

[Commonwealth Act No. 137, November 07, 1936]

AN ACT TO PROVIDE FOR THE CONSERVATION, DISPOSITION, AND DEVELOPMENT OF MINERAL LANDS AND MINERALS

Be it enacted by the National Assembly of the Act:

CHAPTER I - Title of Act

SECTION 1. The short title of this Act shall be "The Mining Act."

CHAPTER II - Definitions

SEC. 2. The terms "person," "holder," "occupant," "locator," "licensee," "lessee," "permittee," "owner," whenever used in this Act, shall include an individual, a corporation, a sociedad anomina, a limited partnership and an unincorporated association, and words in the singular shall include the plural, and vice versa. The term "ton" as used in this Act shall mean a short ton of nine hundred seven and two tenths (907.2) kilograms.

CHAPTER III - Ownership of Minerals and Mineral Lands

SEC. 3. All mineral lands of the public domain and minerals belonging to the State, and their disposition, exploitation, development, or utilization, shall be limited to citizens of the Philippines, or to corporations, or associations, at least sixty per centum of the capital of which is owned by such citizens, subject to any existing right, grant, lease, or concession at the time of the inauguration of the Government established under the Constitution.

SEC. 4. The ownership and the right to the use of land for agricultural, industrial, commercial, residential, or for any purpose other than mining does not include the ownership of, nor the right to extract or utilize, the minerals which may be found on or under the surface.

SEC. 5. The ownership of, and the right to extract and utilize, the mineral included within all areas for which public agricultural land patents are granted are excluded and excepted from all such patents.

SEC. 6. The ownership of, and the right to extract and utilize, the minerals included within all areas for which Torrens titles are granted are excluded and excepted from all such titles.

SEC. 7. With the exceptions of the soil which supports organic life, and of ordinary earth, gravel, sand, and stone which are used for building or construction purposes, the disposition of which is governed by Act Numbered Three thousand seventy-seven, as amended by Act Numbered Three thousand eight hundred and fifty-two of the Philippine Legislature, all inorganic substances found in nature in solid, liquid, gaseous, or any intermediate state are minerals within the purview of this Act.

SEC. 8. Mineral lands are those in which minerals exist in sufficient quantity or quality to justify the necessary expenditures to be incurred in extracting and utilizing such minerals.

SEC. 9. The exploitation of public and private lands for mining purposes shall be governed by existing laws, rules and regulations which may be promulgated thereunder.

SEC. 10. Subject to any existing rights, all valuable mineral deposits in public or in private

land not closed to mining location, and the land in which they are found, excepting coal, petroleum, and other mineral oils and gas, which are now governed by special laws, shall be free and open to exploration, occupation, location, and lease, by citizens of the Philippines of legal age, or by associations, or by corporations organized and constituted under the laws of the Philippines: Provided, That at least sixty per centum of the capital of such associations or corporations shall at all times be owned and held by citizens of the Philippines.

SEC. 11. Upon the recommendation of the Secretary of Agriculture and Commerce, the President may set apart mineral land reservations, and he shall by proclamation declare the establishment of such reservations, and the boundaries thereof, and thereafter such reservations shall be closed or open to mining location or lease as the President may deem wise and may so provide in the proclamation. The President may, with the concurrence of the National Assembly, by proclamation alter or modify the boundaries of any mineral reserve from time to time or revoke any such proclamation, and upon such revocation, such reserve shall be and become part of the public domain as though no such proclamation had ever been made: Provided, however, that the President is hereby authorized to declare by proclamation any mineral reserve, closed to mining location: Provided, further, That all mineral reservations set aside by the Chief Executive prior to the approval of this Act shall remain in full force and effect and shall be administered and disposed of in accordance with the provisions of this Act.

SEC. 12. From and after the date of proclamation of a mineral reserve, if the same has not been proclaimed closed to mining location, the lands thereby may be disposed of only for mining purposes as hereinafter provided.

SEC. 13. Whenever lands are reserved for purposes other than for mining, the holders of mining locations or leases within any such new reserve, at the time the reservation is made, shall continue to enjoy all rights accorded them under existing law with respect to such locations or leases as if such reservation had never been made.

SEC. 14. Lands within reservations for purposes other than mining, which, after such reservation is made, are found to be more valuable for their mineral contents than for the purpose for which the reservation was made, may be withdrawn from such reservations by the President with the concurrence of the National Assembly, and thereupon such lands shall revert to the public domain and be subject to disposition under the provisions of this Act.

