

## CHAPTER 306

### THE MINING ACT

#### SUBSIDIARY LEGISLATION

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**DECLARATION OF CONSTRUCTION MINERALS**

[Legal Notice 62 of 2017]

IN EXERCISE of the powers conferred by section 4 of the Mining Act, the Cabinet Secretary for Mining declares the minerals specified in the Schedule hereto to be construction minerals.

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SCHEDULE

Agglomerates  
Basalt  
Breccia  
Calcrete  
Calc siliate  
Conglomerate  
Dacite  
Diorite  
Dolerite  
Granite  
Granitoids  
Gravel  
Grey whack  
Grits  
Gneisses  
Kunkar  
Laterite  
Migmatiles  
Phyllite  
Phonolite  
Pyroclastics  
Quartzite  
Rhyolite  
Sandstone  
Siltston  
Shale  
Slate  
Soapstone  
Trachyte  
Tuffs

[Subsidiary]

Wollstonite

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## THE MINING (DEALINGS IN MINERALS) REGULATIONS

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#### CATEGORIES OF MINERAL DEALERSHIP

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## THE MINING (DEALINGS IN MINERALS) REGULATIONS

[Legal Notice 88 of 2017]

### 1. Citation

These Regulations may be cited as the Mining (Dealings in Minerals) Regulations.

### 2. Interpretation

In these Regulations, unless the context otherwise requires—

“Act” means the Mining Act (Cap. 306);

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to mining;

“mineral dealer's licence” means a licence granted in accordance with the Mining Act and the regulations made thereunder which authorises the holder to carry out mineral dealings;

“mineral dealings” has the meaning thereto as provided in section 4 of the Act;

“mineral dealer's permit” means a permit granted in accordance with the Mining Act (Cap. 306) and the regulations made thereunder which authorises the holder to carry out mineral dealings;

“Ministry” means the Ministry for the time being responsible for matters relating to mining;

“mining right” means an artisanal mining permit, mining permit or mining licence; and

“trading” means the buying and selling of minerals.

### 3. Application of Regulations

(1) These Regulations shall apply to—

- (a) the export of a mineral by a holder of a mining right;
- (b) the removal of minerals by a holder of a mineral right for the purposes of sampling, assay or analysis;
- (c) the holder of a mineral dealer's licence or dealer's permit;
- (d) the import of any mineral; and
- (e) any other person who is not a holder of a mineral right, mineral dealer's licence or dealer's permit but requires the removal of minerals for analysis or testing for purposes other than exploration or mining.

(2) These Regulations shall not apply to the export and import of rough diamonds.

### 4. Applications for dealings in minerals

(1) An application for, or a renewal of a licence or permit to deal in minerals, shall be submitted through the online mining cadastre.

(2) The Cabinet Secretary shall approve the application if the applicant submits all the information required in the relevant application form, including any required attachments in digital format.

(3) An applicant shall be required to re-submit an application if it is incomplete or inaccurate.

(4) The applicant shall maintain a valid e-mail address for official communications with the Mining Cadastre Office.

(5) An application shall only be accepted upon payment of the prescribed application fee.

(6) The submission of any document or the making of any statement which is found to be false shall render the application null and void.

(7) Where it emerges at a later stage that a false statement was made during the application, the licence or permit shall be revoked.

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[Subsidiary]

- (8) An applicant may withdraw an application before the licence or permit is granted.
- (9) An application fee once paid is not refundable.

#### **5. Application for mineral dealer's (trading) licence**

(1) Subject to section 160(1) of the Act, an application for the grant of a mineral dealer's licence for purposes of trading shall be made to the Cabinet Secretary by completing Form DTL I set out in the Second Schedule.

(2) The application shall include the following—

- (a) the full name, nationality and contact of the applicant;
- (b) the physical address of the place of business of the applicant;
- (c) in the case of a company—
  - (i) the certificate of registration;
  - (ii) a current copy of CRI2 from the Registrar of Companies;
  - (iii) the memorandum of association; and
  - (iv) the articles of association.
- (d) the name of the mineral or class of minerals for which the licence is sought;
- (e) a certified, signed statement or formal letter of intent from a bank or any financial institution of the funds available to the applicant;
- (f) a description of the knowledge or experience of the applicant in relation to any previous dealings in minerals; and
- (g) the appointed agents of the applicant and their areas of operation if any.

(3) The Cabinet Secretary shall notify the applicant of the decision on the application within thirty days of receipt of a complete application.

(4) The categories for the different types of minerals is as set out in the First Schedule.

#### **6. Form of a mineral dealer's (trading) licence**

A mineral dealer's licence shall be issued digitally together with a paper copy using Form DTL 2 set out in the Second Schedule.

#### **7. Application for mineral dealer's (processing) licence**

(1) Subject to section 160(1) of the Act, an application for the grant of a mineral dealer's licence for purposes of processing a mineral shall be made to the Cabinet Secretary by completing Form DPL1 as set out in the Second Schedule.

(2) The application shall include the following—

- (a) the full name, nationality and contact of the applicant;
- (b) the physical address of the place of business;
- (c) in the case of a company—
  - (i) the certificate of registration;
  - (ii) a current copy of CR12 from the Registrar of Companies;
  - (iii) the memorandum of association; and
  - (iv) the articles of association.
- (d) the name of the mineral or category of minerals for which the licence is sought;
- (e) proof of financial capability;
- (f) technical plans detailing the proposed mineral processing operation;
- (g) details of land ownership and consents where necessary;
- (h) proposed source of minerals for processing;
- (i) particulars for the procurement of local goods and services and the employment and training of Kenyans;
- (j) environmental licence if required; and



(k) appointed agents of the applicant and their areas of operation if any.

(3) The Cabinet Secretary shall, make a decision and notify the applicant within thirty days from the date of receipt of the application.

(4) A mineral dealer's licence shall be granted only for minerals in the same category as those specified in the First Schedule.

### **8. Form of a mineral dealer's (processing) licence**

A mineral dealer's (processing) licence shall be issued digitally together with a paper copy using Form DPL 2 set out in the Second Schedule.

### **9. Rights and obligations of a holder of a mineral dealer's (trading) licence**

(1) A mineral dealer's licence confers on the holder the right to trade in the mineral or minerals to which the licence relates to and conduct any other ancillary or incidental activity attached to the licence.

(2) For the purposes of exercising the right conferred under subregulation (1), the holder may appoint agents to carry out any activity authorised by the licence on his or her behalf.

(3) The holder of a mineral dealer's licence shall notify the Cabinet Secretary of the appointment of an agent and the holder shall be held liable for all acts or activities done or carried out by the agent under the licence.

(4) All agents appointed by a holder of a mineral dealer's licence shall be issued with an identity card which shall be carried by the agent in the performance of any activity to which the licence relates.

(5) The holder of a mineral dealer's licence shall—

- (a) commence or engage in the trading of a mineral in accordance with the terms and conditions of the licence within thirty days after the date of the issue of the licence;
- (b) not trade in any mineral other than the mineral or minerals specified in the licence;
- (c) not trade in minerals except in accordance with the terms and conditions set out in the licence;
- (d) not knowingly engage in trading of a mineral with a person who has not acquired the minerals lawfully or is otherwise not lawfully entitled to deal in minerals;
- (e) pay all taxes, charges or levies that are required under the terms and conditions of the licence, the Act or any other written law in Kenya;
- (f) keep complete and accurate records of all activities conducted under the licence at the registered office and submit a true copy to the Cabinet Secretary in the manner as specified in the Act and these Regulations;
- (g) permit the authorised officer of the Ministry to inspect any documents or records; and
- (h) submit if any, the sales contract or agreement the holder may sign with a buyer, seller or holder of a mineral right.

### **10. Rights and obligations of a holder of a mineral dealer's (processing) licence**

(1) Subject to the Act, a mineral dealer's (processing) licence, confers on the holder the right to process a mineral to which the licence relates and conduct any other ancillary or incidental activity attached to the licence.

(2) For the purposes of exercising the right conferred under subregulation (1), the holder may—

- (a) appoint agents to carry out any activity authorised by the licence on his or her behalf;

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[Subsidiary]

- (b) buy minerals for the sole purpose of processing;
- (c) process minerals on behalf of mineral rights holders; and
- (d) dispose the minerals won from the processing.

(3) The holder of a mineral dealer's licence shall notify the Cabinet Secretary of the appointment of an agent and the holder shall be held liable for all acts or activities done or carried out by the agent under the licence.

(4) All agents appointed by a holder shall be issued with an identity card which shall be carried by the agent in the performance of any activity to which the licence relates.

(5) The holder of a mineral dealer's licence shall—

- (a) commence or engage in mineral processing in accordance with the terms and conditions of the licence within thirty days after the date of the issue of the licence;
- (b) not deal in any mineral other than the mineral or minerals specified in the licence;
- (c) not deal in minerals except in accordance with the terms and conditions set out in the licence;
- (d) not knowingly engage in mineral dealings permitted under the licence with a person who has not acquired the minerals lawfully or is otherwise not lawfully entitled to deal in minerals;
- (e) pay all taxes, charges or levies that are required under the terms and conditions of the licence, the Act or any other written law in Kenya;
- (f) keep complete and accurate records of all activities conducted under the licence at the registered office and submit a true copy to the Cabinet Secretary in the manner as specified in the Act and these regulations;
- (g) permit the authorised officer of the Ministry to inspect any documents or records;
- (h) submit if any, a sales contract or agreement the holder may sign with a buyer, seller or holder of a mineral right; and
- (i) comply with other relevant laws.

#### **11. Renewal of a mineral dealer's licence**

(1) A holder of a mineral dealer's licence for trading or processing who wishes to renew the licence shall, not later than thirty days before the expiry of the licence, apply for a renewal by completing Form DL 2 as set out in the Second Schedule.

(2) Where the applicant has complied with the obligations imposed by the Act and these Regulations with respect to the licence, the Cabinet Secretary shall renew the term of the licence.

(3) Where the Cabinet Secretary has rejected an application for a mineral dealer's licence or a renewal thereof, the affected applicant may apply to the Environment and Land Court for a review of the decision within thirty days from the date of notice of the decision.

(4) Where the holder of a mineral dealer's licence has applied for the renewal of the licence in accordance with sub-regulation (1) but the application is not determined before the expiry of the term of the licence, the licence shall continue in force until the application is determined.

#### **12. Sale of jewellery, gold coins and mineral artefacts**

Nothing in these Regulations shall preclude a person from disposing of personal jewellery, gold coins and mineral artefacts or a dealer from buying from such a person.

#### **13. Purpose of a mineral dealer's permit**

(1) A mineral dealer's permit grants a person the right to buy and sell a mineral or minerals.

(2) A holder of a mineral dealer's permit shall not export any mineral.

#### **14. Qualifications for grant of a mineral dealer's permit**

A person shall not be qualified to apply for or hold a mineral dealer's permit unless—

- (a) the person is a Kenyan; or
- (b) in a case of a body corporate, sixty per cent of the shareholding is held by Kenyans.

#### **15. Application and form of a mineral dealer's permit**

(1) An application for the grant of a mineral dealer's permit shall be made to the Cabinet Secretary by completing Form DP1 set out in the Second Schedule.

(2) A mineral dealer's permit shall be issued digitally together with a paper copy, using Form DP 2 as set out in the Second Schedule.

(3) A mineral dealer's permit shall specify and have appended to it, by the Mining Cadastre Office—

- (a) the name, nationality and address of the permit holder;
- (b) physical address of the place of business;
- (c) the mineral or minerals in respect of which the licence is valid;
- (d) the type of mineral dealings to be carried out; and
- (e) the term of the licence.

#### **16. Rights and obligations of a holder of a mineral dealer's permit**

(1) Subject to the Act and any Regulations thereto, a mineral dealer's permit confers on the holder the right to deal in the mineral to which the permit relates and to conduct any other ancillary or incidental activity attached to the permit.

(2) The holder of a mineral dealer's permit shall—

- (a) commence or engage in the trading of minerals in accordance with the terms and conditions of the permit within thirty days after the date of the issue of the permit;
- (b) not trade in any mineral other than the mineral or minerals specified in the permit;
- (c) not trade in minerals except in accordance with the terms and conditions set out in the Permit;
- (d) not knowingly engage in the trading of minerals with a person who has not acquired the minerals lawfully or is otherwise not lawfully entitled to deal in minerals;
- (e) pay all taxes, charges or levies that are required under the terms and conditions of the permit, the Act or any other written law in Kenya;
- (f) keep complete and accurate records of all activities conducted under the permit at the registered office and submit a true copy to the Cabinet Secretary in the manner as specified in these regulations;
- (g) permit the authorised officer of the Ministry at any reasonable time to inspect the documents and records; and
- (h) submit if any, a marketing, sales contract or agreement the holder may sign with a buyer, seller or holder of a mineral right.

#### **17. Renewal of a mineral dealer's permit**

(1) A holder of a mineral dealer's permit who wishes to renew the permit shall, not later than thirty days before the expiry of the permit, apply for a renewal by completing Form DP 3 as set out in the Second Schedule.

(2) Where an applicant has complied with the obligations imposed by the Act and these regulations with respect to—

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[Subsidiary]

- (a) the holding of the permit; and
- (b) the activities required to be conducted under the preceding term of the permit: the Cabinet Secretary shall renew the permit.

(3) Where the holder of a mineral dealer's permit has applied for a renewal but the application is not determined before the expiry of the permit, the permit shall continue in force until the application is determined.

(4) Where the Cabinet Secretary has rejected an application for a mineral dealer's permit or a renewal thereof, the affected applicant may apply to the Environment and Land Court for a review of the decision within thirty days from the date of notice of the decision.

### **18. Export of minerals**

Except as otherwise provided in the Act or under these Regulations, a person shall not export a mineral unless the person holds a permit granted by the Cabinet Secretary for that purpose.

### **19. Qualifications for grant of an export permit**

A person shall not be qualified to apply for a permit to export minerals unless the—

- (a) person is a holder of a mining licence, mining permit or a dealer's licence granted in accordance with the Act; and
- (b) permit is for the removal of minerals not specified in the First Schedule of the Act.

### **20. Application for an export permit**

(1) Subject to section 171(2) of the Act, an application for the grant of an export permit shall be made to the Director of Mines by completing Form EP 1 as set out in the Second Schedule

(2) Every export or shipment of a mineral shall require an export permit.

(3) The application shall include the following—

- (a) the name, source, quantity, grade and value of the mineral to be shipped or exported;
- (b) the name, address of the purchaser or consignee and destination where the mineral is to be shipped or exported;
- (c) the sales or marketing agreement between the applicant and the buyer if any;
- (d) a refining contract or off-take agreement where the applicant has signed such an agreement; and
- (e) the royalty liability for that consignment.

(4) An export permit shall be signed by the Cabinet Secretary or an officer authorised by the Cabinet Secretary.

### **21. Form of an export permit**

(1) An export permit shall be issued using Form EP 2 as set out in the Second Schedule.

(2) An export permit shall specify the—

- (a) name and address of the permit holder;
- (b) mineral right or the dealer's licence or permit to provide evidence for the source of the mineral;
- (c) source and reason for export of minerals not specified in the First Schedule of the Act;
- (d) mineral or minerals in respect of which the permit is valid;
- (e) quantity, grade, purity, value and other particulars of the mineral or minerals;
- (f) name, address of the purchaser or consignee and destination where the mineral is to be shipped or exported; and

- (g) royalty liability for that consignment.

## 22. Term of an export permit

An export permit shall be used for the specified consignment and shall be valid for thirty days from the date of issue.

## 23. Records and reporting requirements

The holder of a mineral dealer's licence or permit shall—

- (a) keep at its registered address complete and accurate records of all purchases or sales made under every permit or licence as prescribed in Form DTR in the Second Schedule; and
- (b) submit quarterly reports of all purchases or sales made under every permit to the Ministry as prescribed in Form DTQ or DPQ in the Second Schedule.

## 24. Import of minerals

Where a person imports a mineral, the person shall make a declaration at the point of entry by completing Form ID as set out in the Second Schedule.

## 25. Sale of minerals by holders of artisanal mining permits

(1) A holder of an artisanal mining permit shall sell any mineral produced to the National Mining Corporation, a holder of a mineral dealer's licence or mineral dealer's permit or to such designated persons that the Cabinet Secretary may specify in the Gazette.

(2) A holder of an artisanal mining permit may export the mineral produced with the approval of the Cabinet Secretary and on such terms and conditions that the Cabinet Secretary may specify in the permit.

## 26. Mineral samples

(1) Except as otherwise provided in the Act and any regulations made thereunder, a holder of a mineral right shall not, without a permit from the Cabinet Secretary and on the recommendation of the Director of Geological Survey, remove any mineral from a reconnaissance, prospecting or mining area for the purpose of having the mineral analysed, valued or tested.

(2) An application by a holder for a permit under subregulation (1) shall be made to the Director of Geological Survey by completing Form SP1 as set out in the Second Schedule.

(3) The size of each sample must be consistent with what is ordinarily required for laboratory analysis or testing.

(4) The holder of the mineral right shall provide access to the Director of Geological Survey or any authorised officer to inspect and examine the samples before any permit is issued.

(5) The holder of the mineral right shall submit copies of the results of all tests and analyses of all samples to the Director of Geological Survey.

## 27. Dealings in strategic minerals

Dealings in strategic minerals shall be in the manner as prescribed in the act and in regulations dealing with strategic minerals.

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### FIRST SCHEDULE

[rr. 5(4), 7(4)]

#### CATEGORIES OF MINERAL DEALERSHIP

1. Construction, Industrial, Gaseous Minerals and Coal.
2. Precious and Semi-Precious Stones [All gemstones except diamonds].

[Subsidiary]

3. Precious and Rare Metals.

4. Base Metals

SECOND SCHEDULE

FORMS

Form DTL-1 (r. 5)  
Application for a Mineral Dealer's (Trading) Licence

1. Applicant's identity and contact information

Full Name: \_\_\_\_\_ National I.D No. (Kenyans)

Or, Passport No./Country (Non Kenyans) \_\_\_\_\_ is applying on behalf of:

a. an individual (complete all information in this section)

Full Name: \_\_\_\_\_ National I.D No. (citizen)  
\_\_\_\_\_ or, Passport No./Country (foreigner) \_\_\_\_\_

or

b. a company (complete all information in this section)

Registered company name: \_\_\_\_\_

Registration Certificate No./Date incorporated: \_\_\_\_\_

c. Physical Location of business

Street: \_\_\_\_\_ Floor/Office #

Town/City: \_\_\_\_\_ Sub-County: \_\_\_\_\_  
County: \_\_\_\_\_

d. Address

P.O. Box: \_\_\_\_\_ Code: \_\_\_\_\_

Town/City: \_\_\_\_\_ County: \_\_\_\_\_

Phone #: \_\_\_\_\_ Mobile: \_\_\_\_\_

Email address (mandatory): \_\_\_\_\_

e. Name of authorised agent or representative if any:

1.) \_\_\_\_\_ Mobile No. \_\_\_\_\_ Area of operation \_\_\_\_\_

2.) \_\_\_\_\_ Mobile No. \_\_\_\_\_ Area of operation \_\_\_\_\_

3.) \_\_\_\_\_ Mobile No. \_\_\_\_\_ Area of operation \_\_\_\_\_

2. Category of Mineral or Minerals as set out in the First Schedule of the Mining (Dealings in Minerals) Regulations

Select the category of minerals for which the licence is required (use separate Forms if more than one category)

Mining

[Subsidiary]

- 1.) Construction, Industrial, Gaseous Minerals and Coal.
- 2.) Precious and Semi-Precious Stones [All gemstones except diamonds].
- 3.) Precious and Rare Metals.
- 4.) Base Metals.

3. Attachments (tick the item attesting that the required document is attached to this application)

- duplicate copy of the receipt of the payment of the prescribed fee;
- where the applicant is a company, a certified copy of the applicant company's certificate of incorporation, current CR12 and certified copy of its memorandum and articles of association;
- where the applicant is an individual, a certified copy of Kenyan national identity or current passport for non-Kenyans;
- "Knowledge and Experience", a description of the applicant's knowledge or experience of mineral dealings in Kenya and elsewhere;
- a statement giving particulars of the financial resources available to the applicant;
- letters of appointment of agents detailing their contacts and areas of operations and their identification documents.

4. Declaration

(Note: where any declaration made in this Form is found to be false the applicant shall be guilty of an offence and subject to a penalty as provided for in the Act).

Form DTL-2 (r. 6)  
[Mineral Dealer's (Trading) Licence]

Mineral	Dealer's	(Trading)	Licence	Registration	No.	MDL/T
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This Licence is valid up to 31st December 20 \_\_\_\_\_

1. Subject to the conditions set out in the Mining Act, in these regulations and in this Mineral Dealer's Licence,

Name: \_\_\_\_\_

(Hereinafter referred to as the "holder") whose registered office in Kenya is at

(Physical Address): \_\_\_\_\_

City/Town: \_\_\_\_\_

County:

Nationality: .....

and whose place of business is situated at:

City/Town: \_\_\_\_\_ Ward: \_\_\_\_\_ Sub-County: \_\_\_\_\_

County: \_\_\_\_\_

is by this licence granted the right to buy, and sell including export of

[insert category of minerals].

DATED This \_\_\_\_\_ Day of \_\_\_\_\_ 20 \_\_\_\_\_  
(signature)

Cabinet Secretary (name)

In the presence of:

[Subsidiary]

(dated seal here)

Director of Mines (name) (signature)

..... page 2 .....

Terms and Conditions

2. The holder, during the term of this licence, shall:

- a. carry out trading in minerals in accordance with the conditions set out hereinafter;
b. commence trading in minerals within thirty calendar days from the date the licence is issued;
c. buy the minerals specified in the licence; and
d. sell the mineral to the National Mining Corporation or to any person in enya who is lawfully entitled to deal in minerals or to export the minerals.

3. The holder during the term of the licence shall—

- a. Keep a register of the mineral dealings in the Form as prescribed
b. Record the following information in respect of each transaction—
(i) the name, grade and weight of the minerals purchase or sold;
(ii) the price paid or received for the minerals;
(iii) the date of the purchase or sale;
(iv) the royalty liability for each transaction;
(v) the name and address of the supplier or the seller and the source of the minerals; and
(vi) the name and address of the vendor or the purchaser or consignee.

4. The holder shall submit to the Cabinet Secretary a true copy of the register in duplicate for the preceding three months, together with a statutory declaration of the correctness thereof, in the months of January, April, July and October of every year.

Form DPL-1 (r. 7(1))
[Application for a Mineral Dealer's (Processing) Licence]

1. Applicant's identity and contact information

Full Name: National I.D No. (citizen)
or, Passport No./Country (foreigner) is applying on behalf of:

a. an individual (complete all information in this section)

Full Name: National I.D No. (citizen) or,
Passport No. /Country (foreigner)

b. a company (complete all information in this section)

Registered company name:

Registration Certificate No. / Date incorporated:

c. Physical Location of business



*Mining*

[Subsidiary]

Street: \_\_\_\_\_ Building: \_\_\_\_\_ Floor/Office # \_\_\_\_\_

Town/City: \_\_\_\_\_ Sub-County: \_\_\_\_\_ County: \_\_\_\_\_

## d. Address

P.O. Box: \_\_\_\_\_ Code: \_\_\_\_\_

Town/City: \_\_\_\_\_ County: \_\_\_\_\_

Phone #: \_\_\_\_\_ Mobile: \_\_\_\_\_

Email address (mandatory): \_\_\_\_\_

## e. Name of authorised agent or representative if any:

1) \_\_\_\_\_ Mobile No. \_\_\_\_\_ Area of operation \_\_\_\_\_

2) \_\_\_\_\_ Mobile No. \_\_\_\_\_ Area of operation \_\_\_\_\_

3) \_\_\_\_\_ Mobile No. \_\_\_\_\_ Area of operation \_\_\_\_\_

## 2. Category of Mineral or Minerals as set out in the First Schedule of the Mining (Dealings in Minerals) Regulations.

Select the category of minerals for which the licence is required (use separate Forms if more than one category)

**(a)** Construction, Industrial, Gaseous Minerals and Coal.**(b)** Precious and Semi-Precious Stones [All gemstones except diamonds].**(c)** Precious and Rare Metals.**(d)** Base Metals.

