



MOIRA MUKUKA

LEGAL PRACTITIONERS

Ministry of Mines to Pull the Plug on Defaulting Licence Holders

MUMBI MULENGA | JANUARY 21, 2022 | MINING & NATURAL RESOURCES

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The Ministry of Mines and Mineral Development has issued a public notice requiring holders of mining, exploration, and mineral processing licenses to comply, within 30 days, with their license conditions or risk having their licenses being tabled for revocation. The implication of the notice for those interested in acquiring mining rights in Zambia is that the revocation frees up areas for new licence applications.

We highlight the general framework governing the suspension and cancellation of licenses under the Mines Act and Minerals Development Act (the “Mines Act”), as well as the options available to license holders whose licenses have been revoked.

1. Grounds for Revocation of Licence

The Mining Licensing Committee (the “MLC”) has the authority under the Mines Act to revoke a licence for violation of licence conditions or any law relating to the licence. Common license holder violations include providing false information, failing to pay area charges, failing to submit annual and quarterly reports and failing to carry out operations in accordance with the approved plan of operations. A license can also be revoked if doing so would be in the interest of the public.

2. PROCEDURE FOR REVOCATION

The Mines Act requires that a licence holder be given an opportunity to be heard and show cause why the licence should not be revoked. The MLC must send a written notice of default to the license holder informing them of the intent to revoke the license and the reasons for the intended revocation.

If a notice of default is issued, a licence holder has sixty (60) days to respond. If remedial measures are taken by a licence holder to the satisfaction of the MLC within the time frame specified, the license cannot be revoked. If a license holder fails to justify why the license should not be revoked, or fails to take the necessary remedial measures, the MLC may proceed to revoke the license.

Any rights attached to a licence that is revoked cease to exist and cannot be enjoyed by the holder, and the licence must be returned to the Director of Mining

Cadastre. The MLC must publish the notice of revocation in a Zambian newspaper of general circulation. The revocation of a licence does not affect any liability incurred by the licence holder prior to the revocation.

3. Appeal Process

A licence holder who is dissatisfied with a revocation decision may file a notice of appeal with the Minister of Mines within thirty (30) days of receiving the decision. The Minister has the authority to uphold, modify, or reverse the MLC’s decision. If a holder is still dissatisfied following the Minister’s decision, they may file an appeal with the Mining Appeals Tribunal within thirty (30) days of receiving the Minister’s decision. If a license holder is still aggrieved, they may file an appeal with the High Court within thirty (30) days of receiving the Mining Appeals Tribunal’s decision.

Should you require more information, contact Sharon Sakuwaha at sharon.sakuwaha@moiramukuka.com or Mumbi Mulenga at mumbi.mulenga@moiramukuka.com

This article does not constitute legal advice. Please contact us for full legal advice on the subject.



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