

STATUTORY INSTRUMENT

STATUTORY INSTRUMENT No. OF 2012

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THE ENVIRONMENT PROTECTION AGENCY ACT, 2008
(Act No. 11 of 2008)

THE ENVIRONMENT PROTECTION (MINES AND MINERALS)
REGULATIONS, 2012

Short title.

*IN EXERCISE In exercise of the powers conferred upon the Board
by section 62 of the Environment Protection Agency Act, 2008 the
Chairman hereby make the following Regulations—*

PART I—PRELIMINARY

1. These Regulations shall apply to –

Application.

(a) *Any person who wishes to undertake or cause to be undertaken any extractive industries project, including mining, quarrying, extraction of sand, gravel, salt, peat, oil and gas, set out in the paragraph (e) of the First Schedule of the Act, for which an application for an Environmental Impact Assessment Licence is required under section 24;*

(b) *body corporates and individuals applying for or issued minerals rights under the Mines and Minerals Act 2009.*

Interpretation.

2. In these Regulations unless the context otherwise requires:

“Act” means the Environment Protection Agency Act,

2008;

“adverse environmental impact” means a negative effect on, or change in, the environmental quality resulting from mining activities;

“Agency” means the Environment Protection Agency of Sierra Leone established by section 2 of the Environment Protection Agency Act, 2008;

“applicant” means the individual or organization that has submitted, or is in the process of submitting an application to the Board for an environmental licence or other form of approval in relation to these Regulations;

“Area of influence” means the area surrounding the project site that, through an environmental impact assessment, is determined to be affected by the project;

“Auditing report” means a report from an environmental auditing firm summarizing the results and findings of an environmental audit to a mining operation;

“Authorised Officer” means an employee of the Agency duly authorised by the Board or Executive Chairman for a specified purpose;

“Board” means the Board of Directors of the Agency;

“Community Development Agreement” (or CDA) means the community development agreement(s) entered into pursuant to Section 140 of the Mines and Minerals Act 2009 designed to promote sustainable development and to enhance the general welfare and quality of life of the inhabitants;

“community entitlement” means any legitimate claim from a member of the Primary Host Community to the holder of mining permit for the implementation of any activities relating to the community development issues;

“Community Liaison Committee” means the committee mutually established by the applicant or holder of a mineral right and local communities to serve as the main consultation body between the applicant, the holder of a mineral right and local communities for social issues;

“compensatory measures” means measures to be taken when mitigation is not feasible, cost effective or sufficient;

“corporate social responsibility” means a form of corporate self-regulation and management whereby companies take responsibility for the environmental and social impact of their operations;

“Director of Mines” means the authorised officer assigned responsibilities under the Mines and Minerals Act, 2009;

“displaced persons” mean persons living in the project area that must move to another location and who—

(a) *have legal rights to the land they occupy;*

(b) *have a claim to land that is recognized or recognizable by law; or*

(c) *is experiencing loss of asset, access to income whether of temporary or permanent nature due to the land acquisition process regardless of whether they are physically displaced or relocated or not;*

“Environmental best practice” means the application of internationally recognised standards and practices for the protection of the environment in mining activities;

“Event of force majeure” means floods, landslides, riots and civil insurrection which prevent the holder of a mining right from performing its obligations under a contract as long as such event or circumstance was neither foreseen nor foreseeable at the commencement of the holder of the mining right’s mining activities and are out of its control and the holder of a mining right has taken reasonable care and diligence to mitigate such event or circumstance;

“Environmental Impact Assessment” (or EIA) consists of an environmental impact assessment study and an environmental impact assessment report that focuses on environmental issues and describes the impacts that the proposed project is predicted to have on bio-physical conditions if implemented, together with proposals for avoiding, mitigation or compensation for adverse effects, and includes an ESIA(as the context may require);

“Environmental Management Plan” (or EMP) means an environmental management plan produced as a result of an environmental impact assessment which shall describe how the applicant will implement all recommendations, commitments and obligations designed to avoid, minimise, ameliorate or compensate for adverse environmental impacts identified in the relevant environmental impact assessment;

“Environment” means land, air, water and all plants, animals and human beings living therein and the inter-relationship which exists among these or any of them;

“environmental assessment” means, in respect to a mining project, the process of undertaking an Environmental Impact Assessment in accordance with the Act, the Mines and Minerals Act, 2009 and these Regulations;

“environmental audit” means the process of examining, documenting and verifying that a mining operation is complying with environmental laws and regulations, as well as with the EIA goals and requirements;

“environmental impact” refers to the consequences of reconnaissance, exploration, small-scale and large scale operations on the environment including water, air, climate, land, land use and natural resources, geology, topography, soils, vegetation, wildlife and any cumulative effects on the above;

“environmental licence” means an Environmental Impact Assessment Licence issued under the Act;

“Environmental and Social Impact Assessment” (or ESIA) for the purposes of these regulations is a report containing a simplified or limited Environmental Impact Assessment which incorporates sections on social impacts and is appropriate for projects that require more limited environmental and social analysis than an Environmental Impact Assessment as their negative effects on the environment and the community can be eliminated or minimized by simple and easy to implement measures;

“Environmental and Social Management Plan” (or ESMP) means environmental and social management plan provided as part of an application for artisanal

mining;

“environmental offence” means an act that has directly harmed the environment or an infringement against an obligation of the Act or these Regulations;

“Executive Chairman” means the Executive Chairman of the Board of Directors of the Agency;

“exploration” means operations carried out to search for minerals and mineral deposits and includes operations to test, the mineral bearing qualities of the land, define the extent and determine the economic value of mineral deposits;

“frivolous or vexatious claims” means any claim as determined by a court of competent jurisdiction, which has been instituted maliciously or repetitively and without probable cause or has been lodged by a party or its attorney which are knowingly aware that such claim lacks merit, proper due diligence, legal argument and/or a sound factual justification;

“Government” means the Government of Sierra Leone;

“Grievance Mechanism” means a mechanism –

- (a) to receive and facilitate resolution of concerns and grievances about the holder of a mineral right’s environmental and social performance,
- (b) for workers (and their organizations, where they exist) to raise reasonable workplace concerns, and
- (c) to receive and address specific concerns about compensation and relocation that are raised by displaced persons or members of local communities and host communities;

“holder of a mining permit” means a person or company who has been granted a permit for dredging or developing radioactive mineral activities issued under the Mines and Minerals Act, 2009;

“holder of a mineral right” means a person or body corporate who has been granted a licence under the Mines and Minerals Act 2009;

“inspection” means the process entering land or buildings in order to examine, investigate, test, compare, analyse and duplicate documents, materials and data for the purpose of verifying compliance with these regulations and gather evidence;

“Lead authority” means the Agency, Minerals Advisory Board or government department acting as primary decision maker on the issue upon which a determination is to be made;

“large-scale mining” means the intentional mining of minerals in mechanised operations exceeding twenty metres in depth or involving the sinking of shafts, drilling of adits or other various underground opening exceeding twenty meters;

“life cycle of the project” means all the phases of mining activity. It comprises reconnaissance, exploration, development, exploitation, beneficiation, and closure;

“Local community” means any community of the local population within the project’s general area of influence who are likely to be affected by the project and shall also include local populations who are either directly or indirectly affected by the project;

“Mine Closure Plan” means a plan to which shall consist of proposals for managing the progressive restoration (where practicable) of worked-out mine areas and the ultimate closure and restoration or rehabilitation of the mine site upon cessation of working;

“Minerals Advisory Board” means the Board established by section 11 of the Mines and Minerals Act, 2009;

“mineral rights” means a right to explore for or to mine minerals by holding a valid reconnaissance licence, exploration licence, artisanal mining licence, small scale mining licence, or large scale mining licence, issued under the Mines and Minerals Act, 2009 or as the context requires;

“mining right holder obligation” means a commitment, condition or undertaking to act, or an agreement to omit from acting imposed upon the holder of a mining permit pursuant to these Regulations, the Act or the Mines and Minerals Act, 2009, which shall include any community entitlement” which has been agreed between the Primary Host Community and the holder of a mining permit;

“mining activities” mean those activities undertaken by a mineral right holder and in accordance with the restrictions and obligations of the various licences and shall include but shall not be limited to the following –

- (a) mining, quarrying, extraction of sand, gravel, salt;
- (b) the establishment and operation of industrial plant used in mineral processing, power

plants, smelting plants, and refineries;

(c) construction of mineral export ports, maritime facilities and associated mineral transportation system from mine site or inland deposits; and

(d) construction of mineral concentrate depots or other facilities outside the licence area;

“Monitoring” means the establishment of continuous or periodical procedures implemented by the holder of a mineral right, the Board or the Executive Chairman, to monitor, measure, sample, record and analyse all environmental and social aspects of mining activities and shall include dynamic mechanisms, such as inspections and audits, where relevant, to verify compliance and progress toward the desired outcomes and such monitoring should be adjusted according to performance experience and feedback;

“primary host community” means community as defined in subsection (2) of section 139 of the Mines and Minerals Act, 2009;

“project area” means the area covered by the mining right licence;

“reconnaissance licence” means a reconnaissance licence granted by the Director of Mines pursuant to Section 58 of the Mines and Minerals Act 2009, that does not exceed ten thousand square kilometres;

“Resettlement Action Plan” (or RAP) means the comprehensive plan as further defined in any law relating to the resettlement of local communities;

“Resettlement Committee” means an inter-governmental committee established pursuant to any law relating to the resettlement of local communities designed to review, approve, monitor and evaluate resettlement activities in Sierra Leone;

“Resettlement Management Plan” (or RMP) means the framework broadly identifying the objectives, principles, policies, procedures, organizational arrangements and the timeframe and cost for dealing with resettlement, as further described in any law relating to the resettlement of local communities;

“Resettlement Policy Framework” means the broad principles by which the applicant sets forth its proposals for managing all stages of resettlement as further described in any law relating to the resettlement of local communities;

“Screening” means the process carried out by the Executive Chairman in consultation with the Board by which a decision is taken on whether or not an EIA is required, and what type of EIA is appropriate for a particular project;

“Scoping or scoping study” means the process of identifying the content and extent of the environmental information to be included within an Environmental and Social Impact Statement;

“Scoping report” contains the findings and recommendations of a scoping study;

“Strategic Environmental and Social Assessment” (or SESA) means a strategic environmental and social assessment for mining districts within which artisanal mining is a major activity;

“small-scale mining” means the intentional mining of minerals in mechanised operations not exceeding twenty metres in depth or involving the sinking of shafts, drilling of adits, or other various underground openings;

“social assessment” means in respect to a mining project, the process of undertaking a Social Impact Assessment in accordance with the Act, the Mines and Minerals Act, 2009 and these Regulations;

“Social Impact Assessment” (or SIA) means a social impact assessment study and social impact assessment report which describes the full range of social, economic and health issues affecting local communities, predicts significant adverse social impacts and sets out proposals for avoiding, mitigating or compensating for adverse effects;

“Social Management Plan” (or SMP) means a social management plan which describes how the applicant will implement all recommendations, commitments and obligations to avoid, minimise, ameliorate or compensate for adverse social impacts identified in the relevant social assessment instrument;

“social impact” means the consequences of exploration, small-scale, and large-scale operations in the way people organize their economic system, the way they live, work, relate to one another, organize themselves, and the way they develop and share values, attitudes, beliefs, institutions, and perceptions of their surroundings, including other people and the biophysical environment;

“stakeholder” means any persons or groups that are directly or indirectly affected by a project as well as those that may have interests in a project and/or the

ability to influence its outcome either positively or negatively and the term “stakeholders” include locally affected communities and individuals and their formal and informal representatives, government, politicians, religious leaders, civic organisations, and other groups with special interests, the academic community, employees, their families and employee representatives, other businesses, financiers, shareholders and joint venture partners;

“Sustainable development” means the pattern of use of natural resources that meets the needs of the present generation without compromising the ability of future generations to meet their own needs.

