

GHANA'S MINING AND FOREST LAWS

Know Your Rights and Roles



FRIENDS OF THE EARTH-GHANA



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*Know Your **Rights** and **Roles***



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GHANA'S MINERALS & MINING LAW

Introduction

Any community threatened by a mining development, however small or large, has certain rights. It is crucial that you in the communities know these rights so that, if they are violated, you have the knowledge to defend them. You also need to know the laws: you need to know which activities are legal and which are illegal, and to know how to find out when an illegal activity is being perpetrated and what you should do about it, and how you can gain compensation when your rights are violated.

This booklet sets out some key points from the Minerals and Mining Act to help you understand the difference between, for example, mineral rights, licences and mining leases, or which activities are legal under each of these and which are illegal, or what obligations the mineral rights holders have towards the local communities. We hope the information will help you understand your rights and also know where to go if you feel something is illegal or if your rights have been violated.



General Information

- **Minerals are the property of the Republic:** All minerals in their natural state found on, within or beneath the soil, watercourses and seas of Ghana are owned by the Republic and vested in the President in trust for all Ghanaians.
- **Compulsory land acquisitions:** The President can acquire land or allow its use if it is required for the development or use of a mineral resource.
- **Land available for application for mineral rights:** Land that has an existing mineral right or land that is reserved by law cannot be the subject of a new mineral right.
- **Minister may reserve land from mining:** If the President gives authority, the Minister can reserve lands from mineral rights for some or all minerals.
- **Power of the Minister to grant mineral rights:** The Minister grants or denies mineral rights. When granted, it must usually be ratified in Parliament.
- **Export and disposal of minerals:** A person must get a licence from the Minister before exporting, selling or otherwise disposing of minerals. Shipments of rough diamonds must also be certified by the Kimberley Process (which aims to stop 'conflict diamonds' – i.e. diamonds used by rebel groups to finance wars against legitimate governments – from entering mainstream rough diamond markets).
- **Government's right of pre-emption:** The government has the first right to purchase any minerals extracted from within or beneath Ghana's land, water courses or coastal waters.





Mineral rights

A person must apply to the Minerals Commission and be granted a minerals right by the Minister before they can search, survey, prospect, explore or mine for a mineral anywhere in Ghana. The mineral right details the activities that are permitted, e.g. the right to prospect does not give the right to mine.

Mineral rights

Granting a mineral right

The Minister must notify the relevant chief or allodial owner and the relevant District Assembly about the application for a mineral right. This notice must clearly give the proposed land area that the minerals application relates to. The notice must also be published in a locally acceptable way and exhibited at the relevant District Assembly offices.

Once a mineral right has been granted, it gives the right-holder authority over the land and entitles them to enter the land that the mineral right relates to. Except under specific agreed circumstances (e.g. for mineral analysis), no minerals can be removed or destroyed without permission from the Minerals Commission.

If there is a mining activity in your local area, check with the relevant chief or allodial owner and the relevant District Assembly to ensure an application has been made, a licence has been granted and their activity is being carried out in the right area.

A person with a mineral right on a land area and who finds another mineral on the same land may apply to have the new mineral added to their existing mineral right.

Obligation of the right holder

The mineral right holder must appoint a manager with the requisite qualification and experience to be in charge of their mineral operations.

Water right: After obtaining the necessary approvals or licences under the Water Resources Act 1996, the mineral right holder can, for use in their mineral operations, obtain, divert, impound, convey or use water from sources above or below the land area that the mineral right relates to.



Remember that every Ghanaian and every person in this world has the fundamental right to fresh clean water. If the mining company is undermining this right by taking away your access to water or by polluting the water you rely on, you must report this to the relevant institutions and keep following up until your right is restored. You can also take your story to the media if your rights to clean water have been taken away by the activities of a mining company.

Forestry and environmental protection

The mineral right holder must obtain the necessary approvals and permits from the Forestry Commission and the Environmental Protection Agency to ensure protection of natural resources, people's health, and the environment. They must also comply with applicable Regulations within the Minerals and Mining Act and any other enactment for protecting the environment in so far as it relates to the exploitation of minerals.

Make sure they have these rights and approvals and, if in doubt, ask to see them or follow-up with the relevant agencies and institutions.

Mineral right holders' records and reports

The mineral rights holder must maintain records and documents in Ghana and permit inspection and copy by a Minerals Commission officer. Reports on the mineral operations and geological information must be given to the Minerals Commission, Geological Survey Department and other prescribed persons.

Mineral rights

Public access to information on the mineral rights

The records, documents and reports of the mineral rights holders are confidential and can only be shared if the rights holder gives prior written consent. If this consent is given, the public can pay a fee and then inspect or copy the records, documents and information. Confidential information must be disclosed for specific purposes, e.g. to a consultant working on behalf of the Minerals Commission, or for purposes of prosecution under the Act, but they in turn must treat the information confidentially.

