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SCHEDULE

CAP. 136

CONCESSIONS ACT, 1939¹

AN ACT to amend and consolidate the law relating to the regulation of the granting of rights with respect to land by citizens and for related matters.

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1. This Act was enacted as the Concessions Ordinance, 1939 (19 of 1939). It was assented to on 15th May, 1939 and was placed as Chapter 136 in the 1951 Revised Edition.
Its section 1 as amended applied to the Colony and Ashanti but its application was extended to Eastern, Western and Trans-Volta/Togoland Regions by Ordinance No. 54 of 1958.

PART ONE

*Preliminary***1. Grant of rights in land, to be in writing**

(1) An agreement by which a right, an interest or a property in, to or over land, in or to minerals, metals, precious stones, timber, rubber or any other products of the soil in or growing on a land, or the option of acquiring that right, interest or property, purports to be granted by a citizen to a person who is not a citizen is void unless it is in writing.²

(2) An instrument executed after the commencement of subsection (1) shall have the effect of—

- (a) granting or demising a right, title or an interest in or to land in respect of minerals, timber, rubber or any other products of the soil in or growing on that land; or
- (b) the option of acquiring that right or interest except in so far as that grant or demise contains express words granting or demising that right, title or interest or option on that land.³

2. Concessions subject to Act unless excluded

(1) Subject to this section and to section 47 a concession is held under, and is subject to the operation of, this Act.

(2) The President may, by legislative instrument, exclude—

- (a) a part of Ghana; or
- (b) a class of concession,

from the operation of this Act or a part or a provision of this Act but subject to the conditions which the President may impose.

(3) The following classes of concession are excluded from the operation of this Act to the extent provided in subsection (5)—

- (a) a concession in respect of land situated wholly within the boundaries of the area of authority of a Municipal or Metropolitan Assembly or the boundaries of a town to which the Towns Act applies;
- (b) a concession in respect of land not exceeding five acres in area granted or demised to a person who is not a citizen;
- (c) a concession in respect of land not exceeding twenty-five acres in area granted or demised to a citizen;
- (d) a concession granted or demised for charitable purposes which does not confer a right, title or an interest in or to minerals or an option on the concession; and

2. A provision to section 3 gave the definition of the word "native" as bearing the meaning attached to it in section 2 of the Courts Ordinance, (Cap. 4) 1951 Edition of the Laws of Ghana.

3. Amended by section 3 of the Concessions (Amendment) Ordinance, 1955 (No. 21 of 1955).

- (e) a concession in respect of land not exceeding three square miles in area by which a right, title or an interest in or to timber only is granted or demised to a citizen for a period not exceeding three years from the date on which the grant or the demise takes effect and of which registration has been effected under the Land Registry Act, 1962 (Act 122) within the two months immediately following that date.

(4) In respect of the classes of concessions set out in paragraphs (b), (c) and (e) of subsection (3), except where the concession is in respect of land within a town or village, the person to whom the grant or demise of the right, title or interest is effected is not entitled to a right, title or an interest in or to any other land a portion of which is less than half of one mile in distance from a portion of the land.

(5) A concession falling within the classes referred to in paragraphs (a) to (d) of subsection (3) shall be excluded from the provisions of this Act other than subsection (2) of section 1 and a concession falling within the class referred to in paragraph (e) of subsection (3) shall be excluded from the provisions of this Act, other than subsection (2) of section 1 and sections 9, 27 and 32.

(6) A holder of a concession referred to in subsection (5) may at any time file a notice as specified by subsection (3) of section 5 in the Court having jurisdiction to enquire into the concession and—

- (a) in respect of a concession within the classes referred to in paragraphs (a) to (d) of subsection (3) of this section, the provisions of this Act other than subsections (1), (4) and (5) of section 5, sections 6, 7 and 9, paragraph (e) to (k) of section 10, sections 18, 32, 39, 40 and 43 shall apply to that concession; and
- (b) in respect of a concession within the class referred to in paragraph (e) of subsection (3) of this section, the provisions of this Act other than subsections (1), (4), (5), (6) and (7) of section 5, sections 6 and 7, paragraphs (e) to (k) of section 10, sections 18, 39, 40 and 43 shall apply to that concession.

(7) Where, by an instrument made under subsection (2) of this section exempting a class of concession from the provision of this Act requiring a notice to be filed in accordance with section 5, a right to file that notice was or is given and the right has been exercised in respect of a concession so exempted, the provisions of this Act, other than those which do not apply to concessions under section (5) of this section, shall apply.⁴

PART TWO

Enquiries into Concessions and Granting of Certificates of Validity

3. Jurisdiction of the High Court

(1) The High Court may, in accordance with this Act, enquire into and certify a concession as valid or invalid, except so far as otherwise provided in this Act.

(2) Subject to this Act, the [Courts Act] shall be read and construed as one with this Act, and a proceeding in the High Court under this Act shall be a “matter” within the meaning of the Courts Act, 1993 (Act 459).

4. Amended by section 4 of the Concessions (Amendment) Ordinance, 1955 (No. 21 of 1955).

(3) The power of making, altering, or revoking the Rule given by section 119 of the Courts Act, 1993 (Act 459) shall extend to the making, altering or revoking of the Rules for the purposes of proceedings in the High Court under this Act and for striking out at any stage, enquiries which are not duly prosecuted.

4. Court proceedings

Proceedings shall not, without the leave of the High Court, be taken to give effect to a concession unless the concession has been certified as valid by the Court.

5. Filing of notice of concession

(1) Notice of a concession shall, within two months of the date of the concession, be filed in the High Court by the claimant, that is the person claiming to be entitled to the benefit of the concession.

(2) *Spent.*

(3) The notice shall be in the Form A set out in the Schedule and shall contain the particulars specified in the form and together with the notice there shall be delivered a plan of the land comprised in the concession which shall be prepared in accordance with the Regulations.

(4) The claimant shall also file within two months any other documents, including a copy of the concession or duly certified copies of the concession that the claimant relies on in respect of the right of the claimant to the concession and together with any other documents there shall be filed a list of those documents in the form provided by the Rules.

(5) The filing of the copies under subsection (4) does not render unnecessary the due production at the enquiry into a concession or at the trial of questions relating to the concession, of the original documents so relied on.

(6) A concession in respect of which compliance has not been made with this section, shall on the expiration of two months after the date of the concession, become void and the rights of the claimant with respect to the concession shall determine absolutely.

(7) The High Court may, for good cause shown, and on the terms that it seems fit, extend the period of two months specified in subsection (6) for one or more terms not exceeding in all four months.

(8) The extension of time may be ordered although the two months or the further time allowed by the High Court under subsection (7) has expired; but an order shall not have effect after six months from the date of the concession.

