under and by virtue of the powers vested in him by section 31(2) of the self-governing Territories Constitution Act, 1971 (Act 21 of 1971) to approve the following Act. (English text signed by the State President. Assented to on 20-12-1993).

ACT

To regulate the prospecting for and the optimal exploitation, processing and utilization of minerals; to provide for the safety and health of persons concerned in mines and works; to regulate the orderly utilization and the rehabilitation of the surface of land during and after prospecting and mining operations; and to provide for matters connected therewith.

BE IT ENACTED by the KwaZulu Legislative Assembly, as follows:-

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CHAPTER I

INTRODUCTION

Definitions.

1. In this Act, unless the context otherwise indicates - "boiler means -
 - (a) any apparatus adapted to convert continuously any liquid into steam, vapour or gas at a pressure higher than that due to the atmosphere, where the heat is derived from a source other than steam or the ambient temperature of the atmosphere, including any super-heater or economizer comprising an integral part thereof; or
 - (b) any economizer or separately-fired super-heater not comprising an integral part of such apparatus, and includes every fitting and appurtenance pertaining to any such apparatus, economizer or super heater: Provided that if any apparatus, consists of a combination of two or more parts each of which is capable of adaption for use as a separate boiler by the closing of one or more stop valves or stop cocks, each of the said parts shall be deemed to be a boiler: Provided further that-
 - (i) a steam generator fitted with a standpipe or riser which is vented directly to the atmosphere and the vent of which is of such dimensions as to prevent the development of any pressure exceeding 35kPa within the vessel, and provided that no valve or other obstruction is inserted in the standpipe or riser to prevent the vessel from freely venting to the atmosphere; or
 - (ii) any apparatus of which the product of the manufacturer's intended maximum working pressure in kilopascal and the volume in cubic meters does not exceed the figure 10,

shall not be deemed to be a boiler;

"certificated" means to be the holder of an appropriate certificate of competency issued in terms of a regulation;

"chair lift" means any appliance or combination of appliances used or intended to be used for the conveyance of persons or material by means of a chair or other means of conveyance suspended from an endless hauling rope or with chairs or carriers running in or on a rope or rail circuit and provided with a hauling rope or chain;

"Department" means the Department of Interior;

"elevator" means any lift, hoist or other appliance used or intended to be used for the conveyance of persons, material or minerals by means of a car in a hatchway on guides where the control system of the driving machinery is not normally operated manually from the motor or engine room;

"employee" means any person employed or working at a mine or works, including an independent contractor;

"engine" means any appliance or combination of appliances whereby power, excluding man or animal power, can be applied to do mechanical work;

"holder" means, in relation to -

- (a) the right to a mineral in respect of land or any undivided share therein, the owner of such land: Provided that -
 - (i) if the right to such mineral or an undivided share therein has been served from the ownership of the land concerned, the person in whose name such right or an undivided share therein is registered in the deeds office concerned, either by means of a separate deed or by means of a reservation in the title deed of the land concerned; or
 - (ii) if the right to such mineral or an undivided share therein vests in any other manner in a person, that person, shall be the holder;
- (b) the right to a mineral which occurs in or on tailings, the person who is the holder of the mining right (in respect of the land) from which such tailings have been produced: Provided that if such mining right has lapsed or did not exist or if such tailings or such mining right has been so alienated that the ownership thereof vests in different persons -
 - (i) the person who at common law has a claim to such tailings; or
 - (ii) if no such person as referred to in subparagraph (i) exists, or if he is unknown or cannot be readily traced, the owner of the land on which the tailings dump is situated, shall be the first-mentioned holder; and
- (c) any permit, licence, permission, certificate, authorization or any other document issued, granted or in force in terms of this Act, the person in whose name it has been issued, granted or is in force;

"investigating officer" means any regional mining engineer or any officer designated by the Secretary in accordance with section 28(1) or (3);

"machinery" means any engine, boiler or appliance or a combination thereof which is situated at a mine or works and which is used or intended to be used-

- (a) for generating, developing, receiving, storing, converting, transforming, transmitting or distributing any form of power or energy; or
- (b) for conveying persons, material or minerals, in connection with operations falling under the control of the manager of such mine or works;

"manager" means any competent person as defined in the regulations, appointed in terms of section 31 (1)(a);

"mine" means when -

- (a) used as a noun-

- (i) any excavation in the earth, including the portion under the sea or under other water or in any tailings, as well as any borehole, whether being worked or not, made for the purpose of searching for or winning a mineral; or
- (ii) any other place where a mineral deposit is being exploited,

including the mining area and all buildings, structures, machinery, mine dumps, access roads or objects situated on such area and which are used or intended to be used in connection with such searching, winning or exploitation or for the processing of such mineral: Provided that if two or more such excavations, boreholes or places, or excavations, boreholes and places, are being worked in conjunction with one another, they shall be deemed to comprise one mine unless the regional director notifies the owner thereof in writing that such excavations, boreholes or places, or excavations, boreholes and places, comprise two or more mines; and

- (b) used as a verb, the making of any excavation or borehole referred to in paragraph (a)(i) or the exploitation of any mineral deposit in any other manner, for the purpose of winning a mineral, including any prospecting in connection with the winning of such mineral;

"mineral" means any substance, whether in solid, liquid or gaseous form, occurring naturally in or on the earth, in or under water or in tailings and having been formed by or subjected to a geological process, excluding water, but including sand, stone, rock, gravel and clay, as well as soil, other than topsoil;

"mine safety committee" means the committee established by section 26(1)(a);

"mining area" means the area comprising the subject of any prospecting permit or mining authorization, including any adjacent surface of land 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;

"mining authorization" means any authorization granted under a mining permit or a mining licence;

"mining licence" means any authorization issued in terms of section 9 for any period exceeding two years;

"mining permit" means any authorization issued in terms of section 9 for a period not exceeding two years;

"mining right" means any right or any share therein acquired under any section mentioned in section 47(1) or (5) or any right to dig or to mine acquired under a tributing agreement as defined in section 1 of the Mining Titles Registration Act, 1967 (Act No. 16 of 1967), or any other subgrant acquired by virtue of the first-mentioned right or any share therein;

"Minister" means the Minister of the Interior;

"nomination agreement" means a nomination agreement as defined in section 1 of the Mining Titles Registration Act, 1967 (Act No. 16 of 1967);

"Official Gazette" means the Official Gazette of KwaZulu;

"officer" means any officer or other person in the service of the KwaZulu Government in accordance with the KwaZulu Public Service Act, 1990 (Act No. 5 of 1990); as amended;

"owner" means, in relation to -

- (a) land-

other than unsurveyed and unregistered KwaZulu Government land, the owner as defined in section 102 of the Deeds Registries Act, 1937 (Act No. 47 of 1937); or

- (b) a mine-

- (i) the holder of the prospecting permit or mining authorization concerned; or
- (ii) if such prospecting permit or mining authorization does not exist, the last person who worked the mine or his successor in title; or

- (c) a works, also the lessee of any works or part thereof;

"peace officer" means any officer in the service of the Department who has been declared a peace officer under section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

"person" means any person as defined in section 2 of the Interpretation Act, 1957 (Act No. 33 of 1957) excluding the KwaZulu Government and a trust;

"prescribed" means, prescribed by regulation;

"process" means, in relation to any mineral, the recovering, extracting, concentrating, refining, calcining, classifying, crushing, screening, washing, reduction, smelting or gasification thereof;

"prospecting" means intentionally searching for any mineral by means which disturb the surface of the earth, including the portion under the sea or under other water or of any tailings, by means of excavation or drilling necessary for that purpose, but does not include mine as a verb;

"prospecting permit" means any authorization issued in terms of section 6;

"record" includes information contained in or on a computer printout, tape or disc or any other computer storage medium;

"regional director" means any person appointed in terms of section 4;

"regional mining engineer" means any person in the service of the Department who is a certificated mine manager in respect of mining matters or a certificated mechanical or electrical engineer (mines) in respect of mining equipment, respectively, appointed to such post by the Secretary;

"regulation" means any regulation made under section 63 or in force in terms of section 68 (2);

"rehabilitation" means, in relation to the surface of land and the environment, the execution by the holder of a prospecting

permit or mining authorization of the rehabilitation programme referred to in section 39 to the satisfaction of the regional director;

"Secretary" means the Secretary for the Interior;

"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;

"tailings" means any waste rock, slimes or residue derived from any mining operation or processing of any mineral;

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

"underground" means, in relation to a mine, any place in a mine under the natural surface of the earth which is solely connected to the surface by means of a shaft, incline shaft, adit, raise, winze, tunnel or decline or a combination thereof, including such shaft, incline shaft, adit, raise, winze, tunnel or decline;

"winding plant" means any hoist or other appliance used or intended to be used for the conveyance of persons, material or minerals by means of a cage, skip or other means of conveyance in any shaft or winze where the control system of the driving machinery can normally be operated manually from the motor or engine room, but excluding any lifting machine, endless rope haulage and scraper winch installation;

"works" means any place, excluding a mine, where one or more of the following operations and any operation necessary or in connection therewith are carried out, namely:-

- (a) the transmitting and distributing to any other consumer of any form of power from a mine, by the owner thereof, to the terminal point of bulk supply or, where the supply is not in bulk, to the power supply meter on any such other consumer's premises; or
- (b) training at any central rescue station.

CHAPTER II

ADMINISTRATION

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| Administration of Act. | 2. | (1) This Act shall be administered in accordance with the instructions and directives and under the control of the Minister, by the Secretary. |
| | | (2) The application of the provisions of this Act in respect of safety and health shall be done after consultation with and under the direction of a person appointed by the Secretary, 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. |
| Division of KwaZulu into Regions. | 3. | For the purposes of this Act the Minister may, by notice in the <u>Official Gazette</u> , divide KwaZulu, into regions, and he may, from time to time, so amend the boundaries of such regions. |
| Appointment and functions of regional directors. | 4. | The Minister shall, in respect of each region referred to in section 3, appoint a person 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 Secretary. |

CHAPTER III

AUTHORIZATION TO PROSPECT AND TO MINE

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| Right to prospect and mine for and to dispose of minerals. | 5. | (1) Subject to the provisions of this Act, the holder of the right to any mineral in respect of land or tailings, as the case may be, or any person who has acquired the consent of such holder in accordance with section 6(1)(b) or 9(1)(b), shall have the right to enter upon such land or the land on which such tailings are situated, as the case may be, together with such persons, plant or equipment as may be required for purposes of prospecting or mining and to prospect and mine for such mineral on or in such land or tailings, as the case may be, and to dispose thereof. |
| | | (2) No person shall prospect or mine for any mineral without the necessary authorization granted to him in accordance with this Act: Provided that:- |
| | | (a) the South African Roads Board established by section 2 of the South African Roads Board Act, 1988 (Act No. 74 of 1988), the Departments of Works and Agriculture and Forestry and any provincial administration shall not require any such authorization for the searching for and the taking of sand, stone, rock, gravel, clay and soil for road-building purposes under the laws applicable to them: Provided further that the said Roads Board or Departments or provincial administration shall, in any such case for the purposes of this Act, be deemed to be the holder of or applicant for a prospecting permit or mining authorization, in respect of the mineral and land concerned: Provided further that the land and such mineral rights are not encumbered in terms of sections 6(1)(b) and 9(1)(b); and |
| | | (b) the occupier of land who otherwise lawfully takes sand, stone, rock, gravel, clay or soil for farming purposes or for the effecting of improvements in connection with such purposes on such land, shall not require any such authorization and the provisions of this Act shall not be applicable in any such case. |
| | | (3) Any person mining any mineral under a mining authorization may, while mining such mineral, also mine and dispose of any other mineral in respect of which he is not the holder of the right thereto, but which must of necessity be mined together with the first-mentioned mineral: Provided that such person shall compensate the holder of the right to such other mineral for his mineral to an amount mutually agreed upon or, if no agreement can be reached, to an amount determined by arbitration in accordance with the Arbitration Act, 1965 (Act No. 42 of 1965), or by any competent court if the last-mentioned person prefers the last-mentioned procedure: Provided further that in determining the last-mentioned amount, section 12 of the Expropriation Act, 1975 (Act No. 63 of 1975), shall <u>mutatis mutandis</u> apply as if an expropriation of property or the taking of a right has taken place in terms of the last-mentioned Act. |
| Issuing of prospecting permit | 6. | (1) The regional director shall, subject to the provisions of this Act, upon application in the prescribed form and on payment of the prescribed application fee, issue a prospecting permit in the prescribed form authorizing the applicant to prospect for a mineral in respect of which he- |
| | | (a) is the holder of the right thereto; or |
| | | (b) has acquired the written consent to prospect on his own account, from such holder, |
| | | in respect of the land or tailings, as the case may be, comprising the subject of the application. |
| | | (2) Any application for a prospecting permit shall be lodged with the regional director concerned and shall, in addition to the other information and documents which he may require, be accompanied by - |

- (a) proof of the right to the mineral in respect of the land or tailings, as the case may be, comprising the application; and
- (b) particulars about the manner in which the applicant intends to prospect and rehabilitate disturbances of the surface which may be caused by his intended prospecting operations.

acceptable to the regional director.

- (3) If the KwaZulu Government is the holder of the right to any mineral, the consent referred to in subsection (1) upon written application, be granted by the Minister, subject to such terms and conditions as may be determined by him.
- (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 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 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 the holder of the permit rehabilitates surface disturbances caused by his prospecting operations on the land concerned.

Prohibition or restriction on prospecting on certain land

- 7. (1) Subject to the KwaZulu Nature Conservation Act, 1992 (Act 29 of 1992), no person shall prospect in or on land which-
 - (a) comprises a township or urban area;
 - (b) comprises a public road, a railway or a cemetery;
 - (c) has been reserved or is being used under this Act or any other law for government or public purposes; or
 - (d) may be defined and so determined by the Minister by notice in the Official Gazette.
 except with the written consent of the Minister and in accordance with such conditions as may be determined by him.
- (2) The regional director concerned shall have power to determine or cause to be determined and point out or cause to be pointed out the boundaries of the places referred to in subsection (1).

Prohibition on removal and disposal of minerals found during prospecting operations.

- 8. (1) No holder of any prospecting permit shall remove any mineral found by him in or on land or in tailings in the course of prospecting operations, from such land or the land on which such tailings are situated or dispose of any such mineral, except with the written consent of the holder of the right to such mineral in respect of such land or tailings, and with written consent of the regional director concerned, subject to such conditions in respect of safety and health, utilization or rehabilitation as may be determined by him and specified therein.
- (2) If the KwaZulu Government is the holder of the right to any mineral, the consent referred to in subsection (1) upon written application, be granted by the Minister, subject to such terms and conditions as may be determined by him.
- (3) Any application for a permission referred to in subsection (1) shall be submitted in writing to the regional director concerned and shall be accompanied by the prescribed application fee.
- (4) Any permission for the removal of a mineral granted in terms of subsection (1), shall lapse upon the lapsing of the prospecting permit to which such permission relates.

Issuing of mining authorization.

- 9. (1) The regional director shall, subject to the provisions of this Act, upon application in the prescribed form and payment of the prescribed application fee, issue a mining authorization in the prescribed form for a period determined by him authorizing the applicant to mine for and dispose of a mineral in respect of which he-
 - (a) is the holder of the right thereto; or
 - (b) has acquired the written consent of such holder to mine therefor on his own account and dispose thereof, in respect of the land or tailings, as the case may be, comprising the subject of the application.
- (2) If the KwaZulu Government is the holder of the right to any mineral, the consent referred to in subsection (1)(b) upon written application, be granted by the Minister, subject to such terms and conditions as may be determined by him.
- (3) No mining authorization shall be issued in terms of subsection (1), unless the regional director is satisfied-
 - (a) with the manner in which and scale on which the applicant intends to mine the mineral concerned optimally and safely under such mining authorization;
 - (b) with the manner in which such applicant intends to rehabilitate disturbances of the surface which may be caused by his mining operations;
 - (c) that such applicant has the ability and can make the necessary provision to mine such mineral optimally and safely and to rehabilitate such disturbances of the surface; and
 - (d) that the mineral concerned in respect of which a mining permit is to be issued-
 - (i) occurs in limited quantities in or on the land or in tailings, as the case may be, comprising the subject of the application; or
 - (ii) will be mined on a limited scale; and
 - (iii) will be mined on a temporary basis; or
 - (e) that there are reasonable grounds to believe that the mineral concerned in respect of which a mining license is to be issued-
 - (i) occurs in more than limited quantities in or on the land or in tailings, as the case may be, comprising the subject of the application; or
 - (ii) will be mined on a larger than limited scale; and
 - (iii) will be mined for a longer period than two years.
- (4) Section 7 shall apply mutatis mutandis in relation to the performance of mining operations under a mining authorization.
- (5) Any application for a mining authorization shall be lodged with the regional director concerned and shall, in addition to the other information and documents which may be required by him, be accompanied by-
 - (a) proof of the right to the mineral in respect of the land or tailings, as the case may be, comprising the subject of the application;
 - (b) a sketch plan indicating the location of the intended mining area, the land comprising the subject of the application, the lay-out of the intended mining operations and the location of surface structures connected therewith.

- (c) particulars about the manner in which and scale on which the applicant intends to mine such mineral under such mining authorization optimally and safely and to rehabilitate disturbances of the surface which may be caused by his intended mining operations;
 - (d) particulars about the mineralization of the land or tailings, as the case may be, comprising the subject of the application; and
 - (e) particulars about the applicant's ability to make the necessary provision to mine such mineral optimally and safely and to rehabilitate such disturbances of the surface, acceptable to the regional director.
- (6) The regional director may exempt any applicant for a mining authorization from one or more of the provisions of subsection (5), subject to such conditions as may be determined by him.
- Temporary authorization to continue with prospecting or mining operations.**
10. The regional director may, pending any application for a prospecting permit or a mining authorization, issue a temporary permit or authorization authorizing the continuation of prospecting or mining operations on the land comprising the subject of such application and which had been authorized under a prospecting permit or mining authorization which has lapsed in terms of section 16.
- Duration and termination of prospecting permit or mining authorization.**
11. (1) Any prospecting permit or mining authorization shall remain valid for the period determined therein, unless it is previously suspended, cancelled or abandoned or lapses in terms of this Act.
- (2) The holder of any prospecting permit or mining authorization may, at any time, by notice in writing to the regional director concerned, abandon it or any portion of the land comprising the subject thereof, and thereupon it shall be deemed to have lapsed as from the date of such notice to the extent indicated therein.
- (3) If any portion of the land is abandoned under subsection (2), the notice referred to in that subsection shall be accompanied by a sketch plan acceptable to the regional director, indicating the portion so abandoned.
- Continuation of liability until certificate is issued.**
12. If any prospecting permit or mining authorization is suspended, cancelled or abandoned or if it lapses in terms of this Act, or if any portion of the land comprising the subject of such permit or authorization is abandoned under section 11(2) or the operations at a works cease, the person who was the holder of such permit or authorization immediately prior to such suspension, cancellation, abandonment or lapsing or the holder of such permit or mining authorization or the owner of such works, as the case may be, shall remain liable for complying with the relevant provisions of this Act until the regional director concerned issues a certificate to the effect that the said provisions have been complied with.
- Prospecting permit or mining authorization not to be transferred or encumbered.**
13. A prospecting permit or mining authorization shall not be alienated, transferred, ceded or encumbered by mortgage without the prior approval of the Minister having been had and obtained.
- Suspension or cancellation of prospecting permit, permission or mining authorization.**
14. (1) Subject to subsection (2), the Minister may suspend or cancel any prospecting permit, permission referred to in section 8(1) or mining authorization if the holder thereof contravenes or fails to comply with any relevant provision of this Act: Provided that if such holder contravenes or fails to comply with any provision of section 38, the Minister shall suspend or cancel the permit, permission or authorization concerned, as the case may be.
- (2) Before any permit, permission or authorization referred to in subsection (1) is so suspended or cancelled, 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.
- (3) Any prospecting permit, permission referred to in section 8 (1) or mining authorization may be cancelled by the Minister or the issuing or granting thereof shall, notwithstanding anything to the contrary contained in this Act, on instruction by the Minister, be refused if, in his opinion, the security of the KwaZulu Government may be jeopardized by the continued existence or issuing or granting thereof.
- Restriction on issuing of more than one prospecting permit or mining authorization in respect of the same mineral and land.**
15. No prospecting permit or mining authorization shall be issued in respect of any mineral in respect of land or tailings, as the case may be, if a prospecting permit or mining authorization has already been issued in respect of such mineral and land or tailings, as the case may be, unless the regional director is satisfied that such first-mentioned issuing will not detrimentally affect the object of this Act in relation to optimal exploitation of minerals, safety, health or rehabilitation.
- Lapsing of prospecting permit or mining authorization.**
16. Any prospecting permit or mining authorization shall lapse whenever-
- (a) the period, if any, for which such permit or mining authorization has been issued, expires;
 - (b) the holder of such permit or authorization who is also the holder of the right to the mineral concerned in respect of the land or tailings, as the case may be, comprising the subject of such permit or authorization, ceases to be the last-mentioned holder; or
 - (c) the consent referred to in section 6(1)(b) or 9(1)(b) lapses.

CHAPTER IV

OPTIMAL EXPLOITATION AND UTILIZATION OF MINERALS

- Power of Minister if consent to prospect or to mine cannot be acquired.**
17. (1) If the right to any mineral is fully or partly severed from the ownership of land and is fully registered in the name of one holder or in the names of more than one holder in undivided shares, and any person intending to prospect or to mine for such mineral on such land satisfies the Minister that the right so to prospect or to mine cannot readily be acquired by reason of the fact that-
- (a) such holder or holders cannot be readily traced; or
 - (b) any person entitled to such right to a mineral 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 entitled,
- the Minister may, on application in writing of any such intending person and on payment of the prescribed application fee, notwithstanding anything to the contrary contained in any law-
- (i) grant the consent to prospect required by section 6(1)(b) in respect of such mineral and land to such applicant; or

- (ii) subject to such terms and conditions as may be agreed upon between such applicant and the Secretary, and after payment to the latter of the amount, if any, that may be so agreed upon, issue to such applicant a certificate authorizing the registrar of deeds concerned to register a cession in favour of such applicant of the right to such mineral or undivided share therein in respect of such land.
- (2) If the Minister issues a certificate under subsection (1)(ii), the right to the mineral concerned or undivided share therein, as defined in such certificate, shall, for the purposes of section 32 of the Deeds Registries Act, 1937 (Act No. 47 of 1937), be deemed to be expropriated by the KwaZulu Government and to vest in the cessionary whose name is mentioned in such certificate, and any cession of any such right or undivided share therein authorized by such certificate may, notwithstanding the provisions of section 14 of the said Act, be directly registered in favour of such cessionary in accordance with the said section 32.
- (3) Upon the registration of any cession as contemplated in subsection (2), the Secretary shall dispose of 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 the first-mentioned amount, if any; or
 - (b) is not subject to a registered mortgage bond, by paying such amount,
 to the Master of the Supreme Court within whose area of jurisdiction the land concerned is situated.
- (4) Section 21(2) and (3) of the Expropriation Act, 1975 (Act No. 63 of 1975), shall apply mutatis mutandis to moneys received by a Master of the Supreme Court in terms of subsection (3).
- (5) The costs in connection with any cession contemplated in subsection (1)(ii) shall be paid by the cessionary concerned, and the Transfer Duty Act, 1949 (Act No. 40 of 1949), shall apply thereto.
- (6) (a) If any person intending to prospect or to mine on land comprising the subject of a mining right, upon the expiration of the period referred to in section 47(1)(c), satisfies the Minister that the right so to prospect or to mine cannot readily be acquired by reason of the fact that-
 - (i) the holder of the mining right concerned cannot be readily traced; or
 - (ii) any person entitled to such mining right or any 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,
 the Minister may, on application in writing of any such intending person and on payment of the prescribed application fee, notwithstanding anything to the contrary contained in any law-
 - (aa) grant the consent to prospect required by section 6(1)(b), in respect of such mineral and land to such applicant; or
 - (bb) subject to such terms and conditions as may be agreed upon between such applicant and the Secretary, and after payment to the latter of the amount, if any, that may be so agreed upon, issue to such applicant a certificate to the effect that the mining right concerned has been transferred to him, and direct the Secretary to make the necessary endorsements in that regard in the documents concerned.
- (b) The costs in the connections with any transfer contemplated in paragraph (a) (bb), if any, shall be paid by the applicant concerned.
- (7) Upon the issuing of the certificate referred to in subsection (6)(a)(bb), the Secretary shall dispose of the amount, if any, referred to in that subsection mutatis mutandis in accordance with subsection (3), and section 21(2) and (3) of the Expropriation Act, 1975, shall apply mutatis mutandis to any moneys so received by a Master of the Supreme Court.

Special investigation by KwaZulu Government regarding presence, nature and extent of minerals 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, and 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 land, cause any investigation to be conducted by the KwaZulu Government on such land to establish if such mineral occurs in or on such land, and if so, to establish the nature and extent thereof.

- (2) Compensation as may be determined 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).

Information in respect of prospecting to be furnished to regional director.

- 19. (1) Subject to subsection (4), the holder of any prospecting permit or mining authorization shall, within one year after completing the digging of any excavation or drilling of any borehole, for the purpose of prospecting, from the surface of any land, supply complete and correct information to the regional director concerned regarding-
 - (a) the exact location of the excavation or borehole;
 - (b) the date of completion thereof;
 - (c) the depth thereof;
 - (d) the lithology and depth of the geological formations excavated or drilled through;
 - (e) the results of any tests or analyses done on the minerals obtained from the excavation or borehole; and
 - (f) all other information gathered by the prospector in relation to the minerals, excavation or borehole.
- (2) Save as is otherwise provided in subsection (3) and subject to section 10 of the Coal Act, 1983 (Act No. 32 of 1983), section 53 of the Atomic Energy Act, 1982 (Act No. 92 of 1982), and section 12A(1) of the Energy Act, 1987 (Act No. 42 of 1987), no information supplied in terms of subsection (1) or a corresponding provision of a prior law shall be published or shown to any person other than an officer or employee in the service of the Department, unless the holder of the prospecting permit or mining authorization referred to in subsection (1) has agreed thereto in writing.
- (3) (a) The Secretary may, after a period of 15 years has expired since the completion of any excavation or borehole in respect of which information has been submitted in terms of subsection (1) or a corresponding provision of a prior law, by notice in the Official Gazette make known his intention to publish or to disclose to the public any of such information, and any such notice shall contain a list indicating, in so far as it is known-
 - (i) the number of the excavation or borehole;
 - (ii) the name of the person on whose behalf it was excavated or drilled;
 - (iii) the location of the land on which it was excavated or drilled; and
 - (iv) the date of completion thereof.

- (b) Any person who has any direct or indirect pecuniary interest in any excavation or borehole referred to in paragraph (a) and who wishes to object to the publication or the disclosure so referred to of the information concerned, shall lodge such objection and the grounds upon which it is based with the Secretary in writing with six months from the date of publication of the notice referred to in that paragraph.
- (c) The Secretary may uphold an objection lodged with him in accordance with paragraph (b), or he may reject it if he is satisfied that the publication or disclosure of the information concerned will not prejudice any direct or indirect pecuniary interest of the objector, and shall, as soon as practicable, notify the objector in writing of his decision.
- (d) Subject to section 68 (1) (a) (vi) of the Atomic Energy Act, 1982, any decision given under paragraph (c) and the outcome of any appeal lodged against such decision under section 57 (2), the Secretary may, upon the expiration of the period of six months referred to in paragraph (b), publish or disclose to the public in any manner which he may deem fit, any of the information concerned.
- (4) The regional director may, 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).
- Restriction on dividing of rights to minerals. 20. (1) Notwithstanding anything to the contrary contained in any law, but subject to section 71(2) (a) and 73 bis of the Deeds Registries Act, 1937 (Act No. 47 of 1937), no deed which, if it would be registered, would give effect to-
- (a) the division of any right to any mineral or minerals in respect of land among two or more persons into undivided shares; or
- (b) an increase in the number of holders of undivided shares in any right to any mineral or minerals in respect of land.
- shall be registered by the registrar of deeds concerned, unless the Secretary has under subsection (3) in writing approved such division or increase.
- (2) Any person who desires the approval of the Secretary for any division or increase referred to in subsection (1), shall lodge with the regional director an application in writing together with the prescribed application fee, as well as any such documents and any other information as may be necessary to enable the Secretary to come to a proper decision.
- (3) The Secretary may, after consideration of any application referred to in subsection (2), approve the division or increase comprising the subject of such application in writing, or refuse so to approve it if he is satisfied that such division or increase may detrimentally affect any of the objects of this Act.
- Restriction on acquisition of rights to minerals succession. 21. If compliance with any testamentary disposition or the law regarding intestate succession will result in the division or increase as referred to in section 20(1) and the Secretary has under section 20(3) refused to approve such division or increase and the heirs or beneficiaries concerned are unable to come to an agreement which will not result in any such division or increase, the executor of the estate concerned shall, notwithstanding anything to the contrary contained in any law or testamentary provisions, realize the right to a mineral concerned or any undivided share therein and dispose of the net proceeds thereof in accordance with such testamentary disposition or the law regarding intestate succession, as the case may be.
- Power of Minister in case of conducting mining operation contrary to object of optimal exploitation of minerals. 22. (1) If the holder of any mining authorization conducts his mining operations in a manner and on a scale which, in the opinion of the Minister, may detrimentally affect the object of this Act in relation to the optimal exploitation of any mineral, the Minister may-
- (a) cause an investigation to be held into the matter; and
- (b) after consideration of the comment contemplated in subsection (2), if any, and the result of the investigation contemplated in paragraph (a), issue a direction ordering such holder to take such rectifying steps within a period specified in the direction as may be required by the Minister.
- (2) Before any direction referred to in subsection (1) (b) is issued, the regional director shall serve a written notice on the holder referred to in that subsection, whereby he is notified of the steps being contemplated by the Minister and whereby he is given the opportunity to comment on the intention of the Minister regarding such steps within a period specified in the notice, which shall not be less than 30 days.
- Power of Minister in case of exercising of surface rights contrary to object of optimal exploitation of minerals. 23. (1) If any person in any manner uses or causes to be used or intends to use or to cause to be used the surface of any land or includes or causes it to be included or intends to include or to cause it to be included into any town planning scheme which may, in the opinion of the Minister, detrimentally affect the object of this Act in relation to the optimal exploitation of any mineral which occurs or may occur in economically exploitable quantities in or on such land or in tailings on such land, the Minister may-
- (a) cause an investigation to be held into the matter; and
- (b) after consideration of the comment contemplated in subsection (2), if any, and the result of the investigation contemplated in paragraph (a), issue a direction ordering such person to take such rectifying steps within a period specified in the direction as may be required by the Minister.
- (2) Before any direction referred to in subsection (1)(b) is issued, the regional director shall serve a written notice on the person referred to in that subsection, whereby he is notified of the steps being contemplated by the Minister and whereby he is given the opportunity to comment on the intention of the Minister regarding such steps within a period specified in the notice, which shall not be less than 30 days.
- Power of Minister to expropriate surface or mineral rights. 24. (1) If the Minister at any time deems it necessary in the public interest to expropriate any right (including ownership) or share therein-
- (a) in respect of land, the surface or any portion under the surface of land; or
- (b) to a mineral in respect of land, he may expropriate any such right or share therein: Provided that the person at whose request such right or share therein is expropriated, if any, shall compensate the person whose right thereto or share therein has been expropriated for such right or share therein to an amount mutually agreed upon or, if no agreement can be reached, to an amount determined by arbitration in accordance with the Arbitration Act, 1965 (Act No. 42 of 1965), or by any competent court if the last-mentioned person prefers the last-mentioned procedure: Provided further that in determining the last-mentioned amount, section 12 of the Expropriation Act, 1975 (Act No. 63 of 1975) shall *mutatis mutandis* apply as if an expropriation of property or the taking of a right has taken place in terms of the last-mentioned Act.
- (2) The right to any land or mineral or any share therein expropriated under subsection (1), shall vest in the person at whose request it has been expropriated.

Power of Minister to impose prohibition on possession of mineral, and power of manager to search person.

25. (1) The Minister may, if he is satisfied that special measures are required against theft of a specific mineral or minerals in general, subject to such conditions as may be determined by him, by notice in the Official Gazette impose a prohibition on the possession of any such mineral or minerals.
- (2) The manager of a mine or works may search or cause to be searched any person employed at such mine or works for possession of any mineral in respect of which the possession has been prohibited under subsection (1).

CHAPTER V

SAFETY AND HEALTH

Establishment and functions of mine safety committee.