Royalties, rentals and fees

The mineral right holder must pay an annual 'ground rent' to the owner of the land or, in the case of mineral rights on stool lands, to the Office of the Administrator of Stool Lands. The mineral right holder must also pay an annual mineral right fee to the Minerals Commission. The holder of a mining lease, restricted mining lease or small-scale mining licence must pay to the Republic between 3% and 6% of the total minerals revenue obtained by the lease holder. The Republic will use the courts to recover debts arising from unpaid fees, royalties or other payments due.

You as communities with rights to land, clean water and a clean healthy environment should monitor the activities of mineral rights holders and notify the District Assembly and the District Office of the Minerals Commission if you feel the mineral rights holders are breaking the law. You are close to the ground and so can more easily monitor activities on behalf of yourselves and the government.

Licences

There are different types of licence for the different mining activities. It's important for you to understand the different licences so that you know which activities are permitted under each licence and over how many months or years. The licences are:

- **Reconnaissance licence:** this allows the licence-holder to enter the land area covered by the licence and carry out initial surveys and searches. They are also allowed to construct camps or temporary buildings on the site. But they are NOT allowed to engage in drilling or excavation.
- **Prospecting licence:** this allows the licence holder to enter the land covered by the licence and drill boreholes or excavate to search for the mineral or minerals covered by the licence. The licence holder is also permitted to demarcate the area and construct camps or temporary buildings on the site. The licence holder must:
 - Notify the Minister through the Minerals Commission of the discovery of any mineral covered or not covered (but of potential economic value) by the licence.
 - Fill in or otherwise make safe a borehole or excavation made during prospecting
 - Remove temporary buildings and machinery and make good any damage to the soil surface within 60 days of the licence expiring

Neither of these licences allows for mining, removal, transportation or marketing of minerals found at the site, or other activities allowed under the mining leases (see below). Ask to see the licence if you are not sure that they have the correct one to cover the activities they are carrying out or if you are unsure of the credibility of the person or company. Also check which mineral or minerals the licence covers.

Mining leases

Before it expires, a reconnaissance or prospecting licence holder can apply for a mining lease for one or more of the minerals covered by the licence. As long as a licence holder has complied with Ghana's Minerals and Mining Act, the mining lease should be granted. The term of the lease will be for a maximum of 30 years the first time around, renewable for a further 30 years.

If you know of any way in which a licence holder working in your area has NOT complied with the Minerals and Mining Act, you must inform the relevant government institution so they are aware if this before they make a decision on a mining lease.

Rights conferred by a mining lease

A mining lease permits the holder to enter the land under the lease to:

- Mine for the minerals specified in the mining lease
- Erect equipment, plant and buildings for mining, transporting and processing the minerals
- Remove the minerals and market them according to the approved marketing plan (and with the necessary licences)
- Stack or dump a mineral or waste product as approved in the lease holder's Environmental Impact Statement
- Conduct other incidental or ancillary activities.

Development Agreement

Where a person proposes to invest more than US\$500 million into minerals development, the Minister may enter into a development agreement. This will contain provisions on several issues including: the mineral rights or operations per-



mitted under the mining lease; and the environmental obligations of the holder to safeguard the environment according to Ghana's laws.

Recruitment and training of Ghanaians

Mining lease holders must submit a detailed programme on recruiting and training Ghanaian personnel to enable expatriate personnel to be replaced by Ghanaian personnel.

Suspension of production

There are regulations in the Act to cover if a lease holder wants to suspend production at a mine.

If a company suspends mining in your local area, it will be important to check that they have followed all the legal requirements and regulations fully. It will be a benefit if the mining stops, but the company could disappear without complying fully with the necessary health and safety regulations (e.g. making safe any boreholes or excavations) and the environmental regulations for site clean-up and making good any environmental damage.

Rights and compensations

Surface rights

There are certain rights, limitations and obligations for the mineral right holder and the owner or lawful occupier of the land under the mineral right. Relevant ones are:

- On the land covered by a mineral right, the owner or lawful occupier of that land:
 - still has the right to graze livestock or cultivate crops, as long as these activities do not interfere with the mineral operations
 - is not permitted to construct a building or structure without the consent of the mining lease holder or the Minister
- The mining lease holder must carry out a survey of the crops on the area where they have a mineral right and produce a crop identification map for compensation in case the mining activities take place in those areas. This must be carried out in the presence of others including the owner or lawful occupier or their representative, and an officer from the government agency responsible for land valuation.

Communities: make sure this survey and crop identification map are carried out and that you are part of the survey process. You need this as evidence for compensation if the land is used for mining.

- The owner or lawful occupier is not allowed to upgrade to a higher value crop without the written consent of the mining lease holder or the Minister.



