

# ZIMBABWE

## SCANLEN AND HOLDERNESS



### FIRM INFORMATION

**Website address:** [www.scanlenandholderness.com](http://www.scanlenandholderness.com)  
**Languages spoken:** English  
**Address:** Cabs Centre 74 Jason Moyo Avenue Harare Zimbabwe  
**Contact:** Sternford Moyo  
**Telephone:** + 263 4 702561-8  
**Email address:** [moyos@scanlen.co.zw](mailto:moyos@scanlen.co.zw)

### RELEVANT LEGISLATION

The basic legislation regulating mining activities in Zimbabwe is the Mines and Minerals Act, [Chapter 21:05] and Regulations made thereunder. It is a 1961 piece of legislation which has suffered minor amendments over the years.

### ADMINISTRATION

The administration of that legislation is the responsibility of the Minister of Mines who generally acts through Mining Commissioners for the various districts and in respect of major decisions acts on the advice of the Mining Affairs Board.

### TYPES OF AND MANNER OF ACQUISITION OF RIGHTS

#### Holding of Mining Rights

Mining rights are held in various forms. The simplest form is a mining claim which is a permit to mine. A single claim will normally cover a very small area. It is common to have several contiguous claims grouped into a block of mining claims. The pegging has to be maintained and annual reports have to be submitted to the Mining Commissioner for the relevant district.

#### Lease

For ease of administration, several claims forming a block can be transformed into a mining lease through an application made in terms of the Act. A mining lease generally confers longer term rights which are renewable in terms of the Act.

#### Rights Conferred

Basically, a holder of Mining Rights is entitled to the exclusive right of mining any ore or deposit of any mineral which occurs within the vertical limits of the area covered by his or her location. The only exclusion will be coal, oil and gas which are mined in terms of a Presidential Grant.

#### Title Not Impeachable

Their title is not impeachable. The law does not allow impeachment of title to mining claims which have been registered for a period of two years or mining claims which have been consolidated into a mining location.

### MANNER OF ACQUISITION

#### Prospecting

The usual starting point in the acquisition of mining rights is obtaining a prospecting licence which entitles the holder to prospect, peg and register claims in terms of the Act. A registered claim is a mining location where mining activities can take place.

#### Ordinary Prospecting Licence

A prospecting licence can be issued as an ordinary prospecting licence which is valid for two years. The prospectors' licence itself is valid for five years. Both are renewable.

#### Exclusive Prospecting Licence

Additionally, it is competent to obtain an exclusive prospecting order which confers exclusive rights to prospect for specified minerals in any identified location within Zimbabwe. Exclusive prospective orders are issued for a maximum of six years, being three years renewable for a period of three years.

### OIL AND GAS

Coal, oil and gas mining rights are conferred by a special grant granted by the President of Zimbabwe.

An application is made to the Mining Affairs Board which makes a recommendation to the Minister of Mines.

The Minister of Mines makes a recommendation to the President of Zimbabwe. Only the President of Zimbabwe can sign a grant in respect of coal, oil and gas.

After the grant shall have been signed, the nature of the rights granted is the same as that in respect of any other mineral.

### INDIGENIZATION REQUIREMENTS

Under the new dispensation, Government announced that it was not going to impose a compulsory 51% indigenization except in respect of diamond and platinum mining companies. Even in respect of those, the law under review. The law has not, however, been amended yet.



Presently, at least 51% of the shares in any mining company operating in Zimbabwe should be owned by indigenous Zimbabweans. An indigenous Zimbabwean is any person who suffered discrimination prior to 18th of April 1980, the date of our independence.

A descendant of an indigenous Zimbabwean is an indigenous Zimbabwean. Furthermore, a company controlled by indigenous Zimbabweans is an indigenous Zimbabwean. A subsidiary of a company controlled by indigenous Zimbabweans is also an indigenous Zimbabwean.

### **Foreign Nationals**

No Zimbabwean registered security may be transferred to or allotted to a foreign resident without prior exchange control approval. Approval has been granted in advance in respect of securities in listed companies where a foreign resident may acquire up to 15% per counter and a group of foreign residents may acquire up to 49% per counter.

## **RIGHTS OF THE STATE**

### **Dominion**

Dominion in all minerals, vests in the President. Miners acquire rights to mine and such rights are protected by law. Where rights are lost in terms of the law, the President's residual ownership is restored unfettered by any encumbrance arising from the granting of the rights.

### **Processing and Beneficiation**

Although the law does not require it yet, Government policy encourages local processing and beneficiation of all minerals. Legislation expected to be enacted soon will provide for mandatory local beneficiation.

Government is expected not to sign mining development agreements which do not provide for specific commitments to local processing and beneficiation. The nature of the incentives for local beneficiation will be known when the legislation is promulgated.

### **Restrictions on Sale and Export of Minerals**

All minerals are sold by the Mineral Marketing Corporation, a parastatal incorporated in terms of the laws of Zimbabwe. Miners may obtain permits from the Minerals Marketing Corporation to sell minerals in terms of contracts approved by the Minerals Marketing Corporation of Zimbabwe.

Commissions are payable to the Minerals Marketing Corporation of Zimbabwe in respect of all sales and exports of minerals.

### **Disposals of Rights and Controlling Interests**

Mining rights cannot be transferred or alienated in any manner without the approval of the Mining Commissioner. In the case of Mining Grants or Mining Leases, the approval of the President is required. The application goes to the Mining Affairs Board which make recommendations to the Minister and the Minister makes recommendations to the President.

Relinquishment of a controlling interest in any Zimbabwean company requires the approval of the Minister of Youth Development Economic Empowerment and Indigenization.

### **Environmental**

The new constitution enshrines environmental rights demanding that every person be afforded a right to an environment that is not harmful to their health or wellbeing and to have the environment protected for present and future generations through reasonable legislative and other measures.

There is an Environmental Management Act in terms of which no mining operations may commence unless an Environment Impact Assessment report will have been prepared, measures to minimize adverse impact on the environment will have been enumerated and an environmental agency established by statute will have issued a certificate allowing the miner to commence mining operations.

### **Customary Land Rights**

The Minister may reserve land held under customary land rights against prospecting and mining.

### **Health and Safety**

There is environmental management legislation, factories legislation mining regulations and National Social Security regulations providing for details of health and safety requirements on mining operations.

### **Constitutional and Administrative Law**

As pointed out above, the new constitution enshrines environmental rights. The new constitution demands transparency, honesty, cost effectiveness and competitiveness in the negotiation and performance of, inter alia, concessions of minerals and other rights.

### **Royalties and Taxes**

All miners pay royalties to the State for exploitation of minerals because all minerals belong to the State. Royalties are based on production and are payable over and above income tax payable by the miners. Royalties paid are no longer deductible in the calculation of income tax payable by miners.

