PARLIAMENT OF THE DEMOCRATIC

SOCIALIST REPUBLIC OF

SRI LANKA

—————————

MINES AND MINERALS (AMENDMENT)

ACT, NO. 66 OF 2009

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[Certified on 17th November, 2009]

Printed on the Order of Government

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Mines and Minerals (Amendment) 1

Act, No. 66 of 2009

[Certified on 17th November 2009]

L. D.—O. 8/2007.

ANACT TO AMEND THE MINES AND MINERALS

ACT, NO. 33 OF 1992

BE it enacted by the Parliament of the Democratic Socialist

Republic of Sri Lanka as follows:—

1. This Act may be cited as the Mines and Minerals Short title.

(Amendment) Act, No. 66 of 2009.

2. Section 4 of the Mines and Minerals Act, No. 33 of Amendment to

section 4 of Act,

1992 (hereinafter referred to as the “principal enactment”) is

No. 33 of 1992.

hereby amended as follows:—

(1) in subsection (1) of that section by the substitution

for the words “following five members” of the words

“following seven members”; and

(2) by the repeal of paragraph (a) of subsection (1) and

the substitution therefor of the following

paragraph:—

“(a) (i) the Secretary to the Ministry of the

Minister in charge of the subject of

industries or his representative;

(ii) the Secretary to the Ministry of the

Minister in charge of the subject of

environment or his representative;

(iii) three members who appear to the Minister

to have demonstrated practical

experience and possess knowledge in the

fields of Geology, Mining, Business

Management, Finance and Law.”.

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Amendment 3. Section 5 of the principal enactment is hereby

of section 5 amended in subsection (2) by the substitution for the words

of the

principal “Board shall be three” of the words “Board shall be five”.

enactment.

Amendment 4. Section 6 of the principal enactment is hereby

of section 6 amended as follows:—

of the

principal

enactment. (1) by the repeal of subsection (1) of that section and

the substitution therefor of the following

subsection:—

“(1) The Minister shall appoint in

consultation with the Board, a person having at

least twelve years of demonstrated professional

and applied experience as a geologist or a mining

engineer with a postgraduate degree or Charter

as the Director General of the Geological Survey

and Mines Bureau.”;

(2) in subsection (2) of that section by the substitution

for all the words from “the Director of Geological

Survey and Mines” to the words “principal technical

officer” of the words “The Director-General of the

Geological Survey and Mines (hereinafter referred

to as the “Director-General”) shall be the Chief

Executive Officer and principal technical officer,”;

and

(3) in subsection (3) of that section by the substitution

for the worlds “a period of six years” of the words

“a period of three years”.

Amendment 5. Sections 8 of the principal enactment is hereby

of section 8 amended by the repeal of subsection (1) of that section and

of the the substitution therefor of the following subsection:—

principal

enactment.

“(1) The Board may delegate to the

Chairman, the Director General or an employee

of the Bureau or to any other person who is an

employee of the public sector, by name or by

office, any or all of the powers, duties or

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functions, conferred or, imposed on, or assigned

to, the Bureau by this Act, other than the power

conferred by this subsection.”.

6. Section 12 of the principal enactment is hereby Amendment of

amended as follows:— section 12 of the

principal

(1) in paragraph (d) of that section by the substitution enactment.

for the words “minerals and the processing, trading

in” of the words “minerals and the processing,

transport, storing, trading in”;

(2) by the repeal of paragraph (e) of that section and

the substitution therefor of the following new

paragraphs:—

“(e) to advise the Minister on measures to be

adopted for the promotion, extraction, value

addition through development of mineral

based products and export of such mineral

based products on a commercial basis;

(f) to disseminate in appropriate media,

information and data acquired during the

exercise of functions under the Act, in

particular, under paragraphs (a), (b) and (c) of

this section; and

(g) to undertake projects in regard to engineering

geology and provide advice and remedial

measures caused in respect of geological

hazards and disasters.”.

7. Section 13 of the principal enactment is hereby Amendment of

amended in subsection (2) of that section as follows:— section 13 of the

principal

enactment.

(1) by the repeal of paragraph (d) of that section and the

substitution therefor of the following paragraph:—

“(d) to issue licences for—

(i) explorations consequent to the receipt

of an application or by the advertising

and calling for Expressions of Interest:

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(ii) mining;

(iii) transport;

(iv) trade-in;

(v) storing; and

(vi) export of minerals”;

(2) in paragraph (h) of that subsection, by the

substitution for the words “the Bureau” of the words

“the Bureau; and”;

(3) by the insertion immediately after paragraph (h) of

the following new paragraph:—

“(i) to serve as a member of any Technical

Evaluation Committee of any Ministry,

department or statutory organization as the

case may be, wherein any project proposal

relating to geology or minerals is being

evaluated.”.