Compensation

The owner or lawful occupier of land covered by a mineral right is entitled to claim compensation from the mineral right holder for any disturbance of the owner's/occupier's rights. Compensation that the owner or lawful occupier may be entitled to include:

- a** Being deprived of the use of the land
- b** Loss of, or damage to, immovable properties on the land
- c** Loss of earnings or sustenance on land being cultivated
- d** Loss of expected income; the value will depend on the type of crops and their life expectancy.

The amount of compensation will be agreed between the two parties or, if this is not possible, by the Minister.

Make sure your rights to compensation are fulfilled. Seek support from civil society organisations if you are having difficulty ensuring these rights are fulfilled.

If a mineral operation forces people to be displaced from their homes and they prefer to be compensated with resettlement (instead of money), the Minister must ensure they are settled on suitable land that accounts for their economic well-being and social and cultural value, and that the resettlement is in accordance with relevant town planning laws. The mineral right holder bears the cost of resettlement.

The Minister must fulfil article 20(2) of the Constitution which states that prompt payment of fair and adequate compensation will be made in cases of compulsory acquisition of property.

Rights and compensations

Access to the Court in respect of compensation

If the owner or legal occupier of land affected by a mineral right is not satisfied with the compensation offered by the mineral right holder or as determined by the Minister, the person can apply to the High Court to determine the compensation.

Make sure you know your rights to fair compensation and suitable resettlement. Make sure these rights are properly fulfilled. Seek support from civil society organisations if you are having difficulty.

Industrial minerals

Only Ghanaian nationals are allowed to search, prospect or mine for industrial minerals on any scale, small or large. They must gain a restricted reconnaissance licence, restricted prospecting licence or restricted mining lease from the Minister. The provisions that refer to mineral rights also apply to industrial minerals.

If it is found that the holder of a licence or lease for industrial minerals has made an arrangement to transfer the industrial mineral right to a non-Ghanaian, the Minister can cancel the mineral right.

Non-citizens may apply for an industrial mineral right only if the proposed investment in the mineral operation is for US\$10 million or more. The Minister may suspend or cancel the mineral right if the holder fails to expend at least US\$10,000 within a specified time period.

The owner, legal occupier, mineral right holder or local authority are permitted to mine industrial minerals on their own land for their own use in road building or construction or agricultural purposes on the land, as long as it is not detrimental to the right of a mineral right holder on that same land.



Small-scale mining

A person must have a licence from the Minister for Mines before undertaking small-scale mineral mining. A parcel of land can only be the subject of one mineral licence. The licence specifies the conditions, such as type of mineral it relates to, and the number of years to a maximum of five.

Qualification of applicant

A person can only be granted a small-scale mining licence if they are a citizen of Ghana, at least 18 years of age, and registered with a District Office of the Minerals Commission. A licence can only be transferred to a Ghanaian citizen and with the consent of the Minister.

District Offices of the Minerals Commission

These are headed by District Officers. The functions of the District Office include:

- Compile a register of existing and prospective small-scale miners with their details
- Supervise and monitor small-scale mining operations



- Advise and provide training and assistance to ensure effective and efficient small-scale mining
- Submit to the Minerals Commission reports and information on small-scale mining activities in the District
- Facilitate the formation of Small-Scale Miners Association.

Small-Scale Mining Committees

Every area designated for small-scale mining has a Small-Scale Mining Committee that includes government officers and other stakeholders such as a Traditional Council representative and an Environmental Protection Agency officer. These committees support the District Office to monitor, promote and develop local mining operations.

Operations of small-scale miners

Small-scale mining licence holders can win, mine and produce minerals using an effective and efficient method. They must also follow good mining practices, health and safety rules, and ensure protection of the environment during all mining operations.

Small-scale mining

Compensation for use of land

In the case that a licence holder is not the owner of the land, the Minister, Minerals Commission and government agency for public land valuation determines the compensation that the licence holder must pay the land owner for the land-use and crop destruction.

Use of explosives

A small-scale miner can only use explosives in the mining area if permitted by the Minister.

Purchase of mercury

A small-scale miner can purchase mercury from an authorised dealer in quantities that are reasonably necessary for small-scale mining operations.

Sale of minerals

There are rules and regulations prescribed by the Minister to regulate the sale of minerals won by small-scale miners. Shipments of rough diamonds must also meet the regulations of the Kimberley Process.

Offences and penalties

A person who buys or sells a mineral or undertakes small-scale mining without a licence or other valid authority under Ghana's laws and in contravention of the Minerals and Mining Act is committing an offence and could be fined and/or imprisoned. The mineral may also be confiscated.

Administration & miscellaneous provisions

Minerals Commission

The Minerals Commission, under the direction of the Minister, exercises the powers and functions specified in the Act and supervises their implementation. It also advises and makes recommendations to the Minister.