3. Specific minerals for which licence is required \_\_\_\_\_

4. Attachments (tick the item attesting that the required document is attached to this application)

**(a)** duplicate copy of the receipt of the payment of the prescribed fee;**(b)** where the applicant is a company a certified copy of the applicant company's certificate of incorporation, current CR12 and certified copy of its memorandum and articles of association;**(c)** where the applicant is an individual a certified copy of Kenyan national I.D or passport for non-Kenyans;**(d)** "Knowledge and Experience", a description of the applicant's knowledge or experience of mineral dealings in Kenya and elsewhere;**(e)** a statement giving particulars of the financial resources available to the applicant;**(f)** technical plans detailing the proposed mineral processing operation(s);**(g)** work plan of the proposed processing operation;**(h)** details of land ownership and consents;**(i)** proposed source of minerals for processing;**(j)** particulars for the procurement of local goods and services and the employment and training of Kenyans;

[Subsidiary]

(k) environmental licence;

(l) letters of appointment of agents detailing their contacts and areas of operations and their identification documents.

5. Declaration

(Note: where any declaration made in this Form is found to be false the applicant shall be guilty of an offence and subject to a penalty as provided for in the Act).

Form DPL-2 \_\_\_\_\_ (r. 8)

[Mineral Dealer's (Processing) Licence]

Mineral Dealer's (Processing) Licence Registration No. MDL/P \_\_\_\_\_

This Licence is valid up to 31st December 20 \_\_\_\_\_

1. Subject to the conditions set out in the Mining Act, in these regulations and in this Mineral Dealer's Licence,

Name: \_\_\_\_\_

(Hereinafter referred to as the "holder") whose registered office in Kenya is at (Physical Address): \_\_\_\_\_

City/Town: \_\_\_\_\_ County: \_\_\_\_\_ Nationality \_\_\_\_\_ and whose place of business is situated at:

City/Town: \_\_\_\_\_ Ward: \_\_\_\_\_ Sub-County: \_\_\_\_\_ County: \_\_\_\_\_ is by this licence granted the

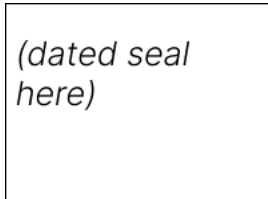
right to process \_\_\_\_\_ [insert Category of minerals and particularly insert specific minerals]

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2

(signature)

Cabinet Secretary (name)

In the presence of:



Director of Mines (name)

(signature)

..... page 2 .....

Terms and Conditions

2. The holder, during the term of this licence:

a. shall carry out the processing of the mineral in accordance with the conditions set out hereinafter;

b. shall commence activities within ninety days from the date the licence is issued;

c. may buy and process a mineral and sell the mineral products; and:

d. may process minerals on behalf of valid holders of mineral or dealings rights.

3. The holder during the term of the licence shall:

b. keep a register of the mineral dealings in the Form as prescribed;

Mining

[Subsidiary]

c. record the following information in respect of each transaction—

- (i) the name, grade and weight of the minerals purchased, processed and or sold for own;
- (ii) the grade and weight of minerals received for contract processing;
- (iii) the grade and weight of contract mineral product;
- (iv) the name and address of client for contract processing;
- (v) the name and address of the vendor or the purchaser or consignee;
- (vi) royalty liability for each transaction for own minerals;
- (vii) the source of minerals whether for self or contract processing;
- (viii) comply with any other relevant law.

4. The holder shall submit to the Cabinet Secretary a true copy of the register in duplicate for the preceding three months, together with a statutory declaration of the correctness thereof, in the months of January, April, July and October of every year.

Form DL-2 \_\_\_\_\_ (r. 11(1))  
[Application to Renew Mineral Dealer's Licence]

Renewal of Mineral Dealer's Licence Number: \_\_\_\_\_ of 20

1. Applicant's identity and contact information

Full Name: \_\_\_\_\_ National I.D No. (citizen) \_\_\_\_\_  
or, Passport No./Country (foreigner) \_\_\_\_\_ is applying on behalf of:

a. An individual (complete all information in this section)

Full Name: \_\_\_\_\_ National I.D No. (citizen) \_\_\_\_\_  
or, Passport No./Country (foreigner) \_\_\_\_\_

or

b. A company (complete all information in this section)

Registered company name: \_\_\_\_\_

Registration Certificate No./Date incorporated: \_\_\_\_\_

c. Physical Location of business

Street: \_\_\_\_\_ Building: \_\_\_\_\_ Floor/Office # \_\_\_\_\_

Town/City: \_\_\_\_\_ Sub-County: \_\_\_\_\_ County: \_\_\_\_\_

d. Address

P.O. Box: \_\_\_\_\_ Code: \_\_\_\_\_

Town/City: \_\_\_\_\_ County: \_\_\_\_\_

Phone #: \_\_\_\_\_ Mobile: \_\_\_\_\_

Email address (mandatory): \_\_\_\_\_

e. Name of authorised agent or representative if any:

1) \_\_\_\_\_ Mobile No. \_\_\_\_\_ Area of operation \_\_\_\_\_

2) \_\_\_\_\_ Mobile No. \_\_\_\_\_ Area of operation \_\_\_\_\_

[Subsidiary]

3) \_\_\_\_\_ Mobile No. \_\_\_\_\_ Area of operation  
\_\_\_\_\_

2. Attachments (tick the item attesting that the required document is attached to this application)

- duplicate copy of the receipt of the payment of the prescribed fee.
- copy of dealings annual report.
- copy of royalty liability reconciliation report.
- copy of tax compliance certificate.

Form DP-1 \_\_\_\_\_ (r. 15(1))

[Application for a Mineral Dealer's Permit]

1. Applicant's identity and contact information

Full Name: \_\_\_\_\_

National I.D No. (citizen) \_\_\_\_\_ is applying on behalf of:

a. An individual (complete all information in this section)

Full Name: \_\_\_\_\_ National I.D No. (citizen) \_\_\_\_\_

b. A company that is at least 60% Kenyan (complete all information in this section)

Registered company name: \_\_\_\_\_

Registration Certificate No./Date incorporated: \_\_\_\_\_

c. Physical Location of business

Street: \_\_\_\_\_ Building: \_\_\_\_\_ Floor/Office # \_\_\_\_\_

Town/City: \_\_\_\_\_ Sub-County: \_\_\_\_\_ County: \_\_\_\_\_

d. Address

P.O. Box: \_\_\_\_\_ Code: \_\_\_\_\_

Town/City: \_\_\_\_\_ County: \_\_\_\_\_

Phone #: \_\_\_\_\_ Mobile: \_\_\_\_\_

Email address (mandatory): \_\_\_\_\_

e. Name of authorised agent or representative if any:

1) \_\_\_\_\_ Mobile No. \_\_\_\_\_ Area of operation  
\_\_\_\_\_

2) \_\_\_\_\_ Mobile No. \_\_\_\_\_ Area of operation  
\_\_\_\_\_

3) \_\_\_\_\_ Mobile No. \_\_\_\_\_ Area of operation  
\_\_\_\_\_

2. Category of Mineral or Minerals as set out in the First Schedule of these regulations

(a) Select the category of minerals for which the licence is required:(use separate Forms if more than one category) Construction, Industrial, Gaseous Minerals and Coal.

(b) Precious and Semi-Precious Stones [All gemstones except diamonds].

(c) Precious and Rare Metals.

(d) Base Metals.

3. Attachments (tick the item attesting that the required document is attached to this application)

- duplicate copy of the receipt of the payment of the prescribed fee;
- where the applicant is a company, a certified copy of the applicant company's certificate of incorporation, a copy of current CR12 and certified copy of its memorandum and articles of association;
- where the applicant is an individual a copy of the Kenyan national identity.

4. Declaration

(Note: where any declaration made in this Form is found to be false the applicant shall be guilty of an offence and subject to a penalty as provided for in the Act).

Form DP-2 \_\_\_\_\_ (r. 15(2))  
[Mineral Dealer's Permit]

Mineral Dealer's Permit Registration No, MPL \_\_\_\_\_

This permit is valid up to 31st December 20 \_\_\_\_\_

1. Subject to the conditions set out in the Mining Act, in the regulations made under the Act and in this Mineral Dealer's Permit,

Name: \_\_\_\_\_

(Hereinafter referred to as the "holder") whose address in Kenya is at

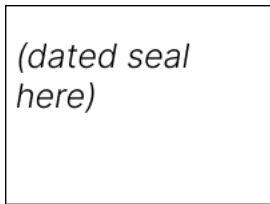
Address: \_\_\_\_\_

City/Town: \_\_\_\_\_ County: \_\_\_\_\_

is by this permit granted the right to buy and sell \_\_\_\_\_ [insert mineral(s) to be bought or sold].

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20 \_\_\_\_\_  
\_\_\_\_\_ (signature)

Cabinet Secretary (name)  
In the presence of:



Director of Mines (name) \_\_\_\_\_ (signature)

..... page 2 .....

2. The holder, during the term of this permit, shall—

- a. carry out trading in minerals in accordance with the terms of the permit;
- b. sell the mineral to the National Mining corporation or to any person who is lawfully entitled to deal in minerals in Kenya that the Cabinet Secretary may prescribe in the gazette.;

3. The holder during the term of this permit, shall—

- a. Keep a register of the mineral dealings in the prescribed form;
- b. record the following information in respect of each transaction—

[Subsidiary]

- (i) the name and weight of the minerals purchased or sold;
- (ii) the price paid or received for the minerals;
- (iii) the date of the purchase or sale;
- (iv) royalty liability for each transaction; and
- (v) the name and address of the vendor or the purchaser;
- (vi) the source of minerals purchased. ostensible.

4. The holder shall submit to the Director of Mines a true copy of the register in duplicate for the preceding six months, in the months of July and January.

Form DP-3 \_\_\_\_\_ (r. 17)

[Application to Renew Mineral Dealer's Permit]

Renewal of Mineral Dealer's Permit Registration Number: \_\_\_\_\_ of 20 \_\_\_\_\_

1. Applicant's identity and contact information

Full Name: \_\_\_\_\_ National I.D No. (citizen) \_\_\_\_\_

is applying on behalf of:

a. an individual (complete all information in this section)

Full Name: \_\_\_\_\_ National I.D No. (citizen) \_\_\_\_\_

Or:

b. a company that is at least 60% Kenyan (complete all information in this section)

Registered company name: \_\_\_\_\_

Registration Certificate No. /Date incorporated: \_\_\_\_\_

c. Physical Location of business

Street: \_\_\_\_\_ Building: \_\_\_\_\_ Floor/Office # \_\_\_\_\_

Town/City: \_\_\_\_\_ Sub-County: \_\_\_\_\_ County: \_\_\_\_\_

d. Address

P.O. Box: \_\_\_\_\_ Code: \_\_\_\_\_

Town/City: \_\_\_\_\_ County: \_\_\_\_\_

Phone #: \_\_\_\_\_ Mobile: \_\_\_\_\_

Email address (mandatory): \_\_\_\_\_

e. Name of authorised agent or representative if any:

1) \_\_\_\_\_ Mobile No. \_\_\_\_\_ Area of operation \_\_\_\_\_

2) \_\_\_\_\_ Mobile No. VArea of operation \_\_\_\_\_

3) \_\_\_\_\_ Mobile No. \_\_\_\_\_ Area of operation \_\_\_\_\_

2. Attachments (tick the item attesting that the required document is attached to this application)

- duplicate copy of the receipt of the payment of the prescribed fee
- copy of dealings annual report

- current CR12 from the Registrar of Companies

FORM EP-1 \_\_\_\_\_ (r. 20(1))

[Application for a Mineral Export Permit]

(1) \_\_\_\_\_ [insert name of person applying]

hereby apply for a mineral export permit on behalf of:

(2) \_\_\_\_\_

Licence/Permit No. \_\_\_\_\_ to export

(3) \_\_\_\_\_ of

(4) \_\_\_\_\_ contained

(5) \_\_\_\_\_ comprising of

(6) \_\_\_\_\_ produced from

(7) (a) County \_\_\_\_\_ (b) Locality/ward \_\_\_\_\_  
and marked

(8) \_\_\_\_\_ through

(9) \_\_\_\_\_

Value (F.O.B.) US\$ \_\_\_\_\_ (exchange rate) \_\_\_\_\_ Ksh.

\_\_\_\_\_ Royalty Liability \_\_\_\_\_

I hereby certify that the above particulars are correct to the best of my knowledge and belief.

DATE \_\_\_\_\_ Signature of Consigner and Stamp \_\_\_\_\_

10. Attachments (tick the item attesting that the required document is attached to this application)

- invoice;
- the assay certificate from a recognised mineral testing laboratory;
- the sales or marketing agreement between the applicant and the buyer if applicable;
- a refining contract or off-take agreement where the applicant has signed such an agreement;
- royalty liability for the consignment;
- for minerals not specified in the Act, supporting documents showing the source, the reasons for export and authorizations from other government agencies

Key: 1. Full name and address of person signing this Form

2. Name and full address of firm/principal

3. Quantity of minerals(s) by weight

4. Name and description of minerals(s)

5. Number of Packages

6. Grade, specifications and/or Assay where applicable

7. Source ((a) County and (b) Locality/ward(s))

8. Full postal/physical address of consignee

9. Agent and port of exit from Kenya

Form EP-2 \_\_\_\_\_ (r. 21(1))

[Mineral Export Permit]

*This export permit is valid for thirty days from the date of issue.*

[Subsidiary]

1. Subject to the conditions set out in the Mining Act and in the regulations made under the Act,

Name: .....

(Hereinafter referred to as the "holder") whose registered office in Kenya is at

(Physical Address): \_\_\_\_\_

City/Town: \_\_\_\_\_ Sub-County: \_\_\_\_\_ County: \_\_\_\_\_

Nationality: \_\_\_\_\_ [where holder is an individual]

Phone number: \_\_\_\_\_

Mobile: \_\_\_\_\_

Email address \_\_\_\_\_

is by this permit granted the right to export

<i>Item</i>	<i>Particulars</i>
Type of Mineral	
Source of Mineral	
Quantity	
Grade	
Value	
Royalty Liability	
Source of mineral	
Destination	
Consignee	
Port of Exit	

DATED This \_\_\_\_\_ Day of \_\_\_\_\_ 20 \_\_\_\_\_

(signature)

Cabinet Secretary (*name*)

In the presence of:

(*dated seal here*)

Director of Mines (*name*)

(signature)

Form DTR \_\_\_\_\_ (r. 23(a))

[Dealings (Trading) Register]

Dealings Right No. \_\_\_\_\_

Name of Holder \_\_\_\_\_

Report for the month of \_\_\_\_\_ 20 \_\_\_\_\_

b/f	Minerals bought		Minerals sold		Royalty Liability	Royalty paid
	Quantity	Value	Quantity	Value		
	Seller		Buyer			

Date

1

2



Mining

[Subsidiary]

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 27
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- Total

Form DTQ \_\_\_\_\_ (r. 23(b))  
 [Mineral Dealings (Trading) Quarterly Report]

Mineral Dealer's (Trading) Licence/Permit Number: \_\_\_\_\_ Year: \_\_\_\_\_

Name of Holder \_\_\_\_\_ Authorised signature: \_\_\_\_\_

Address (Physical Location: \_\_\_\_\_ Town/City: \_\_\_\_\_  
 Sub-County: \_\_\_\_\_

Phone number: \_\_\_\_\_ Email address: \_\_\_\_\_

	Minerals Transacted				Royalty Liability				Royalty paid			
	(a)	(b)	(c)	(d)	(a)	(b)	(c)	(d)	(a)	(b)	(c)	(d)
Brought forward												
January	Bought	Sold	Bought	Sold	Bought	Sold	Bought	Sold	Bought	Sold	Bought	Sold
February												
March												

[Subsidiary]

1st  
 Quarter  
 total  
 April  
 May  
 June  
 2nd  
 Quarter  
 total  
 July  
 August  
 September  
 3rd  
 Quarter  
 total  
 October  
 November  
 December  
 4th  
 Quarter  
 total  
 Grand  
 Total

(a), (b), (c) denote various mineral transacted e.g. zinc, lead, etc

Form DPQ \_\_\_\_\_ (r. 23(b))  
 [Mineral Dealings (Processing) Quarterly Report]

Mineral Dealer's (Processing) Licence/ Number: \_\_\_\_\_ Year: \_\_\_\_\_

Name of Holder \_\_\_\_\_ Authorised signature: \_\_\_\_\_

Address (Physical Location: ..... Town/City: \_\_\_\_\_ Sub-County: \_\_\_\_\_

Phone number: \_\_\_\_\_ Email address: \_\_\_\_\_

	Minerals processed			Royalty Liability			Royalty paid		
	(a)	(b)	(c)	(a)	(b)	(c)	(a)	(b)	(c)
Brought forward									
January	Feed	Stock	Product	Feed	Stock	Product			
February									
March									
1st Quarter total									
April									
May									
June									

2nd  
Quarter  
total  
July  
August  
September  
3rd  
Quarter  
total  
October  
November  
December  
4th  
Quarter  
total  
**Grand  
Total**

(a), (b), (c) denote various mineral transacted

Form ID \_\_\_\_\_ (r. 24)  
[Declaration of Imported Mineral]

\_\_\_\_\_  
No: \_\_\_\_\_  
Name of Importer: \_\_\_\_\_  
Address (Physical Location): \_\_\_\_\_  
Town/City: \_\_\_\_\_ County: \_\_\_\_\_  
Phone number: \_\_\_\_\_  
Mobile: \_\_\_\_\_  
Email address: \_\_\_\_\_

<i>Item</i>	<i>Particulars</i>
Type of Mineral	
Quantity	
Grade	
Value	
Country of origin	
Consignor	
Purpose of imported mineral	
Port of Exit	

The holder shall submit to the Director of Mines a true copy of the register in duplicate for the preceding year not later than ninety days at the end of each year.

Form SP \_\_\_\_\_ (r. 26(2))  
[Application to Remove Samples]

\_\_\_\_\_  
Hereby apply for authority to remove samples on behalf of:

[Subsidiary]

(2) \_\_\_\_\_

\_\_\_\_\_ Licence/Permit No.

Dates of removal of samples: \_\_\_\_\_

Name of the Lead Exploration Geologist:

The type of material extracted/sampled:

Total weight of samples and number of packages to be removed from the exploration site: \_\_\_\_\_

The name and address laboratory/processing facility:

Type of analysis: \_\_\_\_\_

3. Attach the following:

- a map showing sample extraction location(s) and GPS coordinates within the licence area;
- a description of samples and situation of extraction (cores: diameter, depth, others: depth, size);
- such other documents or information that the Director of Geological Survey may request.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_

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**THE MINING (EMPLOYMENT AND TRAINING) REGULATIONS**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation
2. Interpretation
3. Purpose of Regulations
4. Application of Regulations
5. Requirements for employment and training
6. Submission of employment, training and succession plan
7. Middle and junior level positions
8. Obligation to establish a database of experts
9. Promotion of research and development
10. Reporting requirements
11. Assessment of performance report

SCHEDULES

SCHEDULE —

FORM

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## THE MINING (EMPLOYMENT AND TRAINING) REGULATIONS

[Legal Notice 82 of 2017]

### 1. Citation

These Regulations may be cited as the Mining (Employment and Training) Regulations.

### 2. Interpretation

In these Regulations, unless the context otherwise requires—

“Act” means the Mining Act (Cap. 306);

“mining industry value chain” means the processes involved in the mining industry which include but are not limited to exploration, development, production, refining, smelting and marketing of minerals;

“technical” with respect to the recruitment of an employee includes engineers, technicians and geoscientists; and

“unskilled” means any labour that requires relatively little or no training or experience to perform a specific work or task.

### 3. Purpose of Regulations

The purpose of these Regulations is to—

- (a) promote job creation through the use of local expertise in the mining industry, the entire mining value chain and to retain the requisite skills within the country;
- (b) develop local capacities in the mining industry value chain through education, skills and technology transfer, research and development; and
- (c) achieve the minimum local employment level and in-country spend across the entire mining industry value chain.

### 4. Application of Regulations

These Regulations shall apply to all applicants and holders, of any licence for—

- (a) reconnaissance, prospecting and mining;
- (b) cutting, polishing, processing, refining and smelting of a mineral;
- (c) a large-scale mineral right which is valid after the coming into force of the Act and these Regulations; and
- (d) mine support services.

### 5. Requirements for employment and training

(1) An application for any licence shall not be granted by the Cabinet Secretary unless the applicant has submitted a plan outlining the proposals for the employment and training of Kenyans.

(2) Where an experienced expatriate is needed, a plan for the progressive replacement of the expatriate by a Kenyan shall be required.

(3) Without limiting the scope of subregulation (1), the plan shall contain the following—

- (a) the specification of the skills needed;
- (b) the number of Kenyans the applicant plans to employ;
- (c) the recruitment of any expatriate if required and the replacement of the person with a Kenyan;
- (d) particulars on the employment of marginalised groups including women, persons with disability, minorities and persons from the communities where mineral activities or mining operations are to be undertaken; and

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[Subsidiary]

(e) the proposed expenditure that will be incurred under the plan.

(4) Where an applicant intends to recruit an expatriate for its proposed activities or operations, the particulars to be submitted shall include—

- (a) a detailed curriculum vitae of the person;
- (b) the position to be filled by the person and the job description;
- (c) a statement as to why the work cannot be done or the position occupied by a Kenyan;
- (d) the conditions of service of the expatriate including the term of the contract, remuneration, allowances and other benefits; and
- (e) a statement of how the applicant intends to train a Kenyan to replace the expatriate within a specified timeframe.

(5) The particulars required under subregulation (4) shall be submitted to the Cabinet Secretary together with Form ET1 as set out in the Schedule.

(6) The approved plan shall form part of the conditions or obligations of the licence.

(7) The Cabinet Secretary shall not approve an application to recruit an expatriate unless he or she is satisfied that a Kenyan does not possess the requisite qualifications, skills and experience to occupy the position for which the expatriate is to be recruited.

(8) A holder of a mineral right shall not submit an application to the Department of Immigration Services for a work permit for an expatriate unless a recommendation has been obtained from the Cabinet Secretary or an authorised officer.

(9) A recommendation from the Cabinet Secretary shall not preclude compliance with the immigration laws of Kenya.

(10) For the purposes of making any decision under subregulation (7), the Cabinet Secretary may, amongst other things, request a holder of a mineral right to—

- (a) advertise for a particular job which no Kenyan was deemed suitable or qualified to occupy; or
- (b) recruit from the pool of specialists or database that shall be established by the Director of Mines under regulation 8.

(11) An expatriate shall not be employed in an unskilled or clerical position.

## **6. Submission of employment, training and succession plan**

(1) Every holder of a licence shall, within ninety days of the coming into force of these

Regulations, submit to the Cabinet Secretary, an employment, training and succession plan which corresponds with the work programme or programme of mining operations that accompanied the application made by the holder for the grant of the licence.

(2) The holder of any mineral right in respect of a large-scale operation which is valid after coming into force of the Act, shall be required, not later than eighteen months to update its employment and training plan in order to comply with these Regulations.

(3) For the purposes of subregulation (1), an employment and training plan shall include the—

- (a) number of employees including expatriates;
- (b) number of employees that are Kenyans;
- (c) number of employees in the executive, managerial, technical, supervisory and unskilled categories and the number of employees in each category that are Kenyans; and
- (d) details of on-going and planned recruitment and training programmes for Kenyans.

(4) Where the holder of a licence has employed expatriates, the following particulars shall be provided to the Director of Mines—



- (a) the number of employees who are expatriates and their percentage relative to the total number of employees;
- (b) a detailed curriculum vitae of each expatriate;
- (c) the position held and the job description;
- (d) the conditions of service of the expatriate specifying the term of the contract, remuneration, allowances and other benefits;
- (e) copy of the work permit issued by the Department of Immigration Services;
- (f) a detailed training programme with specific training requirements, timelines and costs for the replacement of an expatriate by a Kenyan.

(5) A holder of a licence shall comply with the relevant labour, employment, social security laws and any regulations made under such laws of Kenya.

(6) A holder of a licence shall provide to the Director of Mines, a half yearly report on the employment and training activities not later than thirty days after the end of the reporting period.

(7) The report shall state the number of new employees who are Kenyans and were engaged during the respective period and their qualifications and job descriptions.

### **7. Middle and junior level positions**

(1) A holder of a licence shall employ only Kenyans at junior and middle level positions.

(2) Subject to subregulation (1), a junior or middle level position includes the position of foreman, supervisor or any other corresponding position or grade.

(3) The Director of Mines may approve the recruitment of an expatriate upon justification by a holder of a licence that no Kenyan has the requisite qualifications, skills or experience to occupy a particular junior or middle level position.

### **8. Obligation to establish a database of experts**

(1) The Director of Mines shall establish and maintain a database of Kenyans with the relevant training, skills and experience including specialists or experts across the mining industry value chain.

