

**THE BAMANGWATO CONCESSIONS LIMITED MINING LEASE
ACT, 1970**

No. 7



of 1970

**AN ACT TO PRESCRIBE THE FORM, TERMS AND CONDITIONS OF THE
MINING LEASE TO BE GRANTED TO BAMANGWATO CONCESSIONS LIMITED
IN RESPECT OF THE SELEBI-PIKWE MINING OPERATIONS**

Date of Assent: 3.6.1970

Date of Commencement: 10.6.1970

ENACTED by the Parliament of Botswana.

Short Title

1. This Act may be cited as the Bamangwato Concessions Limited Mining Lease Act, 1970.

Mining Lease

2. In respect of its mining operations at Selebi-Pikwe, the Minister shall grant to Bamangwato Concessions Limited a mining lease in the form and on the terms and conditions set out in the Schedule to this Act.

3. To the extent that the said form, terms and conditions are in conflict with the provisions of the Mines and Minerals Act, 1967, the said form, terms and conditions shall prevail.

SCHEDULE
MINING LEASE

(Issued in terms of Section 24 of the Mines and Minerals Act, 1967 on the authority of the Minister of Commerce, Industry and Water Affairs)

WHEREAS BAMANGWATO CONCESSIONS LIMITED a company incorporated under the law of the Republic of Botswana (hereinafter referred to as the Grantee) has made application for a mining lease for the rights to mine copper and nickel ores on land to which the State holds mineral rights;

AND WHEREAS provision is made under section 24 of the Mines and Minerals Act, 1967 (hereinafter referred to as the Act) for the conferring of such rights by means of a State Grant;

NOW THEREFORE the Minister hereby grants to the Grantee a mining lease for the rights to mine copper and nickel ores and associated minerals contained in these mined ores in the area of Grant as hereinafter defined for a period of ninety nine years from the date hereof, subject to the provisions of the Act and to the following terms and conditions -

1. In this Grant unless the context otherwise requires -

“area of Grant” means the area defined in clause 2;

“mineral”, “prospect” and “mining” have the meanings respectively assigned to them in section 2 of the Act, and “prospecting” shall be construed accordingly;

“Mining Commissioner” means the person for the time being holding or exercising the functions of the office of Mining Commissioner for Botswana;

“this Grant” includes any renewal made in terms of section 36 of the Act.

2. (1) Subject to the provisions of subsection (2) the area of Grant shall be the area the boundary of which is as follows: commencing on the right bank of the Motloutse River at a point A at latitude $21^{\circ} 52' 30''$ south, longitude $27^{\circ} 49' 10''$ east the boundary runs in an easterly direction along the right bank of the Motloutse River to a point B at latitude $21^{\circ} 53' 00''$ south, longitude $27^{\circ} 56' 10''$ east; thence in a straight line in a southerly direction to a point C at latitude $22^{\circ} 07' 00''$ south, longitude $27^{\circ} 49' 10''$ east; thence in a straight line in a westerly direction to a point D at latitude $22^{\circ} 06' 30''$ south longitude $27^{\circ} 45' 00''$ east; thence in a straight line in a northerly direction to a point E at latitude $21^{\circ} 59' 20''$ south longitude $27^{\circ} 47' 10''$ east; thence in a straight line in a north westerly direction to a point F at latitude $21^{\circ} 57' 40''$ south, longitude $27^{\circ} 46' 30''$ east; thence in a straight line in a north easterly direction to a point G at latitude $21^{\circ} 56' 10''$ south, longitude $27^{\circ} 47' 50''$ east; thence in a straight line in a northerly direction to the point of commencement, as will more fully appear from Plan NQ-92/1 filed in the Department of Surveys and Lands.

(2) When a diagram of the area of grant has been prepared and submitted to and approved by the Director of Surveys and Lands, the area of grant shall be deemed to be that shown in the said diagram.

3. In terms of section 33 of the Act the Grantee shall pay monthly in advance to the Mining Commissioner at his office at Lobatse a licence fee at the rate of seventy-five thousand rand (R75,000) per annum.