PART II – PRINCIPLES AND ACCOUNTABILITY

Application of principles. 3. The Board and every other authority, whether administrative or judicial, shall abide by the following principles on all matters related to environmental and social management whenever their respective participation, intervention or decision is required–

(1) SUSTAINABILITY

Every mining operation shall be carried out in a sustainable manner that is reasonably practicable in order to minimize, mitigate or eliminate negative environmental and social adverse impacts including but not limited to pollution resulting from such operation in accordance with the Environment Protection Agency Act, 2008, subsection (1) of section 132 and clauses (xii) and (xiii) of paragraph (b) of subsection (1) of section 133 of the Mines and Minerals Act 2009.

(2) POLLUTER PAYS

(1) The cost of pollution avoidance, prevention, control, remediation and compensation shall be borne by the polluter in accordance with the principles of international environmental law

(2) For the avoidance of doubt, this principle shall be applicable to any kind of environmental or social impact derived from the development, construction, operation and management of mining activities.

(3) PRECAUTIONARY COST-EFFECTIVE MEASURES

(1) when a mining activity raises threats of serious or irreversible harm to public health or the environment, the lack of full scientific certainty of a detrimental outcome shall not be used as reason for postponing precautionary cost-effective measures to prevent damage to human health or environmental degradation.

(2) The burden of proof in relation to the precautionary principle resides with the holder of the mining rights.

(4) LEGAL RESPONSIBILITY FOR ENVIRONMENT

(1) The holder of a mineral right shall be responsible for the environmental and social impacts of their activities, as well as for managing these impacts.

(2) Every holder of a mineral right shall carry on its operations in a manner that is reasonably practicable in such a manner as to prevent, minimize, manage and mitigate any adverse environmental impact including but not limited to pollution resulting from such operations and any adverse social impact in accordance with the Act, and the Mines and Minerals Act, 2009.

(3) Every holder of a mineral right is legally obliged to keep emissions and effluents resulting from its operations under the maximum level of pollutant concentration permitted by these Regulations and they shall manage and control residues, wastes,

toxic substances and other contaminants in order to ensure that they will not cause adverse effects on the environment and public health.

(5) PROTECTION OF AFFECTED COMMUNITIES

(1) Every holder of a mineral right shall protect the surface rights of those within and in close proximity to a mining area and shall–

- (a) obtain consent from lawful landowners and occupiers prior to entering lands and commencing exploration or other mining activities;
- (b) wherever possible, allow lawful landowners and occupiers to graze livestock and cultivate land;
- (c) pay fair compensation for land use and disturbances; and
- (d) where necessary, provide a resettlement option which is equivalent to or better than their current living environment.

(6) IMPLEMENTATION OF ENVIRONMENTAL AND SOCIAL MANAGEMENT INSTRUMENTS

Every environmental and social management instruments shall be consistent with the general principles established in paragraph 3.(4) and any ambiguity contained in the relevant instrument shall be resolved in favour of an interpretation that better implements these principles.

(7) ACCESS TO INFORMATION

(1) every local community shall have access to information held by the Board and the Minerals Advisory Board concerning the

environmental and social effects of proposed or on-going mining activities.

(2) The Board and the Minerals Advisory Board shall inform communities of the existence and content of communities' rights to access information relating to the social, environmental and economic impact of mining activities.

(3) Every holder of a mineral right shall make all approved Environmental Impact Assessments, Social Impact Assessments, Environmental Management Plans and Social Management Plans available on its official website free of charge.

(8) PUBLIC PARTICIPATION

(1) Every holder of a mineral right shall provide an opportunity for local community and the Primary Host Community to participate in consultations relating to environmental and social matters in accordance with paragraph (a) of subsection (2) of sections 133 and paragraph (f) of subsection (1) of sections 140 of the Mines and Minerals Act 2009.

(2) Every mineral right holder, in complying with paragraph shall be guided by the following rules–

- (a) all information provided shall be transparent and honest;
- (b) there shall be no discrimination on the grounds of race, sex, ethnicity, culture, socioeconomic status or political views;
- (c) cultural diversity, including values, customs, and the traditions of individuals and communities shall be respected;
- (d) information shall be communicated in the language most commonly used by the affected parties, in a clear and simple to understand structure;

- (e) local needs and circumstances are taken into consideration;
- (f) all sectors and interests of society shall be well represented, including women, the elderly and youth;
- (g) there shall be no discrimination based on any of the grounds contained in international human rights legislation; and
- (h) joint-problem solving shall be promoted through continuous dialogue and local traditions.

(3) The Executive Chairman or Authorised Officer shall facilitate and encourage public awareness and participation by ensuring that environmental licence and mineral right holders make information on the environmental and social impact of proposed and on-going mining activities widely available.

(4) The Executive Chairman or Authorised Officer shall where practicable, make all approved Environmental Impact Assessments, Social Impact Assessments, Environmental Management Plans and Social Management Plans available on the Agency's website.

(9) PUBLIC CONSULTATION

(1) Every mining licence holder shall hold consultations with key stakeholders from the earliest stages of a mining project throughout mining operations and mine closure in accordance with paragraph (a) of subsection (2) of section 133 of the Mines and Minerals Act 2009.

(2) Public consultation and participation in reconnaissance, exploration, small- scale, and large-scale mining shall be guided by the following rules–

- (a) local communities shall have the right to receive and access public information in a timely and transparent manner;
- (b) local communities have the right to participate responsibly in decision-making processes pertaining to mining projects that affect their interests, provided that the claims are not frivolous or vexatious;
- (c) local communities shall have the right to receive copies of the social management plan at no cost and the applicant shall raise awareness within the community about the contents of the plan;
- (d) local communities shall have the right to monitor the implementation of provisions contained in the social management plan, provided that such monitoring shall in no way impede the applicant from fulfilling its obligations under these Regulations; and
- (e) local communities shall have the right to denounce any matter concerning the violation of their civil and human rights.

(3) Recognising the differences between mineral rights, applicants for an environmental licence shall engage in consultation with all relevant stakeholders as early as possible and, at a minimum, prior to the submission of an application for an environmental licence to the Board.

(10) JOINT AND SEVERAL LIABILITY

Where two or more persons constitute the holder of a mineral right, those persons are jointly and severally liable for the payment of all costs, damages and or indemnities arising from any adverse

environmental impact and social impact (which shall include any human rights violations) resulting from their mining activities on the environment, the local community and the Primary Host Community.

(11) INDEPENDENT LIABILITY

(1) The termination, expiration, suspension, cancellation, revocation, forfeiture, attachment, pledge, relinquishment, surrender, reduction of area, ceasing of operations, or any other matter affecting the status of the mining right licence or permit shall not prejudice any environmental or social obligations or liabilities incurred by the holder.

(2) The rule established in paragraph (1) shall also apply in the event of any variation, suspension, amendment or any other matter adversely affecting the status of the environmental licence.

(12) APPOINTMENT OF CORPORATE ENVIRONMENTAL OFFICER

(1) The holder of, or applicant for, an exploration, small scale or large scale mining licence shall appoint a corporate environmental officer, and may also appoint a deputy corporate environmental officer, who shall be in charge of the environmental control of the mineral right holder’s mining operations, and shall be the primary contact person for the Board, the Executive Chairman, Authorised Officer and third parties for environmental and social purposes.

(2) In the absence of an individual with appropriate skills the holder of, or applicant for, an artisanal mining licence shall assume the status and responsibilities of the corporate environmental officer.

(3) The corporate environmental officer shall have a comprehensive knowledge of the characteristics of the mineral right holder’s mining operations, and shall collect, compile and manage and keep, in good order for inspection purposes, up-to-date information on the mineral right holder’s environmental and social performance.

(4) The holder of an exploration, small scale licence or large scale licence shall, within thirty days of the coming into force of these Regulations, inform the Executive Chairman or Authorised Officer of the appointment of the corporate environmental officer and if one is appointed, a deputy corporate environmental officer.

(5) The corporate environmental officer shall inform the Executive Chairman or Authorised Officer of any major incidents that has or is likely to give rise to adverse environmental impact or social impact.

PART III–AUTHORITY AND ADMINISTRATION

4. (1) No person shall undertake or cause to be undertaken any mining project; including reconnaissance, exploration, artisanal mining, small scale mining, large scale mining, dredging and radioactive substances mining, specified in the First Schedule of the Act, and for which an Environmental Impact Assessment Licence is required, unless that person obtains a licence issued by the Agency in accordance with subsection (1) of section 24.

Environmental Impact Assessment required for mining projects.

Licence for

(2) Applications for Environmental Impact Assessment Licence and enquires on other administrative issues and procedures related to environmental protection in mining activities shall be submitted to the Executive Chairman or Authorised Officer in accordance with Part IX.

5. No person acting in pursuance of the functions Conferred on him by this Act shall be subject to any civil or criminal liability in respect of that act, whether on the grounds of want of jurisdiction, mistake of law or fact or any other ground, unless he acted in bad faith and without reasonable cause.

Protection of officers.

6. Every holder of a mineral right shall –

- (a) carry on his operations in a manner that is reasonably practicable in order to minimize, manage and mitigate any environmental impact including but not limited to pollution resulting from such operations and in accordance with the Act and the Mines and Minerals Act 2009;

Responsibilities of mineral right holder

- (b) ensure that his actions and operations in relation to the Local Community and the Primary Host Community comply with all laws in force in Sierra Leone including international human rights instruments to which Sierra Leone is a party;
- (c) conduct consultations and negotiations with displaced persons and affected communities in good faith and in an open and transparent manner in accordance with paragraph (f) of subsection (1) of section 140 of the Mines and Minerals Act 2009;
- (d) facilitate the formation of a Community Liaison Committee, and based on an agreed budget fund its basic operations, including transport costs for members to attend meetings and subsistence allowances for those travelling to meetings in accordance with sectionof the Mines and Minerals Act 2009; and
- (e) prepare and implement a Resettlement Management Plan in instances of known or potential involuntary displacement caused by mining activities in accordance with section 38 of the Mines and Minerals Act 2009.

Community Liaison Committee.

7. (1) For the purpose of establishing a consultative and monitoring framework between the licence holder and the primary hostcommunity, as required under paragraph (f) of subsection (1) of section 140 of the Mines and Minerals Act 2009. the holder of a small-scale or large-scale mining licence shall establish a Community Liaison Committee during the period in which he is undertaking a Social Impact Assessment in order to engage with communities, stakeholders, individuals, potentially displaced persons, and where relevant local communities who hold property or access rights to lands located within the area targeted for acquisition by the mineral right holder.

(2) A Community Liaison Committee referred to in paragraph (1) shall represent the views of its constituents on all social matters, with the mining right holder, regarding compensation and report back to its constituents on all matters, decisions and key dates addressed and identified.

(3) Members of the Community Liaison Committee shall comprise a Chairman, not being a local or Paramount Chief, nominated by the community and approved by the mineral right holder and the following other members at least two of whom shall be female -

- (a) one representative of a local and Paramount Chief;
- (b) four representatives of the local community;
- (c) one representative of Civil Society appointed from local interest groups, including teachers, workers’ unions representatives, health practitioners, women’s enterprises (e.g. farming, beekeeping cooperatives), proposed by the community; and
- (d) one representative of the District Council or Local Government.

PARTIV–RESTRICTING OR PROHIBITING MINING PROJECTS

8. (1) Where regulations restricting or prohibiting exploration or mining operations for environmental reasons, are to be made by the Minister of Mines, in consultation with the Chairman of the Environment Protection Agency, pursuant to subsection (3) of section 176 of the Mines and Minerals Act, 2009, an applicant for a reconnaissance licence who confirms, in writing and on oath, that his operations will have no adverse effect on the environment, local communities, any monument or relic in the proposed reconnaissance area, shall be exempt from applying for an environmental licence.

