



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

**MINERAL AND PETROLEUM RESOURCES
ROYALTY BILL**

*(As introduced in the National Assembly as a Money Bill)
(The English text is the official version of the Bill)*

(MINISTER OF FINANCE)

11 October 2006

[B1 – 2006]

BILL

To impose a royalty on the extraction and transfer of South Africa's mineral resources.

PREAMBLE

RECOGNISING that South Africa's mineral resources are non-renewable and are part of the common patrimony of all South Africans, thereby entitling the nation to consideration for the value of those resources when extracted and transferred;

ACKNOWLEDGING that South Africa's mineral resources belong to the nation and that the State is the custodian thereof;

AFFIRMING the State's obligation to provide for economic and social development; and

CONSIDERING the need to create an internationally competitive and efficient mineral resource royalty regime that contains rules seeking: (i) maximum certainty for the investor community in support of sustainable economic growth, and (ii) royalty rate stability within the foreseeable future.

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows—

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PART I – DEFINITIONS

General Definitions

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

“**acquire**” means the acquisition of a mineral resource pursuant to a transfer;

“**assessment period**” means any period described in section 20(2);

“**Commissioner**” means the Commissioner for the South African Revenue Service;

“**company**” means any association, corporation, or company incorporated, formed, or otherwise established under—

- (a) any law of the Republic or any part thereof; or
- (b) any law of any other country or any part thereof;

“**consolidated financial group**” means all domestic companies that should or could be consolidated for purposes of generally accepted accounting practice;

“**Diamonds Act**” means the Diamonds Act, 1986 (Act No. 56 of 1986);

“**domestic company**” means any association, corporation, or company incorporated, formed, or otherwise established under any law of the Republic or any part thereof;

“**extract**” means the winning or recovery of a mineral resource within the Republic;

“**gross sales value**” means gross sales value as described in section 5(1);

“**mineral resource**” means any substance listed in Schedule 1;

“**mineral resource extractor**” means any person referred to in section 3;

“**mineral resource right**” means any prospecting right or retention permit, exploration right, mining right or permit, or production right granted or issued under the Mineral and Petroleum Resource Development Act, 2002 (Act No. 28 of 2002);

“**Minister**” means the Minister of Finance;

“**notice of assessment**” means any notice of assessment described in section 24(1);

“**person**” includes any natural or juristic person including a body of persons, a trust, a deceased estate, an insolvent estate, or any organ of State;

“**registered person**” means any person liable for registration under this Act pursuant to section 18;

“**Republic**” means the territory of the Republic of South Africa, including the territorial waters, the contiguous zone and the continental shelf referred to respectively in sections 4, 5, and 8 of the Maritime Zones Act; 1994 (Act No. 37 of 1994);

“**return**” means any return as described in section 20;

“**State royalty**” means any royalty imposed by the State as described in section 3;

“**State royalty rate**” means any royalty rate described in section 4; and

“**transfer**” means the voluntary alienation of beneficial ownership of (or title to) a mineral resource.

Connected person definition

2. (1) For purposes of this Act, “**connected person**” means—
- (a) in relation to any natural person (including that person’s deceased or insolvent estate)—
 - (i) any relative of that natural person (or the relative’s deceased or insolvent estate); or
 - (ii) any trust in respect of which that person or any such relative (or such estate of such relative) is a vested or contingent beneficiary; or
 - (b) in relation to any trust, any person who is a vested or contingent beneficiary in respect of that trust; or
 - (c) in relation to any partnership or close corporation—
 - (i) any member thereof; or

