

Mining Law Zimbabwe

Listed below are some of the important pieces of legislation that govern mining operations.

Anyone involved in mining in Zimbabwe should be familiar with the provisions of these pieces of legislation as they detail the obligations of holders of mining locations.

- Mines and Minerals Act Chapter 21:05
- Explosives Regulations
- Mining (General) Regulations
- Mining (Managements and Safety) Regulations
- Mining (Health and Sanitation) Regulations
- Mines and Minerals (Custom Milling Plants) Regulations
- Gold Trade Act
- Precious Stones Trade Act
- Environmental Management Act
- Environmental Regulations
- Forestry Act
- Water Act
- Zimbabwe National Water Authority Act

There are other pieces of legislation that impinge on the operation of commercial ventures such as the Companies Act, the Sales Tax Act, Exchange Control Act and others that mining companies as commercial activities need to comply with. (Hard copies of all pieces of legislation may be purchased from the **Printflow**).

PROSPECTING, EXPLORATION AND MINING TITLES

The Mines and Minerals Act Chapter 21:05 is the law for the mining industry in Zimbabwe. There are other Acts and Regulations that draw their existence from this Mines and Minerals Act. The Act has been acknowledged as a good piece of legislation by both local and international investors. Given recent developments in the SADC region there is a growing need to refine the Act so that it continues to provide a competitive operating framework for investors. The government is in the process of amending the Mines and Minerals Act to provide stronger

environmental provision in line with the Environmental Management Act that came into force in 2007. The amendments are also intended to:

- Simplify the Mines and Minerals Act
- Provide for a computerised cadastre unit to manage mining titles

Mineral resources are vested in the President of the Republic of Zimbabwe. This provision conforms to the international norm where resources are held by the state on behalf of the people of the country. One acquires the right to search for and work the resources by obtaining licences. These licences are applied for through the Mining Commissioner from the mining district in which the resource is located.

PROVISIONS IN CURRENT MINES AND MINERALS ACT

Rights to minerals

The dominion in the right of searching and mining for and disposing of all minerals, mineral oils and natural gases is vested in the President. Any person of 18 years of age or older who is a permanent resident of Zimbabwe or his agent may acquire one or more prospecting licences on payment of the appropriate fee. The licence to acquired is valid for 24 months. Any person may make written application to the Mining Affairs Board for authority to prospect on reserved ground

Exploration and Prospecting:

Three types of titles are available for searching for minerals. These are *Exclusive Prospecting Licence*, *Special Grant* and *Prospecting Licence*.

Land open to prospecting

- All State Land and Communal Land.
- All private land to which there has been reserved, either to the British South African Company or to the Government of Zimbabwe, the right to all minerals or power to make grants of the right to prospecting of minerals.

- All land held by any person under enactment or agreement whereby such person is entitled to obtain from the State title thereto on the fulfilment by him the conditions prescribed by such enactment.

Prospecting Licence:

Any person above the age of 18 years may apply for a prospecting licence. The licence provides the right to search for minerals and peg claims. There two types of prospecting licences the ***Ordinary Prospecting Licence*** and the ***Special Prospecting Licence***.

Exclusive Prospecting Orders (EPO):

Any person may make written application to the Board for an EPO in his/her favour over any defined area in Zimbabwe, including any area reserved from prospecting. On application the applicant shall pay a deposit, as gazetted from time to time (***Contact to Geological Survey of Zimbabwe***). If the Board is satisfied that the applicant is a fit and proper person to obtain the order and is of adequate financial standing to undertake the operations under the order; and that it would not be against the national interest to make such an order, then the Board may recommend to the Minister to make the EPO in favour of the applicant.

No EPO shall be granted for a period exceeding three years but an order may be extended by the Minister on recommendation by the Board for a further period not exceeding three years in all.

The rights granted under an order shall be personal to the authorised holder who may not cede or assign any such rights to another person. The Minister may, on the recommendation of the Mining Affairs Board and with the consent of the concession holder, which consent shall not be unreasonably withheld, authorise any person to peg and register for a mineral other than a mineral for which the concession holder is authorised to prospect.

Every concession holder shall submit for the approval of the Board, a programme of work containing particulars of the intended prospecting operations and their costs.

The concession holder shall carry out the approved programme and submit to the Board a report of the work carried out during the period covered by the programme including expenditure incurred. If the concession holder fails to submit the report, he/she is notified in writing by the Board that his/her order is liable to be revoked. If no report is received within 21 days of such notification then the Minister shall revoke the order.

Special Grant (under Part XIX of the Mines and Minerals Act):

This title provides the holder with the right to prospect for minerals in an area reserved against prospecting and pegging of claims. The title provides the duration of validity of the right to prospect and peg and the terms and conditions under which title will operate. The Secretary for Mines issues the Special Grant.

Titles for mine development and mining:

The titles available for mine development and mining include *Mining claim* (normally registered as a block of claims), *mining lease*, *Special Grant* and *Special Mining Lease*.