5. The subsection (1) made provision for the Court having jurisdiction to enquire into the concession and subsection (2) provided that—

“(2) The Court having jurisdiction to enquire into a concession shall be—

- (a) where the land or greater part thereof comprised in the concession is situate in the Colony, the Divisional Court of the Judicial Division in which such land or the greater part thereof is situate; and
- (b) where the land or the greater part thereof comprised in the concession is situate in Ashanti, the Divisional Court of Ashanti.”

The original subsection (2) is thus no longer applicable.

5A. Validation of concession for charitable purposes

(1) Where prior to the commencement of this section a concession which was executed for charitable purposes has become void by reason of failure to comply with section 5, the instrument shall, subject to subsection (3) of this section, have effect and be deemed always to have had effect to grant or demise the right, title or interest as would have been granted or demised if this Act had not been in force.

(2) The right, title or interest referred to in subsection (1) is subject to a conflicting right, title or interest relating to the land, in respect of which the concession was granted or demised, which was acquired subsequent to the grant or demise but before the enactment of this Act by a purchaser for value in good faith.

(3) An instrument referred to in subsection (1) of this section shall not, despite a provision in that instrument to the contrary, have the effect of passing a right, title or an interest in or to minerals or to mine and the right, title or interest shall be vested in the grantor or the successors in title of the grantor.⁶

6. Assignment prior to issue of certificate of validity

(1) Where a concession is assigned prior to the issue of the certificate of validity referred to in section 14, the assignee—

- (a) shall within three months of the date of execution of the assignment file, with the Registrar of the Court [having jurisdiction to enquire into the concession] short particulars of the assignment; and
- (b) shall within four months of that date file with the Registrar a true copy of the instrument of assignment.

(2) The Registrar shall forward the short particulars to the grantor and to the [Commissioner of Lands] [Lands Commission] who shall cause the short particulars to be published in the *Gazette*.

(3) Section 28 (4), (5) and (6) shall apply to a person failing to comply with a provision of this section, and the Court may refuse the issue of a certificate under section 14 or, upon the application of the Attorney-General, revoke a certificate already issued in respect of a concession the holder of which by assignment has failed to comply with this section.

7. Delay in prosecuting concession enquiries

(1) A concession, other than an option, in respect of which compliance has been made with section 5, shall nevertheless on the expiration of two years from the date of the concession become void and the rights of the claimant with respect to the concession shall determine absolutely unless before the expiration of the two years the claimant has—

- (a) taken and completed the necessary intermediate steps, including the making of a cadastral plan of the concession where a cadastral plan has been ordered to be made;

6. This section was section 8 of the Concessions (Amendment) Ordinance, 1955 (No. 21 of 1955).

- (b) produced evidence that the Minister is satisfied as to the matters mentioned in paragraph (k) of section 10;
- (c) made a final application to the High Court for the grant of a certificate of validity.

(2) If within the period of two years specified in subsection (1) an application has been lodged with the Minister for the extension of the period so specified, the specified period shall be extended to two years and four months.

(3) On an application made under subsection (2), and although the concession purports to confer rights over an area in excess of the limits prescribed by subsection (1) of section 19, and that an instrument authorising the holding has not been made under paragraph (b) subsection (3) of section 19, the Minister may, before the expiration of the period of two years and four months, by legislative instrument, extend by length the period specified in subsection (2) of this section.

(4) Where the period of validity of a concession is extended, the Minister may on an application made not later than four months immediately prior to the date on which the concession will become void, further extend the period of validity of the concession from time to time.⁷

(5) So far as practicable an extension under subsection (2) or (3) of this section shall not be granted without the grantor being afforded an opportunity of submitting representations for consideration by the Minister.

- (6) An option becomes void and the rights of the holder shall determine absolutely—
- (a) on the expiration of one year from the date of the grant of an option in respect of timber, but subject to the discretionary power of the President, to grant an extension for a period not exceeding one year in a case where the Lands Commission expressly so recommends; or
 - (b) on the expiration of three years from the date of an option other than an option in respect of timber.⁸

8. Publication and service on grantors of notice of concession

(1) Where the claimant has complied with subsection (1), (3) and (4) of section 5, the High Court shall—

- (a) cause notice, in the form provided by the Rules, of the filing of the notice of the concession and a print of the plan referred to in subsection (3) of section 5, to be published in the *Gazette* and affixed in the Court;
- (b) cause notice, in the form provided by the Rules, to be served on the grantor, and where there are several grantors, on any one or more of them, and on the chiefs and other persons, where they are known and can after reasonable search be found, owning or occupying land contiguous to that comprised in the concession and also on any other person directed by the High Court.

7. Amended by section 3 of the Concessions (Amendment) Ordinance, 1952 (No. 7 of 1952) (1952-1954 Supplement 1 p. 175).

8. This section was subsection (5) of section 10 of the Ordinance and was amended by section 3 of the Concession (Amendment) Ordinance, 1953.

(2) The claimant shall be required to pay before the hearing of the enquiry into a concession the cost of the service effected under paragraph (b) of subsection (1).

(3) After the hearing of the enquiry the High Court may make an order that the Court considers just with regard to the payment of the costs.

9. Concessions in Ashanti and Brong-Ahafo

(1) A person desiring to obtain a concession in respect of an area of land of which the whole or the greater part is situate in the Ashanti Region or the Brong-Ahafo Region⁹ shall apply to the chief or chiefs concerned for the grant of the concession and the chief or chiefs concerned may grant the concession.

(2) A person who applies under subsection (1) shall give notice to the secretary to the Regional Minister for the Ashanti Region or for Brong-Ahafo of the application.

(3) On receipt of a notice under subsection (2), the secretary shall refer the notice to the District Magistrate exercising jurisdiction in the area intended to be affected by the concession who shall instruct the chief or chiefs to appear before the Magistrate who shall then ascertain from the chief or chiefs in the presence of the applicant or the agent of the application, whether they are willing to grant the concession as the secretary shall consider necessary, and shall arrange with the applicant or the agent of the applicant in the presence of the chief or chiefs concerned the sum of money which should be paid annually in consideration of the concession.¹⁰

(4) The terms of the agreement reached between the applicant and the [chief or chiefs] concerned after the appearance before the chairman of the Community Tribunal shall be embodied by the applicant in a concession which shall contain full particulars of the boundaries and which shall be executed by the interested parties in the presence of the chairman who shall certify to the due execution of the concession by that party.

(5) The operation of this section is subject to the operation of articles 266 and 267 of the Constitution.