**N o n -
i n v a s i v e
r e c o n n a i s s a n c e**

**Invasive
reconnaissance**

9. (1) Where regulations restricting or prohibiting exploration or mining operations for environmental reasons, are to be made by the Minister of Mines, in consultation with the Chairman of the Environment Protection Agency, pursuant to subsection (3) of section 176 of the Mines and Minerals Act, 2009, an applicant for a reconnaissance licence –

- (a) who intends to erect camps, temporary buildings, take timber or water from a lake or watercourse, or construct weirs, dams or other impoundments, or intend to use intrusive methods to collect geological information;
- (b) whose operations are likely to cause disturbances to local communities through noise, vibration physical obstruction or other adverse social impact,

shall apply to the Board for an environmental licence in accordance with Regulation...33...

(3) Where a holder of a reconnaissance licence has not applied for an environmental licence, as required under paragraph (b) of Regulation and has been found to have adversely affected the environment or any monument or relic or caused disturbance to local communities, he shall –

- (a) promptly report such incident to the Board; and
- (b) pay such fine or other penalty as may be imposed by the Board, including refusal of environmental licence for applications for renewal of a reconnaissance licence under section 63 and for approval of proposed amendments to the programme of reconnaissance under section 67 respectively, of the Mines and Minerals Act 2009.

10. (1) A Strategic Environmental and Social Assessment for a mining district or group of districts shall consist of–

- (a) a baseline description of the environmental, social and local economic conditions in the district;
- (b) an analysis of the existing artisanal mining practices within the area, including the number and ownership of existing licences, the physical extent of workings, the number of miners and dependants, the contribution to the local economy from mining activities and impacts of mining activities on other land uses;
- (c) a description of the nature and extent of adverse and beneficial environmental and social impacts, and an account of any restoration and rehabilitation work undertaken within the district;
- (d) a statement of prospects for further mining activities if extraction licences were to be granted;
- (e) a report on the opinions and attitudes of all stakeholders, including local communities; and
- (f) recommendations on the management of artisanal mining areas, including potential restrictions on activities, the number of artisanal mining licences to be granted at any one time, and requirements for the treatment of abandoned mining areas and rehabilitation of all existing workings either progressively or on cessation of mineral extraction.

**Strategic
environmental
and social
artisanal
mining
areas**

**assessment
of**

(2) All Strategic Environmental and Social Assessments will be widely disseminated and submitted to the Board, Minerals Advisory Board and the Director of Mines.

(3) Strategic Environmental and Social Assessments which relate to a specific area will be submitted to the relevant district authorities for consideration in preparing community development agreements.

Application for artisanal mining licence. 11. (1) Applications for an artisanal mining licence made in accordance with paragraph (e) of section (2) of section 85 of the Mines and Minerals Act and Minerals Act 2009, shall be accompanied by a statement giving particulars of the likely effects of the proposed mining operations on the environment and on the local population.

(2) The Director of Mines shall consider the relevant Strategic Environmental and Social Assessment recommendations and ESIS when determining whether to refuse or grant an artisanal mining licence in accordance with Section 86 of the Mines and Minerals Act 2009.

Project Screening applications 12. (1) Any applicant who wishes to undertake any extractive industries project, including mining, quarrying, extraction of sand, gravel, salt, peat, oil and gas, set out in the paragraph (f) of the First Schedule of the Act, shall submit a project screening application to the Executive Chairman or Authorised Officer to request determination of the project category for environmental and social assessment.

(2) Notwithstanding paragraphs 12 and 21, all mineral activities falling under paragraphs (e) and (f) of the First Schedule of the Act shall be subject to this Regulation.

(3) For the avoidance of doubt, mineral extraction shall include mechanical excavation, dredging, solution mining and the recovery of radio-active materials.

(4) Project screening applications shall contain

information specified in subsection (1) of section 133 of the Mines and Minerals Act 2009, including –

- (a) on the area of the intended project and information on its current uses and physical, biological and social environment;
- (b) on the nature of the project, the intended work plan and the anticipated implications on the environment and social conditions; and

(5) Project screening applications shall be submitted in such form as specified in the Second Schedule.

(6) Within fourteen days of the receipt of an application under (1) above the Executive Chairman or its Authorised Officer shall assign the applicant one of four categories (A, B, C or D) based on the environmental and social impact screening criteria specified in the Third Schedule.

Project categorisation.

13. (1) The project screening application shall be reviewed by the Executive Chairman or Authorised Officer in order to–

- (a) identify the nature and scale of the environmental and social impact that the proposed project is likely to produce;
- (b) determine the category (A, B, C or D) to which the project is to be assigned;
- (c) establish the environmental and social assessment instruments that correspond to the project (Environmental Impact Assessment (EIA), Social Impact Assessment (SIA), Environmental and Social Impact Assessment (ESIA), or Code of Practice) as indicated in Table A below; and

- (d) establish the corresponding environmental and social management instruments that correspond to the project (Mine Closure Plan (MCP), Environmental Management Plan(EMP), Social Management Plan (SMP), Community Development Agreement (CDA), Resettlement Management Plan (RMP) as indicated in Table A below.

(2) In assessing the project screening application, the Executive Chairman or Authorised Officer shall apply the criteria established in the Third Schedule.

(3) The Executive Chairman or Authorised Officer shall complete the screening process and notify the applicant of its decision within a period, not exceeding fourteen days, from the date of submission of the application in accordance with subsection (1) of section 25 of the Act.

TABLE A				
<i>Project Impact</i>	<i>Project Category</i>	<i>Environmental and Social Assessment Instrument</i>	<i>Environmental and Social Assessment Instrument</i>	
The project will produce significant adverse environmental and social impacts that are likely to result in the need for resettlement	A	EIA + SIA	MCP	EMP SMP CDA RMP
The project will produce significant adverse environmental impacts with moderate social effects not involving the need for resettlement	B	EIA + SIA	MCP	EMP SMP CDA (where required)
The project will have moderated environmental and/or social impacts which negative effects can be eliminated or minimized by simple and easy to implement measures	C	ESIA	MCP	EMP SMP CDA (where required)
The project does not involve significant environmental and/or social impacts	D	Code of Practice Disclosure + Declaration		

(1) The Authorised Officer shall keep a record of the screening decisions and supporting information, which shall be included in the register referred to in Section 90 of these Regulations.

**A p p e a l
a g a i n s t
P r o j e c t
c a t e g o r y.** 14. (1) Any applicant submitting a Project Screening Application may appeal to the Board for reconsideration of the category determined by the Executive Chairman on payment of an additional fee to cover the administrative expenses of the appeal.

(2) Where an appeal is upheld by the Board and a lower category is agreed the appeal fee shall be repaid to the applicant.

(3) The period for consideration of any appeal shall be four weeks.

(4) The decision of the Board shall be final and binding.

**S c o p i n g
R e p o r t** 15. (1) For Category A and B Projects, the applicant shall submit a scoping report to the Executive Chairman or Authorised Officer in accordance with the Fourth Schedule of these Regulations.

(2) The Executive Chairman in consultation with the Board shall review the Scoping Report and advise the applicant, within a period of 21 days from the date of submission, of any modifications to the scope of the assessment or additional information that may be required.

(3) Applicants for a Category C Project are not required to submit a scoping report but may submit a draft of the ESIA to the Executive Chairman or Authorised Officer with a request for guidance on any additional subject matter that may require to be covered.

**A s s e s s m e n t
i n s t r u m e n t s** 16. (1) The environmental and social assessment instruments indicated in Table A comprise the following—

(a) an Environmental Impact Assessment (EIA) pursuant to Section 26 of the Act and

subsection (2) of section 131 of the Mines and Minerals Act 2009 and as further specified in the Fifth Schedule, consisting of an EIA study and environmental impact assessment report that focuses on environmental issues and describes the impacts that the proposed project is predicted to have on bio-physical conditions if implemented, together with proposals for avoiding, mitigating or compensating for adverse effects;

(b) a Social Impact Assessment (SIA) pursuant to Sections clause (v) of paragraph (b) of subsection (2) of section 112 and clause (xii) of paragraph (b) of subsection (1) of section 133 of the Mines and Minerals Act 2009 and clauses (d) and (e) of the Third Schedule of the Act and as further specified in the Sixth Schedule of these Regulations, consisting of a social impact assessment study and social impact assessment report which describes the full range of social, economic and health issues affecting host communities, predicts significant adverse social impacts and sets out proposals for avoiding, mitigating or compensating for adverse effects;

(c) an Environmental and Social Impact Assessment (ESIA) as stipulated in the Seventh Schedule of these Regulations consisting of a report containing a simplified or limited EIA which incorporates sections on social impacts and health impacts and is appropriate for projects that require more limited environmental and social analysis than an EIA as their negative effects on the environment and the community can be eliminated or minimized by simple and easy to implement measures;

- (d) an Environmental Code of Practice as stipulated in Eighth Schedule of these Regulations shall apply to all projects where the Board is satisfied, on the evidence presented by the applicant, that the project will not have significant environmental impacts.

(2) Based on the Executive Chairman's project categorisation referred to in paragraph 26 of these Regulations, the applicant will utilise the corresponding environmental and social management instrument in preparing an environmental licence application.

17. (1) The environmental and social assessment Management Instruments of these Regulations comprise the following –

- (a) a Mine Closure Plan pursuant to clause (iii) of paragraph (c) of subsection (1) of section 140 of the Mines and Minerals Act 2009 and as further stipulated in the Ninth Schedule, which shall consist of proposals for managing the progressive restoration of worked-out mine areas and the ultimate closure and restoration or rehabilitation of the mine site upon cessation of working;
- (b) an Environmental Management Plan pursuant to paragraph (a) of 115 clause (xv) of paragraph (b) of subsection (1) of section 133 of the Mines and Minerals Act 2009 and as further specified in the Tenth Schedule which shall describe how the applicant will implement all recommendations, commitments and obligations designed to avoid, minimise, ameliorate or compensate for adverse environmental impacts identified in the relevant environmental assessment instrument;

- (c) a Social Management Plan pursuant to clause (v) of paragraph (b) of subsection (2) of section 112 and clause (xiii) of paragraph (b) of subsection (1) of section 133 of the Mines and Minerals Act 2009 and as further specified in the Eleventh Schedule which shall –

- (i) describe how the applicant will implement all recommendations, commitments and obligations to avoid, minimise, ameliorate or compensate for adverse social impacts identified in the relevant social assessment instrument;
- (ii) include a community consultation and participation plan and a grievance management plan pursuant to Sections 138, 139 and paragraph (f) of subsection (1) of section 140 of the Mines and Minerals Act 2009;
- (iii) include a community development agreement as required under Section 140 of the Mines and Minerals Act 2009 and the applicant for an environmental licence shall include appropriate details of the planned agreement as specified in the Twelfth Schedule; and
- (iv) include a Resettlement Management Plan for the purposes of subsection (3) of section 38 of the Mines and Minerals Act 2009.

Consent to use land for mining purposes

18. (1) An applicant for an environmental licence shall inform, consult with, and obtain the consent of landowners or rightful occupiers to use the land for mining purposes in accordance with section 32 and clauses (f) and (g) of subsection (1) of section 78 of the Mines and Minerals Act 2009.

(2) An environmental licence shall not be granted to an applicant under the Act unless;–

- (a) there is proof that the applicant engaged landowners or rightful occupiers in open and transparent negotiations and obtained their consent to use land for mining purposes; and
- (b) appropriate procedures within the social assessment and management instruments to engage the local community and the Primary Host Community have been implemented.

(3) Applicants for an Environmental Licence shall complete the application form in the Fifteenth Schedule and submit this with their full application to confirm the status of any agreement(s) between the applicant and landowners or rightful occupiers of the land, which shall include details concerning compensation arrangements with landowners or rightful occupiers.

(4) In considering the status of the applicants' negotiations for access to land pursuant to Sections 35, 36 and 37 of the Mines and Minerals Act 2009 and its relevance to social and community issues that affect the granting of an environmental licence, the Board or its Authorised Officer, will carry out prior consultations with the Minerals Advisory Board before determining the Environmental Licence.