- (ii) any other person if that person and a member of the partnership or close corporation are connected persons in relation to each other in terms of this definition; or
- (d) in relation to any company (other than a close corporation)—
 - (i) any person described in paragraphs (a) and (b) that directly or indirectly holds (either separately or in the aggregate) more than 25 per cent of the rights in the fixed capital (being share capital, share premium, current or accumulated profits, or reserves) of the company;
 - (ii) any other company in which persons described in subparagraph (i) are substantially the same persons as those persons holding rights in the fixed capital in the first-mentioned company, or which is controlled by the same persons who control the first-mentioned company; or
 - (iii) any other person if that other person and the person, relative or trust described in subparagraph (i), or the other company referred to in subparagraph (ii), are connected persons in terms of this definition.
- (e) in relation to any mineral resource extractor, any person that acquires a mineral resource in a transaction, operation, or scheme—
 - (i) where both the person and the mineral resource extractor are colluding so that the transaction, operation or scheme is not conducted at arm's length;
 - (ii) that would not have been entered into but for this Act; and
 - (iii) that has the effect of avoiding, reducing or postponing liability in terms of the State royalty otherwise imposed by this Act.

(2) For purposes of this section, the terms “**relative**”, “**spouse**” or “**trust**” mean relative, spouse or trust, respectively, as defined in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962).

PART II – BASIC ROYALTY REGIME

Charging provision

3. (1) Any person (hereinafter referred to as a mineral resource extractor) is subject to a State royalty in respect of a mineral resource once that person extracts and transfers the mineral resource for that person's own benefit.

(2) The State royalty imposed in respect of a transferred mineral resource equals the mineral resource's State royalty rate as described in Schedule 1 multiplied by its gross sales value.

(3) A person is not subject to a State royalty in respect of a transferred mineral resource if the person proves the mineral resource was previously subject to a State royalty.

(4) For purposes of this Act, if a person extracts and transfers a mineral resource for the benefit of another person, that other person is deemed to be a mineral resource extractor to the extent that other person extracted and transferred that mineral resource for that extractor's benefit.

Rates and classification

4. (1) The State royalty rate in respect of any mineral resource is determined under Schedule 1.

(2) In consultation with the Minister of Minerals and Energy, the Minister may amend Schedule 1 by way of regulation to account for the discovery of new economically exploitable mineral resources or mineral resources otherwise missing from Schedule 1.

(3) Any regulation described in subsection (2) must be tabled in Parliament for incorporation into this Act within 12 months after the date the regulation is published.

Gross sales value

5. (1) The gross sales value of any mineral resource equals any amount received or accrued in respect of the mineral resource, regardless of the assessment period in which the receipt or accrual occurs.

(2) For purposes of subsection (1), "**amount**" includes—

- (a) the face value reduction or discharge of any outstanding obligations;
- (b) the fair market value of any property, financial assistance, service or other benefit; and
- (c) any premium paid in respect of an option on a mineral resource.

(3) For purposes of subsection (1), "**amount**" does not include any—

- (a) tax imposed by the Value-Added Tax Act, 1991 (Act No. 89 of 1991); and
- (b) transportation and insurance costs incurred for physically transferring a mineral resource from a mineral extractor to another person.

(4) To the extent an amount of gross sales value is not quantifiable, the amount is deemed received or accrued in the assessment period it becomes quantifiable.

(5) To the extent an amount of gross sales value is denominated in a foreign currency, that amount will be translated into the currency of the Republic at the closing spot rate on the earlier of—

- (a) the date of transfer; or
- (b) the date the amount becomes quantifiable.

Credit for bad debts

6. (1) If a mineral resource extractor owes or paid any State royalty during an assessment period in respect of a transferred mineral resource and that extractor will not receive an accrued amount of gross sales value in respect of that mineral resource—

- (a) to the extent that extractor subsequently writes off that accrued amount as a bad debt;
- (b) to the extent that extractor subsequently reduces the sales price; or
- (b) to the extent that extractor reacquired that mineral resource,

that extractor is entitled to receive credit during that period to offset the royalty paid or payable in respect of that transferred or reacquired mineral resource.

(2) The credit described in subsection (1) equals any State royalty paid or owed in respect of the accrued amount described in subsection (1).

(3) Notwithstanding section 3(3), section 3 applies to the subsequent transfer of a mineral resource described in subsection (1)(b).

(4) Any excess credit arising from an offset described in this section will be carried forward to the immediately succeeding assessment period and will be deemed to arise in the succeeding period.

- (5) This section will not apply to transfers between connected persons.