Inspectorate Division of the Minerals Commissions

This Division under the Minerals Commission can enter an area of land covered by a mineral right to perform certain functions including:

- Take samples from soil, minerals or tailings to inspect or test
- Inspect explosives and direct on how they should be stored
- Inspect to determine if the minerals operation is creating a nuisance in the area
- Examine documents and records and take copies.

It may hold an enquiry if there is an occurrence on land that is the subject of a mineral right.

Register of mineral rights

The Minerals Commission maintains a register of mineral rights where applications, grants, transfers, suspensions and cancellations of mineral rights are promptly stored.

Members of the public can pay the prescribed fee to inspect and be given a copy of these records.

Administration and miscellaneous provisions

This is important if you think there is any wrong doing by mining activities on lands in your area, you have the right to check the records of that activity.

Licence to buy and deal in minerals

The Minister and the Minerals Commission together can licence persons considered suitable to buy and deal in some types and forms of minerals under the conditions specified in the licence.

Preference for local products and employment of Ghanaians

When buying, constructing and installing facilities, a mineral right holder must prioritise as much as possible, and consistent with safety, efficiency and economy:

- Materials and products made in Ghana
- Service agencies located in Ghana that are also: owned by Ghanaian citizens; or public corporations; or companies and partnerships registered under the Ghana Companies Code or the Ghana Incorporated Partnership Act

The holder of the mineral right must also give preference to employing Ghanaian citizens as much as possible and consistent with safety, efficiency and economy.

Offences

A person who breaks the law, or gives false information for licences or reports, removes or disposes of minerals contrary to the Act, or removes a building, machinery or other movable property contrary to this Act, or uses the minerals in some dishonest or fraudulent or misleading way, or knowingly uses false or fraudulent scales to weigh ores or minerals, or in any way gives difficulty to an



authorised officer when carrying out their duties under this Act, is committing an offence and will be convicted and fined.

Regulations


The Minister can make new Regulations for this Act that relate to, for example:

- Restricting mineral operations in or near a river, stream, lake, dam or forest
- Cutting and using trees for the purpose of prospecting and mining
- Preventing injury to persons or property from chemicals
- Protecting the environment and ensuring people's health and safety, including mine employees and small-scale miners.

Conclusion

There are some really important points here that you must keep in mind if mining comes to your area. Know your rights and know the actions you can take to defend your rights. If you think something is illegal or damaging or inconsistent with the information we have given you here, then you can make your checks with the relevant organisation or institution such as the District Assembly and the District Office of the Minerals Commission. If you think someone has come to take over land for mining activities but you think they don't have a licence or they don't have the correct one, then you can make your own checks. You can report illegal activities.

Remember also that you have a fundamental right to clean fresh water and a clean healthy environment. If your rights are being damaged or denied in any way by mining activities in your area, you have the right to voice your concerns and demand that your rights are fulfilled. If damage is being done to your farms or crops and you have not been offered compensation by the mineral right holder, you have the right to demand compensation. Seek civil society support if you have any concerns or you feel your rights are being denied in any way.

A full-page photograph of a dense, lush green forest. The image shows a thick canopy of trees and undergrowth, with sunlight filtering through the leaves. The text "GHANA'S FOREST LAWS" is overlaid in the center in a large, white, sans-serif font.

GHANA'S FOREST LAWS

Introduction



FoE-Ghana wants to ensure that timber cut from Ghana's forests does not exceed sustainable limits and also complies with Ghana's forest laws.

The high rate of forest loss in Ghana due to illegal logging is a deep concern, most especially for the communities who rely on their forests for their basic needs and livelihoods, and for the wildlife for whom the forest is their home. FoE-Ghana wants to ensure that timber cut from Ghana's forests does not exceed sustainable limits and also complies with Ghana's forest laws. As inhabitants of forest communities, who rely so closely on forest resources, you have a strong motive to ensure Ghana's forests are managed in both a sustainable and a legal way. You are also well placed to monitor for forest illegalities and corruption because you live so close to the forests.

To support forest communities in knowing what is legal and what is illegal in forest use, and to know your rights and roles in forest management, FoE-Ghana has produced a summary of the relevant laws and regulations so that you can identify when something is illegal or corrupt. We also give information on how you can alert the forest authorities when you identify something wrong. It is also really important that you know your rights in relation to forest management, for example that the law states a company wishing to fell trees in your area must negotiate a Social Responsibility Agreement with you (these are explained in detail later) so that you will also gain some benefits when your forests are cut. This is the purpose of this booklet: to give you



a summary of the laws so that you can identify which practices are legal and which are illegal. And also so that you can know and advocate for your rights and ensure they are properly fulfilled.



