



MINERAL RESOURCES BILL 2023

(NO. [] OF 2023)



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A

BILL

Entitled

AN ACT TO PROVIDE FOR EXPLORATION FOR AND MINING OF MINERALS IN SOLOMON ISLANDS AND FOR LANDOWNER AND COMMUNITY INVOLVEMENT IN MINING, TO REPEAL THE *MINES AND MINERALS ACT* (CAP 42), AND FOR RELATED MATTERS.

ENACTED BY THE NATIONAL PARLIAMENT OF SOLOMON ISLANDS.

MINERAL RESOURCES BILL 2023

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MINERAL RESOURCES BILL 2023

PART 1 PRELIMINARY MATTERS

1 Short title

This Act may be cited as the *Mineral Resources Act 2023*.

2 Commencement

This Act commences on the day appointed by the Minister by notice in the *Gazette*.

3 Purpose

The purpose of this Act is to establish a framework for authorising and regulating exploration, extraction and processing of minerals in a manner that:

- (a) encourages and facilitates the exploration, extraction and processing of minerals while recognising, respecting and safeguarding the natural, social and cultural environment of the communities of Solomon Islands;
- (b) recognises, respects and safeguards the right to customary ownership, customary use and occupation of land, water and sea according to current customary usage; and
- (c) encourages environmental responsibility and responsible land care management by those conducting exploration and mining activities; and
- (d) assists owners of land, communities and the mining industry to understand their rights and obligations in exploring for, extracting and processing minerals so they may engage in a timely and fair manner in harmonious and mutually beneficial relationships throughout the various stages of exploring for, extracting and processing minerals; and
- (e) ensures an economic benefit for Solomon Islands, with an appropriate financial return from mining, in a way that maximises the benefit to future generations.

4 Act binds Crown

This Act binds the Crown.

5 Application of Act

This Act applies to:

- (a) Solomon Islands land; and
- (b) to the extent that this Act is not inconsistent with the *Petroleum Exploration Act* (Cap. 44), Solomon Islands waters and the seabed and subsoil beneath those waters.

6 Relationship with other Acts

This Act has effect subject to other Acts that may affect:

- (a) rights and powers, given under this Act; or
- (b) obligations and functions imposed under this Act.

Note to section 6.

Examples of other Acts include:

- (a) *the Continental Shelf Act* (Cap. 94);
- (b) *the Environment Act 1998*;
- (c) *the Land and Titles Act* (Cap. 133);
- (d) *the National Parks Act* (Cap. 149);
- (e) *the Petroleum Exploration Act* (Cap. 44);
- (f) *the Protected Areas Act 2020*;
- (g) *the River Waters Act* (Cap. 135);
- (h) *the Wildlife Protection and Management Act 1998*.

7 Ownership of minerals

- (1) Ownership of a mineral located in or on Solomon Islands land or Solomon Islands waters is vested in the people and the Government of Solomon Islands regardless of:
 - (a) where in, on or below Solomon Islands land or in, on or below Solomon Islands waters the mineral is located or whether the mineral is dissolved or suspended in Solomon Islands waters

or located in the seabed or subsoil of those waters; or

- (b) who owns or has a right to use the Solomon Islands land or Solomon Islands waters.
- (2) In dealing with matters concerning minerals in Solomon Islands, the Government acts on behalf of the people of Solomon Islands, and must act in the best interests of the people of Solomon Islands.
 - (3) Property in a mineral in, on or below Solomon Islands land or Solomon Islands waters passes to the person by whom the mineral is lawfully extracted or recovered:
 - (a) on payment of royalty by the person; or
 - (b) if royalty is not payable, on extraction or recovery of the mineral.
 - (4) For the avoidance of doubt, a mineral in, on or below Solomon Islands land or Solomon Islands waters that is extracted or recovered without lawful authority remains the property of the people and Government of Solomon Islands.

8 Mining to be in national interest

- (1) Mining may not take place in Solomon Islands unless it is in the national interest to carry out the mining.
- (2) Mining is in the national interest if it:
 - (a) facilitates long-term economic and social development in Solomon Islands that is consistent with national development goals; and
 - (b) creates employment opportunities and other national and regional economic and social benefits; and
 - (c) is carried out in a manner that recognises, respects and safeguards:
 - (i) the natural, social and cultural environment of the communities of Solomon Islands; and
 - (ii) the right to customary ownership, usage and occupation of land, water and sea.

PART 2 INTERPRETATION

9 Definitions

In this Act:

“**agent**”, of the holder of a mining tenement, means the person who the holder has notified the Director in writing is authorised to act on behalf of the holder for matters arising under this Act;

“**authority**” means the right to carry out mining activities under this Act;

“**access agreement**” means an access agreement entered into under section 59;

“**access and compensation payment**” means an access and compensation payment under section 119;

“**adjacent**”, of one or more areas of Solomon Islands land or Solomon Islands waters, means each of the areas has at least one common side or point with at least one of the other areas;

“**affected community**” means the community of an area of land who are, or are reasonably likely to be, affected by mining activities carried out on or in the vicinity of the land;

“**applicant**” means an applicant for the grant, renewal or variation of a mining tenement;

“**application**” means an application for the grant, renewal or variation of a mining tenement;

“**area**” means an area of Solomon Islands land or Solomon Islands waters;

“**artisanal mining permit**” means a permit under section 53;

“**associated body corporate**”, of a body corporate, means:

- (a) a parent or holding company of the body corporate; or
- (b) a parent or holding company of a subsidiary of the body corporate; or

- (c) a body corporate which shares a parent or holding company with the body corporate; or
- (d) a body corporate engaged in a joint venture with the body corporate;

“building materials permit” is a permit under section 31;

“community”, of an area of Solomon Islands land or Solomon Islands waters, means the owner and occupier of the land or waters;

“community development payment” is a payment made under a community development agreement for the use of community land or community infrastructure or such other property, material or like material owned by the community;

“community development agreement” is as defined in Subdivision 4 of Part 5;

“community reserved area” has the meaning in section 98;

“compensation payment” is the payment under section 119;

“competitive tender restricted area” is a mining restricted area in section 19;

“current customary usage” has the same meaning as it has in section 2 of the *Land and Titles Act* (Cap. 133);

“customary land” means an area of Solomon Islands land that is owned, used or occupied by a person or community in accordance with current customary practice;

“customary waters” means an area of Solomon Islands waters that is owned, used or occupied by a person or community in accordance with current customary practice;

“dealer’s licence” is a licence under section 125;

“development approval” means one of the requirements for a feasibility licence under section 43;

“Director” means the person from time to time holding the position in the Ministry with the designation Director of Mines;

“**estate**” has the same meaning as it has in section 2 of the *Land and Titles Act* (Cap. 133);

“**exploration**”, for a mineral:

(a) means:

- (i) all methods of searching for or evaluating deposits of the mineral; or
- (ii) establishing the feasibility of mining and appropriate mining techniques for deposits of the mineral; and

(b) does not include fossicking;

“**export permit**” is an export permit under section 143;

“**extraction**”, of a mineral, means the physical, chemical, electrical, magnetic or other way of separation of a mineral from land or water;

“**feasibility licence**” is as provided for under section 43;

“**fossicking**”, for a mineral, means gathering from the surface or by digging by hand or by using hand tools to a depth of not more than 2 metres the mineral as a recreation, but without the use of explosives and without any intention to sell the minerals or to utilise them for a commercial or industrial purpose;

“**gemstone**” means a gemstone, whether in unprocessed, semi-processed or processed;

“**grant**”, of a licence, includes to renew or vary the licence;

“**holder**”, of a mining tenement, community mining permit, dealer’s licence or export permit, means the person whose name is recorded in the Register as holding the tenement, licence or permit;

“**land**” includes land covered by water and land covered by sea;

“**letter of intent**” is as provided for in section 66;

“**management body**” means a management body under section 121;

“**mineral**”:

- (a) means a metal or metalliferous ore, gemstone or any other naturally occurring inorganic substance formed as the result of geological processes that is:
 - (i) in the earth's crust (including sand, gravel, stone, coral, shell and clay); or
 - (ii) dissolved or suspended in the sea, in water or within the earth's crust and is recoverable; or
 - (iii) a substance that may be extracted from a substance referred to in subparagraph (i) or (ii); or
 - (iii) a substance referred to in subparagraph (i), (ii) or (iii) that has been dumped or discarded in the course of mining; and
- (b) includes sand, gravel, stone, coral, shell and clay; and
- (c) does not include:
 - (i) petroleum or any other substance the exploration for which, or the mining or and recovery of which, is carried out under the *Petroleum (Exploration) Act* (Cap. 44); and
 - (ii) water; and a prescribed substance;

"Minerals Board" is the Board established under section 174;

"mining", of a mineral:

- (a) means:
 - (i) extracting or recovering minerals from Solomon Islands land or Solomon Islands waters, including by the following methods:
 - (A) underground, surface or open-cut workings;
 - (B) on-site leaching;
 - (C) dredging; or
 - (ii) surface removal of soil or unconsolidated rock material that is incidental to mining; or

- (iii) processing minerals; or
 - (iv) disposing of waste mineral or other waste substances resulting from the operation of extracting a mineral; and
- (b) does not include:
- (i) fossicking for minerals; or
 - (ii) surface removal of soil or loose sediment material by agricultural or construction operations that are not incidental to mining;

“mining activities”, in relation to a mining tenement, means:

- (a) the activities that the holder of a mining tenement is authorised to by the mining tenement conduct for exploring for or mining a mineral; and
- (b) the other activities that are necessary or ancillary for conducting the activities referred to in paragraph (a);

“mining agreement” means an agreement between an applicant for a mining tenement and the Government that provides consent to the holder to carry out the mining activities to be authorised; and it is a prerequisite for entering into a mining licence;

“mining licence” is a licence under section 48;

“mining project” refers to all of the mining activities for exploring for or mining minerals carried out, or proposed to be carried out, in any combination or order, as a single integrated operation under a mining tenement.

“mining prohibited area” is a mining prohibited area under section 11;

“mining protected area” is a mining protected area under section 15;

“mining restricted area” is a mining restricted are under section 18;

“Mineral Resources Special Fund” is the Special Fund under section 168;

“**Ministry**” means the Ministry of Mines, Energy and Rural Electrification;

“**occupier of land**” means the person or persons other than the owner of the land who has or have the right to use or occupy the land, whether in accordance with current customary practice or under a law; “**officer**”, of a body corporate, means:

- (a) a director, secretary, manager or other similar officer of the body corporate; or
- (b) if the affairs of the body corporate are managed by the members of the body corporate, a member of the body corporate who performs a function in managing the affairs of the body corporate; or
- (c) if the officer of a body corporate is another body corporate, an officer of that other body corporate; or
- (d) a person in accordance with whose directions or instructions the officers of the body corporate are accustomed to act;

“**owner of land**” means:

- (a) for customary land, the group of people who are, in accordance with current customary practice, entitled to own the land; or
- (b) for registered land that is not customary land, the person or persons who is or are registered under the *Land and Titles Act* (Cap. 133) as the holder of an estate in the land;

“**prescribed**” means prescribed by regulation (and “**prescribe**” has a corresponding meaning);

“**processing**” means the first process after mining to separate a valuable mineral from other substances and provide a more concentrated material that is marketable.

“**prospecting licence**” is a prospecting licence under section 39;

“**reconnaissance permit**” is a *reconnaissance permit* under section 35;

“**registered land**” means land registered under the *Land and Titles*

Act (Cap. 133);

“**Registrar**” means the Registrar or Mines;

“**regulation**” means a regulation made by the Minister under section 198;

“**rehabilitation program**” for a mining tenement is one or more documents which collectively:

- (a) present sufficient information about ongoing work during and at the end of the term of a mining tenement to reduce the adverse environmental effects to the tenement area and areas adjacent to the tenement area that have been disturbed by activities conducted under the mining tenement and restore those areas to an acceptable state of physical, chemical and biological quality capable of beneficial use; and
- (b) specify a summary of the following:
 - (i) the technical work proposed to be carried out under the rehabilitation program;
 - (ii) the proposed expenditure for carrying out the technical work;
 - (iii) the manner in which the work under the rehabilitation program will be financed.

“**royalty**” is a payment for a mineral mined, under section 116;

“**significant mining project**” is a mining project:

- (a) involves, or is reasonably expected to involve, underground mining; or
- (b) is an alluvial gold mining project that has, or is reasonably expected to have, an annual production of at least 5,000 ounces of gold; or
- (c) involves, or is reasonably expected to involve, an annual excavation of at least 10,000 cubic metres of soil, rock or other material; or

- (d) involves 2 or more mining tenements held by one person or a group of associated bodies corporate; or
- (e) is a project that is a significant mining project in accordance with classifications prescribed by the Regulations;

“Solomon Islands land” means land in Solomon Islands;

“Solomon Islands waters” means:

- (a) all the water and sea contained in the internal waters as defined in section 3 of the *Delimitation of Marine Waters Act* (Cap. 95); and
- (b) all the areas of sea having as their inner most limits the baselines, as appropriate, established under section 5 of the *Delimitation of Marine Waters Act* (Cap. 95) and as their outer most limits a line measured seaward from those baselines every point of which is at a distance of 3 international nautical miles from the nearest point of the baselines.

“tenement area” is an area identified for a particular purpose;

“variation”, of a mining tenement is as defined under section 82;

“work program” for a mining tenement is one or more documents which collectively:

- (a) present sufficient information about the mining tenement to enable the Minister to make a proper decision about:
 - (i) an application for or relating to the tenement; or
 - (ii) whether the holder or proposed holder of the title meets, has met or will meet the conditions and requirement under this Act relating to the tenement; and
- (b) specify a summary of the following:
 - (i) the technical work proposed to be carried out for conducting the activities authorised under the tenement;
 - (ii) the proposed expenditure for carrying out the technical

work;

- (iii) the technical and financial resources of the applicant for the tenement; and
- (c) may include any of the following relating to work to be carried out under the tenement:
 - (i) geological, geochemical or geophysical surveys;
 - (ii) an assessment of the nature and scale of mineral resources and the feasibility of mining;
 - (iii) other information about minerals and mining.

10 Meaning of “mining tenement”

- (1) Subject to this Act, a **mining tenement** gives the holder of the mining tenement the following rights, as specified in the tenement documentation:
 - (a) to conduct activities for exploring for or mining minerals in the tenement area;
 - (b) to enter and occupy the tenement area with the persons, vehicles and equipment required for conducting the activities;
 - (c) to enter and traverse areas adjacent to the tenement area;
 - (d) to conduct necessary and ancillary activities.
- (2) The mining tenement has effect until:
 - (a) the term of the mining tenement ends; or
 - (b) the surrender of the mining tenement; or
 - (c) the cancellation of the mining tenement; or
 - (d) another mining tenement is granted or issued that has the effect of replacing it; or
 - (e) the mining tenement no longer has effect for another reason (for example because of compulsory acquisition of the mining area to which it applies).

- (3) The following are the types of mining tenement granted under this Act:
- (a) a building materials permit (see Part 4, Division 4, Subdivision 1);
 - (b) a reconnaissance permit (see Part 4, Division 4, Subdivision 2);
 - (c) a prospecting licence (see Part 4, Division 4, Subdivision 3);
 - (d) a feasibility licence (see Part 4, Division 4, Subdivision 4);
 - (e) a mining licence (see Part 4, Division 4, Subdivision 5);
 - (f) an artisanal mining licence (see Part 4, Division 4, Subdivision 6);
 - (g) a community mining permit (see Part 8, Division 2).
- (4) A reference in this Act to a mining tenement includes a reference of a mining tenement that has been renewed or varied.

PART 3 AREAS WHERE MINING PROHIBITED OR RESTRICTED

Division 1 Mining prohibited areas

11 Mining prohibited areas

- (1) A mining prohibited area is an area where mining is prohibited.
- (2) The following areas are mining prohibited areas:
- (a) a protected area of biological diversity significance under the *Protected Areas Act 2010*;
 - (b) a national park under the *National Parks Act (Cap. 149)*;
 - (c) an area declared to be mining prohibited area under section 12.

12 Declaration of mining prohibited area

- (1) The Minister may, by notice published in the Gazette, declare an area to be a mining prohibited area.
- (2) Subject to subsection (3), the Minister may declare a mining prohibited area:
 - (a) on application by a provincial government or any other person;
or
 - (b) on the Minister's own initiative.
- (3) The Minister must not declare a mining prohibition area unless:
 - (a) the Minerals Board, having considered the matters specified in section 13, recommends that the Minister make the declaration;
and
 - (b) the Minister has consulted with the following Ministers about making the declaration:
 - (i) the Minister responsible for the environment;
 - (ii) the Minister responsible for land registration;
 - (iii) the Minister responsible for the protection of cultural and historical sites;
 - (iv) if the proposed mining prohibited area includes offshore waters, the Minister responsible for fisheries and the Minister responsible for maritime affairs.

13 Considerations by Minerals Board

The Minerals Board must consider the following matters when deciding whether to recommend to the Minister to declare a mining prohibited area:

- (a) the need to protect places that could be harmed by mining, including:
 - (i) water catchment areas;
 - (ii) heritage sites or potential heritage sites;

- (iii) sites of importance or potentially of importance for maintaining biodiversity, preserving ecologically representative areas or that are otherwise important or potentially important for the natural world;
 - (iv) sites of cultural importance;
 - (v) sites of historical importance;
- (b) the need to ensure that mining does not interfere with the use of the land or sea for customary use, fishing, agriculture, shipping, transport, communications, research, national security, energy facilities, waste disposal, recreation, tourism and navigation;
- (c) the need to maintain access to areas with significant potential for mining.

14 Effect of declaring prohibited area

- (1) A person must not explore for, extract or process a mineral, or carry out operations for exploring for, extracting or processing a mineral, in a prohibited area.
- (2) A mining tenement must not be granted, varied or renewed over a mining prohibited area.
- (3) A mining tenement that has effect over the whole or a part of a mining prohibited area is cancelled, and has no effect, to the extent that it has effect over the mining prohibited area.
- (4) An application for a mining tenement, which, if granted, would affect the whole or part of a mining prohibited area, is taken to be withdrawn to the extent that it applies to the mining prohibited area.

Division 2 Mining protected areas

15 Mining protected areas

The following areas are mining protected areas:

- (a) within 100 metres, or such further limit as may be determined following community consultation, of any land that is reserved for public use and infrastructure, including public cemeteries,

burial sites, or other sacred sites, roads, schools, hospitals, airports and ports;

- (b) land that is within 200 metres of the boundary of an urban settlement;
- (c) land that is located within 50 meters of any land reserved for the purpose of construction of any railway, highway waterway or any utility including electrical, telecommunication, water, transmission or microwave tower;
- (d) land that is the whole or part of a state forest within the meaning of the *Forests Resources and Timber Utilisation Act* (Cap. 40);
- (e) land that is not a prohibited mining area but has historical, cultural, archaeological or iconic national significance.

16 Restrictions over mining protected areas

- (1) No mining tenement other than a building material permit or a mining licence referred to in subsection (2) may be granted over a mining protected area.
- (2) A building material permit or a mining licence may not be granted over a mining protected area unless the Minerals Board has approved the grant of the permit or licence.

17 Effect of declaring mining protected area

- (1) Subject to section 16, a mining tenement, which has effect over the whole or a part of a mining protected area, is cancelled, and has no effect, to the extent that it has effect over the mining protected area.
- (2) Subject to section 16, an application for a mining tenement, which would, if granted, have effect over the whole or part of a mining protected area, is taken to be withdrawn to the extent that it applies to the mining protected area.

Division 3 Mining restricted areas

18 Mining restricted areas

Each of the following is a mining restricted area:

- (a) a competitive tender restricted area;
- (b) a proposed competitive tender restricted area;
- (c) a community reserved area;
- (d) an area which may not fall within (a), (b) or (c), which the Minerals Board recommend to the Minister to be a mining restricted area.

19 Declaration of mining restricted area

- (1) Subject to section 20, the Minister may, by notice published in the Gazette declare an area to be:
 - (a) a competitive tender restricted area; or
 - (b) a proposed competitive tender restricted area; or
 - (c) a community reserved area; or
 - (d) a mining restricted area upon recommendation by the Minerals Board.
- (2) The declaration must:
 - (a) specify the boundaries of the area; and
 - (b) identify any land or waters excluded from the area; and
 - (c) if a community reserved area, specify the body responsible for administering the scheme for prospecting and mining the area.

20 Requirements for declaring mining restricted areas

- (1) The Minister must not declare an area to be a mining restricted area if there is a mining tenement in force over the whole or a part of the area.
- (2) The Minister must not declare an area to be a competitive tender restricted area or a proposed competitive tender restricted area unless the Minister is satisfied, on reasonable grounds, that:
 - (a) the nature and scale of minerals in, on or under the area are of such a quality and quantity that is suitable to be mined under a

mining licence; and

- (b) applications for and grant of mining tenements over the area should be by way of a competitive tender process.
 - (c) any areas of known high mineral potential whether previously held under a mining tenement or not, that based on the Director's assessment and the Board's recommendation, should not be declared a competitive tender restricted area.
- (3) The Minister must not declare an area to be a community reserved area unless the Minister is satisfied that:
- (a) there is no mining tenement in force over the whole or a part of the area; and
 - (b) there is no application for a prospecting licence, feasibility licence or mining licence over the whole or a part of the area; and
 - (d) the area is not or does not include a mining prohibited area or a mining restricted area; and
 - (e) it is reasonable to believe that the nature and extent of minerals in, on or under the area are not of the nature or scale that is suitable to be mined under a mining licence, but are of the nature and scale that is suitable to be mined under a community mining permit.