PART III – RELIEFS

Marginal mine rate relief

7. (1) All State royalties otherwise imposed on a mineral resource extractor in respect of a mine or oil well during an assessment period may not exceed the adjusted net cash turnover of that mine or oil well during the period; however, in no event will these State royalties be reduced to less than 25 per cent of the State royalties otherwise imposed but for this section.

(2) For purposes of this section, “**adjusted net cash turnover**” means net income (as determined according to generally accepted accounting practice) arising from mineral

resources extracted from a mine or oil well to the extent those mineral resources are transferred during an assessment period solely taking into account costs of extraction, costs of conversion and other similar costs, but do not include—

- (a) expenses of a capital nature; and
- (b) expenses paid or payable by a mineral resource extractor to a connected person.

(3) Subsection (1) does not apply to any mineral resource transferred by a mineral resource extractor to a connected person, and all items taken into account for determining the net income of that mineral resource are excluded from adjusted net cash turnover.

Small mining business relief

8. (1) A mineral resource extractor qualifying as a small mining business during its assessment period is liable for any State royalty otherwise imposed on the extractor only to the extent those royalties exceed R50 000 during the same period.

(2) For purposes of this section, a mineral resource extractor qualifies as a “**small mining business**”—

- (a) if the extractor is a domestic company or a natural person ordinarily resident within the Republic;
- (b) if the gross sales values of all mineral resources transferred by the extractor do not exceed R5 million during the assessment period described in subsection (1);
- (c) as long as the extractor does not at any time during the extractor’s assessment period described in subsection (1) hold more than a 20% ownership interest in another mineral resource extractor; and
- (d) in the case of an extractor that is a domestic company, as long as any person that holds an ownership interest in the extractor does not hold more than a 20% ownership interest in another mineral resource extractor during the extractor’s assessment period described in subsection (1).

Exemption for sampling

9. (1) A mineral resource extractor that extracts and transfers a mineral resource in term of a prospecting right granted under the Mineral and Petroleum Resources Development

Act, 2002 (Act No. 28 of 2002) is not subject to a State royalty otherwise imposed in respect of the mineral resource.

(2) Subsection (1) does not apply to any mineral resource classified in Group 1 of Schedule 1.

Petroleum exploration incentive

10. (1) A mineral resource extractor that extracts and transfers a mineral resource in terms of an exploration right granted under the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002) is not subject to a State royalty otherwise imposed in respect of the mineral resource.

(2) A mineral resource extractor is subject to a 0,5 percentage point reduction in the State royalty otherwise imposed in respect of a mineral resource classified as oil and gas if—

- (a) the extractor extracts oil or gas in respect of a production right granted under the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002); and
- (b) the initial discovery of economically exploitable oil and gas reserves in the same area covered by that production right was made by that extractor.

PART IV – CONNECTED PERSONS RULES

Transfer date between connected persons

11. For purposes of section 3, the definition of transfer additionally includes the removal or making available by a mineral resource extractor of a mineral resource for the benefit of a connected person.

Exports without alienating beneficial ownership or title

12. If a mineral resource extractor removes a mineral resource from the Republic without alienating beneficial ownership of (or title to) the mineral resource, the mineral resource will be deemed transferred to a connected person on the date the extractor delivers a bill of entry for export under the Customs and Excise Act, 1964 (Act No. 91 of 1964) in respect of the mineral resource.

Gross sales value for transfers between connected persons

13. (1) The gross sales value of any mineral resource transferred by a mineral resource extractor to a connected person equals the greater of—

- (a) any amount received or accrued as described in section 5;
- (b) the arm's length value;
- (c) in the case of a transfer of a mineral resource as described in section 12, the specified value of that mineral resource on the bill of entry for export; or
- (d) in the case of a transfer of any unpolished diamond as defined in the Diamonds Act involving a bill of entry for export as described in section 12, the value of any unpolished diamond—
 - (i) specified on a return described in section 61 of the Diamonds Act; or
 - (ii) assessed by the Diamond and Precious Metals Regulator as described in section 65 of the Diamonds Act.