10. Validity of concession

A concession shall not be certified as valid—

- (a) if the grant of the concession contravenes a provision of Chapter Twenty-one of the Constitution;
- (b) unless made in writing and duly executed by the grantor or a person duly authorised by the grantor;
- (c) unless the High Court is satisfied that the proper persons were parties to the concession and that it may be reasonably presumed that they understood the nature and terms of the concession;
- (d) if obtained by fraudulent or any other improper means;

9. In 1939 when the Concessions Ordinance was passed the present day Brong-Ahafo was part of Ashanti.

10. Amended by section 10 of the Statute Law (Amendment) Act, 1957 (No. 28).

- (e) if made without adequate valuable consideration, consideration given to the circumstances existing at the time of the acquisition of the concession;
- (f) unless the terms and conditions on which the concession was made, which ought to have been performed, have been reasonably and substantially performed;
- (g) unless the High Court is satisfied that the customary rights of citizens are reasonably protected in respect of cultivation, collection of firewood, and hunting and snaring game;
- (h) if it grants or purports to grant rights to collect natural produce, other than timber, to the exclusion of citizens;
- (i) if it grants or purports to grant rights to remove citizens from their habitations within the area of the concession;
- (j) unless the High Court is satisfied that the customary rights of citizens are reasonably protected in respect of fetish lands;
- (k) unless it is shown that the Minister is satisfied that the financial circumstances of the claimants will ensure that the concession will be sufficiently developed and worked;
- (l) unless, in the case of a concession granted in respect of an area of land of which the whole or the greater part is situate in the Ashanti Region or the Brong-Ahafo Region¹¹ the concession has been obtained in accordance with section 9.

11. Time for enquiry; opposition

(1) An enquiry shall not be held as to the validity of a concession before the expiration of three months from the date of filing of the notice of the concession and a person may, subject to the Regulations, enter notice of opposition to the granting of a certificate of validity of the concession.

(2) An opposition on the part of a person who is not a citizen shall not be entertained by the High Court unless notice of the opposition has been filed within six months of the date of publication in the *Gazette* of the notice of the concession under section 8.

(3) Where an order for a survey is made by the High Court under section 17 and the boundaries of the concession have wholly or in part been cut or demarcated for the purposes of the survey, then an opposition on the part of a citizen to the granting of a certificate of validity of the concession shall not be entertained by the Court unless notice of the opposition has been filed within two months of the cutting or demarcation of that part of the boundaries of the concession as affect the interests of the person entering the notice of opposition.

(4) The onus of proving the cutting or demarcation and the date of cutting or demarcation of that part of the boundaries as affect the interests of the person entering opposition shall lie on the holder of the concession.

11. In 1939 Brong-Ahafo was part of Ashanti.

(5) For the purposes of this section, “cut”, “cutting”, “demarcated” and “demarcation” shall be construed as having the meanings which they respectively bear in survey practice in the Republic.

12. Power to modify concessions and impose conditions

(1) Subject to a condition contained in a Legislative Instrument by the President made under section 19 (3) (b) the High Court may—

- (a) before deciding that a concession is valid, vary or alter the parties to the concession, or modify the terms of a concession;
- (b) impose conditions the High Court considers just, with respect to the issue of a certificate of validity.

(2) Where a condition is not duly complied with, a person aggrieved by the non-compliance or the Attorney-General, or any other person by leave of the Attorney-General, may apply to the High Court by motion calling on the holder of the certificate of validity or the agent or the attorney of that person to show cause why the certificate of validity should not be cancelled, and unless good cause is shown to the contrary, the Court may—

- (a) determine the concession and cancel the certificate of validity and permit the grantor of the concession to re-enter subject to the terms the Court considers just;
- (b) order that the condition be complied with then award damages for the non-compliance; or
- (c) make any other decision which the Court considers just.

(3) The costs in every case shall be in the discretion of the Court.

13. Intervention by Attorney-General

A Minister may request the Attorney-General to intervene in an enquiry into a concession under this Act and on that intervention the Attorney-General shall be for all purposes a party to the proceedings.

14. Certificate of validity and registration

(1) Where the High Court decides that a concession is valid, a certificate to that effect bearing the seal of the Court, shall be attached to, or endorsed on, the concession.

(2) The High Court may, for good reason to be noted in the record, declare that the certificate need not be attached to, or endorsed on, the concession.

(3) A certificate of validity shall be registered under the Land Registry Act, 1962 (Act 122) by the registrar of the High Court on behalf of, and at the expense of, the person entitled to the benefit of the certificate and shall be registered in the same way as a Justice’s certificate under the Land Registry Act, 1962.

(4) A copy of a certificate of validity shall be transmitted by the registrar of the Court to the Lands Commission who shall publish the particulars of the certificate in the *Gazette*.

15. Requisites of certificates of validity

A certificate of validity—

- (a) shall state the exact boundaries, extent and situation of the land in respect of which the certificate is given, and where, by an order of the High Court under section 17 a cadastral plan has been prepared of the concession, the boundaries, extent and situation of the land stated shall be the boundaries, extent and situation of the land indicated by the cadastral plan, and the cadastral plan shall be attached to the certificate of validity;
- (b) shall briefly specify the nature of the concession;
- (c) shall contain a complete statement of the limitations, modifications and conditions imposed by the High Court;
- (d) shall declare the concession to be valid subject to the terms of the certificate of validity;
- (e) shall be signed by the Justice making the final order for the issue of the certificate of validity or the successor in office of that Justice; and
- (f) may be in the Form B set out in the Schedule.

16. Powers of Court when concession found invalid

(1) Where the High Court decides that a concession or part of a concession is invalid, but finds that consideration was given for the concession, the Court—

- (a) may order the repayment or return of the consideration or of a part of the consideration to the person who would have been entitled to the benefit of the concession if it had been declared valid; or
- (b) may make an order for the settlement of a question arising with respect to the concession as the Court considers just;

and in particular may, in making an order, take into account the time which has elapsed since the date of the concession, the knowledge of and acquiescence in the concession on the part of a person claiming to be affected by the concession, or the operations or expenditure on the land.

(2) The order shall be deemed to be, and shall be enforced as, a decree of the Court.

17. Order for cadastral plan

(1) The High Court shall, except where the Lands Commission certifies that it is not necessary, order that before a certificate of validity is issued in respect of a concession, a cadastral plan shall be prepared of the concession and filed in the Court.

(2) The costs of a demarcation and survey, and of a supervision and checking of the survey and the examination of the plans prepared in pursuance of an order made under subsection (1) and of a certificate shall, subject to an order of the Court, be paid by the person claiming to be entitled to the benefit of the concession.

(3) The fees chargeable under subsection (2) shall be those that are prescribed in or under the Survey Act, 1962 (Act 127), unless lower fees are privately arranged, and the preparation and approval of the plans shall be subject to the Regulations.

18. Period of validity of certificate of validity

(1) A certificate of validity shall not be issued in respect of a concession which purports to confer a right, an interest or a property in or over a land for a longer period than ninety-nine years,¹² or in respect of a concession which purports to confer an option of acquiring a right or an interest exercisable after the grant of the certificate for a longer period than three years, or for a longer period than one year in the case of a right an interest or a property in or over timber.

(2) The High Court may reduce the term of a concession so as to bring it within the limits specified under subsection (1).

19. Area for which concession valid

(1) A person shall not hold a concession, and a certificate of validity shall not be issued in respect of a concession, which purports to confer—

- (a) mining rights over an area exceeding five square miles; or
- (b) rights to collect rubber or relating to a product of the soil other than timber, over an area exceeding twenty square miles.