To **support actions** towards ensuring forest management and use is legal and sustainable, you are encouraged to:

- Report any illegal activity to the local Forestry Commission Office
 - Participate in pre-felling inspection and post felling checks
 - Participate in monitoring activities of logging companies to check compliance with forest laws and regulations in collaboration with the District Forest Services Division
-



You should also be **monitoring** to ensure you gain benefits from proper implementation of Ghana's forest laws:

- Logging companies are obliged by law to fulfil Social Responsibility Agreements with forest communities
- Farmers whose crops are destroyed are entitled to receive compensation
- The rights of forest communities must be respected
- Communities will have funds to put towards meeting local needs such as schools, roads, electricity and other amenities through the forest revenue they will gain from the logging companies.



Community rights & roles in forest management

you have a role in forest management when timber contractors are seeking rights to log, and can report any illegal forest activities to the right institutions

Forest protection for present and future generations is vitally important to ensure the forests continue providing their life-supporting environmental, social, cultural and economic services. Forest communities have a vital role as well as certain rights in forest protection, use and management, and you need to be aware of these so you can fulfil them effectively.

In terms of roles, communities must play an important part in ensuring the forests are managed in a sustainable and legal way. For example, you have a role in forest inspection committees when timber contractors are seeking rights to log the forest. You also have a role in helping to ensure all forest activities are legal and sustainable, and that illegal activities are reported to the right institutions. You can also support good forest



management through boundary weeding, helping prevent wildfires, field inspections, and tree planting.

Communities also have the right of access to information on the status of forest resources and on the programmes, policies, guidelines and regulations in the forest sector. You also have the right to participate in forest management decision making. You must ensure these rights are always fulfilled, so be sure that you demand for them.

Communities also have certain rights. You also have the right to use certain forest resources. The Forest and Wildlife Policy gives communities rights of access to collect non-timber forest products (NTFP) such as tree branches, edible fruits, leaves, mushrooms, snails, pestles, fuelwood and medicinal plants. However, you must obtain a permit from the Forest Services Division (FSD) to collect NTFPs. The application is made through the Customer Service Officer or FSD District Manager and a Range Supervisor will inspect the area for collecting the NTFP. You also have rights to certain community benefits, such as social services, from the timber companies that are logging your forests. These are negotiated through the Social Responsibility Agreement process with timber companies, which are examined in more depth later.





Forest Laws

The power to grant natural resource rights in Ghana is vested in the President. Likewise, Ghana's forest laws provide for all timber rights to be vested in the President, except for pre-existing (customary or otherwise) rights in forest reserves or pre-existing concessions in off-reserve areas. Timber rights only refer to naturally occurring trees and not planted trees, no matter if they occur on lands that were previously subject to timber rights, or public, stool, family or private lands. The 2002 amendment to the Timber Resources Management Act 1998 states that timber rights do not apply to private forest plantations or to timber grown and owned by an individual or group.

Trees and Timber Act, 1974, as amended by the Trees and Timber (Amendment) Act 1994

No person is allowed to harvest naturally occurring timber unless that person holds timber rights in the form of a Timber Utilization Contract (TUC). The only exception to this, as noted above, is land with private forest plantations or lands with timber grown or owned by an individual or group. The Minister for Lands and Natural Resources, on behalf of the President and with advice from the Forestry Commission, has the power to grant timber rights by entering into a TUC with an individual or timber company. They must also be ratified by parliament because a TUC is concerned with granting rights to a natural resource.

The forest regulations assert that traditional authorities, Community Forest Committees, landowners and farmers should also be part of the team that conducts field inspections prior to the FC's decision on whether or not to grant timber rights to a contractor. This is very important because it allows them to identify areas that local communities wish to exclude from logging.



6 months
VALIDATION

RENEWED **1 month**
AFTER EXPIRING

Each logging company that works in Ghana's forests needs their own unique 'property mark', and the Trees and Timber Act provides for the registration of these marks. A property mark is valid for 6 months and must be renewed within one month of it expiring. These property marks are very important because a person cannot cut or fell a growing tree for export in log form or for conversion in a mill unless the person has a registered property mark endorsed for the local area where the tree is standing. When a tree has been cut, the stump must be marked with the property mark and the stump number using white waterproof paint or by deep-cutting or scribing the wood. Both ends of the logs must also be marked with the locality mark for the area where the tree was standing, and also with the property mark, tree number and log number. All records linked to locality marks must be kept by the Chief Executive of the Forestry Commission, and these records are available to the public during office hours and at no cost.



Timber Resources Management Act, 1997, and the Timber Resources Management (Amendment) Act, 2002

There are legal requirements that cover the allocations and rights to harvest timber from the forest. It will be useful for forest communities to know about these so you can trace any wrongdoing and also ensure that timber companies and others in the forest/timber chain do not act illegally.