(5) where an agreement is not reached relating to the payment of compensation, the Director of Mines, on the advice of the Minerals Advisory Board, shall determine the amount of compensation in accordance with subsection (6) of section 35 of the Mines and Minerals Act 2009.

19. (1) An applicant for an Environmental Licence shall engage the local community and the Primary Host Community at the earliest opportunity in order to encourage community participation and ownership of sustainable development interventions in accordance with section 138 of the Mines and Minerals Act 2009.

Sustainable development interventions.

(2) All sustainable development intervention under sub-regulation (1) shall be designed to–

- (a) identify all relevant social issues that could give rise to harmful or negative effects on the local community and the Primary Host Community; and
- (b) guide the identification of development priorities, joint planning, implementation, management, and monitoring of sustainable development projects.

(3) An applicant for an Environmental Licence shall submit a completed application form in the Fifteenth Schedule confirming that all necessary steps have been taken to address the issues listed in sub-regulations (1) and (2).

(4) For the purpose of ascertaining the status of the applicant's programme and progress towards agreeing a Community Development Agreement and its relevance to social and community issues that affect the granting of an environmental licence, the Executive Chairman or Authorised Officer shall carry out prior consultations with the Minerals Advisory Board before determining whether to grant the Environmental Licence.

Environmental Licence Application

20. An applicant for an Environmental Licence shall submit to the Executive Chairman or Authorised Officer a completed application form specified in the Fifteenth Schedule, and 3 copies each type of documents specifying –

- (a) the project category contained within the application; and

Review of applications.

- (b) where and when the relevant documents have been placed on deposit for public inspection; and

21. (1) The Executive Chairman or Authorised Officer shall examine the application and confirm in writing within 14 days whether or not the required type and number of documents have been submitted relative to the project category.

(2) In the case of Category A and B Projects, the Board shall review the EIA and SIA and accompanying management instruments and approve or reject them within a period of twelve weeks from the date of submission, this period may be extended if the Board requires clarifications from the applicant.

(3) In the case of Category C Projects, the Board shall review the ESIA and approve it or reject it within a period of six weeks from the date of submission.

(4) The Board shall only grant an environmental licence in relation to projects in Category A and B when it is satisfied that appropriate screening and review of the relevant application details and environmental and social management instruments have been conducted, and that any significant adverse environmental impacts and social impact can be mitigated or ameliorated sufficiently enough to allow sustainable development of mining activities under the in accordance with section 132 of the Mines and Minerals Act, 2009.

(5) For all applications for Category C Projects involving more minor environmental and social issues, the Board shall determine the environmental impact assessment licence by giving due weight to both environmental and social considerations as set out in an ESIA.

Projects involving resettlement.

22. (1) Where a Category A Project application involve the potential for resettlement, the Executive Chairman or Authorised Officer shall refer the SIA and the SMP to the appropriate authority responsible for resettlement for its consideration.

(2) The appropriate authority responsible for resettlement shall review the SIA, the SMP and the RMP in accordance with the criteria set out in any law relating to the resettlement of local communities and make recommendations in accordance with the procedures described therein.

(3) For a Category A Project involving potential resettlement the Board shall consider the SIA in the light of comments and recommendations provided by the appropriate authority responsible for resettlement.

23. (1) Where an EIA, SIA or ESIA is returned to the applicant by the Board on the basis of inadequacy, the Board shall state its reasons and indicate what steps are required by the applicant to rectify the shortcomings within a period of 21 days as specified in paragraph (b) of subsection (2) of section 28 of the Act.

Inadequate environmental and social assessments

(2) In the circumstances outlined in sub-regulation (1), the application for an environmental licence shall be held in abeyance until the required corrections have been made and the relevant environmental or social management instrument has been resubmitted.

(3) In the event that the necessary corrections and additions outlined in sub-regulation (1) above are not addressed or the relevant document is not resubmitted within 21 days, the application for an environmental licence lapses.

(4) The Board may agree to extend the deadline outlined in sub-regulations (1) to (3) at its discretion if presented with a reasonable case for the extension by the applicant.

24. (1) Following receipt of the application documents for an environmental licence the Executive Chairman or Authorised Officer shall widely disseminate and distribute the documents to local communities in order to raise awareness of its contents and seek comments in relation thereto.

Review by Executive Chairman

(2) The Executive Chairman or Authorised Officer shall disseminate notice to the public and the local community of all Category A, B and C projects through a variety of media which shall include radio broadcasts, posting details of the Category A, B or C project in local community halls or town halls where available, facilitate meetings with local community groups or through civil society groups.

(3) Members of the public and the local community shall be given fourteen days from the date of the last dissemination of information to submit written comments to the Executive Chairman or Authorised Officer.

(4) The Executive Chairman or Authorised Officer shall compile a comprehensive list of all comments received from public consultation which must provide details of the comments and who provided the same.

(5) All documents submitted to the Executive Chairman or Authorised Officer as part of an application for an environmental licence shall be reviewed by officers with the relevant technical skills, discipline and experience.

(6) Where the subject matter referred to in sub-regulation (1) cannot be covered by the Executive Chairman or Authorised Officer, the Executive Chairman shall seek additional and appropriate expert advice.

(7) The documents described in sub-paragraph (1), together with a report of the internal evaluation and list of public comments prepared by an Executive Chairman or Authorised Officer and endorsed by the Executive Chairman shall be submitted to the Board at least five days prior to the Board meeting in which the issue is to be addressed.

(8) The Board may, by simple majority decision, either—

(a) Approve the documents and application

and request the Executive Chairman to grant an environmental licence,

(b) Conclude that there are inadequacies in the assessments and return the application and documents to the applicant with the option of correcting and resubmitting them within 21 days.

(c) Conclude that the scale of adverse environmental or social impacts is so great, and is incapable of being avoided, mitigated or compensated for, such that an environmental licence shall not be granted.

(9) The quorum of the Board for any decision to grant a Category A or B environmental licence shall be two-thirds of appointed members.

PART V – OBLIGATIONS OF AN ENVIRONMENTAL LICENCE HOLDER

25. (1) The holder of an environmental licence shall, in accordance with sections 133 and 134 of the Mines and Minerals Act 2009, prepare an Environmental Management Plan and a Social Impact Management Plan and shall review the contents of such plans on each anniversary of the commencement of works and shall update the plans to accommodate any changes that have occurred in the method of mining, areas of operation, or other activities that could affect environmental protection and ultimate restoration or rehabilitation of the affected areas.

Updating
Environmental
Management
Plan and
Social
Impact
Management
Plan

(2) An updated Environmental Management Plan and a Social Management Plan shall be submitted simultaneously to the Director of Mines and the Board within one month of the anniversary of the commencement of works.

Annual Environmental Report. 26. (1) The holder of a mineral right shall prepare an annual Environmental Report in accordance with Section 134 of the Mines and Minerals Act 2009 and submit this report for monitoring purposes simultaneously to the Director of Mines and the Board.

(2) The annual Environmental Report prepared by the holder of mineral right shall not subsequently be engaged in any form of independent auditing relating to the same licence area.

Annual Social Report. 27. (1) **The holder of a mineral right shall prepare an annual social report in accordance with Section 134 of the Mines and Minerals Act 2009 and shall widely distribute and disseminate this report amongst the Local Community and submit copies of the same to the Minerals Advisory Board and the Board.**

(1) The annual social report shall be prepared by the holder of the mineral right or its consultants and the authors of this report shall not subsequently be engaged in any form of independent auditing relating to the same licence area.

Environmental and Social Performance Monitoring. 28. The environmental licence holder shall include a schedule of the holder of the mineral right's internal sampling and inspection programmes covering all areas of environmental and social monitoring as an appendix to the Environmental Management Plan and the Social Management Plan.

Financial assurance. 29. (1) For Category A and B projects, the holder of a mineral right shall establish itemised costs for the restoration plan including all progressive restoration proposals and costs associated with the Mine Closure Plan prior to commencement of work in the manner specified in the Sixteenth Schedule relating to financial assurance and in accordance with section 136 of the Mines and Minerals Act 2009.

(2) Based on the outline costs, to be agreed with the Board, the holder of a mineral right shall, prior to commencement of work provide financial assurances to the full value of the restoration, rehabilitation and remedial works contained within the mine closure

plan to the satisfaction of the Board.

(3) Estimates of costs in sub-regulation (1) shall be revised annually in the light of practical experience on the site and the level of financial assurance shall be adjusted accordingly in accordance with subsection (3) of section 136 of the Mines and Minerals Act 2009.

(4) For Category C projects, the holder of a mineral right shall provide the Executive Chairman or Authorised Officer with a budget of costs relating to the mine closure.

30. (1) Acceptable forms of financial assurance include a assurance surety bond, a trust fund with pay-in period, an insurance policy, a cash deposit or annuities, or any combination of these in the manner specified in the Sixteenth Schedule and in accordance with subsection (4) of section 136 of the Mines and Minerals Act 2009,

Forms of

(2) The financial assurance mechanism to be used for any specific project shall comply with the standards contained in the Sixteenth Schedule.

31. (1) **Where the financial assurance is not presented within the time period prescribed in (2) below, the environmental licence shall be suspended.**

Present-
ation of
financial
assurance.

(2) Where the mineral right holder fails to present the financial assurance by the start-up date for the commencement of mining activities as notified by the construction contractor, the environmental licence shall be suspended in accordance with clause (ii) of subsection (1) of section 34 of the Act and section 136 of the Mines and Minerals Act 2009.

32. (1) Where pursuant to Section 118 of the Mines and Minerals Act 2009, the holder of a mineral right wants to temporarily suspend its mining activities, it shall present a care and maintenance programme for approval by the Board.

Temporary
suspension
of activities

(2) The care and maintenance programme shall be prepared in the format specified in the Seventeenth Schedule.

(3) The period of temporary suspension cannot be longer than two years and where mining activities are suspended for more than two years the holder of a mineral right shall enter into final closure and implement the closure plan as approved by the Board.

(4) The holder of the mineral right shall ensure that the financial assurance provided under regulation 31 shall continue in full force and effect during any temporary suspension of mining activities.

PART VI—CLOSURE OF MINING ACTIVITIES

Mine closure obligations

33. (1) A mineral right holder shall bring mining activities to a close at the end of extraction and related activities, whether during the period of or on termination of its mineral right, by ensuring that the mine area is left in condition free of any adverse physical, chemical and biological effects, with no long term adverse environmental risks.

(2) A mineral right holder shall leave the area of operations in a condition that facilitates future sustainable land use and ensures that rehabilitation does not become a burden to society after mining activities are over.

(3) A mineral right holder's obligations and liabilities shall continue until a closure certificate has been delivered in accordance with Regulation 42, provided that a mineral right holder's obligations shall not be limited by the expiration of the mineral right nor with the whole or partial suspension, cancellation, revocation, forfeiture, attachment, pledges, relinquishment, surrenders, reduction of area, ceasing of operations, or any other circumstances affecting the status of the mining right licence or the environmental licence.

34. (1) For Category A and B projects, the applicant shall produce a Mine Closure Plan which shall include all technical and legal measures that need to be implemented by the holder of a mineral right in order to rehabilitate the areas disturbed by its operations and to eliminate actual or potential risks to the environment and to public health and safety.

(2) For Category C projects only, the applicant shall produce a conceptual mine closure plan which shall be included in the ESIA.

(2) The mining areas shall be restored to their preoperational ecological conditions whenever feasible, or otherwise, to an environmental condition appropriate for sustainable alternative uses acceptable to the Board.

(3) The conceptual closure plan shall include a budget of costs in relation to the mine closure.

(5) A detailed Mine Closure Plan shall be submitted for approval by the Board, together with the financial assurance, at least six months before the proposed commencement of the project.

(6) Existing small-scale mining and large-scale mining licence holders who do not currently have approved closure plans shall submit a detailed Mine Closure Plan for approval of the Board within six months after these Regulations enter into force.

