



**SPECIAL TRAINING SESSION FOR JUDGES AND  
MAGISTRATES ON THE OFFENCES AND PENALTIES  
REGIME UNDER GHANA'S MINERALS AND MINING ACT,  
2006 (ACT 703)**

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# TYPES OF MINERAL RIGHTS AND ACQUISITION PROCEDURES

# OUTLINE

- ❑ What is a mineral
- ❑ Mineral Operations require a mineral right or licence
- ❑ What is a mineral right
- ❑ Who is a citizen under Act 703
- ❑ Classification of mineral rights (exploration vrs. exploitation mineral rights)
- ❑ Features of the various mineral rights
- ❑ Licensing Procedure for exploration mineral rights
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- ❑ Licensing Procedure for exploitation mineral rights
- ❑ Parliamentary Ratification of mining leases
- ❑ Requirement for Operating Permit
- ❑ Role of other key agencies in the mineral rights licensing regime

# What is a mineral

- **“Mineral”** means a substance in solid or liquid form that occurs naturally in or on the earth, or on or under the seabed, formed by or subject to geological process including industrial minerals **but does not** include Petroleum as defined in the (Petroleum (Exploration And Production) 2016 (Act 919) or water (s. 111, Act 703)
- **“industrial mineral”** means basalt, clay, granite, gravel, gypsum, laterite, limestone, marble, rock, sand, sandstone, slate talc, salt and other minerals as the Minister may from time to time declare, by notice published in the Gazette, to be industrial minerals; (s. 111, Act 703)

# Mineral operations require mineral rights or licences

- ❑ **“Mineral operations”** means reconnaissance, prospecting or mining for or of minerals (s. 111, Act 703).
- ❑ Mineral operations are categorized into 2 based on the size of the land subject to the mineral operations:
  - small scale → area of land **up to 25 acres**
  - large scale → area of land **above 25 acres**
- ❑ Large scale operations require **mineral rights (s. 9, Act 703)** whilst small scale operations require **small scale mining licence (s. 82, Act 703)**



# Mineral operations require mineral rights or licences

## s. 9, Act 703: Mining activities require mineral rights

*“Despite a right or title which a person may have to land in, upon or under which minerals are situated, a person shall not conduct activities on or over land in Ghana for the search, reconnaissance, prospecting, exploration or mining for a mineral unless the person has been granted a mineral right in accordance with this Act.”*

## s. 82, Act 703: Licence for small scale mining

*“Despite a law to the contrary, a person shall not engage in or undertake a small-scale mining operation for a mineral unless there is in existence in respect of the mining operation a licence granted by the Minister for Mines or by an officer authorized by the Minister.”*

# What is a mineral right?

- ❑ **“mineral right” means**
  - a reconnaissance licence
  - a prospecting licence,
  - a mining lease,
  - a restricted reconnaissance licence,
  - a restricted prospecting licence or
  - a restricted mining lease (s. 111, Act 703)
  
- ❑ A **“Restricted” mineral right** refers to a mineral right granted in respect of an industrial mineral.
  
- ❑ **“Restricted” because**
  - General Rule: may be granted to only Ghanaian citizens. (s. 78)
  - Exception: may be granted to a non-Ghanaian provided the person’s proposed investment in the mineral operations is at least US\$10M. (s. 79)

# Who is a citizen under Act 703

□ For the purpose of Act 703 a “citizen” means,

- (a) an individual who is a citizen of Ghana by virtue of a law for the time being in force in Ghana;
- (b) a partnership or association which is composed exclusively of individuals who are citizens of Ghana;
- (c) a body corporate which is incorporated under the Companies Act, 2019 (Act 992), and
  - (i) which is certified by the Minister to be controlled by the Republic,
  - (ii) whose membership is composed exclusively of persons who are citizens;
  - (iii) whose directors are exclusively citizens,
  - (iv) which is controlled by individuals who are citizens; or
- (d) a public corporation that is established by or under an enactment;



## Classification of mineral rights: Exploration vrs. Exploitation mineral rights

- ❑ A mineral right may be either **Exploration mineral right** or **Exploitation mineral rights** depending on the activities permitted under the mineral right.
- ❑ Exploration mineral rights allow the holder to search (prospect) for minerals and gather data to determine the mineral potential of an area.
  - “**prospect**” means to intentionally search for minerals and includes reconnaissance and operations to determine the extent and economic value of a mineral deposit; (s. 111, Act 703)
- ❑ Exploitation mineral rights allow the holder to mine the mineral.
  - “**mine**” when used as a verb, means intentionally to win minerals, and includes an operation including prospecting directly or indirectly necessary for mining or incidental to mining, and “**mining**” shall be construed accordingly. (s. 111, Act 703)

