



UNIVERSITY OF MINES AND TECHNOLOGY, TARKWA

SECOND SEMESTER EXAMINATIONS, MAY 2018

COURSE NO: GM MN MR 456
COURSE NAME: MINING LAWS AND REGULATIONS
CLASS: GM, MN, MR IV (T'14) **TIME:** 2 HOURS

Name: _____ Index Number: _____

SECTION A (20 marks)

Consider the following scenarios, and provide appropriate answers:

Q1. *AusieGold Ltd., an Australian based mining company, operating four mining leases in Ghana, has recently been engaged in a dispute with the Government of Ghana in relation to the enlargement of the area to which one of the leases relate. Attempts to settle the matter via alternative dispute resolution failed. Further attempts to resolve the issue failed until the matter was referred to a multilateral agreement on investment protection to which Ghana and Australia are parties. Unfortunately, that also yielded dead-end results.*

What will apply in such a scenario? [3 marks]

Q2. *“Where a mineral right is for mining or exploitation, the Government shall acquire a ten percent free carried interest in the rights and obligations of the mineral operations in respect of which financial contribution shall not be paid by Government” Section 43 (1).*

There is a debate that the percentage interest cited in Section 43(1) is inadequate, and that more should be demanded from large scale mining companies, considering the huge financial benefits these companies accrue from exploiting the mineral resources of Ghana.

Do you agree with this motion? Briefly indicate your stand, arguing for or against the motion.

[6 marks]

Q3. *Kojo Basua owns surface right to a piece of land over which mineral right has been granted to UMaT Resources Ltd. He approaches the company for a claim 70 days after due notice has been served by UMaT in respect of the grant of mineral right. Kojo refers to Regulation 7 of LI 2175, and insists UMaT should strike a negotiation deal with him in respect of all that has been specified in his written claim. UMaT, on the contrary is not ready to accept this as a basis for the payment of compensation, since Kojo's written claim comes in days after the stipulated time.*

Based on the laws of Ghana, how best should this issue be resolved?

[4 marks]

Q4. *Bayong Gold Ltd has been granted mining lease over a piece of land to which Mr Botsio owns surface right. The latter submits a claim for compensation to the former since the mineral project would affect his building project. Upon investigation, it has been realized that the said building project began three months after the former had served public notice in respect of the grant of the mineral*

right. Mr Botsio, however makes a statement that he was not aware of this notice until his project began, and thus, his claim has no element of mischief, and so he deserves to be compensated.

Assess the situation, and determine whether Mr Botsio deserves to be compensated. [4 marks]

Q5. A mineral right holder is supposed to pay a claimant a compensation amount of GH¢ 1 million. He fails to do this within the stipulated time.

What shall be the total amount of compensation due five months after the cut-off date, should the mineral right holder remain adamant? [3 marks]

SECTION B (45 marks)

Provide correct answers for the following:

Q6. Which body has been appointed by Government to serve as its agent in the exercise of Government's right of pre-emption? [1 mark]

Q7. By what means can the Minister declare land, not being the subject of a mineral right, to be reserved from becoming the subject of an application for a mineral right in respect of a given mineral? [1 mark]

Q8. What is the basic qualification for grant of mineral right? [2 marks]

Q9. What immediate action is required of a mineral right holder who, in the course of exercising his/her mineral right, discovers an indication of a mineral not included in the mineral right? [2 marks]

Q10. The holder of a mineral right shall at all times appoint a manager with the requisite qualification and experience to be in charge of that holder's mineral operations. Who is to be notified, in writing, of the aforementioned appointment? [1 mark]

Q11. The holder of a prospecting licence may transfer the prospecting licence in accordance with Act 703 after making an application for extension of the term of the licence. In such a situation, in whose name shall the application continue? [1 mark]

Q12. How do you understand the localization policy mentioned in Section 50 of Act 703 (in not more than two sentences)? [3 marks]

Q13. The holder of a mining lease is expected to give notice to the Minerals Commission of amendments that the holder wishes to make to the approved programme of mining operations. Indicate one of the conditions based on which the Minister may allow an amendment to hold. [2 marks]

Q14. Identify three of the elements that constitute records of mining operations to be kept by the holder of mining lease. [3 marks]

- Q15. Identify any two means by which notice may be served on a person. [3 marks]
- Q16. The holder of a mineral right is expected to, within fourteen days after the grant of the mineral right, give notice to a person whose right or interest in any land is affected in any manner by the grant of the right. Where should the notice be posted? [1 mark]
- Q17. When is an affected person expected to submit a claim for compensation to the holder of the mineral right? [2 marks]
- Q18. The claimant of compensation and the mineral right holder may appoint a committee to negotiate the amount of compensation. Identify three personalities who could be on this committee. [3 marks]
- Q19. At what time, after the determination of compensation, should the holder of the mineral right make payment to the claimant? [1 mark]
- Q20. What punishment is there for a mineral right holder who fails to make payment within the stipulated time? [2 marks]
- Q21. When could the High Court be involved in the payment of compensation? [2 marks]
- Q22. Identify two of the matters to be addressed in a resettlement plan. [4 marks]
- Q23. Under what conditions will a resettlement plan be disapproved by the district planning authority? [4 marks]
- Q24. What should be done when the resettlement plan is found unacceptable? [2 marks]
- Q25. Identify any three members of the resettlement monitoring committee, and indicate the core function of the committee. [5 marks]

SECTION C (15 marks)

Answer True/False to the following:

- Q26. In the case of a mining area, the owner or lawful occupier of the land within the mining area is not permitted by law to erect a building or a structure with or without the consent of the holder of the mining lease.
- Q27. The Minister, on behalf of the President and on the recommendation of the Geological Survey Department, may negotiate, grant, revoke, suspend or renew mineral rights in accordance with Act 703.
- Q28. Where only part of a geometric section is within Ghana, that part constitutes a block.

Q29. It is possible to grant mineral right for another mineral over the same area of land subject to an existing mineral right.

Q30. A fee, royalty or other payment which falls due in respect of a mineral right is a debt owed to the President and recoverable in the Court.

Q31. The holder of a mining lease is entitled to the capitalization of expenditure on reconnaissance and prospecting approved by the President on the advice of the Minister where the holder starts development of a commercial find.

Q32. One of the benefits enjoyed by mineral right holders is the grant of personal remittance quota for expatriate personnel free from tax imposed by an enactment regulating the transfer of money out of the country.

Q33. The area of land in respect of which a reconnaissance licence may be granted shall be a block or any number not more than five thousand contiguous blocks each having a side in common with at least one other block the subject of the application.

Q34. The term of a prospecting licence may be extended for a further period not more than twelve months in respect of all or any number of blocks the subject of the prospecting licence.

Q35. The Minister on the advice of the Commission may enter into a development agreement under a mining lease with a person where the proposed investment by the person will exceed US\$ five hundred million.

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