



MAURITIUS ERRIAH CHAMBERS

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RELEVANT AUTHORITIES AND LEGISLATION

What laws regulate mining?

In Mauritius, mining of ores is not a common activity in view of its volcanic origin. A few decades ago, lagoon sand mining was carried out by sand miners and boat owners in the shallowest parts of the largest lagoons on the north and east coast of the island. The extracted coral sand was used mainly as a raw material in the construction industry. Coral sand extraction from the lagoon has been banned since October 2001.

In any event, in spite of the practically non-existent mining activity, the principal legislation governing mining in Mauritius is the Minerals Act 1966 (the “Act”) which is still enforceable.

Which Government Bodies administer mining law?

According to the Act, the main governing body responsible for mining and for authorising prospecting operations is the Minister of Commerce and Consumer Protection.

TYPES OF AND MANNER OF ACQUISITION OF RIGHTS

What rights are granted to conduct reconnaissance, exploration and mining operations?

The Act grants the right to prospect minerals, i.e., search for minerals, which also includes such working as is reasonably necessary to enable the prospector to test the mineral-bearing qualities of the land.

The Government shall have the exclusive right to prospect for minerals in or under any land. Subject to the Act, and until such time as the President may by regulations prescribe, no person shall prospect for, mine or work minerals in or under any land in Mauritius whether he is the owner of the land or not. The Minister may authorise in writing any person to carry on prospecting operations in or under any land on behalf of the Government.

It should be noted that under the Act, minerals include:

- metalliferous minerals containing aluminum, antimony, arsenic, barium, bismuth, cadmium, cerium, chromium, cobalt, columbium, copper, iron, lead, lithium, magnesium, manganese, mercury, molybdenum, nickel, potassium, sodium, tantalum, tin, titanium, tungsten, uranium, vanadium, zinc, zirconium, and all other substances of a similar nature to any of them, and all ores containing them and combinations of any of them with each other or with any other substance, other than those occurring in the form of precious minerals;
- Combustible carbonaceous minerals including – coal; lignite, which includes brown coal and any coal which the President may prescribe to be lignite;

- Other minerals, including those used for their abrasive or refractory qualities and asbestos, barytes, bauxite, china clay, crystals, fuller’s earth, graphite, laterite, marble, mica, nitrates, pipeclay, potash, pumice, quartz, slate, soda, sulphur, talc, and all other substances of a similar nature to any of them; and
- Precious minerals, including - precious stones (that is, diamonds, emeralds, opals, rubies, sapphires, turquoises, and such other stones as may be prescribed to be precious stones for the purposes of this Act) and semi-precious stones including amber, amethyst, beryl, cat’s eye, chrysolite, garnet, and all other semi-precious stones, whether of the same kind as those enumerated or not and precious metals.

Minerals shall not include:

- Pottery, clay or rock salt;
- Any materials, such as clay, sand, limestone, sandstone, or other stones, commonly used for the purpose of road making, building or for the manufacture of any article used in the construction of buildings where such material does not contain any valuable metal or precious stone;
- Petroleum and associated substances as defined in the Petroleum Act 1970.

OIL AND GAS

What rights are granted to conduct oil and gas exploration and production?

Oil and gas explorations and production are governed by the Petroleum Act 1970 (the “Petroleum Act”). Under the Petroleum Act, petroleum is meant to include any mineral oil or hydrocarbon, whether gaseous, liquid or solid, existing in its natural condition in strata, including crude oil, casing head spirits, ozokerite, asphalt and natural gas.

The governing body shall be the Minister to whom the responsibility for the administration of the Petroleum Act is assigned.

The Minister may:

- On application made in the prescribed manner;
- By auction or tender; and
- On being satisfied that the applicant, the bidder or the tenderer, as the case may be, has sufficient technical knowledge, experience and financial resources to ensure the proper prospecting and mining for petroleum, grant to the applicant, bidder or tenderer a prospecting licence or a mining lease.

A prospecting licence shall confer on the licensee exclusive rights to conduct prospecting operations over the area comprised in the licence.

A mining lease shall be granted only in respect of an area which has been comprised in a prospecting licence and in which petroleum has been found and shall confer on the lessee exclusive rights to prospect and mine for petroleum and associated substances over the area comprised in the lease.

A prospecting licence or a mining lease may be granted for such consideration, over such area, for such period and such other terms and conditions as the Minister may determine. A prospecting licence or a mining lease may, on application being made in the prescribed manner, be renewed for such consideration, over such area, for such period and on such other terms and conditions as the Minister may determine.

Notwithstanding the above, the terms and conditions of any prospecting licence or mining lease may provide for:

- The royalty or other payment to be made in respect of petroleum obtained in the exercise of the rights conferred by the licence or the lease, the method of calculating the royalty or other payment, and its manner of payment;
- The rent to be paid in respect of an area comprised in the licence or lease;
- The working obligations attached to the licence or lease;
- The method of measuring petroleum obtained from an area comprised in the licence or lease;
- Directions relating to the drilling, location and plugging of wells, the avoidance of harmful methods of working, the avoidance of interference with other activities in or about the area comprised in the licence or lease;
- Directions relating to – (i) the nationality of persons employed by the licensee or lessee for the purposes of his operations under the licence or lease; (ii) the safety, health and welfare of such persons;
- The supply of information by way of returns, reports, notices, plans and records of operations carried out under the licence or lease; and
- The terms and conditions under which the licence or lease may be terminated.