Mining leases:

The holder of a mining location or contiguous registered mining locations may make written application to the mining commissioner for the issue to him of a mining lease in respect of a defined area within which such locations are situated. The holder of a mining lease has the exclusive right of mining any deposit or mineral that occurs within the vertical limits of his lease.

Special mining leases:

The holder of one or more contiguous mining locations who intends to establish or develop a mine thereon and investment in the mine will be wholly or mainly in foreign currency and will exceed US\$100 million in value, and the mine's output is mainly intended primarily for export, may apply in writing to the mining commissioner for a special mining lease of a defined area within which his mining locations are situated.

The board may permit a person to make an application notwithstanding that either or both the criteria mentioned above will not be met, if the Board considers that it is desirable in the interest of the development of Zimbabwe's mineral resources.

Having received the application the Board shall forward it to the Minister together with their recommendations. The Minister shall submit them to the President together with his own recommendation for the President's approval.

Special grant:

The Secretary may issue to any person a special grant to carry out mining of coal, minerals oils or natural gas.

Mining Claims:

A holder of a prospecting licence may peg claims and register the claims for the purpose of mining. The maximum size of the each precious metal block of claims is 500m X 200m. This constitutes a block of 10 claims. Base metal claims pegged by a holder of an ordinary prospecting licence may not be more than 25 claims and each claim shall not exceed one hectare in extent. The length of any straight line between any two points may not exceed 250m. Base metals pegged by a holder of a special prospecting licence may not exceed 150 claims and each claim may not exceed one hectare in extent. The length of any straight line between any two points may not exceed 2000m.

Mining rights

Priority of acquisition of title to any location, reef or deposit, if such title has been dully maintained, shall in every case determine the rights as between the various peggers of mining locations as the aforesaid and in cases of dispute the rule shall be followed that, in the event of any rights of any subsequent pegger conflicting with the rights of a prior pegger, then, to the extend to which such rights conflict, the rights of any subsequent pegger shall be subordinate to those of the prior pegger.

Preservation of mining rights

The holder of any block of base mineral, reef or placer deposit claims registered as precious metal or of any mining lease shall, within six weeks of registration, apply to the mining commissioner for and obtain a certificate of inspection in respect of work executed on the mining location. The Secretary may authorise a mining commissioner to grant a protection certificate in respect of any block of reef or placer deposit claims.

Alluvial, eluvial, rubble deposit, dumps and precious metal blocks: The holder of such blocks shall continuously work his claims from the date of registration of such blocks and shall pay to the mining commissioner annually in advance the prescribed fee in respect of such blocks.

Working other designated mineral deposits:

The minister may, by statutory instrument, declare any mineral to be a designated mineral for the purpose of the control of working such a mineral and may revoke in like manner any such mineral.

Other entry points into mining:

There are various entry points into mining. One may elect to start the process from prospecting stage until mining, while others may elect to enter into agreements to acquire mining locations owned by others. The later entry points are detailed below.

Transfers:

When any registered mining location or any interest therein is sold or otherwise alienated, the seller or person who so alienates shall notify the commissioner of the transaction within 60 days of the date of transaction. The seller shall provide the following information to the Mining Commissioner:

- the name of the person to whom such location or interest is sold or otherwise alienated
- the amount of the valuable consideration, if any, agreed upon,
- the date of the transaction.

The agreement should be registered with the mining commissioner. A transfer duty is payable by the purchaser on the sell at a fee prescribed by parliament. This duty should be paid within six months. If payment is partly in cash and partly in shares of a company, the nominal value of the shares shall be used. In the case where payment is contingent upon some future event the purchaser shall give security to the satisfaction of the Mining Commissioner that he will pay the transfer duty at a fixed rate when the consideration becomes due.

No transfer is possible if:

- The mining location is liable for forfeiture or under attachment
- Duties, fees, royalties, rentals and other payments in respect of the mining location are outstanding with the Mining Commissioner's office.
- There are outstanding payments due to the Rural District Council

Transfers can only be made to permanent residents of Zimbabwe. In the case where transfer is to be made to non-residents the Mining Commissioner has to receive assurance from Reserve Bank of Zimbabwe that all exchange Control requirements have been fully complied with.

On receipt of the fee the Mining Commissioner will then issue the new owner with a new certificate of registration.

Tributes:

If any holder of a registered mining location has agreed in writing to grant a tribute to any other person, the tributor may apply to the mining commissioner for the registration of a notarial deed embodying the terms of such agreement.

The holder of the mining location is to provide the following to the mining Commissioner:

- Names of parties to the agreement
- Name and registration number of the mining location
- Date upon which the rights conferred by the agreement will commence and expires.

If the agreement confers the tributor the option to exercise the right to purchase the location at a future date then the agreement will be registered as an option agreement.

Options:

An option to purchase or otherwise deal with a mining location can be agreed between the holder of a mining location and the potential buyer. The holder may apply to the Mining Commissioner for registration of a notarial deed embodying the terms and conditions of the contract between the parties. A prescribed fee is payable.