(2) A person shall not hold at any one time in the Republic concessions which purport to confer—

- (a) mining rights over areas the aggregate of which exceeds twenty square miles;
- (b) rights to collect rubber or relating to a product of the soil other than timber, over areas the aggregate of which exceeds twenty square miles;

and a certificate of validity shall not be issued in respect of a concession if the concession would result in a person holding a concession or concessions in contravention of this subsection.

(3) Despite anything in subsections (1) and (2) to the contrary—

- (a) the High Court may where a concession purports to confer rights over an area exceeding any of the limits specified in subsection (2), issue a certificate of validity in respect of a portion of that area not exceeding the limits specified in subsection (2), which may be selected by the holder;
- (b) the president may, by Legislative Instrument, declare that a person named in the Instrument may hold on the conditions that the President considers fit, a concession conferring rights over an area or areas specified in the instrument in excess of the limits set forth in this section, and on the Instrument being made the restrictions on the issue of a certificate of validity set forth in subsection (1) or (2) shall not apply to a concession held in accordance with the Instrument.

12. This section is subject to Chapter Twenty-one of the Constitution, particularly articles 266 and 267 in relation to persons who are not citizens of Ghana.

20. Construction of terms “person” and “corporation”

(1) Where it appears to the High Court on the motion of the Attorney-General under section 22 that two or more persons or corporations are so intimately related to each other in respect of a substantial unity of directorate, or financial control, or otherwise, that the commercial interests of all of them are in substance bound up with one another, then those persons or corporations and persons and corporates shall be deemed to be one person for the purpose of section 19 (2).

(2) Subsection (1) does not apply to concessions obtained prior to 31st August, 1916; in the Colony, or the 1st day of January, 1923, in Ashanti while the concessions continue to be held by the persons holding those concessions on the dates specified.¹³

21. Burden of proof lies on applicant

In every case the burden of proof lies on the applicant for a certificate of validity of satisfying the High Court in the form and manner that the Court considers proper and just that the application does not contravene the true intent and purpose of section 19 (2) or section 20.

22. Cancellation of concession in certain cases

(1) Despite the grant a certificate of validity, where it appears to the Attorney-General that a contravention of the true intent and purpose of section 19 (2) or section 20 has taken place, whether before or after the grant, the Attorney-General may apply to the High Court for a conditional order for the cancellation of the concession.

(2) The Court shall on the holder of the concession, and any other person who the Court may direct, cause to show why the concession should not be cancelled.

(3) Where it appears to the Court that a contravention has taken place in respect of the concession, the Court shall make an order cancelling the concession.

23. Power to Court to cancel concessions in certain other cases

(1) Where it appears to the Attorney-General that there has been a breach of a condition laid down in an instrument made under section 19 (3), the Attorney-General may apply to the High Court for a conditional order for the cancellation of the concession and call on the person in whose favour the instrument was made, to show cause why the concession held in accordance with the instrument should not be cancelled.

(2) Where it appears to the Court that there has been a breach of a condition laid down in an instrument made under section 19 (3), the Court may make a final order for the cancellation of the concession, but the area set out in section 19 as may be selected by the holder shall be excluded by the High Court from the operation of the cancellation.

(3) The area or areas not exceeding the limits stated in subsection (1) or (2) of section 19 as may be selected by the holder shall be excluded by the Court from the operation of the order made under subsection (3).

13. “Colony” here stands for the Central, Eastern, Greater Accra and Western Regions, while “Ashanti” stands for the Assoah Region and the Brong-Ahafo Region.

24. Payments after three years of validity of mining concession

(1) A holder of a mining concession shall, after the expiration of three years from the date of the certificate of validity of the concession, pay to the grantor the mining rent reserved by the concession, or a higher rent specified in the certificate.

(2) The Minister responsible for Mines, having afforded the grantor an opportunity of submitting representations that the Minister thinks fit and having considered the representations may, by legislative instrument, exempt a holder of a concession named in the instrument from the operation of this section, for the period that the Minister responsible for Mines, considers fit.

(3) Subsections (1) and (2) shall not apply in respect of concessions bearing date prior to the 15th day of May, 1939.

25. Special provision with respect to mineral concessions

(1) Where a concession purporting to confer a right with respect to minerals has been or is granted, mortgaged or assigned, whether in whole or in part, to a foreigner or to parties one or more of whom or which is a foreigner or are foreigners, and the President considers that the grant, mortgage, or assignment is, or is likely to prove prejudicial to the public safety or interests, then whether or not a certificate of validity has been granted in respect of the concession, the President may, by Legislative Instrument, cancel the grant, mortgage or assignment effective from the date of the Instrument.

(2) Where the President makes an instrument under subsection (1), the President shall—

- (a) cause a copy of the instrument to be served on or sent to each grantor, mortgagor, or assignor, and to each grantee, mortgagee or assignee; and
- (b) cause a copy of the instrument similarly certified to be filed in the High Court.

(3) Where a copy is filed under subsection (2), the Court, on the application by motion of a person or a party affected by the Instrument may make and give the consequential orders and directions in further effectuation of the Instrument and in settlement of the variation of rights resulting from the Instrument, as the Court considers that the circumstances and justice require.

(4) For the purposes of this section, “foreigner” includes—

- (a) a person who is not a citizen of Ghana; and
- (b) a company which—
 - (i) is not incorporated and registered in a country or place forming part of a Commonwealth country or of a territory the mandate for which is for the time being exercised by the Government of a Commonwealth country; or
 - (ii) does not have its principal place of business in a country or place mentioned in subparagraph (i); or
 - (iii) the chairman and the directors of which are not citizens;
 - (iv) the effective control of the operations of which is not in the hands of citizens; and

- (c) a partnership, or union or an association of persons or of companies any of which partners, persons or companies is a foreigner as that expression is defined in this subsection.

26. Mineral oil

(1) *Repealed.*¹⁴

(2) *Repealed.*¹⁵

(3) Subject to article 268 of the Constitution, a concession and an instrument by which a right, title or an interest to or in land the subject of a concession purports to be transferred, assigned, sub-demised, mortgaged or surrendered shall not have the effect of passing a right, title or an interest in or to mineral oil unless the Instrument has been approved in writing by the President.

(4) *Repealed.*¹⁶

(5) The expression “**mineral oil**” includes—

- (a) bitument, asphalt, and any other bituminous substances with the exception of coal;
- (b) natural gas, that is to say gas obtained from bore-holes and wells and consisting primarily of hydrocarbons; and
- (c) the expression “natural gas” shall be so construed in a concession whether granted before or after the enactment of this Act.