21 Effect of declaring mining restricted area

- (1) A person must not explore for, extract or process a mineral, or carry out operations for exploring for, extracting or processing a mineral, in a mining restricted area.
- (2) A mining tenement must not be granted over a mining restricted area.
- (3) On a declaration of a mining restricted area taking effect:
 - (a) a mining tenement, which has effect over the whole or part of the mining restricted area, is cancelled, and has no effect, to the extent that it has effect over the mining restricted area; and
 - (b) an application for a mining tenement, which would, if granted,

have effect over the whole or part of a mining restricted area, is taken to be withdrawn to the extent that it applies to the mining restricted area.

Division 4 Miscellaneous matters for Part 3

22 Variation and revocation of declarations

- (1) The Minister may, by notice published in the Gazette revoke or vary a declaration of a mining prohibited area or a mining protected area if the circumstances on which the declaration was made change, or no longer apply.
- (2) The Minister must revoke or vary a declaration of a mining restricted area if a mining tenement is granted over part or the whole of the mining restricted area.

23 Regulations for Part 3

The Regulations may provide:

- (a) for the administrative processes for declaring a mining prohibited area, a mining protected area or a mining restricted area; and
- (b) penalties for non-compliance with section 14(1) and section 21(1).

PART 4 MINING TENEMENTS

Division 1 Authority to mine

24 Minister authorises mining under mining tenement

- (1) Subject to subsection (4), the Minister has the power and authority to grant, renew, vary or cancel a mining tenement.
- (2) Subject to subsections (3) and (4), the Minister, on the recommendation of the Minerals Board, may vary a mining tenement by written notice to the holder of the mining tenement at any time if, in the opinion of the Minister, the variation is necessary to prevent, reduce, minimise or eliminate undue harm caused to the environment

or to a community by or associated with exploration or mining carried out under the tenement.

- (3) The Minister must not vary the tenement area of a mining tenement except to reduce its size.
- (4) The Minister must not grant, renew, vary or cancel a mining tenement unless the Minister does so in accordance with the recommendation to do so of the Minerals Board.

25 Authorised mining tenements

(1) The Minister may authorise the following mining tenements on the approval of the Minerals Board:

- (a) Reconnaissance Permit;
- (b) Prospecting License;
- (c) Feasibility License;
- (d) Mining License;
- (e) Dealers License.

(2) The Director may authorise the following permits on the approval of the Minerals Board.

- (a) Builders Material Permit;
- (b) Community mining permits;
- (c) Artisanal Miners Permit upon the approval of the Board.

26 No mining without authority

A person must not, unless authorised to do so under this Act:

- (a) explore for, extract or process a mineral; or
- (b) carry out operations for exploring for, extracting or processing a mineral; or
- (c) acquire an interest in a mineral.

Maximum penalty: 500,000 penalty units or imprisonment for 15 years, or both.

Division 2 General rules for holding mining tenements

27 Joint holding of mining tenement

- (1) The holder of a mining tenement may be 2 or more persons holding the tenement jointly.
- (2) If the holder of a mining tenement is 2 or more persons holding the tenement jointly, those persons:
 - (a) are jointly and severally civilly or criminally liable for matters concerning the mining tenement; and
 - (b) must, in writing to the Minister, nominate a person who is their representative and who they authorise to give and receive notices on their behalf.
- (3) A notice given by or to the representative is taken to have been given by or to the holder of the mining tenement.

28 Plurality of holding mining tenements

- (1) Subject to subsection (2), a person can hold 2 or more mining tenements.
- (2) A single person, or a single group of associated bodies corporate, may not hold more than 3 building materials permits or 5 prospecting licences.

29 Age of individual holder of mining tenement

An individual may not hold a mining tenement (whether as the sole holder or whether holding jointly with other persons) unless he or she is 18 years of age.

30 Government not to have financial involvement

- (1) The Government shall not have any financial involvement nor equity participation in any mineral tenement.

(2) Subject to subsection (3), the Government shall not provide public finance nor arrange access to finances or offering any form of financial guarantee or assurance for the benefit of any third party that acquires an interest in a mineral development project.

(3) The Government may set up a statutorily established credit scheme to promote investment in mining by eligible national entities.

Division 3 Mining tenements

Subdivision 1 Building materials permit

31 Building materials permits

A building materials permit is a mining tenement that authorises the holder of the permit, in accordance with the approved work program for the permit, to the exclusion of any other person, to:

- (a) enter and occupy the tenement area to conduct the activities specified in paragraph (b) as authorised by the permit; and
- (b) extract from a quarry in the tenement area sand, soil, rock, gravel, stone, coral, shell or clay for use for construction of buildings or roads or for another construction purpose; and
- (c) carry out activities that are necessary or incidental to carrying out the activities authorised by the permit.

32 Tenement area of building materials permit

- (1) The tenement area of a building materials permit must:
 - (a) subject to subsection (2), not be more than 0.5 km²; and
 - (b) comply with prescribed requirements about the shape of the tenement area.
- (2) Subsection (1)(a) does not apply to the tenement area of a building material permit for a significant mining project or for major infrastructure projects undertaken by the Government or a Provincial Government.

33 Other condition of building material permits

It is a condition of a building materials permit that the tenement area must be marked out, and the markings of the tenement area maintained, as prescribed.

34 Conditions of building material permit for significant mining project

- (1) A building material permit that is for a significant mining project is subject to the conditions specified in this section as well as the conditions specified in sections 32 and 33.
- (2) If a building materials permit is for a significant mining project, it is a condition of the permit that the holder of the permit must:
 - (a) comply with the applicable approved community development agreement; or
 - (b) make community development payments.
- (3) If the operations for which a building materials permit is granted becomes a significant mining project after the permit is granted, it is a condition of the permit that the holder of the permit must negotiate an approved community development agreement.
- (4) The negotiations for an approved community development agreement must occur:
 - (a) as soon as practicable after the permit is granted, but no later than 12 months after the date on which the permit is granted; or
 - (b) by the end of a longer period that is approved by the Minister.

Subdivision 2 Reconnaissance permit

35 Reconnaissance permits

- (1) Subject to subsection (2), a reconnaissance permit is a mining tenement that authorises the holder to, in accordance with the approved work program for the permit:
 - (a) to enter and occupy the tenement area to conduct the activities

specified in paragraph (b) as authorised by the permit; and

- (b) carry out exploration for minerals in the mining tenement area in a manner that:
 - (i) primarily uses geophysical, geochemical or photo-geological surveys or other remote sensing techniques to gather data and useful information to understand the geological, environmental and geographical attributes of an area; and
 - (ii) does not involve using intrusive techniques, such as drilling, trenching, pitting or using explosives or acids, for obtaining samples of mineral resources for analysis; and
- (c) carry out activities that are necessary or incidental to carrying out the reconnaissance authorised by the permit.

Note to section 35(1):

Reconnaissance could involve collecting a surface sample, chipped sample or stream sediment sample.

- (2) A reconnaissance permit does not give the holder of the permit:
 - (a) exclusive occupation of the whole or a part of the tenement area; or
 - (b) an exclusive right of reconnaissance of the tenement area; or
 - (c) the right to obtain a prospecting licence for the tenement area.

36 Tenement area of reconnaissance permit

The shape and area of the tenement area of a reconnaissance permit must be as prescribed.

37 Term of reconnaissance permit

- (1) A reconnaissance permit must be first granted for a term of one year or less.
- (2) Subject to subsection (3), the reconnaissance permit may be renewed for a term of one year or less.
- (3) The sum of the first term for which it is granted and all the successive

terms for which it is renewed must not exceed 2 years.

- (4) The term for which a reconnaissance permit is granted or renewed must be specified in the permit.

38 Condition of reconnaissance permit

It is a condition of a reconnaissance permit that:

- (a) the holder of the permit must, in the prescribed manner, notify the holder's intention to enter a part of the tenement area, or land adjacent to the tenement area that is not an established road or track, for carrying out reconnaissance under the permit; and
- (b) the holder must not take specimens and samples from the tenement area by using intrusive techniques such as drilling, trenching, pitting, or by using explosives or acids, unless in accordance with written authorisation given by the Director; and
- (c) the holder of the permit must take from the tenement area only the nature of specimens and samples that is in accordance with the approved work program; and
- (d) the holder of the permit must give to the Director copies of all raw data acquired under the approved work program; and
- (e) the holder of the permit must give to the Registrar:
 - (i) the prescribed reports; and
 - (ii) no later than 60 days after the date the permit expires, is surrendered or is cancelled (as the case may be), a summary report of the results of the reconnaissance.

Subdivision 3 Prospecting licence

39 Prospecting licences

- (1) A prospecting licence is authorisation to carry out the following in the tenement area, in accordance with the approved work program, for the licence:

- (a) explore for minerals;
 - (b) extract, remove and dispose of the quantity of minerals specified in the work program; and
 - (c) carry out activities that are necessary or incidental to the activities referred to in paragraphs (a) and (b).
- (2) Holding a prospecting licence is a prerequisite to the grant of a feasibility licence or mining licence for the tenement.
- (3) Holding a prospecting licence does not give the holder the right to be granted a feasibility licence or a mining licence for the tenement area.

40 Tenement area of prospecting licence

- (1) The tenement area of a prospecting licence:
- (a) for the first term for which it is granted, must have an area of:
 - (i) if the tenement area is comprised wholly of Solomon Islands waters, 5,000 km² or less; or
 - (ii) 600 km²; or
 - (b) for each term for which it is renewed, must have an area equal to or less than the area calculated in accordance with the prescribed formula.
- (2) The shape of the tenement area must be as prescribed.

41 Term of prospecting licence

- (1) A prospecting licence must be first granted for a term of 5 years or less.
- (2) Subject to subsection (3), the prospecting licence may be renewed:
- (a) for the first time it is renewed, for a term not exceeding 4 years; and
 - (b) for any subsequent renewal, for a term not exceeding 3 years.
- (3) The sum of the term for which the prospecting licence is first granted and all the successive terms for which it is renewed must not exceed

10 years.

- (4) The term for which a prospecting licence is granted or renewed must be specified in the permit.

42 Condition of prospecting licence

It is a condition of a prospecting licence that the holder must give to the Registrar copies of all raw data acquired under the approved work program.

Subdivision 4 Feasibility licence

43 Feasibility licences

- (1) A feasibility licence:
 - (a) is held by a person who is applying for a mining licence; and
 - (b) does not give the holder of the licence the right to commence mining; and
 - (c) is authorisation for the holder to prepare for the grant of the mining licence while the application is being determined by:
 - (i) undertaking feasibility studies of the proposed tenement area under the mining lease; or
 - (ii) obtaining a development approval; or
 - (iii) entering into the necessary access agreements; or
 - (iv) if a mining project or a significant mining project, entering into a mining agreement and community development agreements.
- (2) Before the person is granted a feasibility licence, the Minister must be satisfied that:
 - (a) the person complies with the prescribed requirements; and
 - (b) minerals of a suitable nature and extent to be mined have been discovered in the tenement area.

44 Tenement area of feasibility licence

The tenement area of a feasibility licence must be an area that is as close in size as practicable to the area of the tenement area of the proposed mining licence, subject to refinement through feasibility studies and other considerations.

45 Term of feasibility licence

- (1) A feasibility licence must be first granted for a term of one year or less.
- (2) Subject to subsection (3), the feasibility licence may be renewed for one or more terms of one year or less.
- (3) The sum of the term for which the feasibility licence is first granted and all the successive terms for which it is renewed must not exceed 3 years, unless the holder of the licence satisfies the Minister that there are special circumstances justifying renewal of the licence for one or more further terms.
- (4) The term for which a prospecting licence is granted or renewed must be specified in the permit.

46 Other conditions of a feasibility licence

It is a condition of a feasibility licence that:

- (a) any prospecting carried out under the licence must be carried out in accordance with the approved work program for the licence; and
- (b) the holder of the feasibility licence must give to the Registrar copies of all raw data acquired under the approved work program.

47 Mining agreement

- (1) The Minister must not grant or renew a mining licence unless there is an approved mining agreement for the tenement area of the licence.
- (2) The Regulations may provide for:
 - (a) the information required from parties for a mining agreement;

- (b) the process for making and approving a mining agreement;
- (c) the form and content of a mining agreement;
- (d) payments made under the agreement and how payments may be made; and
- (e) any other matters necessary to regulate mining agreements and payments.

(3) Despite a personal or corporate guarantee, and an acknowledgement of the receipt of the standard form, a mining agreement shall continue to be in writing and under corporate seal.

Subdivision 5 Mining licence

48 Mining licences

A mining licence is authorisation to do the following in the tenement area, in accordance with the approved work program, for the licence:

- (a) prospect and mine the land;
- (b) extract, remove and dispose of the quantity of minerals; and
- (c) carry out activities that are necessary or incidental to the activities referred to in paragraphs (a) and (b), which may include any of the following:
 - (i) the construction of buildings and other improvements;
 - (ii) the installation of operating plant, machinery and equipment;
 - (iii) the installation of a processing plant and the processing of minerals in it;
 - (iv) the disposal of tailings or waste;
 - (v) the construction of housing and other infrastructure required in connection with the mining or treatment operations;

- (vi) the construction of transport facilities required in connection with the mining or treatment operations, including roads, airstrips and ports.

49 Tenement area of mining licence

- (1) The tenement area of a mining licence for the first term the licence is granted must not be:
 - (a) greater than the tenement area of the prospecting licence or feasibility licence held before the licence is granted; and
 - (b) more than the area which, in the Minister's opinion, based on raw data and summary reports produced under the associated prospecting licence or feasibility licence, is necessary for the mining activities authorised by the mining licence and activities necessary and incidental to carrying out the mining activities.
- (2) For successive terms, a licence may be renewed for another 10 years.

50 Term of mining licence

- (1) A mining licence must be first granted for a term of 25 years or less.
- (2) Subject to subsection (3), the mining licence may be renewed.
- (3) The sum of the term for which the mining licence is first granted and all the successive terms for which it is renewed must not exceed 35 years.
- (4) The term for which a mining licence is granted or renewed must be specified in the permit.

51 Conditions of mining licence

It is a condition of a mining licence that;

- (a) the tenement area must be marked out, and the markings of the tenement area must be maintained, as prescribed; and
- (b) the holder must maintain the markings of the tenement area; and

- (c) at least once every 5 years, the holder must:
 - (i) review the approved access agreement, the community development agreement (if any) and the approved work program that relate to the licence to ensure that they remain appropriate for the circumstances on which they are based; and
 - (ii) vary the approved access agreement, community development agreement or approved work program as necessary.

52 Conditions of a mining licence for a significant mining project

- (1) A mining licence that is for a significant mining project is subject to the conditions specified in this section as well as the conditions specified in sections 49 to 51.
- (2) If a mining licence is for a significant mining project, it is a condition of the licence that the holder must comply with an existing community development agreement (as prescribed in the Regulations) or develop an approved community development agreement relating to the licence as prescribed in the Regulations.
- (3) If the operation for which a mining licence is granted becomes a significant mining project after the licence is granted, it is a condition of the licence that the holder must negotiate an approved community development agreement within the time provided for in subsection (4).
- (4) The negotiations for the approved community development agreement must occur:
 - (a) as soon as practicable after the operation becomes a significant mining project, but no later than 12 months after the day on which the licence is granted; or
 - (b) by the end of a longer period that is approved by the Minister.

Subdivision 6 Artisanal mining permit

53 Artisanal mining permits

An artisanal mining permit is authorisation, to the exclusion of any

other person, to do the following in the tenement area for the permit in accordance with the approved work program for the permit:

- (a) carry out exploration for and mining of minerals specified in the approved work program;
- (b) extract, remove and dispose of the quantity of minerals specified in the approved work program;
- (c) carry out activities that are necessary or incidental to the activities referred to in paragraphs (a) and (b).

54 Tenement area of artisanal mining permit

The mining tenement of an artisanal mining permit:

- (a) must not exceed 0.2 km²; and
- (b) must have the prescribed shape.

55 Term of artisanal mining permit

- (1) An artisanal mining permit:
 - (a) must be first granted for a term of 2 years or less; and
 - (b) may be renewed for successive terms.
- (2) The term for which an artisanal mining permit may be renewed is 2 years or less.
- (3) The term for which an artisanal mining permit is granted or renewed must be specified in the permit.

56 Condition of artisanal mining permit

It is a condition of an artisanal mining permit that:

- (a) any further exploration carried out under the permit must be carried out in accordance with the approved work program for the permit; and
- (b) the holder must give to the Registrar copies of all raw data acquired under the approved work program.

Division 4 Conditions of mining tenements

57 Three kinds of conditions

(1) The conditions of a mining tenement are:

- (a) the conditions of a mining tenement imposed under a section specified in subsection (2); and
- (b) the prescribed conditions; and
- (c) any other conditions imposed by the Minister and specified in the mining tenement.

(2) Conditions for mining tenements referred to in subsection (1)(a) are specified:

- (a) for a building materials permit, in sections 33, and 34; or
- (b) for a reconnaissance permit, in section 38; or
- (c) for a prospecting licence, in section 42; or
- (d) for a feasibility licence, in section 46; or
- (e) for a mining licence, in sections 51 and 52; or
- (f) for an artisanal mining permit, in section 56.

(3) Conditions specified in a renewed or varied mining tenement under subsection (1)(c) may be different to the conditions specified in the tenement before it is renewed.

(4) If there is an inconsistency between conditions of a mining tenement:

- (a) a condition referred to in subsection (1)(a) prevails over the conditions referred to in subsection (1)(b) or (c); and
- (b) a condition referred to in subsection (1)(b) prevails over the conditions referred to in subsection (1)(c).

58 Regulations may prescribe conditions

(1) Mining tenements are subject to the prescribed conditions.

- (2) The Regulations may prescribe conditions of mining tenements that apply generally, or apply to a specified kind of mining tenement or that are for dealing with a specified circumstance.

PART 5 GRANT AND RENEWAL OF MINING TENEMENTS

Division 1 Preliminary matter for Part 5

59 Definitions for Part 5

In this Part:

“**access agreement**” means an agreement between an applicant for a mining tenement and the owner of land that comprises or is adjacent to the tenement area to provide consent to the holder to:

- (a) access and carry out the mining activities to be authorised by the mining tenement on the land; and
- (b) access land adjacent to the tenement area to traverse or occupy the land;

“**application**” means an application for the grant or renewal of a mining tenement;

“**community development agreement**” means an agreement between the applicant for or holder of a mining tenement and one or more communities that are or will likely be affected by the conduct of mining activities under the mining tenement the terms of which are prescribed in the Regulations.

Division 2 Approvals, permissions, agreements before mining tenement may be granted

Subdivision 1 Preliminary matter for Part 5, Division 2

60 Application of Part 5, Division 2

This Division applies to mining tenements, and must be complied with before a mining tenement may be granted.

Subdivision 2 Required statutory approvals and permissions

61 Approval under *Environment Act*

- (1) This section applies to building materials permits.
- (2) In this section:

“**approval**” has the same meaning as in section 2 of the *Environment Act 1998*.
- (2) A building materials permit must not be granted unless:
 - (a) an approval has been granted for the mining activities proposed to be carried out under the permit; or
 - (b) the applicant for the permit has been exempted from complying with the requirements of Part III of the *Environment Act 1998*.
- (3) The applicant’s submission for the approval must be accompanied by a copy of the applicant’s application made under section 73 and the information provided with the application and as required by the Director under section 75 (if any).
- (4) If an approval is granted, the approval has no effect unless the mining tenement is granted.

62 Development permission under the *Planning and Development Act*

- (1) A mining tenement may not be granted over registered land unless permission to carry out the activities under the tenement has been granted under Part IV of the *Planning and Development Act* (Cap.154).
- (2) The application for permission under that Act must be accompanied by a copy of the application for the mining tenement made under section 73 and the information provided with the application and as required by the Director under section 75 (if any).
- (3) If permission is granted, the permission has no effect unless the mining tenement is granted.

63 Approval of work program

- (1) A mining tenement may not be granted unless there is a work program for the tenement.
- (2) The approved work program must:
 - (a) comply with the requirements prescribed in the Regulations;
and
 - (b) be approved by the Director under subsection (4); and
 - (c) be included in the application for the mining tenement.
- (3) The Regulations must specify the requirements for a work program for each kind of mining tenement.
- (4) The Director must approve the work program if the Director is satisfied that:
 - (a) the work program complies with the prescribed requirements;
and
 - (b) the work program is a credible and realistic program; and
 - (c) the applicant has or will have the capability to comply with the work program.

64 Approval of rehabilitation program

- (1) A mining tenement must not be granted unless:
 - (a) there is a rehabilitation program for the tenement; or
 - (b) the mining tenement is exempted from the requirement of having a rehabilitation program.
- (2) The approved rehabilitation program must:
 - (a) comply with the requirements prescribed in the Regulations;
and
 - (b) be approved by the Director under subsection (4); and
 - (c) be included in the application for the mining tenement.

- (3) The Regulations must:
 - (a) specify the requirements for a rehabilitation program for each kind of mining tenement; and
 - (b) provide for the exemption of a proposed mining tenement (other than a building materials permit for a significant mining project or a mining licence for a significant mining project) from the requirement of having a rehabilitation program.
- (4) The Director must approve a rehabilitation program if the Director is satisfied that:
 - (a) the rehabilitation program complies with the prescribed requirements; and
 - (b) the rehabilitation program is a credible and realistic program; and
 - (c) the applicant has or will have the capability to implement the rehabilitation program.

Subdivision 3 Access agreements and payments

65 Requirement for access agreement

- (1) The Minister must not grant or renew a prospecting licence or a mining licence unless there is an approved access agreement for the tenement area of the licence and for the areas that will also be entered, traversed or occupied under the permit or licence.
- (2) The Regulations must:
 - (a) prescribe the manner in which to negotiate and enter into an access agreement, including when negotiations end and consequences of failure to reach agreement; and
 - (b) provide for the owner of land that is or will be subject to a mining tenement holding an ownership equity interest in the holder of the mining tenement, the nature of that interest and for the payment to the owner of the land of a dividend or other distribution of the earnings of the holder derived from the ownership equity interest; and

- (c) prescribe the process for approving an access agreement; and
- (d) prescribe the information that an applicant for a mining tenement must provide to the owner of the land to which the access agreement is intended to apply; and
- (e) provide for a dispute resolution process for disputes arising between holder of mining tenement and owner of the land after mining tenement granted.