SEC. 15. Land leased for mining purposes shall be classified as follows:

First group — Metals or metalliferous ores. Second group — Precious stones. Third group — Fuels. Fourth group — Salines and mineral waters. Fifth group — Building stone in place, clays, fertilizers, and other nonmetals.

SEC. 16. Lands of the first group shall be those which contain any of the metallic elements or minerals, or their combinations, such as gold, silver, platinum, tin, chromium, iron, manganese, copper, nickel, lead, zinc, cinnabar, tungsten, and the like.

SEC. 17. Lands of the second group shall be those which contain minerals mainly used for ornamental purposes such as diamond, ruby, emerald, sapphire, topaz, amethyst, zircon, aquamarine, opal, jade, agate, tourmaline, beryl, garnet, turquoise and the like.

SEC. 18. Lands of the third group shall be those which contain combustible substances in solid, liquid, gaseous form, such as peat, coal, mineral oils, natural gas, oil shales, asphalt, and the like, but not the recent products of organic life.

SEC. 19. Lands of the fourth group shall be those which contain surface or subterranean soluble substances or waters which by their mineral contents are classified as mineral waters, such as salt, nitrates, sulphurated, carbonated, sodic, calcic, and other waters.

SEC. 20. Lands of the fifth group shall be those which contain nonmetallic substances, such as:

(a) Those used for building or construction purposes, such as marble, granite, clay, and the like.

(b) Asbestos, feldspar, lime, mica, guano, phosphate, potash, saltpeter, niter, and the like.

(c) Other substances used in the manufacture of paints, ceramics and fertilizers and for other industrial purposes.

SEC. 21. Aerolites or other bodies coming from sidereal space are minerals within the meaning of this Act, the disposition of which shall be determined by regulations.

SEC. 22. Mineral lands may be classified under more than one group, depending upon the nature and uses of the minerals contained therein.

SEC. 23. The minerals which are not specifically mentioned in this Act, and new ones which may be discovered in the future, shall be classified under their proper groups, whenever necessary, and shall be included therein by law or regulations.

CHAPTER IV - Exploitation and Prospecting for Mineral Deposits

SEC. 24. Prospectors may prospect for themselves, or for other persons, associations, corporations, or other entities, qualified to locate mining claims and to acquire leases of mineral lands under the provisions of this Act. A proper power of attorney in writing shall in each case be given by the employer to his prospector, which power of attorney shall be duly acknowledged and shall be recorded in the office of the mining recorder concerned coincident with the recording of a declaration of location. Regardless of the number of claims located by the prospector for the same principle in the same province or mining district, he shall be required to record but one power of attorney in any such province or district.

SEC. 25. Officers and employees of the executive or any other branch of the Government whose duties are related to the administration or disposition of mineral resources shall not be allowed to prospect, locate, lease, or hold, directly or indirectly, mineral lands in the Philippines.

SEC. 26. Prospecting may be carried on within public lands and private lands in accordance with the provisions of this Act: Provided, however, That in the case of private lands no prospecting shall be allowed except by the owner thereof during the period of one year from and after the effective date of this Act.

SEC. 27. Before entering private lands the prospector shall first apply in writing for written permission of the private owner, claimant, or holder thereof, and in case of refusal by such private owner, claimant, or holder to grant such permission, or in case of disagreement as to the amount of compensation to be paid for such privilege of prospecting therein, the amount of such compensation shall be fixed by agreement among the prospector, the Director of the Bureau of Mines and the surface owner, and in case of their failure to unanimously agree as to the amount of compensation, all questions at issue shall be

determined by the Court of First Instance of the province in which said lands are situated in an action instituted for the purpose by the prospector, or his principal: Provided, however, That the prospector, or his principal upon depositing with the court the sum considered jointly by him and the Director of the Bureau of Mines or by the court to be just compensation for the damages resulting from such prospecting, shall be permitted to enter upon and locate the said land without such written permission pending final adjudication of the amount of such compensation; and in such case the prospector, or his principal, shall have a prior right as against the world, from the date of his application. The court in its final judgment, besides determining the corresponding compensation of the damages which may be caused by the prospecting, shall make a pronouncement as to the value of the land and the reasonable rental for the occupation and utilization thereof for mining purposes in case the prospector decides to locate and exploit the minerals found therein.