Insertion of the 8. The following new section is hereby inserted

new section 20A immediately after section 20, of the principal enactment

of the principal

and shall have effect as section 20A of that enactment:—

enactment.

“Exemption 20A. The Minister shall, with the

of the concurrence of the Minister in charge of subject

Bureau from

payment of of Finance exempt the Bureau from the payment

taxes, duties of any duty, levy and any tax on the profits and

&c,. income of the Bureau to such extent as is

permitted in terms of the Inland Revenue Act,

No. 10 of 2006 or in terms of any other written

law for the time being in force governing the

imposition of any such duty, levy or tax as the

case may be.”.

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9. Section 27 of the principal enactment is hereby Amendment of

section 27 of the

amended by the substitution for the words “and the State

principal

Gem Corporation Act, No. 13 of 1971 apply.”, of the words enactment.

“and the State Gem Corporation Act, No. 13 of 1971 apply:

Provided however, for the purposes of paragraph (b) of

section 12 of this Act, the Bureau shall receive data and

reports of all surveys and investigations pertaining to the

search of hydrocarbons and gems carried out within the

territory of Sri Lanka.”.

10. Section 28 of the principal enactment is hereby Amendment of

section 28 of the

amended as follows:— principal

enactment.

(1) in subsection (1) of that section by the substitution

for the words “No person shall explore for, mine,

transport, process, trade in” of the words “No person

shall explore for, mine, transport, process, store, trade

in”;

(2) in subsection (3) of that section by the substitution

for the words “may transfer” of the words “shall

transfer”; and

(3) in subsection (4) of that section by the substitution

for the words “on or from such land”, of the words

“on or from such land, if such mineral is used for

the construction of a building for the personal use

of such owner, occupant or holder.”.

11. Section 29 of the principal enactment is hereby Amendment of

section 29 of the

amended as follows:—

principal

enactment.

(1) by the substitution for the words “No licence to

explore for, mine, transport, process, trade in” of

the words “No licence to explore for, mine,

transport, process, store, trade in”; and

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(2) by the addition immediately after sub-paragraph

(iv) of paragraph (a) of the following new sub-

paragraph:—

“(v) is a member of the Parliament or a member

of a Provincial Council or a member of a

local authority.”.

Amendment of 12. Section 30 of the principal enactment is hereby

section 30 of amended as follows:—

the principal

enactment.

(1) by the repeal of paragraph (a) of that section;

(2) in paragraph (c) of that section by the substitution

for the words “distance of a lake, stream or a tank”

of the words “distance of a lake, river, stream or a

tank”;

(3) by the repeal of paragraph (h) of that section and

the substitution therefor of the following new

paragraphs:—

“(h) any land falling within the coastal zone

within the meaning of the Coast Conservation

Act, No. 57 of 1981, without the approval of

the Minister and the Minister in charge of the

subject of Coast Conservation;

(i) any land falling within any special area

declared under section 3 of the Mahaweli

Authority of Sri Lanka Act, No. 23 of 1979,

without the approval of the Minister in

charge of the subject of Mahaweli

Development;

(j) any land falling within any reserved forest

or village forest declared or constituted under

the Forest Ordinance, (Chapter 451) without

the approval of the Minister in charge of the

subject of forests;

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(k) any land falling within an Urban

Development Area declared under section 3

of the Urban Development Authority Law,

No. 41 of 1978, without the approval of the

Minister in charge of the subject of Urban

Development;

(l) any land falling within a national reserve or

sanctuary declared under section 2 of the

Fauna and Flora Protection Ordinance,

(Chapter 469) without the approval of the

Minister in charge of the subject of Wild Life

Conservation.”.

13. Section 31 of the principal enactment is hereby Amendment of

amended as follows:— section 31 of the

principal

enactment.

(1) in paragraph (a) of that section by the substitution

for the words “(Chapter 188); and” of the words

“(Chapter 188);”;

(2) in paragraph (b) of that section by the substitution

for the words “the said Ordinance.” of the words

“the said Ordinance;”; and

(3) by the addition at the end of that section of the

following paragraphs:—

“(c) any land situated within a Botanic Gardens

within the meaning of the Botanic Gardens

Ordinance (Chapter 446) or any area declared

under subsection (2) of section 2 of that

Ordinance;

(d) any National Heritage Wilderness Area

declared under the National Heritage

Wilderness Areas Act, No. 3 of 1988; and

(e) any burial ground or cemetery within the

meaning of the Cemeteries and Burial

Grounds Ordinance (Chapter 231).”.