(2) To the extent an amount of gross sales value is not quantifiable, the amount is deemed received or accrued in the assessment period it becomes quantifiable.

(3) To the extent an amount of gross sales value is denominated in a foreign currency, the amount will be translated into the currency of the Republic at the closing spot rate on the earlier of—

- (a) the date of transfer; or
- (b) the date the amount becomes quantifiable.

(4) For purposes of this section, the arm's length value of any mineral resource transferred means the commercial price or fair market value that would have been agreed to by independent persons for the mineral resource (excluding any transportation or insurance costs incurred for physically transferring a mineral resource from a mineral extractor to another person) if those persons were freely negotiating on the open market under similar circumstances having sole regard to the comparable uncontrolled price, resale price and cost plus methods of determining that price or value, as appropriate.

(5) For purposes of subsection (6), the arm's length value as determined by the comparable uncontrolled price method for a mineral resource must not be less than 90 per cent of its weighted monthly average value derived from a commodity index or sales price list as determined by regulation prescribed by the Commissioner.

- (6) (a) For purposes of subsection (6), the arm's length value as determined by the resale price method for a mineral resource must not be less than 90

per cent of the resale value to be received by or that will accrue to the connected person acquiring the mineral resource (subsequently referred to as the connected person transferee) after subtracting all value-added costs incurred by that connected person transferee.

- (b) For purposes of paragraph (a), “**value-added costs**” means only costs of conversion and other similar costs as determined under generally accepted accounting practice incurred by that connected person transferee, but does not include—
 - (i) expenses of a capital nature;
 - (ii) expenses paid or payable to a connected person in relation to that transferee; and
 - (iii) costs of purchasing the mineral resource.
 - (c) If the mineral resource acquired by the connected person transferee is subsequently transferred by that connected person transferee to any other person who is a connected person in relation to—
 - (i) the connected person transferee; or
 - (ii) the mineral resource extractor described in subsection (1),
 that other person will be treated as the connected person transferee for purposes of paragraphs (a) and (b), except that value-added costs will additionally include costs of a similar nature incurred by any previous connected person transferee.
- (7) (a) For purposes of subsection (6), the arm’s length value as determined by the cost plus method for a mineral resource must not be less than 120 per cent of the comprehensive costs of the mineral resource transferred by a mineral resource extractor.
- (b) For purposes of paragraph (a), “**comprehensive costs**” means only costs of extraction, costs of conversion and other similar costs as determined under generally accepted accounting practice, but does not include expenses of a capital nature.

PART V – ROYALTY LIABILITY ADJUSTMENTS

Transfers within a consolidated financial group

14. (1) A mineral resource extractor that transfers a mineral resource to a domestic company is not subject to a State royalty otherwise imposed if on the date of the transfer both the extractor and the domestic company form part of the same consolidated financial group.

(2) For purposes of this Act, any domestic company acquiring a mineral resource as described in subsection (1) is deemed to be a mineral extractor that extracted the mineral resource.

(3) Sections 7 and 8 do not apply to any domestic company acquiring a mineral resource as described in subsection (1).

Liability sharing election

15. (1) Any mineral resource extractor that transfers a mineral resource to a domestic company is not subject to a State royalty otherwise imposed if—

- (a) both the extractor and the domestic company on the date of the transfer are not part of the same consolidated financial group;
- (b) the domestic company will be refining that mineral resource; and
- (c) both the extractor and the domestic company have jointly elected that this section applies.

(2) For purposes of this Act, any domestic company making an election under subsection (1) in respect of a mineral resource is deemed to be a person that extracted the mineral resource.

(3) This section does not apply to a domestic company that subsequently transfers an acquired mineral resource described in subsection (1).

(4) Sections 7 and 8 do not apply to a domestic company that acquires a mineral resource as described in subsection (1).