26. (1) (a) A mine safety committee is hereby established.
- (b) The functions of the mine safety committee shall be to advise the Secretary on the application of this Act in respect of the safety and health of persons employed at mines or any practice or any other thing which affects or is likely to affect the safety or health of such persons.
- (c) The mine safety committee shall meet-
- (i) at least once every four months; or
- (ii) at the request of the Department or any body contemplated in subsection (3) (d), (e) or (f),
- at a time and place determined by the chairman of the mine safety committee.
- (2) The mine safety committee shall consist of not more than 10 members appointed by the Minister in accordance with subsection (3).
- (3) The Minister shall appoint as members of the mine safety committee-
- (a) the person referred to in section 2(2), who shall *ex officio* be chairman;
- (b) a person who is a certificate mine manager in respect of mining matters;
- (c) a person who is a certificate mechanical and electrical engineer (mines) in respect of mining equipment;
- (d) three persons nominated by a body or bodies which, in the opinion of the Minister, is or are representative of the owners of mines;
- (e) three persons nominated by a body or bodies which, in the opinion of the Minister, is or are representative of employees employed at mines and who are not officials referred to in paragraph (f); and
- (f) one person nominated by a body or bodies which, in the opinion of the Minister, is or are representative of the officials employed at mines.
- (4) The Minister may in his discretion refuse to appoint any person nominated as a member of the mine safety committee in terms of subsection (3) (d), (e) or (f) if he has reason to believe that such person is not a suitable person to be such a member.
- (5) (a) The Minister shall, with due consideration of subsections (3) and (4), appoint an alternate member for each member of the mine safety committee appointed in terms of subsection (3) (b), (c), (d), (e) or (f).
- (b) Whenever a member of the mine safety committee is unable to attend any meeting thereof, the alternate member appointed for such member shall attend such meeting in his stead and he may take part in the proceedings thereat.
- (6) (a) A person appointed as a member in terms of subsection (3) (b) or (c) or his alternate member shall be designated by the members of the mine safety committee present at a meeting thereof to act as chairman whenever the chairman is for any reason absent.
- (b) The majority of the members of the mine safety committee shall form a quorum for a meeting thereof.
- (c) The decision of the majority of the members of the mine safety committee present at a meeting thereof, shall constitute a resolution of the mine safety committee and, in the event of an equality of votes on any matter, the person presiding at the meeting concerned, shall have a casting vote in addition to his deliberative vote.
- (7) (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 KwaZulu Government 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.
- (b) Any member or alternate member referred to in paragraph (a) whose period of office has terminated, may be reappointed.
- (8) Any member of the mine safety committee and any alternate member to such member who is not in the full-time service of the KwaZulu Government, shall vacate his office if he-
- (a) is absent from four consecutive meetings of the mine safety committee without leave of the chairman;
- (b) becomes insolvent;
- (c) becomes of unsound mind, and is so declared by a competent court; or
- (d) is convicted of any offence and sentenced to imprisonment without the option of a fine.
- (9) (a) The Minister may, after consultation with the Secretary, 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, appoint one or more persons with specialized knowledge to advise the mine safety committee, the Secretary or any other officer referred to in this Act on any matter with which the mine safety committee, the Secretary or such other officer has to deal in terms of this Act.
- (b) Any person appointed under paragraph (a) may, when authorized thereto in writing by the Secretary, at any reasonable hour enter upon any mine and inspect or examine such mine or any part thereof or any machinery thereat to enable him to perform his functions referred to in paragraph (a), provided that he does not unnecessarily impede or obstruct the working of the mine.

Orders, suspensions and instructions.

27. (1) If a regional mining engineer 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 may-
- (a) order any official, employee or agent of such mine or works to take immediate rectifying steps; or
- (b) order that the operations at such mine or works or part thereof be suspended.

and give such instructions in connection therewith as he may deem desirable.

- (2) Any order referred to in subsection (1)(b) shall be confirmed or set aside by the regional director and he shall notify the manager of the mine or works concerned in writing of his decision as soon as is practicable.
- (3) Any order given under subsection (1) (b) shall take effect from the time fixed by the regional mining engineer concerned and shall remain in force until set aside by the regional director or until the instructions of the regional mining engineer have been complied with.
- (4) The manager of a mine or works referred to in subsection (1) shall take all reasonable measures to ensure that-
 - (a) copies of any order given under paragraph (b) of that subsection are prominently displayed on such mine or works forthwith in places where employees whose interests may be affected by such order will be able to view it; and
 - (b) a copy of any order referred to in paragraph (a) shall be made available to any trade union representing employees of such mine or works.
- (5) Subject to the provisions of this Act, subsections (1), (2), (3) and (4) shall apply mutatis mutandis in the case of any contravention or suspected contravention of or any failure or suspected failure to comply with any provision of this Act or any condition to which any authorization, exemption or permission granted in terms of this Act, is subject.

Inquiries into accidents and other matters.

28. (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 appropriately experienced and qualified person designated by the Secretary.
- (b) If any accident other than that referred to in paragraph (a), any contravention of or any failure or suspected failure to comply with any provisions 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 the regional mining engineer or other appropriately experienced and qualified person designated by the Secretary.
- (2) (a) If any trade union or personnel association members of which are employed at a specific mine or works submits a reasonable request in writing to the Secretary, setting out reasons, for an inquiry to be held into any occurrence or condition at such mine or works affecting the or likely to affect the safety or health of persons, the Secretary-
 - (i) shall cause such occurrence or condition to be investigated; and
 - (ii) may, if he deems it desirable, after consideration of the result of the investigation referred to in subpara-graph (i), cause such occurrence or condition to be inquired into and designate a regional mining engineer or other appropriately experienced and qualified person to preside at such inquiry.
- (b) If the Secretary declines to cause an inquiry referred to in paragraph (a) (ii) to be held, he shall make the result of the investigation referred to in paragraph (a)(i) available to the trade union or personnel association referred to in paragraph (a).
- (3) The Secretary may, either before the commencement or at any stage of the inquiry held in terms of subsection (1), (2) or (5), designate one or more other regional mining engineers or other appropriately experienced and qualified persons to assist in the holding of such inquiry and he may designate a regional mining engineer or other appropriately experienced and qualified person to preside at such inquiry.
- (4) (a) Any investigating officer holding an inquiry into any matter in terms of this section shall, if necessary with the assistance of an interpreter, take down or record by mechanical means the evidence given thereat and submit a written copy thereof with his report thereon to the regional director, who shall transmit it to the Secretary, unless otherwise directed by the latter.
- (b) A written copy of the evidence and the report referred to in paragraph (a) shall, if an inquiry has been held into the cause of an accident causing the death of any person, also be submitted to the Attorney-General concerned.
- (c) A written copy of the evidence and the report referred to in paragraph (a) shall be provided by the regional director on request and on payment of the prescribed fee.
- (5) Upon consideration of the evidence and the report referred to in subsection (4) (a), the Secretary may, in his discretion, require that the matter concerned be inquired into further.
- (6) (a) This section shall not derogate from any law in terms of which an inquest or other inquiry into the death of a person due to other than natural causes shall be held and regulated, and any inquiry contemplated in subsection (1)(a) shall be held in addition to such inquest or other inquiry, but the inquiry to be held in terms of that subsection may, in the case of the death of any person, be held jointly with any inquest as to the circumstances of the cause of the death held by a judicial officer under the Inquests Act, 1959 (Act No. 58 of 1959).
- (b) The judicial officer shall preside at any joint inquiry referred to in paragraph (a), and the Inquests Act, 1959, shall apply thereto, but the investigating officer shall submit a written copy of the evidence taken down or recorded thereat with his report thereon to the regional director, who shall transmit it to the Secretary, unless otherwise directed by the latter.

Attendance and examination of witnesses at inquiry.

29. (1) An investigating officer holding an inquiry in terms of section 28(1), (2) or (5) into any matter or who is to preside or is presiding at such inquiry may, for the purposes of such inquiry-
 - (a) direct or summon any person to appear before him at such time and place as may be determined by him; or
 - (b) order any person present at the place where such inquiry is being held-
 - (i) to give evidence thereat;
 - (ii) to produce any document or thing which he may deem necessary for the proper disposal of such inquiry; or
 - (iii) to perform any other act in relation to this Act which he may direct.
- (2) (a) If any person has reason to believe that he may be held liable for any matter which shall or may be inquired into in terms of section 28(1), (2) or (5), he shall have the right, but is, subject to subsection (1), not compelled, to be present at any such inquiry and to be assisted or represented by another person.
- (b) If at any inquiry held in terms of section 28(1), (2) or (5) evidence has been or is being given from which any person may reasonably infer that he may be charged with contravening any provision of this Act or failing to comply therewith or may be held responsible in any manner for the matter comprising the subject of such inquiry, he shall have the right, but is not compelled, to give evidence and, either personally or through a representative-
 - (i) to be heard;

- (ii) to call any witness or to request the investigating officer to direct or summon any witness on his behalf, either to give evidence thereat or to produce any document or thing;
- (iii) to cross-examine anybody giving evidence at such inquiry; and
- (iv) to peruse any document which has been presented as evidence.

- (3) Any person who satisfies an investigating officer that he has a material interest in any inquiry held in terms of section 28(1), (2) or (5) may, either personally or through a representative, put such questions as the investigating officer may consider relevant to such inquiry, to a witness giving evidence thereat.
- (4) (a) Any investigating officer may, at any inquiry held in terms of section 28(1), (2) or (5), administer an oath which is normally administered to a witness in a court of law, to any witness before he gives evidence or, if he objects to taking such oath, he may make an affirmation, and such affirmation shall have the same legal force and effect as if he has taken such oath.
- (b) No person called as a witness at any inquiry held in terms of section 28(1), (2) or (5) shall, when he is requested thereto, refuse or fail to take an oath or, if he objects thereto, to make an affirmation.
- (c) No person to whom an oath referred to in paragraph (a) has been administered or who has made an affirmation so referred to, shall give false evidence knowing it to be false or make a statement under oath or affirmation which is contrary to any statement which he made under oath or affirmation on a previous occasion.
- (5) Any witness at any inquiry held in terms of section 28(1), (2) or (5) shall have the same privileges in relation to the answering of questions or the production of documents or things as he would have had under the same circumstances if he had been summoned as a witness before a court of law.
- (6) (a) Any inquiry or any part thereof held in terms of section 28(1), (2) or (5) shall, in so far as it is in the opinion of the investigating officer practically possible or desirable, be held in public.
- (b) The investigating officer may decide whether any witness who has to give evidence or has given evidence at any inquiry referred to in paragraph (a), shall be present whilst other witnesses are giving their evidence thereat.

Obstruction of inquiry or investigating officer or failure to render assistance.

- 30. No person shall, in relation to any inquiry held in terms of section 28(1), (2) or (5)-
 - (a) without reasonable justification fail to comply with any direction, summons or order issued or given under section 29(1) or by virtue of a request under section 29(2)(b)(ii);
 - (b) refuse or fail to answer to the best of his knowledge any question lawfully put to him by or with the concurrence of the investigating officer: Provided that no person shall be obliged to answer any question whereby he may incriminate himself;
 - (c) in any manner whatsoever advise, encourage, incite, order or persuade any person who has been directed, summoned or ordered under section 29(1) or by virtue of a request under section 29(2)(b)(ii), not to comply with such direction, summons or order or in any manner prevent him from doing so;
 - (d) refuse to fail, when required thereto by the investigating officer, to furnish him with the means or to render him the necessary assistance for holding such inquiry;
 - (e) refuse or fail, when required thereto by the investigating officer, to attend an inquiry; or
 - (f) intentionally insult an investigating officer or intentionally interrupt the proceedings thereat.

Appointment and responsibilities of manager and other persons and responsibilities of owner.

- 31. (1) The owner of any mine which is being worked or of any works shall-
 - (a) appoint a manager, who shall-
 - (i) be responsible for the control and management of, and direction of the employees at, such mine or works;
 - (ii) take all reasonable measures to ensure the safety and health of employees and proper discipline at such mine or works; and
 - (iii) take all reasonable measures to ensure that the provisions of this Act are complied with in relation to such mine or works; and
 - (b) supply such manager with sufficient funds and means in order to enable him to fulfil his responsibilities referred to in paragraph (a).
- (2) Any appointment in terms of subsection (1) shall be made in writing and shall, within three days from the date thereof, be reported in writing to the regional director concerned by the owner concerned, accompanied by a copy of the letter of appointment, signed by both the owner and the manager.
- (3) The manager shall appoint the prescribed persons to assist him: Provided that no such appointment shall relieve him of his personal responsibilities in terms of subsection (1).
- (4) The manager shall report any prescribed accident in the prescribed manner to the regional director concerned.
- (5) The owner of any mine which is not being worked shall at all times take all reasonable steps to prevent injuries, loss of life or damage of whatever nature which may be caused by such mine.

Prohibition on underground work by certain juveniles and females.

- 32. (1) No person under the age of 16 years shall work underground in a mine, and nobody shall cause or permit any such person so to work.
- (2) No female shall work underground in a mine, and nobody shall cause or permit any such female so to work except-
 - (a) females holding positions of management and who do not perform manual work;
 - (b) females employed in health or welfare services;
 - (c) females who in the course of their studies have to spend a period underground in a mine for training or research purposes; or
 - (d) any other females who may occasionally have to go underground in a mine for the purposes of a non-manual occupation.

Permits for use of equipment

- 33. (1) No person shall use any winding plant, elevator, chair lift or boiler at a mine or works unless a prescribed permit for the use thereof has been issued by the regional director concerned after it has 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 suitable for use, grant temporary permission for its use.
- (2) The operation of any winding plant, elevator, chair lift or boiler at a mine or works 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

the regional director concerned may, on the recommendation of such regional mining engineer, by written notice cancel or amend any permit issued in terms of subsection (1).

Codes of practice.

34. (1) The manager of any mine or works shall, if required thereto by the regional director concerned, draft and apply codes of practice in respect of underground ventilation systems, support systems, transport systems, handling of explosives, prevention and fighting of fires, self-rescue procedures and any other matter regarding safety and health in connection with any mine or works which may be required by the regional director concerned, and such codes of practice shall be approved by the regional director concerned in writing after having been examined and declared to be suitable by a regional mining engineer and after consideration of any comment contemplated in subsection (2), if any: Provided that such regional mining engineer may, after he has examined and declared such codes of practice to be suitable, grant temporary permission for the application thereof.
- (2) The regional director concerned shall give notice to employees of any mine or works referred to in subsection (1) or to any trade union representing them, whereby such employees are or trade union is given the opportunity to comment on any requirement put to a manager of a mine or works in terms of subsection (1) within a period specified in the notice, which shall not be less than 30 days.
- (3) The application of any code of practice contemplated in 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 notice in writing cancel the approval of such code of practice, or cause such code of practice to be amended.
- (4) No person shall contravene or fail to comply with any provision of any code of practice approved in terms of subsection (1).

Supply or repair of certain equipment in accordance with requirements of manager.

35. (1) If any manager of a mine or works lays down requirements for the supply or repair of any apparatus, machinery or safety equipment in relation to the safe use or application thereof, no person shall supply or repair such apparatus, machinery or safety equipment contrary to such requirements.
- (2) For the purposes of subsection (1), any part of apparatus, machinery or safety equipment shall be deemed to be such apparatus, machinery or safety equipment.

Prohibition on obtaining of certificate of competency under false pretences.

36. No person shall obtain or attempt to obtain any prescribed certificate of competency by means of fraud, dishonesty, false pretences or the presentation or submission of any false or forged document.

Negligent act or omission offence under certain circumstances.

37. No person shall, by any negligent act, wheresoever committed, or by any negligent omission-
 - (a) endanger or probably endanger the safety or health of any person in or at a mine or works; or
 - (b) cause serious bodily harm to any person in or at a mine or works.

CHAPTER VI

REHABILITATION OF SURFACE

Rehabilitation of surface of land.

38. The rehabilitation of the surface of land concerned in any prospecting or mining shall be carried out by the holder of the prospecting permit or mining authorization concerned-
 - (a) in accordance with the rehabilitation programme approved in terms of section 39, if any;
 - (b) as an integral part of the prospecting or mining operations concerned;
 - (c) simultaneously with such operations, unless determined otherwise in writing by the regional director; and
 - (d) to the satisfaction of the regional director concerned.

Layout plan and rehabilitation programme.

39. (1) A layout plan and rehabilitation 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.
- (2) The regional director may, 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 approve of an amended layout plan or rehabilitation programme.
- (3) Before the regional director approves any layout plan and rehabilitation programme referred to in subsection (1) or any amended layout plan or rehabilitation programme referred to in subsection (2) or grants any exemption under subsection (2), he shall consult as to that with the officers designated for that purpose by the Minister of Agriculture and Forestry, and the KwaZulu Environmental Conservation Board, respectively.

Removal of buildings, structures and objects.

40. Whenever a prospecting permit or mining authorization which is held is suspended, cancelled or terminated or lapses, and the prospecting for or exploitation of any mineral which was authorized under such permit or authorization finally ceases, the person who was the holder of such permit or authorization immediately prior to such suspension, cancellation, termination or lapsing, as the case may be, shall demolish all buildings, structures or any other thing which was erected or constructed in connection with prospecting or mining operations on the surface of the land concerned and shall remove all debris as well as any other object which the regional director concerned may require and, as far as is practicable, restore any such surface to its natural state to the satisfaction of and within a period determined by such regional director: Provided that such demolition or removal shall not be applicable in respect of buildings, structures or objects-
 - (a) which shall, in terms of any other law, not be demolished or removed;
 - (b) as may be determined by such regional director, or in respect of which he has granted exemption subject to such conditions as may be determined by him; or
 - (c) which the owner of the land wishes to retain and which as been agreed upon accordingly in writing with such former holder of such permit or authorization.

Restrictions in relation to use of surface of land.

41. (1) The regional director may issue directives and determine conditions in relation to the use of the surface of land comprising the subject of any prospecting permit or mining authorization or upon which a works is situated in order to limit any damage to or the disturbance of the surface, vegetation, environment or water sources to the minimum which is necessary for any prospecting or mining operations or processing of any mineral: Provided that such directives and conditions shall not be construed as placing the holder of any such prospecting permit or mining authorization or the owner of such works, as the case may be, in a better position **vis-a-vis** the owner of such land in relation to the use of the surface thereof.
- (2) No person shall contravene or fail to comply with any directive or condition referred to in subsection (1).

Acquisition or purchase of certain land and payment of compensation under certain circumstances.

42. (1) (a) If the Minister, after representations in writing have been made to him by the owner of any land, other than land held under any reservation, permission or right referred to in section 48(1)(a) during the subsistence of such reservation, permission or right, or by any person who is entitled to mine on such land and who mines on such land for any mineral, and after such investigations as the Minister may deem necessary, after consultation with the Minister of Agriculture and Forestry is satisfied-
- (i) that the use or intended use of such land, or any portion thereof, by such person for the mining or purposes in connection therewith, prevents or hinders or is likely to prevent or hinder the person so entitled to mine on such land or such portion for farming purposes; or
 - (ii) that any portion of such land which is not being used or is not likely to be used by such person for farming purposes or purposes in connection therewith, is or is likely to become an uneconomic farming land.
- he shall in writing notify such owner and such person accordingly, and thereupon there shall be vested in the owner of the land concerned, in the KwaZulu Government a right, to the exclusion of any other person, to acquire such land or such portion thereof as the Minister may determine.
- (b) If the Minister is not satisfied as contemplated in paragraph (a)(i) or (ii), he shall in writing notify the person so referred to accordingly.
 - (c) A copy of any representations made in terms of paragraph (a) shall, if such representations are made by the owner of the land concerned, be served by such owner on the person so entitled to mine on such land; and if such representations are made by such person, be served by such person on such owner.
 - (d) Notwithstanding the provisions of paragraph (a), no right to acquire any land shall be vested in the KwaZulu Government by virtue of any notification under that paragraph if the Minister or the Secretary of the KwaZulu Government after the date of such notification has been notified in writing-
 - (i) by the owner of such land that he desires to retain the ownership of such land irrespective of whether such land is or is likely to be disturbed or damaged or be used for mining purposes or purposes in connection therewith by the person referred to in paragraph (a); or
 - (ii) by such owner and such person that they have entered into an agreement with each other for the purpose of compensation for damage caused or likely to be caused as a result of mining operations or operations in connection therewith on such land.
 - (e) If the Minister is satisfied, after considering any written representations submitted to him by the owner of the land concerned, to in paragraph (d)(i), and after such investigations as the Minister may deem necessary-
 - (i) that such owner has suffered or is likely to suffer damage as a result of-
 - (aa) disturbance or subsidence of land caused by mining operations or operations in connection therewith; or
 - (bb) any obstruction established on land by any person entitled to mine on such land and who intends to mine thereon for any mineral; and
 - (ii) that the owner has made all reasonable efforts to negotiate a settlement with the other person for the purpose of compensation for the damage referred to in subparagraph (i).

he shall, subject to paragraph (f), in writing direct such other person to negotiate a settlement with such owner for the payment of compensation for such damage.
 - (f) The owner of the land concerned shall not be entitled to recover any further compensation under paragraph (e) in respect of-
 - (i) in respect of any damage suffered or likely to be suffered as a result of disturbance or subsidence contemplated in paragraph (e) (i) (aa), if compensation for such disturbance or subsidence has been paid to the owner or his predecessor in title: Provided that this prohibition shall not prevent the owner of such land from recovering compensation in respect of any further disturbances or subsidence; or
 - (ii) in respect of any damage suffered as a result of any obstruction contemplated in paragraph (e) (i) (bb)
 - (aa) the right to establish such obstruction was acquired by means of a reservation of rights when the mineral rights were severed from the ownership of the land; or
 - (bb) the right to establish such obstruction was acquired by the person entitled to mine on such land by means of a servitude or otherwise.
 - (g) The Minister shall in writing notify the person referred to in paragraph (a) of any notification under paragraph (d) received by the Minister or the Secretary from the owner concerned.
 - (h) If the owner of the land concerned has notified the Minister or the Secretary as contemplated in paragraph (d) or if a settlement resulting from a direction as contemplated in paragraph (e) has been negotiated, or if compensation has been determined by arbitration or by any competent court under subsection (3), neither such owner nor any subsequent owner of such land, nor any person who has or may acquire any interest in such land, while the person referred to in paragraph (a) or (e) or his successor in title is entitled to mine on such land for any mineral, shall be entitled to apply to any court for an order prohibiting anything permitted in the agreement contemplated in paragraph (d)(ii), a settlement in terms of paragraph (e) or an arbitration order of court under subsection (3) and thereby preventing the last-mentioned person or his nominee from commencing or continuing on such land with the mining of such mineral or operations in connection therewith.
 - (i) An owner-
 - (i) who has notified the Minister or the Secretary as contemplated in paragraph (d) (i); or
 - (ii) who has entered into an agreement or negotiated a settlement referred to in paragraph (d) (ii) or (iii) respectively; or
 - (iii) in whose favour compensation has been granted by arbitration or by any competent court under subsection (3),

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 Secretary 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) in respect of such land, and if the 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 Secretary and make such endorsement if the title deed is at any time lodged with him for any reason.
- (2) If the Minister of Agriculture and Forestry is of the opinion that any land in respect of which a right has been vested in the KwaZulu Government in terms of subsection (1) (a)-

- (a) should be acquired by the KwaZulu Government, such land shall be deemed to be required for public purposes, and thereupon the Expropriation Act, 1975 (Act No. 63 of 1975), shall apply mutatis mutandis in connection with such acquisition; or
- (b) should not be acquired by the KwaZulu Government, such right shall lapse, and thereupon the Minister shall cause to be served upon the person referred to in subsection (1)(a) a notice directing him to purchase and take transfer of such land.
- (3) If any person upon whom a notice referred to in subsection (2)(b) has been served and the owner of the land concerned are unable to agree on the purchase price of such land, or if such person and such owner, after a direction from the Minister, are unable to negotiate a settlement for compensation as contemplated in subsection (1)(e), such purchase price or such compensation shall be determined by arbitration in accordance with the Arbitration Act, 1965 (Act No. 42 of 1965), or by any competent court if such owner prefers the last-mentioned procedure: Provided that-
- (a) in determining such purchase price or such compensation, as the case may be, by arbitration or such court, the provisions of section 12 of the Expropriation Act, 1975, shall mutatis mutandis apply as if an expropriation of property or the taking of a right, respectively, has taken place, and in any such application any reference in that section to "date of notice" shall be construed as a reference to the date of the notification by the Minister in terms of subsection (1)(a); and
- (b) in determining such compensation due consideration shall be given to-
- (i) any rehabilitation that has been or will be undertaken on such land; and
- (ii) any compensation which such person or his predecessor in title has paid to or undertaken to pay to such owner or his predecessor in title.
- (4) (a) If any person upon whom a direction referred to in subsection (1)(e) or upon whom a notice referred to in subsection (2)(b) has been served, fails to enter into an agreement in writing with the owner of the land concerned for the payment of compensation or for the purchase of such land, within a period of three months-
- (i) from the date of such direction or such notice; or
- (ii) if a dispute as to the compensation for the damages concerned or as to the purchase price of such land has been referred to arbitration or to any competent court, from the date on which the compensation or the purchase price of such land was determined by arbitration or by such court,
- the Minister may, if he is satisfied that such failure is due to default on the part of such person, prohibit him from commencing or continuing with mining operations on such land until such time as the Minister determines otherwise.
- (b) The Minister may extend the period of three months referred to in paragraph (a) if he is satisfied that an extension is justified.
- (5) No person shall contravene any prohibition imposed upon him under subsection (4).
- (6) (a) Notwithstanding anything to the contrary contained in any law, but without any derogation from subsection (1)(h), no person shall, in respect of land in connection with which representations referred to in subsection (1) have been made, be entitled during the period of nine months following upon the date on which such representations have been made, to apply to any court for an order prohibiting any person entitled to mine on such land for the mineral concerned from commencing or continuing on such land with the mining of such mineral or operations in connection therewith, unless the Minister has before the expiration of such period notified the owner and the person referred to in subsection (1) in accordance with paragraph (b) of that subsection or notified such person in accordance with paragraph (g) of that subsection.
- (b) No order referred to in paragraph (a) shall be granted by any court in respect of the land so referred to if the person entitled to mine on such land for the mineral concerned has given security, to the satisfaction of the registrar of the court, to cover any loss or damage that the person applying for the order will suffer or is likely to suffer as a result of the mining of such minerals, or operations in connection therewith, on such land by any such entitled person or his nominee.
- (7) The costs in connection with the transfer of any land in respect of which a notice referred to in subsection (2) (b) has been served, shall be paid by the person upon whom such notice was served.
- (8) In this section-
- (a) "land" does not include any right to minerals; and
- (b) "obstruction" means any immovable property established on land for mining operations or operations in connection therewith by the person entitled to mine on such land, and includes any dam, or dump of slimes, rock or other residue produced in the course of such mining operations on such land.
- (9) Notwithstanding the repeal of the Mineral Laws Supplementary Act, 1975 (Act No. 10 of 1975), by section 68(1), any representations in writing made in accordance with section 6 of the said Act and received prior to the commencement of this Act, shall be dealt with as if this Act had not been passed.

CHAPTER VII

TRANSITIONAL PROVISIONS

- Certain persons deemed to be holders of mineral rights, and payment of compensation by Minister.
43. (1) Any person, including his successor in title or assign, who could lay claim to the exclusive right, in terms of section 5 of the Precious Stones Act, 1964 (Act No. 73 of 1964), or section 12 of the Mining Rights Act, 1967 (Act No. 20 of 1967), respectively, immediately prior to the commencement of this Act, to prospect for a mineral to which the right in respect of the land concerned had been reserved to the KwaZulu Government, shall, for the purposes of the issuing of a prospecting permit, be deemed to be the sole holder of the right to such mineral in respect of such land for a period of five years or such longer period as may be approved by the Minister on application in writing: Provided that if any nomination agreement in respect of such mineral and land exists, the person nominated in such nomination agreement, including his successor in title or assign, shall, for the purposes of the issuing of a prospecting permit, be deemed to be the sole holder of the right to such mineral in respect of such land for the duration of such nomination agreement which falls within such period of five years or such approved longer period.
- (2) (a) No right to any mineral in respect of land which has been reserved to the KwaZulu Government as referred to in subsection (1) shall, for a period of five years or such longer period as approved by the Minister under subsection (1), be alienated or no consent referred to in section 8(2) or 9(2) in respect of such mineral shall for the said period be granted, other than to the person, or his nominee, who is, in accordance with subsection (1), deemed to be the sole holder of the right to such mineral in respect of such land.
- (b) If the Minister after expiration of a period of five years or such longer period as approved by him under subsection (1)-

- (i) under section 64(1) alienates the right to a mineral referred to in paragraph (a); or
- (ii) grants consent referred to in section 8(2) or 9(2) in respect of the mineral concerned,

to someone other than the person referred to in paragraph (a), the Minister shall pay compensation to the person referred to in that paragraph for proven loss or damage suffered by him as a result of such alienation or granting of consent, and which could not reasonably have been prevented by him and which would not have been suffered by him if this Act had not been passed.

- (c) If no agreement can be reached as to the extent of the loss or damage or the compensation payable in terms of paragraph (b), it shall be 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.

- (3) Any notarial deed whereby the person who in accordance with subsection (1) is deemed to be the sole holder of the right to the mineral concerned in respect of the land concerned, or his nominee, nominates someone under subsection (2) (a) to whom the right to such mineral may be alienated or to whom consent referred to in section 8(2) or 9(2) in respect of such mineral may be granted, shall for the duration of such nomination which falls within the period of five years or the approved longer period referred to in subsection (1), for the purposes of this Act and the Mining Titles Registration Act, 1967 (Act No. 16 of 1967), be deemed to be a nomination agreement and

shall upon registration thereof in terms of the Mining Titles Registration Act, 1967, be binding upon the successor in title of such person.

Continuation of
prospecting
rights.

- 44. (1) (a) Any prospecting lease, prospecting permit or prospecting permission granted or issued in terms of-

- (i) section 4 or 6 of the Precious Stones Act, 1964 (Act No. 73 of 1964);
- (ii) section 7(2)(a), (b) or (c), 13, 14 or 16 of the Mining Rights Act, 1967 (Act No. 20 of 1967);
- (iii) section 4 of the Mineral Laws Supplementary Act, 1975 (Act No. 10 of 1975); or
- (iv) section 47 of the Nuclear Energy Act, 1982 (Act No. 92 of 1982), as the case may be, and which was in force immediately prior to the commencement of this Act, shall subject to paragraph (c) be deemed to be a prospecting permit issued in terms of section 6 in respect of the mineral and land concerned, and shall, notwithstanding the repeal of the said Acts by section 68(1), remain in force subject to the terms and conditions under which it was granted or issued or deemed to have been granted or issued until it lapses in accordance with paragraph (b), and all laws regarding the payment of surface rental applicable thereto and in force immediately prior to such commencement shall, notwithstanding such repeal, likewise remain in force.

- (b) The expiration date in respect of any prospecting lease, first-mentioned prospecting permit or prospecting permission referred to in paragraph (a) shall remain in force or, if no expiration date was determined in respect thereof, it shall remain in force for a period not exceeding two years.

- (c) Paragraph (a) shall only be applicable in respect of any prospecting permit issued in terms of section 7(2)(b) or (c) of the Mining Rights Act, 1967, if a prospecting area was pegged and reported prior to the commencement of this Act by virtue of such prospecting permit and in accordance with section 8 of the said Mining Rights Act, 1967.

- (2) No right to any mineral in respect of land of which the KwaZulu Government is the holder in respect of which a prospecting lease, prospecting permit or prospecting permission referred to in subsection (1) is being held, shall be alienated, or no consent referred to in section 8(2) or 9(2) in respect of such mineral shall be granted for the duration of any such lease, permit or permission, other than to the holder thereof.

- (3) (a) Any prospecting permit issued in terms of section 5 of the Precious Stones Act, 1964, and in force immediately prior to the commencement of this Act, shall be deemed to be a prospecting permit issued in terms of section 6 in respect of the mineral and land concerned, and shall, notwithstanding the repeal of the first-mentioned Act by section 68(1), remain in force subject to the conditions under which it was issued for the period specified therein.

- (b) Any prospecting licence issued or deemed to have been issued in terms of section 12 of the Mining Rights Act, 1967, and in force immediately prior to the commencement of this Act, shall be deemed to be a prospecting permit issued in terms of section 6 to the person deemed in accordance with section 43 to be the sole holder of the right to the mineral concerned in respect of the land concerned, and shall, notwithstanding the repeal of the said Act by section 68(1), remain in force for a period not exceeding two years, subject to the conditions under which it was issued.

- (4) Any person who had the right to prospect for a mineral by virtue of a certificate referred to in section 3 of the Precious Stones Act, 1964, or under section 2(1)(b) of the Mining Rights Act, 1967, immediately prior to the commencement of this Act, or any person who acquired such right from any such person and who had it immediately prior to such commencement, shall be deemed to be the holder of a prospecting permit issued in terms of section 6 in respect of the mineral and land concerned for a period not exceeding one year.

- (5) Any permission to remove any mineral and to dispose thereof, granted or acquired or deemed to have been granted or acquired under section 9(5) of the Precious Stones Act, 1964, or section 21 of the Mining Rights Act, 1967, and in force immediately prior to the commencement of this Act, shall be deemed to be a permission granted in terms of section 8(1), and shall, notwithstanding the repeal of the said Acts 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.

- (6) Upon the expiration of the periods referred to in subsections (1)(b), (3) and (4), the prospector concerned shall, in order to be able to continue prospecting, obtain a prospecting permit in accordance with section 6 from the regional director concerned.