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Amendment of 14. Section 33 of the principal enactment is hereby

section 33 of the amended in subsection (1) of that section by the substitution

principal

for the words from “No licence to explore” to the words

enactment.

“Beryllium, lithium coral” of the words “No licence to

explore for or mine, transport, process, store, trade in or export

minerals containing radioactive elements and coral”.

Amendment of 15. Section 35 of the principal enactment is hereby

section 35 of the amended as follows:—

principal

enactment.

(1) in subsection (2) of that section—

(a) in paragraph (b) thereof, by the substitution

for the words “explore for or mine, transport,

process, trade in or export minerals” of the

words “explore for or mine, transport, process,

store, trade in or export minerals”;

(b) in paragraph (c) thereof, by the substitution

for the words “exploration, mining,

transportation, processing, trading in or

exporting” of the words “exploration, mining,

transportation, processing, storing, trading in

or exporting is authorized”;

(c) by the repeal of the proviso to that subsection

and the substitution therefor of the following

proviso:—

“Provided however that an industrial

mining licence or a licence to explore, for

minerals may be transferred or given as

security subject to such conditions as may be

specified in such licence.”;

(2) in subsection (4) of that section—

(a) in paragraph (a) thereof, by the substitution

for the words “that the exploration, mining

processing, trading in and” of the words “that

the exploration, mining, transport, processing,

storing, trading in and”;

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(b) in paragraph (e) thereof, by the substitution

for the words “exceeding six months” of the

words “exceeding three months”.

16. Section 37 of the principal enactment is hereby Amendment of

amended in paragraph (d) of subsection (1), by the section 37 of

the principal

substitution for the words “a period of over six months” of

enactment.

the words “a period of over three months”.

17. Section 42 of the principal enactment is hereby Amendment of

amended by the substitution for the words “for his personal section 42 of

the principal

use” of the words “for his personal use, not being a commercial

enactment.

purpose”.

18. Section 44 of the principal enactment is hereby Amendment of

amended by the repeal of paragraph (d) of that section, and section 44 of

the principal

the substitution therefor of the following paragraph:—

enactment.

“(d) to enter into and inspect any land, mine or other

premises in respect of which a licence has been

issued under this Act and—

(i) to carry out such investigations or surveys

thereon; and

(ii) to make such inspections and examinations

of any plant, equipment, machinery, books

of accounts, plans or other documents found

thereon,

as may be necessary to ascertain whether the terms

and conditions of such licence or any provision of

this Act or of any regulation made thereunder, are

being complied with.”.

19. Section 46 of the principal enactment is hereby Amendment of

amended as follows:— section 46 of the

principal

(1) by the repeal of the marginal note to that section enactment.

and the substitution therefor of the following

marginal note:—

“Powers of

officers &c to

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carry out

geological and

mineral

investigations.”.

Insertion of new 20. The following new section is hereby inserted

section 46A in immediately after section 46 of the principal enactment and

the principal

enactment. shall have effect as section 46A of that enactment:—

“Powers of 46A. The Bureau may, where it considers it

authorized necessary for the purpose of discharging the

officers to functions of the Bureau, authorize in writing

enter, search

any officer of the Bureau (hereinafter referred

and inspect

&c. to as the “authorized officer”) to—

(a) enter, search and inspect any site, premises,

or place in which any mining, exploration

for, processing, storing, trade in or export

of any mineral is being carried on under

the authority of a licence issued under this

Act for the purpose of ascertaining the

compliance of the provisions of this Act;

(b) enter, search and inspect any site, premises

or place where the authroized officer has

reason to believe that any mining,

exploration for processing, storing, trade

in, or export of any mineral is being carried

on without the authority of a licence under

this Act ;

(c) stop, enter and inspect any vehicle or

vessel in which authorized officer has

reason to believe that any minerals are

being transported or exported as the case

may be, in contravention of the provisions

of this Act or regulations made

thereunder.”.

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21. Section 47 of the principal enactment is hereby Replacement of

repealed. section 47 of the

principal

enactment.

22. Section 48 of the principal enactment is hereby Amendment of

section 48 of the

amended by the addition at the end of that section of the

principal

following new subsections :— enactment.

“(3) Where the holder of a licence to explore for

minerals determines that a mineral may be developed

and mined on a commercial basis in the area in respect

of which such licence has been issued, he shall have

the exclusive right to apply for and obtain an industrial

mining licence and artisanal mining licence in respect

of such area, if he has complied with the conditions

attached to the licence issued to him to explore for

minerals and is otherwise not disqualified under any

other provision of this Act from obtaining a licence

for mining minerals.

