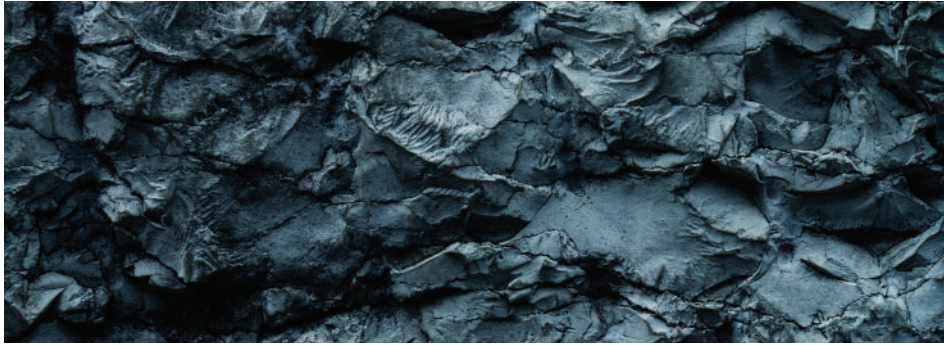


30 April 2021



New Mining (Disputes Resolution) Rules Issued

- Procedure for lodging of complaints provided
- Fees for filling of complaints prescribed
- Executive Secretary entrusted with powers to handle disputes
- Presenting of witnesses and evidence emphasized
- Previous Rules on Disputes Resolution revoked

The new Mining Rules on Disputes Resolution have been published on 16 April 2021 via Government Notice No. 323 of 2021. The Rules provide for the initiation, conduct of proceedings, keeping of records as well as notes of evidence concerning the proceedings. The new Rules empower the Executive Secretary of the Commission to inquire into and decide all disputes between persons engaged in prospecting or mining operations. When resolving disputes under the new Rules, the jurisdiction is vested with the Executive Secretary himself or may be delegated to any other officer of the Commission of a rank of director. It should be noted that the powers of the Executive Secretary to determine disputes is limited to disputes in connection with: (i) the boundaries of any area subject to a mineral right; (ii) the claim by any person to be entitled to erect, cut, construct or use any pump, line of pipes, flume, race, drain, dam or reservoir for mining purposes, or to have priority of water taken, diverted, used or delivered, as against any other person claiming the same; and (iii) the assessment and payment of compensation.

When lodging a complaint which falls under the ambit of the above mentioned items, a Complainant is required to file a Memorandum of Complaint in duplicate. Further, the Rules oblige the Respondent to reply to the said Memorandum within fourteen days from the date of receipt of the complaint. Thereafter, the Commission will issue a notice of hearing to the parties.

Regarding fees, the Rules prescribe, among others, the following: (i) instituting a complaint for Primary Mining Licence holders TZS 200,000; (ii) instituting a complaint for Prospecting Licence holders TZS 1,000,000; (iii) instituting a complaint for Mining and Special Mining Licence holders TZS 1,500,000; and (iii) instituting a claim by third party TZS 200,000.

The new Rules also allow the parties to produce documentary evidence at the first hearing. Subsequent production of documentary evidence is not allowed without leave of the Commission which is granted upon advancing good cause to the satisfaction of the Commission. Parties are also allowed to call witnesses to testify during the hearing. Costs of such witnesses have to be borne by the parties to the dispute.

For further information on legal updates please contact:

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About FB Attorneys

FB Attorneys is an all service law firm based out of Dar es Salaam, Tanzania.

We cover all aspects of the law and specialise in all corporate and commercial matters including Mining, Oil & Gas, Tax, Litigation, Competition, Banking & Intellectual Property law.

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LEGAL UPDATE

FB ATTORNEYS

30 April 2021

It is worth noting that, after the complaint has been heard, pronouncement of judgment and making of an order shall be done either at once or some future day. No time limitation for issuing such judgment has been set in the new Rules. On the enforcement of the order(s), the Mining Act (R.E. 2018) empowers the Commission to file for execution of any order to a Court presided over by a Resident Magistrate within the local limits of whose jurisdiction the subject matter of the order is situated. On receiving the order, the Court shall cause enforcement of the order as if that order was made by the said Court.

Moreover, the Mining Act requires any person who is aggrieved by a decision or order of the Commission, to appeal to the High Court within a period of 30 days from the date on which the decision or order is given or made.

The new Rules revoke the Mining (Disputes Resolution) Rules, GN 224 of 1999.

To read the New Rules [click here](#).

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