- (7) Section 14 shall for the period referred to in subsection (1)(b), (3)(a) or (b) (4), not be applicable to any prospecting permit which in accordance with subsection (1)(a), (3)(a) or (b) or (4), respectively, is deemed to have been issued in terms of section 6.

Deproclamation of
land and conti-
nuation of certain
laws in connection
with alluvial
diggings and
proclaimed land.

- 45. (1) Subsections (2), (3) and (4), all alluvial diggings as defined in section 1 of the Precious Stones Act, 1964 (Act No. 73 of 1964), and all proclaimed land as defined in section 1 of the Mining Rights Act, 1967 (Act No. 20 of 1967), as they existed immediately prior to the commencement of this Act, are hereby deproclaimed.

- (2) (a) The provisions of the Precious Stones Act, 1964, and the Mining Rights Act, 1967, in relation to the issuing and renewal of claim licences, the pegging and transfer of claims on alluvial diggings and proclaimed land referred to in subsection (1) and any other matter in connection therewith shall, notwithstanding the repeal of the said Acts by section 68(1), remain in force for a period of two years.

- (b) Section 47(1), (2), (3), 5(b) and (c) and subparagraphs (ii) and (iii) of the proviso to section 47(5) shall apply mutatis mutandis to a right to dig or to mine granted or acquired by virtue of paragraph (a).

- (3) For the purposes of subsection (2) all alluvial diggings and proclaimed land referred to in subsection (1) as they existed immediately prior to the commencement of this Act, shall be deemed so to exist for the period of two years referred to in subsection (2).
- (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 48, remain in force for a period of two years.
- Right to certain diamonds and use of certain surface deemed to vest in KwaZulu Government 46. (1) For the purposes of this Act the right to diamonds in respect of land which comprised alluvial diggings as defined in section 1 of the Precious Stones Act, 1964, immediately prior to the commencement of this Act, including the right to use the surface of the said land as may be necessary for purposes in connection with the mining and processing of diamonds, shall, upon the expiration of the period of two years referred to in section 45(2)(a), be deemed to vest in the KwaZulu Government.
- (2) The Minister may from time to time, by notice in the Official Gazette, abolish the provisions of subsection (1) in respect of the land or any portion thereof referred to in that subsection.
- (3) Any compensation which may be determined by the Minister in respect of any consent granted under section 6(3) or 9(2) for the prospecting or mining of diamonds on land referred to in subsection (1), shall be paid by the holder of such consent to the owner of such land.
- Continuation of mining rights. 47. (1) (a) Any right to dig or to mine granted or acquired or deemed to have been granted or acquired or which continues to exist or is in force-
- (i) in terms of section 4 of Law No. 1 of 1883 of the Transvaal, or a corresponding provision of a prior law;
 - (ii) by virtue of a certificate referred to in section 3(1)(a) or a mine referred to in section 3(1)(b) of the Precious Stones Act, 1964 (Act No. 73 of 1964);
 - (iii) in terms of section 13, 13A, 17, 21, 52, 68, 74, 89 or 126(2) of the said Precious Stones Act, 1964;
 - (iv) in terms of section 25 or 42 of the Mining Rights Act, 1967 (Act No. 20 of 1967);
 - (v) by virtue of a certificate in terms of section 57 and permission granted under section 58 read with section 56 of the said Mining Rights Act, 1967;
 - (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;
 - (vii) in terms of section 3 of the Tiger's-Eye Control Act, 1977 (Act No. 77 of 1977); or
 - (viii) in terms of section 47 or 83 (9) of the Nuclear Energy Act, 1982 (Act No. 92 of 1982).
- as the case may be, or any share in such right, and which was in force immediately prior to the commencement of this Act, shall, notwithstanding the repeal of the said Acts, 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 and in force immediately prior to such commencement, save as is otherwise provided in this Act.
- (b) Any mining right which could be ceded, transferred, let, sublet, tributed, subdivided 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.
- (c) Upon the expiration of a period of two years from the commencement of this Act, the holder of any mining right or share therein shall pay to the owner of the land concerned or any other person to whom it may accrue, compensation which shall be the same amount which had accrued periodically to such owner or other person by virtue of any such mining right or share therein immediately prior to the expiration of such period of two years, unless otherwise agreed upon by the parties concerned.
- (d) Upon the expiration of the period of two years referred to in paragraph (c), any share of profits or royalties payable to the KwaZulu Government in respect of any mining right in respect of which the KwaZulu Government is not the holder of the right to the mineral concerned, shall no longer be payable.
- (e) For the purposes of this Act the holder of any mining right or share therein or his successor in title shall, for the period of two years referred to in paragraph (c), be deemed to be the holder of a mining authorization, and in order to be able to continue mining upon the expiration of such period, a mining authorization shall be obtained, in accordance with section 9 from the regional director concerned, and such first-mentioned holder or his successor in title shall for the purposes of this Act be deemed to be the holder of the right to the mineral concerned in respect of the land or tailings concerned.
- (f) The holder of any mining right may abandon it wholly or as to a part or parts at any time by written notice to the regional director concerned, and thereupon such mining right or the part or parts concerned shall be deemed to have lapsed with effect from the date of such notice.
- (g) Any mining right acquired by virtue of a claim licence referred to in section 35 of the Precious Stones Act, 1964, or section 48 of the Mining Rights Act, 1967, and any other mining right referred to in paragraph (a) which was renewable by the payment of periodic moneys to the mining commissioner in terms of any act repealed by section 68(1), and which is in force immediately prior to the expiration of the period referred to in paragraph (c) shall, subject to paragraph (f), subsection (5)(b) and (c) subparagraphs (ii) and (iii) of the proviso to subsection (5), be deemed to have been acquired for an indefinite period.
- (h) Any exemption for the payment of transfer duty or stamp duty in respect of any mining right or in respect of a cession thereof shall lapse upon the expiration of the period referred to in paragraph (c).
- (2) The holder of any mining right or his successor in title shall have the same rights in respect of the use of the surface of the land to which such right relates as that which the holder of a right to a mineral has in terms of the common law in respect of such use.
- (3) If the address of the owner of the land concerned or other person referred to in subsection (1)(c) is not known to the holder of the mining right concerned and as a result thereof such holder cannot pay the compensation or part thereof which accrued to such owner or other person in terms of that subsection, it may not be alleged on the ground of such default of payment that a condition to which the mining right concerned is subject, has not been complied with.
- (4) (a) Any person who immediately prior to the commencement of this Act had the right to mine any mineral acquired from either the Government of the National State of KwaZulu or the KwaZulu Finance and Investment

Corporation Limited, and where the holder of the mineral rights is the Government of the National State of KwaZulu, and had it immediately prior to such commencement, shall be deemed to the holder of a mining authorisation granted in terms of this Act, for a period not exceeding two years.

- (b) Upon the expiration of the period of two years referred to in paragraph (a), the person so referred to shall, in order to be able to continue mining, obtain a mining authorization in accordance with section 9 from the Regional Director concerned.
- (5) Subsection (1) shall apply mutatis mutandis to any right to dig or to mine granted or acquired in terms of-
- (a) section 20 of the Precious Stones Act, 1964;
 - (b) section 35 of the Precious Stones Act, 1964; or
 - (c) section 48 read with section 56 of the Mining Rights Act, 1967,
- 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 KwaZulu Government is the holder of the right to the mineral concerned;
 - (ii) paragraph (b) in respect of which a locality sketch plan to the satisfaction of the regional director concerned has not been lodged with him; or
 - (iii) paragraph (c) in respect of which a diagram or sketch plan referred to in the Mining Rights Act, 1967, has not been registered in terms of the Mining Titles Registration Act, 1967 (Act No. 16 of 1967).

shall remain in force for a period of two years or until it lapses in accordance with the conditions under which it was granted or acquired, whichever period is the shorter, and for the purposes of this Act the holder of such right shall be deemed to be the holder of a mining authorization granted in terms of this Act for such period of two years or such shorter period, as the case may be: Provided further that the locality sketch plan referred to in subparagraph (ii) or the diagram or sketch plan referred to in subparagraph (iii) may be lodged or registered within such period of two years or such shorter period, as the case may be.

Continuation of
reservations,
permissions and
mining rights.

48. (1) (a) Any reservation or permission for or right to the use of water or the surface of land granted or acquired or deemed to have been granted or acquired or which continues to exist or is in force-
- (i) in terms of section 75 of the Precious and Base Metals Act, 1908 (Act No. 35 of 1908), of the Transvaal;
 - (ii) in terms of section 24, 56, 57, 58, 60, 64 or 126(2) of the Precious Stones Act, 1964 (Act No. 73 of 1964);
 - (iii) in terms of section 18, 47, 90, 91, 92, 93(4) or (7), 95, 100, 102, 103, 111, 113, or 116 of the Mining Rights Act, 1967 (Act No. 20 of 1967);
 - (iv) in terms of sections 127, 128 and 129 read with section 130 of the said Mining Rights Act, 1967;
 - (v) in terms of section 131 or 132 of the said Mining Rights Act, 1967;
 - (vi) by virtue of a reservation under section 158 of the said Mining Rights Act, 1967.
 - (vii) in terms of section 179 or 188(2) of the said Mining Rights Act, 1967,
- as the case may be, and in force immediately prior to the commencement of this Act, shall, notwithstanding the repeal of the said Acts, 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 contained in the document or documents concerned and in force immediately prior to such commencement, save as is otherwise provided in this Act.
- (b) Section 47(1)(b) shall apply mutatis mutandis to any reservation, permission or right referred to in paragraph (a).
- (2) (a) Upon the expiration of a period of two years from the commencement of this Act the holder, user or acquirer of any reservation, permission or right referred to in subsection (1)(a) shall pay to the owner of the land concerned or any other person to whom it may accrue, compensation which shall be the same amount which accrued periodically to such owner or other person by virtue of any such reservation, permission or right immediately prior to the expiration of such period, unless otherwise agreed upon by the parties concerned.
- (b) If the address of the owner of the land concerned or other person referred to in paragraph (a) is not known to the holder, user or acquirer of a reservation, permission or right referred to in subsection (1)(a) and as a result thereof such holder, user or acquirer cannot pay the compensation part thereof which accrued to such owner or other person in terms of that paragraph, it may not be alleged, on the grounds of such default of payment, that a condition to which such reservation, permission or right is subject, has not been complied with.
- (3) (a) The holder, user or acquirer of any reservation permission or right referred to in subsection (1)(a) may abandon it wholly or as a part or parts at any time by written notice to the regional director concerned and thereupon it or the part or parts concerned shall be deemed to have lapsed with effect from the date of such notice.
- (b) (i) If any owner of land comprising the subject of any reservation, permission or right referred to in subsection (1)(a) or any holder of a mining right or of a right to any mineral in respect of such land satisfies the Minister that the circumstances referred to in section 17(6)(a)(i) or (ii) in relation to a mining right, exist mutatis mutandis in relation to such reservation, permission or right, the Minister may, on written application by such owner or holder and on payment of the prescribed application fee, notwithstanding anything to the contrary contained in any law, subject to such terms and conditions as may be agreed upon between such applicant and the Secretary, and after payment to the latter of the amount, if any, that may be so agreed upon, direct the Secretary to cancel such reservation, permission or right, and to make the necessary endorsements in that regard in the documents concerned.
- (ii) Any costs in connection with cancellation referred to in subparagraph (i) shall be paid by the applicant concerned.
- (c) Upon the issuing of the direction referred to in paragraph (b) (i), the Secretary shall dispose of the amount, if any, referred to in that paragraph mutatis mutandis in accordance with section 17(3), and section 21(2) and (3) of the Expropriation Act, 1975 (Act No. 63 of 1975) shall apply mutatis mutandis.
- (4) Any right to the use of water granted under section 60 of the Precious Stones Act, 1964 or section 18 or 95 of the Mining Rights Act, 1967, shall, notwithstanding the repeal of the said Acts by section 68(1), remain in force for a period not exceeding five years or such shorter period for which it was granted or renewed.
- (5) (a) Notwithstanding the repeal of the Precious Stones Act, 1964, and the Mining Rights Act, 1967, by section 68(1), any application for any permission for or right to the use of water or the surface of land made in accordance with section 56, 57, 58, 60 or 64 of the first-mentioned Act or section 18 or Chapters X and XI of the last-mentioned Act and received prior to the commencement of this Act, shall be dealt with as if this Act had not been passed.

- (b) Subsections (1), (2), (3) and (4) shall apply mutatis mutandis to any permission or right granted by virtue of paragraph (a): Provided that for the purposes of subsection (2)(a) the compensation, if any shall be paid as from the date of the granting of such permission or right.
- Certain functions of Mining Commissioner performed by regional director.
- Reference to Government Mining Engineer, Registrar of Mining Titles and Mining Commissioner in documents or other laws.
49. For the purposes of sections 44, 45, 47 and 48 the regional director concerned shall, where applicable, perform the functions which in terms of the prior laws referred to in the said sections, would have been performed by a Mining Commissioner if this Act had not been passed.
50. Any reference in-
- any nomination agreement;
 - any prospecting lease, prospecting permit or prospecting permission granted or issued in terms of a section mentioned in section 44(1)(a);
 - the document or documents concerned referred to in section 47(1)(a) or 48(1)(a); or
 - any other law, to-
 - Government Mining Engineer or Registrar of Mining Titles, shall be construed as a reference to Secretary; and
 - Mining Commissioner, shall be construed as a reference to the Regional Director.

CHAPTER VIII

GENERAL AND MISCELLANEOUS PROVISIONS

- Power of entering upon land or place and to perform other acts.
51. (1) In order to exercise any power or perform any duty conferred or imposed by this Act or any other law on a person authorized in writing by the Secretary, such person may, without any warrant, at any time, without prior notice, enter upon any land or place, including any vehicle, vessel or aircraft, which may be necessary for the proper exercising of such power or the performance of such duty.
- (2) Any authorized person referred to in subsection (1) acting under that subsection is empowered to-
- take with him such persons, vehicles, appliances, instruments and material as he may deem necessary;
 - question any person and take a statement from him, in which case section 29(4) shall be applicable mutatis mutandis;
 - examine and deal in any manner as he may deem fit with any portion of the land, place, 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, vehicle, vessel or aircraft; and
 - enquire generally into any accident or condition on such land or at such place.
- (3) Any person requested thereto by any authorized person referred to in subsection (1), shall accompany him or provide him with the necessary assistance in order to enable him to exercise his powers or to perform his duties conferred or imposed on him by this Act or any other law.
- Producing of documents at request of regional director or authorized person.
52. Any person who in accordance with this Act is the holder or should be in possession of any permit, licence, permission, certificate, authorization or any other document shall produce such permit, licence, permission, certificate, authorization or document at the request of the regional director or any authorized person referred to in section 51(1).
- Proof of certain facts.
53. (1) In legal proceedings in terms of this Act any statement, entry, record or information in or on any book, document, plan, drawing or computer storage medium shall be admissible in evidence as an admission of the facts in or on such statement, entry, record or information by the person who made, entered, recorded or stored it, unless it is proved that such statement, entry, record or information was not made, entered, recorded or stored by such person within the scope of his functions.
- (2) Whenever in legal proceedings in terms of this Act, it is proved that any false statement, entry, record or information appears in or on any book, document, plan, drawing or computer storage medium kept by any person, he shall be presumed, until the contrary is proved, intentionally to have forged such statement, entry, record or information.
- Notice of commencement or cessation of prospecting or mining operations or works.
54. (1) The holder of or applicant for any prospecting permit or mining authorization or the owner of a works shall, at least 14 days before he commences with any operations under any such permit or authorization or at a works, or intends to cease such operations temporarily or permanently, notify the regional director concerned in writing of any such intended commencement or cessation, and provide particulars in connection with the location, nature and extent of such operations.
- (2) The holder or applicant referred to in subsection (1) shall, at least 14 days prior to commencing any operations under any prospecting permit or mining authorization so referred to, notify the occupier of the land comprising the subject of such permit or authorization in writing of his intention to commence such operations.
- KwaZulu Government liable for claims.
55. Save as is otherwise provided in the Act the KwaZulu Government shall not be liable for any claim resulting from any injury, death, loss or damage of whatever nature which may arise from the application of any provision of this Act or the exercising of any power or the performance of any duty or function conferred or imposed by this Act if such application, exercising or performance happened without negligence and in good faith.
- Serving of documents and validity.
56. (1) Save as is otherwise provided in this Act, any notice, order or any other document which is required in terms of this Act to be served on or given to any person, shall be deemed to have been duly served or given if it is delivered to any such person personally or sent by registered post to his last known address or published in the Official Gazette.
- (2) Any notice, order or any other document issued in good faith in terms of this Act, shall be valid according to the terms thereof, notwithstanding any want of form or lack of power on the part of any person to issue or authenticate it, provided such power is subsequently conferred upon such person.
- Right of appeal.
57. (1) Any person who feels aggrieved at any action or decision that a regional director has taken or made in terms of this Act, may, within one month from the date on which such action or decision was made known by the latter, lodge an appeal in writing with the Secretary against any such action or decision, and thereupon the Secretary may confirm, set aside or amend any such action or decision.
- (2) Any person who feels aggrieved at any action or decision that the Secretary has taken or made in terms of this Act, may, within one month from the date on which such action or decision was made known by the latter, lodge an

appeal in writing with the Minister against any such action or decision, and thereupon the Minister may confirm, set aside or amend any such action or decision.

Prohibition on victimization.

58. No person shall take any action or permit any action to be taken against any employee in any way which may be to his detriment, or shall alter his position or allow his position to be altered to his disadvantage relative to other employees, by reason of the fact, or because such person suspects or believes, whether or not such suspicion or belief is justified or correct, that such employee has given information to the Minister or any other person charged with the execution of this Act in respect of anything which is required to be done or omitted in terms of this Act or which relates thereto, or because he has complied with a lawful prohibition, order, request or instruction of a regional mining engineer, or has given evidence before any court of law or during an inquiry, or has done anything which he may or is required to do in terms of this Act or has refused to do anything which he is prohibited to do in terms of is Act.

Prohibition on obstruction of officer or person.

59. No person shall hinder, oppose or obstruct any officer or any other person in the exercise of his powers or the performance of his duties conferred or imposed on him by this Act.

Offences.

60. Any person who contravenes or fails to comply with-

(a) any provision of-

- (i) section 5(2), 8(1), 31(1), (3) or (4), 37(a), 38, 39(1), 40, 41(2), 42(5), 52 or 54;
- (ii) section 7(1), 31(5), 33(1) or 34(1);
- (iii) section 19(1) or (2), 29(4)(b), 30(b), (c), (d), (e) or (f), 58 or 59;
- (iv) section 35(1) or 36;
- (v) section 32(1) or (2) or 34(3);
- (vi) section 37(b);
- (vii) section 29(4)(c); or
- (viii) section 30(a); or

(b) Any provision of-

- (i) any direction, suspension, order, instruction or condition issued, given or determined under section 22(1), 23(1), 27(1) or (4), 33(2) or 34(2);
 - (ii) any request referred to in section 51(3); or
 - (iii) any notice issued under section 25(1),
- shall be guilty of an offence.

Penalties.

61. (1) Any person convicted of any offence in terms of this Act, is liable-

- (a) in the case of an offence referred to in section 60(a) (i) or 60 (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 fine and such imprisonment, and to a further fine not exceeding R1 000 or to further imprisonment not exceeding five days 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), to a fine not exceeding R10 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment, and to a further fine not exceeding R2 000 or to further imprisonment not exceeding 10 days or 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), to a fine not exceeding R10 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment;
- (d) in the case of an offence referred to in section 60(a)(iv), to a fine not exceeding R5 000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment;
- (e) in the case of an offence referred to in section 60(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 fine and such imprisonment, and to a further fine not exceeding R200 or to further imprisonment not exceeding one 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), to a fine not exceeding R15 000 or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment;
- (g) in the case of an offence referred to in section 60(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), 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(b)(iii), to a fine not exceeding R50 000 or to imprisonment for a period not exceeding 10 years or to both such 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 fine and such imprisonment.

- (2) Notwithstanding anything to the contrary contained in any other law, a magistrate's court shall have jurisdiction to impose any penalty provided for in this Act.

Delegation of powers.

62. (1) The Minister may delegate any power conferred upon him by this Act, excluding the power to make regulations under section 63, to the Secretary or any other officer in the service of the Department, or, with due consideration of the objects for which a statutory institution has been established, to the executive head of such institution.
- (2) The Secretary may delegate any power conferred upon him by this Act to a regional director or any other officer in the service of the Department or with due consideration of the objects for which a statutory institution has been established, to the executive head of such institution.
- (3) Any regional director may delegate a power conferred upon him by this Act to any officer in the service of the Department.
- (4) Any delegation under subsection (1), (2) or (3) shall not prevent the Minister, Secretary or any regional director from exercising the power concerned personally.

63. (1) The Minister may, by notice in the Official Gazette, make regulations regarding-

- (a) the safety, health and welfare of persons concerned in mines and works and safety standards, codes of practice and the provision of equipment and facilities in connection with safety, health and welfare;
 - (b) discipline and orderly operations at mines and works and the functions of peace officers;
 - (c) the protection of equipment, structures, the surface of land and water sources and the making safe of undermined ground and of dangerous excavations, tailings, waste dumps, ash dumps and structures, of whatever nature, made in the course of prospecting or mining operations or which are connected therewith, the imposition of monetary and other obligations in connection with such safe-making on persons who are or were responsible for the undermining of such ground or the making of such excavations, tailings, waste dumps, ash dumps or structures or for the dangerous condition thereof, or who will benefit from such safe-making, and the assumption by the KwaZulu Government of responsibility or co-responsibility for such safe-making in particular cases;
 - (d) the rehabilitation of disturbances of the surface of land and the prevention and combating of pollution of the air, land, sea or other water where such disturbances and pollution are connected to prospecting and mining operations, and the imposition of levies and the establishment of accounts in that regard;
 - (e) the exploitation, processing, utilization or use of or the disposal of any mineral;
 - (f) qualifications for employment in specified occupations, conditions for acceptance as a candidate for examinations, the issuing of certificates of competency in respect of specified occupations and the powers, duties, functions and responsibilities of persons employed at mines and works;
 - (g) procedures in respect of appeals lodged under this Act;
 - (h) application fees payable in relation to-
 - (i) prospecting permits;
 - (ii) mining permits;
 - (iii) mining licences;
 - (iv) permits issued in terms of section 33;
 - (v) examinations;
 - (vi) appeals;
 - (vii) searching for information and supplying of copies of documents;
 - (viii) division of mineral rights;
 - (ix) any permission referred to in section 8(1);
 - (x) any consent or certificate referred to in section 17(1)(i) or (ii) or (6)(a)(aa) or (bb); or
 - (xi) any cancellation referred to in section 48(3)(b)(i);
 - (i) the drawing up and keeping of mine plans and the submission of statistical and other reports in relation to minerals, mines, works and machinery;
 - (j) the transport, handling, storage and application of explosives in connection with operations in or at a mine or at a works and the mixing of substances to make explosives in the working places of a mine which are not contrary to the provisions of any other law;
 - (k) the conditions under which machinery may be erected or used at mines and works;
 - (l) the reporting of accidents at mines and works and the provision of ambulances and medical aid in the event of such accidents;
 - (m) the manner in which the presence of witnesses at inquiries held in terms of section 28(1), (2) or (5) shall be obtained and procedures to be followed at such inquiries;
 - (n) the keeping of records in relation to employees in or at mines and works;
 - (o) the form of any application which may or shall be made in terms of this Act and of any consent or document required to be submitted with such application, and the information or details which shall accompany any such application;
 - (p) the form, conditions, issuing, renewal, abandonment or cancellation of any permit, licence, certificate, permission, receipt, authorization or document which may or shall be issued, granted or renewed in terms of this Act;
 - (q) the form of any register, record, notice or sketch plan which may or shall be kept, given, published or submitted in terms of or for the purposes of this Act;
 - (r) exemption from a provision of any regulation;
 - (s) the prohibition on the disposal of any mineral or the use thereof for any specified purpose or in any specified manner or for any other purpose or in any other manner than a specified purpose or manner;
 - (t) the restriction or regulation in respect of the disposal or use of any mineral in general;
 - (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 at mines and works;
 - (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 at mines and works;
 - (w) the manner in which safety standards, codes of practice and the provisions of this Act shall be brought to the attention of employees and other persons at any mine or works, and the manner in which copies of such safety standards, codes of practice and provisions shall be made available for perusal by such employees and other persons;
 - (x) the prohibition on any deduction from any employee's remuneration or payment by him in respect of anything which the owner or manager of a mine or works is in terms of this Act required to provide or do in the interests of the health or safety of such employee;
 - (y) any matter which may or shall be prescribed in terms of this Act; or
 - (z) any other matter the regulation of which, in the opinion of the Minister, may be necessary or desirable in order to achieve the objects of this Act.
- (2) No regulation relating to KwaZulu Government revenue or expenditure or to any health matter shall be made by the

Minister except with the concurrence of the Minister of Finance or after consultation with the Minister of Health, respectively.

- (3) (a) The Minister may by notice in the Official Gazette incorporate in the regulations any safety standard, without publishing the text thereof, by reference to the number, title and year of issue thereof or to the other particulars by which it may sufficiently be identified.
- (b) Any safety standard incorporated in the regulations under paragraph (a) shall, for the purposes of this Act, in so far as it is not contrary to any regulation, be deemed to be a regulation, but not before the expiration of a period of two months from the date of such incorporation.
- (c) Whenever any safety standard is at any time after the incorporation thereof under paragraph (a) amended or substituted by the competent authority, the notice whereby such safety standard has been incorporated in the regulations shall, unless otherwise stated therein, be deemed to refer to such safety standard as so amended or substituted, as the case may be.
- (d) The regional director shall keep in his office a copy of the text of each safety standard incorporated in the regulations under paragraph (a) and of each amendment or substitution thereof and shall, at the written request of any interested person, make any such copy available to any such person for inspection or for making a copy thereof at a place approved by the regional director: Provided that the regional director shall not be obliged to keep in his office for the said purpose any copy of such safety standard, or of any amendment or substitution thereof, has been published in a publication available in KwaZulu, provided he records in a register particulars of the publication in which such safety standard, or any amendment or substitution thereof, has been published and also of the place in KwaZulu where such publication is obtainable or otherwise available for inspection, and makes such register or an extract therefrom available to interested persons for inspection.
- (e) Section 33 of the Standards Act, 1982 (Act No. 30 of 1982), shall not affect any incorporation of a safety standard under paragraph (a) or of any amendment or substitution thereof referred to in paragraph (c).

- (4) No magistrate's court shall be competent to inquire into or pronounce upon the validity of any regulation.
- (5) Any regulation made under subsection (1) may determine that any person who contravenes or fails to comply with any provision thereof, shall be guilty of an offence.

Alienation of
KwaZulu Govern-
ment-owned
mineral rights.

64. (1) The Minister may, with the approval of the Cabinet and subject to sections 43(2) and 44(2), alienate any right to a mineral of which the KwaZulu Government is the holder, subject to such terms and conditions as may be determined by him.
- (2) The Chief Minister may, by proclamation in the Official Gazette, direct that as from a date determined by him any right or obligations of the Government of KwaZulu in respect of any minerals and which is situated in KwaZulu shall, subject to the provisions of this Act and the conditions prescribed in such Proclamation, vest in any person or authority in KwaZulu.
- (3) Subsection (1) shall not apply in respect of any right to diamonds referred to in section 46(1) in so far as the provisions of that section have not been abolished under section 46(2).

Act binds KwaZulu
Government.

65. The provisions of this Act shall bind the KwaZulu Government, save in so far as criminal liability is concerned or in so far as may be otherwise determined by the Minister by notice in the Official Gazette.

Amendment of
Mining Titles
Registration
Act, 1967.

66. The Mining Titles Registration Act, 1967 (Act No. 16 of 1967), is hereby amended by the substitution for the expression "Registrar of Mining Titles" of the expression "Secretary for the Interior", wherever it occurs in the said Act.

KwaZulu Machi-
nery and Occupa-
tional Safety Act,
1985, not applicable.

67. The KwaZulu Machinery and Occupational Safety Act, 1985 (Act No. 10 of 1985) shall not be applicable to any matter in respect of which any provision of this Act is applicable.

Repeal of laws,
and savings.

68. (1) Subject to subsections (2) and (3), the laws specified in the Schedule are hereby amended or repealed to the extent indicated in the third column thereof.
- (2) Any regulation made under the Mines and Works Act, 1956 (Act No. 27 of 1956), and in force immediately prior to the commencement of this Act, shall, notwithstanding the repeal of the first-mentioned Act by subsection (1), remain in force until amended or repealed under section 63, and any rule, notice, order, instruction, prohibition, authorization, permission, consent, exemption, certificate or document promulgated, issued, given or granted and any other steps taken in terms of any such regulation prior to the commencement of this Act, shall likewise remain in force.
- (3) Any permission granted in terms of section 8 of the Mines and Works Act, 1956, and in force immediately prior to the commencement of this Act, shall notwithstanding the repeal of the first-mentioned Act by subsection (1), remain in force.
- (4) Any approval or certificate granted or issued in terms of section 2 or 5 of the Mineral Laws Supplementary Act, 1975 (Act No. 10 of 1975), respectively, and in force immediately prior to the commencement of this Act, shall be deemed to have been granted or issued under section 20 or 17(1)(ii), respectively.
- (5) The provisions of this Act shall, save as is otherwise provided in Chapter VII, not be affected by any term or condition of any agreement, whether such agreement was entered into before or after the commencement of this Act.

Agreements with
Republic.

69. If the Government of KwaZulu as defined in section 38 of the Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971), and the Government of the Republic of South Africa agree thereto, an officer in the service of the Department of Mineral and Energy Affairs of the said Republic may perform any function in KwaZulu which has been assigned to any officer in the service of KwaZulu Government Service by or in terms of any law of the KwaZulu Government in connection with mineral matters, and any such function shall be performed by the first-mentioned officer on the conditions agreed to between the said governments.

Short title and
commencement.

70. (1) This Act shall be called the KwaZulu Minerals Act, 1992.
- (2) This Act shall, notwithstanding the date of promulgation thereof, be deemed to have come into operation on 1 January 1992.
- (3) Any authorisation, right or permit granted, any agreement entered into or any act performed in anticipation of this Act being promulgated, if granted or performed on or after 1 January 1992, shall be deemed to have been granted or performed under the appropriate provisions of this Act.

SCHEDULE
LAWS AMENDED OR REPEALED (SECTION 68)

NO. AND YEAR OF LAW	SHORT TITLE	EXTENT OF REPEAL
Act No. 15 of 1919....	Precious Stones (Alluvial) Amendment Act, 1919	The whole.
Act No. 26 of 1932....	Mining Rights (South-West Africa) Act, 1932	The whole.
Act No. 27 of 1946....	Deep Level Mining Research Institute Act, 1946	The whole.
Act No. 27 of 1956....	Mines and Works Act, 1956	The whole, except the definitions of "Minister" and "Sunday", "Christmas Day", "Day of the Covenant", "Good Friday" and "Republic Day" in section 1, and section 9.
Act No. 51 of 1959....	Mines and Works Amendment Act, 1959	The whole.
Act No. 46 of 1964....	Mines and Works and Explosives Amendment Act, 1964	Sections 1 up to and including 11
Act No. 73 of 1964....	Precious Stones Act, 1964	The whole.
Act No. 88 of 1964....	Strategic Mineral Resources Development Act, 1964	The whole.
Act No. 91 of 1965....	Mines and Works Amendment Act, 1965	The whole.
Act No. 20 of 1967....	Mining Rights Act, 1967	The whole, except the definitions of- "precious metals" and unwrought precious metal" in section 1, and Chapter XVI.
Act No. 42 of 1968....	Mines and Works Amendment Act, 1968	The whole.
Act No. 48 of 1969....	Precious Stones Amendment Act, 1969	The whole.
Act No. 40 of 1971....	Mines and Works Amendment Act, 1971	The whole.
Act No. 80 of 1971....	General Law Amendment Act, 1971	Sections 18 and 19.
Act No. 62 of 1973....	General Law Amendment Act, 1973	Sections 11 and 12.
Act No. 14 of 1974....	Strategic Mineral Resources Development Amendment Act, 1974	The whole.
Act No. 10 of 1975....	Mineral Laws Supplementary Act, 1975	The whole.
Act No. 16 of 1975....	Precious Stones Amendment Act, 1975	The whole.
Act No. 47 of 1976....	Mining Rights Amendment Act, 1976	The whole.
Act No. 77 of 1977....	Tiger's-Eye Control Act, 1977	The whole.
Act No. 83 of 1977....	Mines and Works Amendment Act, 1977	The whole.
Act No. 44 of 1978....	Mining Rights Amendment Act, 1978	The whole.
Act No. 48 of 1979....	Tiger's-Eye Control Amendment Act, 1979	The whole.
Act No. 61 of 1980....	Precious Stones Amendment Act, 1980	The whole.
Act No. 8 of 1981....	Tiger's-Eye Control Amendment Act, 1981	The whole.
Act No. 23 of 1981....	Mineral Laws Supplementary Act Amendment Act, 1981	The whole.
Act No. 41 of 1981....	Precious Stones Amendment Act, 1981	The whole.
Act No. 86 of 1981....	Mining Rights Amendment Act, 1981	The whole.
Act No. 15 of 1982....	Precious Stones Amendment Act, 1982	The whole.
Act No. 92 of 1982....	Nuclear Energy Act, 1982	Section 47.
Act No. 50 of 1983....	Mining Rights Amendment Act, 1983	The whole.
Act No. 62 of 1986....	Precious Stones Amendment Act, 1986	The whole.
Act No. 62 of 1968....	Precious Stones Amendment Act, 1986	The whole.
Act No. 38 of 1987....	Mines and Works Amendment Act, 1987	The whole.
Act No. 73 of 1988....	Mining Rights Amendment Act, 1988	The whole.

