

Guidelines E5



Government of Sierra Leone

Ministry of Mineral Resources

Mines and Minerals Act 2009

Conduct of the Mineral Advisory Board

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1. Introduction

The Mineral Advisory Board (MAB), established under the Mines and Minerals Act 2009, is composed of fifteen members, as follows:

- Chairman appointed by the President
- Secretary (Director of Mines)
- Director of Geological Survey
- Commissioner-General of National Revenue Authority (NRA)
- Representative of Attorney-General & Ministry of Justice
- Representative of Ministry responsible for local government
- Representative of Ministry responsible for environment (EPA)
- Permanent Secretary of Ministry responsible for mineral resources
- Two qualified and experienced persons usually from the mining industry
- Representative from civil society
- Representative from the Youth Commission
- Paramount Chief nominated by the Council of Paramount Chiefs
- Inspector General of the Police
- Chief of Defence Staff

In addition, the MAB may co-opt one or more persons from the local community to help deliberate on an application but such person(s) shall not be entitled to vote.

The responsibilities of the MAB include:

- Advising the Minister on all matters relating to minerals including exploration, mining, processing, import/export, and marketing
- Formulating recommendations on national policy on minerals
- Advising the Minister on matters affecting the environment as related to mining
- Monitoring implementation of Government policy relating to minerals
- Considering all mineral rights applications and certifying advice to the Minister
- Securing comprehensive data collections from the results of mineral exploration
- Reviewing the provisions of the Act
- Other functions as the Minister may assign

In addition to its principal duties in respect of advising on mineral rights applications, including renewals and transfers, the Act refers to a number of specific instances where the MAB may be required to provide advice to the Minister. These include:

- Failure of landowner to agree surface rents with a mineral rights holder (section 34)
- Disagreements over land rights compensation payments (section 35 (6))
- Suspension or cancellation of a mineral right in respect of any of the conditions stated under section 53 (1)
- Matters related to termination, temporary suspension or reduction of production in respect of section 118 (4)
- Where the realized price for mineral products in arms length sales does not comply with section 154 (1) and (2)
- Financial security matters in relation to section 156
- Agreements concluded between the Government and holders of large-scale mining licences in respect of Government participation (section 162 (1))

2. Convening meetings of the Minerals Advisory Board

The Chairman, in consultation with the Secretary, will convene meetings of the MAB at such times as there is a significant volume of business (e.g. mineral rights applications) to discuss, and in any event at least quarterly. The Act requires that mineral rights applications (licences and permits mainly) are disposed of not later than sixty days after submission. However, an application will not be considered 'complete' until all necessary information, including any further information or clarification, is provided to the satisfaction of the MAB). The Chairman will give as much prior notice to MAB members as possible which, except in unusual circumstances, will be at least one week.

In notifying members of a meeting, the Secretary will circulate an Agenda for the meeting which shall have the following general format:

1. Date, time and place of meeting
2. Minutes of last meeting (for correction and approval)
3. Matters arising
4. Discussion of applications
 - (i) Application #1 – MCO reference No., applicant's name and type of application
 - (ii) Application #2 – MCO reference No., applicant's name and type of application
 - (iii) Application #3 – MCO reference No., applicant's name and type of application
 - (iv) Etc
5. Any other business
6. Provisional date of next meeting
7. Attachments: Draft Minutes of last meeting

Any *ex-officio* member who cannot attend a meeting should notify the Secretary, in advance if possible, and inform him of the name of any substitute nominated to attend in his place. Anyone deputising in this way must hold a senior position and must have the necessary expertise to deliberate on the proposal and the authority to vote on behalf of the absent member.

Even before a meeting has been called, the Mining Cadastre Office (MCO) will send each member of the MAB a complete copy of all mineral rights applications, including supporting reports and other documents, as soon as an application has been entered into the register of mineral rights applications. Any member who considers the application deficient in any respect may inform the Chairman and request that further supporting information or clarification is provided before the application is considered. The Chairman may if he agrees, through the Secretary (Director of Mines), instruct the MCO to seek the required information from the applicant within a specified time, and in this case will delay consideration of the application for such time as is necessary. The Secretary will keep all other MAB members advised of such delays. On receipt of the further information from the applicant, the MCO will provide this to each MAB member.

