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S.I. No.42

[Legal Notice No. 63]

MINES AND MINERALS ACT
(Cap. 42)**MINES AND MINERALS (AMENDMENT) REGULATIONS 2010**

IN exercise of the powers conferred upon me by section 80 of the Mines and Minerals Act, I make these Regulations -

- Citation 1. These Regulations may be cited as the Mines and Minerals (Amendment) Regulation 2010.
- Regulation 3 amended 2. Regulation 3 of the Mines and Minerals Regulations 1996 (Legal Notice 106 of 2006) ("principal Regulations") is amended by adding the following subregulation -
- “(2A) The applicant shall -
- (a) at his own costs, apply for any permit, licence or other authorisation required by a provincial Government.;
 - (b) in writing and where relevant, confirm compliance with the provisions of the Foreign Investment Act 2005, including enclosing a certified copy of any certificate or other authorisation issued under that Act; or
 - (c) for an application for prospecting licence under section 20(I), provide a baseline environment study setting out in detail the environmental impact of prospecting”.
- Part IIA 3. The principal Regulation are amended by adding after regulation 3 the following new Part -
- “PART IIA - TENDER PROCEDURES FOR PROSPECTING LICENCE
- 3A. In this Part -
- “approved tender specification” means the tender specification specification approved under regulation 3C(1);
- “Screening Committee” means the Committee appointed under regulation 3D;
- “specified area” means an area specified under regulation 3B for prospecting for the purposes of section 20(4) of the Act;

“tender document” means the tender document submitted under regulation 3C(5);

“tender notice” means the tender notice issued by the Board under regulation 3C.

Minister to
specify area

3B. (1) For the purposes of section 20(4), the Minister may, on the recommendation of the Board, specify an area as a proposed area for prospecting, by notice in the Gazette.

(2) The Board shall first undertake consultation with the landowners, land holding groups or other persons or group of persons having an interest in specified area with the view of obtaining their approval on the proposed prospecting before making its recommendation to the Minister.

(3) The Director shall -

(a) not, before closure of the tender, accept any application under section 20(1) of the Act pending on the date the area is specified under subregulation (1), inform the application to submit a tender when the tender notice is advertised.

3C. (1) If the Board calls for tender under section 20(4), the Board shall issue and publish in a newspaper having wide circulation in Solomon Islands or other medium approved by the Board a tender notice inviting interested persons to submit their respective tenders in accordance with the tender specifications approved by the Board.

(2) The Board may, with the approval of the Minister, publish the tender notice in another country.

(3) The tender notice shall also include the actual prescribed tender fee approved by the Board to be paid by the tenderer.

(4) The Board may extend the time for closure of the tender.

(5) The approved tender specification shall contain the following -

(a) general information and instructions on the tender;

(b) the description of the specified area, including its geological and exploration background and a copy of a geological map showing the specified area;

- (c) conditions for prospecting licence;
 - (d) information about compliance with the requirements of section 20 of the Act and these Regulations;
 - (e) all relevant laws of Solomon Islands applicable to or affecting prospecting;
 - (f) any other information the Board considers necessary for the purpose of the tender and the specified area.
- (6) The tenderer shall submit to the Director the following -
- (a) the tender document in compliance with the approved tender specification, including the prescribed tender fee specified in the tender notice; and
 - (b) an application for prospecting licence, including the prescribed application fee
- (7) The Director shall, within ten working days of the expiration of the tender notice, inform each tenderer -
- (a) that the tender document has been received;
 - (b) the procedures and the estimated time of processing of the tender;
 - (c) whether any other tender process will be followed by the Board in finalising the tender, such as short listing of tenderers;
 - (d) the process to be followed by the Minister in issuing of the prospecting licence;
 - (e) any other information the Director thinks fit.
- (8) When the Director has informed all the tenderers, the Director shall refer all the tender documents and the applications for prospecting to the Screening Committee.
- Screening Committee 3D (1) The Minister may appoint a Screening Committee consisting of ten members of which there shall be up to three representatives of the land owning group within the specified area, subject to terms and conditions of appointment specified by the Minister.

(2) Before appointing a person to the Screening Committee, the Minister shall require the person to sign a form approved by the Minister declaring any vested interest in respect of the tender and the specified area.

(3) The functions of the Screening Committee are -

- (a) to check that the tender documents and applications comply with this Part and the approved tender specification;
- (b) with the assistance of the Director, to carry out an independent and due diligence search and assessment on the company proposed to undertake the prospecting, including its past exploration ventures and exploration, drilling and mining experience, skills and competence in Solomon Islands and in other countries;
- (c) to assess financial resources, implications, marketing competencies and training programmes, transfer of skills to local workers and any relationship with or mindset on landowners and other related matter;
- (d) to assess the company's background on its compliance with environmental laws, international conventions and standards on environment;
- (e) to assess the company's genuine and long term investment commitment;
- (f) to assess the application for prospecting in relation to the tender document;
- (g) to carry out any other functions or duties specified in writing by the Minister in respect of a tender on a specified area.

(4) The Screening Committee shall make a report on its screening of tender documents and applications for prospecting and submit it to the Board to decide on the successful tenderer and the application.

(5) The Board shall inform the Minister of the successful tenderer and whether or not the application for prospecting is acceptable for the purposes of section 21.

Transfer of rights 3E. (1) The successful tenderer shall not transfer or assign any right, interest or benefit under the tender or letter of intent except with the prior approval of the Board

- (2) The approval shall be granted with conditions, including performance bond”.
- Regulation 37 amended 4. Regulation 37 of the principal Regulations is amended in regulation 37 by deleting “regulation 39” and substituting regulation 36”
- Regulations 38 to 41 amended 5. Regulations 38, 39, 40 and 41 of the principal Regulations are amended by deleting “ in such form as he may prescribe” wherever it appears in those regulations.
- Regulation 39 amended 6. Regulations 39 of the principal Regulations is amended by adding the following subregulation -
- “(3) A report required under section 27(4) of the Act shall include a baseline environmental study setting out in detail the environmental impact of prospecting”.
- Regulations 41A and 41B added 7. The principal regulations are amended by adding after regulation 41 the following regulations -
- “41A. Any permit, licence or lease under regulation 38, 39, 40 or 41 is liable to be cancelled if the holder fails to comply with regulation 38, 39, 40 or 41.”
- 41B. (1) The licensee of a mining licence may apply to the Director for the reduction of annual mining licence fee who shall submit the application to the Board.
- (2) The Board shall consider the application and decide whether or not the annual licence fee shall be reduced.
- (3) The Board shall not reduce the annual mining licence fee unless it is satisfied that -
- (a) the size of operations of the mining and the type of minerals mined do not justify the charging of the full annual mining licence fee; and
 - (b) there are other good ground provided by the licensee that justify the reduction in the annual mining licence fee.
- (4) The Board shall not reduce the annual licence fee below fifty percent of the prescribed annual mining licence fee.”

Second
Schedule
amended

8. Second Schedule (now renumbered as the Third Schedule) to the principal Regulations is amended in paragraph (a) of item 4 (PROSPECTING LICENCE) by adding the following new subparagraph -

“(iii) tender fees under Part IIA USDS5,000 to USDS10,000”.

Schedules
renumbered

9. The principal Regulations are amended by renumbering the Schedules as follows -

- (a) First Schedule - Forms;
- (b) Second Schedule - Scale of Fees and Deposits; and
- (c) Third Schedule - Fees (added in under Legal Notice No. 20 of 1999)

MADE AT HONIARA this twenty-first day of July 2010

DAVID DAY PACHA
Minister for Mines, Energy and Rural Electrification

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