It is illegal for a person or company to fell any trees without first obtaining the necessary rights, permits and/or contracts from the Forestry Commission. As noted earlier, an investor interested in logging the forest must first apply for the right to harvest timber (TUC). There is now a two-stage process in place: pre-evaluation followed by competitive bidding for the timber right. When making the application, the contractor must also submit: a plan for the sustainable management of the timber resources; an assessment of the likely environmental impacts of their operations and plans to redress any environmental damage caused; an undertaking to provide specific social amenities for communities living in the proposed contract area as part of the Social Responsibility Agreement between the timber contractor and the affected local communities; and an undertaking for reforestation and afforestation of the area. Communities have the right to see these plans and should also support the local Forest Services Division to ensure they are properly implemented.

Before a timber rights permit can be issued to a timber company or individual logger, written permission must be obtained from the landowners because the tree-felling may affect their crops or planted trees. A timber rights permit is for a maximum of 40 years and covers up to 125 square kilometers.

Timber that has been privately planted in forests or plantations and owned by a person or group cannot be made available to contractors for bidding. Timber growing naturally on farmlands can be given out for logging but only if the landowner or farmer gives their written permission.

Forest Laws

Logging companies must also pay rent, royalties, fees, compensation and other charges as required by Ghana's forest laws. The local and national government receive the largest share of these payments, but some also reaches the traditional authorities as well.

Offences: a person commits an offence when they:

- Harvest timber without a valid contract
- Operate a vehicle to transport timber that has been cut without the legally required contract or licence
- Sell or buy timber that has been felled and processed without the legally required contract.

Forest communities have the right to ask to see these licences or contracts if you have doubts or are unsure of the credibility of the person.

Timber Resources Management Regulations, 1998 and Amendment, 2003

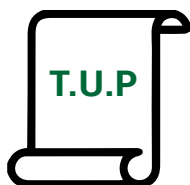
When harvesting any timber, a company must pay a stumpage fee to the FSD. The District Manager of FSD measures the volume, diameter and length of the timber within two days of its felling, and uses the information to complete the Tree Information Form (TIF). Timber cannot be removed from the site until this process is complete and the fee has been calculated by the District Manager. The company must pay the fee within 30 days of billing. The FSD must also notify the communities of the stumpage value 30 days after billing the contractor. This is important because it is your entitlement to be paid by the timber contractor the equivalent of not less than 5% of the total value of the annual stumpage fee towards the facilities, services and other benefits agreed in your SRA.



6AM - 6PM | WORKING DAYS

A timber company is required by law to have a timber conveyance certificate or Log Measurement Conveyance Certificate (LMCC) before they can remove logs from the forest. No person shall carry out timber operations or transport any timber product from a contract area except between the hours of 6.00 a.m. and 6.00 p.m. on a working day unless otherwise permitted by the Executive Director of the Forest Services Division. You can raise concerns if you are unsure whether or not a contractor has the necessary rights and permits to work in the forest and remove the logs. These certificates cannot be issued for chainsaw timber. You must be vigilant to ensure nobody uses a chainsaw to cut lumber in your area.

Anyone owning a chainsaw must register it with their local Assembly within 14 days of purchase and then pay a fee for a licence that lasts for one year. At the same time as registering with the Assembly, it must also be registered with the District Forest Manager at the District Forest Office closest to where the chainsaw will be used. It is illegal to use a chainsaw, whether registered or unregistered, to cut timber into lumber or other forest products for sale. It is also illegal to sell or buy timber products that are produced by using a chainsaw, either registered or not registered.



To harvest timber, community groups can apply for a Timber Utilisation Permit (TUP) through the District Manager of the FSD. If your application is successful, the TUP allows you to harvest a specified number of trees on land not subject to a Timber Utilisation Contract. The TUP allows timber to be felled for social and community purposes only, and it is illegal to sell it or export it.

Abandoned timber, both marked and unmarked, can be seized by the FC. After some time, the timber can be sold if the owner of marked timber is not identified. The proceeds of the sale are made available to support community activ-

Forest Laws

ities that are beneficial to the forest and timber conservation, and also to contribute to timber resource management costs.

When a timber company has finished working a contract area or a contractor's operations have lapsed, the Chief Conservator of Forests, with FC approval, can dispose of any standing timber or logs left over from the operations. Local communities can use any off-cuts and branches for their own benefits.

When an area of land has been cleared for development purposes such as road construction, expansion of a human settlement or cultivation of farms, then a Salvage Permit is required from the Chief Conservator of Forests, with FC approval, for salvage and disposal of the abandoned timber.

Endangered trees such as Walnut and Odum require a special permit and it is an offence to cut them without it. Communities should monitor to ensure endangered trees are not felled or transported illegally.

Reporting forest offences

Forest communities should report any illegal forest offences committed in your area by contractors, individuals, or any others to the nearest FSD through the Customer Services Officer or the District Manager. Communities should follow up on actions taken by the FSD in respect of your complaint or information given, and seek feedback to find out what has been done to follow up on your report.

