

**MINISTRY OF NATURAL RESOURCES
AND ENVIRONMENTAL AFFAIRS**

**MINES AND MINERALS ACT
CAP. (61.01)**

Extracts

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BACKGROUND

The Department of Mines was established in 1983 with the objective of facilitating the development of mining and petroleum exploitation so as to create an orderly and Environmentally sustainable mining industry.

KEY ROLES FOR MINES DEPARTMENT

- (1) Administering of the mines and minerals Act, the explosives Act and the petroleum (Exploration and Production Act).
- (2) Providing technical assistance in setting up mining operation.
- (3) Researching into the beneficiation of various minerals.
- (4) Providing technical support and extension services to the minerals sector particularly the small-scale miners concentrating on appropriate mining techniques, and mineral processing and safety aspects.
- (5) Promotion of the mineral resources of Malawi through publications, conference presentations and general correspondences with potential investors.
- (6) Issuing prospecting and mining licences
- (7) Compilation of statistical information on mineral production.
- (8) Providing technical assistance on the purchase, transportation, storage and use of explosives.
- (9) Conducting bench and pilot scale tests on individual on industrial suitability of the different Malawian minerals.
- (10) Inspection of mines and magazines.
- (11) Generation and execution of various mineral development project.
- (12) Issuing permits and licences for explosives and testing and issuing licences to Blaster.

MINERAL RIGHTS ISSUED BY THE DEPARTMENT OF MINES

RECONNAISSANCE LICENCE

An application for the grant of Reconnaissance licence shall :

- (1) Be accompanied by a plan of the area over which the licence is sought.
- (2) Identify the minerals in respect of which the licence is sought.
- (3) Be accompanied by a statement giving particulars of the financial and technical resources available to the applicant for the licence.
- (4) Be accompanied by a statement giving particulars of the programme of reconnaissance operations proposed to be carried out in the area of land over which the licence is sought, an estimate of the cost of carrying out the programme and the period required for completion of the programme, and an estimate of any significant effect which the carrying out of the programme would be likely to have on the environment or on any monument or relic in the area over which the licence is sought.

Restriction on grant of Reconnaissance Licence.

No reconnaissance licence shall be granted over an area of land, which constitutes: -

A prospecting area if a person, other than the person to whom the reconnaissance licence would be granted, is the holder of an exclusive prospecting licence over the area in respect of a mineral of which the reconnaissance would relate;

- (1) a mining area.
- (2) A claim area

Term of Reconnaissance Licence.

- (1) The holder of the licence shall have the right to carry on reconnaissance operations in or over the reconnaissance area, and for the purpose of the exercise of that right the holder may enter the reconnaissance area, erect camps and temporary buildings, or erect installations in any waters forming part of the reconnaissance area.

- (2) The holder shall not engage in drilling, excavation or other subsurface techniques, except where and to the extent, he is authorised by his licence to use any of those techniques.

- **EXCLUSIVE PROSPECTING LICENCES.**

An application for the grant of an exclusive prospecting licence shall:

- (1) Identify the minerals sought.
- (2) Be accompanied by a plan of the area.
- (3) State the period for which the licence is sought.
- (4) Give or accompanied by a statement giving particulars of the programme of prospecting operations proposed to be carried out in the area of land over which the licence is sought and an estimate of the cost of carrying out programme, and an estimate of any significant effect which the carrying effect which the carrying out of the programme would be likely to have on the environment and on any monument or relic in the area over which the licence is sought;
- (5) Give or be accompanied by a statement giving particulars of the applicant's proposals with respect to the employment and training of citizens of Malawi;
- (6) Be accompanied by a statement giving particulars of expected infrastructure requirements;

Restriction on grant of Exclusive Prospecting License

- (1) No exclusive prospecting licence shall be granted over an area of land in, or which constitutes a mining or a claim.
- (2) Where an area of land is subject to an exclusive prospecting licence, no other exclusive prospecting licence shall be granted over land in, or which constitutes, that area in respect of any mineral to which the subsisting exclusive prospecting licence relates.
- (3) No exclusive prospecting licence shall be granted to the applicant unless;

The applicant has adequate financial resources, technical competence to carry on effective prospecting operations.

