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# STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1327.

6 Julie 1988

No. 1327.

6 July 1988

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

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

■. 77 van 1988: Wysigingswet op die Aanvullende Wet op die Mineralewette, 1988.

No. 77 of 1988: Mineral Laws Supplementary Act Amendment Act, 1988.

MINERAL LAWS SUPPLEMENTARY ACT AMENDMENT ACT, 1988

Act No. 77, 1988

**GENERAL EXPLANATORY NOTE:**

**[**                      **]** Words in bold type in square brackets indicate omissions from existing enactments.

\_\_\_\_\_ Words underlined with solid line indicate insertions in existing enactments.

**ACT**

To amend the Mineral Laws Supplementary Act, 1975, so as to substitute the definition of "Minister"; to further regulate the purchase or acquisition of land under certain circumstances; and to provide for the payment of compensation under certain circumstances; and to provide for matters connected therewith.

*(Afrikaans text signed by the State President.)*  
*(Assented to 23 June 1988.)*

**B**E IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 1 of Act 10 of 1975, as amended by section 1 of Act 23 of 1981**

1. Section 1 of the Mineral Laws Supplementary Act, 1975, is hereby amended by 5 the substitution for the definition of "Minister" of the following definition:

"'Minister' means the Minister of **[Mineral and Energy Affairs]** Economic Affairs and Technology;"

**Substitution of section 6 of Act 10 of 1975, as amended by section 93 of Act 63 of 1975 and section 5 of Act 23 of 1981**

10 2. The following section is hereby substituted for section 6 of the Mineral Laws Supplementary Act, 1975:

**"Acquisition or purchase of certain land and payment of compensation in certain circumstances**

15 6. (1) (a) If the Minister, after representations in writing have been made to him by the owner of any private land or by any person who is **[in terms of any law]** entitled to mine on that land and who mines or intends to mine on that land for any base mineral, and after such investigations as the Minister may deem necessary, and after con-

20 sultation with the Minister of Agriculture, is satisfied—  
 (i) that the use or intended use of such land, or any portion thereof, by such person for the mining of base minerals or purposes incidental thereto, prevents or hinders or is likely to prevent or hinder the proper use of such land or such portion for farming purposes; or

25 (ii) that any portion of such land which is not being used or is not likely to be used by such person for mining purposes or

purposes incidental thereto, is or is likely to become an uneconomic farming unit,

he shall **[unless he or the Director-General has been notified by such owner as contemplated in paragraph (d)]** in writing notify such owner and such person accordingly, and thereupon there shall be vested, subject to the provisions of **[that] paragraph (d)**, **[be vested]** in the State a right, to the exclusion of any other person, to acquire such land, or such portion thereof as the Minister may determine.

(b) If the Minister is not satisfied as contemplated in paragraph (a) (i) or (ii), he shall in writing notify such **[person] owner** and such **[owner] person** accordingly.

(c) A copy of any representations made in terms of paragraph (a) shall, if such representations are made by the owner of the land in question, be served by such owner on the person so entitled to mine on such land or, if such representations are made by such person, be served by such person on such owner.

(d) Notwithstanding the provisions of paragraph (a), no right to acquire any land shall be vested in the State by virtue of any notification under the said paragraph [(a) if the owner of such land has, in response to any representations referred to in that paragraph and before the receipt by him of any such notification notified] if the Minister or the Director-General within three months after the date of that notification has been notified in writing—

(i) by the owner of that land that he desires to retain the ownership of such land irrespective of the [extent to] way in which such land is or is likely to be disturbed or damaged by, or used for, mining purposes or purposes incidental thereto by the person referred to in that paragraph; or

(ii) by that owner and that person that they have entered into an agreement with one another for the payment of compensation for damage caused or likely to be caused as a result of mining operations or operations incidental thereto on that land.

(dA) If the Minister is satisfied, after considering any written representations made to him by an owner referred to in paragraph (d) (i), and after making the investigations the Minister deems necessary—

(i) that the owner has suffered or is likely to suffer damage as a result of—

(aa) disturbance or subsidence of the land caused by mining operations for any base mineral or operations incidental to those mining operations; or

(bb) any obstruction established on the land by any person entitled to mine on that land and who mines or intends to mine on that land for any base mineral; and

(ii) that the owner has made all reasonable efforts to negotiate a settlement with the other person for the payment of compensation for the damage referred to in subparagraph (i),

he shall, subject to the provisions of paragraph (dB), in writing direct that other person to negotiate a settlement with the owner for the payment of compensation for that damage.

(dB) The owner of the land in question shall not be entitled to recover any further compensation under paragraph (dA)—

(i) in respect of any damage suffered or likely to be suffered as a result of disturbance or subsidence contemplated in paragraph (dA) (i) (aa), if compensation for that disturbance or subsidence has been paid to the owner or his predecessor in title: Provided that this prohibition shall not preclude the owner of

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the land from recovering compensation in respect of any further disturbances or subsidences; or

(ii) in respect of any damage suffered as a result of any obstruction contemplated in paragraph (dA) (i) (bb) if—

(aa) the right to establish the obstruction was acquired by means of a reservation of rights at the time when the mineral rights were severed from the ownership of the land; or

(bb) the right to establish the obstruction was acquired by the person entitled to mine on that land by servitude or otherwise.

(e) The Minister shall in writing notify the person referred to in paragraph (a) of any notification under paragraph (d) received by the Minister or the Director-General from the owner concerned.