(2) The Director of Mines shall ensure dissemination of the information on the database through the website of the Ministry, in the local media and such other effective means as may be available from time to time.

### **9. Promotion of research and development**

(1) The Director of Mines in consultation with the mining industry, universities, research and training institutions shall develop guidelines for applicable areas of training, research and development.

(2) A holder of a mining licence shall, within one year of the commencement of mining operations, submit a programme to the Director of Mines for the promotion of education, research and development based on the guidelines provided under subregulation (1).

(3) A holder of a mining lease or special mining lease which is valid after coming into force of the Act shall comply with this regulation within eighteen months after coming into force of these Regulations.

### **10. Reporting requirements**

(1) A holder of a licence shall, not later than thirty days after the end of the year, submit to the Director of Mines, an annual performance report covering all the activities related to employment, training, research and development.

(2) The report shall be in such a format as the Director of Mines may direct.

### **11. Assessment of performance report**

(1) The Director of Mines shall, within thirty days of receipt of the report, assess and review the report to ensure compliance with the Mining Act and these Regulations.

[Subsidiary]

(2) For the purposes of assessment and verification of the report, a holder of a licence shall allow the Director of Mines or any authorised officer access to their facilities, personnel, documents and any other information as the Director of Mines may request.

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SCHEDULE

FORM

FORM ET 1 **(r. 5(5))**  
EXPATRIATE RECRUITMENT APPLICATION FORM

**1. PARTICULARS OF THE HOLDER OR APPLICANT FOR A LICENCE**

- Name of holder or applicant for a licence
- Type of licence held by the holder or applied for
- Licence/application number
- Date of issue and expiry of the licence in case of a holder
- Registered Address
- Telephone number land line
- Telephone number mobile
- Email

**2. PERSONAL PARTICULARS OF EXPATRIATE**

- Full Name
- Position
- Duration of Employment
- Nationality
- Special Skills or Expertise
- Passport No. (Attach biodata page)
- Address
- Email
- Telephone Number

**3. PERSONAL PARTICULARS OF KENYAN COUNTERPART**

- Full Name
- Qualification  
(Attach CV)
- Present Position
- Expected Takeover Date
- Address
- Email
- Telephone Number

**4. PARTICULARS OF PLANNED PROGRAMME FOR KENYAN COUNTERPART**

- |                            |           |               |
|----------------------------|-----------|---------------|
| Planned Training Programme | Timelines | Training Cost |
|----------------------------|-----------|---------------|

I certify that all of the statements made in this application are true, complete and are made in good faith. I understand that falsifying, misrepresenting or intentionally withholding information will be grounds for rejection of the application or cancellation if the application has been approved.

Name of applicant/holder: .....

Name of authorised person: .....

Title or Position: .....

Signature of authorised person: .....

Date: .....

Telephone number: .....

Mobile Number: .....

Email: .....

DOCUMENTS SUBMITTED BY APPLICANT (check all boxes)

Application is complete (all the following are attached):

Detailed curriculum vitae of the expatriate.

Personal particulars of the expatriate including the attachment and full details of passport data.

Position to be filled and job description of the person.

The conditions of service of the expatriate including the term of the contract, remuneration, allowances and other benefits.

Proof of payment of application fee.

A statement of how the applicant intends to train a Kenyan to replace the person within a specified timeframe and training cost.

Curriculum vitae and personal particulars of a Kenyan counterpart if he or she is already employed by the applicant/holder.

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## THE MINING (LICENCE AND PERMIT) REGULATIONS

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**THE MINING (LICENCE AND PERMIT) REGULATIONS**

[Legal Notice 87 of 2017]

## PART I – PRELIMINARY

**1. Citation**

These Regulations may be cited as the Mining (Licence and Permit) Regulations.

**2. Interpretation**

In these Regulations, unless the context otherwise requires—

“Act” means the Mining Act (Cap. 306);

“application date” means the date (day/month/year) and time (hour/minute/second) recorded respectively as (dd/mm/yyyy) and (hh:mm:ss) in Kenya time at which the licence or permit application registration receipt was issued by the Cadastre;

“artisanal mining area” means an area that is subject to an artisanal mining permit;

“Artisanal Mining Committee” has the meaning assigned to it in section 4 of the Act;

“Board” means the Mineral Rights Board established under section 30 of the Act;

“Cadastre” means an online repository and information management tool established for the purposes of regulating the issuance of licences and permits of mineral rights and dealings in minerals;

“cadastral coordinates” means the GPS coordinates denoting the various boundary points of a mineral right;

“cadastral map” means a map showing all registered geospatial data relating to mineral rights;

“cadastral register” means a digital and paper-based, spatially integrated database and associated application used to manage all mineral rights and mineral dealings within Kenya;

“dealer’s rights” means a mineral dealer’s licence or a mineral dealer’s permit granted under the Act;

“exploration” means the search for, or evaluation of a mineral or a mineral deposit to determine its potential economic value;

“feasibility study” means the advanced exploration of a mineral deposit to determine its size, grade, mining options, environmental and community factors, mineral processing, infrastructure requirements and considerations, and economic modelling in order to establish commercial viability of exploiting that mineral deposit;

“holder” has the meaning assigned to it under section 4 of the Act;

“invasive activities” used in the context of prospecting or mining operations means activities that disturb the natural surface of and below the earth, including air and water, within the licence or permit area;

“mine development” means the work undertaken to prepare a licence or permit area for mining operations including the rehabilitation, construction or commissioning of necessary infrastructure and related facilities;

“mining permit programme” means the programme that shall contain particulars of the proposed mining operations to be carried out under the permit;

“Ministry” means the Ministry for the time being responsible for matters relating to mining;

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"programme for prospecting operations" means the final, fully-costed and approved series of time-based actions to be carried out under a prospecting licence, based on the proposal submitted in support of the application for the prospecting licence;

"reconnaissance licence work programme" means the final, fully-costed and approved series of time-based actions to be carried out under a reconnaissance licence, based on the proposal submitted in support of the application for the reconnaissance licence;

"Registrar" means the authorised officer of the Ministry, appointed as Registrar of mineral rights who also heads the Mining Cadastre Office; and

"county representative of the Director of Mines" is the head of the County office of the Ministry.

### 3. Application

These Regulations shall apply to all mineral rights.

#### PART II – REGISTRATION, RECORDS AND MINING CADASTRE

### 4. Online Mining Cadastre

(1) There is established an Online Mining Cadastre hereinafter referred to as the Cadastre for the purposes of regulating the issuance of licences and permits for mineral rights and dealings in minerals.

(2) The Cadastre shall be the official means of submitting any application or reports relating to mineral rights and dealings in minerals.

(3) The Cadastre may be accessed through the website of the Ministry.

### 5. Public access to the Cadastre

Any person may—

- (a) access the non-confidential information on mineral rights and dealings in minerals through the Cadastre; and
- (b) obtain hard copies of any non-confidential information contained in the Cadastre upon the payment of a prescribed fee.

### 6. Cadastral register

(1) All information submitted to or sent from the Cadastre shall be held in a cadastral register.

(2) All mineral rights and mineral agreements issued under the Act shall be maintained in a digital format in the Cadastre.

(3) The holder of a mineral right shall be issued with one hard copy of the mineral right and an additional copy shall be retained by the Ministry.

### 7. Registrar

(1) The Registrar shall establish and maintain an up-to-date cadastral register.

(2) The cadastral register shall include for each application, the following information—

- (a) the application number, which shall be a unique number sequentially incorporating the date and time on which the application was accepted as complete;
- (b) the full name, nationality and address of the applicant;
- (c) the date and time that the application registration receipt was issued;
- (d) the date on which the Board received the report from the Director of Mines;
- (e) the date on which the Cabinet Secretary received the recommendation of the Board;
- (f) the date on which the Cabinet Secretary granted or denied the mineral right, mineral dealer's right, import or export permit;

- (g) the date on which the Registrar notified the applicant that the application was granted or denied;
- (h) the date on which the applicant accepted the offer for grant of an application;
- (i) the date on which the mineral right, mineral dealer's right or import and export permit was registered as issued; and
- (j) such other information as may be prescribed or required.

(3) The Registrar shall enter into the cadastral register any prescribed information including—

- (a) the online mining cadastre registration number;
- (b) the full name, nationality and contact details of the holder or a party to an agreement;
- (c) the date of issuance and expiry of a licence or permit;
- (d) the description of the licence or permit including, where relevant, the mineral right area;
- (e) the mineral or minerals for which a licence or permit was issued;
- (f) the cadastral coordinates defining the mineral right area including any updates as a result of enlargement or relinquishment;
- (g) the duplicate licences, permits or mineral agreements, including all conditions;
- (h) the date that an official receipt was issued confirming the receipt by the Ministry of any report submitted as required by these Regulations and the type of report;
- (i) for a mining licence, the date on which any Community Development Agreement became effective and the name of the affected community;
- (j) the date on which any notice was sent by the Ministry to the holder or party to a mineral agreement and the nature of such notice;
- (k) the date that any communication was received by the Ministry from the holder or the party to a mineral agreement and the nature of such communication;
- (l) all confidential and non-confidential reports;
- (m) all environmental reports;
- (n) all notices from the Ministry and any other government agency;
- (o) dates on which a fee was paid, the service to which it relates, and the amount;
- (p) dates on which royalty was paid, the category of minerals for which it was paid, the weight and quantity of the mineral on which the royalty was calculated, and the amount paid;
- (q) the date and nature of any assignment or transfers;
- (r) any other modification including any extension or renewal, areas relinquished and any charges or encumbrance in respect thereof; and
- (s) such other information as may be required.

## 8. Cadastral maps

(1) The Ministry shall establish and maintain an up-to-date digital mining cadastral Map of Kenya.

(2) The cadastral map maintained within the Cadastre shall indicate all areas—

- (a) where mineral rights' applications are pending;
- (b) where mineral rights are currently in force;
- (c) which are reserved for small-scale mining or artisanal mining operations;
- (d) which are reserved for the award of mineral rights by tender;
- (e) which are excluded from prospecting and mining operations under the Act or any other written law; and

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- (f) that have been declared to be strategic minerals or strategic mineral deposits.

### **9. Duplicate documents**

(1) Pursuant to section 194 of the Act, the holder of a mineral right, dealer's licence or permit, or export permit may apply online for a replacement or duplicate document upon stating the reason for such request and upon payment of the prescribed fee.

(2) The Director of Mines shall issue such replacement or duplicate document within fourteen days of the application.

## **PART III – APPLICATIONS**

### **10. Applications**

(1) All applications made under the Act and supporting documents shall be submitted online.

(2) A person submitting an application must be a registered portal user.

(3) A person shall register as a portal user by completing Form OMC1 as set out in the Schedule.

(4) A user registration under subregulation (3) is valid for a period of twelve months and is renewable.

(5) The user shall be responsible for maintaining a valid user electronic mail account and updating any information in respect of the holder.

### **11. Applications for a licence or permit**

(1) An application for a mineral right shall be submitted by a registered user by completing the prescribed form, uploading the required documents and payment of the prescribed fee.

(2) Upon uploading the proof of payment of the application fee, the application shall be registered.

(3) An applicant, may at any time withdraw the application.

(4) Upon withdrawal of an application, all the information submitted for the purposes of the application shall be deleted.

(5) In the case of any withdrawal, the application fee is not refundable.

(6) Any false information submitted in the application, shall result in the rejection of the application and in the event a mineral right is granted, the mineral right shall be revoked.

### **12. Overlapping applications**

Where the area applied for overlaps an existing licence or permit area or any area closed to applications, the applicant may—

- (a) accept the reduced area;
- (b) modify the area; or
- (c) withdraw the application and terminate the application process.

### **13. Environmental requirements in support of an application**

Any applicant for a mineral right shall comply with the requirements of the Environmental Management and Coordination Act (Cap. 387) and any regulations or guidelines made thereunder before any mineral right is granted.

### **14. Discovery of minerals**

(1) Subject to section 9 of the Act, a person who reports a discovery of a mineral shall have the exclusive right to apply for a mineral right over the area within ninety days from the date of the report of the discovery.

(2) During such period, the area in and around the discovery shall be closed to other applications for mineral rights.

(3) Where the mineral discovered is a strategic mineral, the Regulations dealing with strategic minerals shall apply.

#### PART IV – INSTITUTIONAL ARRANGEMENTS

### 15. Meetings of the Mineral Rights Board

(1) The Board shall meet at least once every month for the conduct of its business at the times and in the places determined by the chairperson.

(2) The chairperson shall, on the request of not less than one-third of the membership convene a special meeting of the Board.

(3) The quorum at a meeting of the Board shall be five members.

(4) The chairperson shall preside at the meetings of the Board and in the absence of the chairperson, a member of the Board elected by the members present from among their number shall preside.

(5) Any question before the Board shall be decided by a majority of the members present and voting.

(6) The chairperson or the person presiding at a meeting of the Board shall in the event of equality of votes have a casting vote.

(7) The Board may co-opt a person to act as an adviser at any of its meetings but a co-opted person is not entitled to vote at the meeting.

### 16. Disclosure of interest

(1) A member of the Board who has an interest in any matter for discussion by the Board shall disclose the nature of the interest to the Board and is disqualified, unless the meeting otherwise directs—

- (a) from participating in the deliberations on that matter, and
- (b) from voting on a decision on that matter.

(2) A member who fails to disclose any interest under subregulation (1) shall be sanctioned by the Board and any decision in relation to the matter shall be null and void.

### 17. Reporting

(1) The Board shall report on every application received in a timely manner, providing reasons in writing for every recommendation it makes.

(2) The Board shall, not later than ninety days after the end of each year, submit a report to the Cabinet Secretary summarising the activities of the Board during the year.

(3) Notwithstanding subregulation (2), the Board shall submit to the Cabinet Secretary Such other reports as the Cabinet Secretary may, from time to time request.

### 18. Allowances for members

The members of the Board shall be paid allowances determined by the Salaries and Remuneration Commission.

### 19. Vacancies

The Secretary of the Board shall notify the Cabinet Secretary of any vacancy that occurs in the membership of the Board within seven days of the occurrence and which shall be filled in accordance with the Act.

#### PART V – GENERAL PROVISIONS ON MINERAL RIGHTS

### 20. Demarcation of mining right area

(1) The physical boundaries of a mineral right area shall be the vertices defining the mineral right area.

(2) The horizontal surface demarcation points of a retention licence area, a mining licence area and a mining permit area shall be identified by markers set in or on the ground or

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river bed, which shall be positioned using the cadastral coordinates that define the vertices of the mineral right area.

(3) The major vertices enclosing the mineral right area shall be demarcated using global positioning system equipment in the prescribed format.

(4) The holder shall be responsible for erecting, marking and maintaining the mineral right boundary markers in a mineral right area.

(5) At every demarcation point, markers as prescribed shall where physically possible, consist of a round post that shall be not less than ten centimetres in diameter or a square post each side of which shall not be less than ten centimetres in width, standing at least one metre above the surface and sunk not less than fifty centimetres in the ground or riverbed.

(6) The part of the posts erected under sub-regulation (4) that appear above the surface, shall be painted white.

(7) The holder shall ensure that each post is engraved, or marked in a permanent manner with the holder's name and the licence or permit number.

(8) Where it is not possible to insert a post, a holder of a mineral right shall—

- (a) erect a cairn of stones, or a concrete cone, at least fifty centimetres high; and
- (b) paint the cairn of stones or concrete cone white.

(9) Where the terrain, physical features or other impediments prevent placement of a demarcation marker in the designated point, the holder may erect a witness demarcation describing distance and bearing to the actual vertices, and shall confirm in writing to the Cabinet Secretary that such a witness demarcation has been made.

(10) Upon revocation or expiry of the licence, the holder shall remove any boundary markers that demarcate the mineral right area.

(11) A holder of a retention licence, a mining licence or a mining permit shall, within thirty days from the date of the grant of the mineral right, complete the placement of all demarcation point markers in accordance with these Regulations.

(12) A holder of a mining permit or mining licence shall not undertake any mining operations in the mineral right area until the requirements relating to demarcation as set out in this regulation are satisfied.

(13) If there is any contradiction between a demarcation point and cadastral coordinates defining that point, the cadastral coordinates shall prevail.

(14) Any person challenging the validity of the location of any demarcation marker, may request the Director of Surveys, through the Director of Mines, to order a survey of that marker's location and that person shall bear the costs of the survey.

(15) The Director of Mines may request the holder of a retention licence, a mining licence, a prospecting permit or a mining permit—

- (a) to have the mineral right area, or any part thereof specified by the Director, surveyed or further surveyed to establish the positioning of demarcation points and boundaries;
- (b) cause to be removed any miss-located demarcation point markers; and
- (c) to place demarcation point markers at such locations as are determined by such survey.

(16) The demarcation point marker locations shall be surveyed by a licensed land surveyor.

(17) The applicant or holder to whom an order is made under this regulation shall pay all costs associated with the work carried out by a licensed land surveyor.

(18) The area and boundaries of a reconnaissance licence or permit shall be based on the coordinates of cadastral blocks and do not require demarcation, however, the holder may demarcate the licence or permit area in the manner prescribed under this regulation.

**21. Sub-surface boundaries**

The boundaries of mineral rights shall be deemed to extend vertically from the surface.

**22. Boundary disputes**

(1) Any dispute between parties on the demarcation of boundaries, placement of markers or any other boundary matter shall be reported to the Director of Mines for resolution.

(2) Each party shall be given an opportunity to be heard.

(3) The Director of Mines may convene a panel of experts to conduct a review.

(4) The Director of Mines may seek advice from experts at the shared cost of the parties or at the cost of the party found to be in violation of the boundary determination.

(5) The Director of Mines shall resolve any dispute that may arise on or from the demarcation of a mineral right area and, in writing, notify the holders of the decision.

(6) Where operations are underway, the Director of Mines may determine that the operations be suspended in whole or part, if a boundary dispute requires such action.

**23. Consent from land owner to conduct mineral or mining operations**

(1) Except as otherwise provided in the Act, an application for a mineral right shall only be granted with the consent of the landowner.

(2) Consent shall be in the form of a written agreement that clearly describes the boundaries of the land in relation to the licence or permit area which is the subject of the application.

(3) Subject to sections 36, 37, and 38 of the Act, an applicant shall—

(a) seek the written consent of the land owner; and

(b) submit copies of the signed consents or agreements to the Ministry.

(4) Consent for the purposes of the Mining Act and these Regulations means the—

(a) right of the county government and local communities to be adequately informed about the potential benefits and impacts of any mineral activity or mining operation in a timely manner and be given the opportunity to approve or reject the mineral activity or mining operation before the commencement of any activity or operations;

(b) parties shall strive for full and prior disclosure of any relevant information as Part of the consultation;

(c) process of consultation and participation is undertaken through negotiation and good faith between the applicant for a mineral right and the local communities; and

(d) outcome of any negotiated agreement is formalized in a written document and is a legal commitment binding on both parties.

(5) The support of community leaders shall not substitute the need for community consent.

(6) The process of consultation and participation does not necessarily require unanimity and may be achieved when majority of the individuals or groups within the local community agree.

**24. Information, reports and confidentiality**

(1) All prospecting and mining reports, including original and analytical data and prospecting methodology, shall be confidential.

(2) Upon termination of a mineral right, all data and information relating to the mineral right shall become the property of the State and shall be added to the geoscience database of Kenya.

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## 25. Assignment, transfer and mortgage of mineral rights

(1) Application for the mortgage, assignment, or transfer of an interest or part of an interest in a mineral right shall be submitted online to the Cabinet Secretary by completing Form TR1 as set out in the Schedule.

(2) The Cabinet Secretary shall notify an applicant of the approval or rejection of an application—

- (a) within ninety days of the date of application in the case of a large scale mineral right; and
- (b) within sixty days of the date of application for a small scale or artisanal mining permit.

(3) An applicant who is aggrieved by the decision of the Cabinet Secretary may appeal to the Environment and Land Court within thirty days of receipt of the notification of the rejection of the application.

## 26. Land compensation guarantee bond

(1) Subject to section 153(2) of the Act, a mineral right holder shall deliver a bond as guarantee against a claim for compensation payable to a landowner or lawful occupier that—

- (a) shall be of an amount prescribed to cover for any loss of land use, damage to land or loss of earnings;
- (b) may be in the form of a letter of credit or cash; and
- (c) shall be held by the Ministry in a non-interest bearing escrow account.

(2) Subject to section 153(3) of the Act, the Cabinet Secretary shall, in consultation with the Government Valuer, determine the amount and nature of the compensation bond.

## 27. Discovery of cultural, historic or archaeological relics

The holder of a mineral right shall report the discovery of any cultural, historic or archaeological relics found within the mineral right area to the Cabinet Secretary within seven days of the discovery.

### PART VI – SURRENDER, SUSPENSION AND REVOCATION OF MINERAL RIGHTS

## 28. Surrender of mineral rights

(1) Subject to section 143 of the Act, a holder of a mineral right may apply to the Cabinet Secretary to surrender all or part of the mineral right by completing Form SR1 set out in the Schedule.

(2) An application fee is not payable in the case of a partial or complete surrender of a mineral right.

(3) An application to surrender shall include—

- (a) the coordinates of the cadastral blocks of that part of the area to be surrendered;
- (b) a report prepared according to the guidelines on work programmes and exploration reports, covering all activities carried out in the area to be surrendered including—
  - (i) the status of any mining operations up to the date of surrender;
  - (ii) the plans for the removal of equipment and infrastructure;
  - (iii) the status of mine and mine-related workers affected by the surrender;
  - (iv) a confirmation from the authorised agency that approved environmental and social management plans relating to the area being surrendered indicating that the plans have been fully implemented; and
  - (v) the status of implementation of any Community Development Agreement.



(4) The holder of a mineral right shall submit two bound hardcopies of all documents relating to the surrender to the Cabinet Secretary within seven days from the date of the online submission.

(5) The Cabinet Secretary shall, on the advice of the Board, issue a notice to the holder of a mineral right that the application for surrender has been approved.

(6) The Cabinet Secretary shall not approve a surrender if the applicant is in default or fails to provide records and reports in relation to the applicant's mineral operations.

(7) Where a surrender is approved, the Cabinet Secretary shall, where only part of the land subject to the mineral right is surrendered, amend the relevant mineral right accordingly or cancel the mineral right where the surrender is in respect of the whole area covered by the mineral right.

(8) The surrender shall be effected in the Cadastre within fourteen days from the date of approval by the Cabinet Secretary.

(9) The surrender of an area under a mineral right shall not affect a liability incurred by a person in respect of that land before the date on which the surrender took effect.

#### PART VII – LARGE-SCALE MINING OPERATIONS RECONNAISSANCE LICENCE

### 29. Rights under a reconnaissance licence

A reconnaissance licence grants a holder—

- (a) the right to carry out non-invasive investigations for minerals in or over the licence area according to an approved work programme; and
- (b) a non-exclusive right to the mineral right area.

### 30. Application for a reconnaissance licence

Subject to the provisions of the Act, an application for the grant of a reconnaissance licence shall be made to the Cabinet Secretary using Form RL1 set out in the Schedule.

### 31. Maximum number of reconnaissance licences

Subject to section 62(3) of the Act, a person shall not hold more than two reconnaissance licences concurrently.

### 32. Form of a reconnaissance licence

(1) The Cabinet Secretary shall issue a reconnaissance licence in digital and hard copy using Form RL2 set out in the Schedule.

(2) Subject to section 68 of the Act, a reconnaissance licence shall specify the—

- (a) full name, nationality and address of the licence holder;
- (b) coordinates delineating the licence area, in the prescribed format;
- (c) term of the licence;
- (d) digital map showing the approximate geographical reconnaissance area;
- (e) approved reconnaissance licence work programme;
- (f) approved minimum operational expenditure commitment for the first year of the licence and an estimated minimum operational expenditure commitment for the subsequent years;
- (g) approved plans for the procurement of Kenyan goods and services; and
- (h) approved plan for the employment and training of Kenyan citizens.

### 33. Amendments to an approved reconnaissance licence work programme

(1) A holder may apply to amend an approved reconnaissance licence work programme.

(2) A holder shall provide a written justification for any proposed amendment based on the results of the reconnaissance work or other new and relevant information that support the need for amendment.

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#### **34. Rights and restrictions under a reconnaissance licence**

(1) A reconnaissance licence permits the holder to conduct preliminary exploration for minerals through aerial, geophysical, geochemical and geological surveys together with limited sampling of surface soil and rocks.

