

ACT 450

MINERALS COMMISSION ACT, 1993

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ACT 450

MINERALS COMMISSION ACT, 19931

AN ACT to establish a Minerals Commission, provide for its composition and functions relating to the regulation and management of the utilisation of minerals and provide for related matters.

Establishment

1. Establishment of the Commission

(1) There is established by this Act a Minerals Commission.

(2) The Commission is a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) The Commission may, for the purposes of its functions, acquire, hold or dispose of movable or immovable property.

(4) Where there is a hindrance to the acquisition of property under subsection (3) the property may be acquired for the Commission under the State Property and Contracts Act, 1960 (C.A. 6) or the State Lands Act, 1962 (Act 125).

2. Functions of the Commission

(1) The Commission is responsible for the regulation and management of the utilisation of mineral resources and the co-ordination of the policies in relation to them.

(2) For purposes of subsection (1), the Commission shall

(a) formulate recommendations of national policy for exploration and exploitation of mineral resources with special reference to establishing national priorities having due regard to the national economy;

- (b) advise the Minister on matters relating to minerals;
- (c) monitor the implementation of laid down policies of the Government on minerals and report on this to the Minister;
- (d) monitor the operations of the bodies or establishments with responsibility for minerals and report to the Minister;
- (e) receive and assess public agreements relating to minerals and report to Parliament;
- (f) secure a firm basis of comprehensive data collection on national mineral resources and the technologies of exploration and exploitation for national decision making; and
- (g) perform any other functions assigned to it by or under any other enactment or by the Minister.

3. Composition of the Board

(1) The governing body of the Commission is a Board consisting of

- (a) the chairman,
- (b) the chief executive of the Commission, and
- (c) seven other persons at least two of whom are women.

(2) The members of the Board shall be appointed by the President in accordance with article 70 of the Constitution.

(3) The President shall in making an appointment under this section consider the integrity, knowledge, expertise and experience of the person and in particular that person's knowledge in matters relevant to the functions of the Commission.

4. Qualifications of members of the Board

(1) A person is not qualified to be a member of the Board if that person

- (a) has been adjudged or otherwise declared
 - (i) bankrupt under a law in the Republic and has not been discharged; or
 - (ii) to be of unsound mind or is detained as a criminal lunatic under a law in the Republic; or
- (b) has been convicted for high crime under the Constitution or for treason or for an offence involving the security of the Republic, fraud, dishonesty or moral turpitude; or
- (c) has been found by the report of a commission or a committee of inquiry to be incompetent to hold public office or is a person in respect of whom a commission or committee of

inquiry has found that while being a public officer that person acquired assets unlawfully or defrauded the Republic or misused or abused that office, or wilfully acted in a manner prejudicial to the interest of the Republic, and the findings have not been set aside on appeal or judicial review; or

(d) is under sentence of death or any other sentence of imprisonment imposed by a Court;
or

(e) is otherwise disqualified by a law.

(2) Despite subsection (1), a member of the Board ceases to be a member if, in the case of a person possessed of professional qualification, is disqualified from practicing under that qualification in the Republic by an order of a competent authority made in respect of that person personally or ceased to be a member otherwise than at that member's personal request.

5. Tenure of office of members of the Board

(1) A member of the Board, other than the chief executive, shall hold office for a period not exceeding three years and is eligible for re-appointment.

(2) A member of the Board, other than the chief executive, may by notice in writing to the President resign from office.

(3) A member who is absent from four consecutive meetings of the Board without sufficient cause ceases to be a member.

6. Allowances for members

The members of the Board shall be paid the allowances determined by the Minister, in consultation with the Minister responsible for Finance.

7. Filling of vacancies

The chairman of the Board shall notify the President of a vacancy which occurs in the membership of the Board within three months of the occurrence of the vacancy.

8. Removal

A member of the Board may be removed from office by the President for inability to perform the functions of office, for stated misbehaviour or for any other just cause.

9. Meetings of the Board

(1) The Board shall meet at least once every month for the despatch of business at the times and in the places determined by the chairman.

(2) The chairman shall, on the request of not less than one-third of the membership convene a special meeting of the Board.

(3) The quorum at a meeting of the Board shall consist of four members and shall include the chief executive or the person acting in that capacity.

(4) The chairman shall preside at the meetings of the Board and in the absence of the chairman a member of the Board elected by the members present from among their number shall preside.

(5) Questions before the Board shall be decided by a majority of the members present and voting.

(6) The chairman or the person presiding at a meeting of the Board shall in the event of equality of votes have a casting vote.

