

LICENSES IN THE NIGERIA MINING SECTOR



THE LICENSES INCLUDE:



Exploration
License



Mining Lease



Small Scale
Mining Lease



Possess or
Purchase License



Mineral Buying
Centre License



Export permit.

EXPLORATION LICENSE

This type of license allows the licensee to search for the required mineral resources deposited in the areas covered by the license.



MINING LEASE

This type of license is preceded by an exploration license to mine in commercial quantity. Mineral resources must have been found in satisfactory quantities making application for the lease. Duration is for a period of 25 years under the Nigeria's Minerals and Mining Act, 2007.

The major requirements for grant of mining lease are as follows:

- a. Exploration License
- b. Certified true copy of Incorporation documents
- c. Completed application forms
- d. Pre-Feasibility Report
- e. Prospecting plan
- f. Payment of processing fee
- g. Evidence of financial capability or banker reference letter
- h. Evidence of technical competence or COMEG accredited geologist
- i. Irrevocable consent from landowner(s) and/or occupier(s) to the applicant
- j. Attestation of non-conviction of criminal offences under the Act by a Lawyer

SMALL SCALE MINING LEASE

The Small-Scale Mining Lease is a lease to mine in smaller quantities compared to the Mining Lease. The duration is for 5 years.

A Small-Scale Mining Lease can also be converted to Mining License if the scale of production increases.



POSSESS OR PURCHASE LICENSE

This licence allows an entity that does not own or possess a mining lease to directly engage in mineral trading or exporting. The duration of the license is one-year subject to renewal.

Some of the requirements to obtain a Possess and Purchase License are as follows:

- a. Certificate of Incorporation of the Company, including CAC Form 1.1
- b. Application letter
- c. Tax Clearance
- d. Attestation of non-conviction for a criminal offence by a Legal Practitioner
- e. Banker's Reference Letter
- f. Letter of consent from a Mineral title holder
- g. Evidence of technically competent person (credentials of Mining Engineer)
- h. Payment of prescribed fee

MINERAL BUYING CENTRE LICENSE (MBC)

This gives licence to open a mineral center or warehouse to trade in mineral resources. Some of the other documents required for an application under this license are similar to the ones required for the Possess or Purchase License.



EXPORT PERMIT

Export permit is required for any export of Nigerian mineral resources to overseas, either in commercial quantity or for ordinary laboratory test. The condition precedent to obtain such permit include the following:

- a. Valid Possess or Purchase license
- b. Application letter describing the quantities, destination, and type of the minerals to be exported.
- c. Payment of royalties to the federal government

LEGAL AND REGULATORY FRAMEWORK OF THE NIGERIAN MINING SECTOR

The Nigerian Minerals and Mining Act of 2007, National Minerals and Metals Policy 2008 and Nigerian Minerals and Mining Regulations 2011 regulate the mining industry in Nigeria. Other legislation include Companies and Allied Matters Act 2020 and Nigerian Investment and Promotion Commission for incorporation of a company in Nigeria by prospective investors and obtaining Business permit amongst others.

FISCAL INCENTIVES OF THE NIGERIAN MINING SECTOR

Tax Incentives for mining companies are contained in the Nigerian Minerals and Mining Act (NMMA) of 2007. Some of the tax and regulatory incentives provided by the NMMA are:

- ❖ **Capital Expenditure Allowance:** Eligible persons can claim capital allowance of 95% on qualifying capital expenditures. Section 24(1) of the NMMA provides that a license holder shall be entitled to capital allowance of 95% of qualifying capital expenditure incurred in the year in which the investment is incurred on all certified exploration, development and processing expenditure, including feasibility study and sample assaying costs as well as all infrastructure costs incurred regardless of ownership and replacement. A company can therefore claim an initial capital allowance on the qualifying capital expenditure at an accelerated rate of 95% when determining taxable profits.
- ❖ **Exemption from Custom Duties:** Section 25 of the NMMA grants exemption from payment of customs and import duties in respect of plant, machinery, equipment, and accessories imported specifically and exclusively for mining operations.

FISCAL INCENTIVES OF THE NIGERIAN MINING SECTOR

- ❖ **Permission to Retain and Use Earned Foreign Exchange:** Section 26 of the NMMA provides that where the holder of a mineral title earns foreign exchange from the sale of its minerals, the company may be permitted by the Central Bank of Nigeria to retain in a foreign exchange domiciliary account a portion of its foreign exchange earnings. The foreign exchange retained should be used exclusively for the acquisition of spare parts and other inputs for the mining operation.
- ❖ **Tax Relief Period:** Mining companies are eligible for a tax relief period for three years and subsequent extension for another two years by the Minister of Mines and Steel Development where there are satisfactory mineral operations.
- ❖ Deferment of royalty payments on any minerals for a specific period on the approval of the Federal Executive Council
- ❖ The investor may also be entitled to claim an additional rural investment allowance on its infrastructure cost.

DISPUTE RESOLUTION

The Nigerian Investment Promotion Commission Act provides that disputes between an authorized mining investor and any Federal State or Local Government in Nigeria may be settled by negotiation or arbitration in accordance with

- i. a procedure specified in the Arbitration and Conciliation Act
- ii. the framework of any bilateral or multilateral agreement on investment protection entered into by the Federal Government of Nigeria and the investor's home country, or
- iii. any other contractually agreed dispute settlement machinery.

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