66 Letter of intent

- (1) An applicant for a mining tenement may not commence to negotiate an access agreement, or have any prior consultation or contact with landowners unless the Minister, acting on the recommendation of the Minerals Board, has given the applicant a letter of intent.
- (2) A letter of intent informs the applicant of an intention to grant the application once specified conditions and all requirements that apply by force of this Act or the regulations, have been met.
- (3) The Minister must not prepare a letter of intent for an applicant for a mining tenement unless:
 - (a) if the proposed tenement area or the land or Solomon Islands waters adjacent to that area is customary land or waters, the people who are entitled to own or occupy the tenement area of adjacent land in accordance with current customary practice:
 - (i) have been identified and there is a record of who is entitled to own the land; or
 - (ii) the process for identifying and recording the people who are entitled to own or occupy the land in accordance with current customary practice has been commenced; and
 - (c) if the applicant is applying for a mining licence, the proposed tenement area and adjacent land must be registered land or land covered by an area of Solomon Islands waters.
- (4) As soon as practicable after the Minister gives the applicant the letter of intent, the Director must give a copy of the letter of intent to the Provincial Secretary of the province where the tenement area or adjacent land is situated.

67 **Content of access agreement**

- (1) An access agreement:
 - (a) must signify consent to prospecting or mining of a specified area or to traversing a specified area to gain access to a tenement area; and
 - (b) must record the basis on which it is agreed that the land may be entered and occupied or traversed; and
 - (c) if relating to a prospecting licence, must include a procedure for notification before entering or traversing a particular area; and
 - (d) may set out the basis on which payments made under the agreement are to be disbursed by the management body; and
 - (e) may set out specific rights to carry out customary practices in the tenement area on specified conditions; and
 - (f) if relating to a building materials permit or mining licence, may contain an arrangement under which owners of the land are to have an equity ownership interest in a company that holds or is proposed to be the holder of the permit; and
 - (g) must contain a scheme for resolution of disputes that arise between the holder of the mining tenement and owner of the land.

- (2) Subject to any term of an access agreement to the contrary, an access agreement is taken to provide that:
 - (a) for a building materials permit or mining licence, the holder of the mining tenement is entitled to exclusive occupation of the tenement area during the term of the tenement; and
 - (b) exploration or mining must not be carried out on land comprised of, or situated within 100 metres of:
 - (i) a place of burial; or
 - (ii) a sacred place or a place of other cultural importance; or
 - (i) an occupied house or other place of residence; and

- (c) any trees felled in the course of activities under a building materials permit, prospecting licence, feasibility licence or mining licence remain the property of the owner of the land; and
- (d) the holder of a licence or other authority granted under another Act that provides access to another resource in, on or over the same area as the mining tenement must not enter into a contract that grants a right, or otherwise grants consent to the grant of a right, to another person over the land that may conflict with the exercise of rights under the mining tenement without the written consent of the holder of the mining tenement.

Subdivision 4 Community development agreements

68 Requirement for community development agreement

- (1) Subject to subsection (2), the Minister must not grant or renew a building materials permit or mining licence for a significant mining project unless there is a community development agreement for the tenement area of the permit or licence.
- (2) The Minister must not grant a building materials permit unless there is a contribution to community development as set out in the Regulations.
- (3) In addition, an applicant for or holder of a mining tenement that is not a building materials permit or a mining licence for a significant mining project may, with the approval of the Minister, enter into a community development agreement with a community for land comprising or adjoining the tenement area or proposed tenement area.
- (4) A community development agreement may:
 - (a) incorporate part of the community development components of an approved access agreement or existing informal community development agreement; and
 - (b) apply to one or more significant mining projects; and
 - (c) apply to the tenement areas of one or more mining tenements.
- (5) The Regulations are to prescribe:

- (a) the steps to take to identify communities that are or will be affected by the mining project; and
- (b) the manner in which to negotiate and enter into a community development agreement; and
- (c) the process for approving a community development agreement; and
- (d) the information that applicant for a mining tenement must provide to the communities to which the community development agreement is intended to apply; and
- (e) set out the factors on which the Minister must be satisfied that it has not been possible to identify any communities or make a community development agreement; and
- (f) provide for a dispute resolution process for disputes arising between holder of mining tenement and owner of land after mining tenement granted.

69 Content of community development agreement

A community development agreement must:

- (a) contain a community development program; and
- (b) contain a program for local employment and training which ensures equal opportunity for employment, training, promotion and pay for men and women; and
- (c) provide for the appointment of a body to manage the programs and specify the functions and responsibilities of the body; and
- (d) contain a scheme for resolution of disputes between the holder of the mining tenement and the community; and
- (e) specify the obligation of the holder of the mining tenement to wholly or partially pay for the community development program and, in doing so, to make community development payments as required by or under this Act; and
- (f) any prescribed matters.

70 Community development programs

(1) A community development program must set out specific arrangements and projects that are designed to improve community life for current and future members of the community.

(2) In particular, the program must:

- (a) specify the role members of the community will have in the mining project, including their employment and associated training and activities for monitoring the environmental and social effects of the mining project;
- (b) specify programs agreed to, or a process for selecting appropriate programs, for social development, infrastructure development or other categories of community support;
- (c) take account of existing and planned national, regional and local services and be designed to complement them; and
- (d) take account of other community development agreements that affect the community; and
- (e) comply with the prescribed requirements.

71 Community development payments without formal community development agreement

(1) If the Minister grants a building materials permit or mining licence for a significant mining project despite the absence of a community development agreement, the Minister must impose conditions on the permit or licence requiring the holder of the permit or licence to pay the prescribed community development payments.

(2) The Regulations must:

- (a) specify the method for calculating the community development payments, taking account of the type of mining tenement, the nature and scale of the mining project under the tenement and any other relevant factors; and
- (b) specify when the payments must be paid and how they must be disbursed; and

- (c) provide for the appointment of a body to be responsible for the payments, specify the responsibilities of the body.

Division 3 Application for grant of mining tenement

72 Eligibility of applicants

- (1) An applicant for a building materials permit, reconnaissance permit, prospecting licence, feasibility licence or mining licence must be:
 - (a) a body corporate incorporated under the *Companies Act 2009*; or
 - (b) incorporated outside of Solomon Islands and registered under Part 11 of the *Companies Act 2009*.
- (2) An applicant for an artisanal mining permit must:
 - (a) be an individual person nominated by the owner of the land comprising the proposed mining tenement area; and
 - (b) be either:
 - (i) one of the people who own the land; or
 - (ii) a citizen of Solomon Islands who has been ordinarily resident in Solomon Islands for a total period of 10 years within the 20 year period immediately before the day the Director receives the application; and
 - (c) is 18 years of age.

73 Making application

- (1) A person who is eligible under section 72 may apply for a mining tenement by submitting the application to the Director.
- (2) The Director receives the application for the Minister.
- (3) The application must:
 - (a) be in the prescribed form; and
 - (b) be accompanied by the prescribed application fee; and

- (c) include all the prescribed information; and
 - (d) comply with all other relevant requirements of and under this Act.
- (4) An application must not be for the grant of a mining tenement over an area in or comprising the tenement area of:
- (a) an existing tenement area under a mining tenement held by another person; or
 - (b) a proposed tenement area specified in another application submitted to the Director before the application.

Note to section 73(4)

Section 74 deals with priority of applications by time and date of receipt.

74 Priority of applications

- (1) If two or more applications propose tenement areas that are wholly or partially the same area, the applications must be considered and determined in the order in which they were submitted to the Director.
- (2) The order of submission of applications is determined in accordance with the following:
- (a) an application is received before another application if it is received by the Director on an earlier day;
 - (b) an application received on the same day as another application is received before the other application if it is received by the Director at an earlier time on that day;
 - (c) an application that is received after 4.30 pm is treated as if it were received at 8:00 am on the following day;
 - (d) if more than one application is received after 4.30 pm, the applications are treated as if they are received on the following day in the same order as the Director receives them.
- (3) The Director must:
- (a) record each application received, as it is received, noting the time when and the date on which it is received; and

- (b) give the applicant written notification that the Director has received the application, specifying the time and date when the Director received the application.

75 Preliminary assessment of application

- (1) The Director must, as soon as practicable after receiving an application, assess the application to ensure that:
 - (a) the applicant is eligible to make the application under section 72; and
 - (b) the application complies with section 73(3) and (4).
- (2) The Director:
 - (a) subject to paragraph (b), must reject an application if it was received after another application and the proposed tenement area in both applications is wholly or partially the same area; or
 - (b) may accept the application if the applicant varies the application to exclude that area of the proposed tenement area that is wholly or partially the same area as the proposed tenement area in the other application.
- (3) The Director may require that an applicant provide further information or evidence reasonably required to be able to determine the application, including:
 - (a) a survey of the proposed tenement area; and
 - (b) an independent evaluation of a feasibility study.
- (4) The Director must require the further information in writing, and:
 - (a) must specify the time within which the applicant must provide the further information; and
 - (c) may, in writing, extend the time for providing the further information; and
 - (d) may reject the application if the information is not provided within time.
- (5) After completing the assessment, the Director must:

- (a) give written notification to the applicant that the Director:
 - (i) accepts the application and provides it to the Minerals Board for determination; or
 - (ii) rejects the application; and
- (b) if the Director accepts the application and the whole or a part of the tenement area proposed in the application is in a province, give written notification of the application to the province's Provincial Secretary.

Division 4 Decision process for granting or refusing mining tenement

76 Factors considered in deciding application

In deciding whether to grant a mining tenement, the Minister must consider all of the following factors:

- (a) whether the applicant is a fit and proper person to hold the mining tenement;
- (b) if the applicant currently holds one or more mining tenements, whether the applicant has substantially complied with the conditions of each of those mining tenements;
- (c) whether the applicant has an approval or exemption under the *Environment Act 1998*, a development permission under the *Planning and Development Act (Cap. 154)*, an approved work program and an approved rehabilitation program, (as is necessary for the mining tenement applied for);
- (d) whether the applicant has entered into an access agreement or a community development agreement for the proposed tenement area, or whether the applicant proposes to make community development payments without entering a community development agreement;
- (e) the terms and condition of the access agreement or community development agreement (if any) and the payments to be made under those agreements;
- (f) if the application is for a reconnaissance permit, a prospecting

licence or a mining licence, whether the applicant has submitted an environment plan in accordance with the environmental management guidelines made under section 111, and the content of the plan;

- (g) whether the proposed tenement area and the term of the mining tenement are appropriate for the mining operations under the tenement;
- (h) whether the tenement area is in a mining prohibited area, a mining protected area or a mining restricted and if so whether it is in accordance with the restrictions that apply for those areas;
- (i) an assessment of the extent to which the owner of the land and the communities support or are participating or have participated in negotiations about the proposed mining tenement;
- (j) the likely level of disruption to community life, and any processing or manufacturing activities of members of the community, and likely long term effects caused by the mining operation or the cessation of the mining operation;
- (k) the likely level of environmental harm that could result from the mining activities under the tenement, particularly to ground water and water catchment areas and the biodiversity of the proposed tenement area and surrounding area;
- (l) the likelihood of successfully rehabilitating the proposed tenement area and surrounding area on cessation of the mining activities;
- (m) the number and effect of mining projects in the tenement and surrounding area, and the cumulative effect of those projects;
- (n) the short and long term benefits to Solomon Islands, including infrastructure development;
- (o) the submissions made by the Solomon Islands Advisory Centre or any interested person;
- (p) any other factors the Minister considers appropriate to consider.

77 Communications between Minister and applicant

- (1) Before deciding an application for a mining tenement, the Minister may require the applicant to give to the authority additional information, or to take an action, relevant to the application.
- (2) In the course of deciding the application, the Minister must, in writing, advise the applicant of:
 - (a) the progress of the application and matters pending decision;
or
 - (b) the conditions that the Minister intends to impose on the proposed mining tenement.

78 Decision to grant or refuse mining tenement

- (1) In deciding whether to grant a mining tenement, the Minister:
 - (a) must be satisfied that all requirements under this Part relevant to the application for the tenement are completed; and
 - (b) must have considered all matters, including the factors specified in section 76, the Minister is required to consider about the application.
- (2) The Minister may decide to:
 - (a) grant the mining tenement; or
 - (b) refuse to grant the mining tenement.
- (3) The Minister may grant the tenement subject to conditions the Minister considers appropriate and specifies in the tenement documentation.
- (4) The mining tenement must be in the prescribed form.

79 Notification and registration of decision

- (1) If the Minister refuses to grant the mining tenement, the Minister must, in writing, advise the applicant of the decision and the reasons for the decision.
- (2) The Director must enter details of the decision to grant the mining

tenement or to refuse to grant the mining tenement in the Mining Register.

Division 5 Renewal of mining tenement

80 Application to renew mining tenement

- (1) An application to renew a mining tenement must:
 - (a) be made:
 - (i) for a mining tenement for a significant mining project, at least 120 days before it expires; or
 - (ii) for a reconnaissance permit or prospecting licence that is not for a significant mining project, at least 30 days before it expires; or
 - (iii) for any other mining tenement, at least 30 days before it expires; and (b) must be accompanied by a summary of activities carried out under the tenement before it expires.
- (2) If the application is made in accordance with subsection (1) but is not determined before the mining tenement expires, the mining tenement continues in force, on the same terms and subject to the same conditions, until the application is determined.

81 Requirements for renewing mining tenement

A mining tenement must not be renewed unless:

- (a) there is an approved work program and approved rehabilitation program (as applicable) for the renewed tenement; and
- (b) there is an access agreement and community development agreement (as applicable) for the renewed tenement; and
- (c) the holder has provided:
 - (i) a report of the activities carried out under the mining tenement as at the date of the application for the renewal and a summary of activities to be carried out under the renewed mining tenement;

- (ii) the prescribed evidence of the nature and scope of minerals in the tenement area and the evidence supports renewal of the tenement; and
 - (iii) the prescribed evidence that each year the holder of the tenement complied with the approved work program for the year; and
- (d) there is an approval under the *Environment Act 1998*, or an exemption from complying with Part III of that Act, for the renewed tenement (as applicable).

Note to section 81:

- (1) *The approved work program and rehabilitation program for the renewed mining tenement must comply with Part 5, Divisions 2 and 3, including being approved by the Director.*
- (2) *The approval or exemption under the Environment Act 1998 for the renewed mining tenement must be given under and in accordance with that Act.*

PART 6 VARIATION, SURRENDER AND CANCELLATION OF MINING TENEMENTS

Division 1 Variation of mining tenement

82 Variation of conditions of mining tenement

- (1) The Minister may vary the conditions of the mining tenement in accordance with this Division.
- (2) Variation of the conditions of a mining tenement are made:
 - (a) on the Minister own initiative with the agreement of with the holder; or
 - (b) by the Minister under section 83 when the Minister renews the mining tenement; or
 - (c) on the application of the holder of the mining tenement under section 84.
- (3) Variation of the conditions is effected by:

- (a) amending an existing condition;
- (b) adding a new condition; or
- (c) suspending or removing an existing condition.

83 Variation of conditions on Minister's initiative or on renewal of mining tenement

- (1) The Minister may vary the conditions of a mining tenement at any time on the Minister's own initiative or when a mining tenement is renewed to take account of the renewal.
- (2) Before varying the conditions under subsection (1), the Minister must:
 - (a) give the holder of the mining tenement written notice of the proposal to vary the conditions and invite the holder to make submissions on the proposed variation; and
 - (b) specify in the notice the time within which the submissions must be made and the manner in which to make them; and
 - (c) consider the submissions made in accordance with notice.
- (3) Variation of the mining tenement must:
 - (a) be by written notice to the holder of the mining tenement and each other person who is noted in the Mining Register as holding an interest in the mining tenement; and
 - (b) specify the reasons for the variation; and
 - (c) specify the date on which the variation takes effect.

84 Variation on application by holder of mining tenement

- (1) The holder of a mining tenement may apply to the Minister to:
 - (a) reduce the size of the tenement area by relinquishing part of the tenement area; or
 - (b) if the mining tenement is a mining licence, to change the minerals that may be mined under the licence; or

- (c) vary or substitute an approved work program, rehabilitation program, access agreement or community development agreement for the tenement; or
- (d) vary or substitute a financial assurance given by the holder; or
- (e) vary the conditions of the mining tenement.

(2) Subject to subsection (3), the application for variation must be determined in the same way as if it were an application for grant of a mining tenement, and Part 5, Division 4 applies to the application as if references in that Division to an application for the grant of a mining tenement included references to an application for the variation of a mining tenement.

- (3) The mining tenement must not be varied unless each person, who is noted in the Mining Register as holding an interest in the mining tenement, consents to the variation.

Division 2 Surrender of mining tenement

85 Application for acceptance of surrender

- (1) The holder of a mining tenement may apply to the Minister to approve surrender of a mining tenement for all or part of the mining tenement area by submitting the application to the Director.
- (2) The holder's application may specify the day on which the holder wishes the surrender to take effect, but that day must be a day that is:
 - (a) if the mining tenement is a building materials permit or a reconnaissance permit, at least 10 days after the application is submitted to the Director; or
 - (b) if the mining tenement is a prospecting licence, a feasibility licence or an artisanal mining licence, at least 30 days after the application is submitted to the Director; or
 - (c) if the mining tenement is a mining licence, at least 2 years, or such other lesser period as the Minister in writing agrees to, after the application is submitted to the Director.

86 Approval of surrender

- (1) Subject to subsection (2), the Minister:
- (a) may approve the surrender if satisfied that the holder has:
 - (i) complied with the conditions of the holder's mining tenement; and
 - (ii) complied with this Act, the Regulations and any other law applicable to the mining tenement; and
 - (b) may refuse to accept the surrender if considers it is appropriate to refuse to do so; and

Note to section 86(1)(b).

A reason for refusal to accept surrender may be because work for rehabilitation of the mining tenement has not been completed or some other obligation or liability has not been satisfied.

- (c) must refuse to approve the surrender if:
 - (i) the rehabilitation program for the tenement has not been complied with; or
 - (ii) an environmental protection notice issued to the holder under Part 10 has not been complied with; or
 - (iii) the Director of Conservation has issued a Pollution Abatement notice under section 43 of the *Environment Act 1998*; which has not been complied with; or
 - (iv) the amount of financial assurance given by the holder is not sufficient to cover the costs of the work required to be completed to comply with the rehabilitation program or environment protection notice; or
 - (v) not every person, who is noted in the Mining Register as holding an interest in the mining tenement, has consented to the surrender.
- (2) The Minister's approval must:
- (a) be in writing; and

- (b) specify the date on which the surrender takes effect.

Division 3 Cancellation of mining tenement

87 Application of Part 6, Division 3

This Subdivision does not:

- (a) prevent the proceedings against a holder of a mining tenement for an offence under this Act or for the recovery of an amount payable by a holder of a mining tenement under this Act; or
- (b) limit or bar any other any liability of a holder of a mining tenement that arises under any other Act or law.

88 Minister may cancel mining tenement

- (1) Subject to subsection (2), the Minister may cancel:
 - (a) a mining tenement; or
 - (b) a mining tenement for part of the mining tenement's tenement area ("**partial cancellation**").
- (2) The Minister must cancel a mining tenement if the holder of the mining tenement has contravened Part 10, regulations made under Part 10 or any other law applicable to the mining tenement for or relating to the conservation and protection of the environment.
- (3) The Minister may cancel a mining tenement or partially cancel a mining tenement if the holder of the mining tenement:
 - (a) has contravened a condition of the mining tenement; or
 - (b) is liable to pay an amount to the Government under this Act and has been liable to pay the amount for at least 3 months; or
 - (c) has not used good work practices in conducting activities authorised by the tenement in the tenement area or part of the tenement area; or
 - (d) has not for a continuous period of 2 years, conducted any activities authorised by the tenement in the tenement area or part of the tenement area to a degree consistent with genuine

exploration or mining of a mineral; or

- (e) for a building materials permit or mining licence for a significant mining project, no longer has the financial resources to carry out the approved work program or approved rehabilitation program for the tenement area or part of the tenement area.

89 Procedure for cancellation

- (1) Subject to subsection (2), the procedure for cancellation or partial cancellation of a mining tenement must be prescribed by the Regulations.
- (2) The cancellation must:
 - (a) be by written notice to the holder of the mining tenement and each other person who is noted in the Mining Register as holding an interest in the mining tenement; and
 - (b) comply with the prescribed procedures.
- (3) The notice of cancellation must:
 - (a) specify the reasons for the cancellation; and
 - (b) specify the date on which the cancellation takes effect (which must be the day following the date the holder is given the notice); and
 - (c) give 14 days for the tenement holder to appeal.
- (4) Within 90 days after the expiry or cancellation of a mining tenement, the Director may carry out an assessment, inclusive on the previous licence holders' obligations and the mineral resources of the mining tenement, after which the Director may declare the area available for new applications.

90 Effect of cancellation

On cancellation or partial cancellation of a mining tenement, the person noted in the Mining Register as the holder of the mining tenement, and each other person who is noted in the Mining Register as holding an interest in the mining tenement, continue to be jointly and severally liable for:

- (a) payment of any fee, royalties, penalty or other amount of money due and payable under the mining tenement or this Act; and
- (b) compliance with the approved rehabilitation programme for the mining tenement, a notice issued under section 107 for the mining tenement or an environmental protection notice issued under Part 10 for the mining tenement; and
- (c) performance of any other obligations or liabilities accrued or incurred because of the mining tenement; and
- (d) for any damage, loss, or default caused or made because of activities conducted under the mining tenement.