(2) A reconnaissance licence allows the collection of surface samples in accordance with the reconnaissance licence work programme but excludes intrusive activities such as drilling, trenching and excavation.

#### **35. Airborne survey by the State**

The State shall have the power to conduct an airborne survey over part of or the entire territory of Kenya.

### **PROSPECTING LICENCE**

#### **36. Rights under a prospecting licence**

Subject to the provisions of the Act, a prospecting licence grants the holder an exclusive right to prospect for a mineral or minerals in the licence area according to an approved programme of prospecting operations.

#### **37. Application for a prospecting licence**

(1) Subject to the provisions of the Act, an application for the grant of a prospecting licence shall be made to the Cabinet Secretary using Form PL1 set out in the Schedule.

(2) A person shall not hold more than ten prospecting licences concurrently.

#### **38. Form of a prospecting licence**

(1) The Cabinet Secretary shall issue a prospecting licence in digital and hard copy using Form PL2 set out in the Schedule.

(2) Subject to section 78 of the Act, a prospecting licence shall specify or have appended to it—

- (a) the name, nationality and address of licence holder;
- (b) the mineral or minerals in respect of which the prospecting licence is granted;
- (c) the cadastral coordinates in the prescribed form defining the prospecting area;
- (d) a digital map with the approximate position of the prospecting area marked upon it, and any directly adjacent mineral right areas, with the exception of reconnaissance licences;
- (e) the duration of the licence;
- (f) the approved programme for prospecting operations;
- (g) plans for the procurement of local goods and services;
- (h) the approved plan for employment and training of Kenyan citizens; and
- (i) the environmental licence.

#### **39. Renewal of a prospecting licence**

Subject to the provisions of the Act, a holder of a prospecting licence may apply for a renewal of the licence using Form PL3 set out in the Schedule.

#### **40. Amendments to approved programme for reconnaissance or prospecting operations**

(1) A holder may apply to amend an approved work programme for a reconnaissance or a prospecting licence by completing Form RL3 or PL4 as set out in the Schedule.

(2) A holder shall provide a written justification for any proposed amendment based on the results of the reconnaissance or prospecting work or other new and relevant information that supports the need for amendment.

**41. Processing of application to renew a prospecting licence**

The Cabinet Secretary shall, on the advice of the Board, approve or reject an application for renewal of a prospecting licence within ninety days of the date of application.

**RETENTION LICENCE****42. Application for a retention licence**

Subject to section 85 of the Act, a holder of a prospecting licence may apply to the Cabinet Secretary for a retention licence by completing Form RTL1 set out in the Schedule.

**43. Form of licence**

The Cabinet Secretary shall issue a retention licence digitally together with a hard copy using Form RTL2 set out in the Schedule.

**44. Processing of an application for a retention licence**

The Cabinet Secretary on the advice of the Board shall approve or reject an application for a retention licence within ninety days of the date of application.

**45. Renewal of a retention licence**

A holder of a retention licence may apply for a renewal of the initial term of the licence by completing Form RTL3 set out in the Schedule.

**46. Processing of application to renew a retention licence**

The Cabinet Secretary, on the advice of the Board, shall approve or reject an application for renewal of a retention licence within ninety days from the date of the application.

**MINING LICENCE****47. Purpose**

A mining licence grants a holder the exclusive right to mine a mineral.

**48. Application for a mining licence**

Subject to Section 101 of the Act, an application for a mining licence shall be made to the Cabinet Secretary by completing Form ML1 set out in the Schedule.

**49. Form of a mining licence**

The Cabinet Secretary shall issue a mining licence digitally together with a paper copy using Form ML2 set out in the Schedule.

**50. Application for a renewal of a mining licence**

Subject to section 114 of the Act, the holder of a mining licence may apply for a renewal of the licence by completing Form ML3 set out in the Schedule.

**51. Processing of an application to renew a mining licence**

Pursuant to section 114 of the Act, the Cabinet Secretary, on the advice of the Board, shall approve or reject an application for renewal of a mining licence within one hundred and twenty days from the date of the application.

**PART VIII – SMALL-SCALE MINING OPERATIONS RECONNAISSANCE PERMIT****52. Purpose**

Subject to section 125 of the Act, a reconnaissance permit grants a holder the nonexclusive right to carry out non-invasive investigations for minerals within the permit area.

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[Subsidiary]

**53. Application for a reconnaissance permit**

Subject to section 125 of the Act, an application for the grant of a reconnaissance permit shall be submitted to the Cabinet Secretary by completing Form RP1 set out in the Schedule.

**54. Processing of an application for a reconnaissance permit**

The Cabinet Secretary, on the advice of the Board, shall approve or reject an application for a reconnaissance permit within sixty days from the submission of the application.

**55. Form of a reconnaissance permit**

(1) The Cabinet Secretary shall issue a reconnaissance permit digitally together with a paper copy using Form RP2 set out in the Schedule.

(2) A reconnaissance permit shall be issued for a specific County.

**56. Duration**

A reconnaissance permit shall be granted for a period not exceeding one year.

**PROSPECTING PERMIT****57. Purpose**

A prospecting permit grants a person or body corporate the exclusive right to prospect for minerals in the permit area according to an approved programme for prospecting operations.

**58. Application for a prospecting permit**

Subject to section 129 of the Act, a prospecting permit application shall be made to the Cabinet Secretary, using Form PP I set out in the Schedule.

**59. Form of a permit**

(1) The Cabinet Secretary shall issue a prospecting permit digitally together with a paper copy using Form PP2 set out in the Schedule.

(2) Pursuant to section 129 of the Act, a prospecting permit shall specify—

- (a) the full name, nationality and address of permit holder;
- (b) in the case of a company, the name and registered address;
- (c) the mineral or minerals in respect of which the prospecting permit is sought;
- (d) the cadastral coordinates in the prescribed form defining the prospecting area;
- (e) the duration of the permit;
- (f) the approved programme of prospecting operations; and
- (g) details of the experience and financial resources available to the applicant to enable the prospecting operations.

**60. Duration**

The term of a prospecting permit shall be specified in the permit and shall not exceed five years.

**61. Maximum number of prospecting permits**

A person shall not hold more than five prospecting permits concurrently.

**62. Processing of an application for a prospecting permit**

The Cabinet Secretary, on the advice of the Board, shall approve or reject an application for a prospecting permit within ninety days from the date of application.

**63. Renewal of a prospecting permit**

Subject to section 134 of the Act, the holder of a prospecting permit may apply for renewal of the permit not later than ninety days before the expiry of the permit by completing Form PP3 set out in the Schedule.

**64. Processing of an application to renew a prospecting permit**

The Cabinet Secretary, on the advice of the Board, shall approve or reject an application for renewal of a prospecting permit within sixty days from the date of the submission of the application.

**MINING PERMIT****65. Purpose**

A mining permit grants a holder the exclusive right to carry out small scale mining operations in the permit area according to an approved mining permit programme.

**66. Application for a mining permit**

Subject to section 136 of the Act, a person may apply for a mining permit to the Cabinet Secretary by completing Form MP1 set out in the Schedule.

**67. Processing of an application for a mining permit**

The Cabinet Secretary on the advice of the Board, shall approve or reject an application for a mining permit within ninety days from the date of the submission of the application.

**68. Form of a mining permit**

The Cabinet Secretary shall issue a mining permit digitally together with a paper copy using Form MP2 set out in the Schedule.

**69. Application for renewal of a mining permit**

Subject to section 141 of the Act, the holder of a mining permit may apply for the renewal of the permit to the Cabinet Secretary by completing Form MP3 set out in the Schedule.

**70. Processing of an application to renew a mining permit**

The Cabinet Secretary, on the advice of the Board, shall approve or reject an application for renewal of a mining permit within ninety days from the date of the application.

**PART IX – ARTISANAL MINING PERMIT****71. Purpose**

Subject to section 95 of the Act, an artisanal mining permit grants an eligible person the exclusive right to mine a mineral in accordance with the terms and conditions of the permit.

**72. Application for an artisanal mining permit**

Subject to section 95(4) of the Act, an application for an artisanal mining permit may be submitted to the county representative of the Director of Mines by completing Form AMP1 set out in the Schedule.

**73. Form of an artisanal mining permit**

The county representative of the Director of Mines shall issue an artisanal mining permit digitally together with a paper copy using Form AMP2 set out in the Schedule.

**74. Processing of an application for an artisanal mining permit**

The county representative of the Director of Mines on the advice of the Artisanal Mining Committee shall accept or reject an application within sixty days from the date of the application.

[Subsidiary]

**75. Application for renewal of an artisanal mining permit**

Subject to section 96(1) of the Act, the holder of an artisanal mining permit may apply for the renewal of the permit to the county representative of the Director of Mines by completing Form AMP3 set out in the Schedule three months prior to expiry of the permit.

**76. Processing of an application to renew an artisanal mining permit**

The county representative of the Director of Mines on the advice of the Artisanal Mining Committee shall accept or reject an application for a renewal of an artisanal mining permit within sixty days from the date of the application.

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SCHEDULE  
FORMS

Form OMC1

(r.10(3))

[Application for an Online Mining Cadastre User Registration]

## REGISTRATION

I wish to make use of the online mining cadastre on my own behalf

Complete section A and D

Please provide:

- Proof of identity (passport or ID card)

I wish to make use of the online mining cadastre on behalf of an individual/  
company, either as an employee or agent of that individual/company

Complete sections A, B, C and D

Please provide:

- Proof of identity (passport or ID card)
- Proof of company registration (certified copy of certificate of incorporation)
- Signed letter of authority to use the Mining Cadastre Portal on behalf of the Company

I am already a registered user on the online mining cadastre and would like to  
act as an employee or agent of another company

Complete sections A, B, C and D

Please provide:

- Proof of identity (passport or ID card)
- Proof of company registration (certified copy of certificate of incorporation)
- Signed letter of authority to use the Online Mining Cadastre (OMC) on behalf of the Company

## SECTION A: DETAILS FOR THE AUTHORISED USER

Surname

First Names

E-mail  
Address  
(used for login)





Country

Postal Address

Line 1

Line 2

Line 3

Province

Post Code/  
Zip

Country

Telephone 1

e.g +44822354111 not +44(0)822354111

Telephone 2

e.g +44822354111 not +44(0)822354111

Fax Number

e.g +44822354111 not +44(0)822354111

**SECTION B: DETAILS FOR THE INDIVIDUAL BEING REPRESENTED**

Surname

First Names

E-mail  
Address  
(used for login  
and e-mail)

[Subsidiary]

notifications)

Mobile Number (used fir SMS notifications)   
e.g +44822354111 not +44(0)822354111

Title 

Mr	Mrs	Ms	Dr	Prof	Hon	Other	
----	-----	----	----	------	-----	-------	--

Identity Number   
and / or

Passport Number

Nationality

Date of Birth 

d	d	/	m	m	/	y	y	y	y
---	---	---	---	---	---	---	---	---	---

Gender 

Male	Female
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Physical Address  
Line 1

Line 2

Line 3

Province

Post Code / Zip

Country

Postal Address

Line 1

Line 2

Line 3

Province

Post Code/  
Zip

Country

Telephone 1   
e.g +44822354111 not +44(0)822354111

Telephone 2   
e.g +44822354111 not +44(0)822354111

Fax Number   
e.g +44822354111 not +44(0)822354111

SECTION C: COMPANY DETAILS

Company Name

Abbreviation

Registration Number



Country

Telephone 1

Telephone 2

Fax Number

Website

SECTION D: TERMS OF USE

I confirm that all information provided is correct

I agree to the terms of use and Privacy Statement of the Online Mining Cadastre

FOR OFFICIAL USE ONLY

Yes  No All documents received and in good order

Yes  No All existing mineral rights are in good standing ( where such rights existed)

Yes  No User added to Online Mining Cadastre

Yes  No User given access to requested Company

comments  
DD/MM/YYYY

Signed by Cadastre Officer  
FORM TR1

Date  
Form TR1

Location  
(r. 25(1))

[Application for the transfer of a mineral right]

1. Assignor's or transferor's identity and contact information to be provided by the assignor or transferor

[Subsidiary]

- a. Full name: \_\_\_\_\_
- b. Physical Address: \_\_\_\_\_  
 City: \_\_\_\_\_ County: \_\_\_\_\_ Postal Code: \_\_\_\_\_ Country: \_\_\_\_\_
- c. Other required contact information:  
 Phone number: \_\_\_\_\_  
 Mobile: \_\_\_\_\_  
 Fax number (if any): \_\_\_\_\_  
 E-mail address: \_\_\_\_\_

2. Assignee or transferee's identity and contact information to be provided by the assignor or transferor

- a. Full name: \_\_\_\_\_
- b. Physical Address: Address \_\_\_\_\_ City: \_\_\_\_\_  
 County: \_\_\_\_\_ Postal Code: \_\_\_\_\_ Country: \_\_\_\_\_
- c. Other required contact information:  
 Phone number: \_\_\_\_\_  
 Mobile: \_\_\_\_\_  
 Fax number (if any): \_\_\_\_\_  
 E-mail address: \_\_\_\_\_

3. Mandatory attachments (tick each item attesting that the required document is attached to this application)

- proof of payment of the application fee;
- a signed copy of the agreement between the parties to the assignment or transfer, details of the proposed mortgage, assignment or transfer including copies of any agreement; and details of the assignee or transferee, confirming that:
  - (i) the assignee or transferee is a qualifying person under the Act; and
  - (ii) the assignee or transferee has the requisite technical and financial capabilities to carry out the obligations of the holder's licence or permit.

4. Declaration

*(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).*

FORM SR1 \_\_\_\_\_ (r. 28(1))

[Application to surrender a mineral right area]

1. Applicant's identity and contact information

- a. Full name: \_\_\_\_\_
- b. Physical Address: \_\_\_\_\_  
 City: \_\_\_\_\_ County: \_\_\_\_\_  
 Postal Code: \_\_\_\_\_  
 Country: \_\_\_\_\_

c. Other required contact information:

Phone number: \_\_\_\_\_

Mobile: \_\_\_\_\_

Fax number (if any): \_\_\_\_\_

E-mail address: \_\_\_\_\_

**2. Mandatory attachments (tick each item attesting that the required document is attached to this application)**

a map and coordinates of the area to be retained;

a map of the area to be surrendered;

a report on the surrendered area prepared in accordance with the guidelines on work programme and exploration reports;

In the case of a surrender of the entire mineral right, all records and reports with respect to the mineral right operations carried out in the mineral right area to be surrendered including but not limited to:

(i) status of any prospecting or mining operations as of date of surrender;

(ii) plans for the removal of equipment and infrastructure;

(iii) status of mine and mine-related workers affected by the surrender;

(iv) a confirmation from the authorised agency that approved environmental and social management plans, relating to the area being surrendered have been fully implemented and

(v) status of implementation of any Community Development Agreement.

**3. Declaration**

*(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).*

FORM RL1 \_\_\_\_\_ (r. 30)

[Application for a reconnaissance licence]

**1. Applicant's identity and contact information**

a. Full name: \_\_\_\_\_

b. Physical Address: \_\_\_\_\_

City: \_\_\_\_\_ County: \_\_\_\_\_

Postal Code: \_\_\_\_\_

Country: \_\_\_\_\_

c. Other required contact information:

Phone number: \_\_\_\_\_

Mobile: \_\_\_\_\_

Fax number (if any): \_\_\_\_\_

E-mail address: \_\_\_\_\_

**2. Duration of licence applied for: (Please indicate appropriate option)**

1 year

2 years

[Subsidiary]

3. Mandatory attachments (Check each item attesting that the required document is attached to this application)

- o Proof of payment of application;
- o Certified copy of the company's certificate of incorporation and certified copy of its memorandum and articles of association;
- o Mineral or minerals for which the licence is sought;
- o A list of the full names and nationalities of all its directors;
- o A list of the names of every shareholder who is the beneficial owner of ten per cent (10%) or more of the issued share capital
- o A description of the applicant's profile and history of reconnaissance operations in Kenya or elsewhere;
- o A statement giving particulars of the technical and financial resources available to the applicant for the reconnaissance operations;
- o A proposed work programme setting the work intended over the term of the licence;
- o Environmental licence if required;
- o A description giving particulars of the applicant's plan to employ and train Kenyans; and
- o A description of the particulars of the applicant's plan for the procurement of local good and services.

Declaration

(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Mining Act.)

FORM RL2 \_\_\_\_\_ (r. 32(1))

[Reconnaissance licence]

Reconnaissance licence Registration No. RL \_\_\_\_\_

Term of licence: \_\_\_\_\_ years

Term commences on: day \_\_\_\_\_, month \_\_\_\_\_, year \_\_\_\_\_

Term ends on: day \_\_\_\_\_, month \_\_\_\_\_, year \_\_\_\_\_

1. Subject to the conditions set out in the Mining Act, in the regulations made under the Act and in this reconnaissance licence,

Name: \_\_\_\_\_

(Hereinafter referred to as the "holder") whose registered office in Kenya is at Address:

City: \_\_\_\_\_ County: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Country: \_\_\_\_\_

is by this licence granted the non-exclusive right to do reconnaissance work for \_\_\_\_\_ (name of minerals) within and over the mineral right area specified in Annex 1 of this licence.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2 \_\_\_\_\_

\_\_\_\_\_  
Cabinet Secretary (name)

\_\_\_\_\_  
(signature)

In the presence of:



Director of Mines (*name*)

\_\_\_\_\_  
(*signature*)

Holder/Authorised Representative (*name*)

\_\_\_\_\_  
(*signature*)

In the presence of:

Witness (*name*)

\_\_\_\_\_  
(*signature*)

## 2. Terms and Conditions

### (1) Rights conferred by the licence

This licence confers on the holder the non-exclusive right within the reconnaissance area:

- (a) to enter on or fly over the reconnaissance area to carry out approved reconnaissance operations;
- (b) to take and remove specimens and samples from the reconnaissance area not exceeding such limit as is reasonably required for reconnaissance purposes;
- (c) subject to other laws of Kenya, take timber and water from any lake or watercourse for the purposes of reconnaissance operations;
- (d) erect equipment, plant and buildings necessary to carry out the reconnaissance operations; and
- (e) remove on or before the termination of the reconnaissance operations, any camps, temporary buildings or installations which the holder may have erected in the licence area.

### (2) The Obligations under the licence

- (a) commence reconnaissance within three months of grant of the licence;
- (b) carry out reconnaissance in accordance with the approved programme of reconnaissance operations;
- (c) expend on reconnaissance in accordance with the programme of reconnaissance, not less than such amount as may be specified in the reconnaissance licence;
- (d) not engage in drilling, excavation or other subsurface exploration techniques;
- (e) inform and consult on an ongoing basis with the national and county government authorities and communities about the reconnaissance operations that require physical entry onto the land within their jurisdiction;
- (f) not enter land that is excluded from the reconnaissance licence;
- (g) compensate users of land for damage to land and property resulting from reconnaissance operations in the licence area;
- (h) not remove any mineral from reconnaissance area except for the purpose of having such mineral analysed, valued or tested;
- (i) ensure that the amount of work and amount of expenditure as specified in the approved programme or reconnaissance operations is actually expended in the course of undertaking reconnaissance operations within the mandated deadlines stipulated in the plan and reported in the reports that may be required by the relevant regulations;
- (j) notify the Cabinet Secretary without any unreasonable delay of the discovery of any mineral deposit of potential commercial use;
- (k) notify the Cabinet Secretary of any archaeological discovery;
- (l) comply with the conditions of the licence and any directions issued by the Cabinet Secretary or authorised officer in accordance with the Act;

[Subsidiary]

- (m) submit to the Cabinet Secretary geological and financial reports and such other information relating to reconnaissance operations as may be prescribed;
- (n) carry out reconnaissance in accordance with the international good practice standards and any guidelines as may be prescribed; and
- (o) remove within sixty days of the expiration of the reconnaissance licence, any camps, temporary holder and repair or otherwise make good any damage to the surface of the ground occasioned by such removal to the satisfaction of the Cabinet Secretary or a duly appointed officer.

## ACCOMPANYING ANNEXES

Annex 1: Map of reconnaissance area

Annex 2: Approved reconnaissance programme

FORM PL1

(r. 37(1))

[Application for a prospecting licence]

## 1. Applicant's identity and contact information

a. Full name: \_\_\_\_\_

b. Physical Address: \_\_\_\_\_

Town/City: \_\_\_\_\_ County: \_\_\_\_\_

Postal Code: \_\_\_\_\_

Country: \_\_\_\_\_

## c. Other required contact information:

Phone number: \_\_\_\_\_

Mobile: \_\_\_\_\_

Fax number (if any): \_\_\_\_\_

E-mail address: \_\_\_\_\_

## 2. Mineral or minerals in respect of which the licence is sought

## 3. Duration of licence applied for: (Please indicate appropriate option)

 1 year 2 years 3 years

## 4. Mandatory attachments (tick each item attesting that the required document is attached to this application)

 proof of payment of application fee; a certified copy of the applicant company's certificate of incorporation and certified copy of its memorandum and articles of association; a list of the full names and nationalities of all the applicant company's directors; a list of the names of every shareholder of the applicant company who is the beneficial owner of ten per cent or more of the issued share capital; a description of the applicant's profile and history of Prospecting Operations in Kenya and elsewhere; a description of the technical and financial resources available to the applicant;

- o the prospecting work programme for the period the licence is sought;
- o environmental licence;
- o a description giving particulars of the applicant's plan for the employment and training of Kenyans; and
- o a description of the particulars of the applicant's plan for the procurement of local goods and services.

**5. Declaration**

*Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act)*

FORM PL2 \_\_\_\_\_ (r. 38(1))

[Prospecting licence]

Prospecting licence Registration No. PL \_\_\_\_\_

Term of licence: \_\_\_\_\_ years

Term commences on: day \_\_\_\_\_, month \_\_\_\_\_, year \_\_\_\_\_

Term ends on: day \_\_\_\_\_, month \_\_\_\_\_, year \_\_\_\_\_

**1.** Subject to the conditions set out in the Mining Act, in the regulations made under the Act and in this prospecting licence,

Name: \_\_\_\_\_

(Hereinafter referred to as the "holder") whose registered office in Kenya is at

Address: \_\_\_\_\_

City: \_\_\_\_\_ County: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Country: \_\_\_\_\_

is by this licence granted the exclusive right to prospect for \_\_\_\_\_ (name of minerals) within and over the mineral right area specified in Annex 1 of this licence.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2 \_\_\_\_\_

\_\_\_\_\_  
Cabinet Secretary (*name*)

In the presence of:

\_\_\_\_\_  
(*signature*)

\_\_\_\_\_  
Director of Mines (*name*)

Holder/Authorised

Representative (*name*)

In the presence of:

\_\_\_\_\_  
(*signature*)

\_\_\_\_\_  
(*signature*)

\_\_\_\_\_  
Witness (*name*)

\_\_\_\_\_  
(*signature*)

**3. The terms and conditions**

(1) Rights conferred by this licence

The holder of this licence may, in the exercise of the rights conferred under this licence:

- (a) demarcate the areas that fall within the licence area;

[Subsidiary]

- (b) enter the area of land specified in the licence and take all reasonable measures on or under the surface of the land to carry out prospecting operations;
- (c) erect equipment, plant and buildings necessary to carry out the prospecting operations;
- (d) appoint a person to act as an agent of the holder who may exercise the rights of the holder of the licence under the licence, subject to any limitations on the powers of the agent contained in the instrument of appointment.

Obligations of the holder under the licence

(2) The holder of a prospecting licence shall—

- (a) commence prospecting operations within three months of the grant of the prospecting licence or a period specified in the approved programme for prospecting operation;
- (b) undertake prospecting operations in accordance with the approved programme of prospecting operations;
- (c) ensure that the amount of work and expenditure specified in the approved programme of prospecting operations is actually expended in the course of undertaking prospecting operations within the deadlines stipulated;
- (d) comply with the terms and conditions of the environment licence;
- (e) without any unreasonable delay, notify the Cabinet Secretary of the discovery of any mineral deposit of potential commercial value including mineral deposits for which the holder of the licence was not authorised to prospect;
- (f) notify the Cabinet Secretary of any archaeological discovery;
- (g) comply with the conditions of the licence or any existing and applicable minerals agreement, and any directions issued by the Cabinet Secretary or an authorized officer in accordance with this Act;
- (h) submit to the Cabinet Secretary geological and financial reports and such other information relating to prospecting operations as may be prescribed either quarterly or at such other intervals as may be determined by the Cabinet Secretary; and
- (i) carry out prospecting activities in accordance with the international best practice standards and guidelines as may be prescribed.