SEC. 28. No prospecting shall be allowed:

- (a) In a mineral reserve which has been proclaimed closed to mining locations.
- (b) In lands covered by patented mining claims.
- (c) In lands in which minerals have been discovered prior to the effective date of this Act and are claimed by the discoverer or his successors in interest.
- (d) In lands which have been located for mining leases by other prospectors under the provisions of this Act.
- (e) Near or under buildings, cemeteries, bridges, highways, waterways, railroads, reservoirs, dams, or any other public or private works.

The regulations to be promulgated under this Act shall prescribe in detail the various restrictions under this section.

CHAPTER V - Discovery of Mineral Deposits and Location of Mining Claims

SEC. 29. The right to locate a mining claim shall in all cases be based upon the discovery of mineral therein.

SEC. 30. The finding of mineral or minerals in place or position where originally formed in the rock, whether assaying high or low, shall constitute a valid discovery for the location of a lode mineral claim. The finding of mineral or minerals in loose, fragmentary or broken rocks, boulders, floats, beds or deposits whether in greater or lesser quantities, or the finding of the same in forms other than those above described for lode mineral claims, shall constitute a valid discovery for the location of a placer mining claim.

SEC. 31. A lode mineral claim is a parcel of mineral land containing a vein, lode, ledge, lens, or mass of ore in place which has been located in accordance with law. A placer claim is that which does not come under the definition of lode mineral claim.

SEC. 32. In case of conflicting locations, priority of discovery, followed by continuous occupation and prospecting of the land, shall determine the right to lease the claims, subject to any question as to the validity of the location and record of the claim and subject to the holder's having complied with all the requirements of the law: Provided, however, That actual discovery of minerals made prior to the effective date of this Act, before or after the enforcement of the Constitution, shall constitute a valid discovery, and the persons making such discovery shall have the preferential right to locate and lease the mining claims covering the minerals discovered, subject to the provisions of this Act.

SEC. 33. Immediately upon the discovery of mineral or as soon as possible thereafter, but not more than thirty days after the date of the said discovery, the discoverer or locator may locate a mining claim in accordance with the provisions of this Act, covering the land where the mineral has been discovered. If no such location is made within such period, the right to locate a mining claim covering such land shall be deemed to have been waived.

SEC. 34. Within sixty days after the completion of the acts of location of a mining claim, as hereinafter provided, the locator thereof shall record the same with the mining recorder of the province or district within which the claim is situated. A claim which shall not have been recorded within the prescribed period shall be deemed to have been abandoned.

SEC. 35. The maximum area which may be acquired under a mining claim located under the provisions of this Act shall be:

First group:

(a) Metals or metalliferous ores in lode deposits, nine hectares for an individual, an unincorporated association, a sociedad anonima, a limited partnership or a corporation.

(b) Metals or metalliferous ores in placer deposits; not to exceed eight hectares for an individual nor sixty-four hectares for a corporation, sociedad anonima, or limited partnership: Provided, That in the case of an unincorporated association the area shall not exceed eight (8) hectares for each member, nor sixty-four (64) hectares for the entire association.

Second group:

Precious stones whether in lode or placer deposits, not to exceed four hectares for any qualified locator or applicant.

Fourth group:

Salines and mineral waters, not to exceed four hectares for any qualified locator or applicant.

Fifth group:

(a) Building stone, clay, fertilizer, and other non-metals in placer deposits not to exceed eight hectares for an individual nor sixty-four hectares for a corporation, sociedad anonima, or limited partnership; Provided, That in the case of an unincorporated association the area shall not exceed eight (8) hectares for each member nor sixty-four (64) hectares for the entire association.

(b) Nonmetals in lode deposit — not to exceed nine hectares for an individual, unincorporated association, a sociedad anonima, a limited partnership or a corporation.

SEC. 36. The disposition of the third group of mineral lands, or lands containing mineral fuels, whether public or private, shall be governed by Act Numbered Two thousand seven hundred nineteen, as amended, entitled "An Act to provide for the leasing and development of coal lands in the Philippine Islands" and the regulations promulgated thereunder, and by Act Numbered Two thousand nine hundred thirty-two, as amended, entitled, "An Act to provide for the exploration, location and lease of lands containing petroleum and other mineral oils and gas in the Philippine Islands" and the regulations promulgated thereunder: Provided, That the granting of permit, license, lease, or concession of such coal, or petroleum land, shall be limited to citizens of the Philippines of legal age, or to associations or to corporations organized and constituted under the laws of the Philippines: Provided, further, That the provisions of Acts Numbered Two thousand