27. Restrictions on exercise of rights with respect to timber or trees

(1) Subject to Chapter Twenty-one of the Constitution and subject to this section in the case of rights with respect to timber or trees claimed under a concession in respect of which the High Court has not, prior to the 25th day of June, 1925, in the Colony,¹⁷ or prior to the 1st day of March, 1926, in Ashanti¹⁸ granted and issued a certificate of validity, the exercise of the rights shall be held to be subject to the conditions, restrictions, limitations and directions that the Lands Commission or a duly authorised representative of the Lands Commission, may prescribe in that behalf.

(2) In the exercise of the discretion referred to in subsection (1) the Lands Commission may prescribe the conditions, restrictions, limitations and directions that are reasonably necessary to ensure the requisite protection, conservation and management, and the proper and adequate use, improvement, development and exploitation, of the forest resources in the area to which the concession relates.

14. Repealed by section 6 of the Concessions (Amendment) Ordinance, 1955 (No. 21 of 1955). The section was originally section 29.

15. Repealed by section 6 of the Concessions (Amendment) Ordinance, 1955 (No. 21 of 1955). The section was originally section 29.

16. Repealed by section 6 of the Concessions (Amendment) Ordinance, 1955 (No. 21 of 1955). The section was originally section 29.

17. “Colony” here stands for the Central, Eastern, Greater Accra and Western Regions.

18. “Asboah” here stands for the Ashanti Region and the Brong-Ahafo Region.

(3) Before proceeding to the exercise of a right with respect to timber or trees claimed under a concession within the category specified in subsection (1), the holder of the concession or the agent and representative of the holder shall first ascertain from the Lands Commission what conditions, restrictions, limitations, or directions, have been or are then to be prescribed in the matter of the exercise of rights with respect to timber or trees claimed under the concession.

(4) The Lands Commission shall with all convenient despatch and in writing notify the holder of the concession of the prescribed restrictions, limitations, and directions, but may at any time alter, add to, to revoke the prescription.

(5) Where the holder of a concession omits to ascertain from the Lands Commission what conditions, restrictions, limitations or directions are to be prescribed, or commits an act or makes an omission, which act or omission constitutes a contravention of a prescription of which the Lands Commission has given written notification, the holder of the concession commits, independently of a civil liability which the holder may have incurred, an offence, and on summary conviction is liable to a fine not exceeding two hundred and fifty penalty units.

(6) In default of the payment of the fine under subsection (1) the holder is liable to a term of imprisonment not exceeding one year, or alternatively, in the case of a continuing offence, to a fine exceeding ten penalty units in respect of each day during which the offence continues, and in default of payment to a term of imprisonment not exceeding one year.

(7) This section shall only apply with respect to land lying within areas of Ghana which the President may by Legislative Instrument declare to be areas with respect to land lying within which this section shall apply.

PART THREE

Certified Concessions

28. Registration of Instruments of transfer

(1) An instrument by which the rights or a portion of a right granted by a concession in respect of which the High Court has issued a certificate of validity may be transferred, assigned, sub-demised, mortgaged, or surrendered—

- (a) shall be registered under the Land Registry Act, 1962 (Act 122); and
- (b) shall be subject to a stamp duty in addition to any other duty payable by law of one hundred thousand cedis for every square mile or portion of a square mile of the area in respect of which the rights are transferred, assigned, sub-demised, mortgaged, or surrendered.

(2) Subsection (1) of sections 33 and 34 shall be read as one with the Stamp Act, 1965 (Act 311).

(3) Within three months of the execution of an Instrument a copy of the Instrument duly certified personally by the Registrar of Deeds shall also be filed by the person entitled to the benefit of the instrument with the registrar of the Court from which the certificate of validity in respect of the concession issued.

(4) Particulars of the duly registered transfer, assignment, sub-demise, mortgage or surrender shall be transmitted by the registrar to the Chief Inspector of mines and also to the Lands Commission who shall publish the particulars in the *Gazette*.

(5) A person failing to comply with a provision of this section is liable to a penalty not exceeding ten penalty units a day for every day during which the non-compliance continues.

(6) The penalty under subsection (5) may be sued for in the name of the Attorney-General and shall be recovered with the full costs of the suit.

(7) A person is not liable to a penalty in respect of a delay due to circumstances beyond the control of that person.

29. Effect of certificate of validity

(1) A certificate of validity is good and valid from the date of the certificate as against an adverse claim and is effective in respect of the whole area of land contained by the boundaries stated in the certificate, whether or not a discrepancy exists between that area and the area indicated by the notice and plan of the concession referred to respectively in subsections (1) and (3) of section 5.

(2) A certificate of validity, whether issued under this Act or under an enactment repealed by this Act, is conclusive evidence that the requirements of the enactment under which it was granted or purported to be granted and matters precedent and incidental to the grant or purported grant have been complied with, and is not liable to be impeached by a person by reason of a lack of notice of the boundaries or extent of the land in respect of which it is given, or for any other reason or on any other ground except that of fraud to which the holder of the concession is proved to be a party.

(3) In the event of the land referred to in a certificate of validity or a portion of a certificate of validity becoming or being declared to be the property of a person other than the grantor mentioned in the certificate, the High Court—

- (a) shall, on the application on notice of the other person or of the holder of the certificate, endorse on the certificate a statement to that effect and any other prescribed particulars; and
- (b) shall cause to be sent to the Accountant-General a certified copy of the endorsement.

30. Notice of termination of rights to be given to registrars

(1) Notice of the termination of the rights granted under a concession in respect of which a certificate of validity has been issued shall be given in writing by the person terminating the rights to the registrar of the Court from which the certificate of validity issued.

(2) The registrar shall report the matter to the Lands Commission, which shall publish the notice in the *Gazette*.

(3) The *Gazette* notice shall be to the effect that notice of the termination of the rights granted under the concession has been given to the registrar by the person terminating the rights.

31. Variation of certificate of validity

(1) The High Court may, subject to the conditions contained in an Instrument by the President made under section 19 (3) (b), by order with the consent of the grantor and the holder of a concession, in respect of which a certificate of validity has been issued, amend the terms of the certificate of validity.

(2) The terms of the order shall be endorsed on or attached to the certificate of validity by the Court.

(3) A copy of the order shall be transmitted by the registrar of the Court to the Lands Commission which shall publish particulars of the order in the *Gazette*.

(4) An application under this section shall be made by motion and the Court may permit an affidavit to be used for the purposes of proving consent.

(5) For the purposes of this section, “**holder of the concession**” in the case of an assignment of a portion of the land comprised in a concession means the assignee of that portion, and the modification of the certificate of validity shall apply only with respect to that portion.

32. Rents to citizens in respect of concession

(1) A rent or any other periodical sum of money payable under a concession shall be paid in the prescribed manner by the holder of the concession to the Accountant-General and subject to subsection (10) by the Accountant-General to the citizen entitled to the payment.

(2) Payment by the Accountant-General under subsection (1) is a complete discharge to the person making the payment.

(3) A rent or periodical sum of money not paid within the prescribed time may be sued for by the person entitled to receive the rent or the periodical payment.