3. Conduct of meetings

The Secretary will appoint a 'rapporteur' to record the proceedings of meetings. The rapporteur shall not be a member of the MAB but must have sufficient background familiarity with mining, geology, environmental terminology and the minerals law to intelligently record the discussions. The rapporteur's notes will be used by the Secretary to prepare draft Minutes, to be presented at the next meeting for correction and approval.

At every meeting, the Chairman will begin by asking whether any member wishes to declare an interest in respect of any agenda item, and will declare his own interests, if he has any. A member having an interest must absent himself when that agenda item is discussed.

The rapporteur will make a note of all members present, including substitutes.

The Chairman will present the Agenda, convey any apologies he has received for absence, and welcome any substitute members.

The Chairman will ask if members have any matters not on the Agenda for discussion under any other business (A.O.B.) and will make a note of these. He may also introduce other business of his own.

The Chairman will ask if members have any comments on, or corrections to, the Minutes of the previous meeting, item by item. After correcting the Minutes, he will ask for a member to move that they be accepted, a member to second the motion and the Minutes will be formally accepted. (A copy of the corrected minutes will later be signed by the Chairman and Secretary, and will be filed by the Secretary).

The Chairman will lead the discussion on matters arising from the Minutes. Any applications carried over from a previous meeting will be scheduled to be discussed first under Agenda item 4 - Applications.

The discussion of mineral rights applications will form the bulk of the business for most MAB meetings. (More detailed guidance on this topic is provided in Guidelines E6 of the Fifth Schedule).

The Chairman will open the discussion of each application. If the application is one held over from a previous meeting pending the supply of additional information or clarification, the Chairman will note whether this has been provided. (If it has not been received by the MCO within the time limit allowed, then the application will be deemed to have lapsed). He will then invite each member of the MAB in turn to address the application and give his assessment. The session will be interactive, and open to questions and discussion. The rapporteur will record the discussion as far as is possible.

If the consensus of the meeting is that the applicant should be required to supply additional information or clarification, no further deliberation will take place. (Note: Such opportunity will be given to an applicant once only). In this case the Chairman will ask the Secretary to instruct the MCO. Otherwise, following general discussion, the Chairman will lead the MAB through the Tracking and Assessment form which the Secretary will fill in according to the comments from members. This will be completed in full for every application.

Decisions will be reached by consensus wherever possible. If this is not possible, a vote will be taken and, if necessary, the Chairman will have the casting vote. The Secretary will record the results of voting on the Tracking and Assessment form.

Where the MAB approves a recommendation, the Chairman will instruct the Secretary to complete Form D1 or D2 of the Fourth Schedule, including any special conditions for the Minister to consider. This will be signed by the Chairman before forwarding to the Minister together with a complete set of documents and the Tracking and Assessment form. If an application is refused, the Tracking and Assessment form will clearly state the reasons and this will be returned to the MCO the next working day. The MCO will advise the applicant accordingly and will quote the reasons for the rejection.

Following the discussion of applications, the Chairman will move to each other item of business on the Agenda including A.O.B. The details of all discussions will be noted by the rapporteur for inclusion in the draft Minutes.