Social Responsibility Agreements



A Social Responsibility Agreement (SRA) is an agreement signed between the holder of a TUC and the local communities around the contract area. It is a way of ensuring that you benefit when your local forests are cut down. To benefit from an SRA, a community must be located within 5km of the forest reserve where the logging is taking place.

The SRA includes an undertaking by the TUC holder to provide amenities, services and/or other benefits to affected communities. The value of that support must not be less than 5% of the total value of the annual stumpage fee paid to the FSD for the harvested timber.

The agreement covers two main areas:

Code of conduct

This stipulates how the timber companies must act to ensure their timber operations are conducted with due respect for the rights and interests of the local forest communities. It ensures respect for local customs, beliefs, infrastructure and livelihoods. The timber company's activities must not change the social and cultural values of the community. The code of conduct may include but not be limited to the following:

- ➔ Consultations with communities on respect of taboo days
- ➔ Respect for community rights to NTFPs
- ➔ Respect for sacred areas
- ➔ Respect for customary rights
- ➔ Protection of water sources.

Social Responsibility Agreements

Social obligation

This commits timber companies to provide for amenities, services or benefits to assist the communities and inhabitants of the local area. As mentioned earlier, the value of payments and social amenities must be equivalent to no less than 5% of the value of the annual stumpage fee for the timber harvested. These benefits should be paid directly to the communities and do not need to go through the office of the stool chiefs, but should go through the channels that the community has agreed on. The social obligation may include: infrastructure such as water boreholes, sanitation facilities, schools, health clinics or community centres; or establishment of a community development fund.

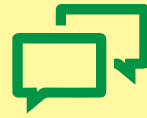
The SRA process is initiated by the FSD while identifying the TUC area. The District Manager consults with the landowning communities (the stool chief, odikro, the Community Forest Committees and the Unit Committee) to identify areas that communities wish to exclude from logging. Communities are invited to specify reasonable social terms for the Timber Operational Specifications (TOS). Communities must make sure the TOS provisions are reflected in the SRA and that the agreement is signed before logging starts. They must also ensure they sign an SRA with every timber company working in their area.

Communities therefore have a role in various decision-making processes leading to the allocation of timber rights. The ability of communities to negotiate a fair SRA is also very crucial. There have been instances where communities lack the necessary skills for negotiation and so the traditional leaders have instead negotiated on their behalf. This has resulted in negotiations that are not transparent and are not accountable to communities, and traditional leaders have benefited unfairly from the agreement. Meanwhile the traditional authority gains its own benefits through the area rent, timbers rights fees and stumpage fees paid by the timber contractor. So it is very important that the funds provided for the SRA go directly to provide social amenities for the whole community to benefit from. Forming local SRA Committees and building the capacity of committee members has proved to be an effective way to support communities in gaining the necessary skills for negotiation.



Forest communities that are part of an SRA must make sure that the District Forest Manager and the District Chief Executive witness all negotiations and signing with the timber companies to ensure the process is fair and equitable. Representatives of the landowning communities and the TUC application are the parties to the SRA. An SRA is a public document and copies must be held with all parties involved in the signing, including the witnesses (FSD and the Assembly). The timber company must not make any conditions for their commitments because the conditions may never be satisfied and then you as the communities will never gain your benefits. For example, a condition could say 'should the government extend electricity to the community, the company shall provide electricity poles accordingly' or a promise of 'renovation of school buildings should there be any damages to the community school building by rainstorm'. There is no certainty that either of these situations will arise and so the communities are not guaranteed of the benefits they are legally due. These are entitlements that are owed to you in the communities as stated in Ghana's law and so contractors are legally bound to make these provisions. To increase transparency and accountability, you should link yourselves, via your Local SRA Committees where one exists, to the various District Forestry Offices and the regional offices of the Administrator of Stool Lands.

You can form Local SRA Committees to support the negotiations of SRAs. These committees need training to gain skills so they can play a meaningful role in SRA negotiation and implementation. You nominate the committee members who you want to represent you and then validate them by consensus. The committees must represent the diverse interest groups and institutions present such as farmers' groups, women's groups, youth groups, religious groups, Community Forest Committees, Community Biodiversity Advisory Groups, the Stool (Traditional Authority), the Unit Committees, and the District Assembly (Local Government).



What is negotiation?

Negotiation is a discussion focused on needs, aspirations and interests with the intention of finding a mutually acceptable agreement. There are several important factors that build trust during the negotiation process such as: respect for one another, concern for another's welfare, preparedness for self-sacrifice, honesty, commitment, readiness to listen, knowledge and wisdom, consistency and reliability. To ensure successful and effective negotiations of a fair SRA, community members and timber contractors should be mindful of these qualities and use them as much as possible.