Asset reorganisations

16. (1) Any mineral resource extractor that transfers a mineral resource to a domestic company is not subject to a State royalty otherwise imposed if the transfer is made pursuant to—

- (a) a company formation described in section 42(1);
- (b) an amalgamation transaction described in section 44(1); or

(c) a liquidation, winding-up or deregistration described in section 47(1), of the Income Tax Act (Act No. 58 of 1962) without regard to the mineral resource's market value and without regard to whether the mineral resource is classified as a capital asset or trading stock under that Act.

(2) For purposes of this Act, any domestic company acquiring a mineral resource as described in subsection (1) is deemed to be a mineral resource extractor that extracted the mineral resource.

(3) Sections 7 and 8 do not apply to a domestic company that acquires a mineral resource as described in subsection (1).

PART VI – STATE ROYALTY RATE GUARANTEE

State royalty rate guarantee

17. (1) Every person that holds a mineral resource right receives a State royalty rate guarantee that will be deemed enforceable as a contractual State obligation pursuant to that right.

(2) Any person referred to in subsection (1) holding a mineral resource right with a State royalty rate guarantee is not subject to a State royalty otherwise imposed in respect of the right exceeding—

- (a) the State royalty rates described in Schedule 1 when the right was granted or renewed; or
- (b) the State royalty rates described in Schedule 1 on the date this Act commences if the right was held by the person on that date.

- (3) (a) The State royalty rate guarantee remains in effect in respect of a mineral resource right until that right is terminated or renewed.
- (b) If a person obtains a mining right by virtue of, and immediately following, the person's holding of a prospecting right (or if a person obtains an production right by virtue of, and immediately following, the person's holding of a exploration right) in respect of the same area, the prospecting right and the mining right (or the exploration right and the production right) will be treated as the same mineral resource right for purposes of this section.

(4) The State royalty rate guarantee serves as contractually binding terms associated with a mineral resource right, thereby entitling the person to—

- (a) reinstatement of the State royalty rates described in schedule 1 as described in subsection (2) in terms of the right; and

(b) compensation for any payment in excess of those rates if a violation of subsection (2) has occurred in respect of the right.

(5) If a person in receipt of a State royalty rate guarantee as described in subsection (1) transfers a mineral resource to a domestic company described in sections 14, 15, and 16, the domestic company is entitled to receipt of the State royalty rate guarantee in respect of the mineral resource.

PART VII – REGISTRATION, RETURNS AND PAYMENTS

Registration

- 18.** (1) Any person that—
- (a) holds a mineral resource right granted under the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);
 - (b) extracts a mineral resource;
 - (c) forms part of the same consolidated financial group in respect of a person described in paragraph (a) or (b);
 - (d) is a domestic company that jointly elects with a mineral resource extractor that section 15 applies; or
 - (e) acquires a mineral resource as described in section 16,

must register with the Commissioner in the form, manner (including electronically) and place as determined by the Commissioner within 45 days after the earliest occurrence of any circumstances described in paragraphs (a) through (e).

(2) For purposes of this Act, the Commissioner must register a person described in subsection (1).

(3) This section does not apply in respect of any mineral resource or any mineral resource right granted under the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002) that solely relates to mineral resources described in Group 4 of Schedule 1.

Cancellation of registration

19. (1) A registered person may apply to the Commissioner for deregistration after the date in which all circumstances described in paragraphs (a) through (e) of section 18(1) cease to exist.

(2) Upon receipt of an application in terms of subsection (1), the Commissioner may cancel that person's registration effective from the last day of the assessment period to which the application relates.

Returns and assessment periods

20. (1) Every registered person must submit a return and make payment in respect of each assessment period in accordance with section 21 within 30 days after the closing date of the assessment period to which that return relates.

(2) For purposes of this Act, each assessment period for a registered person described in subsection (1)—

(a) in the case of a natural person—

(i) begins on 1 March and ends on 31 July; and

(ii) begins on 1 August and ends on the last of February; and

(b) in the case of any other person—

(i) begins on the first day of the financial year for which financial accounts are prepared and ends six calendar months after that day; and

(ii) begins on the following day immediately after the period described in subparagraph (i) and ends on the last day of that financial year, and if any financial year begins on any day other than the first day of a calendar month, the financial year will be deemed to begin on the first day of that month.