ACCOMPANYING ANNEXES

Annex 1: Map of prospecting area

Annex 2: Approved prospecting programme

FORM PL3

(r. 39)

[Application to renew a prospecting licence]

1. Applicant's identity and contact information
  - a. Full name: \_\_\_\_\_
  - b. Physical Address Address: \_\_\_\_\_  
 City: \_\_\_\_\_ County: \_\_\_\_\_  
 Postal Code: \_\_\_\_\_ Country: \_\_\_\_\_
  - c. Other required contact information:  
 Phone number: \_\_\_\_\_  
 Mobile: \_\_\_\_\_  
 Fax number (if any): \_\_\_\_\_

- E-mail address: \_\_\_\_\_
2. Duration of the renewal for the prospecting licence:
    - a. First renewal:
      - 1 year
      - 2 years
      - 3 years
    - b. Second renewal:
      - 1 year
      - 2 years
      - 3 years
  3. Mandatory attachments
    - Proof of payment of the application fee;
    - Summary report on prospecting operations and the cost incurred for the term of the licence;
    - The work programme including the expenditure to be incurred during the renewal period;
    - The map and coordinates of the area to be retained and also relinquished in respect of which the renewal is sought
    - Current environmental audit report.
  4. Declaration
 

*(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).*

FORM RL3/PL4 \_\_\_\_\_ (r. 40(1))

[Application to amend work programme]

This form is being submitted to amend the work programme for the following licences *(tick as appropriate)*:

- Reconnaissance licence (Form RL-3)
- Prospecting licence (Form PL-4)
  1. Applicant's identity and contact information
    - a. Full name: \_\_\_\_\_
    - b. Physical Address Address: \_\_\_\_\_
    - City: \_\_\_\_\_ County: \_\_\_\_\_
    - Postal Code: \_\_\_\_\_ Country: \_\_\_\_\_
    - c. Other required contact information:
      - Phone number: \_\_\_\_\_
      - Mobile: \_\_\_\_\_
      - Fax number (if any): \_\_\_\_\_
      - E-mail address: \_\_\_\_\_

[Subsidiary]

2. Attached a report containing the following:
  - o For a Reconnaissance licence
1. An updated summary report covering all reconnaissance activities carried out since the licence was first granted. The report shall summarise the work reported in any earlier technical report and provide a detailed account of the reconnaissance work carried out with the expenditure incurred. In addition to the electronic document, a bound hardcopy shall be delivered to the Mining Cadastre Office within seven days;
2. The justification for the amendment and a revised work programme;
3. A statement of expenditure to be incurred;
  - o For a Prospecting licence
1. A revised programme for prospecting operations. The justification for such amendment and the expenditure to be incurred. In addition to the electronic document a bound hardcopy of each required document shall be delivered to the Mining Cadastre Office within seven days.
2. A summary report covering all prospecting activities carried out under the licence at the time of the application and the expenditure incurred. The report shall summarise the work reported in earlier annual technical reports plus give a detailed account of the prospecting work carried out to date.
3. Declaration
 

*(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).*

FORM RTL1

(r. 42)

[Application for a retention licence]

1. Applicant's identity and contact information
  - a. Full name : \_\_\_\_\_
  - b. Physical Address : \_\_\_\_\_  
Town/City: \_\_\_\_\_ County: \_\_\_\_\_  
Postal Code: \_\_\_\_\_ Country: \_\_\_\_\_
  - c. Other required contact information:  
Phone number: \_\_\_\_\_  
Mobile: \_\_\_\_\_  
Fax number (if any): \_\_\_\_\_  
E-mail address: \_\_\_\_\_
2. Retention licence duration applied for:
  - o 1 year
  - o 2 years
3. Mandatory attachments (Check each item attesting that the required document is attached to this application)
  - o Proof of payment of application fee;
  - o A description justifying the application for a retention licence.
4. Declaration

(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).

FORM RTL2 \_\_\_\_\_ (r. 43)

[Retention Licence]

Retention licence Registration No. RTL \_\_\_\_\_

Term of licence: \_\_\_\_\_ years

Term commences on: day \_\_\_\_\_, month \_\_\_\_\_, year \_\_\_\_\_

Term ends on: day \_\_\_\_\_, month \_\_\_\_\_, year \_\_\_\_\_

1. Subject to the conditions set out in the Mining Act, in the regulations made under the Act and in this retention licence,

Name: \_\_\_\_\_

(Hereinafter referred to as the "holder") whose registered office in Kenya is at Address: \_\_\_\_\_

City: \_\_\_\_\_ County: \_\_\_\_\_ Postal Code: \_\_\_\_\_ Country: \_\_\_\_\_

is by this retention licence granted the exclusive right to continue the prospecting of \_\_\_\_\_ (name of minerals) within and over the mineral right area specified in Annex 1 of this licence.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2 \_\_\_\_\_

\_\_\_\_\_  
Cabinet Secretary (name) (signature)

In the presence of:

\_\_\_\_\_  
Director of Mines (name) (signature)

\_\_\_\_\_  
Holder/Authorised Representative (name) (signature)

In the presence of:

\_\_\_\_\_  
Witness (name) (signature)

2. The terms and conditions

(1) Rights conferred by this licence

- (a) The holder of this licence may, in the exercise of the rights conferred under this licence:
  - (i) demarcate the areas that fall within the licence area;
  - (ii) enter the area of land specified in the licence and take all reasonable measures on or under the surface of the land to carry out prospecting operations;
  - (iii) erect equipment, plant and buildings necessary to carry out the prospecting operations.
  - (iv) appoint a person to act as an agent of the holder who may exercise the rights of the holder of the licence under the licence, subject to any limitations on the powers of the agent contained in the instrument of appointment.

Obligations of the holder under the licence

- (2) The holder of a prospecting licence shall—

[Subsidiary]

- (a) commence prospecting operations within three months of the grant of the retention licence;
- (b) undertake prospecting operations in accordance with the approved programme of under the retention licence;
- (c) ensure that the amount of work and expenditure specified in the approved programme of prospecting operations is actually expended in the course of undertaking prospecting operations within the deadlines stipulated;
- (d) comply with the terms and conditions of the environment licence;
- (e) without any unreasonable delay, notify the Cabinet Secretary of the discovery of any mineral deposit of potential commercial value including mineral deposits for which the holder of the licence was not authorised to prospect;
- (f) notify the Cabinet Secretary of any archaeological discovery;
- (g) comply with the conditions of the licence or any existing and applicable minerals agreement, and any directions issued by the Cabinet Secretary or an authorized officer in accordance with this Act;
- (h) submit to the Cabinet Secretary geological and financial reports and such other information relating to prospecting operations as may be prescribed either quarterly or at such other intervals as may be determined by the Cabinet Secretary; and
- (i) carry out prospecting activities in accordance with the international best practice standards and guidelines as may be prescribed.

## ACCOMPANYING ANNEXES

Annex 1: Map of retention area

Annex 2: Approved programme to be carried out under the retention licence

## 3. The terms and conditions

## (1) Rights conferred by this licence

- (a) The holder of this licence may, in the exercise of the rights conferred under this licence:
  - (i) demarcate the areas that fall within the licence area;
  - (ii) enter the area of land specified in the licence and take all reasonable measures on or under the surface of the land to carry out prospecting operations;
  - (iii) erect equipment, plant and buildings necessary to carry out the prospecting operations.

## (2) Obligations of the holder under the licence

The holder of a retention licence shall—

- (a) commence prospecting operations within three months of the grant of the prospecting licence or a period specified in the approved programme for the retention licence;
- (b) undertake prospecting operations in accordance with the approved programme of prospecting operations;
- (c) ensure that the amount of work and expenditure specified in the approved programme of prospecting operations is actually expended in the course of undertaking prospecting operations within the deadlines stipulated;
- (d) comply with the terms and conditions of the environment licence;
- (e) without any unreasonable delay, notify the Cabinet Secretary of the discovery of any mineral deposit of potential commercial value including mineral deposits for which the holder of the licence was not authorised to prospect;
- (f) notify the Cabinet Secretary of any archaeological discovery;



- (g) comply with the conditions of the licence or any existing and applicable minerals agreement, and any directions issued by the Cabinet Secretary or an authorized officer in accordance with this Act;
- (h) submit to the Cabinet Secretary geological and financial reports and such other information relating to prospecting operations as may be prescribed either quarterly or at such other intervals as may be determined by the Cabinet Secretary; and
- (i) carry out prospecting activities in accordance with the international best practice standards and guidelines as may be prescribed.

## ACCOMPANYING ANNEXES

Annex 1: Map of prospecting area

Annex 2: Approved prospecting programme

FORM RTL3

(r. 45)

[Application for the renewal of a retention licence]

1. Applicant's identity and contact information
  - a. Full name : \_\_\_\_\_
  - b. Physical Address : \_\_\_\_\_  
 City: \_\_\_\_\_ County: \_\_\_\_\_  
 \_\_\_\_\_  
 Postal Code: \_\_\_\_\_ Country: \_\_\_\_\_  
 \_\_\_\_\_
  - c. Other required contact information:  
 Phone number: \_\_\_\_\_  
 Mobile: \_\_\_\_\_  
 Fax number (if any): \_\_\_\_\_  
 E-mail address: \_\_\_\_\_
2. Duration of retention licence applied for (Please indicate appropriate option):
  - 1 year
  - 2 years
3. Attach the following:
  - a report summarising the activities carried out to date during the first term of the Mention licence;
  - a description justifying the reasons for the renewal which shall include but not limited to the analysis of the relevant adverse market conditions, economic factors, technical constraints or any other factors preventing development of the deposit during the initial term of the retention licence;
  - a statement of expenditure incurred during the initial term of the licence.
4. Declaration  
*(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).*

FORM ML1

(r. 48)

[Subsidiary]

[Application for a mining licence]

1. Applicant's identity and contact information
  - a. Full name : \_\_\_\_\_
  - b. Physical Address : \_\_\_\_\_  
Town/City: \_\_\_\_\_ County: \_\_\_\_\_  
Postal Code: \_\_\_\_\_ Country: \_\_\_\_\_
  - c. Other required contact information:  
Phone number: \_\_\_\_\_  
Mobile: \_\_\_\_\_  
Fax number (if any): \_\_\_\_\_  
E-mail address: \_\_\_\_\_
2. Duration of licence applied for: \_\_\_\_\_ years
3. Mandatory attachments (tick each item attesting that the required document is attached to this application)
  - Proof of payment of application fee;
  - Mineral or minerals in respect of which the licence is sought;
  - Proposed programme of mining operations;
  - A certified copy of the applicant company's certificate of incorporation and certified copy of its memorandum and articles of association;
  - A list of the full names and nationalities of all the applicant company's directors;
  - A list of the names of every shareholder of the applicant company who is the beneficial owner of ten per cent or more of the issued share capital;
  - A description the applicant's profile and history of mining operations in Kenya or elsewhere;
  - A statement giving particulars of the technical and financial resources available to the applicant;
  - The Feasibility Study report;
  - Environmental licence;
  - A description of the particulars of the applicant's plan to employ and train Kenyans; and
  - A description of the particulars of the applicant's plan for the procurement Of local goods and services
4. Declaration  
*(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).*

FORM ML2

\_\_\_\_\_  
(r. 49)

[Mining Licence]

Mining licence Registration No. ML \_\_\_\_\_

Term of licence: \_\_\_\_\_ years

## Mining

[Subsidiary]

Term commences on: day \_\_\_\_\_, month \_\_\_\_\_, year \_\_\_\_\_

Term ends on: day \_\_\_\_\_, month \_\_\_\_\_, year \_\_\_\_\_

1. Subject to the conditions set out in the Mining Act, in the regulations made under the Act and in this mining licence,

Name: \_\_\_\_\_

(Hereinafter referred to as the "holder") whose registered office in Kenya is at Address: \_\_\_\_\_

City: \_\_\_\_\_ County: \_\_\_\_\_ Postal Code: \_\_\_\_\_ Country: \_\_\_\_\_

is by this mining licence granted the exclusive right to mine \_\_\_\_\_ (name of minerals) within and over the mineral right area specified in Annex 1 of this licence.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2 \_\_\_\_\_

\_\_\_\_\_  
Cabinet Secretary (*name*)\_\_\_\_\_  
(*signature*)

In the presence of:

\_\_\_\_\_  
Director of Mines (*name*)\_\_\_\_\_  
(*signature*)\_\_\_\_\_  
Holder/Authorised Representative (*name*)\_\_\_\_\_  
(*signature*)

In the presence of:

\_\_\_\_\_  
Witness (*name*)\_\_\_\_\_  
(*signature*)

2. The terms and conditions

## (1) Rights conferred by this licence

- (a) The holder of a mining licence shall enjoy the exclusive right to carry out mining operations in respect of the mineral or mineral deposit specified in the licence within the area specified subject to the provisions of the Mining Act and the terms and conditions set out in this licence.
- (b) enter the area of land specified in the licence and take all reasonable measures on or under the surface of the land to carry out mining operations;
- (c) erect equipment, plant and buildings necessary to mine the specified mineral and to transport, dress or treat the minerals so recovered; and
- (d) dispose of any mineral recovered subject to the payment of the required fees and royalties.

## (2) Obligations under this licence

- (a) commence mining operations within six months of the grant of the licence, or as may be specified in the approved program for mining operations or in any relevant minerals agreement;
- (b) conduct mining operations in compliance with the approved programme for mining operations;
- (c) comply with the terms and conditions of the approved environmental impact assessment licence, social heritage assessment and environmental management plan relating to the operations to be carried out under the mining licence;
- (d) demarcate and keep demarcated the mining area in the prescribed manner;

[Subsidiary]

- (e) comply with the conditions of the licence, any applicable mineral agreement and any directions issued by the Cabinet Secretary or an authorized officer in accordance with this Act;
- (f) submit to the Cabinet Secretary up to date quarterly returns of mine development and mineral production;
- (g) stack or dump any mineral or waste products in the manner provided for in the licence or as otherwise prescribed, having regard to good mining industry practice;
- (h) carry out prospecting and mining activities in accordance with international best practice and the prescribed guidelines; and
- (i) sign a community development agreement with the community where mining operations are to be carried out in such a manner as shall be prescribed in Regulations.

## ACCOMPANYING ANNEXES

Annex 1: Map of mining area

Annex 2: Approved programme for mining operations

Annex 3: Approved plan for the procurement of local goods and services

Annex 4: Approved plan for the recruitment and training of Kenyans

Annex 5: Environmental Licence

FORM ML3

(r. 50)

[Application to renew a mining licence]

1. Applicant's identity and contact information
  - a. Full name: \_\_\_\_\_
  - b. Physical Address: \_\_\_\_\_  
City: \_\_\_\_\_ County: \_\_\_\_\_  
Postal Code: \_\_\_\_\_ Country: \_\_\_\_\_
  - c. Other required contact information:  
Phone number: \_\_\_\_\_  
Mobile: \_\_\_\_\_  
Fax number (if any): \_\_\_\_\_  
E-mail address: \_\_\_\_\_
2. Duration of mining licence applied for:  
\_\_\_\_\_ years (not to exceed fifteen (15) Years).
3. Mandatory attachments
  - o proof of payment of the application fee;
  - o a proposed programme of mining operations to be carried out during the term of renewal;
  - o a plan of the area in respect of which a renewal of the mining licence is sought including all or any of the contiguous blocks in the mining licence area; and
  - o environmental licence for the renewal period.
4. Declaration

(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).

FORM RP1 \_\_\_\_\_ (r. 53)

[Application for a reconnaissance permit]

1. Applicant's identity and contact information
  - a. Full name: \_\_\_\_\_
  - b. Physical Address :  
 Address: \_\_\_\_\_  
 Town/City: \_\_\_\_\_ County: \_\_\_\_\_  
 \_\_\_\_\_  
 Postal Code: \_\_\_\_\_
  - c. Other required contact information:  
 Country: \_\_\_\_\_  
 Mobile: \_\_\_\_\_  
 Fax number (if any): \_\_\_\_\_  
 E-mail address: \_\_\_\_\_
2. Permit duration applied for: (Please indicate appropriate option)
  - 1 year
  - 2 years
3. Mandatory attachments (Check each item attesting that the required document is attached to this application)
  - proof of payment of application fee;
  - the minerals in respect of which the permit is sought.
4. Declaration  
 (Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).

FORM RP2 \_\_\_\_\_ (r. 55)

[Reconnaissance Permit]

Reconnaissance Permit Registration No. ML \_\_\_\_\_  
 Term of: \_\_\_\_\_ years  
 Term commences on: day \_\_\_\_\_, month \_\_\_\_\_, year \_\_\_\_\_  
 Term ends on: day \_\_\_\_\_, month \_\_\_\_\_, year \_\_\_\_\_

1. Subject to the conditions set out in the Mining Act, in the regulations made under the Act and in this reconnaissance permit,  
 Name: \_\_\_\_\_  
 (Hereinafter referred to as the "holder") whose registered office in Kenya is at Address: \_\_\_\_\_  
 City: \_\_\_\_\_ County: \_\_\_\_\_ Postal Code: \_\_\_\_\_

[Subsidiary]

Country: \_\_\_\_\_

is by this reconnaissance permit granted the non-exclusive right to carry out reconnaissance for \_\_\_\_\_ (name of minerals) within \_\_\_\_\_ (name of County).

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2 \_\_\_\_\_

\_\_\_\_\_  
Cabinet Secretary (name) (signature)

In the presence of:

\_\_\_\_\_  
Director of Mines (name) (signature)

\_\_\_\_\_  
Holder/Authorised Representative (name) (signature)

In the presence of:

\_\_\_\_\_  
Witness (name) (signature)

(dated seal here)

3. The terms and conditions

(1) Rights conferred by this permit

- (a) The holder of this permit shall enjoy the non-exclusive rights to conduct reconnaissance for the mineral or minerals in the area specified in the permit.
- (b) The holder of a this permit may, enter into the land within the area specified in the permit and take all reasonable measures to undertake reconnaissance of the land.

(2) Obligations under this permit

The holder of reconnaissance permit shall—

- (a) comply with the terms and conditions specified in the Permit; and
- (b) take all necessary s measures to protect the environment.

4. ACCOMPANYING ANNEXES

Annex 1: Map of reconnaissance area

FORM PP1 \_\_\_\_\_ (r. 58)

[Application for prospecting permit]

1. Applicant's identity and contact information

a. Full name: \_\_\_\_\_

b. Physical Address: \_\_\_\_\_

Town/City: \_\_\_\_\_ County: \_\_\_\_\_

Postal Code: \_\_\_\_\_ County: \_\_\_\_\_

c. Other required contact information:

Mobile: \_\_\_\_\_

Fax number (if any): \_\_\_\_\_

E-mail address: \_\_\_\_\_

2. Duration of permit : (Please indicate appropriate option)
  - 1 year
  - 2 years
  - 3 years
  - 4 years
  - 5 years
3. Mandatory attachments (tick each item attesting that the required document is attached to this application)
  - proof of payment of application fee;
  - a certified copy of the applicant company's certificate of incorporation and certified copy of its memorandum and articles of association;
  - a list of the full names and nationalities of all the applicant company's directors;
  - a list of the names of every shareholder of the applicant company who is the beneficial owner of ten per cent or more of the issued share capital;
  - a description of the applicant's profile and history of prospecting operations in Kenya or elsewhere;
  - a statement giving particulars of the technical and financial resources available to the applicant;
  - description setting out the prospecting operations work intended to be carried out of the period the permit is sought; and
  - environmental licence.
4. Declaration

*(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).*

FORM PP2 \_\_\_\_\_ (r. 59)

[Prospecting Permit]

Prospecting	Permit	Registration	No.	ML
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Term of : \_\_\_\_\_ years

Term commences on: day \_\_\_\_\_, month \_\_\_\_\_, year \_\_\_\_\_

Term ends on: day \_\_\_\_\_, month \_\_\_\_\_, year \_\_\_\_\_

1. Subject to the conditions set out in the Mining Act, in the regulations made under the Act and in this prospecting permit,

Name: \_\_\_\_\_

[Subsidiary]

(Hereinafter referred to as the "holder") whose registered office in Kenya is at Address: \_\_\_\_\_

City: \_\_\_\_\_ County: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Country: \_\_\_\_\_

is by this prospecting permit granted the exclusive right to prospect for \_\_\_\_\_ (name of minerals) within and over the mineral right area specified in Annex 1 of this licence.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2 \_\_\_\_\_

\_\_\_\_\_  
Cabinet Secretary (name) (signature)

In the presence of:

\_\_\_\_\_  
Director of Mines (name) (signature)

\_\_\_\_\_  
Holder/Authorised Representative (name) (signature)

In the presence of:

\_\_\_\_\_  
Witness (name) (signature)

(dated seal here)

(1) Rights conferred by this permit

- (a) The holder of this permit shall enjoy the right to prospect for the mineral or minerals and in the area specified in the permit.

(2) The holder may:

- (a) demarcate areas that fall within the permit area;
- (b) enter into land that falls within the area specified in the permit and take all reasonable measures to undertake prospecting operations on or under the surface of the land; and
- (c) erect equipment, plant and buildings for the prospecting operations.

(3) The holder may take any prescribed quantities required for sampling and assaying purposes.

(2) Obligations under this permit

The holder of a prospecting permit shall—

- (a) comply with the terms and conditions specified in the permit;
- (b) take all necessary measures to protect the environment; and
- (c) comply with any prescribed record keeping obligations.

FORM PP3

(r. 63)

[Application to renew a prospecting permit]

1. Applicant's identity and contact information

a. Full name : \_\_\_\_\_



b. Physical Address :

City: \_\_\_\_\_ County: \_\_\_\_\_

Postal Code: \_\_\_\_\_ Country: \_\_\_\_\_

c. Other required contact information:

Phone number: \_\_\_\_\_

Mobile: \_\_\_\_\_

Fax number (if any): \_\_\_\_\_

E-mail address: \_\_\_\_\_

2. Duration of prospecting permit term applied for (Please indicate appropriate option):
  - 1 year
  - 2 years
  - 3 years
  - 4 years
  - 5 years
3. Mandatory attachments
  - proof of payment of the application fee;
  - a report summarising the prospecting work including the cost incurred to date;
  - an updated/revised programme for prospecting operations including the expenditure to be incurred during the renewal period.
4. Declaration
 

*(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).*

FORM MP1

(r. 66)

[Application for a mining permit]

1. Applicant's identity and contact information
  - a. Full name : \_\_\_\_\_
  - b. Physical Address
 

Address : \_\_\_\_\_

City: \_\_\_\_\_ County: \_\_\_\_\_

Postal Code: \_\_\_\_\_ Country: \_\_\_\_\_
  - c. Other required contact information:
 

Phone number: \_\_\_\_\_

Mobile: \_\_\_\_\_

Fax number (if any): \_\_\_\_\_

E-mail address: \_\_\_\_\_
2. During of mining permit applied for (tick the appropriate option)
  - 1 year

[Subsidiary]

- o 2 years
  - o 3 years
  - o 4 years
  - o 5 years
3. Mandatory attachments (tick each item attesting that the required document is attached to this application)
- o proof of payment of application fee;
  - o where the applicant is a body corporate, a certified copy of the company's certificate of incorporation and certified copy of its memorandum and articles of association,
  - o a list of the full names and nationalities of all its directors,
  - o a list of the names of every shareholder who is the beneficial owner of ten per cent (10%) or more of the issued share capital,
  - o a description of the applicant's profile and history of mining operations in Kenya or elsewhere;
  - o a statement giving particulars of the technical and financial resources available to the applicant;
  - o a description of the proposed mining scheme, including sufficient detail to indicate the scale of operation including the planned production profile and capacity (maximum amounts of mineral product that might be produced in a year and the possible location of all major mining operation facilities, pits, dumps and dams; the approximate commencement date of mine development; the approximate production start date; the characteristics and nature of the final Mineral Products; the intended market(s) for the Mineral Products.
  - o environmental licence.
4. Declaration
- (Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).*

FORM MP2 \_\_\_\_\_ (r. 68)

[Mining Permit]

Mining Permit Registration No. ML \_\_\_\_\_

Term of : \_\_\_\_\_ years

Term commences on: day \_\_\_\_\_, month \_\_\_\_\_, year \_\_\_\_\_

Term ends on: day \_\_\_\_\_, month \_\_\_\_\_, year \_\_\_\_\_

1. Subject to the conditions set out in the Mining Act, in the regulations made under the Act and in this mining permit,
- Name: \_\_\_\_\_
- (Hereinafter referred to as the "holder") whose registered office in Kenya is at  
 Address: \_\_\_\_\_ City: \_\_\_\_\_ County: \_\_\_\_\_ Postal Code: \_\_\_\_\_  
 Country: \_\_\_\_\_ is by this mining permit granted the exclusive right to mine  
 \_\_\_\_\_ (name of minerals) within and over the mineral right area specified in Annex 1 of this licence.