PART 7 CONSOLIDATION OF MINING TENEMENTS

91 Definitions for Part 7

In this Part:

“application” means an application under section 92 to consolidate 2 or more mining tenements the tenement areas of which are adjacent, and ***“applicant”*** has the corresponding meaning;

“mining tenement” does not include:

- (a) a reconnaissance permit; and
- (b) a prospecting licence; and
- (c) an artisanal mining permit.

92 Application to consolidate mining tenements

- (1) Subject to this section, the holder of 2 or more mining tenements may apply for a mining tenement consolidating those mining tenements by submitting the application to the Director.
- (2) The application must:
 - (a) be in the prescribed form; and
 - (b) be accompanied by the prescribed fee; and

- (c) include all the prescribed information; and
 - (d) comply with all other relevant requirements of and under this Act.
- (3) The mining tenements the subject of the application must be:
- (a) the same kind of mining tenements and authorise substantially the same activities; and
 - (b) for tenement areas that are adjacent to each other.

93 Grant of mining tenement for consolidated mining tenements

- (1) The Director must provide the application to the Minerals Board, who must consider whether one mining tenement should be granted to consolidate all or some of the mining tenements specified in the application or whether the application should be refused, and advise the Minister accordingly.
- (2) In conducting its considerations, the Minerals Board must consider whether the applicant has substantially complied with the conditions of each of the mining tenements specified in the application.
- (3) The Minister, acting in accordance with the advice of the Minerals Board, may:
- (a) grant one mining tenement that consolidates all or some of the mining tenements specified in the application (“**consolidated tenement**”); or
 - (b) refuse to consolidate the mining tenements specified in the application.
- (4) The Minister must in writing advise the applicant of the decision and the reasons for the decision if the Minister:
- (a) consolidates some only of the tenement areas specified in the application; or
 - (b) refuses to consolidate the mining tenements specified in the application.
- (5) The consolidated tenement must:

- (a) be the same kind of mining tenement as the mining tenements specified in the application; and
- (b) be in the prescribed form for that kind of mining tenement; and
- (c) must comply with the provisions of and under this Act that apply to that kind of mining tenement.

94 Tenement area of consolidated tenement

The tenement area of the consolidated tenement must not exceed the maximum tenement area specified in Division 3 for its kind of mining tenement.

95 Term of consolidated tenement

The consolidated tenement must be granted for:

- (a) if, on the date on which the consolidated tenement is granted, the unexpired terms of the mining tenements it consolidates are the same, that unexpired term; or
- (b) if, on the date on which the consolidated tenement is granted, the unexpired terms of the mining tenements it consolidates are not the same, the shorter or shortest of those unexpired terms.

96 Conditions of consolidated tenement

A consolidated tenement is:

- (a) if the conditions of the mining tenements it consolidates are substantially the same, subject to those conditions and any other conditions imposed by the Minister acting in accordance with the advice of the Minerals Board; or
- (b) if the conditions of the mining tenements it consolidates are not the same, subject to the conditions imposed by the Minister acting in accordance with the advice of the Minerals Board.

97 Effect of consolidated tenement

(1) On the grant of the consolidated tenement:

- (a) each of the mining tenements it consolidates is cancelled and, subject to subsection (2), every right, title, interest conferred,

and every duty and obligation imposed, by each of the mining tenements it consolidates cease to have effect; and

- (b) equivalent rights, titles, interests, duties and obligations to those that were conferred or imposed by each of the mining tenements are conferred or imposed by the consolidated tenement.
- (2) The grant of the consolidated tenement does not affect the liability of the holder of the mining tenements it consolidates:
- (a) to pay any fee, royalties, penalty or other amount of money due and payable under the mining tenements before the grant; and
 - (b) to perform an obligation required to be performed under the mining tenements before the grant; and
 - (c) for any damage, loss or default caused or made by activities conducted under the mining tenements before the grant.

PART 8 COMMUNITY RESERVED AREAS AND COMMUNITY MINING PERMITS

Division 1 Community reserved areas

98 Community reserved areas

A community reserved area is:

- (a) an identifiable area of land where mining may only be authorised by a community mining permit; and
- (b) established in accordance with section 99.

99 Establishment of community reserved area

- (1) The Minister may establish a community reserved area by declaration made under this section.
- (2) The Minister must not declare an identifiable area to be a community reserved area unless:

- (a) the community who owns, occupies and uses the area applies in writing to the Minister for the area to be declared to be a community reserved area; and
- (b) the Minister is satisfied that the members of the community are the owners, occupiers and users of the area and agree to the declaration of the area as a community reserved area; and
- (c) there is a scheme for mining for building materials, minerals or gemstones in, on or under the area; and
- (d) a body has been established, with the approval of the Minister, to administer the scheme; and
- (e) there is a management plan for the scheme that has been approved by the Minister acting on the recommendation of the Minerals Board; and
- (f) there are community mining rules for the scheme.

100 Community mining rules

- (1) There must be community mining rules for a scheme referred to in section 99(2)(f).
- (2) The community mining rules:
 - (a) must not be inconsistent with this Act or the Regulations; and
 - (b) may provide for matters for conducting operations to mine building materials, minerals or gemstones in, on or under the community reserved area to which a scheme applies, including a work program, a rehabilitation program and employment and training of community members; and
 - (c) must specify the conditions of a community mining permit having effect over the area.

101 Annual report for community reserved area

- (1) The body administering the scheme for a community reserved area must, for each year ending on the prescribed date, make a report on the operation of the scheme during the year.

- (2) The report must be given to the Registrar within 3 months after that date.

Division 2 Community mining permits

102 Community mining permits

- (1) A community mining permit:
 - (a) authorises the mining of building materials, minerals or gemstones in, on or under a community reserved area; and
 - (b) is granted to the community that owns, occupies and uses the community reserved area; and
 - (c) is subject to the conditions specified in the community mining rules and the prescribed conditions.
- (2) The Director grants a community mining permit.
- (3) A community mining permit may not be transferred.

103 Cancellation, suspension and additional conditions

The Director may cancel, suspend or impose additional conditions on a community mining permit if:

- (a) any mining operations conducted in the community reserved area to which the permit applies contravene:
 - (i) the scheme for the community reserved area referred to in section 99(2)(c); or
 - (ii) the management plan for the scheme referred to in section 99(2)(e); or
 - (iii) the community mining rules for the scheme made under section 100; or
- (b) the body administering the scheme fails to make the annual report under section 101.

PART 9 MINE CLOSURE

104 Application of Part 9

This Part applies when:

- (a) a mining tenement expires; or
- (b) a mining tenement or part of a mining tenement is surrendered or cancelled.

105 Right to enter tenement area for complying with obligations after cessation of mining tenement

After a mining tenement ceases to be in force, the following persons have the right to enter the former tenement area for compliance with this Part:

- (a) the person who held the mining tenement immediately before the cessation;
- (b) the Director;
- (c) an authorised officer.

106 Responsibility for rehabilitation on cessation of mining tenement

A person who was on the expiry, surrender or cancellation the holder of the mining tenement, or the holder of an interest in the mining tenement, continues after the expiry, surrender or cancellation to be obligated and liable for:

- (a) the rehabilitation of the mining tenement area and areas adjacent to the tenement area in accordance with the approved rehabilitation program for the mining tenement; and
- (b) compliance with any environmental protection notices that were given to the holder of the mining tenement before the expiry, surrender or cancellation.

107 Direction to rehabilitate

- (1) If a mining tenement expires, is surrendered or cancelled or partially

surrendered or cancelled and the holder of the mining tenement fails to rehabilitate land formerly but no longer subject to the mining tenement or that was adjacent to that land:

- (a) the Director must give the person a direction in writing (notice) specifying the rehabilitation the person must carry out and the time within which to carry out the rehabilitation; and
 - (b) if, after the time specified in the notice expires, the person has contravened the direction, the Director may take the action by which the person would have complied with the notice.
- (2) The costs incurred by the Director in taking action under subsection (1)(b) are a debt due and recoverable by the Government from the person.
 - (3) Despite subsections (1)(b) and (2), the person commits an offence under section 113.

108 Certificate of closure

- (1) The holder of an artisanal mining permit or large-scale mining licence remains responsible for any environmental liability, pollution or ecological degradation, and the management thereof, until the Director of Mines has issued a certificate of closure to the holder.
- (2) The holder of a small-scale mining licence or large-scale mining licence, as the case may be, shall apply for a certificate of closure upon the:
 - (a) surrender of any portion of its licence area; and
 - (b) upon the expiry or cancellation of its licence.
- (3) An application for a certificate of closure shall be made to the Director of Mines, no later than one hundred and eighty (180) calendar days from the date of the surrender or expiry or cancellation, as the case may be, in the prescribed form and shall be accompanied by an environment risk report.
- (4) The environment risk report in subsection (3) is a report that identifies the environmental risks associated with the respective land

area and closure of operations and the steps that have been taken to mitigate or manage those risks.

- (5) The Director of Mines shall not issue a certificate of closure upon the expiry or cancellation of a small-scale mining licence required to have a rehabilitation and mine closure plan or a large-scale mining licence until such time as the licence holder has reasonably completed the approved rehabilitation and closure plan required by this Act.
- (6) The Director of Mines shall consult with the Director of Environment and the department responsible for water before issuing a certificate of closure to ensure that impacts of potential health and safety matters, environmental matters and pollution of water resources have been addressed.

109 Removal of equipment

- (1) Not later than 3 months after a mining tenement ceases to be in force, or partially ceases to be in force, the person who held the mining tenement immediately before the cessation must remove from the former tenement area all plant, machinery and other equipment placed there by the person or another person carrying out mining activities under the mining tenement.
- (2) Subsection (1) does not apply:
 - (a) if the mineral title ceases to be in force because another mineral title has been granted or issued for the same tenement area; or
 - (b) if the plant, machinery or other equipment is of historical or educational value and has become the property of the Government under an agreement between the Minister and the person; or
 - (c) in relation to anything necessary for the structural safety of a mine.
- (3) If a person fails to comply with subsection (1), the Director may give a notice to the person requiring the person to give the Director reasons, within a specified time of not less than 14 days after the day the notice is given to the person, why the relevant equipment should not be sold or removed.

- (4) If the person does not give the reasons to the Director within the time specified under subsection (3), or the Director is not satisfied with the reasons given by the person, the Director may:
 - (a) give notice, in a newspaper circulating throughout Solomon Islands, of the sale of the equipment by public auction to be held on a specified date (which must be at least 7 days after the date of publication of the notice); and
 - (b) hold the auction as notified.
- (5) The purchaser of the equipment acquires good title to it and has the right to enter onto the land on which it is located and remove the equipment.
- (6) Any of the equipment not sold at auction becomes the property of the Government, and may be disposed of as the Director thinks fit.
- (7) The Director must pay to the person who previously held the mineral title the money remaining from the sale of the equipment after the deducting amounts to pay:
 - (a) the expenses incurred by the Government in holding the auction; and
 - (b) any debts owed by the person to the Government or any other person under this Act.

PART 10 PROTECTION OF ENVIRONMENT

110 Purpose of Part 10

The purpose of this Part is to:

- (a) ensure mining in Solomon Islands is carried out in accordance with best practice for the protection of the environment; and
- (b) minimise negative environmental impact of mining and environmental harm; and
- (c) provide for rectification of environmental harm.

111 Environmental management guidelines

- (1) The Director, acting on the advice of the Minerals Board and having consulted the Director of the Environment and Conservation Division established under section 5(1) of the *Environment Act 1998* (No. 8 of 1998) (“**Director of Environment**”), may make environmental management guidelines specifying:
 - (a) how to conduct of mining activities in a manner that protects the environment and minimises and rectifies environmental harm; or
 - (b) the content of environment plans which must be included as part of the application for a reconnaissance permit, a prospecting licence or a mining licence.
- (2) A person who carries out mining activities must comply with the environmental management guidelines referred to in subsection (1)(a).

112 Environment protection notice

- (1) The Director, having consulted with the Director of Environment, may issue an environment protection notice to the holder or former holder of a mining tenement or a community mining permit to take the action or cease taking the action specified in the notice.
- (2) The notice must:
 - (a) be in writing; and
 - (b) specify the action the holder must take or cease to take; and
 - (c) specify the time within which the holder must do so; and
 - (d) be in the prescribed form.
- (3) The Director may not issue the notice unless:
 - (a) the holder of the mining tenement has contravened:
 - (i) Part 10, regulations made under Part 10 or any other law applicable to the mining tenement for or relating to the conservation and protection of the environment; or

- (ii) a condition of the mining tenement the purpose of which is to protect or rehabilitate the environment; or
 - (b) a person who has or is, in carrying out mining activities within the mining tenement's tenement area, contravened the environmental management guidelines; or
 - (c) the Director is satisfied that it is necessary to do so to protect the environment.
- (3) A person who, without reasonable excuse, contravenes an environment protection notice commits an offence under section 113.

113 Offence for failure to rehabilitate

- (1) A person who, without reasonable excuse, contravenes a direction to rehabilitate under section 107; or an environment protection notice under section 112 commits an offence.

Maximum penalty: 15000 penalty units or 5 years imprisonment, or both.

- (2) On a person being convicted of an offence under subsection (1):
 - (a) if the person holds a mining tenement, the mining tenement is immediately cancelled and Part 6, Division 3 applies with modifications; and
 - (b) if the person has an interest in a mining tenement, the interest immediately ceases to have effect; and
 - (c) the person may not hold a mining tenement or have an interest in a mining tenement again; and
 - (d) the conviction does not limit or bar the prosecution of the person, or bringing of any other action, against the person under another law for a similar offence.

PART 11 FINANCIAL MATTERS

Division 1 Financial obligations of holders of mining tenements

114 Financial assurance

(1) In this section:

“*mining tenement*” means a building materials permit or a mining licence for a significant mining project which are required to have an approved rehabilitation program.

(2) The holder of a mining tenement must provide the Government with a financial assurance to assure conduct of the holder of the holder’s obligations under the approved rehabilitation program for the mining tenement and to protect the Government from paying the costs of complying with those obligations.

(3) The requirement for the financial assurance extends beyond the cessation of activities under the mining tenement until the Minister is satisfied that the assurance is no longer required because there is no reasonable likelihood that the Government will need to draw on the assurance.

(4) The Minister, acting with the advice of the Minister responsible for Finance, must:

(a) determine the form in which financial assurance will be given; and

(b) fix the amount of the financial assurance, having regard to the following:

(i) a reasonable estimate of the total of the likely amounts involved to comply with the approved rehabilitation program;

(ii) the depreciation of the value of the financial assurance over time;

(ii) the amount of any financial assurance required under the *Environment Act 1998* or any other Act for similar or related activities;

- (iii) the prescribed matters;
 - (iv) any other matter the Minister or Minister responsible for finance considers relevant.
- (5) The Minister may only draw on the financial assurance:
- (a) to meet the cost of carrying out the holder's obligations under the approved rehabilitation program; and
 - (b) if any of the following applies:
 - (i) the mining tenement is cancelled;
 - (ii) a liquidator, receiver or similar insolvency official is appointed in respect of the holder of the mining tenement;
 - (iii) the Director has given written notice to the holder of the mining tenement that:
 - (A) the holder must take a specified action to comply with the approved rehabilitation program within the specified period of at least 90 days; and
 - (B) the holder fails to take the action within the period.
- (6) When the financial assurance is no longer required under subsection (3), any amount of the financial assurance deposited with the Mineral Resources Special Fund that has not been withdrawn must be repaid to the holder of the mining tenement.

115 Tenement fees

- (1) The holder of a mining tenement (other than a reconnaissance permit) must pay to the Registrar the tenement fee.
- (2) The tenement fee is payable:
 - (a) for each 12-month period, or part of a 12-month period, for which the mining tenement has effect; and
 - (b) within one month after each 12-month, or part, ends.
- (3) If the holder fails to pay the tenement fee on or before the due date, the holder becomes liable to pay the amount of the unpaid fee and in

addition an amount of interest calculated as simple interest at the prescribed rate on that amount of unpaid fee from the date on which payment was due to the date payment is made.

- (4) The amount of the unpaid tenement fee and interest on the unpaid fee is a debt due to the Government and recoverable by the Attorney-General.
- (5) The Regulations must:
 - (a) prescribe the tenement fee payable for a mining tenement or how to calculate the tenement fee; and
 - (b) prescribe the interest payable on unpaid tenement fees.

116 Royalties

- (1) The holder of a building materials permit or mining licence must pay a royalty for minerals mined under the permit or licence.
- (2) The royalty payable rates are as follows:
 - (a) 5% for processed minerals;
 - (b) 7% for semi processed minerals;
 - (c) 9% for raw materials.
- (3) The royalty is payable:
 - (a) whether the minerals are processed in Solomon Islands or in another country; and
 - (b) subject to subsection (5), to the Government.
- (4) A royalty is not payable for minerals mined under a building materials permit or mining licence and immediately and directly used for constructing buildings or roads or for any other construction associated with exploration for or mining of minerals under the permit or licence.
- (5) If minerals are mined under a building materials permit to fulfil a Solomon Islands Government, provincial government or Honiara City Council contract and are used immediately and directly to do so:

- (a) the royalty payable is reduced to 40% of the prescribed royalty; and
 - (b) no amount of the royalty is payable to the Government, a province or the Honiara City Council.
- (6) The Minister may make Regulations:
- (a) to prescribe the royalty payable rates or the manner in which to calculate the royalty payable; and
 - (b) in complying with paragraph (a), may:
 - (i) prescribe how to ascertain the value of minerals; or
 - (ii) authorise the Minister for finance or the Governor of the Central Bank of Solomon Islands to determine, by notice published in the Gazette, matters to be taken into account in determining values of minerals; or
 - (iii) fix a percentage for calculating royalty payable for a mineral or a class of minerals; or
 - (vi) provide for calculation of royalty by the holder and the Minister and, if there is a discrepancy between the 2 calculations, for revision of the calculations;
 - (c) may prescribe the manner in which a royalty is paid and distributed; and
 - (d) prescribe the steps for dealing with an outstanding royalty payment, including prevention of the export or sale of minerals, cancellation of licence and recovery as a debt; and
 - (e) prescribe the rate of interest payable on unpaid royalties, including whether it is simple or compound interest and the period over which it is calculated.

117 Royalties and tenement fees not refundable

An amount paid as tenement fees or royalties referred to and paid under section 115 or 116 is not refundable.

118 Access and community development payments

- (1) Access and community development payments are payable under access and community development agreements.
- (2) The Regulations must provide for the payment of access and community development payments, including by prescribing:
 - (a) how the payments are calculated, including the factors to be taken into account in doing so (for example the type of mining tenement and the scale of activity under the mining tenement); and
 - (b) rules for how and the payments are paid and distributed.

119 Compensation payments

- (1) Compensation payments are payable by the holder of a building materials permit, prospecting licence, feasibility licence or mining licence for damage caused in carrying out activities under the permit or licence to agricultural crops, economical trees or culturally significant sites.
- (2) The Regulations must provide for the payment of access and compensation payments, including by prescribing:
 - (a) how compensation payments are calculated, including the factors to be taken into account in doing so (for example the type of mining tenement and the scale of activity under the mining tenement); and
 - (b) rules for how and when compensation payments are paid and distributed.

120 Liability to pay continues despite proceedings for offences

A person who is liable to pay tenement fees or royalties, or an access payment, a development community payment or a compensation payment, referred to in this Division is not relieved of that liability because proceedings for an offence under this Act has been commenced against the person or the person has been found guilty of an offence under this Act and sentenced for the offence.

Division 2 Management of payments made to owner of land and communities

121 Management bodies

- (1) A management body:
 - (a) represents a community:
 - (i) who own, occupy and use on an area of customary land or customary waters which is a mining tenement area, part of a mining tenement area or adjacent to a mining tenement area; and
 - (ii) to whom access payments, development payment or compensation is paid under this Act; and
 - (b) receives all money paid to the community under this Act for and on behalf of the community; and
 - (c) manages that money for and on behalf of the community.
- (2) In carrying out its responsibilities under subsection (1)(b) and (c), a management body must:
 - (a) comply with the Regulations; and
 - (b) make decisions and take actions that will improve the quality of life of the members of the community and benefit future generations.

122 Appointment of management body

A community must develop their own corporate structure, to manage and regulate the management body.

123 Regulations to prescribe procedures of management bodies

The Regulations must:

- (a) prescribe the processes by which a management body receives, records, manages and disburses the money paid to it under this Part; and

- (b) prescribe the proportions in which a management body disburses access, development and compensation payments; and
- (c) provide for the making of an annual report by a management body.

PART 12 AUTHORISATION TO DEAL IN AND EXPORT MINERALS

Division 1 Preliminary matter for Part 12

124 Definitions for Part 12

In this Part:

“**building materials**” means minerals extracted from a quarry under a building materials permit;

“**Comptroller**” has the same meaning it has in section 2 of the *Customs and Excise Act* (Cap. 121);

“**customs laws**” has the same meaning it has in section 2 of the *Customs and Excise Act* (Cap. 121);

“**deal**”, in a mineral, means to buy, process or sell the mineral;

“**gemstone**” means a gemstone, whether in unprocessed, semi-processed or processed;

“**gold**” means gold, whether unprocessed, semi-processed or processed;

“**mineral**” means gold, gemstone or building materials;

“**process**”, a mineral, means to:

- (a) take the mineral in an unprocessed state or semi-processed state and process it to produce gold (including gold in the form of gold concentrate or gold dore bar) or a gemstone; or
- (b) take the mineral in unprocessed state or semi-processed state

- and process the mineral to manufacture an item; or
- (c) use the mineral in a processed state to manufacture an item.