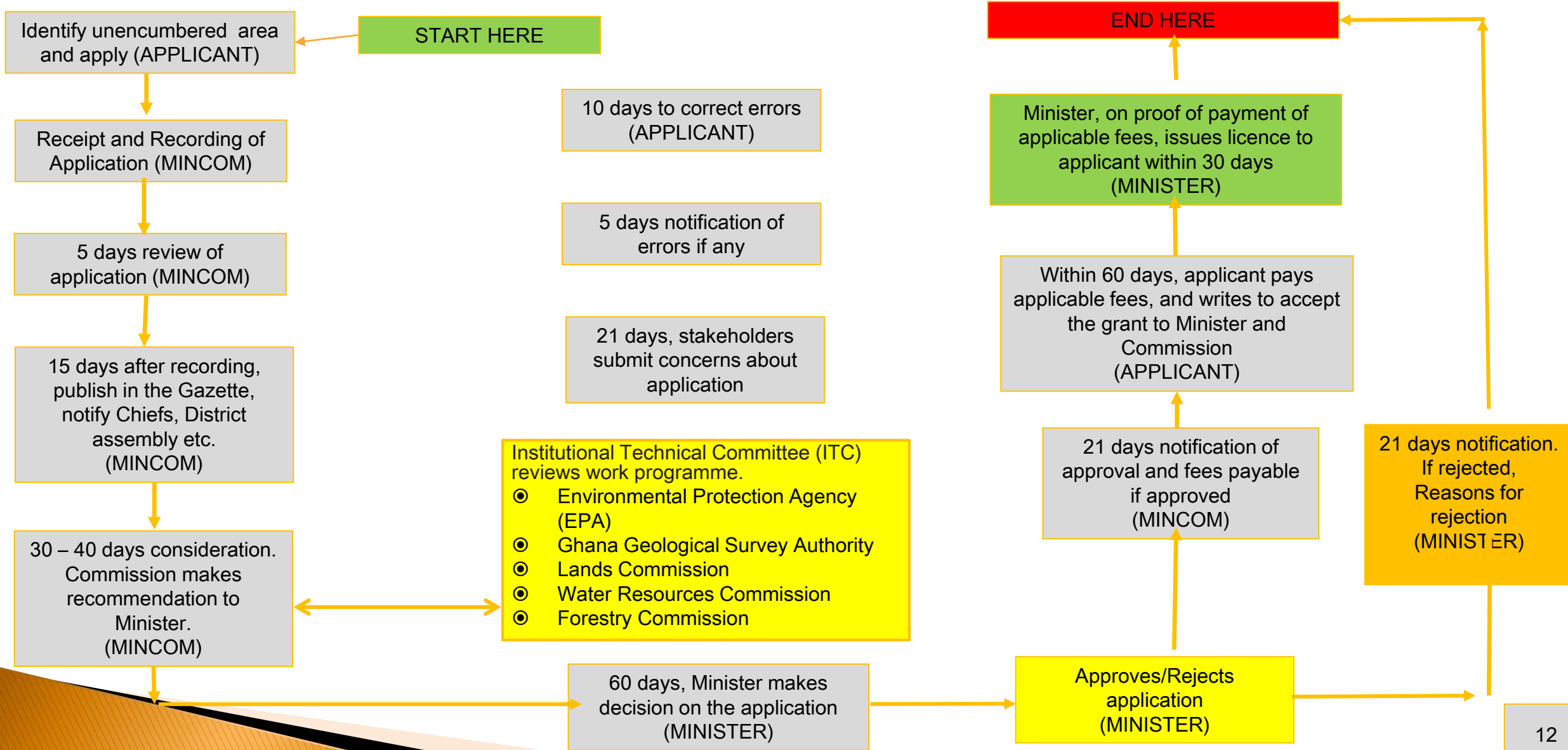
# Classification of mineral rights: summary

Exploration mineral rights	Exploitation mineral rights
Reconnaissance Licence	Mining Lease
Prospecting Licence	Restricted Mining Lease
Restricted Reconnaissance Licence	<i>***Small scale mining Licence</i>
Restricted Prospecting Licence	