(7) The Mine Closure Plan shall be prepared in accordance with the structure and guidance defined in the Ninth Schedule of these Regulations.

(8) Once approved by the Board, the Mine Closure Plan shall be reviewed and updated every two years and whenever changes in the project make it necessary with all updates submitted for approval of the Board.

Progressive
Closure

35. (1) Every Mine Closure Plan shall be implemented in a progressive manner during the life of the project and shall involve a continuous series of activities starting from the initiation of the project and in accordance with sections 134 and 136 of the Mines and Minerals Act 2009.

(2) Rehabilitation of disturbed areas shall be carried out on an on-going basis, before, during and after the final closure of operations.

(3) Closure comprises the rehabilitation activities included in the Environmental Management Plan and the Mine Closure Plan.

Default in
closure
obligations

36. (1) If the holder of a mineral right defaults in the performance of its closure obligations and such default is not caused by an event of force majeure affecting the holder of the mineral right, the Board shall levy a fine on the environmental licence holder and require him to comply with such obligations within a period of time as the Board considers appropriate.

(2) Where the infringed closure obligations are not implemented by the end of the term indicated in subsection (1) above, the Board shall execute in full or part, as appropriate, the financial assurance and the Board shall retain a specialized engineering or environmental firm to implement the closure obligations in default, whose costs will be reimbursed by the defaulting mineral right holder.

(3) In the event of a second offence the environmental licence shall be suspended and the provisions of section 53 of the Mines and Minerals Act 2009 shall apply.

(4) Should the amount of the financial assurance be insufficient to fully implement the closure obligations, the holder of the mineral right shall pay the amount that is required to complete the closure works, to a special financial assurance account managed by the Board.

(5) The amount indicated in subsection (4) and the reimbursable amounts indicated in sub-regulation (2), plus interest, legal costs and any enforcement costs in relation thereto, shall be recoverable by summary judgement if the holder of the mineral right fails to pay such money to the special financial assurance account within the term established by the Board.

37. (1) Where the holder of a mineral right intends to cease operations either during the period of or on termination of its mineral right, he shall, in accordance with subsection (1) of section 54 of the Mines and Minerals Act 2009, present a notice to the Director of Mines with—

Assets on
termination
of mineral
right.

(a) a full register of assets showing those assets which he intends to remove and those which he intends to leave in the area covered by the mineral right or permit; and

(b) information of any potentially hazardous substances, erections or excavations in that area.

(2) The register of assets referred to in clause (a) of sub-regulation (1), as well as the information on potentially hazardous substances, erections or excavations indicated in clause (b) of sub-regulation (1), shall be consistent with the Mine Closure Plan approved by the Board.

(3) The notice referred to in sub-regulation (1) shall be accompanied by a letter of conformity issued by the Director of Mines and for this purpose the holder of a mineral right shall submit the proposed notice for review by the Board.

(4) Pursuant to sub-regulation (3) the Executive Chairman or Authorised Officer shall issue a letter of conformity or non-conformity, as the case may be, within fourteen days which shall indicate any objections.

(5) The holder of a mineral right, in not more than a period of seven days, respond to the objections and re-submit the proposed notice, after which the Executive Chairman or Authorised Officer shall issue a letter of conformity within a fourteen day period and where the Board's objections are not satisfactorily lifted, no letter of conformity shall be issued.

(6) On receipt of the notice from the holder of a mineral right, the Director of Mines may, if he deems it necessary, in accordance with paragraph (a) of subsection (2) of section 54 of the Mines and Minerals Act, require that specified items of fixed machinery are necessary for the care and maintenance of the area covered by the mineral right, and such items and machinery shall not be removed.

(7) The items indicated in sub-regulation (6) shall be excluded from the Mine Closure Plan, and the financial assurance reduced as required, without prejudice to any corresponding environmental liabilities to which the holder of the mining right is subject, until the time when such items are handed to the Director of Mines.

(8) The compensation referred to in subsection (3) of section 54 of the Mines and Minerals Act shall not reduce compromise or replace any payment for fines, damages, indemnities, or other economic consequences attributable to the holder of a mineral right's environmental liabilities.

(9) On receipt of the notice from the holder of a mineral right, the Director of Mines may, if he deems it necessary, require that specified buildings and other items of fixed machinery shall be removed or require that potentially hazardous substances, erections and excavations be removed or made safe in such manner as he may direct in accordance with paragraphs (b) and (c) of subsection (2) of section 54 of the Mines and Minerals Act,.

(10) The requirements referred to in subsection (9) shall be consistent with the decommissioning and other abandonment measures contemplated in the MCP approved by the Board and the Director of Mines shall consult with the Board in case of any doubt on the matter.

(11) Where the requirements referred to in sub-regulation (9) involves the holder of the mineral right to perform additional works, the Executive Chairman shall require the holder of a mineral right to submit a proposed amendment to the Mine Closure Plan indicating the additional works required and the associated costs, the holder of a mineral right shall present a financial assurance to the Board for the additional works which shall be included in the Mine Closure Plan.

38. (1) Notwithstanding subsection (5) of section 54 of the Mines and Minerals Act, the environmental licence holder shall undertake a full inspection of the integrity and safety of any fresh water dam that is to be retained and advise the Director of Mines and the Board on the long-term engineering and cost implications of retention.

Retention
fresh

(2) Following consultation with the Director of Mines, the Board may instruct the retention, removal or modification of the dam reservoir and the environmental licence holder shall modify the Mine Closure Plan accordingly.

39. (1) In accordance with the sustainability principle established under Regulation and subsection (1) of section 132 of the Mines and Minerals Act 2009, and for the purposes of the community development provisions contained in Sections clause (i) of paragraph (c) of subsection (1) of section 140 and paragraph (b) of subsection (2) of section 140 of the Mines and Minerals Act 2009, the local community or the district authority may file a request to the Board through its Executive Chairman or Authorised Officer in order to exclude from the Mine Closure Plan, certain facilities, such as roads, buildings, water wells, or other, that can be beneficial to the local community after the termination of the mining activities, in which case, the local community or the district authority, as appropriate, shall take the responsibility for the maintenance of such facilities as well as for their closure should it be required.

Alternative
use of
facilities

(2) The Board, through its Executive Chairman or Authorised Officer shall communicate its decision by written notice to the community representative or the district authority, as appropriate, within thirty days.

(3) Should the request be approved, the Board shall indicate the maintenance and closure obligations to be assumed by the local community or the district authority.

(4) The Board through its Executive Chairman or Authorised Officer, shall also notify the related holder of the mining permit, and shall withdraw such facilities from the Mine Closure Plan, and reduce the financial assurance in the proportionate amount.

Review and
modification
of Mine

40. (1) Every holder of mineral right shall present an updated Mine Closure Plan every two years or at the request of the Board, for review by the Board and the closure cost of areas that have been rehabilitated as contemplated in the Environmental Management Plan and the Mine Closure Plan, in accordance with subsection (3) of section 136 of the Mines and Minerals Act 2009, and shall be eliminated from the budget, and the financial assurance reduced or increased accordingly.

(2) The holder of the mineral right shall submit for consideration by the Board, modifications to the Mine Closure Plan and associated financial assurance which are required as a result of the modification of the mining activities.

(3) The Board through its Executive Chairman or Authorised Officer will communicate its decision by written notice to the holder of the mineral right within thirty days of submission of the Mine Closure Plan and associated financial assurance.

Monitoring
and
reporting

41. (1) The Mine Closure Plan shall include a proposed monitoring and reporting programme for the Executive Chairman or Authorised Officer to control and supervise the execution of closure measures as proposed by the holder of the mineral right.

(2) The monitoring programme shall include a minimum of a three-year monitoring and reporting period after final closure in order to verify that the Mine Closure Plan has been successfully implemented and the area has reached physical, chemical and ecological stability.

(3) The Board may establish a longer monitoring and reporting period if deemed necessary.

42. Where the Mine Closure Plan has been fully implemented and the project area has been rehabilitated to a condition suitable for stable and sustainable use as determined by the Board, the Executive Chairman shall issue to the holder of the mining right a closure certificate and return the remaining financial assurance to the holder of the mining right.

Closure
certificate

PART VII-ENVIRONMENTAL STANDARDS

43. (1) Environmental quality standards establish the degree, level or concentration of elements and substances, as well as physical, chemical and biological parameters, present in ambient air, standards water or soil that does not pose a significant risk on the public health and the environment.

Environ-
mental
quality

(2) Alterations of environmental quality exceeding the above mentioned standards are not legally imputable to the holder of a mineral right except a direct cause-effect relationship between its operations and the violation of the environmental quality standards is proved.

44. (1) Effluent and emission quality standards establish the degree, level or concentration of elements and substances, quality as well as physical, chemical and biological parameters that characterizes a particular effluent or emission from a mining operation, in excess of which public health, human wellbeing or the environment are or might be harmed.

Effluent and
emission
standards

(2) Effluent and emission quality standards are measured at their source, which shall include chimneys and waste water pipes.

(3) Compliance with effluent and emission quality standards shall be mandatory for the holder of a mineral right and violation of these standards shall be sanctioned as prescribed by law.

Competent Authority 44. (1) The Board shall be the competent authority to prescribe effluents and emission quality standards and to recommend air, water and soil environmental quality standards in accordance with paragraphs (h) and (t) of section 12 of the Act.

(2) The Board shall be the competent authority to enforce effluents and emission quality standards, and to impose penalties in case of infringement.

Application standards 45. (1) Adjustment to new standards for on-going of mining operations shall be agreed by the Board and shall be gradually and progressively undertaken by the holder of the mineral right within such period of time as may be determined by the Board.

(2) The period of time referred to in sub-regulation (1) shall be determined by the Board on a case by case basis and always in consultation with a relevant industry specialist.

(3) Exceptionally, and for only one time, the Board may extend the period referred to in sub-regulation (2) for a term it deems necessary, if the social cost of standards implementation is greater than the overall benefit to the local community.

Prohibition 46. The prohibition of the discharge of any toxic and hazardous substance into the air or in, on or under the land and waters of Sierra Leone refers imposed under subsection (5) of section 58 of the Act shall apply to discharges from mining activities which infringe the effluent and emissions quality standards specified in these Regulations.

Ambient water 47. Where the natural quality of water used in mining activities already exceeds the effluent standards established in quality these Regulations, the effluent discharges from such operations shall not have a lower quality than the water taken from its natural source.

Effluent Standards. 48. (1) Except as provided under Regulation 49, effluent international quality standards for mining and metallurgic operations are the following:

<i>Parameter</i>	<i>Unit of Measure</i>	<i>Limit at any Moment</i>	<i>Annual Average Limit</i>
Ph	–	– 9	- 9
TSS	Mg/l	50	25
Oils and grease	Mg/l	20	16
Total cyanide	Mg/l	1	0.8
Total arsenic	Mg/l	0.1	0.08
Total cadmium	Mg/l	0.05	0.04
Hexavalent chrome (*)	Mg/l	0.1	0.08
Total copper	Mg/l	0.6	0.4
Iron (dissolved)	Mg/l	2	1.6
Total lead	Mg/l	0.2	0.16
Total mercury	Mg/l	0.002	0.0016
Total zinc	Mg/l	1.5	1.2

(*) Unfiltered sample.

(2) The results from effluents sample analysis shall not exceed the value established in the column: “limit at any moment”.

(3) Annual concentration for each parameter shall not exceed the values established in the column: “annual average limit”.

49. The holder of a mineral right Shall not dilute effluents with fresh or saline water or mix industrial and domestic effluents.

Effluent dilution and mixing Prohibited.

Gaseous emissions and particulate matter quality standards.