The programme of proposed prospecting operations is adequate.

The applicant's proposals for the employment and training of citizens of Malawi.

Terms of Exclusive Prospecting Licence.

The licence is granted for a period not exceeding three years. It is renewable for two years thereafter for one year.

Duties of Holder of Exclusive Prospecting Licence.

The Holder of an Exclusive Prospecting Licence –

- (1) Shall commence prospecting operations within three months of the date of the grant of the licence.
- (2) Shall carry on prospecting operations in accordance with his programme of prospecting operations.
- (3) Shall give notice of the discovery of any mineral to which his licence deposit of possible commercial value within thirty days of discovery.
- (4) Shall employ and train citizens of Malawi.

MINING LICENCE

- (1) An application for the grant of a mining licence may be made by the holder of an exclusive prospecting licence or by a person who is not such a holder.
- (2) An application for the grant of a mining licence shall identify the minerals, which it is proposed to mine and state the number of exclusive prospecting licence. (if any) and give details of any exclusive prospecting licence by the applicant.
- (3) The application shall:

Be accompanied by a plan of the area over which the licence is sought.

State the period for which the licence is sought.

Give or be accompanied by statement giving details of the mineral deposits in the area over which the licence is sought.

Be accompanied by a technological report on mining.

Be accompanied by an environment impact assessment report.

Be accompanied by statement giving a detailed forecast of capital investment, operating costs and revenues and the anticipated type and source of financing.

Be accompanied by a statement giving particulars of proposals with respect to the employment and training of citizens of Malawi.

Term of Mining Licence.

The licence shall be granted for a maximum period of 25 years or estimated life of the ore body, renewable for a period of 15 years.

Rights and duties of holder of Mining Licence.

The holder of a mining licence shall :

- (1) *Not intentionally carry on prospecting or mining operations for a mineral unless it is a mineral to which his licence relates;*
- (2) *Carry on mining and development operations and commence production in accordance with his programme of mining operations;*
- (3) *Employ and train citizens of Malawi;*
- (4) *Demarcate and keep demarcated the area of land subject to the licence;*

DEPARTMENT OF MINES ROLE IN ENVIRONMENT ISSUES.

Part VII of the Mines and Minerals Act Cap 61:01 of 1981 empowers the Department of Mines to create an orderly and environmental sustainable mining industry by performing the following roles during the granting to Mineral Right and environmental inspections of Mining operations.

Protection of Natural Resources.

- (1) *A mineral right shall be granted after taking into account the need to conserve the natural resources in or on the land over which mineral right is sought.*
- (2) *Environmental impact studies to be carried out before the granting of mining licence.*

Conditions for the Protection of the Environment.

A mineral right will be granted with conditions to be included with respect to :

- (1) *The prevention, limitation or treatment of pollution;*
- (2) *The minimisation of effects of mining on adjoining or neighbouring areas and their inhabitants.*

Rehabilitation of area damaged by prospecting or mining.

Conditions for the rehabilitation of area damaged by prospecting or mining may be included in the licence relating to :

- (1) *The reinstatement, levelling, regressing, reforesting and contouring of any part of prospecting or mining area that may have damaged or deleteriously affected by prospecting or mining operations;*
- (2) *The filling in, sealing or fencing off excavations, shafts and tunnels.*

Direction to comply with Conditions of Mineral right for Protection of Environment.

- (1) Where a Mineral right over any land is wholly or partly determined or cancelled or expires, the Minister may, by notice served on the person who is or was the last holder of the Mineral Right, direct him to comply with conditions of mineral right for the protection of the environment.
- (2) Any person to whom a direction is given fails or neglects to comply with the direction is guilty of an offence and liable on conviction to a fine or imprisonment.

APPENDIX

TYPE OF LICENCE	DURATION
Renaissance Licence	1 Year, renewable for a period of one year
Exclusive Prospecting Licence	3 years, renewable for a further period of two years thereafter for one year
Mining Licence	25 Years or life of the mine, renewable for a maximum of 15 year period
non-exclusive Prospecting Licence	1 Year, renewable each year
Mining Claim Licence	1 Year, renewable each year
Reserved Mineral Licence	1 Year, renewable each year