# Key features of the various mineral rights

Mineral right	Duration	Min – Max size	Permitted activities
<b>Reconnaissance Licence</b>	12 months (renewable)	5,000 contiguous blocks or 1050 sq. km	Reconnaissance (no drilling or excavation)
<b>Prospecting Licence</b>	Up to 3 years (renewable)  Holder must shed-off 50% during each renewal	1 block or a number not exceeding 750 contiguous blocks or 157.5 sq. km	<ul style="list-style-type: none"> <li>• prospecting</li> <li>• making of boreholes and excavations,</li> <li>• erection of camps and temporary buildings</li> </ul>
<b>Mining Lease</b>  (Parliamentary ratification required) <i>See Exton Cubic Case</i>	Up to 30 years	a single block up to 300 contiguous blocks or 63 sq. km	<ul style="list-style-type: none"> <li>• conduct mineral operations (i.e., mining and prospecting)</li> <li>• erect equipment, plant and buildings for mineral operations</li> <li>• dispose of minerals mined</li> <li>• stack or dump a mineral or waste product as approved in the holder's EIS and</li> </ul>
<b>Restricted Mining Lease</b> (Parliamentary ratification required)	Up to 15 years	a single block up to 300 contiguous blocks or 63 sq. km	conduct mineral operations including mining and prospecting)

# Licensing Procedure for exploration mineral rights (reconnaissance and prospecting licences)



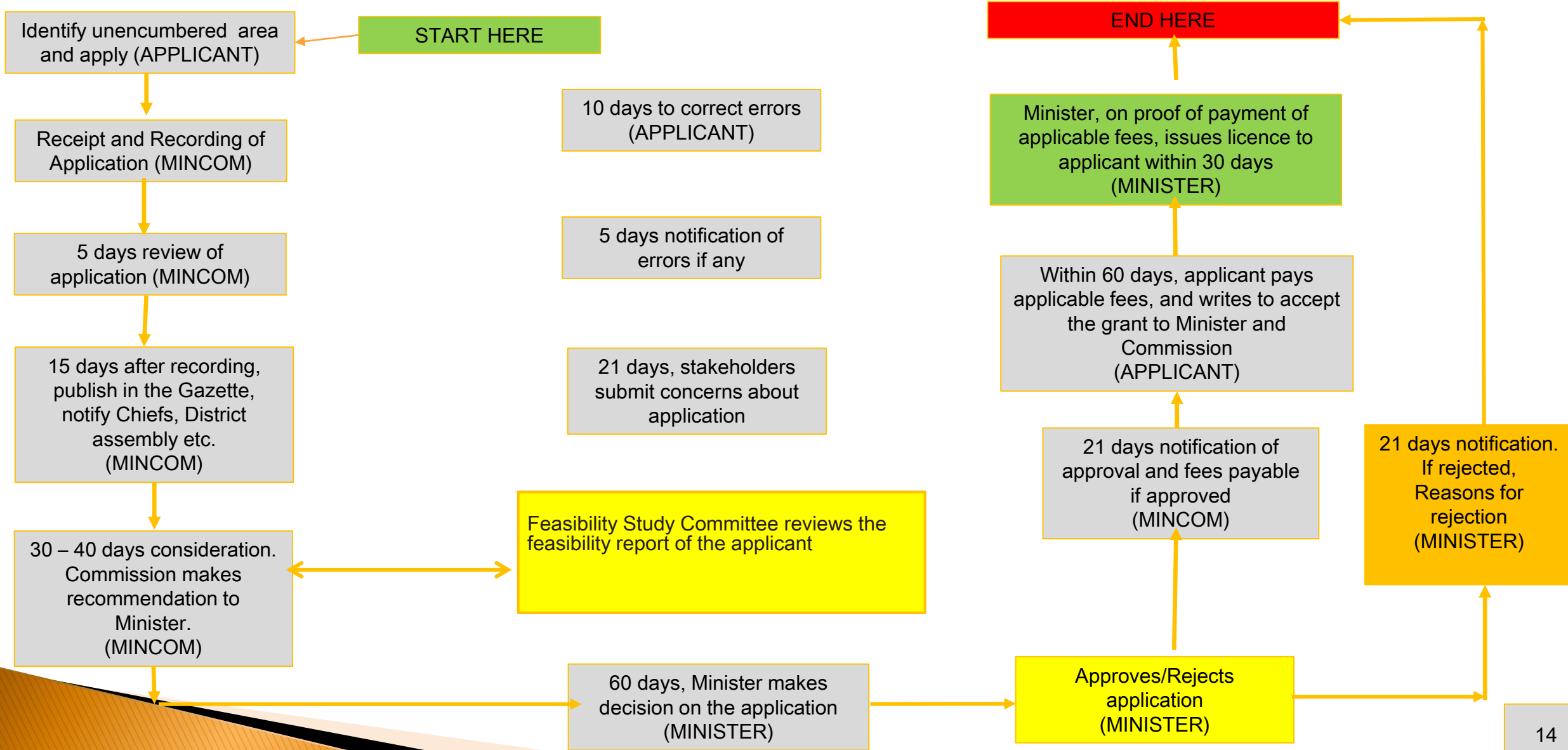
# The Institutional Technical Committee (ITC)