(4) In a suit pursuant to subsection (3), a certificate signed by the Accountant-General as to the amount due and as to non-payment of the amount due shall be admitted without proof and shall be prima facie evidence as to the amount due and as to the non-payment.

(5) The moneys recovered or paid in that suit shall be paid into the High Court, and a receipt by the plaintiff shall not discharge the defendant.

(6) The Court, after refunding to the plaintiff the costs allowed to the plaintiff, shall order the residue to be paid to the Accountant-General who shall pay the residue to the person entitled to the residue.

(7) Despite an agreement between the parties to the contrary, if a rent or periodical sum of money payable under a concession, whether the concession was granted before or after the 15th day of May, 1939, remains unpaid for twelve months after the rent or the periodical sums become due, and after the lapse of three months from notice of non-payment of a part of that rent or periodical sum being given to the holder or the attorney of the holder in the Republic, the concession may be terminated by the person entitled to receive the rent or periodical sum by giving to that holder or to that attorney three months

notice in writing of the termination, but without prejudice to the rights that may have accrued to a person under the concession.

(8) Where neither the holder nor an attorney appointed by the holder is resident in the Republic publication in the *Gazette* of notice of termination for non-payment of rent or any other periodical sum or part of shall be deemed to be notice to the holder.

(9) Notice of the termination of a concession shall be given by the person entitled to receive the rents or periodical sums to the High Court which certified the concession for publication in accordance with section 30.

(10) Where a forest reserve, whether constituted under the Forests Act..... or under any other enactment—

- (a) is in part of, or extends over the whole of, the land which is the subject of a concession; and
- (b) is managed by the Lands Commission for the benefit of the owner or owners; and
- (c) under agreement with the owner or owners the President, the Government, or the Forestry Commission is entitled to deduct certain costs of operating and managing the forest reserve, and to retain sufficient funds to ensure efficient future working of the forest reserve, from the revenue received from the forest reserve;

the Accountant-General—

- (d) on being satisfied that moneys which may be so deducted have been expended on operating the forest reserve; or
- (e) on receiving a certificate from the Forestry Commission as to the amount of moneys required to ensure efficient future working of the reserve, in excess of moneys already in the hands of the Lands Commission for this purpose;

shall pay the moneys to the Lands Commission from the rent and other periodical sums payable under that concession and received by the Accountant-General.

(11) In so far as payments made under subsection 10 to the Lands Commission to ensure efficient future working of a forest reserve have been applied for purposes the expenditure for which may be deducted from the revenue received from the forest reserve, a further payment in respect the forest reserve shall not be made to the Lands Commission.

(12) For the purposes of this section, a royalty or an advance to be offset against a royalty payable under a concession shall be deemed to be a periodical sum of money payable under that concession.¹⁹

19. Amended by section 7 of the Concessions (Amendment) Ordinance, 1955 (No. 21 of 1955).

PART FOUR

*Prospecting and Mining***33. Prospecting licences**

(1) Subject to this section, a person shall not prospect within the Republic unless that person holds a valid and appropriate prospecting licence issued under this Act and authorising that person to do so, or otherwise than in accordance with the provisions stated in the licence.

(2) The holder of a valid mining licence and the staff of the holder may, without a prospecting licence, prospect on a concession area with respect to which the mining licence is in force.

(3) The authority for the issue of a prospecting licence shall be as prescribed by the Regulations.

(4) A licence shall be in the Form C set out in the Schedule.

(5) The authority concerned may attached to a prospecting licence the conditions or limitations that the authority considers fit; and the prospecting licence shall have effect accordingly.

(6) The provisions stated in a prospecting licence shall have the force of law.

(7) A fee of [ninety thousand cedis] is payable in respect of each prospecting licence.

(8) A prospecting licence is, unless previously revoked, valid until the 31st day of December next following the date of its issue.

(9) The provisions regulating the issue and renewal of a prospecting licence and the rights conferred by a prospecting licence are those prescribed in this Act or by the Regulations made under section 48.

(10) The power conferred on the President in section 48 extend, to the making of Regulations with respect to the revocation of prospecting licences and to any other matters relating to prospecting licences and to its related matters and to the enforcement of this section and to any other Regulations the President considers proper to be regulated by Regulations.

(11) A person who contravenes a provision of subsection (1) commits an offence, and on summary conviction is liable to a term of imprisonment not exceeding one year, or to a fine not exceeding, two hundred and fifty penalty units.

34. Mining licences

(1) An alien shall not carry on mining unless the alien is the holder of—

- (a) a concession granting the right to do so from a citizen having the power to grant that right; and
- (b) a mining licence from the Minerals Commission the Form D set out in the Schedule, or where the mining is conducted solely by dredging operations, an appropriate dredging licence under the Rivers Act.

- (2) The Minerals Commission may grant a mining licence—
- (a) to a person claiming to be entitled to the benefit of a concession in respect of land comprised in that concession although the concession has not been adjudicated on by the High Court; but—
 - (i) the Court may on the issue of a certificate of validity amend the licence so as to comprise only the land described in the certificate and if the concession is declared invalid by the Court the licence becomes void;
 - (ii) a mining licence granted under this subsection shall not be in respect of more than one concession;
 - (b) to an owner of land who, on application for the licence, lodges an affidavit of title together with a rough sketch map of the land over which ownership is claimed, but a licence issued to an owner under this paragraph becomes void on the holder ceasing to be the owner of the land;
 - (c) to a person claiming to possess rights to mine on land who, on application for the licence, lodges an affidavit of title together with a plan of the land over which the claim is made; but a licence issued to a claimant under this paragraph becomes void on the holder ceasing to possess the right to mine on the land.
- (3) A fee of three million cedis is payable in respect of each mining licence.
- (4) A person who contravenes a provision of subsection (1) commits an offence and is liable to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding one year or to both the fine and the imprisonment and in addition to that penalty the mining licence shall be revoked.

35. Digging licences

- (1) A citizen, unless that citizen holds one of the licences mentioned in paragraph (b) of subsection (1) of section 34, shall not carry on mining without being the holder of a licence in the Form E set out in the Schedule.
- (2) The Minerals Commission may grant a digging licence to a citizen claiming to own the land in respect of which the licence is sought, or to possess rights to mine on that land who, on application for the licence, lodges an affidavit of title together with a plan of the land over which the claim is made.
- (3) The provisions regulating the issue and renewal of digging licences shall be as prescribed in this section or by the Regulations.
- (4) The power conferred on the President by section 48 extends to the making, altering and revocation of digging licences and to related matters and to the enforcement of the provisions of this section and to any other Regulations that the President considers proper to be regulated by Regulations.
- (5) A digging licence shall not be granted to—
- (a) a person carrying on mining by means of mechanical appliances which in the opinion of the Minerals Commission exceed twenty-five brake horsepower; or

(b) a person carrying on mining in underground workings.