NO. AND YEAR OF LAW	SHORT TITLE	EXTENT OF REPEAL
Act No. 77 of 1988....	Mineral Laws Supplementary Act Amendment Act, 1988	The whole.

KWAZULU GOEWERMENTS KENNISGEWING NR. 46 VAN 1994

KWAZULU - WETGEWENDE VERGADERING

WET 16 VAN 1992

KWAZULU MINERAAL WET, 1992

Dit het die Staatspresident behaag kragtens die bevoegheid hom verleen by artikel 31(2) van die Grondwet van die Self Regerende Gebiede, 1971 (Wet 21 van 1971), om sy goedkeuring aan onderstaande Wet te heg. (Engelse teks deur die Staatspresident geteken. Goedgekeur op 20-12-1993).

WET

Om die prospektering na en die optimale ontginning, verwerking en benutting van minerale te reël; voorsiening te maak vir die veiligheid en gesondheid van persone betrokke by myne en bedrywe; die ordelike benutting en die rehabilitasie van die oppervlak van grond tydens en na prospekter- en mynwerkzaamhede te reël; en voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die KwaZulu-Wetgewende Vergadering, soos volg:-

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HOOFSTUK I

INLEIDING

Woordomskrywing 1. In hierdie Wet, tensy uit die samehang anders blyk beteken-

"aantekening" ook inligting vervat in of op 'n rekenaardrukstuk, -band of -skryf of enige ander rekenaarbergings -medium;

"Amptelike Koerant" die Amptelike Koerant van KwaZulu;

"beampte" 'n beampte of ander persoon in die diens van die KwaZulu-Regering ooreenkomstig die KwaZulu-Staatsdienswet, 1990 (Wet 5 van 1990);

"bedryf" 'n plek, uitgesonderd 'n myn, waar een of meer van die volgende werksaamhede en 'n daarvoor nodige of daarmee in verband staande werksaamheid uitgevoer word, naamlik-

(a) die oorbringings en verspreiding na 'n ander verbruiker van enige vorm van krag vanaf 'n myn, deur die eienaar daarvan, na die eindpunt van grootmaattoevoer of, waar die toevoer nie by die groot maat geskied nie, na die kragtoevoermeter op die perseel van so 'n ander verbruiker; of

(b) opleiding by 'n sentrale redding - stasie;

"benoemingsooreenkoms" 'n benoemingsoor - eenkoms soos omskryf in artikel 1 van die Wet op die Registrasie van Myntitels, 1967 (Wet No. 16 van 1967);

"bestuurder" 'n bevoegde persoon soos omskryf in die regulasies, ingevolge artikel 31 (1) (a) aangestel;

"Departement" die Departement van Binnelandse Sake;

"eienaar", met betrekking tot-

(a) grond-

behalwe onopgemete en ongeregistreerde KwaZulu Regering grond, die eienaar soos omskryf in artikel 102 van die Registrasie van Aktes Wet, 1937 (Wet No. 47 van 1937); of

(b) 'n myn-

(i) die houer van die betrokke prospekterpermit of ontginningsmagting; of

(ii) indien so 'n prospekterpermit of ontginningsmagting nie bestaan nie, die laaste persoon wat die myn gewerk of bewerk het of sy opvolger in titel; of

(c) 'n bedryf ook die huurder van 'n bedryf of deel daarvan;

"enjin" 'n toestel of kombinasie van toestelle waardeur krag, uitgesonderd mense- of dierekrag, aangewend kan word om meganiese werk te verrig;

"ernstige liggaamlike letsel" 'n besering wat waarskynlik noodlottig kan wees of wat verlies van 'n lit of 'n permanente ongeskiktheid tot gevolg het;

"gediplomeer" die houer te wees van 'n toepaslike sertifikaat van bevoegdheid ingevolge 'n regulasie uitgereik;

"hierdie Wet" ook die regulasies en enige voorwaarde waaraan enige permit, lisensie, vergunning, toestemming, vrystelling, goedkeuring, kennisgewing of magtiging ingevolge hierdie Wet uitgereik, gegee of verleen of geag uitgereik, gegee of verleen te wees, onderworpe is;

"houer", met betrekking tot-

(a) die reg op 'n mineraal ten opsigte van grond of 'n onverdeelde aandeel daarin, die eienaar van sodanige grond: Met dien verstande dat-

(i) indien die reg op so 'n mineraal of 'n onverdeelde aandeel daarin van die eiendom van die betrokke grond geskei is, die persoon op wie se naam sodanige reg of 'n onverdeelde aandeel daarin in die betrokke aktekanthoor geregistreer is, hetsy deur middel van 'n afsonderlike akte of by wyse van 'n voorbehoud in die titelakte van die betrokke grond; of

(ii) indien die reg op so 'n mineraal of 'n onverdeelde aandeel daarin op enige ander wyse in 'n persoon setel, daardie persoon, die houer is;

(b) die reg op 'n mineraal wat in of op uitskot voorkom, die persoon wat die houer is van die mynreg (ten opsigte van die grond) waaruit sodanige uitskot gebruseer is: Met dien verstande dat indien sodanige mynreg verval het of nie bestaan het nie of indien sodanige uitskot of sodanige mynreg aldus vervreem is dat die eiendom daarvan by verskillende persone berus-

(i) die persoon wat ingevolge die gemene reg 'n aanspraak op sodanige uitskot het; of

(ii) indien daar nie 'n in subparagraaf (i) bedoelde persoon bestaan nie of indien hy onbekend is of nie geredelik opgespoor kan word nie, die eienaar van die grond waarop die uitskothoop geleë is, eersgenoemde houer is; en

(c) 'n permit, lisensie, vergunning, sertifikaat, magtiging of enige ander dokument ingevolge hierdie Wet uitgereik, verleen of van krag, die persoon op wie se naam dit uitgereik, verleen of van krag is;

"hyser" eniger hyser, hysmasjien of ander toestel wat gebruik word of bedoel is om gebruik te word vir die vervoer van persone, materiaal of minerale deur middel van 'n hysbak in 'n luikgang op leispore waar die beheerstelsel van die dryfmasjinerie nie normaalweg met die hand vanaf die motor- of enjinkamer gewerk word nie;

"hysinstallasie" enige hysmasjien of ander toestel wat gebruik word of bedoel is om gebruik te word vir die vervoer van persone, materiaal of minerale deur middel van 'n hysbak, skip of ander soort vervoermiddel in enige skag of daalgang waar die beheerstelsel van die dryfmasjinerie normaalweg met die hand vanaf die motor- of enjinkamer gewerk kan word, maar uitgesonderd enige hystoestel, ringtouer - voer en skrapervenaaanleg;

"masjinerie" 'n enjin, stoomketel of toestel of 'n kombinasie daarvan wat by 'n myn of bedryf geleë is en wat gebruik word of bedoel is om gebruik te word-

(a) vir die opwekking, ontwikkeling, ontvangs, opgaring, omvorming, transformering, oorbringings of verspreiding van enige vorm van krag of energie; of

(b) om mense, materiaal of minerale te vervoer, in verband met werksaamhede wat onder beheer van die bestuurder van sodanige myn of bedryf val;

"minerale" enige stof, hetsy in soliede of vloeibare vorm of in die vorm van gas, wat op natuurlike wyse in of op die aarde, in of onder water of in uitskot voorkom en wat deur 'n geologiese proses gevorm is of daaraan onderhewig was, uitgesonderd water, maar met inbegrip van sand, klip, rots, gruis en klei, asook grond, behalwe bogrond;

"Minister" die Minister van Binnelandse Sake;

"myn", waar dit-

(a) as 'n selfstandige naamwoord gebesig word-

- (i) enige uitgrawing in die aarde, met inbegrip van die gedeelte onder die see of onder ander water of in enige uitskot, asook enige boorgat, hetsy die gewerk of bewerk word of nie, gemaak met die doel om na 'n mineraal te soek of 'n mineraal te win; of
- (ii) enige ander plek waar 'n mineraalafsetting ontgin word, met inbegrip van die mynterrein en alle geboue, strukture, masjinerie mnyhope, toegangspaaie of voorwerpe wat op sodanige mynterrein geleë is en in verband met sodanige soek, winning of ontginning of vir die verwerking van sodanige mineraal gebruik word of bedoel is om gebruik te word: Met dien verstande dat indien twee of meer sodanige uitgrawings, boorgate of plekke, of uitgrawings, boorgate en plekke, tesame gewerk of bewerk word, hulle geag word een myn uit te maak tensy die streek-direkteur die eienaar daarvan skriftelik in kennis stel dat sodanige uitgrawings, boorgate of plekke, of uitgrawings, boorgate en plekke, twee of meer nyne uitmaak; en

(b) as 'n werkwoord gebesig word, die maak van enige uitgrawing of boorgat bedoel in paragraaf (a) (i) of die ontginning van 'n mineraalafsetting op enige ander wyse, met die doel om 'n mineraal te win, met inbegrip van enige prospektering wat met die winning van sodanige mineraal in verband staan;

"mynlisensie" 'n magtiging ingevolge artikel 9 uitgereik vir 'n tydperk van langer as twee jaar;

"mynpermit" 'n magtiging ingevolge artikel 9 uitgereik vir 'n tydperk van hoogstens twee jaar;

"mynreg" 'n reg of enige aandeel daarin verkry kragtens 'n artikel 47(1) of (5) gemelde artikel of enige reg om te delf of te myn verkry kragtens 'n skatpligtige ooreenkoms soos omskryf in artikel 1 van die Wet op die Registrasie van Myntitels, 1967 (Wet No. 16 van 1967), of enige ander subtoekenning verkry uit hoofde van eersgenoemde reg of 'n aandeel daarin;

"mynterrein" die terrein wat die onderwerp van 'n prospekterpermit of ontginningsmagtiging uitmaak, met inbegrip van enige aangrensende grondoppervlakte waaroor die houer van so 'n permit of magtiging beheer het en wat hy geregtig is om te gebruik in verband met die werksaamhede wat kragtens so 'n permit of magtiging verrig word of verrig staan te word;

"mynveiligheidskomitee" die komitee by artikel 26 (1) (a) ingestel;

"ondergronds", met betrekking tot 'n myn, enige plek in 'n myn onder die natuurlike oppervlak van die aarde wat alleenlik deur middel van 'n skag, skuinsskag, ingangstonnel, styggang, daalgang, tonnel of skuinstonnel of kombinasie daarvan met die oppervlak verbind is, met inbegrip van sodanige skag, skuinsskag, ingangstonnel, styggang, daalgang, tonnel of skuinstonnel;

"ondersoekbeampte" 'n streekmyningenieur of 'n beampte wat ooreekkomstig artikel 28 (1) of (3) deur die Sekretaris aangewys is;

"ontginningsmagtiging" 'n magtiging verleen kragtens 'n mynpermit of 'n mynlisensie;

"persoon" 'n persoon soos omskryf in artikel 2 van die Interpretasiewet, 1957 (Wet No. 33 van 1957), met inbegrip van die KwaZulu-Regering en 'n trust;

"prospekteer" met opset soek na 'n mineraal op 'n wyse wat die oppervlak van die aarde, met inbegrip van die gedeelte onder die see of onder ander water, of van uitskot, versteur deur middel van uitgrawing of boorwerk wat vir die doel nodig is, maar sluit dit nie myn as 'n werkwoord in nie;

"prospekteerpermit" 'n magtiging ingevolge artikel 6 uitgereik;

"regulasie" 'n regulasie kragtens artikel 63 uitgevaardig of ingevolge artikel 68 (2) van krag;

"rehabilitasie", met betrekking tot die oppervlak van grond en die omgewing, die uitvoering tot die tevredenheid van die streekdirekteur deur die houer van 'n prospekterpermit of ontginningsmagtiging van die rehabilitasieprogram bedoel in artikel 39;

"Sekretaris" die Sekretaris van Binnelandse Sake;

"stoelhyser" enige toestel of kombinasie van toestelle wat gebruik word of bedoel is om gebruik te word vir die vervoer van persone of materiaal deur middel van 'n stoel of ander soort vervoermiddel wat van 'n ringtrektou hang of met stoele of vervoermiddels wat in of op 'n tou of spoorbaan loop en voorsien is van 'n trektou of trekking;

"stoomketel"-

(a) 'n apparaat geskik gemaak om ononderbroke enige vloeistof te verander in stoom, damp of gas teen 'n hoër druk as die aan die atmosfeer toe te skrywe, waar die hitte verkry word uit 'n ander bron as stoom of die omringende temperatuur van die atmosfeer, met inbegrip van enige oorverhitter of hitteverhaler wat 'n integrerende deel daarvan uitmaak; of

(b) 'n hitteverhaler of apart gestookte oorverhitter wat nie 'n integrerende deel van so 'n apparaat uitmaak nie, en ook alle by- en toebehore wat by so 'n apparaat, hitteverhaler of oorverhit hoort: Met dien verstande dat indien enige apparaat uit 'n kombinasie van twee of meer dele bestaan waarvan elkeen vir gebruik as 'n aparte stoomketel geskik gemaak kan word deur die afsluiting van een of meer afsluitkleppe of -krane, elkeen van genoemde dele geag word 'n stoomketel te wees: Met dien verstande verder dat-

(i) 'n stoomontwikkelaar toeges met 'n staan- of stygpyp wat regstreeks in die atmosfeer ontlug en waarvan die afmetings van die ontlugter sodanig is dat die ontwikkeling van 'n druk hoër as 35 kPa binne die houer voorkom word, en mits geen klep of ander versperring in die staan- of stygpyp geplaas word wat verhoed dat die houer vrylik in die atmosfeer ontlug nie; of

(ii) 'n apparaat waarvan die produk van die vervaardiger se bedoelde maksimum werkdruk in kilopascal en die volume in kubieke meter nie die syfer 10 oorskry nie, geag word nie 'n stoomketel te wees nie;

"streekdirekteur" 'n persoon ingevolge artikel 4 aangestel;

"streekmyningenieur" enige persoon wat onderskeidelik ten opsigte van mynbouaang - geleenthede 'n gediplomeerde mynbestuurder of ten opsigte van mynboutoerusting 'n gediplomeerde werktuigkundige of elektrotegniese ingenieur (myn) is wat in so pos deur die Sekretaris aangestel is;

"uitskot" enige afvalrots, slyk of residu afkomstig van 'n mynwerksaamheid of mineraalverwerking;

"verwerk", met betrekking tot 'n mineraal, die herwinning, ekstrahering, konsentrerings, raffinering, affinerings, kalsinerings, klassifisering, vergruisings, sif, was, reduksie, smelting of vergassing daarvan;

"voorgeskrewe" by regulasie voorgeskryf;

"vredesbeampte" 'n beampte in diens van die Departement wat kragtens artikel 334 van die Strafsproeswet, 1977 (Wet No. 51 van 1977), tot 'n vredesbeampte verklaar is;

"werknemer" 'n persoon wat in diens is of werk by 'n myn of bedryf, met inbegrip van 'n onafhanklike kontrakteur.

HOOFSTUK II ADMINISTRASIE

- | | |
|--|--|
| Administrasie van Wet | 2. (1) Hierdie Wet word ooreenkomstig die opdragte en voorskrifte en onder die beheer van die Minister, deur die Sekretaris geadministreer. |
| | (2) Die toepassing van die bepalings van hierdie Wet ten opsigte van veiligheid en gesondheid word gedoen na oorleg-pleging met en onder leiding van 'n persoon deur die Sekretaris aangestel wat 'n gediplomeerde mynbestuurder of gediplomeerde werktuigkundige en elektrotegniese ingenieur (myne) is en bekend staan as Staatsmyningenieur en wie se primêre werksaamhede toesighouding en beheer oor veiligheids-, gesondheids- en verwante aangeleenthede by enige myn of bedryf is. |
| Verdeling van KwaZulu in streke | 3. Vir die doeleindes van hierdie Wet mag die Minister by kennisgewing in die <u>Amptelike Koerant</u> KwaZulu in streke verdeel en kan hy, van tyd tot tyd, die grense van sodanige streke aldus wysig. |
| Aanstelling en werksaamhede van streek-direkteur | 4. Die Minister moet ten opsigte van elke streek bedoel in artikel 3, 'n persoon met die nodige ondervinding en kwalifikasies as streekdirekteur aanstel om die bevoegdhede uit te oefen en die pligte te verrig wat by of ingevolge hierdie Wet of enige ander wetsbepaling aan hom verleen of opgedra word en om die opdragte en voorskrifte van die Minister en Sekretaris uit te voer of na te kom. |

HOOFSTUK III MAGTIGING OM TE PROSPEKTEER EN TE MYN

- | | |
|---|--|
| Reg om na minerale te prospekter, daarvoor te myn en daarvoor te beskik | 5. (1) Behoudens die bepalings van hierdie Wet het die houer van die reg op 'n mineraal ten opsigte van grond of uitskot, na gelang van die geval, of enige persoon wat die toestemming van sodanige houer ooreenkomstig artikel 6(1)(b) of 9(1)(b) verkry het, die reg om sodanige grond of die grond waarop sodanige uitskot geleë is, na gelang van die geval, te betree, tesame met die persone, installasie of toerusting wat nodig mag wees vir doeleindes van prospektering of mynbou en om op of in sodanige grond of uitskot, na gelang van die geval, na sodanige mineraal te prospekter, daarvoor te myn en daarvoor te beskik. |
| | (2) Niemand mag na 'n mineraal prospekter of daarvoor myn nie sonder die nodige magtiging ooreenkomstig hierdie Wet aan hom verleen: Met dien verstande dat- |
| | (a) die Suid-Afrikaanse Padraad ingestel by artikel 2 van die Wet op die Suid-Afrikaanse Padraad, 1988 (Wet No. 74 van 1988) die Departemente van Werke en van Landbou en Bosbou en 'n provinsiale administrasie nie so 'n magtiging nodig het vir die soek na en neem van sand, klip, rots, gruis, klei en grond vir padboudoeleindes kragtens die wetsbepalings wat op hulle van toepassing is nie: Met dien verstande verder dat genoemde Padraad of Departemente of provinsiale administrasie in so 'n geval by die toepassing van hierdie Wet geag word die houer van of aansoeker om 'n prospekterpermit of ontginningsmagtiging te wees ten opsigte van die betrokke mineraal en grond: Met dien verstande verder dat die grond en sulke mineraalregte nie ingevolge artikels 6(1)(b) en 9(1)(b) beswaar is nie; en |
| | (b) die bewoner van grond wat sand, klip, rots, gruis, keli of grond andersins wettig neem vir boerderydoeleindes of vir die aanbring van verbeterings in verband met sodanige doeleindes op sodanige grond, nie so 'n magtiging nodig het nie en die bepalings van hierdie Wet in so 'n geval nie van toepassing is nie. |
| | (3) Iemand wat 'n mineraal ontgin kragtens 'n ontginningsmagtiging kan, terwyl hy sodanige mineraal ontgin, ook enige ander mineraal ten opsigte waarvan hy nie die houer van die reg daarop is nie maar wat noodwendig saam met eersgenoemde mineraal ontgin moet word, ontgin en daarvoor beskik: Met dien verstande dat sodanige persoon die houer van die reg op sodanige ander mineraal vir sy mineraal moet vergoed tot 'n bedrag waaromtrent onderling ooreengekom word of, indien 'n ooreenkoms nie bereik kan word nie, tot 'n bedrag by arbitrasie ooreenkomstig die Wet op Arbitrasie, 1965 (Wet No. 42 van 1965), bepaal of deur 'n bevoegde hof indien laasgenoemde persoon laasgenoemde prosedure verkies: Met dien verstande verder dat by die berekening van laasgenoemde bedrag, artikel 12 van die Ontieningswet, 1975, (Wet No. 63 van 1975), <u>mutatis mutandis</u> van toepassing is asof daar 'n ontiening van eiendom of die neem van 'n reg ingevolge laasgenoemde Wet plaasgevind het. |
| Uitreiking van prospekterpermit | 6. (1) Die streekdirekteur reik, behoudens die bepalings van hierdie Wet, op aansoek in die voorgeskrewe vorm en teen betaling van die voorgeskrewe aansoekgeld 'n prospekterpermit in die voorgeskrewe vorm uit wat die aansoeker magtig om te prospekter na 'n mineraal ten opsigte waarvan hy- |
| | (a) die houer is van die reg daarop; of |
| | (b) skriftelike toestemming om vir sy eie rekening te prospekter van sodanige houer verkry het, |
| | ten opsigte van die grond of uitskot, na gelang van die geval, wat die onderwerp van die aansoek uitmaak. |
| | (2) 'n Aansoek om 'n prospekterpermit word by die betrokke streekdirekteur ingedien en moet, benewens die ander inligting en dokumente wat hy mag vereis, vergesel gaan van- |
| | (a) bewys van die reg op die mineraal ten opsigte van die grond of uitskot, na gelang van die geval, wat die onderwerp van die aansoek uitmaak; en |
| | (b) besonderhede omtrent die wyse waarvolgens die aansoeker voornemens is om te prospekter en oppervlakvesteuring te rehabiliteer wat deur sy voorgename prospekterwerksaamhede veroorsaak mag word, wat vir die streekdirekteur aanvaarbaar is. |
| | (3) Indien die KwaZulu-Regering die houer is van die reg op 'n mineraal kan die toestemming bedoel in subartikel (1)(b) op skriftelike aansoek deur die Minister verleen word onderworpe aan die bedinge en voorwaardes wat deur hom bepaal mag word. |
| | (4) 'n Prospekterpermit word vir 'n tydperk van 12 maande of die langer tydperk wat die streekdirekteur mag bepaal, uitgereik en die houer daarvan kan, van tyd tot tyd, binne een maand voor die verstryking van die tydperk waarvoor sodanige permit uitgereik of hernieu is, op skriftelike aansoek by die betrokke streekdirekteur en by betaling van die voorgeskrewe aansoekgeld, 'n hernuwing van so 'n permit verkry vir 'n tydperk van 12 maande of die langer tydperk wat die streekdirekteur mag bepaal, indien die streekdirekteur tevrede is met die wyse waarvolgens sodanige houer oppervlakvesteuring rehabiliteer wat deur sy prospekterwerksaamhede op die betrokke grond veroorsaak is. |
| Verbod of beperking op prospektering op sekere grond | 7. (1) Behoudens die KwaZulu Natuurbewaring Wet, 1992 (Wet 29 van 1992), mag niemand in of op grond prospekter nie wat- |
| | (a) 'n dorps- of stadsgebied uitmaak; |
| | (b) 'n openbare pad, 'n spoorweg of 'n begraaftaak uitmaak; |
| | (c) kragtens hierdie Wet of 'n ander wetsbepaling vir staats, of openbare doeleindes uitgehou is of gebruik word; of |
| | (d) deur die Minister by kennisgewing in die <u>Amptelike Koerant</u> omskryf en aldus bepaal word, |

behalwe met die skriftelike toestemming van die Minister en ooreenkomstig die voorwaardes wat deur hom bepaal mag word.

- (2) Die betrokke streekdirekteur is bevoeg om die grense van die plekke bedoel in subartikel (1) te bepaal of te laat bepaal en uit te wys of te laat uitwys.

Verbod op
verwydering van
en beskikking oor
minerale gedurende
prospekteurwerk-
saamhede gevind

8. (1) Geen houer van 'n prospekteurpermit mag enige mineraal way hy in of op grond of in uitskot vind in die loop van prospekteurwerkzaamhede, van sodanige grond of op die grond waarop sodanige uitskot geleë is, verwyder of oor sodanige mineraal beskik nie, uitgesonderd monsters van so 'n mineraal wat vir toetse daarop of identifikasie of ontleding daarvan verwyder word, behalwe met die skriftelike toestemming van die houer van die reg op sodanige mineraal ten opsigte van sodanige grond of uitskot, en met skriftelike vergunning deur die betrokke streekdirekteur verleen, onderworpe aan die voorwaardes ten opsigte van veiligheid en gesondheid, optimale benutting of rehabilitasie wat deur hom bepaal mag word en daarin vermeld word.
- (2) Indien die KwaZulu-Regering die houer is van die reg op 'n mineraal, kan die toestemming bedoel in subartikel (1) op skriftelike aansoek deur die Minister verleen word, onderworpe aan die bedinge en voorwaardes wat deur hom bepaal mag word.
- (3) 'n Aansoek om 'n vergunning bedoel in subartikel (1) moet skriftelik aan die betrokke streekdirekteur gerig word en moet vergesel gaan van die voorgeskrewe aansoekgeld.
- (4) 'n Vergunning vir die verwydering van 'n mineraal verleen ingevolge subartikel (1), verval indien die prospekteurpermit waarop sodanige vergunning betrekking het, verval.

Uitreiking van ont-
ginningsmagtigings

9. (1) Die Streekdirekteur reik, behoudens die bepalings van hierdie Wet, op aansoek in die voorgeskrewe vorm en teen betaling van die voorgeskrewe aansoekgeld, 'n ontginningsmagtiging uit in die voorgeskrewe vorm vir 'n tydperk deur hom bepaal wat die aansoeker magtig om te myn vir en te beskik oor 'n mineraal ten opsigte waarvan hy-
- (a) die houer is van die reg daarop; of
- (b) die skriftelike toestemming om daarvoor vir sy eie rekening te myn en daarvoor te beskik van sodanige houer verkry het.
- ten opsigte van die grond of uitskot, na gelang van die geval, wat die onderwerp van die aansoek uitmaak.
- (2) Indien die KwaZulu-Regering die houer is van die reg op 'n mineraal, kan die toestemming bedoel in subartikel (1)(b) op skriftelike aansoek deur die Minister verleen word onderworpe aan die bedinge en voorwaardes wat deur hom bepaal mag word.
- (3) 'n Ontginningsmagtiging word nie ingevolge subartikel (1) uitgereik nie tensy die streekdirekteur tevrede is-
- (a) met die wyse en skaal waarvolgens die aansoeker voornemens is om kragtens so 'n ontginningsmagtiging die betrokke mineraal optimaal en veilig te ontgin;
- (b) met die wyse waarvolgens sodanige aansoeker voornemens is om oppervlakversteurings te rehabiliteer wat deur sy mynwerkzaamhede veroorsaak mag word;
- (c) dat sodanige aansoeker oor die vermoë beskik en die nodige voorsiening kan maak om sodanige mineraal optimaal en veilig te ontgin en om sodanige oppervlakversteurings te rehabiliteer; en
- (d) dat die betrokke mineraal ten opsigte waarvan 'n mynpermit uitgereik staan te word-
- (i) in beperkte hoeveelhede voorkom in of op die grond of in uitskot, na gelang van die geval, wat die onderwerp van die aansoek uitmaak; of
- (ii) op 'n beperkte skaal ontgin sal word; en
- (iii) op 'n tydelike basis ontgin sal word; of
- (e) dat daar redelike gronde bestaan om te vermoed dat die betrokke mineraal ten opsigte waarvan 'n mynlisensie uitgereik staan te word-
- (i) in meer as beperkte hoeveelhede voorkom in of op die grond of in uitskot, na gelang van die geval, wat die onderwerp van die aansoek uitmaak; of
- (ii) op 'n groter as beperkte skaal ontgin sal word.
- (iii) vir 'n tydperk van langer as twee jaar ontgin sal word.
- (4) Artikel 7 is mutatis mutandis van toepassing met betrekking tot die verrigting van mynwerkzaamhede kragtens 'n ontginningsmagtiging.
- (5) 'n Aansoek om 'n ontginningsmagtiging word by die betrokke streekdirekteur ingedien en moet, benewens die aanvraag, inligting en dokumente wat deur hom vereis mag word, vergesel gaan van-
- (a) bewys van die reg op die mineraal ten opsigte van die grond of uitskot, na gelang van die geval, wat die onderwerp van die aansoek uitmaak;
- (b) 'n sketskaart waarop die ligging van die voorgenome mynsterrein, die grond wat die onderwerp van die aansoek uitmaak, die uitleg van die voorgenome mynwerkzaamhede en die ligging van oppervlakstrukture wat daarmee in verband staan, aangedui word;
- (c) besonderhede omtrent die wyse en skaal waarvolgens die aansoeker voornemens is om kragtens sodanige ontginningsmagtiging sodanige mineraal optimaal en veilig te ontgin en om oppervlakversteurings te rehabiliteer wat deur sy voorgenome mynwerkzaamhede veroorsaak mag word;
- (d) besonderhede omtrent die mineralisasie van die grond of uitskot, na gelang van die geval, wat die onderwerp van die aansoek uitmaak; en
- (e) besonderhede omtrent die vermoë van die aansoeker om die nodige voorsiening te maak om sodanige mineraal optimaal en veilig te ontgin en om sodanige oppervlakversteurings te rehabiliteer, wat vir die streekdirekteur aanvaarbaar is.
- (6) Die streekdirekteur kan 'n aansoeker om 'n ontginningsmagtiging, vrystel van een of meer van die bepalings van subartikel (5), onderworpe aan die voorwaardes wat deur hom bepaal mag word.

Tydlike magtiging
om prospekteur-
of mynwerkzaam-
hede voort te sit

Duur en
beëindiging van
prospekteur.

10. Die streekdirekteur kan, hangende 'n aansoek om 'n prospekteurpermit of 'n ontginningsmagtiging, 'n tydelike permit of magtiging uitreik wat die voortsetting magtig van prospekteur- of mynwerkzaamhede op die grond wat die onderwerp van sodanige aansoek uitmaak en wat gemagtig was kragtens 'n prospekteurpermit of ontginningsmagtiging wat ingevolge artikel 16 verval het.
11. (1) 'n Prospekteurpermit of ontginningsmagtiging bly geldig vir die tydperk daarin bepaal, tensy dit vroeër ingevolge hierdie Wet opgeskort, ingetrek of opgesê word of verval.

- permit of ontginning-magtiging
- (2) Die houer van 'n prospekteerpermit of ontginningsmagtigting kan dit of 'n gedeelte van die grond wat die onderwerp daarvan uitmaak, te eniger tyd by skriftelike kennisgewing aan die betrokke streekdirekteur opse, en daarop word dit geag met ingang van die datum van sodanige kennisgewing te verval het vir sover daarin aangedui.
- (3) Indien 'n gedeelte van die grond kragtens subartikel (2) opgesê word, moet die skriftelike kennisgewing in daardie subartikel bedoel, vergesel gaan van 'n vir die streekdirekteur aanvaarbare sketskaart waarop die gedeelte wat aldus opgesê word, aangedui word.
- Voortbestaan van aanspreeklikheid tot dat sertifikaat uitgereik is
12. Indien 'n prospekteerpermit of ontginningsmagtigting ingevolge hierdie Wet opgeskort, ingetrek of opgesê word of verval, of indien 'n gedeelte van die grond wat die onderwerp van so 'n permit of magtigting uitmaak, kragtens artikel 11 (2) opgesê word of die werksaamhede by 'n bedryf gestaak word, bly die persoon wat onmiddellik voor sodanige opskorting, intrekking, opsegging of verval die houer van so 'n permit of magtigting was of die houer van so 'n permit of magtigting of die eienaar van so 'n bedryf, na gelang van die geval, aanspreeklik vir die nakoming van die toepaslike bepalings van hierdie Wet tot dat die betrokke streekdirekteur 'n sertifikaat uitreik dat genoemde bepalings nagekom is.
- Prospekteerpermit of ontginningsmagtigting word nie oorgedra of beswaar nie
13. 'n Prospekteerpermit of ontginningsmagtigting word nie vervreem, oorgedra, gesedeer of met verband beswaar nie.
- Opskorting of intrekking van van prospekteerpermit, vergunning of ontginningsmagtigting
14. (1) Behoudens subartikel (2) kan die Minister 'n prospekteerpermit, vergunning bedoel in artikel 8(1) of ontginningsmagtigting opskort of intrek indien die houer daarvan 'n toepaslike bepaling van hierdie Wet oortree of versuim om daaraan te voldoen: Met dien verstande dat indien sodanige houer 'n bepaling van artikel 38 oortree of versuim om daaraan te voldoen, die Minister die betrokke permit, vergunning of magtigting, na gelang van die geval, moet opskort of intrek.
- (2) Voordat 'n in subartikel (1) bedoelde permit, vergunning of magtigting aldus opgeskort of ingetrek word, bestel die betrokke streekdirekteur 'n skriftelike kennisgewing aan die houer daarvan waarby hy beveel word om binne 'n in die kennisgewing vermelde tydperk die toepaslike bepalings na te kom of die regstellende stappe te doen wat deur die Minister vereis mag word.
- (3) 'n Prospekteerpermit, vergunning bedoel in artikel 8(1) of ontginningsmagtigting kan deur die Minister ingetrek word of die uitreiking of verlening daarvan moet, ondanks enige andersluidende bepalings van hierdie Wet, in opdrag van die Minister geweier word indien, volgens sy oordeel, die veiligheid van die KwaZulu-Regering deur die voortbestaan of uitreiking of verlening daarvan in gevaar gestel kan word.
- Beperking op uitreiking van meer as een prospekteerpermit of ontginningsmagtigting ten opsigte van die selfde mineraal en grond
15. Geen prospekteerpermit of ontginningsmagtigting word ten opsigte van 'n mineraal, ten opsigte van grond of uitskot, na gelang van die geval, uitgereik nie indien 'n prospekteerpermit of ontginningsmagtigting reeds ten opsigte van sodanige mineraal en grond of uitskot, na gelang van die geval, uitgereik is, tensy die streekdirekteur oortuig is dat sodanige eersge noemde uitreiking nie die oogmerk van hierdie Wet met betrekking tot optimale ontginning van minerale, veiligheid, gesondheid of rehabilitasie nadelig sal beïnvloed nie.
- Verval van prospekteerpermit of ontginningsmagtigting
16. 'n Prospekteerpermit of ontginningsmagtigting verval wanneer-
- (a) die tydperk, as daar is, waarvoor so 'n permit of magtigting uitgereik is, verstryk;
- (b) die houer van so 'n permit of magtigting wat ook die houer is van die reg op die betrokke mineraal, ten opsigte van die grond of uitskot, na gelang van die geval, wat die onderwerp van so 'n permit of magtigting uitmaak, ophou om laasgenoemde houer te wees; of
- (c) die toestemming bedoel in artikel 6(1)(b) of 9(1)(b) verval.

