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Concessions Partitions Act, 1907

Act 28 of 1907

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Concessions Partitions Act, 1907

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Concessions Partitions Act, 1907

Act 28 of 1907

Commenced on 19 October 1907

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

1*

An Act to provide for the setting apart of land for the sole and exclusive occupation by Swazis, and the grant of freehold or other rights to persons holding concessions in respect of land not so set apart.

1. Short title

This Act may be cited as the Concessions Partitions Act, 1907.

2. Interpretation

In this Act, unless the context otherwise requires—

“**Commission**” shall mean the Concessions Commission appointed under section 3 of the Concessions Act, [No. 3 of 1904](#);

“**concessionaire**” shall mean in relation to a concession the holder for the time being of such concession;

“**land concession**” shall mean any concession confirmed by the Chief Court (other than a mineral concession) which confers any title or right (not being a right included in section 4 of the Concessions Act, [No. 3 of 1904](#)) to land or the use thereof for agricultural or other purposes;

“**later land concession**” shall mean a land concession of subsequent date to a prior land concession, but conferring rights similar to those, and over the same area, or a portion of the same area as that, covered by and exercisable only after the expiry of, the rights granted under such prior land concession;

“**mineral concession**” shall mean a concession confirmed by the Chief Court, conferring a right (not being a right included in section 4 of the Concessions Act, [No. 3 of 1904](#)) to mine, dig, search or otherwise explore for precious or base metals, or coal, or for precious stones, or in the case of any such concession which confers any such right in addition to any other rights, such concession in as far as it relates to such right;

“**Minister**” means the Minister responsible for concessions;

“**prior land concession**” shall mean a land concession prior in date to a later land concession, but conferring rights similar to and over the same area, or a portion of the same area, as that covered by the rights conferred by such later land concession;

“**Special Commissioner**” shall mean the person appointed to exercise all and singular the authorities, jurisdiction and duties imposed by this Act.

1*

For history and background of this Act, see explanatory note to the Concession Act, [No. 3 of 1904](#).

3. Setting apart of land for occupation by Swazis

- (1) The Special Commissioner shall set apart portions of land affected by any land concession or land concessions for the sole and exclusive use and occupation by Swazis, and shall for such purpose cause land so set apart to be surveyed and diagrams thereof framed.^{2*}
- (2) If no portion of the area of land the subject of a land concession is so demarcated, or if the portion or portions demarcated do not equal in extent one-third of the area of land the subject of a land concession, the Minister may require the Special Commissioner—
 - (a) to select a defined piece or pieces of land which, together with the area demarcated as aforesaid, if any, will make up such one-third, and to demand transfer of such piece or pieces of land from the concessionaire; or
 - (b) to demand transfer from the concessionaire of an undivided share of such proportion of land, the subject of his land concession, as together with the area demarcated as aforesaid, if any, will make up such one-third.
- (3) Such piece or pieces of land or undivided share shall be transferred into the name of the Minister, who may in his discretion sell the same and apply the proceeds of sale to reduction of any expenditure incurred in the exercise of the powers of this section, or may exchange or otherwise dispose of such piece or pieces of land or undivided share as to him may appear expedient.
- (4) Any rights with regard to precious or base metals, precious stones, minerals or mineral products exercisable, whether under a mineral concession or otherwise, in respect of any portion of land demarcated, selected or transferred under this section shall not be affected by such demarcation, selection or transfer but such rights shall be subject to [section 6](#).

4. Concessionaire's interest extinguished

- (1) All rights or interests conferred upon a concessionaire by his land concession shall, in respect of any portion of land demarcated, selected or transferred under the preceding section, cease and determine.
- (2) Any portion not so demarcated shall be freed from any right possessed by Swazis to use and occupation thereof.

5. Issue of freehold title

If a concessionaire has under a land concession been granted—

- (a) title to the ownership of land; or
- (b) a lease of land which, with or without rights of renewal, is of not less than ninety-nine years' duration;

there shall be issued to such concessionaire freehold title in respect of any portion of land held under such title or lease, not demarcated, selected or transferred as aforesaid, subject to such leases and servitudes as may be determined by the Commission under the provisions of the Concessions Act, [No. 3 of 1904](#) and to such other servitudes as may have been awarded by the Special Commissioner, and further subject to such mortgage bonds, leases or other encumbrances as are at the date of issue of such freehold title registered against such concession.