(f) If the owner of the land in question has notified the Minister or the Director-General as contemplated in paragraph (d), or if a settlement resulting from a directive as contemplated in paragraph (dA) has been negotiated, neither such owner or any subsequent owner of that land, nor any person who has or may acquire any interest in that land, shall, while the person referred to in paragraph (a) or (dA) or his successor in title is entitled to mine on that land for the base mineral in question, be entitled to apply to any court for an order prohibiting anything permitted in a settlement in terms of paragraph (d) or (dA) and thereby preventing the last-mentioned person or his nominee from commencing or continuing on that land with mining for such base mineral or operations incidental thereto.

(g) An owner—

(i) who has notified the Minister or the Director-General as contemplated in paragraph (d); or

(ii) who has entered into an agreement or negotiated a settlement referred to in paragraph (d) (ii) or (dA), respectively; or

(iii) in whose favour compensation has been granted by arbitration under subsection (3),

shall within a period of one month from the date of the notification, agreement or settlement, as the case may be, submit his title deed in respect of the land in question to the Director-General for transmission to the registrar, who shall make such endorsement thereon and such entries in the appropriate registers as he may deem necessary in order to reflect the effect of the provisions of paragraph (f) with regard to that land, and if such owner fails to submit the said title deed within such period, the registrar shall nevertheless make such entries at the written request of the Director-General and make such endorsement if the title deed is at any time lodged with him for any reason.

(2) If the Minister of Agriculture [and Fisheries] is of the opinion that any land in respect of which a right has been vested in the State in terms of subsection (1) (a)—

(a) should be acquired by the State, such land shall be deemed to be required for public purposes, and thereupon the provisions of the Expropriation Act, 1975, shall apply *mutatis mutandis* in connection with such acquisition; or

(b) should not be acquired by the State, such right shall lapse, and thereupon the Minister [may] shall cause to be served upon the person referred to in subsection (1) (a) a notice directing him to purchase and take transfer of such land.

(3) If any person upon whom a notice referred to in subsection (2) (b) has been served and the owner of the land in question are unable to agree on the purchase price of such land, or if that person and that owner, after a directive from the Minister, are unable to negotiate a settlement for

compensation as contemplated in subsection (1) (dA), such purchase price or such compensation shall be determined by arbitration in terms of the Arbitration Act, 1965 (Act No. 42 of 1965): Provided that—

- 5 (a) in determining such purchase price or such compensation, as the case may be, the provisions of section 12 of the Expropriation Act, 1975 (Act No. 63 of 1975), shall *mutatis mutandis* apply as if an expropriation of property or the taking of a right, respectively, has taken place; and
- 10 (b) in determining that compensation due regard shall be had to—
- (i) any rehabilitation that has been or shall be undertaken on such land; and
- (ii) any compensation which that person or any predecessor in title has paid to or undertaken to pay to that owner or any predecessor in title to that owner.
- 15 (4) (a) If any person upon whom a directive referred to in subsection (1) (dA) or upon whom a notice referred to in subsection (2) (b) has been served, fails to enter into an agreement in writing with the owner of the land in question for the payment of compensation or for the purchase of such land, within a period of three months—
- 20 (i) from the date of such directive or such notice; or
- (ii) if a dispute as to the compensation for the damages in question or as to the purchase price of such land has been referred to arbitration, from the date on which the compensation or the purchase price of such land was determined by arbitration,
- 25 the Minister may, if he is satisfied that such failure is due to default on the part of such person, prohibit such person in writing from commencing or continuing with mining operations on such land until such time as the Minister may determine otherwise.
- (b) The Minister may extend the period of three months referred to in paragraph (a) if he is satisfied that an extension is justified.
- 30 (5) Any person who contravenes any prohibition imposed upon him under subsection (4), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding [twenty rand] R100 for every day upon which he contravenes such prohibition.
- 35 (6) (a) Notwithstanding anything to the contrary contained in any law, but without any derogation from the provisions of subsection (1) (f), no person shall, in respect of land in connection with which representations referred to in subsection (1) have been made, be entitled during the period of nine months following upon the date on
- 40 which such representations have been made, to apply to any court for an order prohibiting any person entitled to mine on such land for the base mineral in question from commencing or continuing on such land with mining for such base mineral or operations incidental thereto, unless the Minister has before the expiration of that period notified the owner and the person referred to in subsection (1) in accordance with the provisions of paragraph (b) of that subsection or notified that person in accordance with the provisions of paragraph
- 45 (e) of that subsection.
- (b) No order referred to in paragraph (a) shall be granted by any court
- 50 in respect of the land so referred to if the person entitled to mine on such land for the base mineral in question has given security, to the satisfaction of the registrar of the court, to cover any loss or damage that the person applying for the order will suffer or is likely to suffer as a result of mining for that base mineral, or operations incidental thereto, on such land by the person entitled as aforesaid or his
- 55 nominee.
- (7) Costs incidental to the transfer of any land in respect of which a notice referred to in subsection (2) (b) has been served, shall be paid by the person upon whom such notice was served.

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(8) In this section—

(a) 'land' does not include any right to minerals; and

(b) 'obstruction' means any immovable property established on land for mining operations or operations incidental thereto by the person entitled to mine on the land, and includes a dam, or dump of tailings, rock or any other residue produced in the course of mining operations on that land."

5

**Amendment of long title of Act 10 of 1975, as substituted by section 7 of Act 23 of 1981**

3. The long title of the Mineral Laws Supplementary Act, 1975, is hereby amended 10 by the substitution for the words "Minister of Mineral and Energy Affairs" of the words "Minister of Economic Affairs and Technology".

**Short title**

4. This Act shall be called the Mineral Laws Supplementary Act Amendment Act, 1988.