4. The Grantee shall carry out mining and prospecting operations in accordance with the Act and any statutory instrument thereunder.

5. The Grantee shall itself abide by and observe and shall require all its employees to abide by and observe all relevant laws and regulations for the time being in force in Botswana with particular reference to laws and regulations concerning the hunting, molestation and preservation of game.

6. This Grant confers no rights on the Grantee to the use of timber of whatsoever nature within the area of Grant.

7. The Grantee shall not interfere with the exercise by any person or by the general public of rights which he or they may have acquired (whether by grant, sufferance or otherwise) in the area of Grant prior to the date of this Grant save to the extent that the exercise of such rights is incompatible with the efficient carrying on of mining and prospecting operations.

8. The Grantee shall notify the Mining Commissioner of the appointment of any new director to the Grantee within a period of one month of such appointment.

9. At all times during the currency of this Grant the Grantee shall maintain an address within Botswana as *domicilium citandi et executandi* and shall notify the Mining Commissioner of that address before commencing to exercise its rights under this Grant.

10. All notices or information to be given in connection with this Grant to the Mining Commissioner shall be adequately given at the office of the Director of Geological Survey, Private Bag 14, Lobatse; all notices so to be given to the Grantee shall be adequately given if given to the address referred to in clause 9.

11. Nothing in this Grant shall be deemed to prejudice or affect the rights of the State or any person or persons except as expressly mentioned in this Grant.

12. (A) In respect of minerals mined under this Grant the Grantee shall pay to the Ministry of Finance on behalf of the Government a royalty in accordance with the following provisions to the exclusion of any royalty payment which might otherwise be payable by the Grantee in respect of minerals mined in the area covered by this Grant:—

- (a) In respect of each financial year of the Grantee in which there is an excess of sales revenue over production cost (as hereinafter defined) the Grantee shall pay to the Government a royalty equal to seven and one half per cent of such excess.

(b) The said royalty shall be calculated and payable as follows:—

The excess of sales revenue in any financial year over the production cost in that financial year shall be arrived at after taking into account the opening and closing stocks of metals and minerals as valued for the purpose of the audited Accounts of the Grantee;

In this clause

“operations” means mining operations carried on by the Grantee within the area of Grant and all exploration carried out by the Grantee within Botswana, and processing, servicing, administrative and marketing operations related to such mining operations or exploration;

“sales revenue” means the amount realised by the Grantee from the operations;

“production cost” means the cost of production of minerals or metals, including the operating costs down to and including delivery by the Grantee to buyers, and rents or other like amounts payable to the Government, including payments made by the Grantee as contribution towards the costs of establishing a township at Selebi-Pikwe, interest payable on loans, expenses of administration (including Directors’ fees), depreciation or other like amounts set aside to provide for the replacement of assets and the amount of all such other provisions as in the opinion of the Auditors of the Grantee it is proper to make according to the principles of sound accountancy but not including appropriations to reserves or provisions for income tax, profits tax, or any tax of a substantially similar nature nor royalties payable hereunder;

“financial year” means the period of twelve calendar months adopted by the Grantee as its financial year.

(B) In the financial year during which the Grantee commences commercial production and in each of the succeeding twenty-four financial years Bamangwato Concessions Limited shall make an advance payment amounting to R750,000 on account of the royalty due in respect of such financial year. Each such advance payment shall be made on the First day of August in the relevant financial year: Provided always that if commercial production commences on a date in any calendar year later than the First day of August the first such advance payment shall be made on the date upon which production commences. No such advance payment shall be repayable or bear interest. If, however, any advance payment exceeds the amount of the royalties finally ascertained to be due for the relevant year, the excess may be carried forward to the next and subsequent years without limit of time until fully utilised and set off against royalties due for any such year to the extent that such royalties exceed the advance payment for that year.

(C) The royalty payable hereunder in respect of any financial year of the Grantee shall be based upon its audited Accounts. Immediately upon certification