[Amended P41/1962]

[This section must be read in conjunction with King's [Order-in-Council No. 15 of 1973](#). Land Concession Order]

^{2*}

For areas demarcated, see Definition of Swazi Areas Act, [No. 14 of 1916](#).

6. Conditions of freehold title

- (1) Every grant of freehold title made under [section 5](#) shall be subject to the following conditions—
 - (a) the grantee shall continue payment of any rents, royalties or other monies due under the concession on which his claim to freehold title is based:

Provided however that in substitution for any such rents, royalties or other monies which are payable to the Swaziland Government, the grantee may be required to pay quit-rent of such amount and at such periods as may be fixed by Regulation;
 - (b) the grantee shall not by virtue of the grant become entitled to receive any rents, royalties or other monies payable under any concession affecting the land included in the grant, or any portion of such land, which he was not entitled to receive by virtue of the concession on which his claim to freehold title is based;
 - (c) the grantee shall, in the event of his failing beneficially to occupy the land by himself or one or more male substitutes of full age to the satisfaction of the Minister, be liable to pay to the Swaziland Government fines of such amount and at such periods as may be fixed by Regulation;

[Amended P.4/1962]
 - (d) all rights to precious or base metals, precious stones, minerals and mineral products shall be excluded from the grant: with the exception of any such rights which are specifically granted by the concession on which the grantee's claim to freehold title is based;
 - (e) such other conditions not being inconsistent with the conditions above mentioned as are by the laws of the Transvaal implied in grants of Crown land.
- (2) The term "the grantee" as used in this section shall be deemed to include any person who is the grantee's successor in title to any land included in a grant, or any portion of such land.

7. Restrictions on exercise of mineral concessions

- (1) The Minister may by notice in the *Gazette* define areas which are occupied by, or are in the neighbourhood of Swazi kraals of special importance, or are the sites of the graves of Swazi chiefs, as protected areas, and notwithstanding anything contained in any mineral concession, it shall not be lawful to carry on any prospecting or mining operations in such protected areas.^{3*}
- (2) The exercise of rights under mineral concessions shall be subject in all respects to such restrictions on the disturbance of, or interference with, water, buildings, works, kraals, cultivated lands and other improvements, and to such provisions as to compensation for any such disturbance or interference as the Minister may hereafter determine.

8. Regulations

The Minister may make, alter and rescind Regulations not inconsistent with the provisions of this Act as to the amounts and times of payment of quit-rents and fines due under [section 6](#), and generally for the better carrying out of the objects and purposes of this Act.

9. Registration of deductions

- (1) Notwithstanding anything in this Act, the Registrar of Deeds may call upon the owner or owners of any land concession to produce their title deeds and the diagram or diagrams of such concession.

^{3*}

See also Swazi Graves Act, [No. 19 of 1909](#) and the Mining Act, [No. 5 of 1958](#)

- (2) The Surveyor-General shall thereupon deduct from such diagram or diagrams any area or areas selected or demarcated in accordance with this Act, and the Registrar of Deeds shall register such area or areas so deducted in the name of the Minister.
- (3) Such registration shall be deemed to be a valid transfer of the area or areas.
- (4) The Registrar of Deeds shall issue to the Minister a certificate of title to the area or areas of any concession thus transferred into his name.

10. Registration on failure to produce deeds

If the Registrar of Deeds has, under [section 9](#), given notice calling upon the owner or owners of any land concession to produce their title deeds and the diagram or diagrams of such concession, and such owner or owners have failed to produce such deeds and diagrams, it shall be competent for the Surveyor-General to deduct any such areas from the diagram of the concession filed in his office and in the office of the Registrar of Deeds, and for the Registrar of Deeds to register the area or areas so deducted in the name of the Minister; and such registration shall be deemed to be a valid transfer, and the Registrar of Deeds shall issue to the Minister a certificate of title to the area or areas thus transferred into his name.