(3) The Commissioner may prescribe rules for determining assessment periods in respect of financial years that are shorter or longer than 12 months.

Form, manner and place determined by Commissioner

21. (1) Except for the date described in section 20(1), all returns, forms and payments required to be made in terms of this Act must be submitted in such form, manner (including electronically) and place as determined by the Commissioner.

(2) For purposes of subsection (1), all persons described in paragraphs (a) through (c) of section 18(1) that form part of the same consolidated financial group must submit a return and make payment described in section 20(1) at the same place and on the same date as determined by the Commissioner.

State royalty joint and several liability for payment

- 22.** (1) For purposes of section 31(1) (f)—
- (a) any person that forms (or formed) part of the same consolidated financial group on the date that a mineral resource is transferred as described in section 14(1) is jointly and severally liable for any State royalty imposed in respect of the transferred mineral resource;
 - (b) any person that jointly elects (or elected) that section 15 applies in respect of a transferred mineral resource is jointly and severally liable for any State royalty imposed in respect of the transferred mineral resource; and
 - (c) any person that forms (or formed) part of a transfer as described in section 16 is jointly and severally liable for any State royalty imposed in respect of the transferred mineral resource.

Maintenance of records

- 23.** (1) Every person that is (or should be) registered under section 18 must maintain records necessary to observe the requirements of this Act, including—
- (a) a record of any mineral resource extracted and transferred with sufficient detail to identify the mineral resource, gross sales values and persons acquiring the mineral resource;
 - (b) any invoice, contractual agreement, financial statement, deposit slip, and paid cheque relating to a record described in subparagraph (a);
 - (c) a record of any State royalties paid to the State;
 - (d) a record of any credit in respect of any State royalty;
 - (f) any charts, codes of account, accounting instruction manuals as well as the system and program documentation describing the accounting system used during each assessment period; and
 - (g) any information required by the Commissioner or the Minister of Minerals and Energy.
- (2) Every registered person that transfers a mineral resource to a connected person must maintain sufficient records, working papers, calculations, documentation and any other necessary information to facilitate the Commissioner's ability to determine the arm's length value according to the resale price method described in section 13(8).

(3) Every registered person's records must be maintained (either in their original form or in any other form permitted by the Commissioner) for five years after the date of the submission of the return to which those records relate.

(4) Pursuant to a notice of assessment, the Commissioner may extend the five-year maintenance requirement described in subsection (3) for purposes of resolving that assessment.

PART VIII – ASSESSMENTS

Assessments to re-determine, recalculate and estimate amounts

- 24.** (1) If—
- (a) a person fails to furnish a return;
 - (b) the Commissioner is not satisfied with a return furnished by a person; or
 - (c) the Commissioner has reason to believe that a person has failed to pay a State royalty for which the person is liable,

the Commissioner may issue to the person a notice of assessment of the State royalty payable.

(2) Any person receiving a notice of assessment must pay to the Commissioner the amount of State royalty so assessed within 30 days following the date of the notice of assessment.

Reduced assessments

- 25.** (1) The Commissioner may reduce a notice of assessment—
- (a) to rectify any processing error made in issuing that assessment; or
 - (b) to account for an amount that should or should not have been taken into account by the Commissioner in determining the person's State royalty payable.
- (2) No reduction described in subsection (1) is allowed—
- (a) five years after the date of the notice of assessment; or
 - (b) if the assessment was accepted by the person.

Withdrawal of assessments

- 26.** (1) The Commissioner may withdraw a notice of assessment that is—
- (a) issued to an incorrect person; or
 - (b) issued in respect of an incorrect assessment period.

(2) For purposes of this Act, any withdrawn notice of assessment described in subsection (1) is deemed not to have been issued.

Time limit for assessments

27. (1) The Commissioner must issue a notice of assessment within five years following submission of the return to which the assessment relates.

(2) The five year limit in respect of a notice of assessment described in subsection (1) does not apply if the Commissioner has reason to believe that a person failed to pay the State royalty to which the assessment relates due to fraud, misrepresentation or non-disclosure of material facts.

