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BUITENGEWONE



EXTRAORDINARY

STAATSKOERANT

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DEPARTMENT OF THE PRIME MINISTER.

No. 1170.]

[10th July, 1968.

It is hereby notified that the State President has assented to the following Acts which are hereby published for general information:—

No. 82 of 1968: Gold Mines Assistance Act, 1968 .. PAGE 4

No. 82, 1968.]

ACT

To provide for financial assistance in respect of certain gold mines; to provide that for the purposes of certain leases of the right to mine gold, any loss incurred during any accounting year or period in respect of an assisted mine shall not be set off against the profits of any succeeding year or period; and to provide for incidental matters.

*(English text signed by the State President.)
(Assented to 20th June, 1968.)*

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Definitions.

1. In this Act, unless the context otherwise indicates—

- (i) “allowable deductions”, in relation to an assisted gold mine, means the sum of—
 - (a) the deductions from income which, in the determination under the Income Tax Act of the taxable income derived from such mine during the relevant year of assessment or of any assessed loss incurred in respect of such mine during such year, have been allowed under the provisions of section 11 of the Income Tax Act, excluding paragraphs (q) and (x) of that section; and
 - (b) any capital expenditure the deduction of which from the mining income derived from such mine during the relevant year of assessment is permissible in terms of section 6 (2) of this Act; (x)
- (ii) “assisted gold mine” means a gold mine which is classified as an assisted gold mine under the provisions of section 2; (ix)
- (iii) “Income Tax Act” means the Income Tax Act, 1962 (Act No. 58 of 1962); (i)
- (iv) “mining for gold” includes mining for silver, osmiridium, uranium, pyrites or other minerals won in the course of mining for gold; (v)
- (v) “mining income”, in relation to any assisted gold mine, means the amounts derived from mining for gold on such mine which are included in income for the purposes of the Income Tax Act, including any income which in the opinion of the Secretary for Inland Revenue results directly from mining for gold but excluding any amount referred to in paragraph (j) of the definition of “gross income” in section 1 of the Income Tax Act; (iv)
- (vi) “Mining Leases Board” means the Mining Leases Board established by section 5 of the Mining Rights Act, 1967 (Act No. 20 of 1967); (vi)
- (vii) “mining loss”, in relation to any assisted gold mine, means the amount by which the sum of the allowable deductions permissible in respect of such mine in respect of the year of assessment exceeds the mining income derived from such mine during such year; (vii)

(viii) "mining profit", in relation to any assisted gold mine, means the amount by which the mining income derived from such mine during the year of assessment exceeds the sum of the allowable deductions permissible in respect of such mine in respect of such year; (viii)

(ix) "Minister" means the Minister of Mines; (iii)

(x) "year of assessment", in relation to any company, means a year of assessment of such company for the purposes of the Income Tax Act, including any period requiring to be assessed separately under the provisions of section 67 (5) of that Act. (ii)

Classification of mines as assisted gold mines.

2. (1) Any company carrying on gold mining operations may apply to the Minister for the classification as an assisted gold mine of any gold mine on which gold mining operations are being carried on and from which gold or uranium is being won.

(2) The Minister, in consultation with the Minister of Finance and having regard to any recommendation made by the Mining Leases Board, may, on such conditions as he may impose, classify such mine as an assisted gold mine if he is satisfied—

(a) that it is likely that such mine would, unless assisted, cease underground mining operations within eight years after the date of the application referred to in subsection (1); and

(b) that if the mine is classified as an assisted gold mine and the said conditions are observed, the life of the mine will be appreciably prolonged and there will be a significant increase in the production of gold or uranium or of both gold and uranium won from such mine.

(3) Any classification made by the Minister under the provisions of subsection (2) shall be deemed to have been made on a date on or before the date of such classification determined by him.

(4) The Minister may appoint the Government Mining Engineer and other suitable Government officials to inspect from time to time the underground and surface works and the plans, books, records, accounts and documents of any company carrying on mining operations on an assisted gold mine and to report to him whether the working of the mine is in satisfactory accordance with the conditions he has imposed.

(5) The Minister, in consultation with the Minister of Finance and having regard to any recommendation of the Mining Leases Board, may, if the Government Mining Engineer reports that in his opinion the quantity of gold or uranium or of both gold and uranium won or likely to be won from any assisted gold mine is or will be insufficient to warrant such mine continuing to be classified as an assisted gold mine, notify the company operating the mine that the mine will, with effect from the first day of a year of assessment of the company commencing at least six months after the date of such notification, cease to be classified as an assisted gold mine, and in such event such mine shall with effect from the said day cease to be so classified.

(6) A mine shall in any case cease to be classified as an assisted gold mine as from the day following the day upon which it ceases underground mining operations.

Payments to companies mining for gold on assisted gold mines.

3. (1) If, in the case of any company which has during any year of assessment carried on gold mining operations on an assisted gold mine, the mining profit derived by the company from such mine during the year of assessment is less than eight

and fifty-seven sixtieths per cent of the mining income derived by the company from such mine during the said year, or if the company has during such year incurred a mining loss in respect of such mine, there shall, provided a certificate in respect of such year has been furnished as prescribed by section 5, be paid to such company out of funds voted by Parliament, an amount equal to—

- (a) if a mining profit has been derived as aforesaid, six and one hundredth per cent of the mining income derived by such company from such mine during the year of assessment, less sixty-eight per cent of such mining profit; or
- (b) if a mining loss has been incurred as aforesaid, the aggregate of a sum equal to six and one hundredth per cent of the mining income derived by such company from such mine during the year of assessment and a sum equal to sixty-eight per cent of such mining loss:

Provided that the amount paid under this subsection in respect of any year of assessment shall not exceed twenty-five per cent of the mining income derived by the company during the year of assessment from sales of gold, uranium and such other minerals as may be won in conjunction therewith from such mine.