HOOFSTUK IV

OPTIMALE ONTGINNING EN BENUTTING VAN MINERALE

- Bevoegdheid van Minister indien toewysing om te prospekteer of myn nie verkry kan word nie
17. (1) Indien die reg op 'n mineraal ten volle of gedeeltelik van die eiendom van grond geskei is en ten volle op die naam van een houer of op die name van meer as een houer in onverdeelde aandele geregistreer is, en iemand wat voornemens is om op sodanige grond na sodanige mineraal te prospekteer of daarvoor te myn die Minister oortuig dat die reg om aldus te prospekteer of te myn nie gereedelik verkry kan word nie weens die feit dat-
- (a) so 'n houer of houters nie gereedelik opgespoor kan word nie; of
- (b) iemand wat uit hoofde van intestate erfopvolging of 'n testamentêre beskikking op sodanige reg op 'n mineraal of 'n onverdeelde aandeel daarin geregtig is, nie sessie daarvan verkry het nie en 'n tydperk van minstens twee jaar verstryk het vanaf die datum waarop hy aldus geregtig geword het, kan die Minister, op skriftelike aansoek van so 'n voornemende persoon en teen betaling van die voorgeskrewe aansoekgeld, ondanks enige andersluidende wetsbepalings-
- (i) die toestemming om te prospekteer vereis deur artikel 6(1)(b), ten opsigte van sodanige mineraal en grond aan sodanige aansoeker verleen; of
- (ii) onderworpe aan die bedinge en voorwaardes waarop tussen so 'n aansoeker en die Sekretaris ooreengekom mag word, en na betaling aan laasgenoemde van die bedrag, as daar is, waarop aldus ooreengekom mag word, aan sodanige aansoeker 'n sertifikaat uitreik wat die betrokke registrateur van aktes magtig om 'n sessie ten gunste van sodanige aansoeker te registreer van die reg op sodanige mineraal of so 'n onverdeelde aandeel daarin ten opsigte van sodanige grond.
- (2) Indien die Minister 'n sertifikaat kragtens subartikel (1)(ii) uitreik, word die reg op die betrokke mineraal of onverdeelde aandeel daarin soos in sodanige sertifikaat omskryf, by die toepassing van artikel 32 van die Registrasie van Aktes Wet, 1937 (Wet No. 47 van 1937), geag deur die KwaZulu-Regering onteien te wees en gevestig te wees in die sessionaris wie se naam in sodanige sertifikaat vermeld is, en 'n sessie van so 'n reg of onverdeelde aandeel daarin wat deur sodanige sertifikaat gemagtig is, kan, ondanks die bepalings van artikel 14 van genoemde Wet, regstreeks ooreenkomstig genoemde artikel 32 ten gunste van sodanige sessionaris geregistreer word.
- (3) Na registrasie van 'n sessie soos beoog in subartikel (2), beskik die Sekretaris oor die bedrag, as daar is, in subartikel (1)(ii) bedoel, indien die betrokke reg of aandeel daarin-
- (a) aan 'n geregistreeerde verband onderworpe is, deur die bedrag van die uitstaande verbandskuld aan die verbandhouer te betaal en die saldo van eersgenoemde bedrag as daar is; of

- (b) nie aan 'n geregistreerde verband onderworpe is nie, deur sodanige bedrag, aan die Meester van die Hoogeregshof binne wie se regsgebied die betrokke grond geleë is, te betaal.
- (4) Artikel 21(2) en (3) van die Onteieningswet, 1975 (Wet No. 63 van 1975), is mutatis mutandis van toepassing op gelde wat ingevolge subartikel (3) deur 'n Meester van die Hoogeregshof ontvang word.
- (5) Die koste in verband met 'n sessie beoog in subartikel (1)(ii) word deur die betrokke sessionaris betaal, en die Wet op Hereregte, 1949 (Wet No. 40 van 1949), is daarop van toepassing.
- (6) (a) Indien iemand wat voornemens is om te prospekteer of te myn op grond wat die onderwerp van 'n mynreg uitmaak, na verstryking van die tydperk bedoel in artikel 49(1)(c) die Minister oortuig dat die reg om aldus te prospekteer of te myn nie geredelik verkry kan word nie weens die feit dat-
- (i) die houër van die betrokke mynreg nie geredelik opgespoor kan word nie; of
 - (ii) iemand wat uit hoofde van intestate erfopvolging of 'n testamentêre beskikking op sodanige mynreg of 'n onverdeelde aandeel daarin geregtig is, nie sessie daarvan verkry het nie en 'n tydperk van minstens twee jaar verstryk het na die datum waarop hy aldus geregtig geword het, kan die Minister, op skriftelike aansoek van so 'n voornemende persoon en teen betaling van die voorgeskrewe aansoekgeld, ondanks enige andersluidende wetsbepalings-
 - (aa) die toestemming om te prospekteer vereis deur artikel 6(1)(b), ten opsigte van sodanige mineraal en grond aan sodanige aansoeker verleen; of
 - (bb) onderworpe aan die bedinge en voorwaardes waarop tussen so 'n aansoeker en die Sekretaris ooreengekom mag word, en na betaling aan laasgenoemde van die bedrag, as daar is, waarop aldus ooreengekom mag word, aan sodanige aansoeker 'n sertifikaat uitreik ten effekte dat die betrokke mynreg aan hom oorgedra is, en die Sekretaris gelas om die nodige aantekeninge in die verband in die betrokke dokumente aan te bring.
- (b) Die koste in verband met 'n oordrag beoog in paragraaf (a)(bb), as daar is, word deur die betrokke aansoeker betaal.
- (7) Na uitreiking van die sertifikaat bedoel in subartikel (6)(a)(bb), beskik die Sekretaris oor die bedrag, as daar is, in daardie subartikel bedoel mutatis mutandis ooreenkomstig subartikel (3), en is artikel 21(2) en (3) van die Onteieningswet, 1975, mutatis mutandis van toepassing op gelde wat aldus deur 'n Meester van die Hoogeregshof ontvang word.

Spesiale ondersoek deur KwaZulu Regering betreffende aanwesigheid, aard en omvang van minerale in of op grond

18. (1) Ondanks enige andersluidende bepalinge van hierdie Wet met betrekking tot die uitreiking van 'n prospekteerpermit, kan die Minister, indien dit volgens sy oordeel in die nasionale belang nodig is, en na 30 dae voorafgaande skriftelike kennisgewing aan die eienaar van die betrokke grond en die betrokke houër van 'n prospekteerpermit of ontginningsmagtiging en die alleenhouër van of al die houers van onverdeelde aandele in die reg op die betrokke mineraal ten opsigte van sodanige grond, enige ondersoek deur die KwaZulu Regering op sodanige grond laat instel ten einde te bepaal of sodanige mineraal in of op sodanige grond voorkom, en indien wel, die aard en omvang daarvan te bepaal.

Inligting ten opsigte van prospektering aan streekdirekteur verstrek te word

- (2) Vergoeding soos deur die Minister bepaal mag word, is deur hom betaalbaar ten opsigte van bewese skade wat as gevolg van 'n in subartikel (1) beoogde ondersoek aan enigiemand berokken word.
19. (1) Die houër van 'n prospekteerpermit of ontginningsmagtiging moet behoudens subartikel (4) binne een jaar na die voltooiing van enige uitgraving of boorgat wat vir die doel van prospektering vanaf die oppervlak van enige grond gegrawe of geboor is, volledige en juiste inligting aan die betrokke streekdirekteur verstrek betreffende-
- (a) die presiese ligging van die uitgraving of boorgat;
 - (b) die datum van voltooiing daarvan;
 - (c) die diepte daarvan;
 - (d) die litologie en diepte van die geologiese formasies waardeur gegrawe of geboor is;
 - (e) die resultate van enige toetse of ontledings wat gedoen is op die minerale wat uit die uitgraving of boorgat verkry is; en
 - (f) alle ander inligting wat deur die prospekteerder met betrekking tot die minerale, uitgraving of boorgat versamel is.
- (2) Behalwe vir sover subartikel (3) anders bepaal en behoudens artikel 10 van die Wet op Steenkool, 1983 (Wet No. 32 van 1983), artikel 53 van die Wet op Kernenergie, 1982 (Wet No. 92 van 1982), en artikel 12A(1) van die Wet op Energie, 1987 (Wet No. 42 van 1987), mag geen inligting wat ingevolge subartikel (1) of 'n ooreenstemmende bepaling van 'n vorige wet verstrek is, gepubliseer word of aan iemand anders as 'n beampte of werknemer in diens van die Departement getoon word nie, tensy die houër van die prospekteerpermit of ontginningsmagtiging bedoel in subartikel (1) skriftelik daartoe ingestem het.
- (3) (a) Die Sekretaris kan, na verstryking van 'n tydperk van 15 jaar na die voltooiing van enige uitgraving of boorgat ten opsigte waarvan inligting verstrek is ingevolge subartikel (1) of 'n ooreenstemmende bepaling van 'n vorige wet, by kennisgewing in die Amptelike Koerant sy voorneme bekend maak om enige van sodanige inligting te publiseer of aan die publiek te openbaar, en so 'n kennisgewing moet 'n lys bevat wat, vir sover dit bekend is-
- (i) die nommer van die uitgraving of boorgat;
 - (ii) die naam van die persoon namens wie dit gegrawe of geboor is;
 - (iii) die ligging van die grond waarop dit gegrawe of geboor is; en
 - (iv) die datum van die voltooiing daarvan, aandui.
- (b) 'n Persoon wat 'n regstreekse of onregstreekse geldelike belang by 'n in paragraaf (a) bedoelde uitgraving of boorgat het en wat beswaar teen die aldus bedoelde publikasie of openbaring van die betrokke inligting wil aanteken, moet sodanige beswaar en die gronde waarop dit berus, binne ses maande na die datum van publikasie van die kennisgewing in daardie paragraaf bedoel, skriftelik by die Sekretaris indien.
- (c) Die Sekretaris kan 'n beswaar wat ooreenkomstig paragraaf (b) by hom ingedien is, handhaaf, of hy kan dit verwerp indien hy oortuig is dat die publikasie of openbaring van die betrokke inligting nie enige regstreekse of onregstreekse geldelike belang van die beswaarmaker sal benadeel nie, en hy moet die beswaarmaker so gou doenlik skriftelik van sy beslissing in kennis stel.
- (d) Behoudens artikel 68(1) (a) (vi) van die Wet op Kernenergie, 1982, 'n beslissing gegee kragtens paragraaf (c) en die uitslag van 'n appel teen so 'n beslissing kragtens artikel 57(2) aangeteken, kan die Sekretaris na verstryking van die tydperk van ses maande in paragraaf (b) bedoel, enige van die betrokke inligting op enige wyse wat hy goedvind, publiseer of aan die publiek openbaar.

- (4) Die streekdirekteur kan, onderworpe aan die voorwaardes wat deur hom bepaal mag word, die houër van 'n prospekteringspermit of ontginningsmagtiging van een of meer van die bepalings van subartikel (1) vrystel.
20. (1) Ondanks enige andersluidende wetsbepalings, maar behoudens artikels 71 (2) (a) en 73 bis van die Registrasie van Aktes Wet, 1937 (Wet No. 47 van 1937), word geen akte wat, indien dit geregistreer sou word, uitvoering sou gee aan-
- (a) die verdeling van 'n reg op enige mineraal of minerale ten opsigte van grond tussen twee of meer persone in onverdeelde aandele; of
- (b) 'n vermeerdering van die aantal houers van onverdeelde aandele in 'n reg op enige mineraal of minerale ten opsigte van grond deur die betrokke registrateur van aktes geregistreer nie, tensy die Sekretaris kragtens subartikel (3) sodanige verdeling of vermeerdering skriftelik goedgekeur het.
- (2) Iemand wat die goedkeuring van die Sekretaris vir 'n verdeling of vermeerdering bedoel in subartikel (1) verlang, moet 'n skriftelike aansoek, tesame met die voorgeskrewe aansoek - geld, asook die dokumente en enige ander inligting wat nodig is om die Sekretaris in staat te stel om tot 'n behoorlike beslissing te geraak, by die betrokke streekdirekteur indien.
- (3) Die Sekretaris kan, na oorweging van 'n aansoek bedoel in subartikel (2), die verdeling of vermeerdering wat die onderwerp van so 'n aansoek uitmaak, skriftelik goedkeur, of weier om dit aldus goed te keur indien hy oortuig is dat so 'n verdeling of vermeerdering enige van die oogmerke van hierdie Wet nadelig kan beïnvloed.
- Beperking op verkryging van regte op minerale deur erfopvolging 21. Indien voldoening aan 'n testamentêre beskikking of die reg betreffende intestate erfopvolging 'n verdeling of vermeerdering soos bedoel in artikel 20(1) tot gevolg sal hê en die Sekretaris kragtens artikel 20(3) geweier het om so 'n verdeling of vermeerdering goed te keur en die betrokke erfgename of begunstigdes nie in staat is om tot 'n ooreenkoms te kom wat nie so 'n verdeling of vermeerdering tot gevolg sal hê nie, moet die eksekuteur in die betrokke boedel, ondanks enige andersluidende wetsbepalings of testamentêre bepalings die betrokke reg op 'n mineraal of 'n onverdeelde aandeel daarin te gelde maak en oor die netto opbrengs daarvan beskik ooreenkomstig sodanige testamentêre beskikking of die reg betreffende intestate erfopvolging, na gelang van die geval.
- Bevoegdheid van Minister in geval van verrigting van mynwerk-saamhede in stryd met oogmerk van optimale ontginning van minerale 22. (1) Indien die houër van 'n ontginningsmagtiging sy mynwerk-saamhede op 'n wyse en skaal verrig wat volgens die oordeel van die Minister die oogmerk van hierdie Wet met betrekking tot die optimale ontginning van enige mineraal nadelig kan beïnvloed, kan die Minister-
- (a) 'n ondersoek na die aangeleentheid laat instel; en
- (b) na oorweging van die kommentaar beoog in subartikel (2), as daar is, en die uitslag van die ondersoek beoog in paragraaf (a), 'n lasgewing uitreik waarby so 'n houër beveel word om binne 'n in die lasgewing vermelde tydperk dié regstellende stappe te doen wat deur die Minister vereis mag word.
- (2) Voordat 'n lasgewing bedoel in subartikel (1) (b) uitgereik word, bestel die streekdirekteur aan die houër bedoel in daardie subartikel 'n skriftelike kennisgewing waarby hy van die stappe deur die Minister beoog, verwittig word en waarby aan hom die geleentheid gebied word om binne 'n in die kennisgewing vermelde tydperk, wat nie minder as 30 dae mag wees nie, kommentaar op die Minister se voorneme betreffende sodanige stappe te lewer.
- Bevoegdheid van Minister in geval van uitoefening van oppervlakregte in stryd met oogmerk van optimale ontginning van minerale 23. (1) Indien iemand die oppervlak van enige grond op 'n wyse benut of laat benut of voornemens is om dit te benut of te laat benut of dit by 'n dorpsbeplanningskema inlyf of laat inlyf of voornemens is om dit aldus in te lyf of te laat inlyf wat volgens die oordeel van die Minister die oogmerk van hierdie Wet met betrekking tot die optimale ontginning van enige mineraal wat in ekonomies ontginbare hoeveelhede in of op sodanige grond of in uitskot op sodanige grond voorkom of mag voorkom, nadelig kan beïnvloed, kan die Minister-
- (a) 'n ondersoek na die aangeleentheid laat instel; en
- (b) na oorweging van die kommentaar beoog in subartikel (2), as daar is, en die uitslag van die ondersoek beoog in paragraaf (a), 'n lasgewing uitreik waarby so 'n persoon beveel word om binne 'n in die lasgewing vermelde tydperk dié regstellende stappe te doen wat deur die Minister vereis mag word.
- (2) Voordat 'n lasgewing bedoel in subartikel (1) (b) uitgereik word, bestel die streekdirekteur aan die persoon bedoel in daardie subartikel 'n skriftelike kennisgewing waarby hy van die stappe deur die Minister beoog, verwittig word en waarby aan hom die geleentheid gebied word om binne 'n in die kennisgewing vermelde tydperk, wat nie minder as 30 dae mag wees nie, kommentaar op die Minister se voorneme betreffende sodanige stappe te lewer.
- Bevoegdheid van Minister om oppervlak- of mineraal- te onteien 24. (1) Indien die Minister dit te eniger tyd in die openbare belang nodig ag om enige reg (met inbegrip van eiendomsreg) of aandeel daarin -
- (a) ten opsigte van grond, die oppervlak of enige gedeelte onder die oppervlak van grond; of
- (b) op mineraal ten opsigte van grond,
- te onteien, kan hy so 'n reg of aandeel daarin onteien: Met dien verstande dat die persoon op wie se versoek sodanige reg of aandeel daarin onteien is, as daar is, die persoon wie se reg daarop of aandeel daarin onteien is vir sodanige reg of aandeel daarin moet vergoed tot 'n bedrag waaromtrent onderling ooreengekom word of, indien 'n ooreenkoms nie bereik kan word nie, tot 'n bedrag wat by arbitrasie ooreenkomstig die Wet of Arbitrasie, 1965 (Wet No. 42 van 1965), bepaal word of deur 'n bevoegde hof indien laasgenoemde persoon laasgenoemde prosedure verkies: Met dien verstande verder dat by die berekening van laasgenoemde bedrag, artikel 12 van die Onteieningswet, 1975 (Wet No. 63 van 1975), mutatis mutandis van toepassing is asof daar 'n onteiening van eiendom of die neem van 'n reg ingevolge laasgenoemde Wet plaasgevind het.
- (2) Die reg op grond of 'n mineraal of aandeel daarin wat kragtens subartikel (1) onteien is, setel in die persoon op wie se versoek dit onteien is.
- Bevoegdheid van Minister om verbod te plaas op besit van mineraal, en bevoegdheid van bestuurder om persoon te deursoek 25. (1) Die Minister kan, indien hy oortuig is dat spesiale maatreëls nodig is teen diefstal van 'n bepaalde mineraal of minerale in die algemeen, onderworpe aan die voorwaardes wat deur hom bepaal mag word, by kennisgewing in die Amptelike Koerant 'n verbod plaas op die besit van so 'n mineraal of minerale.
- (2) Die bestuurder van 'n myn of bedryf kan 'n persoon werksaam by sodanige myn of bedryf deursoek of laat deursoek vir 'n mineraal ten opsigte waarvan die besit kragtens subartikel (1) verbied is.

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VEILIGHEID EN GESONDHEID

- Instelling en werksaamhede 26. (1) (a) Hierby word 'n mynveiligheidskomitee ingestel.

- (b) Die werksaamhede van die mynveiligheidskomitee is om die Sekretaris van advies te bedien oor die toepassing van hierdie Wet ten opsigte van die veiligheid en gesondheid van persone wat by myne werksaam is of oor 'n gebruik of enigiets anders wat die veiligheid of gesondheid van sodanige persone raak of waarskynlik sal raak.
- (c) Die mynveiligheidskomitee moet-
 - (i) minstens een maal elke vier maande; of
 - (ii) op versoek van die Departement of 'n liggaam beoog in subartikel (3) (d), (e) of (f), vergader op 'n tyd en plek deur die voorsitter van die mynveiligheidskomitee bepaal.
- (2) Die mynveiligheidskomitee bestaan uit hoogstens 10 lede wat deur die Minister ooreenkomstig subartikel (3) aangesel word.
- (3) Die Minister stel as lede van die mynveiligheidskomitee aan-
 - (a) die persoon bedoel in artikel 2(2), wat ex officio voorsitter is;
 - (b) 'n persoon wat ten opsigte van mynbouaangeleenthede 'n gediplomeerde mynbestuurder is;
 - (c) 'n persoon wat ten opsigte van mynboutoerusting 'n gediplomeerde werktuigkundige en elektrotegniese ingenieur (myne) is;
 - (d) drie persone benoem deur 'n liggaam of liggame wat, volgens die oordeel van die Minister, verteenwoordigend is van myneienaars;
 - (e) drie persone benoem deur 'n liggaam of liggame wat, volgens die oordeel van die Minister, verteenwoordigend is van werknemers wat by myne werksaam is en wat nie beampptes bedoel in paragraaf (f) is nie; en
 - (f) een persoon benoem deur 'n liggaam of liggame wat, volgens die oordeel van die Minister, verteenwoordigend is van die beampptes wat by myne werksaam is.
- (4) Die Minister kan na goeë dunks weier om iemand wat ingevolge subartikel (3)(d), (e) of (f) as 'n lid van die mynveiligheidskomitee benoem is, aan te stel indien hy rede het om te glo dat so 'n persoon nie 'n geskikte persoon is om so 'n lid te wees nie.
- (5) (a) Die Minister stel, met inagneming van subartikels (3) en (4), vir elke lid van die mynveiligheidskomitee wat ingevolge subartikel (3) (b), (c), (d), (e) of (f) aangestel is 'n plaasvervangende lid aan.
- (b) Wanneer 'n lid van die mynveiligheidskomitee nie op 'n vergadering daarvan aanwesig kan wees nie, moet die plaasvervangende lid wat vir so 'n lid aangestel is, sodanige vergadering in sy plek bywoon en kan hy aan die verrigting aldaar deelneem.
- (6) (a) 'n persoon wat ingevolge subartikel (3) (b) of (c) as lid aangestel is of sy plaasvervangende lid word deur die lede van die mynveiligheidskomitee teenwoordig op 'n vergadering daarvan aangewys om op te tree as voorsitter wanneer die voorsitter om enige rede afwesig is.
- (b) Die meerderheid van die lede van die mynveiligheidskomitee maak 'n kworum vir 'n vergadering daarvan uit.
- (c) Die beslissing van die meerderheid van die lede van die mynveiligheidskomitee wat op 'n vergadering daarvan aanwesig is, maak 'n besluit van die mynveiligheidskomitee uit en, by 'n staking van stemme oor 'n aangeleentheid, het die persoon wat op die betrokke vergadering voorsit, benewens sy beraadslagende stem, 'n beslissende stem.
- (7) (a) 'n Lid van die mynveiligheidskomitee en 'n plaasvervangende lid van so 'n lid wat nie in die voltydse diens van die KwaZulu-Regering is nie word vir 'n tydperk van hoogstens drie jaar aangestel op die voorwaardes en teen die besoldiging, toelaes, subsidies en ander voordele wat deur die Minister met die instemming van die Minister van Finansies bepaal mag word.
- (b) 'n Lid of plaasvervangende lid bedoel in paragraaf (a) wie se ampstermyn verstryk het, kan weer aangestel word.
- (8) 'n Lid van die mynveiligheidskomitee en 'n plaasvervangende lid van so 'n lid wat nie in die voltydse diens van die KwaZulu-Regering is nie, ontruim sy amp indien hy-
 - (a) sonder die voorsitter se toestemming van vier agtereenvolgende vergaderings van die mynveiligheidskomitee afwesig is;
 - (b) insolvent raak;
 - (c) in sy geestesvermoë gekrenk raak en deur 'n bevoegde hof aldus verklaar is; of
 - (d) aan 'n misdryf skuldig bevind word en tot gevangenisstraf sonder die keuse van 'n boete gevonnis word.
- (9) (a) Die Minister kan, na oorlegpleging met die Sekretaris, op die voorwaardes en teen die besoldiging, toelaes, subsidies en ander voordele wat deur hom met die instemming van die Minister van Finansies bepaal mag word, een of meer persone met gespesialiseerde kennis aanstel om die mynveiligheidskomitee, die Sekretaris of enige ander in hierdie Wet bedoelde beampte van advies te dien oor enige aangeleentheid waarmee die mynveiligheidskomitee, die Sekretaris of sodanige ander beampte ingevolge hierdie Wet moet handel.
- (b) 'n Kragtens paragraaf (a) aangestelde persoon kan, wanneer hy skriftelik deur die Sekretaris daartoe gemagtig is, te eniger redelike tyd 'n myn betree en sodanige myn of enige deel daarvan of enige masjinerie aldaar inspekteer of ondersoek ten einde masjinerie aldaar inspekteer of ondersoek ten einde in staat te wees om sy werksaamhede in paragraaf (a) bedoel, te verrig, mits hy nie die werking van die myn onnodig hinder of dwarsboom nie.

- 27. (1) Indien 'n streekmyningingenieur van mening is dat enige gebruik of enigiets anders by 'n myn of bedryf liggaamlike letsel aan iemand kan veroorsaak of nadelig vir sy gesondheid kan wees of op enige wyse 'n gevaar vir sy veiligheid inhou, kan so 'n streekmyningingenieur-
 - (a) enige beampte, werknemer of agent van so 'n myn of bedryf beveel om onmiddellik regstellende stappe te doen; of
 - (b) beveel dat die werksaamhede by so 'n myn of bedryf of deel daarvan opgeskort word, en die daarmee in verband staande opdragte gee wat hy wenslik ag.
- (2) 'n Bevel bedoel in subartikel (1) (b) moet deur die streekdirekteur bekragtig of tersyde gestel word en hy moet die bestuurder van die betrokke myn of bedryf so gou doenlik skriftelik van sy beslissing in kennis stel.
- (3) 'n Bevel kragtens subartikel (1) (b) gegee, tree in werking op 'n tydstop deur die betrokke streekmyningingenieur bepaal en bly van krag totdat dit deur die streekdirekteur tersyde gestel is of totdat daar aan die opdragte van die streekmyningingenieur voldoen is.

- (4) Die bestuurder van 'n myn of bedryf bedoel in subartikel (1) moet alle redelike maatreëls tref om te verseker dat-
- (a) afskrifte van 'n bevel kragtens paragraaf (b) van daardie subartikel gegee onverwyld prominent vertoon word by so 'n myn of bedryf op plekke waar werknemers wie se belange deur so 'n bevel geraak mag word dit kan sien; en
 - (b) 'n afskrif van 'n bevel bedoel in paragraaf (a) beskikbaar gestel word aan 'n vakbond wat werknemers van so 'n myn of bedryf verteenwoordig.
- (5) Behoudens die bepalinge van hierdie Wet is subartikels (1), (2), (3) en (4) *mutatis mutandis* van toepassing in die geval van 'n oortreding of vermoedelike oortreding van of 'n versuim of vermoedelike versuim om te voldoen aan 'n bepaling van hierdie Wet of 'n voorwaarde waaraan 'n magtiging vrystelling of vergunning ingevolge hierdie Wet verleen, onderworpe is.

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28. (1) (a) Indien 'n ongeluk waardeur die dood van of ernstige liggaamlike letsels aan iemand veroorsaak is by 'n myn of bedryf plaasvind, moet ondersoek na die oorsaak van sodanige ongeluk ingestel word deur 'n streekmyningenieur of 'n ander toepaslik ervare en opgeleide persoon deur die Sekretaris aangewys.
- (b) Indien 'n ander ongeluk as dié in paragraaf (a) bedoel, 'n oortreding of 'n vermoedelike oortreding of 'n versuim of vermoedelike versuim om te voldoen aan 'n bepaling van hierdie Wet of 'n voorval in verband met veiligheids- of gezondheidstoestande by 'n myn of bedryf plaasvind, kan ondersoek na so 'n aangeleentheid deur 'n streekmyningenieur of 'n ander toepaslik ervare en opgeleide persoon deur die Sekretaris aangewys, ingestel word.
- (2) (a) Indien 'n vakbond of personeelvereniging waarvan lede werksaam is by 'n besondere myn of bedryf 'n redelike skriftelike versoek aan die Sekretaris rig, met vermelding van redes, dat ondersoek ingestel word na 'n voorval of toestand by so 'n myn of bedryf wat die veiligheid of gesondheid van persone raak of waarskynlik sal raak-
- (i) moet die Sekretaris so 'n voorval of toestand laat ondersoek; en
 - (ii) kan die Sekretaris, indien hy dit wenslik ag, na oorweging van die uitslag van die ondersoek bedoel in subparagraaf (i), ondersoek na so 'n voorval of toestand laat instel en 'n streekmyningenieur of toepaslik ervare en opgeleide persoon aanwys om by so 'n ondersoek voor te sit.
- (b) Indien die Sekretaris weier om 'n ondersoek bedoel in paragraaf (a) (ii) te laat instel, moet hy die uitslag van die ondersoek bedoel in paragraaf (a) (i) aan die vakbond of personeelvereniging bedoel in paragraaf (a) beskikbaar stel.
- (3) Die Sekretaris kan, hetsy voor die aanvang of op enige stadium van 'n ondersoek ingevolge subartikel (1), (2) of (5) ingestel, een of meer ander streekmyningenieurs of toepaslik ervare en opgeleide persone aanwys om by die hou van so 'n ondersoek behulpsaam te wees en hy kan 'n streekmyningenieur of toepaslik ervare en opgeleide persoon aanwys om by so 'n ondersoek voor te sit.
- (4) (a) 'n Ondersoekbeampte wat ingevolge hierdie artikel 'n ondersoek na 'n aangeleentheid instel, moet, indien nodig met die hulp van 'n tolk, die getuienis afneem of op meganiese wyse opneem wat aldaar afgelê word en 'n skriftelike afskrif daarvan, tesame met sy verslag daaroor, aan die streekdirekteur voorlê, wat dit aan die Sekretaris stuur, tensy laasgenoemde anders gelas.
- (b) 'n Skriftelike afskrif van die getuienis en verslag in paragraaf (a) bedoel, moet, indien ondersoek ingestel is na die oorsaak van 'n ongeluk waardeur die dood van iemand veroorsaak is, ook aan die betrokke Prokureur-generaal gestuur word.
- (c) 'n Skriftelike afskrif van die getuienis en verslag bedoel in paragraaf (a) moet op aanvraag en teen betaling van die voorgeskrewe geld deur die streekdirekteur verskaf word.
- (5) Na oorweging van die getuienis en verslag in subartikel (4) (a) bedoel, kan die Sekretaris na goeëddunke vereis dat verdere ondersoek na die betrokke aangeleentheid ingestel word.
- (6) (a) Hierdie artikel doen geen afbreuk aan enige wetsbepaling ingevolge waarvan 'n geregtelike doodsondersoek of ander ondersoek na die dood van iemand weens ander as natuurlike oorsake, ingestel en gereël word nie, en 'n ondersoek in subartikel (1) (a) beoog, word benewens so 'n geregtelike doodsondersoek of ander ondersoek ingestel, maar die ondersoek wat ingevolge daardie subartikel ingestel moet word, kan, in die geval van die dood van iemand, gesamentlik met 'n geregtelike doodsondersoek ingestel na die omstandighede en oorsaak van die sterfte deur 'n regterlike beampte ingevolge die Wet op Geregtelike Doodsondersoeke, 1959 (Wet No. 58 van 1959), ingestel word.
- (b) By 'n gesamentlike ondersoek bedoel in paragraaf (a) moet die regterlike beampte voorsit, en die Wet op Geregtelike Doodsondersoeke, 1959 is daarop van toepassing, maar die ondersoekbeampte moet 'n skriftelike afskrif van die getuienis wat aldaar afgeneem of opgeneem is tesame met sy verslag daaroor aan die streekdirekteur voorlê, wat dit aan die Sekretaris stuur, tensy laasgenoemde anders gelas.