*Mining*

[Subsidiary]

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2 \_\_\_\_\_

_____	_____
Cabinet Secretary ( <i>name</i> )	( <i>signature</i> )
In the presence of:	
Director of Mines ( <i>name</i> )	_____
_____	( <i>signature</i> )
_____	_____
Holder/Authorised Representative ( <i>name</i> )	( <i>signature</i> )
In the presence of:	
Witness ( <i>name</i> )	_____
	( <i>signature</i> )

(1) Rights conferred by this permit

The holder of a mining permit shall enjoy the exclusive rights to carry out mining operations in the area specified in the permit.

- (a) the holder of a mining permit may—
  - (i) enter the area specified in the permit and take all reasonable measures to carry out the approved mining operations;
  - (ii) erect on the area buildings and equipment necessary to carry out the mining operations; and
  - (iii) subject to the payment of royalties, use or dispose of any minerals recovered.

(2) Obligations under this permit

The holder of a mining permit shall—

- (a) conduct mining operations in compliance with a plan approved by the Cabinet Secretary;
- (b) demarcate and keep demarcated the mining area in the prescribed manner;
- (c) take all measures necessary to protect and restore the environment within the mining area;
- (d) submit to the Cabinet Secretary up to date quarterly returns on mine development and mineral production;
- (e) comply with any prescribed record keeping obligations;
- (f) stack or dump any minerals or building materials or waste products in the manner provided for in the Mine Safety and Environment Regulations;
- (g) not use such equipment as may be prescribed or chemicals such as cyanide and mercury; and
- (h) pay royalties, fees, mining taxes and charges.

5. ACCOMPANYING ANNEXES

- Annex 1: Map of mining permit area
- Annex 2: Approved work programme

FORM MP3 \_\_\_\_\_ (r. 69)

[Application to renew a mining permit]

Mining permit Registration Number: \_\_\_\_\_

- 1. Applicant's identity and contact information
  - a. Full name: \_\_\_\_\_
  - b. Physical Address: \_\_\_\_\_
  - City: \_\_\_\_\_ County: \_\_\_\_\_

[Subsidiary]

Postal Code: \_\_\_\_\_ Country: \_\_\_\_\_

c. Other required contact information:

Phone number: \_\_\_\_\_

Mobile: \_\_\_\_\_

Fax number (if any): \_\_\_\_\_

E-mail address: \_\_\_\_\_

2. Duration of prospecting permit term applied for (Please indicate appropriate option):

 1 year 2 years 3 years 4 years 5 years

3. Mandatory attachments

 proof of payment of the application fee; a report summarising mining operations undertaken since the permit was granted; revised mining programme; report describing environmental remediation actions taken during the term of the permit; an updated environmental audit report.

5. Declaration

*(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).*

FORM AMP1

(r. 72)

1. Applicant's identity and contact information

a. Full name: \_\_\_\_\_

b. Physical Address:

City: \_\_\_\_\_ County: \_\_\_\_\_

Postal Code: \_\_\_\_\_ Country: \_\_\_\_\_

c. Other required contact information:

Phone number: \_\_\_\_\_

Mobile: \_\_\_\_\_

Fax number (if any): \_\_\_\_\_

E-mail address: \_\_\_\_\_

2. Duration of artisanal mining permit applied for (tick appropriate option)

 1 year 2 years 3 years

- o 4 years
- o 5 years
- 3. Mandatory attachments (tick each item attesting that the required document is attached to this application)
  - o proof of payment of application fee;
  - o where the applicant is a body corporate, cooperative or association, attached all incorporation documents;
  - o environmental licence;
  - o consent from landowner.
- 4. Declaration

*(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).*

FORM AMP2 \_\_\_\_\_ (r. 73)

[Artisanal Mining Permit]

Artisanal Mining Permit Registration No. AMP \_\_\_\_\_

Term of : \_\_\_\_\_ years

Term commences on: day \_\_\_\_\_, month \_\_\_\_\_, year \_\_\_\_\_

Term ends on: day \_\_\_\_\_, month \_\_\_\_\_, year \_\_\_\_\_

- 1. Subject to the conditions set out in the Mining Act, in the regulations made under the Act and in this mining permit,

Name: \_\_\_\_\_

(Hereinafter referred to as the "holder") whose registered office in Kenya is at Address: \_\_\_\_\_

City: \_\_\_\_\_ County: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Country: \_\_\_\_\_

is by this artisanal mining permit granted the exclusive right to mine \_\_\_\_\_ (name of minerals) within and over the mineral right area specified in Annex 1 of this permit.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2 \_\_\_\_\_

_____ Cabinet Secretary ( <i>name</i> ) In the presence of: Director of Mines ( <i>name</i> ) _____ _____ Holder/Authorised Representative ( <i>name</i> ) In the presence of: Witness ( <i>name</i> ) _____	_____ ( <i>signature</i> ) _____ ( <i>signature</i> ) _____ ( <i>signature</i> ) _____ ( <i>signature</i> ) _____ ( <i>signature</i> )
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------

- (1) Rights conferred by this permit
- (a) the holder of a mining permit may—

[Subsidiary]

- (i) enter the area specified in the permit and take all reasonable measures to carry out mining operations;
- (ii) erect on the area buildings and equipment necessary to carry out the mining operations; and
- (iii) subject to the payment of royalties, use or dispose of any minerals recovered.

(2) Obligations under this permit

The holder of this permit shall—

- (a) conduct mining operations in compliance with Mine Safety and Environment Regulations and guidelines;
- (b) demarcate and keep demarcated the mining area in the prescribed manner;
- (c) take all measures necessary to protect and restore the environment within the mining area;
- (d) submit quarterly returns on mine development and mineral production;
- (e) comply with any prescribed record keeping obligations;
- (f) stack or dump any minerals or building materials or waste products in the manner provided for in the Mine Safety and Environment Regulations;
- (g) not use such equipment as may be prescribed or chemicals such as cyanide and mercury; and
- (h) pay royalties, fees, mining taxes and charges.

6. ACCOMPANYING ANNEXES

Annex 1: Map of mining permit area

FORM AMP3 \_\_\_\_\_ (r. 75)

[Application to renew artisanal mining permit]

1. Applicant's identity and contact information
  - a. Full name: \_\_\_\_\_
  - b. Physical Address: \_\_\_\_\_  
 City: \_\_\_\_\_ County: \_\_\_\_\_  
 Postal Code: \_\_\_\_\_ Country: \_\_\_\_\_
  - c. Other required contact information:  
 Phone number: \_\_\_\_\_  
 Mobile: \_\_\_\_\_  
 Fax number (if any): \_\_\_\_\_  
 E-mail address: \_\_\_\_\_
2. Duration of artisanal mining permit term applied for (Please indicate appropriate option):
  - 1 year
  - 2 years
  - 3 years
3. Mandatory attachments)
  - proof of payment of the application fee;

- o a report summarising mining operations undertaken since the permit was granted;
- o an updated environmental audit report.

Declaration

*(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).*

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**THE MINING (STATE PARTICIPATION) REGULATIONS**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation
  2. Interpretation
  3. Purpose of the Regulations
  4. Application of the Regulations
  5. Use of Kenyan goods and services
  6. Requirement of a procurement plan
  7. Procurement requirements for a holder of a pre-existing mineral right
  8. Call for tenders
  9. Register of local business
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  13. Professional services for engineering
  14. Professional services for insurance and re-insurance
  15. Professional services for accounting and legal
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-



## THE MINING (STATE PARTICIPATION) REGULATIONS

[Legal Notice 84 of 2017]

### 1. Citation

These Regulations may be cited as the Mining (Use of Local Goods and Services) Regulations.

### 2. Interpretation

In these Regulations, unless the context otherwise requires—

“Act” means the Mining Act (Cap. 306);

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to mining;

“holder” has the meaning assigned to it in the Act;

“Kenyan content” means the quantum of composite value added to or created in the Kenya economy by a systematic development of capacity and capabilities through the deliberate utilization of Kenyan human and material resources and services rendered in the mining industry value chain;

“Kenyan goods” means goods including but not limited to plant, machinery and equipment, manufactured, produced or assembled by Kenyans or companies incorporated in Kenya for such purpose;

“Kenyan services” means services offered by a Kenyan, Kenyan professionals, a company incorporated in Kenya or owned or controlled by Kenyans;

“mine support services” has the meaning assigned to it in the Act;

“mineral activities” means any activity or operations to be conducted under a licence to establish a refinery or a smelter or the reconnaissance, prospecting and mining of minerals;

“mining industry value chain” means the processes involved in the mining industry which include but are not limited to exploration, development, production, refining, smelting, polishing and marketing of minerals;

“mining operations” has the meaning assigned to it in the Act;

“Ministry” means the Ministry for the time being responsible for matters relating to mining; and

“procurement plan” means a procurement plan for goods and services submitted in compliance with any provisions of the Act and these Regulations.

### 3. Purpose of the Regulations

The purpose of these Regulations is to—

- (a) promote job creation through the use of local expertise, goods and services, businesses and financing in the mining industry value chain and their retention in the country;
- (b) achieve the minimum local level and in-country spend for the provision of the goods and services in the mining industry value chain;
- (c) increase the capability and international competitiveness of domestic businesses;
- (d) create mining and mineral related support industries that will provide jobs and sustain economic development;

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[Subsidiary]

- (e) achieve and maintain a degree of participation for Kenyans or companies incorporated in Kenya for the supply of goods and the provision of services; and
- (f) provide for a robust, transparent monitoring and reporting system in relation to the use of goods and services.

#### **4. Application of the Regulations**

These Regulations shall apply to—

- (a) all applicants and holders of any licence for—
  - (i) the reconnaissance, prospecting and mining of a mineral;
  - (ii) the cutting, polishing, processing, refining and smelting of a mineral; and
  - (iii) mine support services:
- (b) all operators, contractors and other entities involved in any project, operation or activity connected or related to mine support services, mineral activity or operation in Kenya.

#### **5. Use of Kenyan goods and services**

The holder of a licence, its contractors and sub-contractors shall, to the maximum extent possible, when purchasing goods and procuring services required with respect to operations or any activity to be conducted under a licence, give first priority to—

- (a) materials and goods made in Kenya; and
- (b) services provided by citizens of Kenya or entities incorporated and operating in Kenya or owned and controlled by Kenyans:

Provided that such goods and services are equal in quality, quantity and price to, or better than, goods and services obtainable outside of Kenya.

#### **6. Requirement of a procurement plan**

(1) Except as otherwise provided in the Act or under these Regulations, an application for a licence shall not be granted unless the applicant has submitted a procurement plan for the purchase of goods and services in Kenya to the Cabinet Secretary.

(2) Without limiting the scope of subregulation (1), the plan shall ensure priority is given to citizens of Kenya or companies incorporated in Kenya and shall include—

- (a) the particulars of the goods and services the applicant intends to procure in Kenya to undertake its operations or activity;
- (b) the proposed expenditure that will be incurred under the plan;
- (c) particulars on gender; and
- (d) a timeframe for the plan.

(3) The plan if approved, shall form part of the conditions or obligations under the licence.

#### **7. Procurement requirements for a holder of a pre-existing mineral right**

(1) Every holder of any mineral right which is valid after the coming into force of the Act shall, within ninety days of the coming into force of these Regulations, submit to the Cabinet Secretary a procurement plan for local goods and services.

(2) For the purposes of subregulation (1), the procurement plan shall include—

- (a) targets for local procurement including at least the items specified in the procurement list as provided or made available by the Director of Mines; and
- (b) specific support to local providers or suppliers as well as other measures to develop the supply of local goods and services including broadening access to opportunities and technical support.

## 8. Call for tenders

(1) When calling for tenders from contractors and suppliers, the holder of a mining licence or mine support services licence shall invite tenders from companies incorporated in Kenya, of majority ownership by Kenyans, where to the best of the holder's knowledge—

- (a) the company or contractors have proven ability and reputation in—
  - (i) performing work of a similar nature and quality to that required by the holder;
  - (ii) completing such work within the specified time period; and
- (b) the suppliers are established, recognised and reputable suppliers of materials, equipment or services and have previously marketed or distributed such materials, equipment or services as applicable.

(2) Nothing contained in this regulation shall operate so as to require the holder of a mining licence, mining permit or mine support services in any way, to incur any greater cost, accept an inferior standard of work, accept a delay in supply or otherwise suffer any prejudice.

## 9. Register of local business

(1) The Director of Mines shall establish and maintain a register of local businesses and service providers for the mining industry.

(2) The Director of Mines shall ensure the dissemination of the information on the register through the website of the Ministry, the local media and such other effective means as may be available from time to time.

(3) The holder of a mining licence shall encourage and support the establishment of businesses within Kenya with a particular emphasis on businesses directly owned by Kenyans or companies incorporated in Kenya to provide goods and services required for mineral activities and mining related activities or operations.

(4) The holder of a mining licence shall on an annual basis provide the Director of Mines with a list of companies incorporated in Kenya with majority ownership by citizens of Kenya that provide the holder with services, goods, materials and equipment for mineral activities and mining activities or operations, which the Director shall check against and add to the register.

## 10. International procurement

The procurement of goods, materials, equipment and services by a holder of a mineral right or mine support services licence may be tendered for and procured internationally without restriction, provided that—

- (a) where such materials, equipment and services are procurable within Kenya, such businesses shall have the opportunity to tender and, if the initial tender submission from such businesses meets the specifications of the invitation to tender and such businesses are demonstrably capable of supplying the particular materials, equipment or services which are the subject of the tender, such businesses shall not be discriminated against in comparison with international suppliers;
- (b) in the event of parity between the initial tender submissions from businesses registered pursuant to regulation 8(1) and from international businesses, including consideration of the matters referred to in regulation 8 (1)(a), the holder shall be obliged to award the tender to the business registered pursuant to regulation 8(1).

## 11. Procurement report

(1) The holder of a licence shall, within thirty days of the end of a half year, submit to the Director of Mines a listing of all contracts and purchase orders exceeding 100,000,000 Kenya Shillings or such other limit as the Director of Mines may determine, awarded in the previous half year.

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[Subsidiary]

(2) This listing shall include—

- (a) list of all items and services;
- (b) value of contract or purchase order;
- (c) name of successful contractor or vendor;
- (d) a primary location of work;
- (e) estimates of Kenyan content;
- (f) commencement and completion date; and
- (g) any other information required by the Director of Mines for the purposes of implementing the provisions of these Regulations.

## **12. Power to publish Guidelines**

Subject to section 221 of the Act, the Cabinet Secretary may from time to time, publish and disseminate Guidelines in relation to the content level for all goods and services that shall be procured in Kenya.

## **13. Professional services for engineering**

(1) Subject to subregulations (2) and (3), engineering services shall be rendered by Kenyan engineering companies registered with the relevant regulatory bodies.

(2) Foreign engineering consultants, firms or companies shall only be engaged when the required services are rendered in collaboration with firms or companies licensed to provide such engineering services in Kenya.

(3) Notwithstanding the provisions of subregulation (2), where there is inadequacy or no capacity for any Kenyan consultant or company to undertake a particular engineering service, the Cabinet Secretary in consultation with the relevant professional body, may permit the holder to engage an expatriate or foreign company subject to such terms and conditions as the Cabinet Secretary may prescribe.

## **14. Professional services for insurance and re-insurance**

(1) A holder of a licence and its contractors, sub-contractors or any company engaged in any form of business, operations or contract in the mining industry shall insure all insurable risks related to its mining business or operations with companies licensed by the Insurance Regulatory Authority of Kenya for such purposes.

(2) Where there is a reasonable need for a holder to engage the services of an offshore insurance or Reinsurance company, prior consent of the Insurance Regulatory Authority shall be obtained which shall ensure that Kenyan local capacity has been fully exhausted.

(3) The holder shall, not later than thirty days after the end of the licence year, submit a report to the Director of Mines on all companies through which insurance or reinsurance coverage was obtained, the classes of cover obtained and the premiums paid for such coverage.

(4) No insurance in the mining industry shall be placed offshore without the written approval of the Insurance Regulatory Authority which shall ensure that Kenyan local capacity has been fully exhausted.

## **15. Professional services for accounting and legal**

(1) An applicant for or holder of a licence shall only engage the services of lawyers, Certified accountants or any such firm or company that are licensed to practice in Kenya.

(2) Foreign firms, companies or consultants for legal or accounting services shall only be engaged when the required services are rendered in collaboration with individuals, firms or companies that are licenced or certified to practice or work in Kenya.

## **16. Reporting requirements**

(1) A holder of a licence shall, not later than thirty days after the beginning of each licence year, submit to the Director of Mines an annual report on Kenyan content.

(2) The report in subregulation (1), shall include other reports required under regulations 9 (4), 11 and 14.

(3) For all projects, contracts and purchase orders in excess of 10, 000,000 Kenya Shillings, the holder shall provide to the Director of Mines all advertisements, prequalification criteria, technical bid documents, technical evaluation criteria and the proposed bidders' lists.

(4) The holder shall include sufficient information with the notifications to enable the Director of Mines assess the subject matter and to be satisfied that the requirements for Kenya content regarding the use of local goods and services have been complied with by the holder and its contractors, sub-contractors or any other entity working for the holder.

(5) The Director of Mines shall review the amount stated in subregulation (3) from time to time.

#### **17. Assessment of performance report**

(1) The Director of Mines shall, within thirty days after receipt of the report on Kenyan content, assess and review the report to ensure compliance with the Mining Act and these Regulations.

(2) For the purposes of assessment and verification of the report, a holder of a licence shall allow the Director of Mines or any authorised officer access to their facilities, documents and information as the Director of Mines may request.

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**THE MINING (USE OF ASSETS) REGULATIONS**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation
  2. Interpretation
  3. Application of Regulations
  4. Obligation to keep an asset register
  5. Delivery of Documents of assets on termination
  6. Notification of ceasing to be an owner
  7. Use of assets
  8. Agreement with landowner
-



**THE MINING (USE OF ASSETS) REGULATIONS**

[Legal Notice 80 of 2017]

**1. Citation**

These Regulations may be cited as the Mining (Use of Assets) Regulations.

**2. Interpretation**

In these Regulations, unless the context otherwise requires—

“Act” means the Mining Act (Cap. 306);

“asset audit” means the conduct of an annual physical count of all movable and immovable assets to verify actual assets in hand and value and ensure the accuracy of related financial records;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to mining;

“County Government” means a County Government provided for under Article 176 of the Constitution of Kenya;

“immovable assets” means all tangible items that are securely affixed and attached to the land or to buildings or other structures on the land and include but are not limited to the following—

- (a) transportation facilities including roads, bridges, railways, airports, landing strips and landing pads for aircraft, hangars and other airport facilities, garages, channels, pipelines;
- (b) port facilities including docks, harbours, terminal facilities, warehouses and loading and unloading facilities;
- (c) power, water and sewerage facilities including electrical generating plants and transmission lines, and water supply systems;
- (d) welfare facilities including schools, hospitals or clinics or other facilities built for recreational purpose; and
- (e) other immovable facilities used primarily in connection with, or incidental to, operations such as offices, staff accommodation, machine and repair shops, foundries and warehouses; and

“movable assets” include plant, machinery, equipment and facilities which are not fixed and are used as an integral part of the immovable assets.

**3. Application of Regulations**

These Regulations shall apply to holders of mining licences.

**4. Obligation to keep an asset register**

(1) The holder of a mining licence shall maintain a complete, up to date and accurate register of all its immovable and movable assets.

(2) The holder of a mining licence shall record the following information in the register—

- (a) name, type, description and location of asset;
- (b) cost of asset;
- (c) year of purchase;
- (d) particulars of the supplier of the asset;
- (e) depreciation, start date and rate;
- (f) net book value; and
- (g) any other relevant information.

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[Subsidiary]

- (3) The holder of a mining licence shall—
- (a) continuously update the register where any assets are acquired subsequent to any entry made in the register;
  - (b) maintain a separate list for disposed assets;
  - (c) submit to the Director of Mines a copy of the year's asset audit not later than ninety days after the end of the year.

#### **5. Delivery of Documents of assets on termination**

(1) The holder of a mining licence shall not later than sixty days after the termination of a licence, submit to the Cabinet Secretary a statement of—

- (a) all its immovable and movable assets together with a statutory declaration of the correctness thereof;
- (b) the assets the holder intends to remove from the mineral right area and those that the holder intends to leave; and
- (c) any potentially hazardous substances, excavations and buildings in the mineral right area in accordance with the health and safety regulations made under the Act and the environmental laws of Kenya.

(2) On receiving the statement under subregulation (1), the Cabinet Secretary may, by notice in writing, require the holder of the mining licence to provide additional information or documents.

#### **6. Notification of ceasing to be an owner**

(1) Pursuant to section 149(3) and 149(4) of the Act, the Cabinet Secretary, upon the approval of the statement submitted under regulation 5, shall issue a written notice to the holder that the holder has ceased to be owner of the assets.

(2) A notice issued under subregulation (1) shall be published in the Kenya Gazette.

#### **7. Use of assets**

The Cabinet Secretary shall ensure that all assets that are vested in the National Government such as health facilities, schools, power and other public infrastructure or facilities are transferred to any state institution, department, agency, body or County government that is responsible for the management of such assets under the laws of Kenya.

#### **8. Agreement with landowner**

Where immovable assets on land which has not been compulsorily acquired by the National Government are vested in the National or County Government, the National or County Government shall enter into an agreement with the landowner.

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**THE MINING (USE OF LOCAL GOODS AND SERVICES) REGULATIONS**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation
  2. Interpretation
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-



## THE MINING (USE OF LOCAL GOODS AND SERVICES) REGULATIONS

[Legal Notice 81 of 2017]

### 1. Citation

These Regulations may be cited as the Mining (Use of Local Goods and Services) Regulations.

### 2. Interpretation

In these Regulations, unless the context otherwise requires—

“Act” means the Mining Act (Cap. 306);

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to mining;

“holder” has the meaning assigned to it in the Act;

“Kenyan content” means the quantum of composite value added to or created in the Kenya economy by a systematic development of capacity and capabilities through the deliberate utilization of Kenyan human and material resources and services rendered in the mining industry value chain;

“Kenyan goods” means goods including but not limited to plant, machinery and equipment, manufactured, produced or assembled by Kenyans or companies incorporated in Kenya for such purpose;

“Kenyan services” means services offered by a Kenyan, Kenyan professionals, a company incorporated in Kenya or owned or controlled by Kenyans;

“mine support services” has the meaning assigned to it in the Act;

“mineral activities” means any activity or operations to be conducted under a licence to establish a refinery or a smelter or the reconnaissance, prospecting and mining of minerals;

“mining industry value chain” means the processes involved in the mining industry which include but are not limited to exploration, development, production, refining, smelting, polishing and marketing of minerals;

“mining operations” has the meaning assigned to it in the Act;

“Ministry” means the Ministry for the time being responsible for matters relating to mining; and

“procurement plan” means a procurement plan for goods and services submitted in compliance with any provisions of the Act and these Regulations.

### 3. Purpose of the Regulations

The purpose of these Regulations is to—

- (a) promote job creation through the use of local expertise, goods and services, businesses and financing in the mining industry value chain and their retention in the country;
- (b) achieve the minimum local level and in-country spend for the provision of the goods and services in the mining industry value chain;
- (c) increase the capability and international competitiveness of domestic businesses;
- (d) create mining and mineral related support industries that will provide jobs and sustain economic development;

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[Subsidiary]

- (e) achieve and maintain a degree of participation for Kenyans or companies incorporated in Kenya for the supply of goods and the provision of services; and
- (f) provide for a robust, transparent monitoring and reporting system in relation to the use of goods and services.

#### **4. Application of the Regulations**

These Regulations shall apply to—

- (a) all applicants and holders of any licence for—
  - (i) the reconnaissance, prospecting and mining of a mineral;
  - (ii) the cutting, polishing, processing, refining and smelting of a mineral; and
  - (iii) mine support services;
- (b) all operators, contractors and other entities involved in any project, operation or activity connected or related to mine support services, mineral activity or operation in Kenya.

#### **5. Use of Kenyan goods and services**

The holder of a licence, its contractors and sub-contractors shall, to the maximum extent possible, when purchasing goods and procuring services required with respect to operations or any activity to be conducted under a licence, give first priority to—

- (a) materials and goods made in Kenya; and
- (b) services provided by citizens of Kenya or entities incorporated and operating in Kenya or owned and controlled by Kenyans:

Provided that such goods and services are equal in quality, quantity and price to, or better than, goods and services obtainable outside of Kenya.