(7) A member of the Board who has an interest in a contract proposed to be made with the Commission or a matter for discussion by the Board shall disclose the nature of the interest to the Board and is disqualified, unless the meeting otherwise directs,

(a) from participating in the deliberations on that contract or matter, and

(b) from voting on a decision on that contract or matter.

(8) A member who fails to disclose interest under subsection (7) shall be removed from the Commission.

(9) Except as otherwise provided in this section, the Board shall regulate the procedure for its meetings.

10. Power to co-opt

The Board may co-opt a person to act as an adviser at any of its meetings but a co-opted person is not entitled to vote at the meeting.

Administration

11. Chief executive

(1) The Commission shall have a chief executive who shall be appointed by the President in accordance with article 195 of the Constitution.

(2) The chief executive shall be a member of the Board.

(3) The chief executive shall hold office on the terms and conditions determined by the President in consultation with the Minister.

(4) Subject to the general directives given by the Board, the chief executive is responsible for the day-to-day administration of the affairs of the Commission and shall ensure the implementation of the decisions of the Board.

(5) The chief executive is responsible for the organisation and control of the employees of the Commission.

(6) The chief executive may delegate the day-to-day administration of the affairs of the Commission to an officer but the chief executive is not to be relieved from ultimate responsibility for the performance of a delegated function.

12. Staff of the Commission

(1) The President may, acting in accordance with article 195 of the Constitution, appoint the other officers or employees necessary for the effective performance of the functions of the Commission.

(2) The President may delegate the President's functions under subsection (1) by directions in writing to the Board, a member of the Board or to a public officer in accordance with clause (2) of article 195 of the Constitution.

(3) The Commission may engage the services of a consultant and an advisor as determined by the Board.

13. Funds of the Commission

(1) The funds of the Commission include

- (a) Government subventions,
- (b) loans granted to the Commission,
- (c) the moneys accruing to the Commission in the course of the performance of its functions under this Act or any other enactment,
- (d) gifts, and
- (e) moneys from any other source.

(2) The sums of money received on account of the Commission may be paid into a bank determined by the Board to the credit of the Commission's general, current or deposit account.

(3) The Commission may invest moneys not required for immediate use.

14. Borrowing powers

(1) The Commission may obtain loans and other credit facilities on the guarantee of the Government from banks approved by the Minister and the Minister responsible for Finance.

(2) Despite subsection (1), the Commission may with the prior approval of the Minister and the Minister responsible for Finance, borrow money from any other source.

(3) The Commission may borrow temporarily by way of overdraft or otherwise the sums of money it may require for meeting its current obligations or performing its functions under this Act.

(4) The Minister responsible for Finance may, on behalf of the Government, guarantee the performance of an obligation or undertaking of the Commission under this Act.

(5) The section is subject to article 181 of the Constitution.

Miscellaneous

15. Relationship with other authorities

Government departments and agencies and any other public authority shall co-operate fully with the Commission in the performance of its functions under this Act.

16. Accounts and audit

(1) The Commission shall keep proper books of accounts and proper records in relation to the accounts.

(2) The account books and records of the Commission shall be in the form approved by the Auditor-General.

(3) The books and accounts of the Commission shall, within four months after the end of each financial year, be audited by the Auditor-General.

(4) The financial year of the Commission shall be the same as the financial year of the Government.

17. Annual report

(1) The Board shall, as soon as possible after the expiration of each financial year but within six months after the end of the year, submit to the Minister an annual report dealing generally with the activities and the operations of the Commission within that year which shall include

(a) a copy of the audited accounts of the Commission together with the Auditor-General's report on it, and

(b) any other information required by the Minister.

(2) The Minister shall within two months after receiving the annual report of the Commission submit the report to Parliament with a statement the Minister considers necessary.

(3) The Board shall submit to the Minister any other reports on its activities requested by the Minister in writing.

18. Regulations

The Minister may on the advice of the Board, by legislative instrument, make Regulations

(a) providing for the establishment of committees for the control of and the administration of a particular mineral; and

(b) generally for the effective implementation of this Act.

19. Dissolution of existing Commission

Spent.2

20. Interpretation

In this Act, unless the context otherwise requires,

“Auditor-General” includes an auditor appointed by the Auditor-General;

“Board” means the governing body of the Commission;

“Commission” means the Minerals Commission established under section 1;

“minerals” means a substance in solid or liquid form occurring naturally in or on the earth, or on or under the seabed, formed by or subject to geological process but does not include mineral oil and natural gases;

“Minister” means the Minister responsible for Mines.