Division 2 Dealing in minerals

125 Dealer's licence

A dealer's licence authorises the following activities:

- (a) buying of gold, gemstones, building materials, or other minerals;
- (b) processing of gold, gemstones, building materials or other minerals;
- (c) selling of gold, gemstones, building materials, or other minerals.

126 Requirement for dealer's licence

- (1) A person must not deal in a mineral unless the person:
- (a) is authorised to do so by a dealer's licence; and
- (b) deals in the mineral as authorised by the licence.
- (2) A person must not export a mineral unless the person holds a dealer's licence.
- (3) A person does not require a dealer's licence to:
- (a) export, for assay purposes, samples taken under a reconnaissance permit or prospecting licence; or
- (b) subject to subsection (4), export of samples for scientific research; or
- (c) export a consignment of gold or a gemstone purchased from the holder of a dealer's licence if an export permit is in force for the consignment; or
- (d) to process gold or a gemstone obtained as a recreation without:
- (i) the use of machinery or explosives; and

(ii) the intention to sell the minerals or to use them for a commercial or industrial purpose.

- (4) The scientific research referred to in subsection (3)(b) must be authorised by a research permit issued under the *Research Act* (Cap. 152) or, if exempted under section 4 of that Act from the requirement to hold a research permit, approved in writing by the Director.

127 Who grants dealer's licence

The Minister, after considering recommendations made by the Minerals Board, has the power and authority to grant, renew, vary or cancel a dealer's licence.

128 Eligibility to apply for dealer's licence

An applicant for a dealer's licence must be:

- (a) a department, division, unit or agency of the Government; or
- (b) a department, division, unit or agency of a provincial government or the Honiara City Council; or
- (c) a citizen of Solomon Islands who has attained at least 18 years of age; or
- (d) a person who has been normally resident in Solomon Islands for at least 10 years of the past 20 years and who has attained at least 18 years of age; or
- (e) a body corporate:
 - (i) which is incorporated under the *Companies Act 2009*; and
 - (ii) the beneficial owners of which are persons referred to in paragraphs (c) or (d).

129 Making an application for dealer's licence

- (1) A person who is eligible under section 128 may apply for a dealer's licence by submitting the application to the Director.
- (2) The Director receives the application for the Minister.

- (3) The application must:
- (a) be in the prescribed form; and
 - (b) be accompanied by the prescribed fee; and
 - (c) include all the prescribed information; and
 - (d) comply with all other relevant requirements of and under this Act.

130 Minister's considerations in determining application

- (1) In deciding whether to grant a dealer's licence, the Minister must be satisfied that:
- (a) the application complies with section 129; and
 - (b) the applicant:
 - (i) complies with section 128; and
 - (ii) has the financial resources, experience and technical and other capacity to comply with the Regulations; and
 - (iii) is a suitable person to hold the licence under subsection (2).
- (2) In determining whether an applicant is a suitable person to hold a dealer's licence, the Minister must take account of the following:
- (a) whether the applicant or, if a body corporate, an associated body corporate or an officer of the body corporate or an associated body corporate has committed an offence against this Act or any other law of Solomon Islands or elsewhere relating to processing, selling or exporting minerals, tax fraud or money laundering; and
 - (b) whether the applicant or, if a body corporate, an associated body corporate or an officer of the body corporate or an associated body corporate, has:
 - (i) held a relevant statutory authorisation that has been cancelled or suspended; or

- (ii) is or has been disqualified from obtaining such an authorisation;
 - (iv) the reputation, honesty or integrity of the applicant or, if a body corporate, an associated body corporate or an officer of the body corporate or an associated body corporate, to the extent that it is relevant to processing, selling or exporting minerals.
- (3) Before deciding the application the Minister may, in writing, require the applicant to provide further information or evidence reasonably required to be able to determine the application.
- (4) If the Minister requires further information or evidence, the Minister:
 - (a) must specify the time within which the applicant must provide the further information or evidence; and
 - (b) may, in writing, extend the time for providing the further information or evidence; and
 - (c) may reject the application if the information or evidence is not provided within time.

131 Determination and notification of decision to grant or refuse dealer's licence

- (1) In deciding whether to grant a dealer's licence, the Minister:
 - (a) must be satisfied that all requirements under this Part relevant to the application for the licence are complied with; and
 - (b) must have considered all matters, including the factors specified in section 130; and
 - (c) must have considered the recommendations from the Minerals Board.
- (2) If the Minister is of the opinion that he or she should refuse to grant the dealer's licence, before the Minister does so, the Minister must:
 - (a) advise the applicant, in writing, of the proposed decision and the reasons for the decision; and

- (b) invite the applicant to make written submissions about the proposed decision within the specified period; and
 - (c) provide copies of the submissions to the Minerals Board for consideration and recommendation; and
 - (d) consider the submissions provided within the specified time before making the decision under subsection (3).
- (3) The Minister may decide to:
- (a) grant the dealer's licence; or
 - (b) subject to subsection (4), refuse to grant the dealer's licence.
- (4) The Minister may grant the dealer's licence subject to conditions the Minister considers appropriate and specified in the licence.
- (5) The Minister must give written notice of its decision, including the conditions imposed under subsection (4), to the applicant.
- (6) If the minister refuses to grant the dealer's licence, the Minister must specify the reasons for the decision.

132 Publication of grant of dealer's licence

As soon as practicable after the Minister grants a dealer's licence, the Director must publish a notice of the grant of the dealer's licence in the Mining Cadastre Administration System.

133 Term of dealer's licence

- (1) A dealer's licence:
- (a) must be first granted for a term of one year or less; and
 - (b) may be renewed for successive terms.
- (2) The term for which a dealer's licence may be renewed is one year or less.
- (3) The term for which a dealer's licence is granted or renewed must be specified in the licence.

134 Conditions of dealer's licence

- (1) The conditions of a dealer's licence are:
 - (a) conditions imposed by the Minister under section 131(4) and specified in the licence; and
 - (b) the prescribed conditions (if any).
- (2) A dealer's licence may not be transferred.
- (3) If there is an inconsistency between conditions of a dealer's licence, a condition imposed under section 131(4) prevails over a condition referred to in subsection (1)(b) to the extent of the inconsistency.

135 Renewal of dealer's licence

- (1) The holder of a dealer's licence may apply to the Minister to renew the licence.
- (2) The application to renew must be made within 30 days before the licence expires.
- (3) If the application is made in accordance with subsection (2) but is not determined before the licence expires, the licence continues in force, on the same terms and subject to the same conditions, until the application is determined.
- (4) The dealer's licence must not be renewed unless the Minister:
 - (a) is satisfied that all requirements under this Part relevant to the application for the licence continue to be complied with; and
 - (b) has considered all matters, including the factors specified in section 130; and
 - (c) has considered the recommendations from the Minerals Board about the renewal.
- (5) Conditions imposed on and specified in a renewed dealer's licence may be different to the conditions specified in the licence under section 131 (4) before it is renewed.

136 Variation of conditions of dealer's licence

- (1) The Minister, after considering the recommendations of the Minerals Board, may vary the conditions of a dealer's licence in accordance with this section.
- (2) Variation of the conditions of a dealer's licence are made:
 - (a) on the application of the holder of the licence; or
 - (b) on the Minister's own initiative with the agreement of with the holder.
- (3) Variation of the conditions is effected by:
 - (a) amending an existing condition;
 - (b) adding a new condition; or
 - (c) suspending or removing an existing condition.

137 Surrender of dealer's licence

- (1) The holder of a dealer's licence may, in writing to the Minister, surrender the licence.
- (2) The holder's notice must be submitted to the Director, who receives the notice for the Minister.
- (3) The holder' notice must specify the day on which the surrender takes effect.

138 Cancellation of dealer's licence

- (1) This section does not prevent proceedings against the holder, or former holder, of a dealer's licence for an offence against this Act or for the recovery of an amount payable to the Government under this Act.
- (2) The Minister may cancel a dealer's licence if the Minister is satisfied that the holder of the licence:
 - (a) has contravened a condition of the licence; or
 - (b) has committed an offence against this Act or any other law of

Solomon Islands or elsewhere relating to processing, selling or exporting minerals, tax fraud or money laundering; or

- (c) is liable to pay an amount to the Government under this Act and has been liable to pay the amount for at least 3 months.
- (3) Subject to subsection (4), the procedure for cancellation of a dealer's licence must be prescribed by the Regulations.
- (4) The cancellation must:
- (a) be by written notice to the holder of the dealer's licence; and
 - (b) comply with the prescribed procedures.
- (5) The notice of cancellation must:
- (a) specify the reasons for the cancellation; and
 - (b) specify the date on which the cancellation takes effect (which must be the day following the date the holder is given the notice).

139 Offences for possession, acquisition and sale of unprocessed gold, gemstones or building materials

- (1) A person who possesses unprocessed gold, gemstones or building materials commits an offence unless the person:
- (a) holds a mining tenement and the gold, gemstone or building materials was mined in the mining tenement's tenement area; or
 - (b) holds a dealer's licence; or
 - (c) acquires the gold, gemstones or building materials from the holder of a dealer's licence.

Maximum penalty: 150,000 penalty units or imprisonment for 10 years, or both.

- (2) A person who purchases unprocessed gold, gemstones or building materials in Solomon Islands commits an offence unless the person:
- (a) holds a dealer's licence; or

- (b) acquires the gold, gemstones or building materials from the holder of a dealer's licence.

Maximum penalty: 150,000 penalty units or imprisonment for 10 years, or both.

- (3) A person who sells or otherwise disposes of unprocessed gold, gemstones or building materials commits an offence unless the person:

- (a) is the holder of a mining tenement and the gold, gemstones or building materials were mined in the mining tenement's tenement area; or

- (b) holds a dealer's licence; or

- (c) acquires the gold, gemstones or building materials from the holder of a dealer's licence.

Maximum penalty: 150,000 penalty units or imprisonment for 10 years, or both.

Division 3 Export of minerals

Subdivision 1 Permits for export

140 Permits that authorise export of minerals

- (1) An export permit authorises the export of a consecutive consignment of a mineral, whether unprocessed, semi-processed or processed.
- (2) A consignment permit:
 - (a) specifies the consignment it authorises; and
 - (b) has effect for the term (which must not exceed 14 days) specified in the permit.
- (3) An export permit authorises the holder of the permit to export unlimited consignments of a minerals, whether unprocessed, semi-processes or processed, while the permit is in force.
- (4) An export permit:

- (a) has effect for the term (which must not exceed 3 years) specified in the permit; and
- (b) may not be transferred.

141 Granting of export permits

- (1) The Minister, on the recommendation of the Minerals Board, has the power and authority to grant or cancel an export permit.
- (2) The Minister, on the recommendation of the Minerals Board:
 - (a) may grant an export permit for a Direct Shipment Ore, at the completion of a favourable economic, financial, and environmental analysis; and
 - (b) where an export permit is granted under paragraph (a), the royalty rate in section 116 must also reflect this.
- (3) In this section, “Direct Shipment Ore” means:
 - (a) the direct shipment of ore in the Solomon Islands and refers to the process of exporting extracted minerals or ores from the country without undergoing processing or value addition locally; and
 - (b) the practice that involves loading the raw materials directly onto ships and exporting them to other countries for processing and refining.

142 Eligibility to apply for consignment or export permit

- (1) An applicant for a consignment permit must:
 - (a) hold a dealer’s licence; or
 - (b) hold a mining tenement for the mining of the mineral being exported; or
 - (c) hold a prospecting licence and want to send samples of a mineral out of Solomon Islands for assaying; or
 - (d) hold a research permit under the *Research Act* (Cap.152) or be exempted under section 4 of that Act from the requirements of section 3 of that Act.

- (2) An applicant for an export permit must hold a dealer's licence.

143 Making application for consignment or export permit

- (1) A person who holds a dealer's licence may apply, by submitting the application to the Director, for a consignment permit or export permit.
- (2) A person who holds a mining tenement, may apply, by submitting the application to the Director, for a consignment permit.
- (3) A person who holds a research permit or holds a research permit or has an exemption under the *Research Act* (Cap. 152), who wants to export samples of a mineral for research, or testing to assaying, in a teaching institution or a laboratory, may apply for a consignment permit.
- (4) The person must make the application:
 - (a) if applying for an export permit, at least 30 days before the first consignment under the permit will be loaded onto the aircraft or vessel on which it will leave Solomon Islands; or
 - (b) if applying for a consignment permit, at least 30 days before the consignment for which the permit is granted will be loaded onto the aircraft or vessel on which it will leave Solomon Islands.
- (5) The application must:
 - (a) be in the prescribed form; and
 - (b) be accompanied by the prescribed fee; and
 - (c) include all the prescribed information; and
 - (d) comply with all other requirements of and under this Act.
- (6) Before deciding the application the Minister may, in writing, require the applicant to provide further information or evidence reasonably required to be able to determine the application.
- (7) If the Minister requires further information or evidence, the Minister:
 - (a) must specify the time within which the applicant must provide the further information or evidence; and

- (b) may, in writing, extend the time for providing the further information or evidence; and
- (c) may reject the application if the information or evidence is not provided within time.

144 Determination and notice of grant or refusal of permit

- (1) The Minister must grant the consignment permit or export permit if the Minister is satisfied that all requirements under this Division relevant to the application are complied with.
- (2) The Minister may grant the permit subject to conditions the Minister considers appropriate and specifies in the permit.
- (3) The Minister must give written notice to the applicant of the decision, including the conditions imposed under subsection (2).
- (4) If the Minister refuses to grant the permit, the notice must specify the reasons for the refusal.

145 Conditions of consignment or export permit

- (1) The conditions of a consignment or export permit are:
 - (a) conditions imposed by the Minister under section 144(2) and specified in the licence; and
 - (b) the prescribed conditions (if any).
- (2) If there is an inconsistency between conditions of a consignment or export permit, a prescribed condition prevails over a condition imposed under subsection 144(2) to the extent of the inconsistency.

146 Surrender of export permit

- (1) The holder of an export permit may, in by notice in writing to the Director, surrender the permit.
- (2) The holder's notice must specify the day on which the surrender takes effect.

147 Cancellation of export permit

- (1) This section does not prevent proceedings against the holder, or former holder, of an export permit for an offence against this Act or for the recovery of an amount payable to the Government under this Act.
- (2) The Director may cancel an export permit if the Director is satisfied that the holder of the permit:
 - (a) has contravened a condition of the permit; or
 - (b) has committed an offence against this Act or any other law of Solomon Islands or elsewhere relating to processing, selling or exporting minerals, tax fraud or money laundering; or
 - (c) is liable to pay an amount to the Government under this Act and has been liable to pay the amount for at least 3 months; or
 - (d) will not be exporting the consignment authorised by the permit.
- (3) The Regulations must prescribe the procedure for cancellation of an export permit.

148 Offences relating to consignment and export permits

- (1) A person who exports a mineral commits an offence unless the person:
 - (a) is authorised to export the mineral by a consignment permit or export permit; and
 - (b) exports the mineral as authorised by the permit.

Maximum penalty: 150,000 penalty units or imprisonment for 10 years, or both.

- (2) A person who holds a consignment or export permit commits an offence if the person contravenes the conditions of the permit.

Maximum penalty: 7,500 penalty units or imprisonment for 5 years, or both.

Subdivision 2 Checks before export of mineral

149 Compliance with Part 12, Division 3, Subdivision 2 required

- (1) A mineral may not be loaded on the aircraft or vessel on which it will be taken out of Solomon Islands unless this Subdivision has been complied with in respect of the mineral.
- (2) A person who contravenes subsection (1) commits an offence.

Maximum penalty: 50,000 penalty units or imprisonment for 3 years, or both.

150 Director to conduct checks etc and approve export

Before a consignment of a mineral is loaded on the aircraft or vessel on which it will be taken out of Solomon Islands, the Director must:

- (a) ensure that the person exporting the mineral is authorised to do so by a consignment permit or export permit and is complying with the conditions of the permit; and
- (b) if the mineral is being exported for research, or testing or assaying, in a teaching institution or a laboratory, make a declaration under section 151; and
- (c) verify that all tax, royalty and other payments due and owing in relation to the mineral have been paid and cleared for payment; and
- (d) verify that all customs laws, and the other requirements of the Comptroller, relating to the export of the mineral have been complied with; and
- (e) ensure that the prescribed requirements have been complied with; and
- (f) approve the export of the mineral under section 152.

151 Director to make declaration about minerals to be exported for research etc

- (1) The holder of a consignment permit must apply to the Director for a declaration under subsection (2) if:

- (a) the holder is:
 - (i) the holder of a prospecting licence; or
 - (ii) the holder of a research permit under the *Research Act* (Cap.152), or a person who is exempted under section 4 of that Act from the requirements of section 3 of that Act, and
 - (b) the holder is exporting samples of the mineral for research, or testing or assaying, in a teaching institution or a laboratory.
- (2) The Director must provide a declaration in writing that there is no commercial value in the mineral to be exported under the consignment permit if the Director is satisfied as to the matters specified in subsection (1)(a) and (b).

152 Director to approve export of mineral

- (1) If section 150 (a) to (d) is complied with in relation to the export of a mineral, the Director must, in writing, approve the export of the mineral.
- (2) Subject to the restrictions on exporting minerals under this subdivision, the Director may approve souvenirs that do not require an export approval under this Division.

PART 13 MINING REGISTER AND DEALINGS

Division 1 Preliminary matter for Part 13

153 Definitions for Part 13

In this Part:

“**dealing**”, in relation to a mineral interest, means the creation, transfer, assignment, devolution or other dealing with the mineral interest;

“**instrument of dealing**” means a written instrument that:

- (a) creates, transfers, assigns, devolves or deals in any other way

with all or part of a mineral interest; and

(b) is signed by all the parties to the dealing or the parties' agents.

“mineral interest” means a legal or equitable interest held in a mining tenement or an application for a mining tenement.

Division 2 Mining Register

154 Establishment and form of Mining Register

- (1) The Mining Register is established.
- (2) The Mining Register:
 - (a) may be kept in any form, including an electronic form, and be organised into parts for different subject matters; and
 - (b) must contain:
 - (i) the information required to be recorded in the Register by or under this Act; and
 - (ii) any other information considered appropriate for inclusion by the Registrar.
- (4) The Registrar:
 - (a) keeps and maintains the Mining Register; and
 - (b) must ensure that the information contained in the Register is correct and up-to-date.
- (5) A person may inspect the Mining Register free of charge at the office of the Registrar during the hours of 8.30 am to 4.00 pm of a working day.
- (6) The Regulations must prescribe:
 - (a) the form in which a person may apply to have information (other than information that is required to be recorded in the Mining Register under this Act) recorded in the Mining Register; and
 - (b) the prescribed fee for recording the information referred to in paragraph (a) in the Mining Register;

- (c) the process for registering information in the Mining Register; and any inspection fee.

155 Record keeping

- (1) There must be a record in the Register of each application that is submitted to the Director under section 73.
- (2) There must be a record in the Register of:
 - a) each mining tenement granted; and
 - b) each mining prohibited area, mining protected area and mining restricted area; and
 - c) each community reserved area and each community mining permit granted over the community reserved area; and
 - d) each management body; and
 - e) each dealer's licence and each export permit granted.

156 Provisional registration

- (1) If the Registrar received a document for recording in the Mining Register and is satisfied that the document is erroneous or defective, the Registrar may:
 - (a) refuse to record the document in the Mining Register; or
 - (b) if the Registrar is satisfied that the error or defect can be corrected, the Registrar must
 - (i) record the time and date of lodgement and particulars of the document in the Mining Register and place the word "provisional" next to the entry; and
 - (ii) by written notice to the person who lodged the document, direct that person to ensure that the error or defect is corrected before the date specified in the notice.
- (2) If the notice is complied with, the document is taken to have been recorded in the Mining Register at the time and on the date when the provisional record of the document was made, and the Registrar must remove the work "provisional" from the Register.

- (3) If the person contravenes the notice, the record of the document has no effect and the Registrar must remove the record of the document from the Mining Register.

157 Confidentiality of certain information in Mining Register

- (1) The following information in the Mining Register is confidential and the Registrar must not make it available to the public:
 - (a) information about persons who have an interest in a mining tenement noted in the Register under section 155(1);
 - (b) an approved work program for a mining tenement and any other information that is, in the opinion of the Registrar, of a commercially sensitive nature;
 - (c) the prescribed information.
- (2) Despite subsection (1), the Registrar may make the following information available:
 - (a) information about a mining tenement, community mining permit or dealer's licence that is no longer in force to a person the Registrar is satisfied has a genuine need to inspect that information;
 - (b) raw data provided or reports made by the holder of a mining tenement if the prescribed requirements for making the information available (if any) are complied with;
 - (c) an annual report of a management body to a landowner or member of a community for whom the management body manages payments or programs even if the report contains information of a commercially sensitive nature.

158 Errors and corrections of Mining Register

- (1) The Registrar may, on the Registrar's own initiative, correct an error in the Register.
- (2) The Registrar must correct an error if satisfied the correction is necessary to ensure the recording of accurate information relating to a mining tenement, community mining permit or an application for a mining tenement or community mining permit in the Register.

- (3) A person may apply to the Registrar to correct the Register in relation to any of the following matters:
 - (a) the omission of information;
 - (b) the erroneous inclusion of information;
 - (c) an error or defect in information recorded.
- (4) On receiving an application under subsection (3), the Registrar must investigate the matter the subject of the application and, if satisfied that the Register should be corrected in relation to the matter, correct the Register accordingly.

Division 3 Interests and dealings with mining tenements

159 Form of dealing

A mineral interest must be dealt with, and is not capable of being dealt with except by an instrument of dealing.

160 Instrument of dealing

An instrument of dealing:

- (a) has no effect under this Act unless and until it is:
 - (i) approved by the Minister under section 161; and
 - (ii) recorded in the Mining Register; and
- (b) when recorded in the Mining Register, has effect according to its terms, but does not have any more effect or validity than it would have had if this Part had not been enacted.