## ❑ Composition of ITC:

- Environmental Protection Agency (EPA)
- Ghana Geological Survey Authority
- Lands Commission
- Water Resources Commission (WRC)
- Forestry Commission (FC)

- ❑ ITC reviews work programme submitted by reconnaissance or prospecting licence applicants to ensure compliance with all relevant laws and technical specifications.
- ❑ The EPA ensures that the proposed exploration activities comply with environmental laws.
- ❑ The WRC and FC ensure that the proposed mineral right area does not affect a buffer zone, water body, forest reserve, other restricted or designated areas
- ❑ The ITC recommends to MINCOM which then continues processing of application.

# Licensing Procedure for exploitation mineral rights (mining lease)





# Parliamentary Ratification of mining leases

- ❑ **Art. 268(2) of the Constitution, 1992 requires all exploitation mineral rights to be ratified by Parliament.**
  - *Republic v. High Court General Jurisdiction 6 (Ex Parte Attorney-General; Interested Party – Exton Cubic Group), Supreme Court, 31 July 2019. (Exton Cubic Case)*
- ❑ **Procedure for Ratification of mining lease**
  - Holder of mining lease submits appropriate copies of mining lease agreement to the Commission.
  - Mincom compiles brief on each mining lease, attaches copies of the mining lease agreements, and prepares a draft cabinet memo to the Minister.
  - Minister submits the request for ratification to Cabinet for review.
  - After Cabinet approval Minister submits the request to Parliament.
  - The Mines and Energy Committee considers request: the Ministry and Mincom appear before Committee to provide clarifications.
  - Finally, Parliament ratifies the agreements.

# Requirement for Operating Permit

- ❑ Before a **Prospecting licence** holder or a **Mining lease** holder may commence any activity on the mineral right area, that person requires a ***Prospecting Operating Permit*** and a ***Mining Operating Permit*** respectively from the Inspectorate Division of Mincom.
  - (See Minerals and Mining (Health, Safety & Technical) regulations, 2012 (LI 2182, Regs. 6-8)
  
- ❑ **Requirements for Prospecting Operating Permit (Reg. 6, LI 2182)**
  - EPA Permit
  - Prospecting Licence
  
- ❑ **Requirements for Mining Operating Permit (Reg. 8, LI 2182)**
  - EPA Permit
  - Mining Lease
  - Emergency Operating Plan

# Role of other key agencies in the mineral rights licensing regime

## □ Environmental Protection Agency (EPA)

- Mineral right holders require environmental permits. Mining lease holders must do environmental impact assessment (EIA).
- EPA requires mining companies to post environmental bonds before commencement of mining operations.

## □ Water Resources Commission

- Ensures mineral operations do not impact water bodies or buffer zones. Where necessary, a mining lease holder must obtain water use permits for mineral operations.

## □ Forestry Commission

- Ensures that mineral rights or mineral operations do not affect forests reserves. An application for mineral rights that impacts a forest reserves must be supported by a FOREST ENTRY PERMIT granted by the Forestry Commission.

## □ Office of the Administrator of Stool Lands (OASL):

- Collection of ground rent on behalf of stools.

## □ Lands Commission:

- Stamping of mineral right agreements; Land Valuation for compensation.

## □ Local Government:

- District Assemblies are involved in the publication of mineral right applications, gazetting.

*Thank  
you!*