

eSwatini

Ancillary Rights Act, 1950

Act 59 of 1950

Legislation as at 1 December 1998

FRBR URI: /akn/sz/act/1950/59/eng@1998-12-01

There may have been updates since this file was created.

PDF created on 21 February 2024 at 17:40.

Collection last checked for updates: 1 December 1998.

[Check for updates](#)



About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

This is a free download from the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

www.laws.africa
info@laws.africa

There is no copyright on the legislative content of this document.
This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

Ancillary Rights Act, 1950

Contents

| | |
|---------------------------------|---|
| 1. Short title | 1 |
| 2. Interpretation | 1 |
| 3. Swazi areas | 2 |
| 4. Power to cancel | 2 |
| 5. Notice of cancellation | 2 |
| 6. Appeals | 3 |

eSwatini

Ancillary Rights Act, 1950

Act 59 of 1950

Commenced on 3 November 1950

[This is the version of this document at 1 December 1998.]

An Act to provide for the cancellation of ancillary rights over land over which prior-dated mineral rights exist, and to protect the Swazi people in Swazi Areas over which such ancillary rights exist.

1. Short title

This Act may be cited as the Ancillary Rights Act, 1950.

2. Interpretation

In this Act, unless inconsistent with the context—

“**Swazi area**” means any piece of land set apart for the exclusive use and occupation of the Swazi people under the Concessions Partition Act, [No. 28 of 1907](#);

“**ancillary right**” means a right subsidiary to the main object of a concession or deemed to be granted for the better carrying out of such object;

“**concession**” means any grant of land or the use thereof for agricultural, mining or grazing purposes, or any grant of minerals or mineral products or timber made by or on behalf of the King or Paramount Chief of Swaziland and confirmed, either by the late Chief Court, of Swaziland or by the High Commissioner under Part III of the Concessions Act, [No. 3 of 1904](#), and shall include any rights originally included in any grant so made and confirmed which has become vested in or been expropriated on behalf of the Crown, whether or not such grant has been cancelled;

“**date**” or “**dated**” as applied to a concession or right refers to the date on which such concession or right was granted or created, such date in the cases of concessions to which section 9 of the Concessions Act applies being determined in accordance with the provisions of that section:

Provided however in the case of concessions confirmed by the High Commissioner under Part III of the Concessions Act such terms shall refer to the date of such confirmation; and in the case of rights originally granted by a concession which has become vested in or been expropriated on behalf of the Government of Swaziland, such terms shall refer to the date of such concession whether or not such concession has been cancelled; and in the case of a freehold title issued under the Concessions Partition Act such terms shall refer to the date of the concession on which such title is founded, and in the case of rights attaching to a Swazi area such terms shall refer to the date of the concession granting the land or the use of the land on which the Swazi area is demarcated;

“**land proprietor**” means the proprietor of a land right;

“**land right**” means and includes—

- (a) the right to land derived from a concession making a grant of land;
- (b) the right to land derived from a concession giving a lease of land or grant of land for a limited period;
- (c) the right to land derived from a freehold grant of land made under the Concessions Partition Act or otherwise;
- (d) any right of the Crown to land vested in the Crown as Crown land whether under a condition or otherwise;

(e) the right of the Swazi people to the use and occupation of any Swazi area;

but does not include the right to graze or to cut timber on any land;

“later-dated mineral concession” means a mineral concession which is dated after the land, grazing or other concession over the same area;

“mineral concession” means a concession giving a right to precious or base metals, precious stones, minerals or mineral products on any piece of land;

“mining operations” means carrying out operations to win minerals or mineral products from the earth, and shall include all excavating necessary for that purpose;

“Minister” means the Minister responsible for crown lands;

“prior-dated mineral concession” means a mineral concession which is dated before the land, grazing or other concession, as the case may be, over the same area;

“proprietor” includes land proprietor, and means any person in whose name is registered in the Deeds Office of Swaziland any concession or any land right; and if such person has disposed of the whole or part of his rights by lease or other document registered against title, it includes the person registered as the holder of such lease or document; it further includes the legal representative of any such person who has died, become insolvent, is a minor, is of unsound mind or is otherwise under disability.

3. Swazi areas

- (1) Notwithstanding anything contained in the Concessions Partition Act, the proprietor of any prior-dated mineral concession may exercise ancillary rights on Swazi areas:

Provided that the exercise of such rights shall be subject to such conditions and restrictions as the Minister may deem necessary for the protection of the Swazi people in the full and sufficient enjoyment, use and occupation of such areas.

- (2) Notice of any conditions or restrictions imposed under subsection (1) shall be given by the Minister to the proprietor affected thereby.
- (3) The Minister may give the proprietor of a later-dated mineral concession permission to cut timber or to graze stock so far as may be necessary or convenient for mining purposes on any Swazi area subject to such conditions and restrictions as he may think fit to impose and he may withdraw such permission if in his opinion the continuance thereof is incompatible with the full and sufficient enjoyment, use and occupation of such area by the Swazi people.

4. Power to cancel

- (1) If the Minister is of opinion that the existence of any ancillary rights to prior-dated mineral concessions are detrimental to public interest or adversely affect the interest of any land proprietor he may cancel such ancillary rights, which shall forthwith be of no legal force or effect, save as to an area within 183 metres of a site actually in use for mining operations, or to such larger area adjacent to the mining operations as in the opinion of the Minister may be necessary to allow of the continued exercise of such ancillary rights as were actually being exercised on the thirtieth day of September, 1950.
- (2) The Minister may exercise the right of cancellation in respect of the ancillary right attaching to a specified concession or in respect of all or any of the ancillary rights within a designated area or areas.

5. Notice of cancellation

Immediately upon the exercise of the power to cancel contained in [section 4](#) hereof, the Minister shall give notice thereof in the *Gazette* and shall give notice in writing thereof to every proprietor of a prior-dated mineral concession whose rights are cancelled by the decision:

Provided that failure to give such notice in writing shall not invalidate the cancellation.

6. Appeals

- (1) Any proprietor of a prior-dated mineral concession whose ancillary rights have been cancelled may apply to the Minister for compensation by the Swaziland Government.
- (2) Upon receipt of any application in terms of subsection (1) supported by evidence to the satisfaction of the Minister that the applicant has suffered loss, the Minister may award compensation in such amount and to be made in such form as he shall think fit.
- (3) Any person aggrieved by any decision of the Minister on an application made in terms of subsection (1) hereof may apply to have such claim referred to the decision of a board which may award or refuse compensation, or reduce or increase the compensation awarded by the Minister.
- (4) An appeal from the decision of such board shall lie to the High Court which may make such order as it may deem equitable.
- (5) No person or persons save the Swaziland Government shall be liable to the proprietor of a prior-dated mineral concession for compensation for cancellation of any ancillary rights to such concession.

Note. — “Crown” includes the Government of the Kingdom of Swaziland — See *The Vesting of Land in King Order, No. 45 of 1973*.