(6) For the purposes of subsection (5) “**underground workings**” means shafts and workings from the shafts, prospecting pits more than fifteen feet in depth, adits and tunnels.

(7) A fee of five hundred thousand cedis is payable in respect of each digging licence.

(8) A digging licence is, unless previously revoked, valid until the 31st day of December next following the date of the issue of the licence.

(9) A person who contravenes subsection (1) commits an offence and is liable to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding one year or to both the fine and the imprisonment.

36. Report of mining operations

(1) The commencement of actual mining operations under a mining licence or a digging licence shall be reported to the [Chief Inspector of Mines] [Minerals Commission] by the person holding the licence.

(2) A person who fails to comply with subsection (1) commits an offence and is liable to a fine not exceeding one hundred penalty units or to a term of imprisonment not exceeding three months or to both the fine and imprisonment.

PART FIVE²⁰

Stool Lands

PART SIX

Miscellaneous

37. Interference by concessionaire with public property

A person entitled, or claiming to be entitled, to the benefit of a concession, or to a right to prospect, shall not in the exercise of the powers conferred by the concession or of that right, disturb or interfere with any railway, public road or pathway, or with any public building, burial ground, or land appropriated by law for any public purpose, and a person convicted of that disturbance or interference is liable to a penalty not exceeding [two hundred and fifty units] to be recovered in the High Court and in addition may be ordered by the Court to pay the cost of making good the damage so caused.

38. Restriction on declaration of land as fetish land

(1) A chief or any other person shall not, otherwise than in accordance with the terms or tenor of a concession or of a certificate of validity, declare or represent a land affected by a concession in respect of which a certificate of validity has been granted by the Court to be fetish land.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a penalty not exceeding [seventy-five penalty units].

²⁰ Repealed.

39. Appointment of attorney

(1) A person entitled to the benefit of a concession not ordinarily resident in the Republic shall appoint an attorney in respect of the matters relating to the concession, and an instrument conferring that appointment shall be forwarded to the Lands Commission for registration.

(2) A instrument made pursuant to subsection (1) shall be proved in the manner provided by the Land Registry Act, 1962 (Act 122) and the Lands Commission shall immediately after submission of the instrument place on the instrument a certificate as provided in the Land Registry Act, 1962 (Act 122) and signed by the chairman of the Board of the Lands Commission and return the instrument to the person presenting it.

(3) Registration of the instrument shall consist in filing a photostat copy, to be provided by the person presenting the instrument for registration, with the Lands Commission which copy shall accompany the instrument on the application for registration and shall be retained by the Lands Commission.

(4) The Lands Commission may refuse to accept a photostat copy which is in the opinion of the Board of the Commission, by reason of its size or its substance or for any other reason, unsuitable for filing or for reproduction.

40. Government officers prohibited from acquiring rights in concession

A public officer shall not acquire, or hold, a right or an interest under a concession, and a concession purporting to confer that right or interest on a public officer is void.

41. Powers of President over land with certificate of validity

The President or a person authorised by the President may, despite the issue of a certificate of validity, at any time

- (a) acquire the rights over a part of land in respect of which a certificate has been granted as in the opinion of the President may be necessary to allow of the carrying out of any works or objects of public utility or convenience which the President may consider requisite, and the State Lands Act, 1962 (Act 125) shall apply, with due alteration to the details to that acquisition, as though the land were being acquired under that Act;
- (b) use a road made on that land;
- (c) enter on and inspect that land for the purposes of ascertaining the condition of the land or for any other purpose which the President thinks reasonable.

42. Fees and expenses recoverable by action

(1) The court or registration fees and the costs and expenses incurred under this Act by an officer of the High Court, payable by a person claiming to be entitled to the benefit of a concession is recoverable by action without prejudice to any other means of recovery.

(2) A certificate, signed by the registrar of the Court, that the fees, expenses or costs are payable by that person, is prima facie evidence of their being due.

43. Lapse of concessions

Where the enquiry as to a concession is struck out and the proceedings with respect to the concession have lapsed, the concession shall be deemed to have determined as from the date of the lapse, and subject to a claim for rent due up to the date of the lapse, a liability in respect the concession shall cease and absolutely determine.

44. Penalties recoverable in name of Attorney-General

A penalty imposed by this Act and not declared to be an offence shall be sued for in the name of the Attorney-General and shall be recovered with full costs of suit.

45. Burden of proof

In a prosecution under section 33, 34 or 35 it shall lie on the defendant to prove that a licence to prospect or a mining licence or a digging licence, has been duly granted to the defendant or that the defendant is exempt from having that licence.

46. Repeal and saving

*Spent.*²¹

47. Exemptions of certain rights

This Act shall not apply to the rights which were the subject of an agreement between Sir W.E. Maxwell and the Ashanti Goldfields Corporation Limited, and other parties dated 3rd June, 1987; nor, with the exception of the provisions relating to the exercise of the jurisdiction of the Court to enquire into and adjudicate upon the validity of concessions in other

²¹ This original provision reads as follows—

“The Concessions Ordinance of the Gold Coast Colony and the Concessions Ordinance, Ashanti, are hereby repealed;

Provided that—

(1) Save as in this Ordinance otherwise expressly provided, nothing in this repeal shall affect any Order of the President, Order, Rule or Regulation made, direction given or thing done under any enactment repealed by this Ordinance or deemed to have been made, given, or done respectively under any such enactment, and every such Order of the President, Order, Rule, Regulation or direction shall continue in force until revoked or repeal and, so far as it could have been made or given under this Ordinance, shall have effect as if made or given under this Ordinance.

(2) Save as in this Ordinance otherwise expressly provided, nothing in this repeal shall affect any right, title, interest or benefit granted or acquired under any enactment repealed by this Ordinance.

(3) Save as in this Ordinance otherwise expressly provided, nothing in this repeal shall affect any suit, action or proceeding pending under any enactment repealed by this Ordinance or any suit, action or proceeding which may be brought or commenced after the coming into operation of this Ordinance arising out of any right, title, interest or benefit granted or acquired under any enactment repealed by this Ordinance, and any such suit, action or proceeding as in this subsection mentioned shall be heard and determined under the provisions of that enactment by virtue of which such right, title, interest or benefit was granted or acquired.

(4) Whenever reference is made in any enactment in force at the commencement of this Ordinance or in any document to the Gold Coast Colony Concessions Ordinance or to the Ashanti Concessions Ordinance or to any provision thereof, such reference shall be construed as a reference to this Ordinance or to the corresponding provision therein, as the case may be.”

respects that of area, to the rights which were the subject of an agreement between Mr. F.M. Hodgson and the Castle Gold Exploration Syndicate Limited [dated 12th April 1898.]