161 Approval of dealing

- (1) A person who intends to deal with a mineral interest must apply for approval and registration of the dealing.
- (2) The application must be:
 - (a) in the prescribed form; and
 - (b) include all the details of the proposed dealing; and

- (c) have attached to it the instrument of dealing; and
 - (d) be accompanied by the prescribed fee; and
 - (d) be accompanied by the prescribed information; and
 - (e) be signed by all the parties to the dealing; and
 - (f) be delivered to the Director.
- (3) The Director must provide the application to the Minerals Board.
- (4) The Minerals Board:
- (a) must consider the application and dealing and advise the Minister about the dealing; and
 - (b) may request the applicant to provide documentary evidence to support the application.
- (5) The applicant must comply with the request made under subsection (4)(b) and provide the evidence as soon as practicable after receiving the request.
- (6) The Minister must:
- (a) subject to paragraph (b), approve the dealing unless satisfied on the advice of the Minerals Board that there are circumstances why the Minister should refuse to approve the dealing; and
 - (b) if the dealing is the transfer of mining interest, be satisfied that all obligations and liabilities arising because of the interest will transfer to the transferee; and
 - (c) if the Minister approves the dealing:
 - (i) give the applicant notice of the approval, which must include a statement that the instrument of dealing will be recorded in the Register on a date, occurrence or subject to a condition specified in the notice; and
 - (ii) provide the instrument of dealing to the Registrar for its recording in the Register under Division 2; and

- (d) if the Minister refuses to approve the dealing, give the applicant notice in writing of the refusal and the reasons for the refusal.
- (7) If the Minister refuses to approve a dealing, a party to the dealing may apply for a review of the Minister's decision under the Regulations.

162 Devolution of mineral interest

- (1) Sections 160 and 161 do not apply to the devolution of a mineral interest.
- (2) A devolution of a mineral interest has no effect under this Act unless and until it is:
 - (a) approved by the Minister under this section; and
 - (b) recorded in the Mining Register.
- (3) A person on whom a mineral interest has devolved by operation of law and who wants the devolution to be recorded in the Register must apply to the Minister to approve the devolution.
- (4) The applicant must give documentary evidence of the devolution to the Minister.
- (5) The Minister must approve the devolution unless satisfied on the advice of the Attorney-General that there are circumstances why the Minister should refuse to approve the application.
- (6) If the Minister approves the dealing, the Minister must:
 - (a) give the applicant notice of the approval, which must include a statement that the devolution will be recorded in the Register on a date, occurrence or subject to a condition specified in the notice; and
 - (b) provide devolution to the Registrar for its recording in the Register under Division 1.
- (7) If the Minister refuses to approve the dealing, the Minister must give the applicant notice in writing of the refusal and the reasons for the refusal.

- (8) If the Minister refuses to approve a dealing, a party to the dealing may apply for a review of the Minister's decision under the Regulations.

163 Limitation on effect of Part 13, Division 3

The Minister or the Minerals Board is not required to decide the validity of information in an instrument of dealing.

Division 4 Caveats

164 Lodgement, acceptance and registration of caveat

- (1) A person claiming a mineral interest may lodge with the Minister a caveat forbidding the registration, except in accordance with section 167, of dealings with the mineral interest that are received by the Minister after the Minister has accepted the caveat.
- (2) The caveat must be:
 - (a) in the prescribed form; and
 - (b) specify the name of the caveator and the address at which the caveator may be given notices; and
 - (c) specify the mineral interest claimed in the mineral tenement or application; and
 - (d) be signed by the caveator or the caveator's representative; and
 - (e) be accompanied by the prescribed fee.
- (3) The caveat may specify dealings to which the caveat does not apply.
- (4) The Minister may accept the caveat and, as soon as practicable after doing so, require the Director to record the caveat in the Register as soon as practicable.

Note for subsection (4)

The Minister must not accept a caveat if the form of the caveat is deficient or the fee prescribed has not been paid.

- (5) The caveat comes into force when the Minister accepts the caveat.

165 When caveat ceases to be in force

- (1) The caveat ceases to be in force if:
 - (a) it is withdrawn under subsection (2); or
 - (b) a court orders that it be removed from the Register or cancelled;
or
 - (c) section 167(1)(a) applies and no notice of continuance is accepted under section 167(3)(b).
- (2) The caveator may withdraw the caveat by giving the Minister a notice of the withdrawal.
- (3) If the caveat ceases to be in force (the **cancelled caveat**), the caveator must not lodge another caveat claiming the same interest as specified in the cancelled caveat.

166 Notice of caveat and application for cancellation or removal

- (1) The Minister must give notice of the acceptance of a caveat to the holder of the mining tenement, or person who is applying for the mining tenement, to which the caveat relates.
- (2) The holder of the mining tenement or person making the application may apply to the court for an order that the caveator appear before the court to give reasons why the caveat should not be removed from the register or cancelled.
- (3) The court may make the orders it considers appropriate, including an order that:
 - (a) the caveat be removed from the Register; or
 - (b) if the caveat has not yet been recorded in the Register – the caveat be cancelled.

167 Effect of caveat on registration of particular dealing

- (1) If, after accepting a caveat, the Minister receives an instrument of dealing purporting to deal with the mining tenement or application for a mining tenement to which the caveat relates, the Minister:
 - (a) must give the caveator a notice of the receipt of the instrument

of dealing; and

- (b) may require the Director to record the dealing in the Register only after the caveat ceases to have effect in relation to the dealing.
- (2) Subject to subsection (3), the caveat ceases to have effect in relation to the dealing at the end of 30 days after notice is given to the caveator under subsection (1)(a).
- (3) After the caveator receives a notice under subsection (1)(a):
- (a) the caveator may submit to the Minister:
 - (i) a notice of the continuation of the caveat, together with the prescribed fee; and
 - (ii) the prescribed fee; and
 - (b) the Minister must accept the notice of continuance if the caveator:
 - (i) submits the notice before the end of the period mentioned in subsection (2); and
 - (ii) pays the prescribed fee; and
 - (c) if paragraphs (a) and (b) are complied with, the caveat continues to have effect and has priority over the instrument of dealing.
- (4) This section does not apply in relation to a dealing referred to in section 166(3).

PART 14 MINERAL RESOURCES SPECIAL FUND

168 Establishment of Mineral Resources Special Fund

- (1) There is the Mineral Resources Special Fund.
- (2) The Fund is a Special Fund within the meaning of section 100(2) of the Constitution.

- (3) The purpose of the fund is to receive and hold payments made by holders of mining tenements into the Fund under section 170 until paid out under section 171.

169 Operation of Mineral Resources Special Fund

- (1) The Accountant-General, appointed under section 10 of the *Public Financial Management Act 2013*, in consultation with the Permanent Secretary of the Ministry, is responsible for operating the Mineral Resources Special Fund.
- (2) The Accountant-General must keep proper accounts and records of payments made in and out of the Fund.
- (3) The accounts of the Fund are public accounts and must be audited and reported on annually by the Auditor-General.

170 Payments into Mineral Resources Special Fund

The following amounts payable under this Act by the holder of a mining tenement must be paid into the Mineral Resources Special Fund:

- (a) royalties and interest payable on amounts of outstanding royalties;
- (b) access and compensation payments;
- (c) community development payments;
- (d) payments of profit, dividends or other distribution to be paid to the owner of land arising from an equity ownership interest held the owner of the land in the holder of the mining tenement;
- (e) amounts held as financial assurance;
- (f) any prescribed amounts;
- (g) interest payable on any of the amounts referred to in paragraphs (a) to (f).

171 Payments out of Mineral Resources Special Fund

- (1) The Regulations must prescribe the procedure and time for making payments out of the Mineral Resources Special Fund.

- (2) The following are the only payments that may be made out of the Mineral Resources Special Fund:
- (a) royalties distributable to the Government and paid into the Consolidated Fund;
 - (b) royalties distributable to a provincial government and paid into a special fund established by the province to receive and hold the royalties and make payments from the amount of royalties received;
 - (c) royalties distributable to the owner of land comprising a mining tenement or adjoining a mining tenement;
 - (d) amounts of financial assurance held in the Fund claimed by the Government under this Act and paid into the Consolidated Fund;
 - (e) access payments paid to the owner of land;
 - (f) compensation payments paid to the owner of land;
 - (h) community development payments paid to the owner of land;
 - (i) prescribed payments;
 - (j) amounts of interest attributable to a payment referred to in this subsection.

PART 15 ADMINISTRATIVE MATTERS

Division 1 Statutory officers

172 Director of Mines

- (1) The Director of Mines is the public officer responsible to the Permanent Secretary who holds or acts in the office of Director of Mines.
- (2) The function of the Director is to:
- (a) perform the functions and duties assigned to the Director by or

under this Act; and

- (b) perform the other functions and duties assigned to the public office held by the Director.

173 Registrar

- (1) The Registrar is the public officer responsible to the Permanent Secretary who holds or acts in the office of Registrar.
- (2) The function of the Registrar is to:
 - (a) keep and maintain the Mining Register; and
 - (b) establish and maintain a Government internet site to which the public has free access; and
 - (c) provide copies of information recorded in the Register to the Board
 - (d) perform the functions and duties assigned to the Registrar by or under this Act; and
 - (e) perform the functions and duties assigned to the public office held by the Director.

Division 2 Minerals Board

174 Establishment of Minerals Board

The Minerals Board is established.

175 Functions and powers of Minerals Board

- (1) The Minerals Board has the functions assigned to it under this Act.
- (2) The Minerals Board has the powers that are necessary for performing its functions.

176 Membership of Minerals Board

- (1) The members of the Minerals Board are:
 - (a) the Director of Mines; and

- (b) the Commissioner of Lands; and
 - (c) the Director of Environment; and
 - (d) a representative from the Ministry of Finance and Treasury; and
 - (e) the Director of the Foreign Investment Division;
 - (f) the Governor of the Central Bank of Solomon Islands; and
 - (g) 2 members appointed under subsection (2) (“**appointed members**”); and
 - (h) a representative of the Attorney-General as an ex-officio member for legal advice.
- (2) The appointed members in subsection (1)(g) must be nominated, selected and appointed in accordance with the prescribed procedure.
 - (3) If a matter before the Board relates to mineral development in a particular Province, a member of that Provincial Government and a landowner representative of the application area must be present at the deliberations.
 - (4) If a matter relates to a tenement that concerns a particular landowner group or affected community, a member of that group will be invited to serve as a member as well as a representative from the Council of Chiefs or customary authority responsible for the tenement area(s).

177 Appointed members of Minerals Board

- (1) An appointed member:
 - (a) holds office for 2 years; and
 - (b) may be re-appointed.
- (2) An appointed member may resign from office in writing to the signed by the member and delivered to the Permanent Secretary.
- (3) The Board may terminate the appointment of an appointed member for inability, inefficiency, misconduct, physical or mental incapacity or bankruptcy.

178 Chairperson of Minerals Board

- (1) The Minerals Board must choose one of the appointed members to be the Chairperson.
- (2) The Chairperson should be a person who:
 - (a) has knowledge and experience of the exploration and mining sector; and
 - (b) is familiar with the requirements for administration of an Act; and
 - (c) is not the holder of a mining tenement or an officer of a body corporate which is a holder of a mining tenement; and
 - (d) is not an applicant for a mining tenement or an officer of a body corporate which is an applicant for a mining tenement.
- (3) It is the duty of the Chairperson to ensure that there is an appropriate level of confidentiality for conducting the Mineral Boards proceedings.

179 Procedures of Minerals Board

- (1) Subject to subsection (2) and section 180, the Regulations must prescribe the Mineral Board's procedures, including:
 - (a) procedures for disclosure of members' interests;
 - (b) the manner in which a member's conflict of interest in matters being considered by the Board are to be dealt with;
 - (c) the appointment of an acting Chairperson if the Chairperson is absent from a meeting or part of a meeting;
 - (d) meeting procedures;
 - (e) the appointment and procedures of sub-committees and advisers.
- (2) The quorum for a meeting of the Board is 5 members.

180 Matters requiring Minerals Board's recommendation

- (1) This section applies if the Board must make a recommendation to the Minister about a matter under this Act.
- (2) The Director must provide the Board with:
 - (a) a copy of the document about which the Board is to make a recommendation; and
 - (b) a copy of all other relevant information that would assist the Board to make its recommendation.
- (3) The Minerals Board must make its recommendation, and inform the Minister of the recommendation, within a reasonable time.
- (4) If the Minerals Board is not able to make the recommendation within 28 days after receipt of the materials under subsection (2), it must inform the Minister of that fact and the reasons for the delay.
- (5) If the Minister is not satisfied with a recommendation of the Minerals Board, the Minister may remit the recommendation to the Minerals Board and, if the Minister does so, must in writing:
 - (a) specify his or her reasons for not being satisfied with the recommendation, with a focus on matters of a technical nature; and
 - (b) give directions to consider a factor not previously considered by the Board or to reconsider a factor in more detail (although such directions are limited to factors relevant to the application of this Act or subsidiary legislation made under this Act); and
 - (c) the decision of the Minerals Board is final.

181 Administrative support and technical advice to Minerals Board

- (1) The Permanent Secretary must arrange for, and ensure, that officers working in the Ministry provide to the Minerals Board the services, facilities, resources and technical and administrative assistance necessary for the Board to perform its functions.
- (2) In complying with subsection (1), the Permanent Secretary must ensure that:

- (a) the role of secretariat to the Board is performed; and
 - (b) a record is kept of:
 - (i) the resolutions of the Board; and
 - (ii) the minutes of the Board.
- (3) The Director, Registrar or any other technical staff or advisers may, on the request of the Minerals Board, attend before the Minerals Board at its meetings to provide expertise relevant to a matter being considered by the Board, but he or she is not a voting member of the Board.

182 Members fees and expenses

- (1) A member of the Minerals Board must not be remunerated for performing the functions and duties of the member.
- (2) An appointed member may, as determined by the Minister under subsection (3), be paid one of the following:
- (a) fees for attending a meeting of the Board; or
 - (b) a travelling or subsistence allowance for attending a meeting of the Board; or
 - (c) reimbursement of expenses incurred by the meeting in attending a meeting of the Board.
- (3) The Minister may, by notice in the Gazette, determine only one of the following for payment to the appointed members:
- (a) the attendance fees payable to appointed members;
 - (b) the basis on which the travelling or subsistence allowance is paid to members;
 - (c) the basis on which expenses incurred by members are reimbursed.

Division 3 Delegations

183 Minister may delegate

- (1) The Minister may delegate a function or power under this Act (except the power to make Regulations) to a public officer.
- (2) The delegation:
 - (a) must be by instrument in writing; and
 - (b) may be general or specific, or absolute or conditional; and
 - (c) does not prevent the Minister exercising or performing the delegated function or power; and
 - (d) may be revoked by the Minister at any time.
- (3) A delegated function or power may not be further delegated unless that is expressly allowed in the instrument of delegation.
- (4) A power or function delegated under this section, is, when exercised or performed by the delegate, taken to be exercised or performed by the Minister.

184 Director may delegate

- (1) The Director may delegate a function or power under this Act or the Regulations (other than this power of delegation) to a public officer.
- (2) The delegation:
 - (a) must be by instrument in writing; and
 - (b) may be general or specific, or absolute or conditional; and
 - (c) does not prevent the Director exercising or performing the delegated function or power; and
 - (d) may be revoked by the Director at any time.
- (3) A power or function delegated under this section, is, when exercised or performed by the delegate, taken to be exercised or performed by the Director.

Division 4 Review and report by Minister

185 Minister to make annual report to Parliament

- (1) The Minister must, within 3 months after the end of a financial year, make an annual report on mining activities in Solomon Islands during the financial year.
- (2) On completing the report, the Minister must table a copy of the report before Parliament.

186 Minister to review Act and Regulations

- (1) The Minister may, at least once within every 7 years, review the operation of this Act and the Regulations and make recommendations for making improvements to their operation.
- (2) The Minister may lay a report of the review before Parliament, including recommendations for improving the operation of the Act and Regulations.

PART 16 ENFORCEMENT

Division 1 General offences and penalties

187 Interference with activities authorised by mining tenement

A person must not obstruct or hinder:

- (a) mining activities authorised by and carried out under a mining tenement; or
- (b) the exercise of a right under a mining tenement.

Maximum penalty: 15,000 penalty units, imprisonment for 5 years, or both.

188 False or misleading statement

- (1) A person commits an offence:
 - (a) if the person:

- (i) makes a statement or provides a document for a purpose under this Act that contains information that is false or misleading; or
 - (ii) provides information which is false or misleading for the purpose of establishing that the person owns land, or represents the owner of the land and, as a result, an amount of money is incorrectly paid to the person under an access agreement or community development agreement relating to the land; and
- (b) the person knows that, or is reckless as to whether, the statement or information is false or misleading.

Maximum penalty: 15,000 penalty units, imprisonment for 5 years, or both.

- (2) In this section:

“misleading information” means information that is misleading in a material particular or because there is an omission of a material particular.

189 Offences relating to officers

- (1) In this section:

“officer” means the Director, the Registrar or an inspector.

- (2) A person must not:

- (a) assault, obstruct, hinder or resist an officer carrying out his or her duties;
- (b) use any threatening, abusive or defamatory language to or about an officer; or
- (c) aid or incite any other person to assault, obstruct, hinder or resist an officer carrying out his or her duties; or
- (d) fail to comply with a direction, request or notice given by an officer; or
- (e) if required by an officer to give or produce information:

- (i) give or produce false information; or
- (ii) fail to comply with the requirement.

Maximum penalty: 5000 penalty units or imprisonment for 3 years, or both.

- (3) A person must not falsely represent, by words or conduct, that the person or another person is an officer.

Maximum penalty: 3000 penalty units or imprisonment for 2 years, or both.

190 Non-disclosure of and improper use of information

- (1) This section applies to a present or former:

- (a) Minister; and
- (b) Director; and
- (c) Registrar; and
- (d) member of the Minerals Board; and
- (e) inspector; and
- (f) any other person who carries out or formerly carried out duties for the administration of this Act.

- (2) A person to whom this section applies must not disclose any information the person acquires or acquired, has or had custody of or has or had access to in the course of carrying out the person's functions under this Act.

Maximum penalty: 15,000 penalty units, imprisonment for 5 years, or both.

- (3) Subsection (2) does not apply if the person:

- (a) discloses the information in the course of performing his or her functions under this Act; or
- (b) is authorised to disclose the information by a lawful direction given under this or another Act; or

- (c) is required to disclose the information in accordance with a written law; or
 - (c) is complying with an order of a court or tribunal.
- (4) A person to whom this section applies commits an offence if the person uses information the person acquires or acquired, has or had custody of or has or had access to in the course of carrying out the person's functions under this Act to gain an advantage:
- (a) whether directly or indirectly; and
 - (b) whether for the person or another person.

Maximum penalty: 15,000 penalty units, imprisonment for 5 years, or both.

191 Undue influence

- (1) It is an offence for a person to make false or misleading representations for the purpose of influencing, directly or indirectly, decisions that may be made or taken by any of the following persons in performing their functions under this Act:
- (a) the Minister;
 - (b) the Director;
 - (c) the Registrar;
 - (d) a member of the Minerals Board;
 - (e) an inspector.

Maximum penalty: 5000 penalty units, imprisonment for 6 months, or both.

- (2) A reference in subsection (1) to influencing a person does not include making representations or submissions in the course of a negotiation or other proceeding under this Act.

192 Criminal liability of officers of body corporate

- (1) If a body corporate is convicted of an offence against this Act or subsidiary legislation made under this Act, every officer of the body

corporate is also guilty of the offence (and may be convicted and sentenced) if it is proved:

- (a) that the act that constituted the offence took place with the officer's authority, permission or consent; or
 - (b) that the officer:
 - (i) knew, or could reasonably be expected to have known, that the offence was to be or was being committed; and
 - (ii) failed to take reasonable steps to prevent or stop it.
- (2) If the officer is convicted, the maximum penalty to which the officer is liable is the maximum penalty specified for committing the offence.

Division 2 Inspectors

193 Appointment of inspectors

- (1) The Director is an inspector, and has all the functions and powers of an inspector under sections 194 and 195.
- (2) The Minister may, by notice published in the Gazette, appoint any of the following persons to be an inspector:
 - (a) a public officer employed in the Ministry;
 - (b) a police officer as defined in section 2 of the *Police Act 2013*;
 - (c) an immigration officer, as defined in section 2 of the *Immigration Act 2012*.
- (3) The Minister must not appoint a person to be an inspector unless the Minister is satisfied that the person has the necessary qualifications, expertise or experience to carry out the functions of inspector the person will be required to carry out.
- (4) The notice of appointment under subsection (2):
 - (a) must specify which of the functions and powers of an inspector under sections 194 and 195 a person appointed inspector by the notice has; and

- (b) may specify conditions, limitations or qualifications to which the appointment of an inspector made by the notice is subject.

194 Functions of inspectors

An inspector has the following functions:

- (a) to monitor compliance with this Act and the Regulations;
- (b) to inspect mining tenement areas and adjacent access areas to ascertain whether the activities being conducted by the holder of a mining tenement are in accordance with this Act and the conditions of the mining tenement;
- (c) to gather information that is:
 - (i) about a suspected offence against this Act or the Regulations; or
 - (ii) about personal injury or loss of property caused by or related to activities under a mining tenement; or
 - (iii) about the environmental or societal effects of activities under a mining tenement; or
 - (iv) relevant to the enforcement of this Act or the Regulations;
- (d) to investigate allegations or evidence of unfair or unlawful practices in relation to applications or agreements made under this Act.