- (2) (a) If it appears to the Secretary for Mines that any company will in respect of any year of assessment be entitled to a payment under the provisions of subsection (1), the said Secretary may on the basis of interim returns in the form prescribed by the said Secretary and furnished by the company for periods approved by the said Secretary, make such advance payments as the said Secretary may determine in respect of the amount to be paid, but an advance payment shall not be made in respect of any interim return unless a certificate for the period of such return has been furnished as prescribed by section 5.
- (b) Upon the final determination by the Secretary for Inland Revenue of the amount payable under subsection (1) in respect of a year of assessment, the amount so determined shall be reduced by any advance payments made in respect of that year and any amounts deemed to be advance payments in terms of subsection (3), and, if the aggregate of the advance payments and the amounts deemed as aforesaid to be advance payments exceeds the amount finally determined as aforesaid, the excess shall be deemed to be a debt due to the State and shall forthwith be repaid to the Secretary for Mines by the company concerned.

(3) Where any company has under any scheme of State assistance received a loan to finance its working losses or capital expenditure for part of any year of assessment in respect of which a payment is made under this section, the loan so received shall be deemed to be an advance payment made on account of such payment and shall not constitute a debt due to the State under the relevant loan agreement.

How payments shall be determined and made.

4. (1) Any amount payable to a company under the provisions of section 3, other than an advance payment referred to in subsection (2) of that section, shall be determined by the Secretary for Inland Revenue.

(-) Any company claiming to be entitled to be paid any amount under section 3 shall submit a written application for such payment to the Secretary for Inland Revenue when submitting the return of income required to be furnished by the company under the provisions of the Income Tax Act, or to the Secretary for Mines when submitting the interim return referred to in section 3 (2) of this Act.

(3) The Secretary for Inland Revenue may for the purposes of this Act make use of any such returns and any information available to him for income tax purposes under the Income Tax Act.

(4) The Secretary for Inland Revenue shall not be required to make any determination of any amount payable under the provisions of section 3 before the relevant return of income referred to in subsection (2) has been furnished to him.

(5) Upon the determination by the Secretary for Inland Revenue of an amount payable to any company under the provisions of section 3, he shall notify the Secretary for Mines of the amount payable and the payment of such amount shall be effected by the Secretary for Mines to the company concerned.

Certificate by
Government
Mining Engineer.

5. Every company which has during any year of assessment carried on mining operations on an assisted gold mine, shall, when rendering its return of income for such year under the Income Tax Act and any interim return referred to in section 3 (2) (a) of this Act, or within such period as the Secretary for Inland Revenue or the Secretary for Mines, as the case may be, may approve, furnish a certificate issued by the Government Mining Engineer to the effect that the conditions imposed by the Minister under section 2 (2) of this Act have been complied with.

Redemption of
capital expendi-
ture for purpose of
determining mining
profit or mining
loss.

6. (1) In this section "capital expenditure" means capital expenditure as contemplated in paragraph (a) of the definition of "capital expenditure" in section 36 (11) of the Income Tax Act.

(2) In the determination of the mining profit derived or the mining loss incurred by any company during any year of assessment in respect of any assisted gold mine—

(a) so much of the capital expenditure incurred in respect of such mine during the year of assessment as exceeds recoupments received during the year from capital expenditure (irrespective of the date when such lastmentioned capital expenditure was originally incurred, whether before or after the date of commencement of this Act or before or after the date on which such mine became an assisted gold mine) less any amounts repaid to the State in respect of capital expenditure under any scheme of State assistance, shall be allowed as a deduction from the mining income derived by the company from such mine during such year: Provided that—

- (i) no deduction shall be made in respect of expenditure incurred on a project which, in the opinion of the Government Mining Engineer, will not benefit the production of gold or uranium;
- (ii) the deduction of such capital expenditure (after the exclusion of expenditure incurred on a project referred to in paragraph (i) of this proviso) shall be restricted to an amount sufficient to result in the calculation of a payment under section 3 not exceeding twenty-five per cent of the income derived by the company during the year of assessment from sales of gold, uranium and other minerals that may be won in conjunction therewith from such mine;
- (iii) for the purposes of this paragraph, capital expenditure which ranks for deduction under this subsection but which is prohibited by paragraph (ii) of this proviso shall be carried forward and the amount so carried forward shall be deemed to be capital expenditure incurred on the first day of the next succeeding year of assessment;

- (b) no deduction or allowance by way of set-off or otherwise shall be allowed in respect of any capital expenditure (or any unredeemed balance thereof) incurred prior to the commencement of the year of assessment in question, except capital expenditure referred to in paragraph (iii) of the proviso to paragraph (a) which has been brought forward from the preceding year of assessment.

Certain losses not to be set off in the case of certain mining leases.

7. For the purposes of any lease of the right to mine for gold which is applicable in respect of any assisted gold mine and which provides for the payment to the State of a share of profits determined under the provisions of the Second Schedule to the Transvaal Mining Leases and Mineral Law Amendment Act, 1918 (Act No. 30 of 1918), any loss which is incurred during any accounting year or period in respect of which a payment is made under section 3 of this Act, shall, notwithstanding the provisions of paragraph 4 (3) of the said Schedule, not be set off against the profits of any succeeding year or period.

Short title.

8. This Act shall be called the Gold Mines Assistance Act, 1968.