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29. (1) 'n Ondersoekbeampte wat 'n ondersoek ingevolge artikel 28(1), (2) of (5) na 'n aangeleentheid instel of wat by so 'n ondersoek staan voor te sit of voorsit, kan vir die doeleindes van so 'n ondersoek-
- (a) enige persoon gelas of dagvaar om op 'n tyd en plek wat deur hom bepaal mag word, voor hom te verskyn; of
 - (b) iemand wat by die plek waar so 'n ondersoek gehou word, aanwesig is, beveel om-
 - (i) aldaar getuienis af te lê;
 - (ii) 'n dokument of saak wat hy nodig ag vir die behoorlike afhandeling van sodanige ondersoek, voor te lê; of
 - (iii) enige ander handeling met betrekking tot hierdie Wet wat deur hom gelas word, te verrig.
- (2) (a) Indien iemand rede het om te vermoed dat hy vir enige aangeleentheid wat ingevolge artikel 28(1), (2) of (5) ondersoek moet of kan word, aanspreeklik gehou kan word, het hy die reg, maar is behoudens subartikel (1), nie verplig, om by so 'n ondersoek teenwoordig te wees en deur 'n ander persoon bygestaan of verteenwoordig te word.
- (b) Indien by 'n ondersoek ingevolge artikel 28(1), (2) of (5) ingestel, getuienis afgelê is of word waaruit iemand redelikerwys kan aflei dat hy van 'n oortreding van 'n bepaling van hierdie Wet of 'n versuim om daaraan te voldoen, aangekla kan word of op enige wyse verantwoordelik gehou kan word vir die aangeleentheid wat die onderwerp van so 'n ondersoek uitmaak, het hy die reg, maar is nie verplig nie, om getuienis af te lê en, hetsy persoonlik of deur 'n verteenwoordiger-
- (i) aangehoor te word;
 - (ii) 'n getuie te roep of die ondersoekbeampte te versoek om namens hom 'n getuie te gelas of te dagvaar, hetsy om getuienis aldaar af te lê of om 'n dokument of saak voor te lê;
 - (iii) iemand wat getuienis by so 'n ondersoek aflê, onder kruisverhoor te neem; en

- (iv) insae te verkry in enige dokument wat as bewys voorgelê is.
- (3) Enigiemand wat 'n ondersoekbeamppte oortuig dat hy 'n wesenlik belang het by 'n ondersoek ingevolge artikel 28(1), (2) of (5) ingestel, kan, hetsy persoonlik of deur 'n verteenwoordiger, die vrae wat die ondersoekbeamppte as relevant by sodanige ondersoek beskou, stel aan 'n getuie wat aldaar getuienis aflê.
- (4) (a) 'n Onderzoekbeamppte kan by 'n ondersoek ingevolge artikel 28 (1), (2) of (5) ingestel, 'n eed wat gewoonlik aan 'n getuie in 'n gereghof opgelê word, aan 'n getuie opelê voordat hy getuienis aflê of, indien hy beswaar het teen die aflegging van so 'n eed, kan hy 'n bevestiging doen, en so 'n bevestiging het dieselfde regsrag en -gevolg asof hy os 'n eed afgelê het.
- (b) Niemand wat by 'n ondersoek ingevolge artikel 28(1), (2) of (5) ingestel, as 'n getuie opgeroep word, mag, wanneer hy daartoe versoek word, weier of versuim om 'n eed af te lê of, indien hy daarteen beswaar het, 'n bevestiging te doen nie.
- (c) Niemand aan wie 'n eed bedoel in paragraaf (a) opgelê is of wat 'n aldus bedoelde bevestiging gedoen het, mag valse getuienis aflê wetende dat dit vals is of 'n verklaring onder eed of bevestiging maak wat teenstrydig is met 'n verklaring wat hy by 'n vorige geleentheid onder eed of bevestiging gemaak het nie.
- (5) 'n Getuie by 'n ondersoek ingevolge artikel 28(1), (2) of (5) ingestel, het dieselfde voorregte met betrekking tot die beantwoording van vrae of die voorlegging van dokumente of sake as wat hy onder dieselfde omstandighede sou gehad het indien hy as 'n getuie voor 'n gereghof gedagvaar was.
- (6) (a) 'n ondersoek of enige deel daarvan ingevolge artikel 28 (1), (2) of (5) ingestel, vind, vir sover dit volgens die oordeel van die ondersoekbeamppte prakties moontlik of wenslik is, in die openbaar plaas.
- (b) die ondersoekbeamppte kan besluit of 'n getuie wat by 'n ondersoek bedoel in paragraaf (a) getuienis moet aflê of afgelê het, teenwoordig moet wees terwyl ander getuies hul getuienis aldaar afgelê.
- Dwarsboring van ondersoek of ondersoekbeamppte of versuim om hulp te verleen** 30. Niemand mag, met betrekking tot 'n ondersoek ingevolge artikel 28(1), (2) of (5) ingestel-
- (a) sonder redelike verskoning in gebreke bly om 'n lasgewing, dagvaarding of bevel uitgereik of gegee kragtens artikel 29(1) of uit hoofde van 'n versoek kragtens artikel 29 (2) (b) (ii), na te kom nie;
- (b) weier of versuim om na sy beste wete te antwoord op 'n vraag regtens aan hom gestel deur of met instemming van die ondersoekbeamppte nie: Met dien verstande dat niemand verplig kan word om 'n vraag te beantwoord waardeur hy homself kan inkrimineer nie;
- (c) 'n persoon wat kragtens artikel 29(1) of uit hoofde van 'n versoek kragtens artikel 29(2) (b) (ii) gelas, gedagvaar of beveel is, op enige wyse hoegenaamd adviseer, aanmoedig, aanhits, beveel of oorhaal om nie sodanige lasgewing, dagvaarding of bevel na te kom nie of hom op enige wyse verhinder om dit te doen nie;
- (d) weier of versuim om, wanneer die ondersoekbeamppte dit vereis, hom van die middele te voorsien of aan hom die hulp te verleen wat nodig is om sodanige ondersoek in te stel nie;
- (e) weier of versuim om, wannneer die ondersoekbeamppte dit vereis, 'n ondersoek by te woon nie; of
- (f) 'n ondersoekbeamppte opsetlik beledig of die verrigtinge aldaar opsetlik onderbreek nie.
- Aanstelling en verantwoorde-likhede van bestuurder en ander persone en verantwoorde-likhede van eienaar** 31. (1) Die eienaar van 'n myn wat gewerk of bewerk word of van 'n bedryf moet-
- (a) 'n bestuurder aanstel, wat-
- (i) verantwoordelik is vir die beheer en bestuur van, en leiding van die werknemers by, sodanige myn of bedryf;
- (ii) alle redelike maatreëls tref om die veiligheid en gesondheid van die werknemers en behoorlike dissipline by sodanige myn of bedryf te verseker; en
- (iii) alle redelike maatreëls tref om te verseker dat daar met betrekking tot sodanige myn of bedryf aan die bepalinge van hierdie Wet voldoen word; en
- (b) so 'n bestuurder van voldoende fondse en middele voorsien ten einde hom in staat te stel om sy verantwoorde-likhede bedoel in paragraaf (a) uit te voer.
- (2) 'n Aanstelling ingevolge subartikel (1) moet skriftelike geskied en moet binne drie dae na die datum daarvan skriftelik by die betrokke streekdirekteur deur die betrokke eienaar aangemeld word, vergesel van 'n afskrif van die aanstellingsbrief wat deur sowel die eienaar as die bestuurder onderteken is.
- (3) Die bestuurder moet die voorgeskrewe persone aanstel om hom behulpsaam te wees: Met dien verstande dat geen sodanige aanstelling hom onthef van sy persoonlike verantwoordelikhede ingevolge subartikel (1) nie.
- (4) Die bestuurder moet enige voorgeskrewe ongeluk op die voorgeskrewe wyse by die betrokke streekdirekteur aanmeld.
- (5) Die eienaar van 'n myn wat nie gewerk of bewerk word nie moet te alle tye alle redelike maatreëls tref om beserings, lewensverlies of skade van watter aard ook al te voorkom wat deur so 'n myn veroorsaak mag word.
- Verbod op ondergrondse werk deur sekere jeugdiges en vrouens** 32. (1) Geen persoon onder die ouderdom van 16 jaar mag ondergronds in 'n myn werk nie, en niemand mag so 'n persoon aldus laat werk of toelaat om aldus te werk nie.
- (2) Geen vrouens mag ondergronds in 'n myn werk nie, en niemand mag 'n vrouepersoon aldus laat werk of toelaat om aldus te werk nie, behalwe-
- (a) vrouepersone wat bestuursposisies beklee en wat nie handewerk verrig nie;
- (b) vrouepersone in diens van gesondheids- of welsynsdienste;
- (c) vrouepersone wat in die loop van hul studies 'n tydperk ondergronds in 'n myn moet deurbring vir opleiding of navorsingsdoeleindes; of
- (d) enige ander vrouepersone wat by geleentheid ondergronds in 'n myn moet gaan vir die doeleindes van 'n beroep waarby geen handewerk betrokke is nie.
- Permitte vir gebruik van toerusting** 33. (1) Niemand mag 'n hysinstallasie, hyser, stoelhyser of stoomketel by 'n myn of bedryf gebruik nie, tensy 'n voorgeskrewe permit vir die gebruik daarvan deur die betrokke streekdirekteur uitgereik is nadat dit geïnspekteer, getoets en vir gebruik geskik bevind is deur 'n streekmyningenieur: Met dien verstande dat so 'n streekmyningenieur, nadat hy sodanige hysinstallasie, hyser, stoelhyser of stoomketel geïnspekteer, getoets en vir gebruik geskik bevind het, tydelik vergunning vir die gebruik daarvan kan verleen
- (2) Die werking van 'n hysinstallasie, hyser, stoelhyser of stoomketel by 'n myn of bedryf kan deur 'n streekmyningenieur

- opgeskort word onderworpe aan die voorwaardes en opdragte wat hy in belang van veiligheid nodig ag, en die betrokke streekdirekteur kan, op aanbeveling van so 'n streekmyningenieur, 'n permit ingevolge subartikel (1) uitgereik, by skriftelike kennisgewing intrek of wysig.
- Praktykkodes 34. (1) Die bestuurder van 'n myn of bedryf moet, indien dit deur die betrokke streekdirekteur vereis word, praktykkodes opstel en toepas ten opsigte van ondergrondse ventilasiesistels, bestuttingstelsels, vervoerstelsels, springstofhantering, brandvoorkoming en -bestryding, selfreddingsprosedures en enige ander aangeleentheid in verband met 'n myn of bedryf wat deur die betrokke streekdirekteur vereis mag word, en sodanige praktykkodes moet skriftelik deur die betrokke streekdirekteur goedgekeur word nadat dit deur 'n streekmyningenieur nagegaan en geskik verklaar is en na oorweging van enige kommentaar beoog in subartikel (2), as daar is: Met dien verstande dat so 'n streekmyningenieur, nadat hy sodanige praktykkodes nagegaan en geskik verklaar het, tydelik vergunning vir die toepassing daarvan kan verleen.
- (2) Die betrokke streekdirekteur moet aan die werknemers van 'n myn of bedryf bedoel in subartikel (1) of aan 'n vakbond wat hulle verteenwoordig, kennis gee waarby aan sodanige werknemers of vakbond die geleentheid gebied word om binne 'n in die kennisgewing vermelde tydperk, wat nie minder as 30 dae mag wees nie, kommentaar op 'n vereiste gestel aan 'n bestuurder van 'n myn of bedryf ingevolge subartikel (1) te lewer.
- (3) Die toepassing van 'n praktykkode beoog in subartikel (1) kan deur 'n streekmyningenieur opgeskort word onderworpe aan die voorwaardes en opdragte wat hy in belang van veiligheid en gesondheid nodig ag, en die betrokke streekdirekteur kan, op aanbeveling van so 'n streekmyningenieur, die goedkeuring van sodanige praktykkode by skriftelike kennisgewing intrek of sodanige praktykkode laat wysig.
- (4) Niemand mag 'n bepaling van 'n praktykkode wat ingevolge subartikel (1) goedgekeur is, oortree of versuim om daaraan te voldoen.
- Verskaffing of herstel van sekere toerusting ooreenkomstig vereistes van bestuurder 35. (1) Indien 'n bestuurder van 'n myn of bedryf met betrekking tot die veilige gebruik of aanwending van enige apparaat, masjinerie of veiligheidstoerusting vereistes stel vir die verskaffing of herstel daarvan, mag niemand sodanige apparaat, masjinerie of veiligheidstoerusting in stryd met sodanige vereistes verskaf of herstel nie.
- (2) By die toepassing van subartikel (1) word enige deel van apparaat, masjinerie of veiligheidstoerusting geag sodanige apparaat, masjinerie of veiligheidstoerusting te wees.
- Verbod op verkryging van bevoegdheidskaat onder valse voorwendsels 36. Niemand mag 'n voorgeskrewe bevoegdheidsertifikaat deur middel van bedrog, oneerlikheid, valse voorwendsels of voorlegging of indiening van 'n vals of vervalste dokument verkry of poog te verkry nie.
- Nalatige handelinge of versuim misdryf onder sekere omstandighede 37. Niemand mag deur 'n nalatige handeling, waar ook al gepleeg, of deur 'n nalatige versuim-
- (a) die veiligheid of gesondheid van 'n persoon in of by 'n myn of bedryf in gevaar bring of waarskynlik in gevaar bring nie; of
- (b) ernstige liggaamlike letsel aan 'n persoon in of by 'n myn of bedryf veroorsaak nie.

HOOFSTUK VI

REHABILITASIE VAN OPPERVLAK

- Rehabilitasie van oppervlak van grond 38. Die rehabilitasie van die oppervlak van grond betrokke by prospektering of mynbou moet deur die betrokke houer van die prospekterpermit of ontginningmagtiging gedoen word-
- (a) ooreenkomstig die ingevolge artikel 39 goedgekeurde rehabilitasieprogram, as daar is;
- (b) as 'n integrerende deel van die betrokke prospekter- of mynwerkzaamhede;
- (c) gelyktydig met sodanige werkzaamhede, tensy die streekdirekteur skriftelik anders bepaal; en
- (d) tot tevredenheid van die betrokke streekdirekteur.
- Uitlegplan en rehabilitasieprogram 39. (1) 'n Uitlegplan en rehabilitasieprogram ten opsigte van die oppervlak van grond betrokke by prospekter- of mynwerkzaamhede of sodanige voorgenome werkzaamhede, moet deur die betrokke houer van die prospekterpermit of ontginningmagtiging aan die betrokke streekdirekteur vir sy goedkeuring voorgelê word voordat daar met sodanige werkzaamhede 'n aanvang gemaak word.
- (2) Die streekdirekteur kan, op skriftelike aansoek en onderworpe aan die voorwaardes wat deur hom bepaal mag word, die houer van 'n prospekterpermit of ontginningmagtiging van een of meer van die bepalings van subartikel (1) vrystel of 'n gewysigde uitlegplan of rehabilitasieprogram goedkeur.
- (3) Voordat die streekdirekteur 'n uitlegplan en rehabilitasieprogram bedoel in subartikel (1) of 'n gewysigde uitlegplan of rehabilitasieprogram bedoel in subartikel (2) goedkeur of 'n vrystelling kragtens subartikel (2) verleen, moet hy met die beamptes wat onderskeidelik deur die Minister van Landbou en Bosbou en die KwaZulu-Buro vir Natuurlike Hulpbronne vir dié doel aangewys is, daaromtrent oorleg pieeg.
- Verwydering van geboue, strukture en voorwerpe 40. Wanneer 'n prospekterpermit of ontginningmagtiging wat gehou word, opgeskort, ingetrek of opgesê word of verval, en die prospektering na of ontginning van 'n mineraal wat gemagtig was kragtens so 'n permit of magtiging finaal gestaak word, moet die persoon wat onmiddellik voor sodanige opskorting, intrekking, opsegging of verval die houer van so 'n permit of magtiging was, na gelang van die geval, alle geboue, strukture of enigiets anders wat opgerig of aangebring is in verband met prospekter- of mynwerkzaamhede op die oppervlak van die betrokke grond sloop en alle puin sowel as enige ander voorwerp wat die betrokke streekdirekteur mag veries, verwyder en sodanige oppervlak tot tevredenheid van sodanige streekdirekteur sover prakties moontlik tot sy natuurlike staat herstel binne 'n tydperk deur hom bepaal: Met dien verstande dat sodanige sloping of verwydering nie van toepassing is nie ten opsigte van geboue, strukture of voorwerpe-
- (a) wat ingevolge enige ander Wet nie gesloop of verwyder mag word nie;
- (b) wat deur sodanige streekdirekteur bepaal mag word of waarvoor hy, onderworpe aan die voorwaardes wat deur hom bepaal mag word, vrystelling verleen het; of
- (c) wat die eienaar van die gron wil behou en waarvoor dienooreenkomstig met sodanige gewese houer van so 'n permit of magtiging skriftelik ooreengekom is.
- Beperkings met betrekking tot gebruik van oppervlak van 41. (1) Die streekdirekteur kan voorskrifte uitreik en voorwaardes bepaal met betrekking tot die gebruik van die oppervlak van grond wat die onderwerp van 'n prospekterpermit of ontginningmagtiging uitmaak of waarop 'n bedryf geleë is ten einde enige skade aan of die versteuring van die oppervlak, plantegroei, omgewing of waterbronne tot die minimum wat nodig is vir prospekter- of mynwerkzaamhede of verwerking van 'n mineraal, te beperk: Met dien ver-

grond

stande dat sodanige voorskrifte en voorwaardes nie so uitgelê word dat dit die houër van so 'n prospekterpermit of ontginningsmagtiging of die eienaar van so 'n bedryf na gelang van die geval in 'n beter posisie plaas vis-à-vis die eienaar van sodanige grond met betrekking tot die gebruik van die oppervlak daarvan nie.

(2) Niemand mag 'n in subartikel (1) bedoelde voorskrif of voorwaarde oortree of versuim om daaraan te voldoen nie.

Verkryging of
koop van sekere
grond en betaling
van vergoeding
onder sekere
omstandighede

42. (1) (a) Indien die Minister, nadat skriftelike vertoë aan hom gerig is deur die eienaar van grond, behalwe grond wat gehou word kragtens 'n uithouding, vergunning of reg bedoel in artikel 48 (1) (a) gedurende die bestaan van sodanige uithouding, vergunning of reg, of deur 'n persoon wat geregtig is om op sodanige grond te myn en wat besig of voornemens is om op sodanige grond te myn vir 'n mineraal, en na die ondersoek wat die Minister nodig ag, en na oorlegpleging met die Minister van Landbou en Bosbou oortuig is-
- (i) dat die gebruik of die voorgenome gebruik van sodanige grond, of 'n gedeelte daarvan, deur sodanige persoon vir die myn van minerale of vir doeleindes wat daarmee in verband staan, die behoorlike gebruik van sodanige grond of sodanige gedeelte vir boerderydoeleindes verhoed of belemmer, of waarskynlik sal verhoed of belemmer; of
 - (ii) dat 'n gedeelte van sodanige grond wat nie deur sodanige persoon vir myndoeleindes of doeleindes wat daarmee in verband staan, gebruik word nie of waarskynlik nie aldus deur hom gebruik sal word nie, 'n onekonomiese boerdery-eenheid is of waarskynlik sal word, moet hy sodanige eienaar en sodanige persoon skriftelik dienooreenkomstig in kennis stel, en daarop word daar, behoudens paragraaf (d) met uitsluiting van enigiemand anders, 'n reg in die KwaZulu-Regering gevestig om sodanige grond, of die gedeelte daarvan wat die Minister mag bepaal, te verkry.
- (b) Indien die Minister nie oortuig is soos beoog in paragraaf (a) (i) of (ii) nie, moet hy die aldus bedoelde eienaar en persoon skriftelik dienooreenkomstig in kennis stel.
- (c) 'n Afskrif van vertoë wat ingevolge paragraaf (a) gerig is, moet, indien sodanige vertoë deur die eienaar van die betrokke grond gerig is, deur sodanige eienaar aan die persoon wat aldus geregtig is om op sodanige grond te myn, bestel word of, indien sodanige vertoë deur sodanige persoon gerig is, deur sodanige persoon aan sodanige eienaar bestel word.
- (d) Ondanks die bepalings van paragraaf (a) word geen reg om grond te verkry uit hoofde van 'n kennisgewing kragtens daardie paragraaf in die KwaZulu-Regering gevestig nie indien die Minister of die Sekretaris binne drie maande na die datum van sodanige kennisgewing skriftelik in kennis gestel is-
- (i) deur die eienaar van sodanige grond dat hy die eiendom van sodanige grond wil behou ongeag die leë waarop sodanige grond deur die in paragraaf (a) bedoelde persoon vir myndoeleindes of doeleindes wat daarmee in verband staan, versteur, beskadig of gebruik word of waarskynlik versteur, beskadig of gebruik sal word; of
 - (ii) deur sodanige eienaar en sodanige persoon dat hulle 'n ooreenkoms met mekaar aangegaan het vir die betaling van vergoeding vir skade wat veroorsaak is of waarskynlik veroorsaak sal word as gevolg van mynwerkzaamhede of werksaamhede wat daarmee in verband staan op sodanige grond.
- (e) Indien die Minister oortuig is, na oorweging van enige skriftelike vertoë aan hom gerig deur die eienaar bedoel in paragraaf (d)(i), en na die ondersoek wat die Minister nodig ag-
- (i) dat sodanige eienaar skade gely het of waarskynlik sal ly as gevolg van-
 - (aa) grondversteuring of -versakking wat veroorsaak is deur mynwerkzaamhede of werksaamhede wat daarmee in verband staan; of
 - (bb) enige versperring op grond opgerig deur enige persoon wat geregtig is om op sodanige grond te myn en besig of voornemens is om daarop vir 'n mineraal te myn; en
 - (ii) dat die eienaar alle redelike pogings aangewend het om 'n skikking met die ander persoon vir die betaling van vergoeding vir die skade in subparagraaf (i) bedoel, aan te gaan, moet hy, behoudens paragraaf (f), sodanige ander persoon skriftelik gelas om 'n skikking met sodanige eienaar aan te gaan vir die betaling van vergoeding vir sodanige skade.
- (f) Die eienaar van die betrokke grond mag nie verdere vergoeding kragtens paragraaf (e) verhaal nie-
- (i) ten opsigte van enige skade wat gely is of waarskynlik gely sal word as gevolg van grondversteuring of -versakking in paragraaf (e) (i) (aa) beoog indien vergoeding vir sodanige grondversteuring of -versakking alreeds aan die eienaar of sy regsvoorganger betaal is: Met dien verstande dat hierdie verbod nie die eienaar van sodanige grond belet om skadevergoeding ten opsigte van enige verdere versteurings of versakkings te verhaal nie; of
 - (ii) ten opsigte van enige skade gely as gevolg van enige versperring in paragraaf (e) (i) (bb) beoog, indien-
 - (aa) die reg om sodanige versperring op te rig, verkry is deur 'n voorbehoud van regte op die tydstep waarop die mineraalregte van die eiendom van die grond geskei is; of
 - (bb) die reg om sodanige versperring op te rig, deur 'n serwituut of andersins verkry is deur die persoon wat geregtig is om op sodanige grond te myn.
- (g) Die Minister moet die persoon in paragraaf (a) bedoel, skriftelik in kennis stel van 'n kennisgewing kragtens paragraaf (d) deur die Minister of die Sekretaris van die betrokke eienaar ontvang.
- (h) Indien die eienaar van die betrokke grond die Minister of die Sekretaris in kennis gestel het soos in paragraaf (d) beoog of indien 'n skikking na 'n lasgewing soos in paragraaf (e) beoog, aangegaan is, of indien vergoeding by arbitrasie of deur 'n bevoegde hof kragtens subartikel (3) bepaal is, is nóg sodanige eienaar nóg 'n latere eienaar van sodanige grond, nóg 'n persoon wat 'n belang in sodanige grond het of verkry, geregtig om, terwyl die in paragraaf (a) of (e) bedoelde persoon, of sy opvolger in titel, die reg het om op sodanige grond vir die betrokke mineraal te myn, by 'n hof aansoek te doen om 'n bevel om enigiets ingevolge 'n ooreenkoms beoog in paragraaf (d) (ii), 'n skikking ingevolge paragraaf (e) of 'n arbitrasietoekening of 'n hofbevel kragtens subartikel (3) toegelaat, te verbied en daardeur laasgenoemde persoon of sy benoemde te belet om op sodanige grond met die myn van sodanige mineraal of werksaamhede wat daarmee in verband staan, te begin of voort te gaan.
- (i) 'n Eienaar-
- (i) wat die Minister of die Sekretaris in kennis gestel het soos in paragraaf (d) (i) beoog; of
 - (ii) wat onderskeidelik 'n ooreenkoms aangegaan of 'n skikking aangegaan het in paragraaf (d) (ii) of (e) bedoel; of
 - (iii) ten gunste van wie vergoeding by arbitrasie of deur 'n bevoegde hof kragtens subartikel (3) toegestaan is, moet binne 'n tydperk van een maand vanaf die datum van sodanige kennisgewing, ooreenkoms of skikking of toestaan van vergoeding, na gelang van die geval, sy titelbewys ten opsigte van die betrokke grond aan die

Sekretaris voorlê om aan die betrokke registrateur van aktes gestuur te word, wat daarop die endossement en in die gepaste registers die inskrywings moet aanbring wat hy nodig ag ten einde die uitwerking van paragraaf (h) ten opsigte van sodanige grond weer te gee, en indien sodanige eienaar versuim om genoemde titelbewys binne sodanige tydperk aldus voor te lê, moet die betrokke registrateur nogtans sodanige inskrywings op die skriftelike versoek van die Sekretaris aanbring en sodanige endossement aanbring indien die titelbewys teen eniger tyd om die een of ander rede by hom ingedien word.

- (2) Indien die Minister van Landbou en Bosbou van mening is dat grond ten opsigte waarvan daar ingevolge subartikel (1)(a) 'n reg in die KwaZulu Regering gevestig is-
 - (a) deur die KwaZulu-Regering verkry moet word, word sodanige grond geag vir openbare doeleindes benodig te wees, en daarop is die Onteiningswet, 1975 (Wet No. 63 van 1975), *mutatis mutandis* van toepassing in verband met sodanige verkryging; of
 - (b) nie deur die KwaZulu-Regering verkry moet word nie, verval sodanige reg, en daarop moet die Minister 'n kennisgewing laat bestel aan die persoon bedoel in subartikel (1) (a) waardeur hy gelas word om sodanige grond te koop en oordrag daarvan te neem.
- (3) Indien 'n persoon aan wie 'n kennisgewing bedoel in subartikel (2) (b) bestel is en die eienaar van die betrokke grond nie in staat is om oor die koopprys van sodanige grond ooreen te kom nie, of indien sodanige persoon en sodanige eienaar, na 'n lasgewing van die Minister, nie 'n skikking vir vergoeding beoog in subartikel (1)(e) kan bereik nie, word sodanige koopprys of sodanige vergoeding by arbitrasie ooreenkomstig die Wet op Arbitrasie, 1965 (Wet No. 42 van 1965), bepaal of deur 'n bevoegde hof indien sodanige eienaar laasgenoemde prosedure verskies: Met dien verstande dat-
 - (a) by die berekening van sodanige koopprys of sodanige vergoeding, na gelang van die geval, by arbitrasie of deur so 'n hof, die bepalinge van artikel 12 van die Onteiningswet, 1975, *mutatis mutandis* van toepassing is asof daar onderskeidelik 'n onteining van eiendom of die neem van 'n reg plaasgevind het, en by dié toepassing word 'n verwysing in daardie artikel na "kennisgewingsdatum" uitgelê as 'n verwysing na die datum van die kennisgewing deur die Minister ingevolge subartikel (1) (a); en
 - (b) by die berekening van sodanige vergoeding-
 - (i) enige rehabilitasie wat sodanige grond gedoen is of gedoen sal word; en
 - (ii) enige vergoeding wat sodanige persoon of sy regsvoorganger aan sodanige eienaar of sy regsvoorganger betaal het of onderneem het om te betaal, in ag geneem moet word.
- (4) (a) Indien 'n persoon aan wie 'n lasgewing bedoel in subartikel (1) (e) of aan wie 'n kennisgewing bedoel in subartikel (2) (b) bestel is, versuim om binne 'n tydperk van drie maande-
 - (i) vanaf die datum van sodanige lasgewing of sodanige kennisgewing; of
 - (ii) indien 'n geskil oor die vergoeding vir die betrokke skade of oor die koopprys van die betrokke grond na arbitrasie of 'n bevoegde hof verwys is, vanaf die datum waarop die vergoeding of die koopprys van sodanige grond by arbitrasie of deur so 'n hof bepaal is, 'n skriftelike ooreenkoms met die eienaar van sodanige grond aan te gaan vir die betaling van vergoeding of vir die koop van sodanige grond, kan die Minister, indien hy oortuig is dat sodanige versuim te wyte is aan die toedoen van sodanige persoon, hom skriftelik verbied om, tot tyd en wyl die Minister anders bepaal, met mynwerksaamhede op sodanige grond te begin of voort te gaan.
- (b) Die Minister kan die tydperk van drie maande bedoel in paragraaf (a) verleng indien hy oortuig is dat 'n verlenging geregverdig is.
- (5) Niemand mag 'n verbod wat kragtens subartikel (4) op hom gelê is, oortree nie.
- (6) (a) Ondanks andersluidende wetsbepalinge maar sonder om afbreuk aan subartikel (1) (h) te doen, is niemand ten opsigte van grond in verband waarmee daar vertoë bedoel in subartikel (1) gerig is, geregtig om gedurende die tydperk van nege maande wat volg op die datum waarop sodanige vertoë gerig is, by 'n hof aansoek te doen om 'n bevel waardeur 'n persoon wat die reg het om op sodanige grond vir die betrokke mineraal te myn verbied word om op sodanige grond met die myn van sodanige mineraal of werksaamhede wat daarmee in verband staan, te begin of voort te gaan nie, tensy die Minister voor die verstryking van sodanige tydperk die eienaar en die persoon bedoel in subartikel (1) ooreenkomstig paragraaf (b) van daardie subartikel in kennis gestel het of sodanige persoon ooreenkomstig paragraaf (g) van daardie subartikel in kennis gestel het.
- (b) Geen bevel in paragraaf (a) bedoel, word deur 'n hof ten opsigte van die aldus bedoelde grond toegestaan nie indien die persoon wat geregtig is om op sodanige grond vir die betrokke mineraal te myn, sekerheid ten genoeg van die griffier van die hof gestel het ter dekking van verlies of skade wat deur die persoon wat om die bevel aansoek doen, gely sal word of waarskynlik gely sal word as gevolg van die myn vir sodanige mineraal, of werksaamhede wat daarmee in verband staan, deur so 'n geregtigde persoon of sy benoemde op sodanige grond.
- (7) Die koste in verband met die oordrag van grond ten opsigte waarvan 'n kennisgewing bedoel in subartikel (2) (b) bestel is, word betaal deur die persoon aan wie sodanige kennisgewing bestel is.
- (8) In hierdie artikel beteken-
 - (a) "grond" nie ook 'n reg op minerale nie en
 - (b) "versperring" enige onroerende saak op grond vir mynwerksaamhede of werksaamhede wat daarmee in verband staan opgerig deur die persoon wat geregtig is om op sodanige grond te myn, en ook enige dam of stortplek van slyk, klip of enige ander residu geproduseer in die loop van sodanige mynwerksaamhede op sodanige grond.
- (9) Ondanks die herroeping van die Aanvullende Wet op die Mineralewette, 1975 (Wet No. 10 van 1975), by artikel 68 (1), word met enige skriftelike vertoë gerig ooreenkomstig artikel 6 van genoemde Wet en wat voor die inwerkingtreding van hierdie Wet ontvang is, gehandel asof hierdie Wet nie aangeneem is nie.

HOOFSTUK VII

OORGANGSBEPALINGS

43. (1) 'n Persoon, met inbegrip van sy opvolger in titel of regverkrygende, wat onmiddellik voor die inwerkingtreding van hierdie Wet onderskeidelik ingevolge artikel 5 van die Wet op Edelgesteentes, 1964 (Wet No. 73 van 1964), of artikel 12 van die Wet op Mynregte, 1967 (Wet No. 20 van 1967), aanspraak kon maak op die alleenreg of die uitsluitende reg om na 'n mineraal waarop die reg ten opsigte van die betrokke grond vir die KwaZulu-Regering voorbehou is, te prospekter, word vir die doeleindes van die uitreiking van 'n prospekterpermit geag vir 'n tydperk van vyf jaar of dié langer tydperk wat deur die Minister op skriftelike aansoek goedgekeur mag word, die alleenhouer te wees van die reg op sodanige mineraal ten opsigte van sodanige grond: Met dien verstande dat indien 'n benoemingsooreenkoms

Sekere persone geag houters van regte op minerale te wees, en betaling van vergoeding deur Minister

ten opsigte van sodanige mineraal en grond bestaan, die by sodanige benoemingsooreenkoms benoemde persoon, met inbegrip van sy opvolger in titel of regverkrygende, vir die doeleindes van die uitreiking van 'n prospekterpermit geag word die alleenhouer te wees van die reg op sodanige mineraal ten opsigte van sodanige grond vir die duur van sodanige benoemingsooreenkoms wat binne sodanige tydperk van vyf jaar of sodanige goedgekeurde langer tydperk val.