PART IX – REFUNDS AND INTEREST

Refunds

28. (1) Any person will be entitled to a refund in respect of any State royalty to the extent any State royalty paid exceeds the amount properly chargeable under this Act.

(2) A registered person may claim a refund in respect of any State royalty paid only within five years following the assessment period giving rise to that claim.

(3) A non-registered person may claim a refund in respect of any State royalty paid only within five years following the payment date giving rise to that claim.

Interest

29. (1) The Commissioner must pay interest calculated on a monthly basis in respect of any amount of State royalty overpaid if the overpaid amount is not paid within 30 business days[?] after receipt of a refund claim.

(2) Every registered person that has failed to pay a State royalty properly due within 30 business days after the close of the assessment period to which the payment relates is liable for interest calculated on a monthly basis in respect of any amount of unpaid State royalty.

(3) Every non-registered person that has failed to pay a State royalty properly due within 30 business days after the receipt of an assessment to which the payment relates is liable for interest calculated on a monthly basis in respect of any amount of unpaid State royalty.

(4) Interest required under this section must be calculated at the prescribed rate as defined in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962).

PART X – MISCELLANEOUS

Division of responsibility

30. (1) The Commissioner will be responsible for administering this Act with the assistance of the Minister of Minerals and Energy (or any delegate of the Minister of Minerals and Energy) as described in subsection (2).

(2) The Minister of Minerals and Energy will be responsible for assisting the Commissioner—

- (a) in the verification of the gross sales value of any mineral resource transferred;
 - (b) in the verification of the quantity and quality of any mineral resource transferred; and
 - (c) in the verification of any other information that the Commissioner and the Minister of Minerals and Energy agree will assist in the administration of this Act.
- (3) For purposes of this section, “**administering this Act**” means—
- (a) determining the correctness of any return, financial statement, document; declaration of facts, or valuation relevant to this Act;
 - (b) determining and collecting any amounts due under this Act;
 - (c) determining whether an offence has been committed under this Act; and
 - (d) performing any other administrative function necessary for carrying out this Act.

Applicability of Income Tax Act

- 31.** (1) The provisions of the Income Tax Act, 1962 (Act No. 58 of 1962) relating to—
- (a) the production of information, documents or things, enquiries, searches and seizures and evidence;
 - (b) objections and appeals;
 - (c) the payment and recovery of tax and penalties;
 - (d) burden of proof;
 - (e) collection;
 - (f) civil and criminal offences;
 - (g) reporting of unprofessional conduct;
 - (h) preservation of secrecy; and

(i) jurisdiction of courts as contained in section 105, apply, with changes required by the context, to the State royalty in terms of this Act.

(2) For purposes of subsection (1) (i), the Minister of Minerals and Energy will for purposes of administering this Act as described in section 30, have access to documents in the possession or custody of the Commissioner in respect of administering this Act, and vice-versa.

(3) Any person that is dissatisfied with any decision given in writing by the Commissioner—

(a) in terms of section 18 notifying that person of the Commissioner's refusal to register that person in terms of this Act;

(b) in terms of section 19 notifying that person of the Commissioner's decision to cancel any registration of that person in terms of this Act or the Commissioner's refusal to cancel registration;

(c) of any assessment made upon that person in terms of section 24; or

(d) in terms of section 28 of the Commissioner's refusal to make a refund,

may lodge an objection thereto with the Commissioner.

Act binding on State and application of other laws

32. This Act shall bind the State, and no provision in any other law will be construed as applying or referring to the State royalty unless the State royalty is specifically mentioned in that provision.

Short title

33. (1) This Act will be titled the Mineral and Petroleum Resources Royalty Act, 2006.

(2) This Act will come into operation for all mineral resources extracted or transferred beginning on or after 1 May 2009.

(3) For purposes of section 18(1), this Act will come into operation on the earliest occurrence of a circumstance described in paragraphs (a) through (e) beginning on or after 1 May 2009.