(4) The Secretary shall on a request made by the

holder of a licence to explore for minerals and with

the prior approval of the Minister, enter into an

Investment Agreement with such holder. Every such

Investment Agreement shall be in such form as shall be

prescribed and shall contain such terms and conditions

as may be prescribed.”.

23. Section 49 of the principal enactment is hereby Amendment of

section 49 of the

amended by the substitution for the words “right to mine for

principal

all minerals in the area specified in such licence and to trade enactment.

in and export such minerals” of the words “right to mine

only the minerals specified in such licence and to trade in

and export such minerals wherever possible after product

development.”.

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Amendment of 24. Section 51 of the principal enactment is hereby

section 51 of the

amended by the substitution for all the words from “provided

principal

enactment. that” to the words “except with the consent of such owner”

of the words “Provided that where the owner or state

organization of any such area of land is in possession of

such area of land, the holder of the licence shall not exercise

the rights conferred on him by this section except with the

consent of such owner or state organization”.

Amendment 25. The heading to the Part III of the principal enactment

of the heading is hereby amended by the substitution for the words “health,

to Part III of

the principal safety and welfare of workers in mines” of the words “health,

enactment. safety and welfare of workers mining for minerals”.

Amendment of 26. Section 55 of the principal enactment is hereby

section 55 of the

amended as follows :—

principal

enactment.

(1) by the renumbering of that section as subsection

(1) of that section ; and

(2) by the addition immediately after the renumbered

subsection (1) of the following subsection :—

“(2) Nothing in subsection (1) shall apply to—

(a) any female engaged in a managerial

capacity ;

(b) any female engaged in providing health

or welfare services ; or

(c) any female who, as part of any course

of study, is required to be familiar with

underground mining activities.”.

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27. Section 57 of the principal enactment is hereby Amendment of

amended by the addition immediately after subsection (3) section 57 of the

principal

thereof of the following new subsection :—

enactment.

“(4) The recruitment for such purposes shall be

in accordance with the labour laws and regulations

for the time being in force.”.

28. Section 58 of the principal enactment is hereby Amendment of

amended in subsection (1) of that section, by the substitution, section 58 of the

principal

for the words “shall be ordered or compelled”, of the words

enactment.

“shall, except in the case of an accident, be ordered or

compelled.”.

29. Section 61 of the principal enactment is hereby Amendment of

section 61 of the

amended in subsection (3) of that section by the substitution

principal

for the words “subsection (1)” of the words “subsection (2)”. enactment.

30. Section 63 of the principal enactment is hereby Amendment of

section 63 of the

amended as follows :— principal

enactment.

(1) in paragraph (a) of subsection (1) of that section by

the substitution for the words “or mines, processes,

transports, trades in or exports” of the words “or

mines, processes, stores, transports, trades in or

exports,”;

(2) in subsection (1) of that section by the substitution

for all the words from “before a Magistrate be liable

to a fine not exceeding five hundred thousand

rupees” to the words “for a term not exceeding one

year” of the words “before a Magistrate be liable to

a fine not less than fifty thousand rupees and not

exceeding five hundred thousand rupees and in the

case of a second or subsequent offence, to a fine not

less than one hundred and fifty thousand rupees

and not exceeding two million rupees or to

imprisonment for a term not exceeding two years”;

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(3) by the insertion immediately after subsection (1) of

that section of the following new subsections :—

“(1A) Where a Magistrate convicts any person

for an offence under this Act for exploring for, or

mining, minerals on any land, without a licence

in that behalf issued under this Act, he may in

addition to any fine or imprisonment, imposed on

such person, order such person to restore or

rehabilitate such land to the state it was in, prior

to the commencement of such exploration or

mining operation.

(1B)A Certificate under the hand of the

Director-General, to the effect that the land

described therein, being a land in respect of which

an order has been made under subsection (1A), has

been restored to the state it was in prior to the

commencement thereon of the exploration or

mining operation. Shall be admissible in evidence

and shall be prima facie evidence of the facts

stated therein.”.

(4) in subsection (2) of that section by the substitution

for all the words from “before a Magistrate be liable”

to the words “not exceeding six months” of the

words “before a Magistrate be liable to a fine not

less than five thousand rupees and not exceeding

seventy five thousand rupees or to imprisonment

for a term not exceeding twelve months”;

(5) in subsection (3) of that section by the substitution

for the words “a fine not exceeding twenty five

thousand rupees” of the words “a fine not less than

ten thousand rupees and not exceeding fifty

thousand rupees.”.