50. (1) Quality international standards for arsenic, lead and particulate matter (10) emissions

<i>Parameter</i>	<i>Unit of Measure</i>	<i>Limit at any Moment</i>
Arsenic	mg/m ³	25
Lead	mg/m ³	25
Particulate matter (PM ₁₀)	gg/m ³	100

(2) Quality standards for sulphur dioxide emissions

Sulphur Inout Tons/day	SO ₂ Emission Limit Tons/day
<10	20
11 – 15	25
16 – 20	30
21 – 30	40
31 – 40	50
41 – 50	60
51 – 70	66
71 – 90	72
91 -120	81
121-150	90
151-180	99
181-210	108
211-240	117
241-270	126
271-300	135
301-400	155
401-500	175
501-600	195
601-900	201
901-1200	207
1201- 1500	213
> 1500	0.142 (S)*.

*(S) = Total sulphur input into the process.

51. (1) The Board shall establish standards for other effluent and emission parameters as it may deem necessary and shall review such standards annually to incorporate any new effluents, emissions or measurement criteria.

Regulation of other parameters

(2) The holder of a mineral right shall technically demonstrate to the Executive Chairman or Authorised Officer that effluent discharges and emissions from operations for parameters not regulated yet, does not cause negative effects to public health, safety and the environment.

52. (1) For the purposes of complying with the requirements of Section 133 of the Mines and Minerals Act 2009, the relevant environmental assessment instrument (EIA, ESIA and EMP) shall indicate:

Control and Monitoring stations

- (a) proposed control checkpoints for every effluent and emission generated from the operations;
- (b) effluent and emission monitoring stations to be installed in each control checkpoint;
- (c) the number and technical characteristics of monitoring equipment to be installed in each monitoring station;
- (d) the frequency with which sampling shall be carried out at each monitoring station.

(2) For the purposes of these Regulations, effluent and emission samples shall be taken from every control checkpoint established in the EIA, ESIA and EMP.

(3) No change in the location of any checkpoint or monitoring station shall be made unless with prior approval by the Executive Chairman or Authorised Officer.

Monitoring
by
Environmental
Licence
holder

53. (1) The holder of an environmental licence shall measure the concentration of each regulated parameter not less than quarterly in order to determine pollutants concentration, as well as the volume of effluent and emission discharges in compliance with environmental quality standards established under section.....of the Act and the requirement to provide data on emissions in accordance with clause (i) of paragraph (b) of section 133of the Mines and Minerals Act 2009.

(2) The holder of an environmental licence for a Category A or B project shall present a quarterly report to the Executive Chairman or Authorised Officer containing the effluents and emissions monitoring results for the last three months and an analysis and interpretation of these results.

(3) The holder of an environmental licence for a Category C project shall monitor its effluents and emissions, and keep the information readily available for review by the Board.

(4) The Board or the Authorised Officer may, at any time request from the holder of a Category C Project environmental licence the monitoring information indicated in sub-paragraph (3) for the purposes of review and control.

(5) The holders of all environmental licences shall keep monitoring information for a period of five years.

Sampling
protocol

54. (1) Effluent and emission sample collection and analysis shall be carried out according to the official monitoring guidelines approved by the Board.

(2) The guidelines indicated in subsection (1) shall be published by the Board in the Gazette within the term of six months from the publication of these Regulations.

Penalties

55. (1) The Board shall impose on the holder of a mineral right the penalties prescribed by law in the following cases-

(a) effluents and, or emissions exceeding legal limits; and/or

(b) dilution or mixing of effluents.

PART VIII-MONITORING AND INSPECTION

56. (1) The Executive Chairman or Authorised Officer shall conduct routine and random inspections of the environmental performance of mining operations of all environmental licence holders. Control and supervision

(2) The Executive Chairman or Authorised Officer shall supervise mining operations in accordance with the Code of Practice specified in the Eighth Schedule and enforce compliance with these Regulations.

(3) Control and supervisory actions comprise project monitoring, routine and random inspection visits at site, and environmental auditing.

57. (1) The Executive Chairman or Authorised Officer shall establish a routine inspection schedule for every mining activity covered by an environmental licence. Site visits

(2) Category A projects will be inspected at least three times each year, category B projects will be inspected twice a year and category C projects will be inspected once a year.

(3) For all routine inspections the Executive Chairman or Authorized Officer shall give the environmental licence holder five days' notice of the planned inspection in advance, the Authorised Officer shall serve notice to the holder of the mineral right, informing them about the scheduled inspection visit, indicating-

(a) the name(s) and identification document number of the officer(s) appointed for site visiting;

- (b) time schedule indicating date of visit and number of days of permanence at site if applicable; and
- (c) logistic requirements as applicable.

(4) The notice referred to in sub-regulation (3) shall be delivered by physical delivery or email to the holder of the mineral right, provided that any notification by email shall be deemed to be delivered upon receipt of email confirmation by the Executive Chairman or Authorised Officer.

(5) The holder of the mineral right shall include in his application for an environmental licence current address and email contact details and undertake to promptly notify the Executive Chairman or Authorised Officer of any change of address or email details.

(6) Failure by the holder of the mineral right to comply with sub-regulation (5), shall not prevent the Board, Executive Chairman or Authorised Officer, from performing an inspection under this Regulation.

Random
Inspection

58. (1) The Executive Chairman or Authorised Officer shall from time to time conduct random inspection of any project in respect of which an environmental licence has been issued in order to assess their effect on the environment and the community and ascertain compliance with the Act and these Regulations.

(2) For the effective exercise of these powers, the Executive Chairman or Authorized Officer may—

- (a) enter at any time, without warrant, any premises or facility where mining activities are being undertaken and inspect the project at any time, subject only to full compliance with radiation and mine health and safety standards;

- (b) request from the holder of a mineral right any environmental information or documentation pertaining to the mining activities, including any licence issued under the Act and these Regulations, project records, or any other document he deems relevant;
- (c) take samples of emissions, effluents, soil, wastes or any other substances or residues from the operations;
- (d) perform tests in-situ; and
- (e) perform any other tests, take samples and request information or documentation pertaining to the mining activities that, acting reasonably, he or she deems necessary.

(3) The Executive Chairman or its Authorized Officer may request the support of the police for the performance of its functions under these Regulations

(4) The provisions of sub-regulation (4) and (5) of regulation 59 shall apply to this regulation.

59. (1) Category A and Category B environmental licence holders may arrange for environmental and social audits to be conducted on their own operations from time to time, by fully qualified environmental and social auditors in order to inform the content of their environmental and social reports.

Voluntary
Audit

(2) Auditors for Category A and B audits shall be of accredited international environmental and social audit standards.

(3) A copy of every independent audit undertaken by Category A and B environmental licence holders shall be submitted to the Executive Chairman or Authorised Officer together with the annual environmental and social report.

(4) The Executive Chairman shall recognise and accept copies of duly certified and audited independent environmental audits produced by the mineral right holder for its financiers to ensure compliance with the Equator Principles.

Compulsory
audit.

60. (1) The Executive Officer or Authorised Officer may arrange for random auditing to be carried out on any environmental licence holders operations in order to ensure consistency and transparency in environmental and social monitoring.

(2) The frequency of random audit shall vary with the scale and significance of the project and the level of performance identified through routine sampling, inspection and monitoring by the licence holder as follow–

- (a) Category A and B project environmental licence holders at a frequency of 3 years.
- (b) Category C project environmental licence holders at any time if a routine inspection by the Executive Chairman or Authorised Officer indicates that there are serious omissions in environmental or social performance.

(3) The Board shall be responsible for the selection of auditors and such selection shall be in accordance with the standards set out in Regulation 62 and the principles contained in the Eighteenth Schedule.

Appointment
of Auditors
and cost.

61. (1) The Board shall conduct a competitive and open tender, in accordance with the Public Procurement Act, 2004 (Act No. 14 of 2004), for the appointment of competent environmental auditors who, upon appointment by the Board, shall become part of a standing pool of environmental auditors which may be called upon by the Board or the Executive Chairman at any time within a 3 year period for the purposes of conducting routine or specific environmental audits.

(2) Bidding information to be requested by the Board under regulation (1) shall include–

- (a) clear requirements of an anticipated programme of work;
- (b) the required technical competencies;
- (c) any other specific requirements of the Board relating to the anticipated environmental audit;
- (d) schedule of costs for the tendered framework plan,
- (e) previous experience of similar work advertised by the Board; and
- (f) a list of available technical consultants and their detailed resumes

(3) In the event that any challenge raised by the environmental licence holder in relation to the costs of an environmental audit remains unresolved, the environmental licence holder may appeal to the Board, whose decision on any disputed costs shall be final and binding.

(4) Whenever the Board requires the services of an environmental auditor for the purposes of these Regulations, it shall promptly notify those auditors chosen in the standing pool in order to determine their availability to commence work.

(5) The terms of reference for any specified audit shall be developed and agreed with the environmental licence holder.

(6) Auditors will be selected by the Board based on the responses from the standing pool of approved auditors relating to price, expert qualifications and ability to mobilise, provided that those

companies or individuals who have been involved or contracted by the environmental licence holder to undertake any work related to environmental or social issues within the previous 12 months shall be excluded from undertaking any auditing work, and any selected auditor will be prohibited from providing services related to the environmental or social issues to the environmental licence holder for six months after the completion and submission of the audit.

PART IX – ENFORCEMENT

Grievance Mechanism 62. (1) The holder of a mineral right shall submit to the local communities, a formal grievance mechanism.

(2) A grievance mechanism to be submitted by the holder of a mineral right under regulation (1) shall be in accordance with the following principles –

- (a) legitimacy;
- (b) accessibility;
- (c) predictability;
- (d) equitability;
- (e) transparency;
- (f) ensuring that communities’ rights under these Regulations and other laws are respected;
- (g) dialogue and engagement; and
- (h) encouraging an environment of continuous improvement of processes and dialogue.

(3) The holder of a mineral right shall designate a grievance officer early in the project cycle to –

- (a) inform the local community and the Primary Host Community and raise awareness of the grievance mechanism.
- (b) manage grievances and ensure full documentation of grievance processes; and
- (c) meet members of the community to resolve informal complaints.

(4) Where grievances are unresolved by the holder of a mineral right, an arbitrator shall be jointly appointed by the Executive Chairman or Authorised Officer and the representative of the local community.

(5) The Local Community shall identify an appropriate person to represent the community in all arbitration matters and the representative shall be an internationally accredited negotiator or mediator with experience in mining related grievances.

(6) The costs of any arbitration and shall be borne by the holder of a mineral right.

63. The enforcement measures regulated in these Regulations are in addition to the enforcement measures of the Board established in sections 53, 54, 55 and 56 of the Act.

Enforcement measures

64. (1) Pursuant to subsection (3) of section 37 of the Act, where the Executive Chairman or Authorized Officer has reasonable grounds to believe that an offence has been committed or is about to be committed in violation of the Act or these Regulations, he may without a warrant, enter, conduct inspections in or search any mining site, premises, facilities, vehicles or other buildings, sites or facilities associated with the mining activity, in which he has reasonable grounds to believe an offense has been, is about to be or is being committed.

Environmental offences

(2) The Executive Chairman or Authorized Officer may seize any document, item or substance which he has reasonable grounds to believe has been used in the commission of such offence or in respect of which an offence has been committed.

(3) A receipt shall be given for anything seized under this regulation which states the grounds for such seizure.

(4) The Executive Chairman or Authorized Officer may require the police to arrest any person who he suspects to have committed an offence.

(5) The Executive Chairman or the Authorized Officer may issue an order for a compulsory environmental audit of the mining activities or for the development of special environmental studies as required, and the costs of either shall be paid by the holder of the mining right.

Standing 65. Every person shall have a standing before the Board to raise any matter of concern regarding violations of social and environmental obligations.

Duties of mineral right holder 66. (1) **The holder of a mineral right shall–**
(a) allow the Executive Chairman or Authorized Officer to enter the project premises, and conduct all or any of the actions in exercise of the functions and powers conferred upon him by the Act and these Regulations.
(b) provide assistance to the Executive Chairman in exercise of the powers conferred on him under the Act and these Regulations.