#### **6. Requirement of a procurement plan**

(1) Except as otherwise provided in the Act or under these Regulations, an application for a licence shall not be granted unless the applicant has submitted a procurement plan for the purchase of goods and services in Kenya to the Cabinet Secretary.

(2) Without limiting the scope of sub regulation (1), the plan shall ensure priority is given to citizens of Kenya or companies incorporated in Kenya and shall include—

- (a) the particulars of the goods and services the applicant intends to procure in Kenya to undertake its operations or activity;
- (b) the proposed expenditure that will be incurred under the plan;
- (c) particulars on gender; and
- (d) a timeframe for the plan.

(3) The plan if approved, shall form part of the conditions or obligations under the licence.

#### **7. Procurement requirements for a holder of a pre-existing mineral right**

(1) Every holder of any mineral right which is valid after the coming into force of the Act shall, within ninety days of the coming into force of these Regulations, submit to the Cabinet Secretary a procurement plan for local goods and services.

(2) For the purposes of sub regulation (1), the procurement plan shall include—

- (a) targets for local procurement including at least the items specified in the procurement list as provided or made available by the Director of Mines; and
- (b) specific support to local providers or suppliers as well as other measures to develop the supply of local goods and services including broadening access to opportunities and technical support.



## 8. Call for tenders

(1) When calling for tenders from contractors and suppliers, the holder of a mining licence or mine support services licence shall invite tenders from companies incorporated in Kenya, of majority ownership by Kenyans, where to the best of the holder's knowledge—

- (a) the company or contractors have proven ability and reputation in—
  - (i) performing work of a similar nature and quality to that required by the holder;
  - (ii) completing such work within the specified time period; and
- (b) the suppliers are established, recognised and reputable suppliers of materials, equipment or services and have previously marketed or distributed such materials, equipment or services as applicable.

(2) Nothing contained in this regulation shall operate so as to require the holder of a mining licence, mining permit or mine support services in any way, to incur any greater cost, accept an inferior standard of work, accept a delay in supply or otherwise suffer any prejudice.

## 9. Register of local business

(1) The Director of Mines shall establish and maintain a register of local businesses and service providers for the mining industry.

(2) The Director of Mines shall ensure the dissemination of the information on the register through the website of the Ministry, the local media and such other effective means as may be available from time to time.

(3) The holder of a mining licence shall encourage and support the establishment of businesses within Kenya with a particular emphasis on businesses directly owned by Kenyans or companies incorporated in Kenya to provide goods and services required for mineral activities and mining related activities or operations.

(4) The holder of a mining licence shall on an annual basis provide the Director of Mines With a list of companies incorporated in Kenya with majority ownership by citizens of Kenya that provide the holder with services, goods, materials and equipment for mineral activities and mining activities or operations, which the Director shall check against and add to the register.

## 10. International procurement

The procurement of goods, materials, equipment and services by a holder of a mineral right or mine support services licence may be tendered for and procured internationally without restriction, provided that—

- (a) where such materials, equipment and services are procurable within Kenya, such businesses shall have the opportunity to tender and, if the initial tender submission from such businesses meets the specifications of the invitation to tender and such businesses are demonstrably capable of supplying the particular materials, equipment or services which are the subject of the tender, such businesses shall not be discriminated against in comparison with international suppliers;
- (b) in the event of parity between the initial tender submissions from businesses registered pursuant to regulation 8(1) and from international businesses, including consideration of the matters referred to in regulation 8 (1)(a), the holder shall be obliged to award the tender to the business registered pursuant to regulation 8(1).

## 11. Procurement report

(1) The holder of a licence shall, within thirty days of the end of a half year, submit to the Director of Mines a listing of all contracts and purchase orders exceeding 100,000,000 Kenya Shillings or such other limit as the Director of Mines may determine, awarded in the previous half year.

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[Subsidiary]

(2) This listing shall include—

- (a) list of all items and services;
- (b) value of contract or purchase order;
- (c) name of successful contractor or vendor;
- (d) a primary location of work;
- (e) estimates of Kenyan content;
- (f) commencement and completion date; and
- (g) any other information required by the Director of Mines for the purposes of implementing the provisions of these Regulations.

## **12. Power to publish Guidelines**

Subject to section 221 of the Act, the Cabinet Secretary may from time to time, publish and disseminate Guidelines in relation to the content level for all goods and services that shall be procured in Kenya.

## **13. Professional services for engineering**

(1) Subject to sub regulations (2) and (3), engineering services shall be rendered by Kenyan engineering companies registered with the relevant regulatory bodies.

(2) Foreign engineering consultants, firms or companies shall only be engaged when the required services are rendered in collaboration with firms or companies licensed to provide such engineering services in Kenya.

(3) Notwithstanding the provisions of sub regulation (2), where there is inadequacy or no capacity for any Kenyan consultant or company to undertake a particular engineering service, the Cabinet Secretary in consultation with the relevant professional body, may permit the holder to engage an expatriate or foreign company subject to such terms and conditions as the Cabinet Secretary may prescribe.

## **14. Professional services for insurance and re-insurance**

(1) A holder of a licence and its contractors, sub-contractors or any company engaged in any form of business, operations or contract in the mining industry shall insure all insurable risks related to its mining business or operations with companies licensed by the Insurance Regulatory Authority of Kenya for such purposes.

(2) Where there is a reasonable need for a holder to engage the services of an offshore insurance or Reinsurance company, prior consent of the Insurance Regulatory Authority shall be obtained which shall ensure that Kenyan local capacity has been fully exhausted.

(3) The holder shall, not later than thirty days after the end of the licence year, submit a report to the Director of Mines on all companies through which insurance or reinsurance coverage was obtained, the classes of cover obtained and the premiums paid for such coverage.

(4) No insurance in the mining industry shall be placed offshore without the written approval of the Insurance Regulatory Authority which shall ensure that Kenyan local capacity has been fully exhausted.

## **15. Professional services for accounting and legal**

(1) An applicant for or holder of a licence shall only engage the services of lawyers, certified accountants or any such firm or company that are licensed to practice in Kenya.

(2) Foreign firms, companies or consultants for legal or accounting services shall only be engaged when the required services are rendered in collaboration with individuals, firms or companies that are licenced or certified to practice or work in Kenya.

## **16. Reporting requirements**

(1) A holder of a licence shall, not later than thirty days after the beginning of each licence year, submit to the Director of Mines an annual report on Kenyan content.

(2) The report in sub regulation (1), shall include other reports required under regulations 9 (4), 11 and 14.

(3) For all projects, contracts and purchase orders in excess of 10,000,000 Kenya Shillings, the holder shall provide to the Director of Mines all advertisements, prequalification criteria, technical bid documents, technical evaluation criteria and the proposed bidders' lists.

(4) The holder shall include sufficient information with the notifications to enable the Director of Mines assess the subject matter and to be satisfied that the requirements for Kenya content regarding the use of local goods and services have been complied with by the holder and its contractors, sub-contractors or any other entity working for the holder.

(5) The Director of Mines shall review the amount stated in sub regulation (3) from time to time.

#### **17. Assessment of performance report**

(1) The Director of Mines shall, within thirty days after receipt of the report on Kenyan content, assess and review the report to ensure compliance with the Mining Act and these Regulations.

(2) For the purposes of assessment and verification of the report, a holder of a licence shall allow the Director of Mines or any authorised officer access to their facilities, documents and information as the Director of Mines may request.



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## THE MINING (USE OF LOCAL GOODS AND SERVICES) REGULATIONS

### ARRANGEMENT OF REGULATIONS

#### *Regulation*

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-



## THE MINING (USE OF LOCAL GOODS AND SERVICES) REGULATIONS

[Legal Notice 83 of 2017]

### 1. Citation.

These Regulations may be cited as the Mining (Use of Local Goods and Services) Regulations.

### 2. Interpretation.

In these Regulations, unless the context otherwise requires—

"Act" means the Mining Act (Cap. 306);

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to mining;

"holder" has the meaning assigned to it in the Act;

"Kenyan content" means the quantum of composite value added to or created in the Kenya economy by a systematic development of capacity and capabilities through the deliberate utilization of Kenyan human and material resources and services rendered in the mining industry value chain;

"Kenyan goods" means goods including but not limited to plant, machinery and equipment, manufactured, produced or assembled by professionals, a company incorporated in Kenya or owned or controlled by Kenyans;

"mine support services" has the meaning assigned to it in the Act;

"minerals activities" means any activity or operations to be conducted under a licence to establish a refinery or a smelter or the reconnaissance, prospecting and mining of minerals;

"mining operations" has the meaning assigned to it in the Act;

"procurement plan" means a procurement plan for goods and services submitted in compliance with any provisions of the Act and these Regulations.

### 3. Purpose of the Regulations.

The purpose of these Regulations is to—

- (a) promote job creation through the use of local expertise, goods and services, businesses and financing in the mining industry value chain and their retention in the country;
- (b) achieve the minimum local level and in-country spend for the provision of the goods and services in the mining industry value chain;
- (c) increase the capability and international competitiveness of domestic businesses;
- (d) create mining and mineral related support industries that will provide jobs and sustain economy development;
- (e) achieve and maintain a degree of participation for Kenyans or companies incorporated in Kenya for the supply of goods and the provisions of services; and
- (f) provide for robust, transparent monitoring and reporting system in relation to the use of goods and services.

### 4. Application of the Regulations.

These Regulations shall apply to—

- (a) all applicants and holders of any licence for—
  - (i) the reconnaissance, prospecting and mining of a mineral;

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[Subsidiary]

- (ii) the cutting, polishing, processing, refining and smelting of a mineral; and
- (iii) mine support services;
- (b) all operators, contractors and other entities involved in any project, operation or activity connected or relate to mine support services, minerals activity or operations in Kenya.

#### **5. Use of Kenyan goods and services.**

The holder of a licence, its contractors and sub-contractors shall, to the maximum extent possible, when purchasing goods and procuring services required with respect to operations or any activity to be conducted under a licence, give first priority to—

- (a) materials and goods made in Kenya; and
- (b) services provided by citizens of Kenya or entities incorporated and operating in Kenya or owned and controlled by Kenyans:

Provided that such goods and services are equal in quality, quantity and price to, or better than, goods and services obtainable outside of Kenya to be the Cabinet Secretary.

#### **6. Requirement of procurement plan.**

(1) Except as otherwise provided in the Act or under these Regulations, an application for a licence shall not be granted unless the applicant has submitted a procurement plan for the purchase of goods and services in Kenya and shall include—

(2) Without limiting the scope of sub regulation (1), the plan shall ensure priority is given to citizens of Kenya or companies incorporated in Kenya and shall include—

- (a) the particulars of the goods and services the applicant intends to procure in Kenya to undertake its operations or activity;
- (b) the proposed expenditure that will be incurred under the plan;
- (c) particulars on gender; and

(3) The Plan if improved, shall form part of the conditions or obligations under the licence.

#### **7. Procurement requirements for holder of a pre-existing mineral right.**

(1) Every holder of any mineral right which is valid after the coming into force of the Act shall, within ninety days of the coming into force of these Regulations, submit to the Cabinet Secretary a procurement plan for local goods and services.

(2) For the purposes of sub regulation (1), the procurement plan shall include—

- (a) targets for local procurement including at least the items specified in the procurement list as provided or made available by the Directors of Mines; and
- (b) specific support to local providers or suppliers as well as other measures to develop the supply of local goods and services including broadening access to opportunities and technical support.

#### **8. Call for tenders.**

(1) When calling for tenders from contractors and suppliers, the holder of a mining licence or mine support services licence shall invite tenders from companies incorporated in Kenya, of majority ownership by Kenyans, where to the best of the holder's knowledge—

- (a) the company or contractor have proven ability and reputation in—
  - (i) performing work of a similar nature and quality to that required by the holder;
  - (ii) completing such work within the specified time period; and
- (b) the suppliers are established, recognized and reputable suppliers of materials, equipment or services and have previously marketed or distribute such materials, equipment or services as applicable.



(2) Nothing contained in this regulation shall operate so as to require the holder of a mining licence, mining permit or mine support service in any way, to incur any greater cost, accept an inferior standard of work, accept a delay in supply or otherwise suffer any prejudice.

### **9. Register of local business.**

(1) The director of Mines shall establish and maintain a register of local businesses and service providers for the mining industry.

(2) The director of Mines shall ensure the dissemination of the information on the register through the website of the Ministry, the local media and such other effective means as may be available from time to time.

(3) The holder of a mining licence shall encourage and support the establishment of businesses within Kenya with a particular emphasis on business directly owned by the Kenyans or companies incorporated in Kenya to provide goods and services required for mineral activities or operations.

(4) The holder of a mining licence shall on an annual basis provide the Directors of Mines with a list of companies incorporated in Kenya with majority ownership by citizens of Kenya that provide the holders with services, goods, materials and equipment for mineral activities and mining activities or operations, which the Director shall check against and add to the register.

### **10. International procurement.**

The procurement of goods, materials, equipment and services by a holder of mineral right or mine support services licence may be tendered for and procured internationally without restriction, provided that—

- (a) where such materials, equipment and services are procurable within Kenya, such businesses shall have the opportunity to tender and, if the initial tender submission from such businesses meets the specification of the invitation to tender and such businesses are demonstrably capable of supplying the particular materials, equipment or services which are the subject of the tender, such businesses shall not be discriminated against in comparison with international suppliers;
- (b) in the event of parity between the initial tender submissions from businesses registered pursuant to regulation 8 (1) and from international businesses, including consideration of the matters referred to in the regulation 8 (1) (a), the holder shall be obliged to award the tender to the business registered pursuant to regulation 8 (1).

### **11. Procurement report.**

(1) The holder of a licence shall, within thirty days of the end of a half year, submit to the director of Mines a listing of all contracts and purchase orders exceeding 100, 000, 000 Kenya shillings or such other limit as the Director of Mines may determine, awarded in the previous half year.

(2) This listing shall include—

- (a) Lists of all items and services;
- (b) Value of contract or purchase order;
- (c) name of successful contractor or vendor;
- (d) a primary location of work;
- (e) estimates of Kenyan content;
- (f) commencement and completion date; and any other information required by the Director of Mines for the purposes of implementing the provisions of these Regulations.

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[Subsidiary]

## **12. Power to publish Guidelines.**

Subject to section 221 of the Act, the Cabinet Secretary may from time to time, publish and disseminate Guidelines in relation to the content level of all goods and services that shall be procured in Kenya.

## **13. Professional services for engineering.**

(1) A holder of a licence and its contractors, sub-contractors or any company engaged in any form of business, operations or contract in the mining industry shall insure all insurable risks related to its mining business or operations with companies licensed by the Insurance Regulatory Authority of Kenya for such purposes.

(2) Where there is a reasonable need for a holder to engage the services of an offshore insurance or Reinsurance company, prior consent of the insurance Regulatory Authority shall be obtained which shall ensure that Kenyan local capacity has been fully exhausted.

(3) The holder shall, not later than thirty days after the end of the licence year, submit a report to the Director of Mines on all companies through which insurance or reinsurance coverage was obtained, the classes of cover obtained and the premiums paid for such coverage.

(4) No insurance in the mining industry shall be placed offshore without the written approval of the insurance Regulatory Authority which shall ensure that Kenyan local capacity has been fully exhausted.

## **15. Professional services for accounting and legal.**

(1) An applicant for or holder of a licence shall only engage the services of lawyers, certified accountants or any such firm or company that are licensed to practice in Kenya.

(2) Foreign firms, companies or consultants for legal or accounting services shall only be engaged when the required services are rendered in collaboration with individuals, firms or companies that are licensed or certified to practice or work in Kenya.

## **16. Reporting requirements.**

(1) A holder of a licence shall, not later than thirty days after the beginning of each licence year, submit to the Director of Mines an annual report on Kenyan content.

(2) The report in sub regulation (1), shall include other reports required under regulations 9(4), 11 and 14.

(3) For all projects, contracts and purchase orders in excess of 10,000,000 Kenya Shillings, the holder shall provide to the Director of Mines all advertisements, pre-qualification criteria, technical bid documents, technical evaluation criteria and the proposed bidders' lists.

(4) The holder shall include sufficient information with the notifications to enable the Director of Mines assess the subject matter and to be satisfied that the requirements for Kenya content regarding the use of local goods and services have been complied with by the holder and its contractors, sub-contractors or any other entity working for the holder.

(5) The Director of Mines shall review the amount stated in sub regulation (3) from time to time.

## **17. Assessment of performance report.**

(1) The Director of Mines shall, within thirty days after receipt of the report on Kenyan content, assess and review the report to ensure compliance with the Mining Act and these Regulations.

(2) For the purposes of assessment and verification of the report, a holder of a licence shall allow the Director of Mines or any authorised officer access to their facilities, documents and information as the Directors of Mines may request.

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**THE MINING (WORK PROGRAMMES AND  
EXPLORATION REPORTS) GUIDELINES**

ARRANGEMENT OF PARAGRAPHS

*Paragraph*

1. Citation
2. Interpretation
3. Purpose of Guidelines
4. Work programmes
5. Exploration reports
6. Confidentiality
7. Expenditure statements

SCHEDULES

Work Program  
Annual Report  
Retention Report  
Surrender Report  
Feasibility Study  
Airborne Surveys  
Exploration Expenses

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## THE MINING (WORK PROGRAMMES AND EXPLORATION REPORTS) GUIDELINES

[Legal Notice 85 of 2017]

### 1. Citation

These Guidelines may be cited as the Mining (Work Programmes and Exploration Reports) Guidelines.

### 2. Interpretation

In these Guidelines, unless the context otherwise requires—

“Act” means the Mining Act (Cap. 306);

“applicant” means a person who applies for a reconnaissance licence, prospecting permit, prospecting licence or retention licence; and

“holder” means a person who has been granted a reconnaissance licence prospecting permit, prospecting licence or retention licence.

### 3. Purpose of Guidelines

These Guidelines—

- (a) provide guidance to applicants for, and holders of, reconnaissance licences, prospecting licences, prospecting permits and retention licences on how to prepare work programmes and exploration reports; and
- (b) are to assist the Director of Geological Surveys to review work programmes and exploration reports that shall be submitted by applicants for or holders of mineral rights.

### 4. Work programmes

(1) An applicant or holder shall submit online, a work programme that describes the activities that the applicant or holder proposes to carry out in the licence or permit area.

(2) The work programme is required—

- (a) to accompany a new application for a reconnaissance licence, prospecting permit, prospecting licence or retention licence; or
- (b) when a renewal is sought.

(3) A work programme shall provide a detailed plan for the duration for which the licence or permit is sought and outline the details of the activities and expenditure commitments for each year of the term of the licence or permit.

(4) The work programme shall contain information commensurate with the type of licence or permit and the stage of exploration reached to enable the Director of Geological Surveys to decide whether the proposed work is appropriate and adequate.

(5) A work programme submitted in support of a new application will be assessed in relation to the known geology and mineralisation in the area.

(6) The proposed work programme shall take into account all available geological maps and reports including geological surveys and previous company exploration reports, where these are available.

(7) The proposed expenditure set out in the work programme is required to be commensurate with what at the time is known of the geology and mineralisation of the area.

(8) A check list for preparing a work programme is set out in the First Schedule.

(9) Notwithstanding subparagraph (3), the holder of a permit or licence shall submit an updated work programme and expenditure commitment for the following year at the end of each year of the term.

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[Subsidiary]

(10) The updated programme shall summarise the results of the work done and describe how the proposed work builds upon this knowledge.

(11) The expenditure commitments for the subsequent years are subject to the minimum incremental requirements.

(12) The updated work programme shall accompany the annual report.

(13) The process of submitting a work programme for an application for a renewal of a permit or licence shall be similar to that provided for new applications.

## 5. Exploration reports

(1) The holder shall submit to the Director of Geological Surveys an exploration report—

- (a) on all activities being carried out under a permit or licence on a quarterly, biannual and annual basis;
- (b) in support of an application for a renewal and when an area is surrendered.

(2) Every exploration report shall be made and signed by a qualified geologist recognised by the Geologists Registration Board of Kenya who is actively involved in carrying out the work programme.

(3) The lead geologist shall ensure that the exploration report complies with the relevant professional and international standards expected of a scientific or engineering report.

(4) The checklist for exploration reports are as prescribed in the Second, Third, Fourth and Fifth Schedules.

(5) Notwithstanding sub paragraph (4), an exploration report may include any other relevant information.

(6) The Sixth and Seventh Schedules provide for airborne surveys and a list of allowable expenses respectively.

(7) An exploration report shall relate to an individual licence, even where a holder has carried out parallel or associated programmes in two or more licence or permit areas.

## 6. Confidentiality

(1) Exploration reports shall remain confidential during the term of the permit or licence.

(2) Upon termination of the permit or licence, exploration reports become the property of the State and shall form part of the geological database of Kenya.

(3) Subject to sub paragraph (1), the public may access any information contained in an exploration report upon the payment of a prescribed fee.

## 7. Expenditure statements

(1) A statement of expenditure incurred in carrying out the approved work programme shall accompany each annual report.

(2) A statement of expenditure shall be submitted separately and not bound into the exploration report.

(3) A separate expenditure statement is required for each and every permit or licence.

(4) Only the expenses set out in the Seventh Schedule are allowable.

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### FIRST SCHEDULE

[Para 4(8)]

#### Work Program

Checklist for preparing Work Program

1. Company Name
2. Permit or Licence Number

- 
3. Licence Type
  4. Area
  5. Locality (County)
  6. Report Type
  7. Author
  8. Position of Author
  9. Period of Report
  10. Number of employees–
    - (a) Expatriates;
    - (b) Kenyans.
  11. Description of work done e.g. area covered by geological mapping, area covered by geochemical sampling (total samples), number of drill holes, total depth in meters
  12. Additional supporting documents
  13. If annual report, upload the report
  14. Expenditure for the quarter

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## SECOND SCHEDULE

[Para 5(4).]

### Annual Report

#### Checklist for Annual Report

#### 1. Overview

Title, date and authors: The report cover and/or inner page should include a suitable title and other information including: area name; county in which licence or permit is located; licence or permit number; name of licence or permit holder; name of operator (if different to holder); report type (e.g. Annual, Final); author(s); reporting period; and date of report. It may be helpful to add a company report reference number.

Position, name and signature of author.

#### 2. Contents

A contents page giving a breakdown, section by section, including appendices, together with page numbers. It should list tables, figures and maps including any loose maps contained in a sleeve at the back of the report or in a separate volume. Where a report comprises more than a single volume, each volume should be numbered and subtitled. Each should have its own contents page which should additionally refer to the other volumes.

#### 3. Executive summary

The report should contain a summary (abstract) of the work carried out and the results obtained aimed at the competent, non-specialist. The executive summary would not normally exceed three pages. Where there is more than one volume, the executive summary to the main volume should cover all reports.

#### 4. Introduction

General background to project.

#### 5. Geological setting

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[Subsidiary]

This section should provide an overview of the geology based on previous work by the Geological Survey, the licence or permit holder or others. It would normally include an outline of the stratigraphy, structure, known mineralisation, and prospectivity of the area.

The topography and physiology should be briefly described. (Note: It is not necessary to repeat all of this information in the second and subsequent years of the licence or permit, although a short summary might be helpful).

## 6. Previous exploration

Where previous prospecting has been carried out over all or part of the area (or in areas of comparable geology nearby), the report should summarise this work (and quote references). In the second and subsequent years, only the previous work done by the current holder is necessary. Where this is a final report, that is the licence or permit is being surrendered, this section must provide a summary of the work carried out since the licence or permit was first granted.

## 7. Strategy

Briefly describe the target mineralisation and the exploration strategy.

Logistics: Equipment employed, staff involved (expatriate and local), access and dealings with land owners or lawful occupiers should be summarised.

*The following is a checklist of possible items to be included: the list is neither prescriptive nor exhaustive. In general, an annual reports should mirror the contents of the approved work programme.*

### A. Regional Exploration:

Remote sensing (interpretation of aerial photographs, satellite imagery and other imagery) and airborne geophysics such as aeromagnetic or radiometric survey). Whereas airborne surveys require a separate report, the main results and conclusions should be summarised here.