SCHEDULE 1: ROYALTY RATES AND CLASSIFICATION**Minerals with a Single Rate**

Group	Minerals	Rate %
1	Unpolished natural diamond (gem and industrial), crystalline quartz (smokey quartz, citrine, rose quartz, amethyst, rock crystal), cryptocrystalline quartz (jasper, opal), chalcedony (blue lace agate, moss agate, onyx, rainbow chalcedony), chalcedonic replacements (silicified wood, tigers-eye), blue asbestos (crocidolite), beryl (emeralds, aquamarine, morganite, heliodor, goshenite, bixbite), chrysoberyl (cat's eye, alexandrite), corundum (rubies, sapphires), garnet (almandine, pyrope, almandine-pyrope, grossular, spessartine, uvarovite), lolite, kyanite, sodalite, sugilite (royal lavulite, royal azel), tourmaline, verdite (serpentine), topaz, copper minerals (azurite, malachite, chrysocolla), enstatite, epidote, feldspar group (moonstone, amazonite) and spinel.	5
2	Andulasite, asbestos, vermiculite, silliminite, kieselguhr, calcite, granite, marble and siltstone.	1
3	Feldspar, fluorspar, barytes, gypsum, magnesite, mineral pigment, sulphur, silica, sillimanite, talc, slate, shale, attapulgitite, bentonite, flint clays, kaolin and fire clay.	0.5
4	Limestone, lime and dolomite, phosphate rock, salt, quartzite, schist, plastic clays, fire clay (construction grades), kaolin (construction grades) aggregate and sand.	0

Minerals with Unrefined and Refined Rates

Group	Minerals	Unrefined rate %	Refined rate %
5	Platinum Group Metals (platinum, palladium, rhodium, iridium, ruthenium and osmium).	6	3
6	Chrome, manganese, silicon, vanadium, iron, cobalt, copper, nickel, lead, zinc, antimony and tin.	4	2
7	Illmenite, rutile and zircon.	3	2
8	Gold and silver.	3	1.5

Energy

Group	Mineral	Specification	Rate %
9	Coal.	Above 15% Ash Content.	1
		Below 15% Ash Content.	3
10	Hydrocarbon fuel (oil and gas).	Mining in water deeper than 500 m.	1.5
		Mining in water shallower than 500 m.	3
11	Uranium.	Oxide (yellow cake) and Uranium Hexafluoride.	1.5
		Uranium concentrate.	3

Definitions of Refined Minerals

Group 5.

Platinum Group Metals: Platinum Group Metals are refined once processed to at least 99,5 per cent purity.

Group 6.

Chrome: Chrome is refined once processed to ferrochrome or for use in the foundry, refractory or chemical industries.

Manganese: Manganese is refined once processed into an alloy, manganese metal, ferro alloy product or manganese dioxide.

Silicon: Silicon is refined once processed into ferrosilicon.

Vanadium: Vanadium is refined once processed into ferrovanadium.

Iron: Iron is refined once processed into Pig iron, DRI iron, HBI iron or steel.

Cobalt: Cobalt is refined once processed into cobalt metal or cobalt sulphur.

Copper: Copper is refined once processed into copper metal slabs, blister copper or cathode copper of at least 99 per cent purity.

Nickel: Nickel is refined once processed into a metal or other form (e.g., ferro nickel, nickel metal or nickel sulphate).

Lead: Lead is refined once processed into bars and billets containing at least 99 per cent pure lead.

Zinc: Zinc is refined once processed into zinc metal, plates or slabs containing at least 98,5 per cent pure zinc.

Antimony: Antimony is refined once processed into antimony oxide, metal or any other product that has been through a process of refining.

Tin: Tin is refined once processed into tin ingots or other related products.

Group 7.

Ilmenite and Rutile: Ilmenite and Rutile are refined once processed into titanium slag and sponge or titanium.

Zirconium: Zircon is refined once processed into Zirconium products.

Group 8.

Gold: Gold is refined once processed to at least 99,5 per cent purity.

Silver: Silver is refined once processed to silver metal or silver nitrate with at least 99,9 purity.