(2) The holder of a mineral right or its corporate environmental officer, shall report any environmental accident relating to its mining activities to the Authorised Officer within twenty-four hours of the accident and submit a detailed report on the accident

shall be presented within ten working days of the date on which the accident took place.

67. In the event of a default of the regulations relating to financial assurance, a licence-holder is obligated to provide a financial assurance under section 136 of the Mines and Minerals Act 2009 and fails to do so, the Director shall –

- (a) cause to be served, on the licence-holder a notice of demand; and
- (b) cause a note of the service of the notice to be endorsed in the mining cadastre register, *in* accordance with subsection (5) of section 136 of the Mines and Minerals Act, 2009.

PART X – ADMINISTRATION OF ENVIRONMENTAL LICENCES

68. (1) In accordance with the Act, applications for environmental licences under categories EIA or ESIA shall be submitted to the Board. Applications

(2) The Executive Chairman in consultation with the Board shall decide on an extension of the time established in the procedure indicated in sub-regulation (1) when considered necessary for the purpose of evaluating an EIA or ESIA and the Authorised Officer shall communicate this decision to the Director of Mines and the applicant by written notice.

(3) An application for an exploration, small-scale or large-scale mining right or permit to the Minerals Advisory Board under the Mines and minerals Act, 2009 shall be made subject to a successful application for an environmental licence granted by the Board.

(4) The applicant for an environmental licence to be granted by the Board shall –

- (a) provide details of any significant adverse effects which the carrying out of the programme of reconnaissance operations would be likely to have on the environment and on any monument or relic in the proposed reconnaissance area and an estimate of the cost of combating such adverse effects in accordance with paragraph (J) of section 57 of the Mines and Minerals Act, 2009;
- (b) provide details of any significant adverse effects which the carrying out of the programme of exploration operations would be likely to have on the environment and on any monument or relic in the proposed exploration licence area and an estimate of the cost of combating such adverse effects in accordance with paragraph (J) of section 70 of the Mines and Minerals Act, 2009;
- (c) be accompanied by an environmental impact assessment licence as may be required by the Minister under subsection (2) of section 131 of the mines and minerals Act, 2009, effects in accordance with paragraph (g) of subsection (2) of section 96 of the Mines and Minerals Act, 2009;
- (d) a statement on the consequences of dredging including the destruction of monuments and relics, sacred places and burial grounds in accordance with paragraph (a) of subsection (2) of section 228 of the Mines and Minerals Act, 2009;
- (e) an environmental impact assessment licence as prescribed under the Environment Protection Act as a condition for granting a

small-scale mining licence or a large-scale mining licence in accordance with subsection (2) of section 131 of the Mines and Minerals Act, 2009,

69. (1) Pursuant to subsection (2) of section 131 of the Mines and Minerals Act 2009, an environmental licence granted by the board under the Act shall entitle the licensee to make an application for a mining right or permit.

(2) Where an application for an environmental licence is rejected by the Board, the mining right or permit application shall be deemed to be incomplete and not compliant with mineral right licensing requirements.

70. (1) Pursuant to Section paragraph (c) of section 30 of the Act, an environmental licence shall be valid for such period as the Board may determine.

(2) Pursuant to Section 31 of the Act, the period specified in an environmental licence may be renewed by the Board, upon application by the licensee, for such further period as the Board shall determine.

71. (1) The holder of an environmental licence of EIA or wishing to amend an EIA or ESIA shall submit an application to the Board for that purpose.

(2) An EIA or ESIA shall be amended or modified under sub-regulation (1) in the following cases–

- (a) for the implementation of mine development at completion of the exploration phase, and before the commencement of mining activities;
- (b) for increments of mineral production greater than 50% of the production estimated in the original EIA, in small-scale mining operations;

L e g a l
effect of
licence

Validity
a n d
renewal

Amendment
ESIA

- (c) for increments of mineral production greater than 30% of the production estimated in the original EIA, in large-scale mining operations;
- (d) for increments of mineral production in small-scale or large-scale mining operations having new environmental impacts or involving disturbance of new areas;
- (e) for the construction and operation of new beneficiation facilities not included in the beneficiation plant original layout;
- (f) for the modification of existing beneficiation facilities due to introduction of new mineral processes or increment of production capacity greater than 50%;
- (g) for the construction of tailing ponds, rock deposits, furnaces, chimneys, leaching pads or other facilities not included in the beneficiation plant original layout;
- (h) for the introduction of new equipment or variations of technology in mining or beneficiation facilities having new environmental impacts or affecting new areas.

(3) Subject to subparagraph (2), the Board may determine that amendments to an ESIA may result in re-categorization of the project into a Category A or B project that shall require an EIA.

72. (1) Pursuant to Section 34 of the Act, where the terms and conditions of a licence are not being complied with or have been contravened, or there is a substantial change in or an adverse effect modification on the environment as a result of the operations of the holder of a mining licence, the Board may—

Cancellation,
suspension,
and ex officio

- (a) cancel the licence;
- (b) suspend the licence for such time as the Board considers appropriate; or
- (c) impose additional or modified conditions for the licence:

provided that the Board shall, prior to any decision to cancel, suspend or modify the licence conditions, consult with the holder of the mineral right and permit him to take measures to remedy or abate the offending events and the time scale for such corrective measures shall be no more than 3 months and the holder of the mineral right shall only have one opportunity to take corrective action.

(2) The Executive Chairman or Authorised Officer shall notify the Director of Mines and the holder of an environmental licence in writing of the cancellation, suspension or imposition of additional conditions of a licence and of such additional conditions that may have been imposed.

(3) The Board may, in addition to cancellation, suspension or imposition of additional conditions, require the holder of a mining permit to take measures to remedy or abate such adverse effects on or remedy any damage to the environment where necessary.

(4) The Board may engage an appropriately skilled independent consultant to produce a technical assessment report of the offending events that may assist the Board to determine whether to cancel, suspend or impose additional conditions on the holder of the mining permit and the costs of such report shall be borne by the holder of the mineral permit.

(5) The suspension or cancellation of the mining right or permit to which the environmental licence corresponds shall be determined in accordance with the provisions of section 53 of the Mines and Minerals Act 2009.

Appeal

73. (1) **An applicant who is dissatisfied with the decision of the Board not to grant or to reject an application for an** environmental licence or to cancel or suspend an existing environmental licence may appeal to the High Court must within thirty days of the Board's notification of its decision to the applicant.

(2) A member of the Local Community aggrieved by the Board's decision to grant an application for an environmental licence may appeal to the High Court within thirty days of the Board's notification of its decision to the applicant to grant the application for an environmental licence.

(3) The filing of the appeal shall under sub-regulation (2) and (3) shall not suspend the effects of the Board's decision, which shall remain in force until the High Court reaches a decision to suspend or revoke the decision of the Board.

Licence register.

74. (1) The Executive Chairman or Authorised Officer shall establish and maintain a Register of Environmental Licences in which shall be recorded all applications and licences granted including all ancillary documents and materials.

(2) The Register of Environmental Licences referred to in sub-regulation (1), shall be a public document and shall be available for public inspection on payment of the prescribed fee.

(3) A copy of the Register of Environmental Licences shall be deposited with the mining cadastre on a semi-annual basis

Stakeholders participation

75. The environmental licence approval process shall guarantee participation of stakeholders in order to facilitate their feedback, so that the applicant can plan in advance on how to mitigate negative environmental impact and social impact before they arise.

PART XI- MISCELLANEOUS

Existing licenses and rights

76. (1) All environmental licences issued prior to the coming into force of these Regulations shall be valid, for the period of the licence.

(2) The Board may review all environmental licences issued prior to the coming into force of these Regulations in order to assess whether the environmental and social impact assessments and associated management plans have been completed to the standards established in these Regulations.

(3) subject to sub-paragraph (2), the Board may amend any plan or document associated with any environmental licence issued prior to the coming into force of Regulations.

(4) All mineral right holders shall, not later than six months after to the coming into force of these Regulations, ensure that their operations are in compliance with the Environmental Standards established in Part VII of these Regulations.

(5) Existing mineral right holders who do not have an environmental licence shall apply for an environmental licence not later than six months after to the coming into force of these Regulations

77. (1) Where the Board requires additional information to that already provided by an applicant or license holder the Executive Chairman shall submit a written request to the applicant or licence holder specifying the information required and stating the reason for requesting the information is required.

(2) If the applicant refuses to provide information requested in sub-regulation (1) the Board may refuse a new application, suspend or revoke an existing licence.

78. Reconnaissance and exploration operations undertaken for the purpose of locating mineral deposits under section 24 shall be developed under an environmental management instrument, issued by the Board in accordance with these Regulations.

79. (1) Where there is a transfer of a mineral right the transferee shall implement the EIA or ESIA, as applicable and MCP approved by the Board in relation to the mineral right in accordance with subsection (7) of section 83 and subsection (7) of section 119 of the Mines and Minerals Act, 2009.

Information disclosure

Environmental management-instrument.

Transfer obligations.

(2) sub-regulation (1) shall apply to all and any kind of mineral right or permit acquisition.

Financial Assurance. 80. (1) All small-scale and large-scale mining licence holders shall provide, within such time as is prescribed, financial assurances for their own performance against all obligations to which it is subject pursuant to an EMP or the terms of its environmental licence and in accordance with subsection (2) of section 137 of the Mines and Minerals Act 2009.

(2) The form of financial assurance to be provided under sub-regulation (1) shall be in such form as specified in subsection (4) of section 136 of the Mines and Minerals Act, 2009.

(3) The Holder of a Mineral Right shall provide only one financial assurance to compensate against all environmental and social liabilities resulting from its Mining Activities in a specific project and a Holder of a Mineral Right shall not be required to provide two assurances in relation to its environmental and social liabilities deriving from a specific project.

Cadastral survey map 81. The provisions of the Act and these regulations shall not apply to any land marked on the cadastral survey map in accordance with paragraph (c) of subsection (1) of section 46 of the Mines and Minerals Act, 2009 and known to be closed to mining.

(2) In application of sub-regulation (1), the cadastral survey map shall depict all national parks, natural reserves, archaeological sites, and other protected areas established throughout Sierra Leone in accordance with paragraph (d) of subsection (2) of section 176 of the Mines and Minerals Act, 2009.

Suspension or cancellation of mineral rights 82. (1) The Board shall in consultation with the Director of Mines suspend or cancel a mineral right if the holder grossly violates health and safety regulations or causes environmental harm in accordance with paragraph (c) of subsection (1) of section 53 of the Mines and Minerals Act 2009.

(2) Board shall order the holder of the mineral right to immediately implement environmental rehabilitation as prescribed under Section 136 of the Mines and Minerals Act 2009.

83. (1) Within the term of three months from the publication of these Regulations, the Board shall establish the penalties applicable in case of default of the obligations set forth in these Regulations. **Penalties**

(2) When establishing penalties under sub-section (1) above, the Agency shall take into account penalties prescribed under other regulations relating to the mining sector and which relate to the same infringement and shall co-ordinate with applicable government officials and departments when determining suitable penalties under these Regulations.

FIRST SCHEDULE—PUBLIC PARTICIPATION AND CONSULTATION

1. Requirement for public participation and consultation

Section 15 places a mandatory obligation on all applicants for an environmental licence to carry out consultation with stakeholders from the earliest stages of a mining project throughout the mining operations until closure is completed. This consultation shall be undertaken in accordance with the principles for public participation and consultation set out in Section 15 and this Schedule.

2. Procedural requirements for each category of mining project

Applicants for mining projects under the following environmental licence categories shall, as a minimum requirement, undertake the following level of public participation and consultation.

Category D: There is no formal requirement for public participation and consultation in relation to a Category D project, however the holder of a mineral right shall recognize the legitimate interests of local communities to be informed about any activities which involve the transport of equipment and personnel and the use of accommodation in association with mineral reconnaissance and prospecting and shall provide relevant information to such stakeholders.

