

Briefing

Restrictions imposed on holders of mineral rights

This briefing looks at some of the restrictions imposed on holders of mineral rights in Tanzania by the Mining Act 2010 (the **Act**).

Restrictions requiring Ministerial consent

Section 95 of the Act provides certain restrictions on the rights of entry enjoyed by the holders of mineral rights.

No rights granted under a licence may be exercised in relation to the following without the written consent of the Minister responsible for mining:

- any land dedicated or set apart for any public purpose other than mining;
- any land dedicated as a place of burial;
- any land which is the site of or is within 100 metres of any building, reservoir or dam owned by the Government;
- any land forming part of a licensed or Government aerodrome or of any Government landing ground, or which is within 1,000 metres of the boundaries thereof;
- any land on which there is a military installation, or on land which is within 100 metres of the boundaries thereof; or
- any reserved area or any protected monument declared under the Antiquities Act.

Restrictions requiring consultation and consent of lawful occupier

An even higher bar is set for the following areas, where rights granted under a licence may only be exercised following thorough consultation with the relevant local government authority (including the village council) and with the written consent of the lawful occupier of the land:

- any land which is the site of, or which is within 200 metres of, any inhabited, occupied or temporarily unoccupied house or building;
- any land within 100 metres of land which has been cleared or ploughed or otherwise prepared in good faith for the growing of agricultural crops or upon which agricultural crops are growing;
- any land from which, during the year immediately preceding, agricultural crops have been reaped;
- any land forming part of an aerodrome (other than aerodrome where Ministerial consent is required – see above); or
- land where a land use plan, compensation, relocation or resettlement matters are involved.

In circumstances where such consent from the lawful occupier is being unreasonably withheld (in the opinion of the Minister responsible for mining and on the advice of the Mining Advisory Board), the Minister responsible for mining may dispense with the need for consent.

Restrictions requiring other consents

Section 95 of the Act also provides a variety of other circumstances where certain consents will be required.

These are as follows:

- The written consent of the authority with control over the park, reserve or area must be sought in relation to land in a national park declared under the National Parks Act, any forest reserve declared under the Forests Act, any game reserve declared under the Wildlife Conservation Act, a range development area declared under the Range Development and Management Act or the Ngorongoro Conservation Area Act;
- The written consent of the responsible railway authority must be sought in respect of any land which is reserved for the purpose of any railway or which is within 100 metres of the boundaries of any land so reserved;
- The written consent of the holders of surface rights and of the Minister responsible for mining or the authority having control over the city, municipality, township registered villages or demarcated settlement will be required in relation to any land within any city, municipality, township registered village or demarcated settlement;
- The written consent of the responsible Minister or the authority with control over the bridge, public ferry, culvert or drift in any street, road or highway, pipeline or power line will be required in relation to any street, road or highway and any land within 100 metres of any bridge, public ferry, culvert in any street, road or highway, pipeline or power line;
- The written consent of the responsible Minister will be required in relation to any land within 100 metres of every point which has been notified to the Commissioner for Minerals by

a licensee under the Petroleum (Exploration and Production) Act as a site for the drilling of a well in connection with exploring for petroleum;

- The written consent of the responsible Minister will be required in relation to any land over which an exploration licence or a development and production licence has been granted under the Petroleum (Exploration and Production) Act; and
- The written consent of the holder of the prospecting licence who has prospecting rights over the same area as the land in question will be required in relation to any land occupied by any installations or works used in the course of prospecting operations.

Rights to be exercised reasonably

Section 96 of the Act provides guidance as to how mineral rights should be exercised in a reasonable manner. These include:

- The rights should be exercised reasonably and should not be exercised in such a way as to affect injuriously the interest of any owner or occupier of the land over which the rights are exercised;
- A lawful occupier of land within a mining area will require the consent of the registered holder of the mineral rights to erect any building or structure in the area (however, if the Minister responsible for mining considers that the consent of the registered holder is being unreasonably withheld, he can provide consent to the lawful occupier);
- If, in the course of prospecting or mining operations, any disturbance is caused to the rights of the lawful occupier of the land or damage is caused to any crops, trees, buildings, stock or works, then the registered holder will be liable to pay the lawful occupier fair and reasonable compensation.

Mining events in Tanzania

Tanzanian Explorers Club

The Tanzanian Explorers Club (TEC) is for people working in, or affiliated with, the Tanzanian mineral exploration sector and provides an informal environment to facilitate networking within the industry and information sharing between key participants in the Tanzanian mining sector. If you are interested in joining the next TEC meeting please email Clyde & Co's mining team to find out further details.

Further information

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