195 Powers of inspectors

An inspector may, with reasonable force and assistance:

- (a) at any time, enter and inspect a mining tenement area, or a community reserved area land over which a community mining permit has effect, and any associated access area; and
- (b) require a person to give the officer information that is reasonably necessary:
 - (i) to assist the officer to perform a function under this Act; or
 - (ii) for the administration or enforcement of this Act;

- (c) require the holder of a mining tenement or community mining permit, or another person associated with the mining activities conducted under, or in association with, the mining tenement or community mining permit, to attend and answer questions in connection with an investigation into a matter relevant to the administration or enforcement of this Act;
- (d) give written instructions to the holder of a mining tenement or community mining permit;
- (e) direct the holder of a mining tenement or community mining permit to take action or cease conducting mining activities to ensure compliance with this Act or the conditions of the mining tenement;
- (f) take any other action that may be reasonably necessary to ensure compliance with this Act or the conditions of a mineral title.
- (g) require a person to:
 - (i) comply with a direction given under paragraph (e); or
 - (ii) answer the authorised officer's questions;
 - (iii) give to the inspector specified information or an article in the person's possession or control; or
 - (iv) produce the information or article at a specified place or time.

196 Inspector's identity card

- (1) The Permanent Secretary must give an inspector an identity card stating the person's name and that the person is an inspector.
- (2) The identity card must:
 - (a) show a recent photograph of the inspector; and
 - (b) show the card's date of issue; and
 - (c) be signed by the inspector.
- (3) An inspector performing a function under this Act must, if requested

to do so by a person in respect of whom the function is performed, produce the inspector's identity card and allow the person to inspect it.

- (4) A person who ceases to be an inspector must return the person's identity card to the Permanent Secretary within 14 days after the cessation.

197 Offences committed by inspectors

- (1) An inspector who fails or refuses to perform any of his or her functions commits an offence.

Maximum penalty: 15,000 penalty units or imprisonment for 5 years, or both.

- (2) An inspector commits an offence if the inspector:

- (a) holds an interest in a mining tenement; or
- (b) deals in a mineral.

Maximum penalty: 5000 penalty units or imprisonment for 3 years, or both.

PART 17 MISCELLANEOUS MATTERS

Division 1 Regulations

198 Power to make Regulations

The Minister may, acting in accordance with the advice of the Minerals Board, make regulations, not inconsistent with this Act, to prescribe matters that are necessary or expedient for carrying out or giving effect to this Act.

Division 2 Other miscellaneous matters

199 Manner in which notice of decisions and requirements given

- (1) A decision, requirement, approval, consent, authorisation or notice made or given under this Act must be in writing and served on the

person to whom it is directed.

- (2) If a decision is a decision of refusal, notice of the refusal must include the reasons for the decision.

200 Constructive consent of owner of land

- (1) This section applies if a provision of this Act requires a person to obtain the consent of a landowner before the person may take an action (for example, enter or traverse the landowner's land).
- (2) If the person has served on the landowner a notice requesting the consent, and the landowner has not responded in writing to the request within 2 months after the day of service, the landowner is taken to have given consent.

201 Action if condition or requirement contravened

- (1) This section applies if:
 - (a) a condition of a mining tenement or community mining permit requires the holder of the tenement or permit to take an action in relation to the tenement area or community reserved area; or
 - (b) the Minister or Director requires the holder of a mining tenement or community mining permit to take an action in relation to the tenement area or community reserved area.
- (2) If the holder does not comply with the requirement, the Minister may enter the title area and take the action the Minister considers necessary.
- (3) The Minister may take the action:
 - (a) regardless of whether the tenement or permit is still in force; and
 - (b) with the assistance that is necessary.
- (4) The costs incurred by the Minister in taking the action are payable to the Government by the tenement or permit holder.

202 Decisions not to be challenged solely for irregularity

- (1) A decision made or action taken relating to an application under this

Act, the decision or action is not open to challenge solely because of:

- (a) an informality or irregularity in:
 - (i) the making of the application; or
 - (ii) the procedures followed in making the decision or taking the action; or
 - (b) the applicant's failure to comply fully with the requirements under this Act.
- (2) This section does not apply in relation to an irregularity or failure involving fraud.

203 Indemnity from liability

- (1) A person, who exercises or has exercised powers or performs or has performed functions in the course of the administration of this Act, is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in exercising the powers or performing the functions.
- (2) Subsection (1):
- (a) does not affect the liability the Government would have for the act or omission; and
 - (b) does not affect the liability of the person for any loss or damage which arises directly from the negligence of the person in exercising the powers or performing the functions.

PART 18 REPEAL, TRANSITIONAL AND SAVINGS PROVISIONS

204 Definitions for Part 18

In this Part"

"existing application" means an application for a reconnaissance permit, prospecting licence, mining lease, alluvial miner's permit or

building materials permit made under the repealed Act that is not determined before the commencement;

“existing authorisation” means a reconnaissance permit, prospecting licence, mining lease, alluvial miner’s permit or building materials permit issued under the repealed Act that is in force immediately before the commencement;

“commencement” means the commencement of this Act;

“corresponding application”:

- (a) of an application for a mining lease under the repealed Act, means an application for a mining licence; or
- (b) of an application for an alluvial miner’s permit under the repealed Act, means an application for an artisanal mining permit; or
- (c) of an application for a gold dealer’s licence under the repealed Act, means an application for a dealer’s licence;

“corresponding licence”, of a gold dealer’s licence granted under the repealed Act, means a dealer’s licence;

“corresponding mining tenement”:

- (a) of a reconnaissance permit issue under the repealed Act, means a reconnaissance permit under this Act;
- (b) of a prospecting licence issued under the repealed Act, means a prospecting licence under this Act;
- (c) of a mining lease issued under the repealed Act, means a mining licence under this Act; or
- (d) of an alluvial miner’s permit issued under the repealed Act, means a limited mining permit under this Act; or
- (e) of a building materials permit issued under the repealed Act, means a building materials permit under this Act;

“repealed Act” means the *Mines and Minerals Act* (Cap 42) as in force immediately before the commencement.

205 Repeal

The *Mines and Minerals Act* (Cap. 42) is repealed.

206 Continuation of existing applications

- (1) An existing application is taken to be made under this Act and must be determined if it were an application for the corresponding mining tenement.
- (2) If a prescribed fee was paid under the repealed Act for the existing application, no further fee is payable for the application.
- (3) If a prescribed fee was not paid for the existing application under the repealed Act, the prescribed fee for an application for the corresponding mining tenement is payable by the applicant.
- (4) The Director must give directions about how an existing application must be considered and determined after the commencement, and for the purpose of dealing with and determining the application may:
 - (a) recommend that the applicant vary or replace the application, and provide the applicant a reasonable opportunity to do so; or
 - (b) require the applicant to provide further information or evidence to support the application.

207 Continuation of existing authorisations

On the commencement, an existing authorisation:

- (a) continues in force and to have effect as if it were a mining tenement granted under this Act; and
- (b) applies with the necessary changes subject to this Act until varied under this Act; and
- (c) may be renewed, varied, surrendered or cancelled under this Act.

208 Office holders

- (1) On the commencement, the person holding the position of Director of Mines or Registrar or an inspector immediately before the commencement hold the position of Director or Registrar under this

Act subject to the same terms and conditions of employment.

- (2) On the commencement, the members of the Minerals Board constituted under the repealed Act who hold office immediately before the commencement cease to hold office.

209 Mining Royalty Restricted Fund

- (1) On the commencement of this Act, the Mining Royalty Restricted Fund established under the repealed Act becomes part of the Mining Resources Special Fund.
- (2) Transitional Regulations may provide for the process under which subsection (1) takes place.

210 Transitional Regulations

- (1) A regulation may provide for a matter of a transitional nature:
 - (a) because of the enactment of this Act; or
 - (b) to allow or facilitate the transition to the operation of this Act.
- (2) The regulation:
 - (a) must specify that it is made under this section; and
 - (b) may have retrospective operation to a day not earlier than the commencement; and
 - (c) expires 2 years after the date of the commencement.
- (3) To the extent to which the regulation has retrospective operation, it does not operate to the disadvantage of a person by:
 - (a) decreasing the person's rights; or
 - (b) imposing liabilities on the person.

PART 19 CONSEQUENTIAL AMENDMENTS

211 Amendment of *Environment Act*

The Second Schedule to the *Environment Act 1998* is amended by omitting paragraph 3(c) and (d) and substituting:

“(c) mining under a mining tenement, as defined in section 10 of the *Mineral Resources Act 2023*, other than mining under an artisanal mining permit or a community mining permit”.

212 Amendment of *Land and Titles Act*

The *Land and Titles Act* (Cap. 133) is amended:

(a) by inserting in section 71, after subsection (1):

“(1A) In subsection (1):

“**public purpose**” includes exploration for a mineral, and mining of a mineral, under the *Mineral Resources Act 2023*.”; and

(b) by inserting after section 128:

“128A Requirement to check Mining Register when land registered as customary land

- (1) When land is registered as customary land, the Registrar must search the Mining Register, kept and maintained under the *Mineral Resources Act 2023*, for entries relating to the land.
- (2) If there is a mining tenement in force over the land, the Registrar may register any approved access agreements for that land as if the agreements were a lease.”.

213 Amendment of *Secured Transactions Act 2008*

The *Secured Transactions Act 2008* (No. of 2008) is amended by omitting from section 41(12) “payment of taxes or” and substituting “payment of taxes, royalties due and payable under the *Mineral Resources Act 2023* or”.

MINERAL RESOURCES BILL 2023

EXPLANATORY MEMORANDUM

OBJECTS

The Mineral Resources Bill is designed to update and modernise the regulatory system for mineral resources in the Solomon Islands. The Bill does this by establishing a framework for authorising and regulating exploration, extraction and processing of minerals in a manner that:

- (a) encourages and facilitates the exploration, extraction and processing of minerals while recognising, respecting and safeguarding the natural, social and cultural environment of the communities of Solomon Islands;
- (b) recognises, respects and safeguards the right to customary ownership, customary use and occupation of land, water and sea according to current customary usage; and
- (c) encourages environmental responsibility and responsible land care management by those conducting exploration and mining activities; and
- (d) assists owners of land, communities and the mining industry to understand their rights and obligations in exploring for, extracting and processing minerals so they may engage in a timely and fair manner in harmonious and mutually beneficial relationships throughout the various stages of exploring for, extracting and processing minerals; and
- (e) ensures an economic benefit for Solomon Islands, with an appropriate financial return from mining, in a way that maximises the benefit to future generations.

CONTENT

PART 1 PRELIMINARY MATTERS

Clause 1 specifies the short title of the Act.

Clause 2 provides for the commencement of the Act by enabling the Minister to appoint a date for the Act to commence by notice published in the Gazette.

Clause 3 provides for the purposes of the Act to establish a framework for authorising and regulating exploration, extraction and processing of minerals in Solomon Islands.

Clause 4 provides that the Act binds the Crown.

Clause 5 provides that this Act provides to Solomon Islands land and Solomon Islands waters and the seabed and subsoil beneath those waters.

Clause 6 provides for the relationship with other Acts that may affect the rights and powers, given under this Act, or obligations and functions imposed under this Act.

Clause 7 provides that ownership of a mineral located in or on Solomon Islands land or Solomon Islands waters is vested in the people and the Government of Solomon Islands.

Clause 8 provides that mining is to be in the national interest.

PART 2 INTERPRETATION

Clause 9 provides for the definition of particular words used in the Act.

Clause 10 provides for the meaning of 'mining tenement'. A mining tenement gives the holder of the mining tenement certain rights, as specified in the tenement documentation.

PART 3 - AREAS WHERE MINING PROHIBITED OR RESTRICTED

Division 1 - Mining prohibited areas

Clause 11 provides for mining prohibited areas i.e. a protected area of biological diversity significance under the *Protected Areas Act 2010*; a national park under the *National Parks Act* (Cap. 149); an area declared to be mining prohibited area under section 12.

Clause 12 authorises the Minister to declare mining prohibited areas on certain grounds.

Clause 13 provides that the Minerals Board must consider certain matters when deciding whether to recommend to the Minister to declare a mining prohibited area e.g. the need to protect places that could be harmed by mining.

Clause 14 provides that a person must not explore for, extract or process a mineral, or carry out operations for exploring for, extracting or processing a mineral, in a prohibited area.

Division 2 Mining protected areas

Clause 15 provides for areas which are mining protected areas e.g. the area within 100 metres, or such further limit as may be determined following community consultation, of any land that is reserved for public use and infrastructure, including public cemeteries, burial sites, or other sacred sites, roads, schools, hospitals, airports and ports.

Clause 16 provides that no mining tenement other than a building material permit or a mining licence referred to in subsection (2) may be granted over a mining protected area.

Clause 17 provides the effect of declaring an area a mining protected area is that a mining tenement, which has effect over the whole or a part of a mining protected area, is cancelled, and has no effect, to the extent that it has effect over the mining protected area.

Division 3 Mining restricted areas

Clause 18 provides that certain areas are mining restricted areas e.g. a competitive tender restricted area; a proposed competitive tender restricted area; a community reserved area etc.

Clause 19 provides that the Minister may, by notice published in the Gazette

declare an area to be a competitive tender restricted area; or a proposed competitive tender restricted area; or a community reserved area; or a mining restricted area, upon recommendation by the Minerals Board.

Clause 20 provides that the Minister must not declare an area to be a mining restricted area if there is a mining tenement in force over the whole or a part of the area.

Clause 21 provides that a person must not explore for, extract or process a mineral, or carry out operations for exploring for, extracting or processing a mineral, in a mining restricted area.

Division 4 Miscellaneous matters for Part 3

Clause 22 provides that the Minister may, by notice published in the Gazette revoke or vary a declaration of a mining prohibited area or a mining protected area if the circumstances on which the declaration was made changes or no longer apply.

Clause 23 provides that Regulations may provide for the administrative processes for declaring a mining prohibited area, a mining protected area or a mining restricted area; and for the penalties for non-compliance.

PART 4 MINING TENEMENTS

Division 1 Authority to mine

Clause 24 provides that the Minister may authorise mining under a mining tenement. The Minister has the power and authority to grant, renew, vary or cancel a mining tenement.

Clause 25 provides for authorised mining tenement. The Minister may authorise the following mining tenements on the approval of the Minerals Board - Reconnaissance Permit; Prospecting License; Feasibility License; Mining License; Dealers License.

Clause 26 prohibits mining without authority. A person must not, unless authorised to do so under this Act explore for, extract or process a mineral; or carry out operations for exploring for, extracting or processing a mineral; or acquire an interest in a mineral.

Division 2 General rules for holding tenements

Clause 27 provides for joint holding of mining tenement - the holder of a mining tenement may be 2 or more persons holding the tenement jointly.

Clause 28 provides for plurality of holding mining tenements – that a person can hold 2 or more mining tenements; and that a single person, or a single group of associated bodies corporate, may not hold more than 3 building materials permits or 5 prospecting licences.

Clause 29 provides for the age of an individual holder of a mining tenement to be 18 years of age.

Clause 30 provides that the Government should not have financial involvement nor equity participation in any mineral tenement.

Division 3 Mining tenements

Subdivision 1 Building materials permit

Clause 31 provides that a building materials permit is a mining tenement that authorises the holder of the permit, in accordance with the approved work program for the permit, to enter and occupy the tenement area and carry out work authorised under the permit.

Clause 32 provides for tenement area of building material permit to be not more than 0.5 km²; and to comply with prescribed requirements about the shape of the tenement area.

Clause 33 provides that it is a condition of a building materials permit that the tenement area must be marked out, and the markings of the tenement area are maintained, as prescribed.

Clause 34 provides for conditions of building material permit for significant mining project.

Subdivision 2 Reconnaissance permit

Clause 35 provides that a Reconnaissance permit is a mining tenement that

authorises the holder to, in accordance with the approved work program for the permit, enter and occupy the tenement area to conduct the activities authorised by the permit.

Clause 36 provides that the shape and area of the tenement area of a reconnaissance permit must be as prescribed.

Clause 37 provides that a reconnaissance permit must be first granted for a term of one year or less.

Clause 38 provides that it is a condition of a reconnaissance permit that the holder of the permit must, in the prescribed manner, notify the holder's intention to enter a part of the tenement area, or land adjacent to the tenement area that is not an established road or track, for carrying out reconnaissance under the permit.

Subdivision 3 Prospecting licence

Clause 39 provides that a prospecting licence is authorisation to explore for minerals, extract, remove and dispose of the quantity of minerals specified in the work program, in accordance with the approved work program.

Clause 40 provides that the tenement area of a prospecting licence, for the first term for which it is granted, must have an area of - if the tenement area is comprised wholly of Solomon Islands waters, 5,000 km² or less.

Clause 41 provides that a prospecting licence must be first granted for a term of 5 years or less.

Clause 42 provides that it is a condition of a prospecting licence that the holder must give to the Registrar copies of all raw data acquired under the approved work program.

Subdivision 4 Feasibility licence

Clause 43 provides that a feasibility licence is held by a person who is applying for a mining licence; and does not give the holder of the licence the right to commence mining.

Clause 44 provides that the tenement area of a feasibility licence must be an

area that is as close in size as practicable to the area of the tenement area of the proposed mining licence, subject to refinement through feasibility studies and other considerations.

Clause 45 provides that a feasibility licence must be first granted for a term of one year or less.

Clause 46 provides that it is a condition of a feasibility licence that any prospecting carried out under the licence must be carried out in accordance with the approved work program for the licence.

Clause 47 provides that the Minister must not grant or renew a mining licence unless there is an approved mining agreement for the tenement area of the licence.

Subdivision 5 Mining licence

Clause 48 provides that a mining licence is authorisation to do the following in the tenement area, in accordance with the approved work program, for the licence - prospect and mine the land; to extract, remove and dispose of the quantity of minerals, etc.

Clause 49 provides that the tenement area of a mining licence for the first term the licence is granted must not be greater than the tenement area of the prospecting licence or feasibility licence held before the licence is granted.

Clause 50 provides that the first term of a mining licence must be 25 years or less.

Clause 51 provides for the conditions of a mining licence - It is a condition of a mining licence that the tenement area must be marked out, and the markings of the tenement area must be maintained, as prescribed.

Clause 52 provides that a mining licence that is for a significant mining project is subject to the conditions specified in this section and in sections 49 to 51.

Subdivision 6 Artisanal mining permit

Clause 53 provides that an artisanal mining permit is authorisation, to the exclusion of any other person, to carry out exploration etc. in the tenement area

with the approved work program for the permit.

Clause 54 provides that the tenement area of artisanal mining permit must not exceed 0.2 km²; and must have the prescribed shape.

Clause 55 provides that the term of an artisanal mining permit must be for a term of 2 years or less.

Clause 56 provides that it is a condition of an artisanal mining permit that any further exploration carried out under the permit must be carried out in accordance with the approved work program for the permit.

Division 4 Conditions of mining tenement

Clause 57 provides that the conditions of a mining tenement are those imposed under this Act, the prescribed conditions, and any other conditions imposed by the Minister and specified in the mining tenement.

Clause 58 provides that mining tenements are subject to the prescribed conditions.

PART 5 GRANT AND RENEWAL OF MINING TEEMENTS

Division 1 Preliminary matter for Part 5

Clause 59 provides for definitions for Part 5.

Division 2 Approvals, permissions, agreements before mining tenement may be granted

Subdivision 1 Preliminary matter for Part 5, Division 2

Clause 60 provides for the application of Part 5, Division 2.

Subdivision 2 Required statutory approvals and permissions

Clause 61 provides for approvals required inclusive of those under the Environment Act.

Clause 62 provides that a mining tenement may not be granted over registered land unless permission to carry out the activities under the tenement has been granted under Part IV of the *Planning and Development Act (Cap.154)*.

Clause 63 provides that a mining tenement may not be granted unless there is a work program for the tenement, and the approved work program must comply with the requirements prescribed in the Regulations.

Clause 64 provides that a mining tenement must not be granted unless there is a rehabilitation program for the tenement; or the mining tenement is exempted from the requirement of having a rehabilitation program.

Subdivision 3 Access agreements and payments

Clause 65 provides for requirements for an access agreement. The Minister must not grant or renew a prospecting licence or a mining licence unless there is an approved access agreement for the tenement area of the licence.

Clause 66 provides for a letter of intent - An applicant for a mining tenement may not commence to negotiate an access agreement, or have any prior consultation or contact with landowners unless the Minister, acting on the recommendation of the Minerals Board, has given the applicant a letter of intent.

Clause 67 provides for the content of an access agreement e.g. it must signify consent to prospecting or mining of a specified area or to traversing a specified area to gain access to a tenement area.

Subdivision 4 Community development agreements

Clause 68 provides for the requirements for a community development agreement, e.g. the Minister must not grant or renew a building materials permit or mining licence for a significant mining project unless there is a community development agreement for the tenement area of the permit or licence.

Clause 69 provides for the content of a community development agreement, inclusive of a community development program; a program for local employment and training which ensures equal opportunity for employment,

training, promotion and pay for men and women etc.

Clause 70 provides that a community development program must set out specific arrangements and projects that are designed to improve community life for current and future members of the community.

Clause 71 provides that if the Minister grants a building materials permit or mining licence for a significant mining project despite the absence of a community development agreement, the Minister must impose conditions on the permit or licence requiring the holder of the permit or licence to pay the prescribed community development payments.

Division 3 Application for grant of mining tenement

Clause 72 provides for the eligibility criteria for an application for the grant of a mining tenement.

Clause 73 provides that a person who is eligible under section 72 may apply for a mining tenement by submitting the application to the Director.

Clause 74 provides that if two or more applications propose tenement areas that are wholly or partially the same area, the applications must be considered and determined in the order in which they were submitted to the Director.

Clause 75 provides that the Director must, after receiving an application, assess the application to ensure that the applicant is eligible to make the application, and the application complies with section.