Many problems can destroy trust during negotiations, and these must be checked to ensure they do not undermine the whole process. Some of these include: inconsistency/non-reliability, cheating, dishonesty, selfishness, self-centredness, hypocrisy and pretense from either side. To ensure a positive outcome to a negotiation process, considerable time must be devoted to planning to ensure the desired results are obtained at the end. There are some key questions you can ask yourselves before you begin negotiations with the timber contractors, such as:

- What are the desired outcomes of the negotiation
- What would it take to fulfil the needs of both parties and achieve the outcomes we want
- What issues do we consider as non-negotiable
- What common ground can be agreed
- What are the possible options
- What kind of relationships do we want to have with the timber companies
- What concessions are we willing to make
- Who does what for the other

A successful negotiation will find agreement on how the needs of both parties can be addressed and how the desired outcomes of both can be fulfilled. Maybe both sides will need to make some concessions. What is most important is to consider the options available to bring a win/win situation.

Illegal and corrupt forest practices

Compared to a hundred years ago, most of Ghana's forests have gone. Pressure on the little forest that remains has increased due to timber industry activities, illegal logging, unsustainable logging practices, and other land-use activities such as mining and farming. Unless serious changes are made to the management of Ghana's forests, the remaining fragmented forest patches will soon disappear. They have such huge benefits for you in the forest communities, for the government and also as a habitat for wildlife and a provider of environmental services, so it is shameful that the forests are still cut at such an unsustainable rate and destroyed through illegal activities. Timber harvesting is the main cause of deforestation. Some illegal practices that you should be aware of, monitor for, and report on if you see, include:

A Illegal logging

This involves the following practices

- Extracting more timber than authorized (felling outside approved yield).
- Logging without authorization (permit).
- Obtaining logging concessions through bribes.
- Duplicating felling permits.
- Illegally felling trees in concession and reporting so that they can be extracted legally.
- Contracting with local entrepreneurs to buy logs from protected areas.
- Logging protected species.
- Logging in protected areas.
- Logging outside concession boundaries.
- Logging in prohibited areas (HCVs) such as ON steep slopes, ALONG river banks and in water catchment areas.
- Felling timber trees in public forests whose sizes fall below the felling limit of the species

Illegal and corrupt forest practices

B Illegal timber transportation, trade and timber smuggling

- Transporting logs without authorization (LMCC).
- Transporting illegally harvested timber.
- Smuggling timber.
- Exporting and importing tree species banned from trade under international law, such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora.
- Exporting and importing timber in contravention of national bans.

C Illegal occupation of forest lands

- Illegal farming and extension of admitted farms
- Illegal small-scale mining in forest reserves
- Poaching in forest reserves
- Cattle grazing in forest reserves
- Illegal Commercial NTFP exploitation in forest reserves

D Woodland arson

- Burning forest reserve towards MTS allocation
- Burning for expansion of admitted farms
- Burning for fresh grass towards cattle grazing
- Bush burning for hunting and honey



E Transfer pricing and other illegal accounting practices

- Declaring lower values and volumes than those actually exported.
- Declaring higher purchase prices than the prevailing market prices for inputs such as equipment or services from related companies.
- Manipulating debt cash flows to transfer money to a subsidiary or parent company, e.g. by inflating debt repayment to avoid taxes on profits.
- Under-grading, undervaluing, under measuring and misclassifying species exported or marketed locally.

F Illegal forest processing

- Operating without a processing license.
- Ignoring environmental, social and labour laws and regulations

Conclusion

Now that you have some idea of Ghana's forest laws, and also your rights and roles in forest use and management, we hope you will be able to support processes such as forest monitoring and take action to report any illegal activities to the relevant FSD and Forestry Commission. It also benefits you to protect and sustain the forests for your needs and livelihoods and for those of generations to come. You must also remember to stand up for your rights and ensure they are not ignored by timber companies or others in the forest management processes. And you must also ensure you play your full roles in forest management, such as the inspection team for evaluating bids for timber rights, and also to participate in negotiating your SRAs. You can seek support to build community skills for negotiation and also come together to nominate a Local SRA Committee to negotiate on behalf of your community and ensure you gain a fair SRA outcome. Make sure the SRAs are properly fulfilled by the timber companies too and, if they falter, then make sure you follow up with the relevant FSD and FC. The social support provided by the timber companies is your right in return for them cutting your forests. You should always do everything you can to ensure your rights are fulfilled.

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Friends of the Earth Ghana is an environmental NGO founded in Ghana in 1986. Our mission is the conservation and sustainable use of the world's natural resources to improve the economic and social well-being of present and future generations. We aim to: protect the Earth against further degradation caused by human activities; promote sustainable resource use at local, national and global levels; support communities to ensure their rights are respected and fulfilled; reduce poverty and inequality; and empower people with sustainable livelihood strategies.



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