INDIGENISATION REQUIREMENTS

Are there any requirements in relation to the holding of equity in exploration and mining projects by indigenous peoples?

Mauritius does not have any indigenous people. As regards to petroleum, the property in petroleum existing in Mauritius shall be deemed to be, and always to have been, vested in the State.

Are there any special rules or restrictions applicable to foreign applicants?

As mentioned above, whether with respect to minerals and/or petroleum, the Government has all exclusive rights thereto. Therefore, foreign applicants shall only be authorised to carry out prospecting operations with the authorisation of the Government.

Identify any rights that the State may have. Does the State have any rights to equity in mining projects?

As mentioned above, the property of petroleum shall be deemed to have always been vested in the State and as regards to minerals, the State shall have the exclusive right to prospect for minerals under any land.

PROCESSING AND BENEFICIATION

Are there any requirements to beneficiate minerals mined?

No, there are no requirements in local laws as to the beneficiation of minerals.

Are there any restrictions on the export of minerals?

Yes, there are some minerals in Mauritius which are subject to export restrictions. Some minerals such as sand, limestone, cement, and rough diamonds, require an export permit from the Ministry of Industry, Commerce and Consumer Protection.

DISPOSALS OF RIGHTS AND CONTROLLING INTERESTS

Are there any statutory consents required to dispose of rights to explore and mine?

The law does not provide for any disposal of exploration and mining rights.

Are there any restrictions on disposals of controlling interests in entities holding exploration or mining rights?

There are no such statutory restrictions.

USE OF SURFACE OF LAND INVOLVED IN PROSPECTING AND MINING ACTIVITIES

What are the rights of the holder of an exploration right or mining right to use the surface necessary or incidental to an exploration or mining operation?

The holder of an exploration right or mining right shall have all rights over the area for which mining leases or prospecting licences have been granted.

ENVIRONMENTAL

What legislation governs environmental protection of exploration and mining sites?

As per the First Schedule of the Environment Protection (Amendment) Act 2008, both offshore sand mining and rock quarrying are undertakings that warrant an Environment Impact Assessment licence (EIA). To date only two EIA licences have been granted for rock quarrying and one quarry site is presently operational. EIA licences are usually granted subject to terms and conditions.

The conditions attached to the EIA licence granted for rock quarrying also require the proponent to, amongst others:

- Provide for earth bunds to inhibit dust emissions and noise propagation;
- Provide for a buffer zone from public access road;
- Provide for the reinstatement of the quarry zone concurrently with the progression of the quarry;
- Exploit the quarry in conformity with the methodology proposed in the EIA report;
- Submit an environmental monitoring plan prior to starts of works with subsequent monitoring reports.

Use of explosives for blasting purposes is normally not allowed except under the control and supervision of a special branch of the Police Force. Information pertaining to the decommissioning of the project at the end of its life cycle and associated impacts and the reinstatement plan of the quarry zone should also be submitted to the Department of Environment for approval.

NATIVE TITLE AND LAND RIGHTS

Is there any native title which has any implication for the exploration and mining industry?

The Government shall pay compensation to the owner or occupier of the land in or under which prospecting operations are carried out for any:

- Disturbance of the rights of the owner or occupier;
- Damage done to the surface of the land; or
- Damage caused to any crops, trees, buildings or works on the land.

HEALTH AND SAFETY

What legislation governs health and safety in mining?

There is no specific legislation as regards health and safety in mining. However, the Occupational Safety and Health Act 2005 governs health and safety in employment.

CONSTITUTIONAL AND ADMINISTRATIVE LAW

Is there a constitution which has an impact upon rights to prospect and mine?

Yes, Mauritius has a Constitution which has an impact upon rights to prospect and mine.

Are there administrative appeals in the mining law?

No.

ROYALTIES AND TAXES

Are there special rules applicable to taxation of exploration and mining companies?

There are no special rules applicable to same. It should be noted however that a domestic company is taxable at the rate of fifteen percent on its income. Entities are usually set up in Mauritius with respect to mining activities outside Mauritius and these are set up as Global Business Licence (GBL). The latter are taxable at a maximum rate of three percent after application of deemed foreign tax credit. This Deemed Foreign Tax Credit regime available to companies holding a GBL has ceased to apply as from 31st December 2018. A partial exemption regime has been introduced whereby eighty percent of specified income will be exempted from income tax.

The exemption will be granted to all companies in Mauritius, except banks, and shall apply to the following income:

- Foreign source dividends and profits attributable to a foreign permanent establishment;
- Interest and royalties; and
- Income from provision of specified financial services.

Are there any royalties payable to the State over and above any taxes?

Please refer to royalty payment provisions described under Section 3 above regarding petroleum products. The Minerals Act 1966 is however silent regarding royalties on minerals.