Category C: Applicants for an environmental licence in relation to a Category C project shall arrange a public meeting within the area likely to be affected by exploration or small scale mining activities before any equipment is moved into the area or physical activity takes place on site.

The purpose of the meeting will be to discuss with the community the nature of the work and its likely impacts and to engage in dialogue with the community which must include answering questions and addressing concerns.

Where activities are ongoing, the holder of an environmental licence shall hold public meetings with local communities at regular intervals, which shall occur at least every six months.

Category B: The requirements for public participation and consultation set out for Category C projects above shall also apply to Category B projects.

In addition, where the area covered by a Category B project includes more than one settlement and these settlements are more than 5 kilometers apart, the holder of or applicant for an environmental licence shall organise public meetings in each settlement.

In the case of Category B projects, the holder of or applicant for an environmental licence shall develop and implement a communications plan to manage public participation and consultation throughout the term of the mining licence or environmental licence, as applicable.

The communications plan shall be included in the Environmental Management Plan and Social Management Plan.

Category A: The requirements for public participation and consultation set out for Category B projects shall also apply to Category A projects.

In addition, all arrangements for public participation and consultation contained within the communications plan shall be discussed and agreed with the Community Liaison Committee established under Section 5 of these Regulations.

SECOND SCHEDULE—PROJECT SCREENING APPLICATION

TO DETERMINE THE CATEGORY OF PROJECT FOR AN ENVIRONMENTAL LICENCE

1. Procedures

Applicants for an environmental licence required in connection with the following categories of mineral rights licences shall submit a project screening application as set out in Tables 1 through 3. This information will be used by the Agency to determine which category of environmental impact assessment shall be undertaken by the applicant to support its application for an environmental licence relating to:

- (a) A Reconnaissance Licence involving invasive activities under Section 64 of the Mines and Minerals Act 2009;
- (b) An Exploration Licence under Part IX of the Mines and Minerals Act 2009;
- (c) A small scale mining licence; and
- (d) A large scale mining licence.

Table 1 Information on the Applicant and the nature of the planned operation

1. The following information is in summary form (full details shall be submitted as set out in the Act).

- (a) Registered Name and place of incorporation of the company
.....
- (b) Company profile and history of reconnaissance and exploration operations in Sierra Leone and elsewhere
.....
- (c) Name and qualifications of supervising officer
.....
- (d) Plan of the reconnaissance licence area
.....
- (e) Description of contiguous blocks
.....
- (f) Statement on technical and financial resources
.....
- (g) Proposed programme of reconnaissance operations
.....
- (h) Period for which the application applies
.....
- (i) Details of any existing mineral rights
.....

Table 2 Description of Location and Nature of Operations

2. Information required under the First Schedule

Description	Units	Estimated cost of remediation
(i) Area of land covered by the application	Km ² or Ha	
(ii) Number of boreholes to be drilled	Number	
(iii) Quantity of specimens and samples to be taken	< 1 tonne <1-10 tonnes > 10 tonnes	
(iv) Name and surface area of woodland or forest within which timber will be cut		
(v) Name and location of river, lake or other water body from which water will be extracted		
(vi) Location of any temporary buildings		
(vii) Name and location of any ancient monument, relict, sacred grove or other artifacts of historic and cultural significance that lies within or closer than 100 metres to the boundary of any physical works		

Table 3 Applicant's assessment of the likely effects of the mining activities on the natural environment within the area of mining operations

Completion of this table shall satisfy the requirements of an applicant for a reconnaissance licence under Section 57 (j) of the Mines and Minerals Act 2009.

3. Physical Environment (Mark the relevant sections with an X and give precise details of area, depth or volume, where these exist.)

3.1 Land Surface

Description	1	2	3	4	5
	Less than 1 hectare	1 to 10 hectares	10 hectares 1 km ²	1 to-100 km ²	More than 100 km ²
Surface area of land affected by surface disturbance with machinery or excavations					
Area of vegetation to be cleared					
Area of farmland affected					
3.2 Land Excavation					
	1	2	3	4	5
If the operations involve excavation what quantity of material will be moved?	Less than 10 m ²	10 m ³ to 100 m ²	100m ² to 1 million m ²	1 million to 100 m ²	More than 100 m ²
What is likely to be the maximum depth of excavation from the existing surface level	Less than 3 feet (1 metre)	3 to 15 feet (1-5 metres)	15-30 feet (5-10 metres)	30 to 150 feet (10-50 metres)	More than 150 feet (>50 metres)
Ratio of overburden to mineral ore	0:1	1:1	Between 1:1 and 5:1	Between 5:1 and 20:1	More than 20:1

3.3 Water

Description	1	2	3	4	5
	Less than 100m ³	100 to 1000m ³	1000 to 50,000m ³ 1 km ²	50,000 to 100,000m ³	Over 100,000 m ³
Volume of water to be abstracted by gravity or pumping from a natural or artificially constructed water course or water body (maximum over one month)					
Volume of water to be stored in tanks/ settling ponds or other artificial storage areas					
Volume of waste water (including drilling mud) to be produced (over a maximum period of one month)					
Does the operation involve creating a dam or impoundment on any watercourse or dredging operations?			No		Yes
Does the operation involve diverting an existing water course?			No		Yes

3.4 Wildlife and Nature Conservation

	1	2	3	4	5
Does the application area include any officially protected area?	No				Yes

Has an ecological survey been undertaken by a qualified biologist? Yes No

Are any rare or endangered species of plants or animals found within the application area as listed in national or international registers? No Yes

In the applicant's opinion, will the operations affect wild life and nature conservation in the application area? Not at all Very slight effects Some minor adverse impacts which can be mitigated Moderate adverse impacts which can be mitigated Major adverse impacts

3.5 Natural Resources

1 2 3 4 5

Will the operation require the use of local timber, stone, clay or other building materials? No Yes

3.6 Infrastructure

1 2 3 4 5

Do existing tracks and roads lie within the application area? footpaths Minor tracks Dirt / graveled feeder roads Un-surfaced District Roads Regional and Paved Roads

Will any tracks and roads be used by mineral traffic? footpaths Minor tracks Dirt / graveled feeder roads Un-surfaced District Roads Regional and Paved Roads

How many of truck movements

off over 3 tonnes capacity will use public roads in an average month? Less than 3 3 to 10 10 to 20 20 to 50 More than 50

Does the project involve the diversion or construction of new roads? No Under 500 metres 500 metres to 1 Km 1 km to 10 kms More than 10 kms

Does the project involve the diversion or construction of new railways? No Under 500 metres 500 metres to 1 Km 1 km to 10 kms More than 10 kms

Does the project involve the use of existing ports or the construction of new ports? No Yes (existing ports) Yes (new ports)

Does the project involve the use of air transport from existing or new airports? No Yes (existing airports) Yes (new airport)

3.7 Energy

Will the applicant provide all energy requirements from the company's own resources? No Yes

What is the estimated annual electricity requirement of the operations? Less than 5000 kw 5000 -50,000 kw 50,000 to 100,000 kw 100,000 kw to 1 mw More than 1 mw

What is the estimated annual requirement of the operations in terms of diesel oil or other petroleum products? Less than 50,000 litres 50,000 to 100,000 litres 100,000 to 500,000 litres 500,000 to 1 million litres More than 1 million litres

3.8 Buildings, Structures and Processing Plant

1 2 3 4 5

Will the operations include the erection of buildings and structures/plant? Temporary buildings and structures erected for <5 years Permanent buildings / structures covering less than 100m² Permanent buildings / structures covering 100m² to 500m² Permanent buildings / structures covering 500m² to 1000m² Permanent buildings / structures covering more than 1000m²

3.9 Emissions

1 2 3 4 5

Will the operations generate solid waste requiring disposal through land fill? No Yes

Will the operations involve processes giving rise to gaseous emissions? No Yes

Will the operations have the potential to generate dust which would impact on local inhabitants? No Yes

Will the operations have the potential to generate noise which could adversely affect local inhabitants? No Yes

Will the operations require the use of chemicals and reagents in on-site processes? No Yes

Will the operations pose any form of risk to humans from potential accidents and the creation of hazards (e.g. deep bodies of water / rockfalls)? No Yes

Will the operations create unsightly visual impacts affecting the setting of villages or towns? No Yes

If the answers to any of the above questions relating to "Emissions" in Part 3.9 of Table 3 are "Yes", provide summary details on the scale and nature of the potential effects.

Table 4 Applicant's assessment of the scale and likely effects of the operations on

the local economy and social conditions within the area of mining operations

4.1 Resettlement Impact

Will the operations require the resettlement of people? No Yes
Description /Impact Will the operations affect existing settlements either directly or indirectly?
Not at all Very slight effects Some minor adverse impacts which can be mitigated
Moderate adverse impacts which can be mitigated Major adverse impacts
with more than 500 houses?
with 100-500 houses?
with 50 -100 houses?
with 25-50 houses?
With fewer than 25 houses?

Where the answer to the above questions on settlements and properties is “Yes” provide details on the estimated number of properties and individuals involved

4.2 Effect on current land use activity

Will the operations displace or reduce the viability of existing land uses for:
Not at all *Very slight effects* *Some minor adverse impacts which can be mitigated*
Moderate adverse impacts which can be mitigated *Major adverse impacts*
Agriculture?
Forestry?
Rural livelihoods (collecting roots/fruits/honey etc.)?

Tourism?

Will the operations affect: Monuments/archaeological sites:

Sacred groves?

Burial areas?

THIRD SCHEDULE - PROJECT SCREENING CRITERIA

1. Procedures

(1) The Agency will base its decision on the information submitted as part of the project screening application, supported by information on environmentally sensitive areas in Sierra Leone and criteria relating to social and local economic conditions as set out in Table 1.

(2) Any application which falls within the criteria listed in Table 1 will automatically require a Category A or B environmental Assessment and the equivalent social assessment.

(3) Applications falling outside the environmentally sensitive localities listed in Table 1 will also require environmental and social assessment where the class of assessment will be determined by the nature and scale of the planned operations.

(4) In all cases, the class of environmental and social assessment will be determined by the Agency in accordance with criteria set out in Table 2.

Table 1 Criteria Determining a Mandatory Need for Environmental Assessment

Criteria relating to Environmental Sensitive localities

a) Areas and ecosystems meriting special protection under national and international law including coral reefs, mangroves, native forest, small islands, areas at risk from erosion including sand dunes and beaches, areas exposed to desertification, marshland, wetlands and areas with flora, fauna or ecosystems on the verge of extinction.

b) Fish spawning areas and areas containing important natural resources such as medicinal plants

c) Important water sources including springs, headwater catchments of rivers, and watercourses or water bodies providing public water supplies.

Criteria relating to Socially or Economically significant localities

d) Populated areas where more than 50 properties or 500 people might be directly or indirectly affected in terms of livelihoods.

e) Populated areas where it might be necessary to resettle any individual inhabitants involuntarily.

f) Populated areas where more than 50 properties or 500 people live in close proximity to the area of potential operations and could be affected adversely by noise, dust or other pollutants.

g) Areas within which there are already conflicts in terms of ownership, use and distribution of natural resources.

h) Areas containing sensitive receptors including proximity to hospitals and health centres

i) Applications in areas adjacent to ports and airports where development activities could adversely affect operation of these facilities

j) Areas within or adjacent to important tourism resorts or tourism assets

Table 2 EPA Determination of the Class of EIA required based on the nature and scale of planned operations

The class of assessment is guided by the aggregate score generated by the Agency’s review of the applicant’s screening application. A total score for an application is established by summing individual scores from tables 3 and 4 in the Second Schedule.

Agency staff will be guided by the applicant’s own assessment of the severity of any potential Impact but may alter the weighting / score at their discretion where they have reason to believe that the effects of the project may be more or less significant.

Any alteration in the score allocated to individual topics shall be highlighted on a copy of the screening application and forwarded to the applicant with the EPA’s screening decision.

The Agency shall exercise its discretion in terms of the categorisation of applications and is not bound by the absolute scores set out in the table below which provide guidance only.