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31. The following new sections are hereby inserted Insertion of new

sections 63A,

immediately after section 63 of the principal enactment and

63B, 63C and

shall have effect as sections 63A, 63B, 63C and 63D of that 63D of the

enactment :- principal

enactment.

“Powers of 63A. (1) A police officer who has reasonable

seizure. grounds to believe that an offence has been

committed under this Act may, with or without

a warrant, seize any mined mineral quantity of

mineral which has been mined, or any

machinery, equipment or material used in or in

connection with, the commission of that

offence.

(2) Where any mineral, machinery,

equipment or material is seized by a police

officer in pursuance of the powers conferred

on him by this section, he shall forthwith

produce such mineral, machinery, equipment

or material before, or make it available for

inspection by, a Magistrate, who shall make

such order as he thinks fit relating to the

detention or custody of such mineral,

machinery, equipment or material, pending the

conclusion of a prosecution instituted in

respect of such mineral, machinery, equipment

or material :

Provided however, that where any mineral,

machinery, equipment or material so seized is

subject to speedy decay, the Magistrate may

order that such mineral, machinery, equipment

or material be sold and the proceeds of such

sale be deposited in Court.

Forfeiture. 63B. (1) Where any person is convicted of

an offence under this Act, the Magistrate may

make order that any mineral, machinery,

equipment or material used in, or in connection

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with, the commission of that offence or the

proceeds of the sale of any such mineral, or

material deposited in court under the proviso

to section 63A, be forfeited to the State.

(2) Any mineral, machinery, equipment or

material forfeited by an order under subsection

(1), shall vest absolutely in the State upon the

making of such order.

(3) Such vesting shall take effect—

(a) if no appeal is preferred after the

expiration of the period within

which an appeal against the order

of forfeiture may be preferred to a

High Court established by Article

154p of the Constitution or the

Supreme Court; or

(b) where an appeal has been preferred

against the order of forfeiture, to a

High Court established by Article

154p of the Constitution or to the

Supreme Court, upon the

determination of such appeal,

either confirming the order of

forfeiture or setting aside the

appeal.

(4) The Court shall cause any mineral,

machinery, equipment or material which has

been vested in the State under subsection (2)

to be sold and the proceeds of such sale to be

deposited in Court.

Offences to 63C. Notwithstanding anything to the

be contrary in the Code of Criminal Procedure

cognizable

Act, No. 15 of 1979, every offence under this

offences.

Act shall be deemed to be a cognizable offence

within the meaning and for the purposes of

that Act.

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Officers of 63D. Every officer of the Bureau shall be a

the Bureau

peace officer within the meaning of the Code

to be peace

officers. of Criminal Procedure Act, No. 15 of 1979, for

the purpose of exercising any of the powers

conferred upon peace officers by that Act.”.

32. Section 64 of the principal enactment is hereby Amendment of

amended by the repeal of subsection (1) of that section and section 64 of the

principal

the substitution therefore, of the following subsection :— enactment.

“(1) The Minister may make regulations in

respect of all matters which are required by this

Act to be prescribed or in respect of which

regulation are authorized to be made to give effect

to the principles and provisions of this Act, and in

particular in respect of all or any of the following

matters :—

(a) the health and safety of workers in and

around mines ;

(b) sanitary conditions in mines ;

(c) medical facilities to be provided in mines ;

(d) the management of waste, refuse and

poisonous substances in mines ;

(e) the appointment of Mine Managers ;

(f) the appointment Committees to oversee the

worker, health and safety of workers in

mines;

(g) the reporting of accidents and deaths

occurring in mines ;

(h) the maintenance of records and accounts in

relation to mining in mines ;

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(i) the handling and use of explosives in mines ;

(j) the regulation of the use of plants or

machinery in mines ;

(k) storing of minerals ;

(l) demand and collection of royalties ;

(m) the preparation and submission of mine

environment and restoration plans and the

manner of compliance.”.

Amendment of 33. Section 68 of the principal enactment is hereby

section 68 of the

amended by the substitution for the words “The Quarries,

principal

enactment. Mines and Minerals” of the words “Mines, Quarries and

Minerals”.

Amendment of 34. Section 70 of the principal enactment is hereby

section 70 of the

amended by the insertion immediately after the definition

principal

enactment. of the expression “local authority” of the following

definition:—

“ “mine” means an opening upon, or an excavation in,

or a working of the ground, for the purpose of

exploring or mining for, and processing of,

minerals and includes all works, machinery,

plant, buildings, and premises below or above

ground used in connection with such

exploration, mining or processing

activities;”.

Sinhala text to 35. In the event of any inconsistency between the

prevail in the

Sinhala and Tamil texts of this Act, the Sinhala text shall

event of any

inconsistency. prevail.

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