- (2) (a) Geen reg op 'n mineraal wat ten opsigte van grond aan die KwaZulu-Regering voorbehou is soos bedoel in subartikel (1), word gedurende 'n tydperk van vyf jaar of die langer tydperk wat deur die Minister kragtens subartikel (1) goedgekeur is, vervreem of geen toestemming bedoel in artikel 8(2) of 9(2) word ten opsigte van sodanige mineraal gedurende genoemde tydperk verleen nie, behalwe aan die persoon, of sy benoemde, wat ooreenkomstig subartikel (1) geag word die alleenhouer van die reg op sodanige mineraal ten opsigte van sodanige grond te wees.
- (b) Indien die Minister na verstryking van 'n tydperk van vyf jaar of dié langer tydperk wat deur hom kragtens subartikel (1) goedgekeur is, aan iemand anders as die persoon in paragraaf (a) bedoel -
 - (i) die in daardie paragraaf bedoelde reg op 'n mineraal kragtens artikel 64(1) vervreem; of
 - (ii) toestemming bedoel in artikel 8(2) of 9(2) ten opsigte van die betrokke mineraal verleen,
 betaal die Minister vergoeding aan die in paragraaf (a) bedoelde persoon vir bewese verlies of skade deur hom gelyk as gevolg van sodanige vervreemding of verlening van toestemming, en wat nie redelikerwys deur hom verhoed kon gewees het nie en wat nie deur hom gelyk sou gewees het indien hierdie Wet nie aangeneem is nie.
- (c) Indien 'n ooreenkoms oor die omvang van die verlies of skade of die vergoeding betaalbaar ingevolge paragraaf (b) nie bereik kan word nie, word dit by arbitrasie ooreenkomstig die Wet op Arbitrasie, 1965 (Wet No. 42 van 1965), bepaal of deur 'n bevoegde hof indien die betrokke persoon laasgenoemde prosedure verkies.
- (3) 'n Notariële akte waarby die persoon wat ooreenkomstig subartikel (1) geag word die alleenhouer van die reg op die betrokke mineraal ten opsigte van die betrokke grond te wees, of sy benoemde, kragtens subartikel (2)(a) iemand benoem aan wie die reg op sodanige mineraal vervreem mag word of aan wie toestemming bedoel in artikel 8(2) of 9(2) ten opsigte van sodanige mineraal verleen mag word, word vir die duur van sodanige benoeming wat binne die tydperk vyf jaar of die goedgekeurde langer tydperk bedoel in subartikel (1) val, vir die doeleindes van hierdie Wet en die Wet op die Registrasie van Myntitels, 1967 (Wet No. 16 van 1967), geag 'n benoemingsooreenkoms te wees en is by registrasie daarvan ingevolge die Wet op die Registrasie van Myntitels, 1967, bindend vir die opvolger in titel van sodanige persoon.

**Voortbestaan van
prospekteerregte**

44. (1) (a) 'n Prospekterhuur, prospekterpermit of prospektertoestemming wat ingevolge-
 - (i) artikel 4 of 6 van die Wet op Edelgesteentes, 1964 (Wet No. 73 van 1964);
 - (ii) artikel 7(2)(a), (b) of (c), 13, 14 of 16 van die Wet of Mynregte, 1967 (Wet No. 20 van 1967);
 - (iii) artikel 4 van die Aanvullende Wet op die Mineralewette, 1975 (wet No. 10 van 1975); of
 - (iv) artikel 47 van die Wet of Kernenergie, 1982 (Wet No. 92 van 1982), na gelang van die geval, toegeken, uitgereik of verleen is en wat van krag was onmiddellik voor die inwerking - treding van hierdie Wet, word, behoudens paragraaf (c), geag 'n prospekterpermit ingevolge artikel 6 uitgereik, te wees ten opsigte van die betrokke mineraal en grond, en bly, ondanks die herroeping van genoemde Wette by artikel 68(1), van krag onderworpe aan die bedinge en voorwaardes waaronder dit toegeken, uitgereik of verleen is of geag toegeken, uitgereik of verleen te wees totdat dit ooreenkomstig paragraaf (b) verval, en alle wetsbepalings betreffende die oorbetalings van oppervlakhuur wat daarop van toepassing was en van krag was onmiddellik voor sodanige inwerking -treding bly, ondanks sodanige herroeping, insgelyks van krag.
- (b) Die vervaldatum ten opsigte van 'n in paragraaf (a) bedoelde prospekterhuur, eersgenoemde prospekterpermit of prospektertoestemming bly van krag of, indien geen vervaldatum ten opsigte daarvan bepaal is nie, bly dit vir 'n tydperk van hoogstens twee jaar van krag.
- (c) Paragraaf (a) is slegs van toepassing ten opsigte van 'n prospekterpermit ingevolge artikel 7(2)(b) or (c) van die Wet op Mynregte, 1967, uitgereik, indien 'n prospektergebied voor die inwerkingtreding van hierdie Wet uit hoofde van so 'n prospekterpermit en ooreenkomstig artikel 8 van genoemde Wet op Mynregte, 1967, afgepen en berig is.
- (2) Geen reg op 'n mineraal ten opsigte van grond waarvan die KwaZulu-Regering die houer is en ten opsigte waarvan 'n prospekterhuur, prospekterpermit of prospektertoestemming bedoel in subartikel (1) gehou word, word vervreem, of geen toestemming bedoel in artikel 8(2) of 9(2) ten opsigte van sodanige mineraal word vir die duur van so 'n huur, permit of toestemming verleen nie, behalwe aan die houer daarvan.
- (3) (a) 'n Prospekterpermit wat ingevolge artikel 5 van die Wet op Edelgesteentes, 1964, uitgereik is en kragtens artikel 6 ten opsigte van die betrokke mineraal en grond uitgereik is, en bly, ondanks die herroeping van eersgenoemde Wet by artikel 68(1), van krag onderworpe aan die voorwaardes waaronder dit uitgereik is vir die tydperk daarin vermeld.
- (b) 'n Prospekterlisensie wat ingevolge artikel 12 van die Wet op Mynregte, 1967, uitgereik is of geag word uitgereik te wees en van krag was onmiddellik voor die inwerkingtreding van hierdie Wet, word geag 'n prospekterpermit te wees wat ingevolge artikel 6 uitgereik is aan die persoon wat ooreenkomstig artikel 43 geag word die alleenhouer van die reg op die betrokke mineraal ten opsigte van die betrokke grond te wees, en bly, ondanks die herroeping van genoemde Wet by artikel 68(1), van krag vir 'n tydperk van hoogstens twee jaar, onderworpe aan die voorwaardes waaronder dit uitgereik is.
- (4) 'n Persoon wat onmiddellik voor die inwerkingtreding van hierdie Wet uit hoofde van 'n sertifikaat bedoel in artikel 3 van die Wet op Edelgesteentes, 1964, of kragtens artikel 2(1) (b) van die Wet op Mynregte, 1967, die reg gehad het om na 'n mineraal te prospekter, of iemand wat sodanige reg van so 'n persoon verkry het en dit gehad het onmiddellik voor sodanige inwerkingtreding, word vir 'n tydperk van hoogstens een jaar geag die houer te wees van 'n prospekterpermit wat ingevolge artikel 6 ten opsigte van die betrokke mineraal en grond uitgereik is.
- (5) 'n Vergunning om 'n mineraal te verwyder en daaroor te beskik, verleen of verkry of geag verleen of verkry te wees kragtens artikel 9(5) van die Wet op Edelgesteentes, 1964, en wat van krag was onmiddellik voor die inwerkingtreding van hierdie Wet, word geag 'n vergunning te wees wat ingevolge artikel 8(1) verleen is, en bly, ondanks die herroeping van genoemde Wette by artikel 68(1), van krag onderworpe aan die bedinge en voorwaardes waaronder dit verleen of verkry is of geag word verleen of verkry te wees.
- (6) Na verstryking van die in subartikels (1)(b), (3) en (4) bedoelde tydperke moet die betrokke prospekterder, ten einde verder te kan prospekter, 'n prospekterpermit ooreenkomstig artikel 6 van die betrokke streekdirekteur verkry.
- (7) Artikel 14 is vir die tydperk bedoel in subartikel (1)(b), (3)(a) of (b) of (4) nie van toepassing nie op enige prospekterpermit wat onderskeidelik ooreenkomstig subartikel (1)(a), (3)(a) of (b) of (4) geag word ingevolge artikel 6 uitgereik te wees.

- Deproklamering van grond en voortbestaan van sekere wetsbepalings in verband met alluviale delwerye en geproklameerde grond
45. (1) Behoudens subartikel (2), (3) en (4) word alle alluviale delwerye soos omskryf in artikel 1 van die Wet op Edelgesteentes, 1964 (Wet No. 73 van 1964), en alle geproklameerde grond soos omskryf in artikel 1 van die Wet op Mynregte, 1967 (Wet No. 20 van 1967), soos dit bestaan het onmiddellik voor die inwerkingtreding van hierdie Wet, hierby gedeproklameer.
- (2) (a) Die bepalinge van die Wet op Edelgesteentes, 1964, en die Wet op Mynregte, 1967, met betrekking tot die uitreiking en hernuwing van kleimlisensies, die afpenning en oordrag van kleins op alluviale delwerye en geproklameerde grond bedoel in subartikel (1) en enige ander aangeleentheid in verband daarmee, bly, ondanks die herroeping van genoemde Wette by artikel 68(1), van krag vir 'n tydperk van twee jaar.
- (b) Artikel 47(1), (2), (3), (5) (b) en (c) en subparagrafe (ii) en (iii) van die voorbehoudsbepaling by artikel 47(5) is mutatis mutandis van toepassing op 'n reg om te delf of te myn toegeken, verleen of verkry uit hoofde van paragraaf (a).
- (3) By die toepassing van subartikel (2) word alle alluviale delwerye en geproklameerde grond bedoel in subartikel (1) soos dit bestaan het onmiddellik voor die inwerkingtreding van hierdie Wet, geag aldus te bestaan vir die in subartikel (2) bedoelde tydperk van twee jaar.
- (4) Die bepalinge van die Wet op Edelgesteentes, 1964, en die Wet op Mynregte, 1967, met betrekking tot die invordering en oorbetalings deur die Mynkommissaris van gelde aan die eienaar van grond wat 'n alluviale delwerye of geproklameerde grond bedoel in subartikel (1) uitmaak, asook aan die eienaar van sodanige grond wat voor die inwerkingtreding van hierdie Wet gedeproklameer is of enige ander persoon aan wie dit mag toekom, en die beslegting van geskille, bly, ondanks die herroeping van genoemde Wette by artikel 68(1) by die toepassing van hierdie artikel en artikel 48, van krag vir 'n tydperk van twee jaar.
- Reg op sekere diamante en gebruik van sekere oppervlak geag in KwaZulu-Regering te setel
46. (1) Vir die doeleindes van hierdie Wet word die reg op diamante ten opsigte van grond wat onmiddellik voor die inwerkingtreding van hierdie Wet alluviale delwerye soos omskryf in artikel 1 van die Wet op Edelgesteentes, 1964, uitgemaak het, met inbegrip van die reg op die gebruik van die oppervlak van genoemde grond wat vir doeleindes in verband met die myn en verwerking van diamante nodig mag wees, na verstryking van die tydperk van twee jaar bedoel in artikel 45 (2) (a), geag in die KwaZulu-Regering te setel.
- (2) Die Minister kan van tyd tot tyd by kennisgewing in die Amptelike Koerant die bepalinge van subartikel (1) ophef ten opsigte van die grond of 'n gedeelte daarvan in daardie subartikel bedoel.
- (3) Enige vergoeding wat deur die Minister bepaal mag word ten opsigte van 'n toestemming kragtens artikel 6(3) of 9(2) verleen om vir diamante op grond bedoel in subartikel (1) te prospekter of te myn, moet deur die houer van so 'n toestemming aan die eienaar van sodanige grond betaal word.
- Voortbestaan van mynregte
47. (1) (a) 'n Reg om te delf of te myn wat toegeken, verleen of verkry is of geag word toegeken, verleen of verkry te wees of wat voortbestaan of van krag is -
- (i) ingevolge artikel 4 van Wet No. 1 van 1883 van Transvaal, of 'n ooreenstemmende bepaling van 'n vorige wet;
- (ii) uit hoofde van 'n sertifikaat bedoel in artikel 3 (1) (a) of 'n myn bedoel in artikel 3 (1) (b) van die Wet op Edelgesteentes, 1964 (Wet No. 73 van 1964);
- (iii) ingevolge artikel 13, 13A, 17, 21, 52, 68, 74, 89, of 126 (2) van genoemde Wet op Edelgesteentes, 1964;
- (iv) ingevolge artikel 25 of 42 van die Wet op Mynregte, 1967 (Wet No. 20 van 1967);
- (v) uit hoofde van 'n sertifikaat uitgereik ingevolge artikel 57 en toestemming verleen kragtens artikel 58 saamgelees met artikel 56 van genoemde Wet op Mynregte, 1967;
- (vi) ingevolge artikel 59, 68, 75, 83, 88, 93(4) (vir sover dit betrekking het op 'n reg om te delf of te myn verleen of verkry kragtens artikel 75 van die "Precious and Base Metals Act, 1908" (Wet No. 35 van 1908), van Transvaal), 144 (1)(e), 160, 161 of 188(2) van genoemde Wet op Mynregte, 1967;
- (vii) ingevolge artikel 3 van die Wet op die Beheer van Tieroog, 1977 (Wet No. 77 van 1977); of
- (viii) ingevolge artikel 47 of 83 (9) van die Wet op Kernenergie, 1982 (Wet No. 92 van 1982), na gelang van die geval, of 'n aandeel in so 'n reg, en wat onmiddellik voor die inwerkingtreding van hierdie Wet van krag was, bly, ondanks die herroeping van genoemde Wette, van krag onderworpe aan die bedinge en voorwaardes waaronder dit toegeken, verleen of verkry is of geag word toegeken, verleen of verkry te wees en wat in die betrokke dokument of dokumente vervat is en van krag was onmiddellik voor sodanige inwerkingtreding, behalwe vir sover in hierdie Wet anders bepaal word.
- (b) 'n Mynreg wat onmiddellik voor die inwerkingtreding van hierdie Wet in sy geheel of wat betref 'n deel of dele gesedeer, oorgedra, verhuur, onderverhuur, om 'n deel ontgin, onverdeeld of met verband beswaar kon word, kan aldus mee gehandel word, en so 'n handeling moet in die Mynbriewekantoor geregistreer word indien dit aldus registreer kon word onmiddellik voor die inwerkingtreding van hierdie Wet.
- (c) Na verstryking van 'n tydperk van twee jaar vanaf die inwerkingtreding van hierdie Wet moet die houer van 'n mynreg of 'n aandeel daarin aan die eienaar van die betrokke grond of enige ander persoon aan wie dit mag toekom, vergoeding betaal wat dieselfde moet wees as die bedrag wat aan sodanige eienaar of ander persoon uit hoofde van so 'n mynreg of aandeel daarin periodiek toegeval het onmiddellik voor die verstryking van sodanige tydperk van twee jaar, tensy die betrokke partye anders ooreenkom.
- (d) Na verstryking van die tydperk van twee jaar bedoel in paragraaf (c), is enige winsaandeel of tantieme betaalbaar aan die KwaZulu-Regering ten opsigte van 'n mynreg ten opsigte waarvan die KwaZulu-Regering nie die houer van die reg op die betrokke mineraal is nie, nie langer betaalbaar nie.
- (e) Vir die doeleindes van hierdie Wet word die houer van 'n mynreg of 'n aandeel daarin of sy opvolger in titel vir die tydperk van twee jaar bedoel in paragraaf (c), geag die houer van 'n ontginningsmagtigings te wees, en ten einde na verstryking van sodanige tydperk verder te kan myn, moet 'n ontginningsmagtigings ooreenkomstig artikel 9 van die betrokke streekdirekteur verkry word, en sodanige eersgenoemde houer of sy opvolger in titel word vir die doeleindes van hierdie Wet geag die houer van die reg op die betrokke mineraal ten opsigte van die betrokke grond of uitkots te wees.
- (f) Die houer van 'n mynreg kan dit te eniger tyd by skriftelike kennisgewing aan die betrokke streekdirekteur in sy geheel of wat betref 'n deel of dele opse en daarop word so 'n mynreg of die betrokke deel of dele geag met ingang van die datum van sodanige kennisgewing te verval het.
- (g) 'n Mynreg verkry uit hoofde van 'n kleimlisensie bedoel in artikel 35 van die Wet op Edelgesteentes, 1964, of artikel 48 van die Wet op Mynregte, 1967, en enige ander mynreg bedoel in paragraaf (a) wat hernieubaar was deur die betaling van periodieke gelde aan die mynkommissaris ingevolge 'n wet wat by artikel 68(1) herroep is, en wat van krag is onmiddellik voor die verstryking van die tydperk bedoel in paragraaf (c) word, behoudens paragraaf (f), subartikel (5) (b) en (c) en subparagrafe (ii) en (iii) van die voorbehoudsbepaling by subartikel (5), geag vir 'n onbepaalde tydperk verkry te wees.

- (h) 'n Vrystelling van die betaling van heregte of seëlregte ten opsigte van 'n mynreg of ten opsigte van 'n sessie daarvan, verval na verstryking van die tydperk in paragraaf (c) bedoel.
- (2) Die houer van 'n mynreg of sy opvolger in titel geniet dieselfde regte ten opsigte van die gebruik van die oppervlak van die grond waarop so 'n reg betrekking het as wat die houer van 'n reg op 'n mineraal ingevolge die gemene reg ten opsigte van sodanige gebruik het.
- (3) Indien die adres van die eienaar van die betrokke grond of ander persoon bedoel in subartikel (1) (c) nie aan die houer van die betrokke mynreg bekend is nie, en so 'n houer as gevolg daarvan nie die vergoeding of 'n deel daarvan wat so 'n eienaar of ander persoon ingevolge daardie subartikel toekom kan betaal nie, kan daar nie op grond van so 'n wanbetaling aangevoer word dat 'n voorwaarde waaraan die betrokke mynreg onderworpe is, nie nagekom is nie.
- (4) (a) 'n Persoon wat onmiddellik voor die inwerkingtreding van hierdie Wet die reg gehad het om 'n mineraal te myn hetsy van die KwaZulu-Regering of die KwaZulu Finans- en Beleggingskorporasie verkry, en waar die houer van die mineraal regte die KwaZulu-Regering is en dit onmiddellik voor sodanige inwerkingtreding gehad het, word geag vir 'n tydperk van hoogstens twee jaar die houer te wees van 'n ontginningsmagtigings ingevolge hierdie Wet verleen.
- (b) Na verstryking van die in paragraaf (a) bedoelde tydperk van twee jaar moet 'n aldus bedoelde persoon, ten einde verder te kan myn, 'n ontginningsmagtigings ooreenkomstig artikel 9 van die betrokke streekdirekteur verkry.
- (5) Subartikel (1) is mutatis mutandis van toepassing op 'n reg om te delf of te myn toegeken, verleen of verkry ingevolge-
 - (a) artikel 20 van die Wet op Edelgesteentes, 1964;
 - (b) artikel 35 van die Wet op Edelgesteentes, 1964; of
 - (c) artikel 48 gelees met artikel 56 van die Wet of Mynregte, 1967, of 'n ooreenstemmende bepaling van 'n vorige Wet, en wat onmiddellik voor die inwerkingtreding van hierdie Wet van krag was: Met dien verstande dat so 'n reg toegeken, verleen of verkry ingevolge 'n bepaling bedoel in-
 - (i) paragraaf (a) ten opsigte waarvan die KwaZulu-Regering die houer van die reg op die betrokke mineraal is;
 - (ii) paragraaf (b) ten opsigte waarvan 'n liggingskaart tot tevredenheid van die betrokke streekdirekteur nie by hom ingedien is nie; of
 - (iii) paragraaf (c) ten opsigte waarvan 'n kaart of sketskaart bedoel in die Wet of Mynregte, 1967, nie ingevolge die Wet op die Registrasie van Myntitels, 1967 (Wet No. 16 van 1967), geregistreer is nie, van krag bly vir 'n tydperk van twee jaar of totdat dit ooreenkomstig die voorwaardes waaronder dit toegeken, verleen of verkry is verval, welke tydperk ook al die kortste is, en vir die doeleindes van hierdie Wet word die houer van so 'n reg vir sodanige tydperk van twee jaar of sodanige korter tydperk, na gelang van die geval, geag die houer te wees van 'n ontginningsmagtigings ingevolge hierdie Wet verleen: Met dien verstande verder dat die liggingskaart bedoel in subparagraaf (ii) of die kaart of sketskaart bedoel in subparagraaf (iii) binne sodanige tydperk van twee jaar of sodanige korter tydperk, na gelang van die geval, ingedien of geregistreer kan word.

Voorbestaan van uithoudings, vergunnings en sekere regte

- 48. (1) (a) Enige uithouding of vergunning vir of reg op die gebruik van water of die oppervlak van grond toegeken, verleen of verkry of geag toegeken, verleen of verkry te wees of wat voortbestaan of van krag is-
 - (i) ingevolge artikel 75 van die "Precious and Base Metals Act, 1908" (Wet No. 35 van 1908), van Transvaal;
 - (ii) ingevolge artikel 24, 56, 57, 58, 60, 64 of 126(2) van die Wet op Edelgesteentes, 1964 (Wet No. 73 van 1964);
 - (iii) ingevolge artikel 18, 47, 90, 91, 92, 93(4) of (7), 95, 100, 102, 103, 111, 113 of 116 van die Wet op Mynregte, 1967 (Wet No. 20 van 1967);
 - (iv) ingevolge artikel 127, 128 en 129 saamgelees met artikel 130 van genoemde Wet op Mynregte, 1967;
 - (v) ingevolge artikel 131 of 132 van genoemde Wet op Mynregte, 1967;
 - (vi) uit hoofde van 'n uitsluiting kragtens artikel 158 van genoemde Wet op Mynregte, 1967; of
 - (vii) ingevolge artikel 179 of 188 (2) van genoemde Wet op Mynregte, 1967, na gelang van die geval, en wat onmiddellik voor die inwerkingtreding van hierdie Wet van krag was, bly, ondanks die herroeping van genoemde Wette, van krag onderworpe aan die bedinge en voorwaardes waaronder dit toegeken, verleen of verkry is of geag word toegeken, verleen of verkry te wees en wat in die betrokke dokument of dokumente vervat is en van krag was onmiddellik voor sodanige inwerkingtreding, behalwe vir sover in hierdie Wet anders bepaal word.
- (b) Artikel 47(1)(b) is mutatis mutandis van toepassing op 'n uithouding, vergunning of reg bedoel in paragraaf (a).
- (2) (a) Na verstryking van 'n tydperk van twee jaar vanaf die inwerkingtreding van hierdie Wet moet die houer, gebruiker of verkryger van 'n uithouding, vergunning of reg bedoel in subartikel (1)(a) aan die eienaar van die betrokke grond of enige ander persoon aan wie dit mag toekom, vergoeding betaal wat dieselfde moet wees as die bedrag wat aan sodanige eienaar of ander persoon uit hoofde van so 'n uithouding, vergunning of reg periodiek toegeval het onmiddellik voor die verstryking van sodanige tydperk, tensy die betrokke partye anders ooreenkom.
- (b) Indien die adres van die eienaar van die betrokke grond of ander persoon bedoel in paragraaf (a) nie aan die houer, gebruiker of verkryger van 'n uithouding, vergunning of reg bedoel in subartikel (1)(a) bekend is nie, en so 'n houer, gebruiker of verkryger as gevolg daarvan nie die vergoeding of 'n deel daarvan wat so 'n eienaar of ander persoon ingevolge daardie paragraaf toekom, kan betaal nie, kan daar nie op grond van so 'n wanbetaling aangevoer word dat 'n voorwaarde waaraan so 'n uithouding, vergunning of reg onderworpe is, nie nagekom is nie.
- (3) (a) Die houer, gebruiker of verkryger van 'n uithouding, vergunning of reg bedoel in subartikel (1) (a) kan dit te eniger tyd by skriftelike kennisgewing aan die betrokke streekdirekteur in sy geheel of wat betref 'n deel of dele opse, en daarop word dit of die betrokke deel of dele geag met ingang van die datum van sodanige kennisgewing te verval het.
- (b) (i) Indien 'n eienaar van grond wat die onderwerp uitmaak van 'n uithouding, vergunning of reg bedoel in subartikel (1)(a) of enige houer van 'n mynreg of van 'n reg op 'n mineraal ten opsigte van sodanige grond die Minister oortuig dat die omstandighede bedoel in artikel 17(6)(a)(i) of (ii) met betrekking tot 'n mynreg mutatis mutandis bestaan met betrekking tot so 'n uithouding, vergunning of reg kan die Minister, op skriftelike aansoek van so 'n eienaar of houer en teen betaling van die voorgeskrewe aansoekgeld, ondanks enige andersluidende wetsbepalings, onderworpe aan die bedinge en voorwaardes waarop tussen so 'n

aansoeker en die Sekretaris ooreengekom mag word, en na betaling aan laasgenoemde van die bedrag, as daar is, waarop aldus ooreengekom mag word, die Sekretaris gelas om so 'n uithouding, vergunning of reg in te trek, en die nodige aantekeninge in dié verband in die betrokke dokumente aan te bring.

(ii) Enige koste in verband met 'n intrekking beoel in subparagraaf (i) word deur die betrokke aansoeker betaal.

(c) Na uitreiking van die lasgewing bedoel in paragraaf (b)(i), beskik die Sekretaris oor die bedrag, as daar is, in daardie paragraaf bedoel, mutatis mutandis ooreenkomstig artikel 17(3), en is artikel 21(2) en (3) van die Onteiningswet, 1975, (Wet No. 63 van 1975), mutatis mutandis van toepassing.

(4) 'n Reg op die gebruik van water verleen kragtens artikel 60 van die Wet op op Edelgesteentes, 1964, of artikel 18 of 95 van die Wet op Mynregte, 1967, bly, ondanks die herroeping van genoemde Wette by artikel 68(1), van krag vir 'n tydperk van hoogstens vyf jaar of die korter tydperk waarvoor dit toegeken of hernieu is.

(5) (a) Ondanks die herroeping van die Wet op Edelgesteentes, 1964, end die Wet of Mynregte, 1967, by artikel 68(1), word met 'n aansoek om 'n vergunning vir of reg op die gebruik van water of die oppervlak van grond gedoen ooreenkomstig artikel 56, 57, 58, 60 of 64 van eersgenoemde Wet of artikel 18 of Hoofstukke X en XI van laasgenoemde Wet en wat voor die inwerkingtreding van hierdie Wet ontvang is, gehandel asof hierdie Wet nie aangeneem is nie.

(b) Subartikels (1), (2), (3) en (4) is mutatis mutandis van toepassing op 'n vergunning of reg uit hoofde van paragraaf (a) verleen: Met dien verstande dat by die toepassing van subartikel (2) (a) die vergoeding, as daar is, betaal moet word vanaf die datum van verlening van sodanige vergunning of reg.

Sekere werk-saamhede van Myn-kommissaris deur streekdirekteur verrig

49. By die toepassing van artikels 44, 45, 47 en 48 verrig die betrokke streekdirekteur, waar van toepassing, die werk-saamhede wat ingevolge die vorige wette in genoemde artikels bedoel, deur 'n Mynkommissaris verrig sou word indien hierdie Wet nie aangeneem is nie.

Verwysing na Staatsmyn-ingenieur, Registrateur van Mynbriewe en Mynkommissaris in dokumente of ander wette

50. 'n Verwysing in-

(a) 'n benoemingsooreenkomst;

(b) 'n prospekterhuur, prospekterpermit of prospektertoestemming toegeken verleen of uitgereik ingevolge 'n in artikel 44 (1) (a) gemelde artikel;

(c) die betrokke dokument of dokumente in artikel 47(1)(a) of 48 (1)(a) bedoel; of

(d) enige ander Wet, na-

(i) Staatsmyningenieur of Registrateur van Mynbriewe, word uitgelê as 'n verwysing na Sekretaris; en

(ii) Mynkommissaris, word uitgelê as 'n verwysing na die betrokke Streekdirekteur.

HOOFSTUK VIII

ALGEMENE EN DIVERSE BEPALINGS

Bevoegdheid om grond of plek te betree en ander handelinge te verrig

51. (1) Ten einde 'n bevoegdheid uit te oefen of plig te verrig wat by hierdie Wet of enige ander wetsbepaling verleen of opgedra word aan 'n deur die Sekretaris skriftelik gemagtigde persoon, kan so 'n persoon sonder 'n lasbrief, te eniger tyd, sonder vooraf kennisgewing, enige grond of plek, met inbegrip van 'n voertuig, vaartuig of vliegtuig, betree wat nodig mag wees vir die behoorlike uitoefening van sodanige bevoegdheid of die verrigting van sodanige plig.

(2) 'n Gemagtigde persoon bedoel in subartikel (1) wat kragtens daardie subartikel optree, is bevoeg om-

(a) die persone, voertuie, toestelle, instrumente en materiaal saam met hom te neem wat hy nodig ag;

(b) enige persoon te ondvra en 'n verklaring van hom te neem in welke geval artikel 29 (4) mutatis mutandis van toepassing is;

(c) enige deel van die aldus bedoelde grond, plek, voertuig, vaartuig of vliegtuig, of enige mineraal, masjinerie, boek, aantekening dokument, voorwerp, artikel, plan of tekening wat op sodanige grond of by of in sodanige plek, voertuig, vaartuig of vliegtuig gehou, vertoon of gebruik word, te ondersoek en op enige wyse na sy goed-dunke daarmee te handel; en

(d) enige ongeluk of toestand op sodanige grond of by sodanige plek in die algemeen te ondersoek.

(3) Iemand wat deur 'n gemagtigde persoon bedoel in subartikel (1) daartoe versoek word, moet hom vergesel of aan hom die nodige hulp verleen ten einde hom in staat te stel om sy bevoegdhede of pligte by hierdie Wet of enige ander wetsbepaling aan hom verleen of opgedra, uit te oefen of te verrig.

Voorlegging van dokumente op versoek van streek-direkteur of gemagtigde persoon

52. Iemand wat ooreenkomstig hierdie Wet die houer is of in besit moet wees van 'n permit, lisensie, vergunning, sertifikaat, magtiging of enige ander dokument moet sodanige permit, lisensie, vergunning, sertifikaat, magtiging of dokument op versoek van die streekdirekteur of 'n gemagtigde persoon bedoel in artikel 51 (1) voorlê.

Bewys van sekere feite

53. (1) By geregtelike verrigtinge ingevolge hierdie Wet is enige verklaring, inskrywing, aantekening of inligting in of op enige boek, dokument, plan, tekening of rekenaarbergingsmedium toelaatbaar by wyse van getuienis as 'n erkenning van die feite in of op sodanige verklaring, inskrywing, aantekening of inligting deur die persoon wat dit gemaak, ingeskryf, aangeteken of geberg het, tensy bewys word dat sodanige verklaring, inskrywing, aantekening of inligting nie deur sodanige persoon binne die bestek van sy werksaamhede gemaak, ingeskryf, aangeteken of geberg is nie.

(2) Wanneer by geregtelike verrigtinge ingevolge hierdie Wet bewys word dat 'n vals verklaring, inskrywing, aantekening of inligting voorkom in of op enige boek, dokument, plan, tekening of rekenaarbergingsmedium wat deur iemand gehou word, word vermoed, totdat die teendeel bewys word, dat hy sodanige verklaring, inskrywing, aantekening of inligting opsetlik vervals het.

Kennisgewing van aanvang of staking van prospekter- of mynwerksaamhede of bedryf

54. (1) Die houer van of 'n aansoeker om 'n prospekterpermit of ontginningsmagtiging of die eienaar van 'n bedryf moet minstens 14 dae voordat hy met enige werksaamhede kragtens so 'n permit of magtiging of by 'n bedryf 'n aanvang maak, of van voorneme is om sodanige werksaamhede tydelike of blywend te staak, skriftelik kennis van sodanige voorgenome aanvang of staking aan die betrokke streekdirekteur gee, en besonderhede in verband met die ligging, aard en omvang van sodanige werksaamhede verstrek.

(2) Die houer of aansoeker bedoel in subartikel (1) moet minstens 14 dae voordat hy met enige werksaamhede kragtens 'n aldus bedoelde prospekterpermit of ontginningsmagtiging 'n aanvang neem, die okkupeerder van die grond wat

die onderwerp van so 'n permit of magtiging uitmaak, skriftelik in kennis stel van sy voorneme om met sodanige werksaamhede te begin.