4. Minutes of MAB meetings

The Secretary will prepare official Minutes of each meeting of the MAB based on the records of the rapporteur. These will be in the following format:

1. Title: "Minutes of the <XXX> meeting of the Minerals Advisory Board on <date>" [where <XXX> is the number of the meeting e.g. 1st, 2nd....33rd, and <date> is the date of the meeting].
2. Present: list of MAB members attending together with their organization (noting names of anyone substituting for a member, if appropriate).
3. Apologies for absence: list of MAB members not attending and their organizations.
4. Declarations of members' interests (name and MCO application reference number)
5. Corrections to Minutes of previous meeting
6. Record of any matters arising from Minutes of previous meeting and actions taken

Discussion of applications. Each assessment is to be summarized separately. The same general format is used for both new applications and for applications previously considered and now subject to reconsideration in light of further information. For each application considered:

- (a) Application No. <MCO reference No.>
- (b) Type of mineral rights application and Schedule B Form # submitted
- (c) Date application first registered with MCO
- (d) Name of applicant
- (e) State whether this is a first or second assessment. (If a second assessment, date of initial assessment)
- (f) Results of voting
- (g) Recommendations of the MAB (to include: whether approved, refused or further information requested; summary of comments of the MAB including reasons for the rejection or deferment; record of results of voting)
- (h) Any actions to be taken and person(s) responsible (to be highlighted or emboldened)
- (i) Name(s) of any member(s) with declared interest absenting themselves from the discussion

7. Any other business
 - (a) Topic, member raising the issue, details of discussion and outcomes/actions arising
 - (b) Same for each item of AOB

8. Provisional date of next meeting

After the Minutes have been officially approved, they will be signed by the Chairman and Secretary as a true record.

5. Records of the Minerals Advisory Board

Copies of Agendas and Minutes should be archived under the control of the Secretary. It is suggested that these documents are held in a series of lever-arch files subdivided according to category of mineral right and ordered by date, so that documents can be located quickly if needed. A reference index or catalogue should be kept.

All documents (other than environmental reports) are confidential and should be kept in locked cabinets with access limited.

6. Annual report of the Mineral Advisory Board

The Act requires that the MAB produces an annual report not later than ninety calendar days after the end of each year for submission to the Minister. A draft should be prepared by the MAB Secretary as early as possible after the year end, checked by the Chairman, and finally approved at the first meeting of the MAB.

The annual report should be produced in duplicate hard-copy, one copy of which should be retained with other records of the MAB. A digital version may be published on the Ministry website.

The printed report should be in the following format:

Hard-copy reports should be bound and have a cover page, inner cover page, contents page and numbered text pages.

Title: this should be self-descriptive, for example : *'Annual report of the Minerals Advisory Board for the period 1 January to 31 December 2009'*

Cover page: should contain the title (central) and date of the report (bottom right)

Inner cover page: this should again contain the title but also the author (Secretary to MAB) and date, and a MAB report reference number (e.g. MAB 1)

Contents page: list of the sections in the report and page numbers.

Main text: it is suggested that the report should include:

- Brief message from the Chairman of the MAB highlighting the main activities of the past year and commenting on the state of the minerals sector.
- Executive summary (1 to 2 pages) covering the activities of the MAB over the reporting period. This might, for example, highlight the business conducted such as: the number of meetings held; number of applications considered; and the number of each type of mineral right approved or renewed. It should also summarize any other business conducted. It might end by giving a statement comparing activity in the mining sector with previous years. Other comments may be included as the Chairman considers appropriate.
- Membership of the MAB including affiliations, and membership changes during the year.
- Statistics of MAB meetings. Details of the number of meetings convened during the year with dates. List of applications received and considered, subdivided according to type of mineral right. Number of each category of mineral right approved and rejected (and pending), including new rights and renewed rights.
- Status of mineral exploration and mining in Sierra Leone, including:
 - number of each type of mineral right held at end of year;
 - total land area covered by each mineral right;
 - proportion of the country under exploration licences;
 - total committed expenditure on exploration at the end of the year;
 - total revenue from application fees during year;
 - total revenue from annual charges during year;
 - total committed annual expenditures on reconnaissance & exploration;
 - number of active mines and production statistics (exports; Royalties etc);
 - comparisons with previous years & trends
- Graphical illustrations to support the statistics presented
- An A4 (or fold-out A3) map showing mineral rights extant at the end of the year (to be produced by the Mining Cadastre)
- Summary of other business conducted by the MAB.