Division 4 Decision process for granting or refusing mining tenement

Clause 76 provides for the factors the Minister must take into account in deciding whether to grant or refuse a mining tenement. Such factors include - whether the applicant is a fit and proper person; if the applicant currently holds one or more mining tenements, whether the applicant has substantially complied with the conditions of each of those mining tenements, etc.

Clause 77 provides that before deciding an application for a mining tenement, the Minister may require the applicant to give to the authority additional information, or to take an action, relevant to the application.

Clause 78 provides that in deciding whether to grant a mining tenement, the Minister must be satisfied that all requirements under this Part relevant to the application for the tenement are completed.

Clause 79 provides that if the Minister refuses to grant the mining tenement, the Minister must, in writing, advise the applicant of the decision and the reasons for the decision.

Division 5 Renewal of mining tenement

Clause 80 provides that an application to renew a mining tenement must be made at least 120 days before the tenement expires.

Clause 81 provides that a mining tenement must not be renewed unless there is an approved work program and approved rehabilitation program (as applicable) for the renewed tenement.

PART 6 VARIATION, SURRENDER AND CANCELLATION OF MINING TENEMENTS

Division 1 Variation of mining tenement

Clause 82 provides that the Minister may vary the conditions of the mining tenement in accordance with this Division.

Clause 83 provides that the Minister may vary the conditions of a mining tenement at any time on the Minister's own initiative or when a mining tenement is renewed to take account of the renewal.

Clause 84 provides that the holder of a mining tenement may apply to the Minister to reduce the size of the tenement area by relinquishing part of the tenement area.

Division 2 Surrender of mining tenement

Clause 85 provides that the holder of a mining tenement may apply to the Minister to approve the surrender of a mining tenement.

Clause 86 provides that the Minister may approve the surrender if satisfied that the holder has complied with the conditions of the mining tenement, and may also refuse the surrender if the Minister considers it is appropriate to refuse.

Division 3 Cancellation of mining tenement

Clause 87 provides for the application of Part 6, Division 3.

Clause 88 provides that the Minister may cancel a mining tenement, or part of a mining tenement's tenement area ("**partial cancellation**").

Clause 89 provides that the procedure for cancellation or partial cancellation of a mining tenement must be prescribed by the Regulations.

Clause 90 provides for the effect of cancellation – that on cancellation, the person noted in the Mining Register as the holder of the mining tenement, continue to be jointly and severally liable for the payment of any fees, royalties or any money due and payable under the mining tenement.

PART 7 CONSOLIDATION OF MINING TENEMENTS

Clause 91 provides for the definitions for Part 7.

Clause 92 provides that the holder of 2 or more mining tenements may apply for a mining tenement consolidating those mining tenements by submitting the application to the Director.

Clause 93 provides that the Director must provide the application to the Minerals Board, who must consider whether one mining tenement should be granted to consolidate all or some of the mining tenements specified in the application or whether the application should be refused, and advise the Minister accordingly.

Clause 94 provides that the tenement area of the consolidated tenement must not exceed the maximum tenement area specified in Division 3 for its kind of mining tenement.

Clause 95 provides for the term of a consolidated tenement - that the consolidated tenement must be granted for, if, on the date on which the consolidated tenement is granted, the unexpired terms of the mining tenements

it consolidates are the same, that unexpired term.

Clause 96 provides that a consolidated tenement is, if the conditions of the mining tenements it consolidates are substantially the same, subject to those conditions and any other conditions imposed by the Minister acting in accordance with the advice of the Minerals Board.

Clause 97 provides that on the grant of the consolidated tenement each of the mining tenements it consolidates is cancelled and, every right, title, interest conferred, and every duty and obligation imposed by each of the mining tenements it consolidates cease to have effect.

Part 8 COMMUNITY RESERVED AREAS AND COMMUNITY MINING PERMITS

Division 1 Community reserved areas

Clause 98 provides that a community reserved area is an identifiable area of land where mining may only be authorised by a community mining permit.

Clause 99 provides that the Minister may establish a community reserved area by declaration.

Clause 100 provides that there must be community mining rules not inconsistent with this Act or the Regulations.

Clause 101 provides that the body administering the scheme for a community reserved area must, for each year ending on the prescribed date, make a report on the operation of the scheme during the year.

Division 2 Community mining permits

Clause 102 provides that a community mining permit authorises the mining of building materials, minerals or gemstones in, on or under a community reserved area.

Clause 103 provides that the Director may cancel, suspend or impose additional conditions on a community mining permit if any mining operations conducted in the community reserved area to which the permit applies contravene the scheme for the community reserved area.

PART 9 MINE CLOSURE

Clause 104 provides that this Part 9 applies when a mining tenement expires, or a mining tenement or part of a mining tenement is surrendered or cancelled.

Clause 105 provides that after a mining tenement ceases to be in force, only certain persons (e.g. Director, holder of mining tenement immediately before cessation) have the right to enter the former tenement area for compliance with this Part.

Clause 106 provides that a person who was on the expiry, surrender or cancellation the holder of the mining tenement, or the holder of an interest in the mining tenement, continues after the expiry, surrender or cancellation to be obligated and liable for the rehabilitation of the mining tenement area and areas adjacent to the tenement area in accordance with the approved rehabilitation program for the mining tenement.

Clause 107 provides that where a mining tenement expires and the holder of the mining tenement fails to rehabilitate land formerly but no longer subject to the mining tenement, the Director must give the person a direction in writing (notice) specifying the rehabilitation the person must carry out and the time within which to carry out the rehabilitation.

Clause 108 provides that the holder of an artisanal mining permit or large-scale mining licence remains responsible for any environmental liability, pollution or ecological degradation, and the management thereof, until the Director of Mines has issued a certificate of closure to the holder.

Clause 109 provides that not later than 3 months after a mining tenement ceases to be in force, the person who held the mining tenement immediately before the cessation must remove from the former tenement area all plant, machinery and other equipment placed there.

PART 10 PROTECTION OF ENVIRONMENT

Clause 110 provides that the purpose of Part 10 is to ensure mining in Solomon Islands is carried out in accordance with best practice for the protection of the environment.

Clause 111 provides for the development of Environment management guidelines specifying how to conduct mining activities in a manner that protects the environment and minimises and rectifies environmental harm.

Clause 112 provides that the Director, having consulted with the Director of Environment, may issue an environment protection notice to the holder or former holder of a mining tenement or a community mining permit to take the action or cease taking the action specified in the notice.

Clause 113 provides that a person who, without reasonable excuse, contravenes a direction to rehabilitate commits an offence, attracting a maximum penalty of 15000 penalty units.

PART 11 FINANCIAL MATTERS

Division 1 Financial obligations of holders of mining tenements

Clause 114 provides that the holder of a mining tenement must provide the Government with a financial assurance to assure conduct of the holder of the holder's obligations under the approved rehabilitation program for the mining tenement and to protect the Government from paying the costs of complying with those obligations.

Clause 115 provides that the holder of a mining tenement (other than a reconnaissance permit) must pay to the Registrar the tenement fee.

Clause 116 provides that the holder of a building materials permit or mining licence must pay a royalty for minerals mined under the permit or licence, on the rates as provided.

Clause 117 provides that an amount paid as tenement fees or royalties referred to and paid under section 115 or 116 is not refundable.

Clause 118 provides that access and community development payments are payable under access and community development agreements.

Clause 119 provides that compensation payments are payable by the holder of a building materials permit, prospecting licence, feasibility licence or mining licence for damage caused in carrying out activities under the permit or licence to agricultural crops, economical trees or culturally significant sites.

Clause 120 provides that a person who is liable to pay tenement fees or

royalties etc. in this Division is not relieved of that liability because proceedings for an offence under this Act have been commenced against the person.

Division 2 Management of payments made to owner of land and communities

Clause 121 provides that a management body represents a community who owns, occupies and uses an area of customary land or customary waters which is a mining tenement area, part of a mining tenement area or adjacent to a mining tenement area.

Clause 122 provides that a community must develop their own corporate structure, to manage and regulate the management body.

Clause 123 provides that Regulations may prescribe procedures of management bodies e.g. the processes by which a management body receives, records, manages and disburses the money paid to it under this Part.

PART 12 AUTHORISATION TO DEAL IN AND EXPORT MINERALS

Division 1 Preliminary matter for Part 12

Clause 124 provides for definitions for Part 12.

Division 2 Dealing in minerals

Clause 125 provides that a dealer's licence authorises buying of gold, gemstones, building materials, or other minerals; processing of gold, gemstones, building materials or other minerals; and selling of gold, gemstones, building materials, or other minerals.

Clause 126 provides that a person must not deal in a mineral unless the person is authorised to do so by a dealer's licence, and deals in the mineral as authorised by the licence.

Clause 127 provides that the Minister, after considering recommendations made by the Minerals Board, has the power and authority to grant, renew, vary or cancel a dealer's licence.

Clause 128 provides that an applicant for a dealer's licence must be a department, division, unit or agency of the Government; or a department, division, unit or agency of a provincial government or the Honiara City Council.

Clause 129 provides that a person who is eligible may apply for a dealer's licence by submitting the application to the Director.

Clause 130 provides in deciding whether to grant a dealer's licence, the Minister must be satisfied that the application complies with the relevant sections 129 and 128 and has the relevant financial resources, experience and technical knowledge.

Clause 131 provides that in deciding whether to grant a dealer's licence, the Minister must be satisfied that all requirements under this Part are complied with.

Clause 132 provides that as soon as practicable after the Minister grants a dealer's licence, the Director must publish a notice of the grant of the dealer's licence in the Mining Cadastre Administration System.

Clause 133 provides that a dealer's licence must be first granted for a term of one year or less; and may be renewed for successive terms.

Clause 134 provides that the conditions of a dealer's licence may be imposed by the Minister, and specified in the licence.

Clause 135 provides that the holder of a dealer's licence may apply to the Minister to renew the licence within 30 days from the expiry date.

Clause 136 provides that the Minister, after considering the recommendations of the Minerals Board, may vary the conditions of a dealer's licence.

Clause 137 provides that the holder of a dealer's licence may, in writing to the Minister, surrender the licence.

Clause 138 provides the grounds upon which the Minister may cancel a dealer's licence e.g. if the Minister is satisfied that the holder of the licence has contravened a condition of the licence; or has committed an offence against this Act etc.

Clause 139 provides that a person who possesses unprocessed gold, gemstones or building materials commits an offence unless the person holds a mining tenement and the gold, gemstone or building materials was mined in the

mining tenement's tenement area.

Division 3 Export of minerals

Subdivision 1 Permits for export

Clause 140 provides that an export permit authorises the export of a consecutive consignment of a mineral, whether unprocessed, semi-processed or processed.

Clause 141 provides that the Minister, on the recommendation of the Minerals Board, has the power and authority to grant or cancel an export permit.

Clause 142 provides for eligibility to apply for a consignment or an export permit, e.g. a holder of a dealer's licence; or a holder of a mining tenement for the mining of the mineral being exported.

Clause 143 provides that a person who holds a dealer's licence may apply, by submitting the application to the Director, for a consignment permit or export permit.

Clause 144 provides that the Minister must grant the consignment permit or export permit if the Minister is satisfied that all requirements under this Division relevant to the application are complied with.

Clause 145 provides that the conditions of a consignment or export permit are conditions imposed by the Minister and specified in the licence.

Clause 146 provides that the holder of an export permit may, by notice in writing to the Director, surrender the permit.

Clause 147 provides that the cancellation of an export permit does not prevent proceedings against the holder, or former holder, of an export permit for an offence against this Act or for the recovery of an amount payable to the Government under this Act.

Clause 148 prohibits the export of a mineral unless it is authorised by a consignment permit or an export permit. The offence attracts a maximum penalty of 150,000 penalty units.

Subdivision 2 Checks before export of mineral

Clause 149 provides that a mineral may not be loaded on the aircraft or vessel on which it will be taken out of Solomon Islands unless this Subdivision is complied with.

Clause 150 provides that before a consignment of a mineral is loaded on the aircraft or vessel on which it will be taken out of Solomon Islands, the Director must conduct the checks etc. and approve export.

Clause 151 provides that the Director must make a declaration about minerals to be exported for research etc.

Clause 152 provides that where section 150(a) to (d) are complied with, the Director must, in writing, approve the export of a mineral.

PART 13 MINING REGISTER AND DEALINGS

Division 1 Preliminary matter for Part 13

Clause 153 provides for definitions for Part 13.

Division 2 Mining Register

Clause 154 provides for the establishment and the form of the mining register.

Clause 155 provides that there must be a record in the Register of each application that is submitted to the Director; of each mining tenement granted; of each mining prohibited area, mining protected area and mining restricted area etc.

Clause 156 provides for provisions registration - that if the Registrar is satisfied that an error or defect can be corrected, the Registrar must record the time and date of lodgement and particulars of the document in the Mining Register and place the word "provisional" next to the entry.

Clause 157 provides for confidentiality of certain information in the Mining Register, such as information about persons who have an interest in a mining tenement noted in the Register etc.

Clause 158 provides that the Registrar may, on the Registrar's own initiative,

correct an error in the Register. The Registrar must correct an error if satisfied the correction is necessary to ensure the recording of accurate information relating to a mining tenement.

Division 3 Interests and dealings with mining tenements

Clause 159 provides that a mineral interest must be dealt with, and is not capable of being dealt with, except by an instrument of dealing.

Clause 160 provides that an instrument of dealing has no effect under this Act unless and until it is approved by the Minister, and recorded in the Mining Register.

Clause 161 provides that person who intends to deal with a mineral interest must apply for approval and registration of the dealing.

Clause 162 provides for the devolution of mineral interests – that a devolution of a mineral interest has no effect under this Act unless and until it is approved by the Minister under this section; and recorded in the Mining Register.

Clause 163 provides for the limitation on effect of Part 13, Division 3 - that the Minister or the Minerals Board is not required to decide the validity of information in an instrument of dealing.

Division 4 Caveats

Clause 164 provides for the lodgement, acceptance and registration of a caveat. A person claiming a mineral interest may lodge with the Minister a caveat forbidding the registration of dealings with the mineral interest.

Clause 165 provides that the caveat ceases to be in force if it is withdrawn; or a court orders that it be removed from the Register or cancelled.

Clause 166 provides that the Minister must give notice of the acceptance of a caveat to the holder of the mining tenement, or person who is applying for the mining tenement, to which the caveat relates.

Clause 167 provides that if the Minister accepts a caveat, and the Minister receives an instrument of dealing purporting to deal with the mining tenement, the Minister must give the caveator a notice of the receipt of the instrument of

dealing, and may require the Director to record the dealing in the Register only after the caveat ceases to have effect in relation to the dealing.

PART 14 MINERAL RESOURCES SPECIAL FUND

Clause 168 establishes the Mineral Resources Special Fund.

Clause 169 provides that the Accountant-General, appointed under section 10 of the *Public Financial Management Act 2013*, in consultation with the Permanent Secretary of the Ministry, is responsible for operating the Mineral Resources Special Fund.

Clause 170 provides for payments into the Minerals Resources Special Fund, inclusive of royalties and interest payable on amounts of outstanding royalties, access and compensation payments etc.

Clause 171 provides that Regulations must prescribe the procedure and time for making payments out of the Mineral Resources Special Fund.

Part 15 ADMINISTRATIVE MATTERS

Division 1 Statutory officers

Clause 172 provides that the Director of Mines is the public officer responsible to the Permanent Secretary who holds or acts in the office of Director of Mines.

Clause 173 provides that the Registrar is the public officer responsible to the Permanent Secretary who holds or acts in the office of Registrar.

Division 2 Minerals Board

Clause 174 establishes the Minerals Board.

Clause 175 provides that the Board is assigned functions under the Act, and shall have the powers necessary for performing those functions.

Clause 176 provides for the members of the Board, inclusive of the Director of Mines; the Commissioner of Lands; the Director of Environment; a representative from the Ministry of Finance and Treasury etc.

Clause 177 provides that an appointed member of the Minerals Board holds office for 2 years and may be re-appointed.

Clause 178 provides that the Minerals Board must choose a Chairperson from the members of the Board, a person who has knowledge and experience in the exploration and mining sector and other experiences.

Clause 179 provides that Regulations must prescribe the Mineral Board's procedures, including procedures for disclosure of members' interests, and the manner in which a member's conflict of interest in matters being considered by the Board are to be dealt with.

Clause 180 provides that if the Board must make a recommendation to the Minister about a matter under this Act, the Director must provide the Board with a copy of the document about which the Board is to make a recommendation; and a copy of all other relevant information that would assist the Board to make its recommendation.

Clause 181 provides for administrative support, facilities, resources and technical advice to be made available for the Minerals Board.

Clause 182 provides for the payment of a Board member's fees and expenses for attending to Board meetings.

Division 3 Delegations

Clause 183 provides that the Minister may delegate a function or power under this Act (except the power to make Regulations), to a public officer.

Clause 184 provides that the Director may delegate a function or power under this Act or the Regulations (other than this power of delegation) to a public officer.

Division 4 Review and report by Minister

Clause 185 requires the Minister to, within 3 months after the end of a financial year, make an annual report on mining activities in Solomon Islands during the financial year.

Clause 186 provides that the Minister may, at least once within every 7 years, review the operation of this Act and the Regulations and make recommendations for making improvements to their operation.

PART 16 ENFORCEMENT

Division 1 General offences and penalties

Clause 187 provides that interfering with activities authorised by a mining tenement is an offence attracting a maximum penalty of 15,000 penalty units.

Clause 188 provides that making a false and misleading statement or providing a statement which is false and misleading is an offence, attracting a maximum penalty of 15,000 penalty units.

Clause 189 provides for offences relating to officers; that it is an offence to assault, obstruct, hinder or resist an officer carrying out his or her duties; fail to comply with a direction, request or notice given by an officer etc. This attracts a maximum penalty of 5,000 penalty units.

Clause 190 provides for that the disclosure and improper use of information is prohibited, and it is an offence which attracts a maximum penalty of 15,000 penalty units.

Clause 191 provides that it is an offence for a person to make false or misleading representations for the purpose of influencing, directly or indirectly, decisions that may be made or taken by any of the following persons in performing their functions under this Act.

Clause 192 provides for the criminal liability of offices or a body corporate; that if a body corporate is convicted of an offence against this Act or subsidiary legislation made under this Act, every officer of the body corporate is also guilty of the offence (and may be convicted and sentenced) if it is proved that the act that constituted the offence took place with the officer's authority, permission or consent.

Division 2 Inspectors

Clause 193 provides that the Director is an inspector under this Act, and that the Minister may, by notice published in the Gazette, appoint a public officer in

the Ministry or a police officer or an immigration officer to be an inspector.

Clause 194 provides for the functions of the inspector inclusive of monitoring compliance with this Act and the Regulations; to inspect mining tenement areas and adjacent access areas to ascertain whether the activities being conducted by the holder of a mining tenement are in accordance with this Act and the conditions of the mining tenement; to gather information required about any suspected offences etc.

Clause 195 provides for the powers of an inspector, inclusive of entering and inspecting a mining tenement area; or requiring a person to give the officer information that is reasonably necessary, or directing the holder of a mining tenement or community mining permit to take action or cease conducting mining activities to ensure compliance with this Act.

Clause 196 provides that the Permanent Secretary must give an inspector an identity card stating the person's name and that the person is an inspector.

Clause 197 provides that an inspector who fails or refuses to perform any of his or her functions under this Act commits an offence and is liable to a maximum penalty of 15,000 penalty units.

PART 17 MISCELLANEOUS MATTERS

Division 1 Regulations

Clause 198 provides that the Minister may, acting in accordance with the advice of the Minerals Board, make regulations, not inconsistent with this Act, to prescribe matters that are necessary or expedient for carrying out or giving effect to this Act.

Division 2 Other miscellaneous matters

Clause 199 provides that a decision, requirement, approval, consent, authorisation or notice made or given under this Act must be in writing and served on the person to whom it is directed.

Clause 200 provides that if a provision of this Act requires a person to obtain the consent of a landowner before the person may take an action (for example, enter or traverse the landowner's land), the consent must be obtained.

Clause 201 provides that a tenement holder must comply where the Minister or Director requires the tenement holder to take any action in relation to the tenement area or community reserved area.

Clause 202 provides that a decision made relating to an application under this Act is not open to challenge solely because of an informality or irregularity.

Clause 203 provides for indemnity from liability, that a person who has exercised powers in the course of the administration of this Act, is not civilly or criminally liable for any act done in good faith.

PART 18 REPEAL, TRANSITIONAL AND SAVINGS PROVISIONS

Clause 204 provides for definitions for Part 18.

Clause 205 provides that the *Mines and Minerals Act (Cap.42)* is repealed.

Clause 206 provides that an existing application is taken to be made under this Act and must be determined if it were an application for the corresponding mining tenement.

Clause 207 provides that upon commencement of this Act, an existing authorisation continues in force and to have effect as if it were a mining tenement granted under this Act.

Clause 208 provides that on the commencement of this Act, the person holding the position of Director of Mines or Registrar or an inspector immediately before the commencement hold the position of Director or Registrar under this Act subject to the same terms and conditions of employment.

Clause 209 provides that on the commencement of this Act, the Mining Royalty Restricted Fund established under the repealed Act becomes part of the Mining Resources Special Fund.

Clause 210 provides that regulations may provide for matters of transitional nature to allow for the effective and seamless implementation of this Act.

PART 19 CONSEQUENTIAL AMENDMENTS

Clause 211 provides for an amendment to the *Environment Act 1998*.

Clause 212 provides for an amendment to the *Land and Titles Act (Cap. 133)*.

Clause 213 provides for an amendment to the *Secured Transactions Act 2008*.

HON. BRADLEY TOVOSIA
MINISTER FOR MINES, ENERGY AND
RURAL ELECTRIFICATION