48. Regulations

(1) The President may, by legislative instrument, make Regulations—

- (a) with respect to the keeping of accounts, and any other records for the purpose of showing the amount and value of the minerals, metals, precious stones, timber, rubber, or any other products of the soil obtained from a land the subject of a concession, and for prescribing the form of the accounts and records, and for the transmission of the accounts and records, and for the transmission of the accounts and records to the President or an officer nominated by the President;
- (b) with respect to the time and manner in which the fees, duties, royalties, rents or any other payments made under this Act are to be assessed, received, or paid;
- (c) with respect to the registration of instruments required to be registered under section 28, the conditions under which prospecting and mining licences shall be granted and the appointment of attorneys under section 39;
- (d) with respect to the procedure to be followed in the acquisition of concession;
- (e) with respect to the surveying, demarcation, and maintenance of the boundaries of concessions;
- (f) regulating the issue of prospecting licences and digging licences, and appointing the authority for issuing the licences;
- (g) generally for the more effectual carrying out of the provisions of this Act.

(2) Penalties may be prescribed by the Regulations for offences against a regulation to a limit of a fine two hundred penalty units or a term of imprisonment not exceeding six months.

49. Interpretation

In this Act, unless the context otherwise requires—

“**Accountant-General**” includes an officer appointed by the President to perform an act or a duty or to exercise an authority which by this Act may be done by or is imposed on or may be exercised by the Accountant-General;

“**alien**” means a person who is not a citizen of Ghana;

“**claimant**” means the person entitled to the benefit of a concession;

“**concession**” means an instrument by which a right, title or an interest in or to land, or in or to minerals, timber, rubber, or any other products of the soil in or growing on a land or the option of acquiring that right, title or interest purports to be granted or demised by a citizen, but does not include an assignment or sub-demise of the whole or a part of the right granted by a concession;

“cadastral plan” means a map or plan purporting to show the boundaries of land with accuracy, and giving exact measurements by which the boundaries may be demarcated or redemarcated on the ground, the map or plan being made in conformity with the result of a survey carried out by an official surveyor or licensed surveyor and requiring, when made by a licensed surveyor to be certified by the licensed surveyor or licensed surveyor, to be approved by the director of surveys or a person appointed by the director for that purpose;

“certificate of validity” means a certificate granted under subsection (1) of section 14;

“citizen” means a citizen of Ghana who is entitled under the law to a right in land in the Republic;²²

“grantor” means the original grantor of the concession or the successor in title of the original grantor;

“holder” of a concession includes a person holding or claiming to be entitled to exercise a right in or over land, or in or to minerals, metals, precious stones, timber, rubber, or any other products of the soil in or growing on a land granted or demised under the concession by the citizen grantor; and that person shall be deemed to hold a concession, whether the person acquired the right by grant or demise from a citizen or by an assignment of that right;

“land” includes land which forms the bed of a river, stream, lake or lagoon;

“minerals” includes mineral oil;

“mining” includes operations for winning or obtaining minerals, metals or precious stones;

“Minister” means the Minister responsible for Lands;

“prospect” means to search, seek or explore minerals, metals, precious stones, timber or any other products of the soil;

“Regulations” means the Regulations made under section 48; or under any other section of this Act;

“Rules” means Rules of Court made under article 157 of the Constitution for the purpose of proceedings under this Act.

SCHEDULE

FORM A

[Section 5 (3)]

In the High Court of the Republic of Ghana
 Notice of Concession under section 5 of the Act.
 No. [] *Registrar to insert number and title e.g. Cape Coast*
 To the Registrar of the High Court at

²² A proviso to section 3 of the Concessions Ordinance 1939, (No. 19 of 1939) provided that “native” shall have the meaning attached to it in section 2 of the Courts Ordinance (Cap 4).

Concessions Act, 1939

FORM A—continued

I hereby give you notice of the concession of of to of dated the day of and registered on the day of at the Registry Office (or unregistered) (*as the case may be*).

Name and address of person claiming to be entitled to benefit of abovementioned concession. [*Insert title e.g. Cape Coast*] Boundaries, extent and situation of land as specified in concession: [*Registrar to insert number and title e.g. Cape Coast*] Nature of concession : [*All rights granted, including in the case of a mining lease any ancillary timber rights, to be specified*]

Address for service: [*To be within two miles of Court.*]

Dated this day of , 20

.....
Claimant, or Agent or Attorney for Claimant

FORM B

[Section 15 (f)]

Concessions Act, 1939

Certificate of Validity

No.

In the High Court of the Republic of Ghana [*Insert title e.g. Cape Coast*] Subject as below the concession of of to of dated the day of, 20....., and registered on the day of at the Registry Office and to which this certificate is attached [*or on which this certificate is endorsed omit as to attachment or endorsement if Court so declares*].

Is hereby declared valid

Boundaries, extent and situation of land in respect of which this certificate is given:

Nature of concession: [*briefly*]

Limitations, modifications and conditions imposed by the Court [*in full*]:

Date of final order for issue of certificate:

Given under my hand and the seal of the Court at this day of, 20

(*Seal of Court.*)

.....
Signature of Justice

FORM C

[Section 33 (3)]

Concession Act, 1939

Prospecting Licence

No.

Licence is hereby granted to of to prospect in the District within the area described in the endorsement on this licence [District]

Conditions and Limitations:

- (a) To prospect outside the District described above is not permitted except by the issue of a further prospecting licence.
- (b) To prospect outside the area described in the endorsement in another area in the same District may be permitted upon the cancellation of the endorsement and a new endorsement being made by the [District]
- (c)
- (d)

Fee paid

This licence expires (unless previously revoked) on the 31st day of December, 20

Dated at this day of, 20

.....

Minerals Commissioner

NOTE:— This licence is not transferable and does not confer a right of entry upon lands or a right of property in any products of the soil and is subject to the provisions of the Prospecting and Digging Licences Regulations for the time being in force.

FORM D

[Section 34 (1)]

Concessions Act, 1939

Mining Licence

No.

Permission is hereby granted to [name and address of licensee] the servants and agents of the licensee to carry on mining on land comprised within the following limits [here set out the limits].

Dated this day of, 20

.....

Minerals Commissioner

Note:— This licence is not transferable.

*Concessions Act, 1939***FORM E**

[Section 35 (1)]

Concessions Act, 1939

Digging Licence

No.

Permission is hereby granted subject to section 35 of the Act and the Regulations made under section 48 of the Act to of and for the servants and agents of to mine on land comprised within the following limits—

Fee paid

This licence expires (unless previously revoked) on the 31st day of December, 20

Dated at this day of, 20

.....
Minerals Commissioner

NOTE:— This licence is not transferable and does not confer a right of entry upon lands or a right of property in any products of the soil and is subject to the provisions of [the Prospecting and Digging Licences Regulations] for the time being in force.

Previous legislation

Ordinances

19 of 1939

9 of 1941

35 of 1942

28 of 1943

25 of 1946

32 of 1950

53 of 1950

7 of 1852

11 of 1953

21 of 1955

Acts

C.A. 8 of 1960

Act 124 of 1962