- KwaZulu-Regering is nie aanspreeklikheid vir eise nie
55. Behalwe vir sover in hierdie Wet anders bepaal word, is die KwaZulu-Regering nie aanspreeklik vir enige eis nie as gevolg van enige besering, lewensverlies, verlies of skade van watter aard ook al wat mag voortspruit uit die toepassing van 'n bepaling van hierdie Wet of die uitoefening van 'n bevoegdheid of die verrigting van 'n plig of werksaamheid by hierdie Wet verleen of opgedra indien sodanige toepassing, uitoefening of verrigting sonder nalatigheid en te goeder trou geskied het.
- Bestelling van dokumente en geldigheid
56. (1) Behalwe vir sover in hierdie Wet anders bepaal word, word 'n kennisgewing, bevel of enige ander dokument wat ingevolge hierdie Wet aan iemand bestel of gegee moet word, geag behoorlik bestel of gegee te wees indien dit aan so iemand persoonlik oorhandig of per aangetekende pos na sy laaste bekende adres gestuur is of in die Amptelike Koerant gepubliseer is.
- (2) 'n Kennisgewing, bevel of enige ander dokument wat te goeder trou ingevolge hierdie Wet uitgereik is, geld ooreenkomstig die bepalings daarvan ondanks enige gebrek wat betref die vorm daarvan of afwesigheid van bevoegdheid van enige persoon om dit uit te reik of te waarmerk, mits sodanige bevoegdheid daarna aan so 'n persoon verleen word.
- Reg tot appèl
57. (1) Iemand wat veronreg voel deur 'n handeling of beslissing wat deur 'n streekdirekteur ingevolge hierdie Wet verrig of gegee is, kan, binne een maand na die datum waarop laasgenoemde so 'n handeling of beslissing bekend gemaak het, skriftelik by die Sekretaris teen so 'n handeling of beslissing appèl aanteken, en daarop kan die Sekretaris so 'n handeling of beslissing bekrachtig, tersyde stel of wysig.
- (2) Iemand wat veronreg voel deur 'n handeling of beslissing wat deur die Sekretaris ingevolge hierdie Wet verrig of gegee is, kan, binne een maand na die datum waarop laasgenoemde so 'n handeling of beslissing bekend gemaak het, skriftelik by die Minister teen so 'n handeling of beslissing appèl aanteken, en daarop kan die Minister so 'n handeling of beslissing bekrachtig, tersyde stel of wysig.
- Verbod op viktimisasie
58. Niemand mag teen 'n werknemer optree of toelaat dat teen hom opgetree word op 'n wyse wat tot sy nadeel mag strek nie, of sy posisie in vergelyking met ander werknemers tot sy nadeel verander of toelaat dat sy posisie aldus verander word, as volg van die feit of omrede so 'n persoon vermoed of glo, hetsy sodanige vermoede of geloof geregverdig of juis is al dan nie, dat sodanige werknemer aan die Minister of enige ander persoon belas met die uitvoering van hierdie Wet, inligting verstrek het ten opsigte van enige aangeleentheid wat ingevolge hierdie Wet gedoen of nagelaat moet word of daarop betrekking het, of omdat hy 'n wettige verbod, bevel, versoek of opdrag van 'n streekmyningenieur nagekom het, of voor 'n gereghof of tydens 'n ondersoek getuienis afgelê het, of iets gedoen het wat hy ingevolge hierdie Wet kan of moet doen of geweier het om iets te doen wat hy ingevolge hierdie Wet nie mag doen nie.
- Verbod op dwarsboring van beamppte of persoon
59. Niemand mag 'n beampte of enige ander persoon by die uitoefening van sy bevoegdhede of die verrigting van sy pligte by hierdie Wet aan hom verleen of opgedra, hinder, teenstaan of dwarsboom nie.
- Misdrywe
60. Iemand wat-
- (a) 'n bepaling van-
- (i) artikel 5(2), 8(1), 31(1), (3) of (4), 37(a), 38, 39(1), 40, 41(2), 42(5), 52 of 54;
- (ii) artikel 7(1), 31(5), 33(1) of 34(1);
- (iii) artikel 19(1) of (2), 29(4)(b), 30(b), (c), (d), (e) of (f), 58 of 59;
- (iv) artikel 35(1) of 36;
- (v) artikel 32(1) of (2) of 34(3);
- (vi) artikel 37(b);
- (vii) artikel 29(4) (c); of
- (viii) artikel 30(a); of
- (b) 'n bepaling van-
- (i) 'n lasgewing, opskorting, bevel, opdrag of voorwaarde uitgereik, gegee of bepaal kragtens artikel 22(1), 23(1), 27(1) of (4), 33(2) of 34(2);
- (ii) 'n versoek bedoel in artikel 51(3); of
- (iii) 'n kennisgewing kragtens artikel 25(1) uitgereik, oortree of versuim om daaraan te voldoen, is aan 'n skuldig.
- Strawwe
61. (1) Iemand wat aan 'n misdryf ingevolge hierdie Wet skuldig bevind is, is strafbaar-
- (a) in die geval van 'n misdryf in artikel 60(a)(i) of 60(b)(i) of (ii) bedoel, met 'n boete van hoogstens R5 000 of met gevangenisstraf vir 'n tydperk van hoogstens een jaar of met sowel sodanige boete as sodanige gevangenisstraf, en met 'n verdere boete van hoogstens R1 000 of met verdere gevangenisstraf van hoogstens vyf dae vir elke dag waarop hy die betrokke bepaling aldus oortree het of versuim het om daaraan te voldoen: Met dien verstande dat die tydperk van sodanige verdere gevangenisstraf nie ses maande oorskry nie;
- (b) in die geval van 'n misdryf in artikel 60(a)(ii) bedoel, met 'n boete van hoogstens R10 000 of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar of met sowel sodanige boete as sodanige gevangenisstraf, en met 'n verdere boete van hoogstens R2000 of met verdere gevangenisstraf van hoogstens 10 dae vir elke dag waarop hy die betrokke bepaling aldus oortree het of versuim het om daaraan te voldoen: Met dien verstande dat die tydperk van sodanige verdere gevangenisstraf nie een jaar oorskry nie;
- (c) in die geval van 'n misdryf in artikel 60(a)(iii) bedoel, met 'n boete van hoogstens R10 000 of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar of met sowel sodanige boete as sodanige gevangenisstraf;
- (d) in die geval van 'n misdryf in artikel 60(a)(iv) bedoel, met 'n boete van hoogstens R5 000 of met gevangenisstraf vir 'n tydperk van hoogstens een jaar of met sowel sodanige boete as sodanige gevangenisstraf;
- (e) in die geval van 'n misdryf in artikel 60(a)(v) of 63(5) bedoel, met 'n boete van hoogstens R2 500 of met gevangenisstraf vir 'n tydperk van hoogstens ses maande of met sowel sodanige boete as sodanige gevangenisstraf, en met 'n verdere boete van hoogstens R200 of met verdere gevangenisstraf van hoogstens een dag vir elke dag waarop hy die betrokke bepaling aldus oortree het of versuim het om daaraan te voldoen: Met dien verstande dat die tydperk van sodanige verdere gevangenisstraf nie 90 dae oorskry nie;
- (f) in die geval van 'n misdryf in artikel 60(a)(vi) bedoel, met 'n boete van hoogstens R15000 of met gevangenisstraf vir 'n tydperk van hoogstens drie jaar of met sowel sodanige boete as sodanige gevangenisstraf;
- (g) in die geval van 'n misdryf in artikel 60(a) (vii) bedoel, met die straf wat regtens vir meened opgelê kan word;

- (h) in die geval van 'n misdryf in artikel 60 (a) (viii) bedoel met die straf wat 'n soortgelyke misdryf in 'n landdroshof van toepassing is;
- (i) in die geval van 'n misdryf in artikel 60(b) (iii) bedoel, met 'n boete van hoogstens R50 000 of met gevangenisstraf vir 'n tydperk van hoogstens 10 jaar of met sowel sodanige boete as sodanige gevangenisstraf; of
- (j) in die geval van 'n skuldigbevinding aan 'n misdryf ingevolge 'n bepaling van hierdie Wet waarvoor geen uitdruklike straf bepaal is nie, met 'n boete van hoogstens R2 500 of met gevangenisstraf vir 'n tydperk van hoogstens ses maande of met sowel sodanige boete as sodanig gevangenisstraf.
- (2) Ondanks enige andersluidende wetsbepalings is 'n landdroshof regsbevoeg om enige straf waarvoor in hierdie Wet voorsiening gemaak word, op te lê.
- Delegering van bevoegdheide 62. (1) Die Minister kan 'n bevoegdheid by hierdie Wet aan hom verleen, uitgesonderd die bevoegdheid tot uitvaardiging van regulasies kragtens artikel 63, aan die Sekretaris of 'n ander beampte in diens van die Departement delegeer of, met inagneming van die oogmerke waarvoor 'n statutêre instelling ingestel is, aan die uitvoerende hoof van so 'n instelling.
- (2) Die Sekretaris kan 'n bevoegdheid by hierdie Wet aan hom verleen aan 'n streekdirekteur of 'n ander beampte in diens van die Departement delegeer of met inagneming van die oogmerke waarvoor 'n statutêre instelling ingestel is aan die uitvoerende hoof van so 'n instelling.
- (3) 'n Streekdirekteur kan 'n bevoegdheid by hierdie Wet aan hom verleen aan 'n beampte in diens van die Departement delegeer.
- (4) 'n Delegering kragtens subartikel (1), (2) of (3) verhoed nie die uitoefening van die betrokke bevoegdheid deur die Minister, Sekretaris of 'n streekdirekteur self nie.
- Regulasies 63. (1) Die Minister kan by kennisgewing in die Amptelike Koerant regulasies uitvaardig betreffende-
- (a) die veiligheid, gesondheid en welsyn van persone betrokke by myne en bedrywe en veiligheidstandaarde, praktykkodes en die verskaffing van toerusting en geriewe in verband met veiligheid, gesondheid en welsyn;
- (b) dissipline en ordelike werksaamhede by myne en bedrywe en die werksaamhede van vredesbeamptes;
- (c) die beskerming van toerusting, strukture, die grondoppervlak en waterbronne en die veiligmaking van ondermynde grond en van gevaarlike uitgrawings, uitskot, afvalhope, ashope en strukture, van watter aard ook al, wat in die loop van prospekter- of mynwerksaamhede gemaak is of daarmee in verband staan, die oplegging van geldelike en ander verpligtings in verband met sodanige veiligmaking op persone wat vir die ondermyning van sodanige grond of die maak van sodanige uitgrawings, uitskot, afvalhope, ashope of strukture of vir die gevaarlike toestand daarvan verantwoordelik is of was, of wat deur sodanige veiligmaking bevoordeel en die aanvaarding deur die KwaZulu-Regering van verantwoordelikheid of medeverantwoordelikheid vir sodanige veiligmaking in besondere gevalle;
- (d) die rehabilitasie van versteurings van die grondoppervlak en die voorkoming en bekamping van besoedeling van die lug, grond, see- of ander water waar sodanige versteurings en besoedeling met prospekter of mynwerksaamhede in verband staan, en die oplegging van heffings en die instelling van rekenings in dié verband;
- (e) die ontginning, verwerking, benutting of gebruik van of beskikking oor 'n mineraal;
- (f) kwalifikasie vir indiensneming in bepaalde beroepe, voorwaardes vir aanvaarding as 'n kandidaat vir eksamens, die uitreiking van bevoegdheidsertifikate ten opsigte van bepaalde beroepe en die bevoegdheide, pligte, werksaamhede en verantwoordelikhede van persone werksaam by myne en bedrywe;
- (g) prosedures ten opsigte van appêlle kragtens hierdie Wet aangeteken;
- (h) aansoekgelde betaalbaar met betrekking tot-
- (i) prospekterpermitte;
- (ii) mynpermitte;
- (iii) mynlisensies;
- (iv) permitte uitgereik ingevolge artikel 33;
- (v) eksamens;
- (vi) appêlle;
- (vii) soek van inligting en verskaffing van afskrifte van dokumente;
- (viii) verdeling van mineraalregte;
- (ix) 'n vergunning bedoel in artikel 8(1);
- (x) 'n toestemming of sertifikaat bedoel in artikel 17(1)(i) of (ii) of (6) (a) (aa) of (bb); of
- (xi) 'n intrekking bedoel in artikel 48(3)(b)(i);
- (i) die opstel en bewaring van mynkaarte en indiening van statistiese en ander verslae met betrekking tot minerale, myne, bedrywe en masjinerie;
- (j) die vervoer, hantering, opberging en aanwending van ontplofbare stowwe in verband met werksaamhede in of by 'n myn of by 'n bedryf en die vermenging van stowwe om ontplofbare stowwe te maak in die werksplekke van 'n myn wat nie strydig is met enige ander wetsbepaling nie;
- (k) die voorwaardes waaronder masjinerie opgerig of gebruik kan word by myne en bedrywe;
- (l) die aanmelding van ongelukke wat by myne en bedrywe plaasvind en die voorsieing van ambulans en geneeskundige hulp in geval van sodanige ongelukke;
- (m) die wyse waarop die teenwoordigheid van getuies by ondersoeke ingevolge artikel 28(1), (2) of (5) ingestel, verkry moet word en prosedures wat by sodanige ondersoeke gevolg moet word;
- (n) die hou van aantekeninge met betrekking tot werknemers in of by myne en bedrywe;
- (o) die vorm van enige aansoek wat ingevolge hierdie Wet gedoen kan of moet word en van enige toestemming of dokument wat met so 'n aansoek ingedien moet word, en die inligting of besonderhede wat so 'n aansoek moet vergesel;
- (p) die vorm, voorwaardes, uitreiking, hernuwing, opsegging of intrekking van enige permit, lisensie, sertifikaat, vergunning, kwitansie, magtiging of dokument wat ingevolge hierdie Wet uitgereik, verleen of hernieu kan of moet word;

- (q) die vorm van enige register, aantekening, kennisgewing of sketskaart wat ingevolge of vir die doeleindes van hierdie Wet gehou, gegee, gepubliseer of ingedien kan of moet word;
- (r) vrystelling van 'n bepaling van 'n regulasie;
- (s) die verbod op die beskikking oor 'n mineraal of die gebruik daarvan vir 'n vermelde doel of op 'n vermelde wyse of vir 'n ander wyse as 'n vermelde doel of wyse;
- (t) die beperking of reëling ten opsigte van die beskikking oor of gebruik van 'n mineraal in die algemeen;
- (u) die instelling van een of meer rekenings met die oog op die fundering van navorsing en opnames betreffende, en vir die bevordering van, bedryfsveiligheid by myne en bedrywe;
- (v) die betaling van heffings gegrond op 'n veiligheidsrisiko deur myne en bedrywe vir navorsing en opnames betreffende, en vir die bevordering van, bedryfsveiligheid by myne en bedrywe;
- (w) die wyse daarop veiligheidsstandaarde, praktykkodes en die bepalinge van hierdie Wet onder die aandag van werknemers en ander persone by 'n myn of bedryf gebring moet word, en die wyse waarop afskrifte van sodanige veiligheidsstandaarde, praktykkodes en bepalinge beskikbaar gestel moet word ter insae deur sodanige werknemers en ander persone;
- (x) die verbod op enige aftrekking van 'n werknemer se besoldiging of betaling deur hom ten opsigte van enigiets wat die eienaar of bestuurder van 'n myn of bedryf verplig is om ingevolge hierdie Wet te verskaf of te doen in belang van die gesondheid of veiligheid van so 'n werknemer;
- (y) enige aangeleentheid wat ingevolge hierdie Wet voorgeskryf kan of moet word; of
- (z) enige ander aangeleentheid waarvan die reëling volgens die oordeel van die Minister nodig of wenslik is ten einde die oogmerke van hierdie Wet te bereik.
- (2) Geen regulasie wat betrekking het op KwaZulu-Regering inkomste of - uitgawe of op 'n gesondheidsaangeleentheid word deur die Minister uitgevaardig behalwe, onderskeidelik, met die instemming van die Minister van Finansies of na oorlegpleging met die Minister van Gesondheid nie.
- (3) (a) Die Minister kan by kennisgewing in die Amptelike Koerant enige veiligheidsstandaard, sonder publiserings van die teks daarvan, by die regulasies inlyf by wyse van 'n verwysing na die nommer, titel en jaar van uitreiking daarvan of na die ander besonderhede waardeur dit voldoende geïdentifiseer kan word.
- (b) 'n Veiligheidsstandaard kragtens paragraaf (a) by die regulasies ingelyf, word vir die doeleindes van hierdie Wet, vir sover dit nie strydig is met 'n regulasie nie, geag 'n regulasie te wees, maar nie voor die verstryking van 'n tydperk van twee maande vanaf die datum van sodanige inlywing nie.
- (c) Wanneer 'n veiligheidsstandaard te eniger tyd na die inlywing daarvan kragtens paragraaf (a), deur die bevoegde gesag gewysig of vervang word, word die kennisgewing waardeur sodanige veiligheidsstandaard by die regulasies ingelyf is, tensy anders daarin bepaal, geag te verwys na sodanige veiligheidsstandaard soos aldus gewysig of vervang, na gelang van die geval.
- (d) Die streekdirekteur moet 'n eksemplaar van die teks van elke veiligheidsstandaard kragtens paragraaf (a) by regulasies ingelyf en van elke wysiging of vervanging daarvan, in sy kantoor hou en so 'n eksemplaar aan enige belanghebbende persoon op sy skriftelike versoek beskikbaar stel ter insae of vir die maak van 'n afskrif by 'n plek wat die streekdirekteur goedkeur. Met dien verstande dat die streekdirekteur nie verplig is om 'n eksemplaar van so 'n veiligheidsstandaard, of van 'n wysiging of vervanging daarvan, wat gepubliseer is in 'n publikasie wat in KwaZulu verkrygbaar is, in sy kantoor vir genoemde doeleindes te hou nie, mits hy in 'n register besonderhede aanteken van die publikasie waarin sodanige veiligheidsstandaard, of 'n wysiging of vervanging daarvan, gepubliseer is asook van die plek in KwaZulu waar sodanige publikasie verkrygbaar is of andersins ingesien kan word, en sodanige register of 'n uittreksel daaruit aan belanghebbende persone ter insae beskikbaar stel.
- (e) Artikel 33 van die Wet op Standaarde, 1982 (Wet No. 30 van 1982), raak nie 'n inlywing van 'n veiligheidsstandaard kragtens paragraaf (a) of van 'n wysiging of vervanging daarvan bedoel in paragraaf (c) nie.
- (4) Geen landdroshof is bevoeg om ondersoek in te stel na of uitspraak te doen oor die geldigheid van 'n regulasie nie;
- (5) 'n Regulasie kragtens subartikel (1) uitgevaardig, kan bepaal dat iemand wat 'n bepaling daarvan oortree of versuim om daaraan te voldoen, aan 'n misdryf skuldig is.
64. (1) Die Minister kan, met die goedkeuring van die Kabinet en behoudens artikels 43(2) en 44(2), enige reg op 'n mineraal waarvan die KwaZulu-Regering die houer is, vervreem onderworpe aan die bedinge en voorwaardes wat deur hom bepaal mag word.
- (2) Die Hoofminister mag, by wyse van Proklamasie in die Amptelike Koerant gelas dat vanaf 'n datum deur hom bepaal, enige reg of verpligting van die KwaZulu-Regering met betrekking tot enige minerale en wat in KwaZulu geleë is, behoudens die bepalinge van hierdie Wet en die voorwaardes voorgeskryf in so 'n Proklamasie, in 'n persoon of overheid in KwaZulu setel.
- (3) Subartikel (1) is nie van toepassing op 'n reg op diamante bedoel in artikel 46(1) nie vir sover die bepalinge van daardie artikel nie kragtens artikel 46(2) opgehef is nie.
65. Die bepalinge van hierdie Wet, behalwe vir sover dit strafregtelike aanspreeklikheid betref of vir sover die Minister by kennisgewing in die Amptelike Koerant anders mag bepaal, bind die KwaZulu-Regering.
66. Die Wet op die Registrasie van Myntitels, 1967 (Wet No. 16 van 1967), word hiermee gewysig deur die uitdrukking "Registrateur van Mynbriewe" oral waar dit in genoemde Wet voorkom deur die uitdrukking "Sekretaris van Binnelandse Sake" te vervang.
67. Die KwaZulu Wet op Masjinerie en Beroepsveiligheid, 1985 (Wet No. 10 van 1985), is nie van toepassing op enige aangeleentheid ten opsigte waarvan 'n bepaling van hierdie Wet van toepassing is nie.
68. (1) Behoudens subartikels (2) en (3) word die wette in die Bylae genoem, hierby gewysig of herroep in die mate in die derde kolom daarvan aangedui.
- (2) 'n Regulasie uitgevaardig kragtens die Wet op Myne en Bedrywe, 1956 (Wet No. 27 van 1956), onmiddellik voor die inwerkingtreding van hierdie Wet, bly, ondanks die herroeping van eersgenoemde Wet by subartikel (1), van krag tot dat dit kragtens artikel 63 gewysig of herroep word, en enige reël, kennisgewing, bevel, opdrag, verbod, magtiging, vergunning, toestemming, vrystelling, sertifikaat of dokument uitgevaardig, uitgereik, gegee of verleen en enige ander stappe gedoen ingevolge so 'n regulasie voor die inwerkingtreding van hierdie Wet, bly insgelyks van krag.

- (3) 'n Toestemming verleen ingevolge artikel 8 van die Wet op Myne en Bedrywe, 1956, en van krag onmiddellik voor die inwerkingtreding van hierdie Wet, bly, ondanks die herroeping van eersgenoemde Wet by subartikel (1), van krag.
- (4) 'n Goedkeuring of sertifikaat onderskeidelik verleen of uitgereik ingevolge artikel 2 of 5 van die Aanvullende Wet op die Mineraalwette, 1975 (Wet No. 10 van 1975), en van krag onmiddellik voor die inwerkingtreding van hierdie Wet, word geag onderskeidelik kragtens artikel 20 of 17 (1) (ii) verleen of uitgereik te wees.
- (5) Behalwe vir sover in Hoofstuk VII anders bepaal word, word die bepalings van hierdie Wet nie geraak deur 'n beding of voorwaarde van 'n ooreenkoms nie, hetsy so 'n ooreenkoms voor of na die inwerkingtreding van hierdie Wet aangegaan is.

Ooreenkomste
met Republiek

69. Indien die Regering van KwaZulu soos omskryf in artikel 38 vna die Grondwet van die Selfregerende Gebiede, 1971 (Wet No. 21 van 1971) en die Regering van die Republiek van Suid Afrika daaromtrent ooreenkom, kan 'n beampte in diens van die Departement van Mineraal- en Energiesake van die Republiek enige werksaamheid in KwaZulu verrig wat aan 'n beampte in diens van die KwaZulu-Regeringsdiens opgedra is deur of ingevolge enige wet van die KwaZulu-Regering in verband met mineraalsake, en sodanige werksaamheid word deur eersgenoemde beampte verrig op die voorwaardes waar omtrent tussen genoemde regerings ooreengekom is.

Kort titel en
inwerkingtreding

70. (1) Hierdie Wet heet die KwaZulu-Mineraalwet, 1992
- (2) Hierdie Wet sal, niesteenstaande die datum van promulgering daarvan geag word op 1 Januarie 1992 in werking te getree het.
- (3) Enige magtiging, reg of permit toegestaan, enige ooreenkoms aangegaan of enige handeling verrig in afwagting van die promulgering van hierdie Wet, indien toegestaan of uitgevoer op of na 1 Januarie 1992, sal geag word om ingevolge die toepaslike bepalings van hierdie Wet toegestaan of uitgevoer te gewees het.

Bylae

WETTE GEWYSIG OF HERROEP (ARTIKEL 68)

NO. EN JAAR VAN WET	KORT TITEL	OMVANG VAN HERROEPING
Wet No. 15 van 1919....	"Edelgesteentes (Alluviale) Wijzigingswet, 1919"	Die geheel
Wet No. 26 van 1932....	Mynregte (Suidwes-Afrika) Wet, 1932	Die geheel
Wet No. 27 van 1946....	Wet op die Navorsingsinstituut vir Diepmyn-ontginning, 1946	Die geheel
Wet No. 27 van 1956....	Wet op Myne en Bedrywe, 1956	Die geheel, behalwe die omskrywings van "Minister" en "Sondag", "Kersdag", "Geloftedag", "Goeie Vrydag" en "Republiek dag" in artikel 1, en artikel 9
Wet No. 51 van 1959....	Wysigingswet op Myne en Bedrywe, 1959	Die geheel
Wet No. 46 van 1964....	Wysigingswet op Myne en Bedrywe en Ontploffbare Stowwe, 1964	Artikels 1 tot en met 11
Wet No. 73 van 1964....	Wet op Edelgesteentes, 1964	Die geheel
Wet No. 88 van 1964....	Wet op die Ontwikkeling van Strategiese Mineraalbronne, 1964	Die geheel
Wet No. 91 van 1965....	Wysigingswet op Myne en Bedrywe, 1965	Die geheel
Wet No. 20 van 1967....	Wet op Mynregte, 1967	Die geheel, behalwe die omskrywings van "edelmetaal" en "onbewerkte edelmetaal" in artikel 1, en Hoofstuk XVI.
Wet No. 42 van 1968....	Wysigingswet op Myne en Bedrywe, 1968	Die geheel
Wet No. 48 van 1969....	Wysigingswet op Edelgesteentes 1969	Die geheel
Wet No. 40 van 1971....	Wysigingswet op Myne en Bedrywe, 1971	Die geheel
Wet No. 80 van 1971....	Algemene Regswysigingswet, 1971	Artikels 18 en 19
Wet No. 62 van 1973....	Algemene Regswysigingswet, 1973	Artikels 11 en 12
Wet No. 14 van 1974....	Wysigingswet op die Ontwikkeling van Strategiese Mineraalbronne, 1974	Die geheel
Wet No. 10 van 1975....	Aanvullende Wet op die Mineraalwette, 1975	Die geheel
Wet No. 16 van 1975....	Wysigingswet op Edelgesteentes, 1975	Die geheel
Wet No. 47 van 1976....	Wysigingswet op Mynregte, 1976	Die geheel
Wet No. 77 van 1977....	Wet op die Beheer van Tieroog, 1977	Die geheel
Wet No. 83 van 1977....	Wysigingswet op Myne en Bedrywe, 1977	Die geheel

NO. EN JAAR VAN WET	KORT TITEL	OMVANG VAN HERROEPING
Wet No. 44 van 1978....	Wysigingswet op Mynregte, 1978	Die geheel
Wet No. 48 van 1979....	Wysigingswet op die Beheer van Tieroog, 1979	Die geheel
Wet No. 61 van 1980....	Wysigingswet op Edelgesteentes, 1980	Die geheel
Wet No. 8 van 1981....	Wysigingswet op die Beheer van Tieroog, 1981	Die geheel
Wet No. 23 van 1981....	Wysigingswet op die Aanvullende Wet op die Mineraalwette, 1981	Die geheel
Wet No. 41 van 1981....	Wysigingswet op Edelgesteentes, 1981	Die geheel
Wet No. 86 van 1981....	Wysigingswet op Mynregte, 1981	Die geheel
Wet No. 15 van 1982....	Wysigingswet op Edelgesteentes, 1982	Die geheel
Wet No. 92 van 1982	Wet op Kernenergie, 1982	Artikel 47
Wet No. 50 van 1983	Wysigingswet op Mynregte, 1983	Die geheel

IZIMEMEZELO

ISAZISO KWABAMEMEZELAYO NABAKHOKHAYO IMALI

IZIMEMEZELO: Ngesentimitha noma ingxenye (Kuhlanganisa 13 milimitha ngenhla nangezansi kwesihloko nesiginesha.)

(a) Izicelo zamalaysense okuhweba: ngolwimi: inkokhelo elinga nayo engu R5.

(b) Ezinye izimemezele: ngolwimi:-
Uhlu olulodwa - R0,60/isentimitha - ukuphinda - R0,30/
isentimitha.

Izinhla ezimbili - R1,20/isentimitha - ukuphinda - R0,60/
isentimitha.

Izinhla ezintathu - R1,80/isentimitha - ukuphinda - R0,90/
isentimitha.

Ukulinganisa ubungako bohlu, linganisa amagama awu 6 ngomugqa ohlwini olulodwa; 14 izinhla ezimbili, 21 izinhla ezintathuezinemigqa emithathu kwisentimitha.

Umbhalo (olotshwe ngesandla) ubhalwe ecaleni elilodwa kuphela. Amabizo oqobo NGAMAGAMA AMAKHULU.

Akukhocala elokwamukelwa ngokulahlekelwa okubangwa ukushiyeke kwamagama athile noma amaphutha okushicilela.

ZONKE IZINKOKHELO ZEZIMEMEZELO NEZIMALI EZIKHISHWAYO ZIKHOKHWA KUQALA

IZICELO ZAMALAYSENSE AMABHIZINISI/EMISEBENZI

Abenza izicelo zamalaysense amabhizinisi/emisebenzi mabaqaphele uhlelo 4 lwengxenye 1 yemithetho ephathelene namabhizinisi nokuhweba KwaZulu njengokusho koMthetho wakwaZulu wamaBhizinisi

IZICELO ZAMALAYSENSE OPHUZO

Abenza izicelo zamalaysense ophuzo mabaqaphele isijobelelo emithethweni ephathelene nophuzo njengokusho koMthetho wophuzo wakwaZulu ka 1980 okuyiyona-yona fomu yesaziso sesicelo selayisense yoPhuzo okufanele sikhishwe ngayo kule Gazethi kaHulumeni.

Izincwadi mazithunyelwe ku Nobhala weZangaphakathi,
Isikhwama sePosi X02, Ulundi 3838.

ADVERTISEMENTS

NOTICE TO ADVERTISERS AND SUBSCRIBERS

ADVERTISEMENTS: Per cm, or part (including 13 mm at top and bottom of heading and signature):-

(a) Applications for trading licences per language - A flat rate of R5,00

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Single column - - - - R0,60/cm Repeat - - - R0,30/cm

Double Column - - - - R1,20/cm Repeat - - - R0,60/cm

Triple Column - - - - R1,80/cm Repeat - - - R0,90/cm

To Calculate approximate space, allow 6 words per line
single Column, 14 Double Column, 21 Triple Column, with 3
lines to a cm. Manuscript to be written on one side only; proper
names in BLOCK LETTERS. NO responsibility is accepted for losses
arising from omissions or typographical errors.

ALL ADVERTISEMENTS AND SUBSCRIPTION PAYMENTS STRICTLY IN ADVANCE

BUSINESS/OCCUPATIONAL AND LICENCE APPLICATIONS

The attention of applicants for Business/Occupational licences is drawn to Schedule 4 of Part I of the regulations relating to Business and Trading Undertakings in KwaZulu in terms of the KwaZulu Business and Trading Undertakings Act 1974, which is the correct form of a Notice of Application for a Business Licence for publication in this Official Gazette.

LIQUOR LICENCE APPLICATIONS

The attention of applicants for Liquor Licences is drawn to the Annexure of the Regulations relating to Liquor Licences in terms of the KwaZulu Liquor Act 1980, which is the correct form of a Notice of Application for a Liquor Licence for publication in this Official Gazette.

Communications to be addressed to:-

The Secretary for Interior, Private Bag X02, Ulundi 3838

ADVERTENSIES

KENNISGEWING AAN ADVERTEERDERS EN INTEKENAARS

ADVERTENSIES: Per cm. of deel (insl. 13 mm bo en onder vir opskrif en handtekening): -

(a) Aansoeke om Handellisensie per taal - 'n Vaste tarief van R5.00

(b) Ander advertensies per taal:

Enkel kolom R0.60/cm Herhaling ... R0.30/cm

Dubbele kolom R1.20/cm Herhaling ... R0.60/cm

Driedubbele kolom.. R1.80/cm Herhaling ... R0.90/cm

Vir berekening van benaderde ruimte moet 6 woorde per reël enkele kolom, 14 per reël dubbele kolom, 21 per reël driedubbele kolom, en 3 reël per cm toegelaat word. Manuskripte moet duidelik op een kant en eienaam met BLOKLETTERS geskryf word. Geen aanspreeklikheid word vir verliese as gevolg van weglatings of drukfoute aanvaar nie.

ALLE ADVERTENSIE - EN INTEKENGELDE STRENG VOORUITBETAALBAAR

AANSOEKE OM BESIGHEIDS/BEROEPSLISENSIES

Die aandag van applikante om Besigheids/beroeps-lisensies word gevestig op bylae 4 van Deel 1 van die Regulasies betreffende Besigheids/Beroeps-lisensies in KwaZulu ingevolge die KwaZulu-wet op Sake - en Beroepsondernemings, 1974, wat die juiste vorm is waarin 'n Kennisgewing van Aansoek om 'n Besigheids-lisensie in hierdie Amptelike Koerant gepubliseer moet word.

AANSOEK OM DRANKLISENSIES

Die aandag van applikante om Dranklisensies word gevestig op die aanhangsel van die Regulasies betreffende Dranklisensies kragtens die KwaZulu Drankwet, 1980, wat die juiste vorm is waarin 'n Kennisgewing van Aansoek om 'n Dranklisensie in hierdie Amptelike Koerant gepubliseer moet word.

Mededelings moet gerig word aan:-

Die Sekretaris van Binnelandse Sake,
Privaatsaak X02 Ulundi 3838