Geochemical sampling including geochemical analyses, subdivided into:

- rock samples
- streams sediments (including panned concentrates)
- soils
- laboratory used, analytical techniques, standards, quality control

*(NB: The geochemical results and their interpretation should be summarised in the main text together with maps or plots, but full analytical data might be better placed in appendices. A copy of the original analysis sheet from the laboratory should be included).*

Geological mapping (include a copy of each resulting map at the original scale)

Summary and conclusions; implications for further work

### B. Preliminary follow-up work.

Stream sediment sampling (including panned concentrates)

Soil sampling

Surface rock (and mineral) sampling

Pitting and trenching

Note: Each of the above should include a summary of the results of mineralogical testing and geochemical analysis. The full analytical data with locational information and maps should be provided in appendices).

Shallow drilling or augering or diamond drilling, plus analytical results



Ground geophysical surveys (e.g. IP; resistivity; EM) - full data and interpretation

Semi-detailed geological mapping (maps at original scale to be provided).

Geochemical sampling including geochemical analyses (refer to A. above for details)

Summary and conclusions; implications for further work

C. Detailed follow-up work. (If more than one prospect has been investigated, each should be described in a separate section)

Systematic, close-spaced geochemical (sub)soil sampling

Pitting and trenching

Shallow drilling or augering

Diamond drilling

Petrographic studies and ore mineralogy

(NB: Each of the above should include a summary of mineralogical testing and geochemical analysis (refer to First Schedule for details). The full data with locational information should be provided in appendices)

Down-hole geophysical logs

Surface and subsurface geological mapping (maps at original scale to be included)

Geological modelling

Preliminary economic evaluation

Synopsis and conclusions, and outline of next stages

D. Summary and conclusions.-This should include conclusions regarding the potential of economic mineralisation and a forward look covering the remaining term of the licence.

#### *Appendices*

A separate appendix should be provided for each dataset acquired and referred to in the main text. The data may include (but is not limited to): geochemical stream sediment, soil and rock samples; drilling logs (qualitative, mineralogical, grade, geophysical); and geophysical datasets. The data should be tabulated form.

For ground geochemical surveys: a description of the methods used; material sampled (drainage, soil, trench, float, drill hole); collection or screening techniques; sample preparation methodology; mesh size-fraction used for analysis; 'orientation' survey results; analysis technique(s); analytical equipment used; name of accredited laboratory; sample control procedures (e.g. randomisation, international standards); and statistical treatment of data. Printouts of the original analysis sheets from the laboratory should be included. Sample locations and traverses must be identified by coordinates and illustrated on appropriate scale maps. The analytical data should be presented as maps or cross sections in raw or processed (e.g. contoured) form.

For geophysical surveys: a description of the methodology including make, model and specification of each instrument used, components measured and units of measurement, units in which results presented, array arrangement, correction (e.g. diurnal variations). Locations, traverses and arrays must be identified by coordinates and illustrated on appropriate scale maps.

For drilling: grid coordinates: dip and azimuth; type of drill, core diameter (or hole diameter in case of chippings); collar elevation ASL; results of dip test and down hole surveys; name of drilling company; printouts of the results of *in situ* geophysical or geochemical downhole logs; interpretation logs; legible copies of physical core logs including petrographic or mineralogical tests signed by logger; core storage locations.

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[Subsidiary]

For petrological, petro-graphical, mineralogical and metallurgical studies: sample preparation methods; descriptions and results of tests and assays; sample location coordinates and plots.

For airborne surveys a *separate* report is required – refer to Annex F for further details of what must be submitted.

All maps, plans, figures, sections, logs, diagrams, graphs, photographs must be clearly labelled and consecutively numbered. A4 size illustrations should be bound with the text. Maps and plans should be drafted to standard scales (e.g. 1:500, 1:1,000, 1:25,000; 1:50,000) with a scale bar in metric units, a north reference (grid, true or magnetic), date and author. Maps should include coordinates referenced to the official map of Kenya.

A copy of the approved work programme for the reported period should be included as reference.

List of all digital data provided including details of data formats.

References

Attach work programme for next year

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### THIRD SCHEDULE

[Para 5(4).]

#### Retention Report

##### Checklist for Retention Report

#### 1. Overview

Title, date and authors: The report cover and inner page shall include a suitable title and other information including: area name; county in which licence or permit located; prospecting licence number; name of holder; name of operator (if different to holder); report type (Retention); author; reporting period; and date of report. It may be also helpful to add a company report reference number.

Position, name and signature of author.

#### 2. Contents

A contents page giving a breakdown section by section, including appendices, together with page numbers. It should list tables, figures and maps including any loose maps contained in a sleeve at the back of the report or in a separate volume. Where a report comprises more than a single volume, each volume should be numbered, and subtitled. Each should have its own contents page which should additionally refer to the other volumes.

#### 3. Executive summary

The report should contain a summary (abstract) of the work carried out and the results obtained aimed at the competent, non-specialist. The executive summary would not normally exceed one to two pages. Where there is more than one volume, the executive summary to the main volume should cover all reports.

Main text (the content will relate directly to the agreed work programme focusing on the specific activities that prevent the holder from immediately applying for a mining licence).

#### 4. Introduction

General background to project.

#### 5. Previous exploration

The report should summarise the previous exploration or feasibility work and describe the specific issues preventing the deposit being developed at the present time.

**6. Strategy**

Describe the activities aimed at alleviating the identified issues.

**7. Logistics**

Equipment employed, staff involved (foreign and local), access and dealings with land owners or lawful occupiers should be summarised.

The following are examples of possible work areas (Note: the list is indicative, not exhaustive)—

**A. Geological.** (If more than one prospect has been investigated, each should be described in a separate section).

Pitting and trenching

Diamond drilling

Underground development

Ore mineralogy, metallurgical testing and smelting

Geophysical and geochemical surveys

Orebody modelling

**B. Engineering or technical**

Transport or access

Power or water

Infrastructure

Communications

**C. Economic**

Market prices

Finance

Business development model

**D. Summary and conclusions.**

This must include a clear statement as to when the licence holder will be in a position to apply for a mining licence, or what needs to change in order for this to happen.

*Appendices*

A separate appendix should be provided for each dataset acquired and described in the main text.

All maps, plans, sections, logs, and locational information not previously submitted.

A copy of the approved work programme for the reported period should be included as reference.

List of all new digital data separately provided including details of data formats.

## References

Attach work programme for the next year of current term or for any renewal applied for.

## FOURTH SCHEDULE

[Para 5(4).]

## Surrender Report

## Checklist for Surrender Report

**1. Overview**

Title, date and authors: The report cover or inner page should include a suitable title and other information including: licence or permit area name; county in which licence or permit located; licence or permit number; name of licence or permit holder; name of operator (if different to holder); report type (e.g. annual, final, surrender); author; reporting period; and date of report. It may be also helpful to add a company report reference number.

Position, name and signature of author.

**2. Contents**

A contents page giving a breakdown section by section, including appendices, together with page numbers. It should list tables, figures and maps including any loose maps contained in a sleeve at the back of the report or in a separate volume. Where a report comprises more than a single volume, each volume should be numbered, and subtitled. Each should have its own contents page which should additionally refer to the other volumes.

**3. Executive summary**

The report should include a summary (abstract) of the work done and the results obtained aimed at the competent, non-specialist.

Main text (the content will depend on the stage of exploration reached in the area being surrendered).

**4. Introduction**

General background to project.

Geological setting: Overview of the geology, including an outline of the stratigraphy, structure, and potential for mineralisation. The topography and physiology should be briefly described.

Exploration strategy

Briefly describe the target mineralisation and the exploration strategy.

**A. Regional Exploration:**

Remote sensing (interpretation of aerial photographs, satellite imagery and other imagery) and airborne geophysics such as aeromagnetic or radiometric survey.

Geochemical sampling including geochemical analyses subdivided into:

- rock samples
- streams sediments (including panned concentrates)
- soils

(Note: The geochemical results and their interpretation should be summarised in the main text together with maps or plots, but full analytical data may be better provided in appendices)

Geological mapping (include a copy of each resulting map at the original scale)

Summary and conclusions; implications for further work.

**B. Preliminary follow-up work.**

Stream sediment sampling (including panned concentrates)

Soil sampling

Surface rock (and mineral) sampling

Pitting and trenching

(NB: Each of the above should include a summary of the results of mineralogical testing and geochemical analysis. The full analytical data with locational information and maps should be provided in appendices)

Shallow drilling or augering or diamond drilling plus analytical results

Ground geophysical surveys - full data and interpretation

Semi-detailed geological mapping (maps at original scale to be provided)

Summary and conclusions; implications for further work.

**C.** Detailed follow-up work. (If more than one prospect has been investigated, each should be described in a separate section)

Systematic, close-spaced geochemical (sub) soil sampling

Pitting and trenching

Shallow drilling or augering

Diamond drilling

Petrographic studies and ore mineralogy

(NB: Each of the above should include a summary of mineralogical testing and geochemical analysis. The full analytical data with locational information and maps should be provided in appendices)

Down-hole geophysical logs

Surface and subsurface geological mapping (maps at original scale to be included)

Geological modelling

Preliminary economic evaluation

Synopsis and conclusions, and outline of next stages

**5.** Summary and conclusions.

Appendices (Also refer to information provided for Annual reports)

Appendices should reproduce original information and data for the surrendered ground, extracted from past annual reports: e.g. geochemical stream sediment, soil and rock samples; drilling logs (qualitative, mineralogical, grade, geophysical); and geophysical datasets. The information would normally be presented in tabular form as printouts of the data to be supplied in digital format.

Copies of earlier-submitted (or extracts thereof) maps, plans, sections, logs, and locational information at original scales.

List of all digital data provided including details of data formats.

*References*

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FIFTH SCHEDULE

[Para 5(4).]

Feasibility Study

Checklist for Feasibility Study

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[Subsidiary]

NOTE: It is likely that the feasibility study will comprise a number of separate reports. In this case, the holder should provide a Summary Report drawing together the results and listing the separate volumes.

Title, date and authors: The report cover or inner page should include a suitable title and other information including: area name; county in which licence or permit located; licence number; name of licence holder; name of operator(s) (if different to holder); report type; author and contributors; and date of report. It may be also helpful to add a company report reference number.

Position, name and signature of lead authors

Contents

Executive summary

Background

Mining history of area; land surface holding; access; stakeholders

*Geology*

Geological occurrence of mineral deposit; economic mineral(s), ore grade and reserves (proven, estimated and inferred) supported by detailed calculations and assumptions

*Mining operations*

Mining methods; mine plan; production planning; mining rate; processing plant and strategy; equipment; water and water management; stockpiling

*Mine development*

Mine development plans and timetable; construction and earth moving; tailings and tailings storage construction

*Ore processing and concentration*

Size; throughput or capacity; plant design; raw materials consumption (e.g. chemicals); refining; power requirements

*Washing plant*

Capacity; water supply and usage; tailings disposal

*Infrastructure*

Power or electricity usage and supply; administration and staff accommodation; community development; hospital; laboratories; workshops; transport (roads, railways, ports); mine

*Power generation*

Instrumentation and communications

*Capital programme*

General requirements; mine development costs and financing; capital; contingency and escalation; pre-production costs; cash flows;

*Operating costs and economic model*

Workforce (expert and unskilled); operating cost structure and breakdown; labour; materials; fuel; contracted services; consumables; administration; mining lease fees; surface rents; capital replacement and amortisation; contributions to development funds; royalty; tax; insurance; external costs.

*Marketing*

Mineral product(s); sales volumes; prices and market trends.

*Business model*

Assumptions; demand and historical trends; price forecasts and volatility; economic model; net present value; cash-flow analysis; sensitivity analysis; economic benefits to Kenya; risk assessment.

*Mine closure plan*

Financial plan; timetable and implementation; restoration or rehabilitation of land; alternative uses of mined out ground; safety considerations; social impacts; plan to progressively introduce alternative livelihoods; removal of plant and machinery; alternative uses (conversion) of infrastructure; post-mining environmental monitoring of mine area (including tailings); contingencies.

*Environment and social impact assessment*

Full, expert assessment and modelling of effects of mining on the environment and social structures; hazard analysis; mitigation plan; monitoring programme.

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 SIXTH SCHEDULE

[Para 5(6).]

## Airborne Surveys

## Special Provisions for Airborne Surveys

**(a)** Progress Reports: The holder of a mineral right who undertakes an airborne geophysical survey must submit a progress report not later than seven days after the end of each four week period. The report shall include:

- A narrative description of the progress achieved during the previous month and since the campaign commenced;
- an index map (may be at small scale) showing flight lines and indicating line-kilometres flown; and
- hardcopy plots of any processed or interpreted data, including cumulative plots of data collected since commencement.

**(b)** Final Report: The report should follow the presentational format outlined for other types of technical report and provide full details of the survey including: type of survey; instrumentation; aircraft type; flight line intervals; ground speed; nominal flight height and ground clearance; dates of survey; weather conditions; and name of company. Flight index maps must show flight lines and tie lines. The report must list and describe the digital data and provide information regarding formats sufficient to enable the data to be read and processed using industry-standard software. The digital data (raw, processed and interpreted) must be provided separately in an industry-standard format together with full metadata. New aerial photography (acquired under special permission) must record full details of the survey including: aircraft; camera used; flight height; notional scale; overlap or sidelap; name of company; and flight index plan. A copy of the digital imagery must similarly be provided.

The following must be submitted upon completion of any airborne survey (remote sensing, geophysical or geochemical).

- A digital, read-only PDF copy of the report.
- A copy of all original or raw, processed and interpreted data (including maps or plot files), plus metadata, in an industry standard digital format (submitted online cadastre or delivered to the Director of Geological Surveys).

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 [Subsidiary]

- Two bound copies of the report, delivered to the Mining Cadastre Office. This must include full-size hardcopy plots of each processed and interpreted dataset, together with flight plans.

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 SEVENTH SCHEDULE

[Para 5(6).]

## Exploration Expenses

## Allowable Exploration Expenses

An itemised statement of expenditure necessarily incurred in carrying out the approved exploration work programme must accompany (but must be physically separate from) each exploration report. A detailed list of allowable expenses is provided in the Licensing Regulations. The following is a summary of the main categories of allowable expenditure incurred by the licence holder including any subcontractor or service provider, *which are directly related to the programme*:

- Field and laboratory exploration activities - all field costs incurred in carrying out the mineral exploration program relating to: literature research; geological mapping; geochemical surveys; geophysical surveys; remote sensing or photo geology; sample collection; sample transport costs; laboratory analysis; petrological, petrographical and mineralogical studies; boundary, control and gridding surveys; data processing; boundary, control and gridding surveys; office costs related to laboratory analysis; data processing; document production, interpretation; assessment; and presentation of results.

- Drilling, excavation and pre-production costs - includes site preparation (construction and maintenance of access roads, drill sites, camp sites and water supply) and rehabilitation; drilling and completion costs (rigging-up, drilling, coring, fishing, casing, logging and other associated surveys, core analyses, rigging-down consumable goods, hire of plant and equipment, repair and maintenance); trenching, stripping and pitting; shaft sinking and other underground excavations; bulk sampling; pilot and beneficiation studies; pre-feasibility and feasibility works including economic or marketing studies.

- Environmental activities-includes baseline studies; environmental and social or cultural impact assessments; rehabilitation and mine closure or rehabilitation studies; environmental management and rehabilitation; community consultation and outreach.

- Logistics – camp construction and operating costs (office and accommodation,); transport or shipping (personnel, plant, equipment, samples for analysis, materials); salaries and wages (supervisory, technical and non-technical); insurance (equipment, personnel pertaining to operations on the licence); and report production costs (data processing, reproduction and presentation of results); sub-contractor costs; equipment hire charges.

- Depreciation or amortisation of all owned equipment used in the exploration: vehicles, machinery, equipment, drill, if not already included in the costs above. The full price of equipment intended to remain on site for future production work. Shared use equipment shall only include apportioned costs according to actual usage.

- Administration – includes only the direct costs of running local office and local agent's charges. (Note: any in-country office and agent's expenses must be apportioned between concurrent projects); travel to or from Kenya by expatriate staff directly involved in programme; and other direct and unavoidable costs associated with the work programme.

- Compensation or payments – to land owners or lawful occupiers and communities.

- Training of Kenyan citizens including travel or accommodation.

- Miscellaneous - any other essential costs necessarily and unavoidably incurred in the course of the work programme.



*Mining*

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[Subsidiary]

- Excluded are overseas headquarters costs, overseas staff-related costs, financing costs, and any non-project-related travels.
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**THE MINING (AWARD OF MINERAL  
RIGHTS BY TENDER) REGULATIONS**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation
  2. Interpretation
  3. Application of Regulations
  4. Designation of areas for tender
  5. Method of tender
  6. Procedures for competitive tender
  7. Bid selection and evaluation
  8. Direct negotiations
  9. Grant of a mineral right
-



**THE MINING (AWARD OF MINERAL RIGHTS BY TENDER) REGULATIONS**

[Legal Notice 153 of 2017]

**1. Citation**

These Regulations may be cited as the Mining (Award of Mineral Rights by Tender) Regulations.

**2. Interpretation**

In these Regulations, unless the context otherwise requires—

“Act” means the Mining Act (Cap. 306);

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to mining;

“Corporation” means the National Mining Corporation established under section 22 of the Act;

“Evaluation Committee” means the Committee established under Regulation 7;

“first-come, first-served” has the meaning assigned to it in the Act;

“large scale operation” has the meaning assigned to it in the Act;

“Mineral right” has the meaning assigned to it in the Act;

“Mineral Rights Board” means the Minerals Rights Board established under section 30 of the Act; and

“Principal Secretary” means the Principal Secretary for the time being responsible for matters relating to mining.

**3. Application of Regulations**

These Regulations shall apply to large scale mineral rights.

**4. Designation of areas for tender**

(1) The Cabinet Secretary shall, on the advice of the Mineral Rights Board designate an area to be reserved for an application by tender where—

- (a) an area possesses high mineral prospectivity; or
- (b) a mineral deposit is of significant economic or commercial value.

(2) The designation shall not affect the rights of holder—

- (a) where such rights have been granted prior to the commencement of this Act or these Regulations; or
- (b) where the designation is made after a mineral right has been granted.

(3) The Cabinet Secretary shall publish the designation in the Gazette and a newspaper of wide circulation.

(4) Where an area is designated under this Regulation, a mineral right shall be granted by competitive and transparent public tender or, in special circumstances, by direct negotiation.

**5. Method of tender**

The Cabinet Secretary, on the advice of the Mineral Rights Board, shall decide how the area shall be offered for tender.

**6. Procedures for competitive tender**

(1) The tender referred to in regulation 4 (4) shall—

[Subsidiary]

- (a) be advertised in the Gazette, a local newspaper of wide circulation and international newspapers; and
- (b) invite qualified local and international companies to submit expressions of interest.

(2) The Corporation may express interest and may participate in a public tender on the same basis as any other interested party.

(3) The tender under sub regulation (1) shall include—

- (a) the size of the area;
- (b) geographic location of the area;
- (c) the type of mineral right;
- (d) the mineral or minerals;
- (e) an indication of the extent of the geological information available, and where it can be accessed;
- (f) the information to be included in the expression of interest, including the experience, financial capacity and technical capability of applicants;
- (g) the date and time deadline for submission of expressions of interest; and
- (h) the address for submission.

(4) The Director of Geological Survey shall compile detailed geological information and the terms of reference of the designated area which shall be published on website of the Ministry.

(5) The Evaluation Committee shall consider all expressions of interest and shortlist based on the experience, financial capacity and technical capability of the applicants within thirty days of the opening of the tender documents and shall submit the list to the Mineral Rights Board.

(6) The Mineral Rights Board shall within seven days of receipt of the list submitted under regulation (5), consider the list and submit the list and its recommendations to the Cabinet Secretary.

(7) The Cabinet Secretary shall in writing and with reasons, approve or reject the list submitted under sub regulation (6), within fourteen days of receipt from the Mineral Rights Board.

(8) The applicants who have been shortlisted shall be notified and be provided with a Request for Proposals, including the terms of reference and the deadline for submission, which shall be not later than three months of such notification.

(9) All shortlisted applicants shall confirm their intention to bid within seven days of notification or the invitation shall lapse.

(10) The applicants who have been shortlisted may be allowed to inspect the area and carry out non-invasive investigations including the taking of a limited number of samples.

## **7. Bid selection and evaluation**

(1) The Principal Secretary shall in consultation with the Cabinet Secretary set up an Evaluation Committee consisting of the—

- (a) Director of Mines who shall be the Chairperson;
- (b) Director of Geological Surveys;
- (c) Director responsible for Mineral Promotion and Value Addition;
- (d) Head of Procurement who shall be the Secretary; and
- (e) Chief Finance Officer.

(2) The role of the Evaluation Committee shall be to deal with the technical and financial aspects of any tender or direct negotiation under this regulation as well as the negotiation of 'the process including evaluation of' bids, proposals for pre-qualification, expression of interest and any other roles assigned to it.

(3) The Committee may co-opt technical experts who are not employees of the Ministry to assist it in its functions.

(4) The evaluation and the selection of the preferred bidder shall be carried out subject to the law relating to public procurement.

(5) The Evaluation Committee shall submit recommendations of the evaluation to the Principal Secretary.

## 8. Direct negotiations

(1) Where no bids are received following the competitive public tender or where the bids received do not satisfy the minimum criteria, the tender shall be re-advertised.

(2) Where no bids are received after the re-advertisement or where they do not meet the criteria specified in the re-advertisement, the Cabinet Secretary shall on advice of the Mineral Rights Board, enter into direct negotiations with any person.

(3) Where the Cabinet Secretary intends to conduct direct negotiations, the Cabinet Secretary shall issue a notice of thirty days in the Gazette, at the website of the Ministry and in at least two newspapers of wide circulation.

(4) The notice under sub regulation (3) shall give such details including but not limited to an indication of the scale of the expected investment and an invitation for expressions of interest.

(5) Any objections to direct negotiations shall be referred to the Mineral Rights Board for consideration and the Mineral Rights Board shall submit its recommendations to the Cabinet Secretary for determination.

(6) The Cabinet Secretary shall publish the decision made under sub regulation (5) on the website of the Ministry.

(7) Where the Cabinet Secretary receives more than one expression of interest for direct negotiation, the Mineral Rights Board shall develop the criteria for the evaluation of proposals.

(8) The Cabinet Secretary shall, on the advice of the Mineral Rights Board, commence direct negotiations with any qualified party that has declared an interest or with any other qualified party or parties by invitation.

(9) Direct negotiations under this regulation shall be conducted by a team comprising of—

- (a) the Principal Secretary who shall be the Chairperson;
- (b) the Director of Mines;
- (c) the Director of Geological Survey;
- (d) a representative of the Mineral Rights Board;
- (e) a representative of the Public Procurement Regulatory Authority;
- (f) a representative of the National Treasury;
- (g) a representative of the Attorney-General;
- (h) a representative of the County Government of the area where the proposed mineral or mining activity shall be undertaken; and
- (i) a representative of the National Lands Commission.

(10) Where necessary or if required, local or international experts may be hired to provide assistance to the negotiation team.

## 9. Grant of a mineral right

Subject to the Act, the Cabinet Secretary on the advice of the Mineral Rights Board shall grant a mineral right to the person with the successful proposal.





**THE MINING (COMMUNITY DEVELOPMENT AGREEMENT) REGULATIONS**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation
2. Interpretation
3. Purpose
4. Application of the Regulations
5. Identification of a community
6. Multiple communities and multiple community agreements
7. Community Development Agreement Committee
8. Drafting of Community Development Agreement
9. Content that shall not be included in the Agreement
10. Consultations
11. Negotiation of Agreement
12. Minimum expenditure commitments
13. Valuation of contributions in kind
14. Duration of agreement
15. Review of agreement
16. Reporting requirements
17. Transparency
18. Transfer of rights and obligations
19. Compliance by holders of pre-existing mineral rights
20. Pre-existing agreements
21. Effectiveness of Community Development Agreement

SCHEDULES

SCHEDULE —

CHECKLIST FOR ANNUAL REPORT



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**THE MINING (COMMUNITY DEVELOPMENT AGREEMENT) REGULATIONS**

[Legal Notice 148 of 2017]

**1. Citation**

These Regulations may be cited as the Mining (Community Development Agreement) Regulations.

**2. Interpretation**

In these Regulations, unless the context otherwise requires—

“Act” means the Mining Act (Cap. 306);

“Agreement” means the Community Development Agreement that is signed pursuant to the Act and these Regulations;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to mining;

“Committee” means the Community Development Agreement Committee established under these Regulations;

“community” has the meaning assigned to it in the Act;

“County Government” means the County Government provided for under Article 176 of the Constitution of Kenya;

“holder” means the holder of a mining licence granted under the Act or the holder of a mining lease or a special mining lease which was granted prior to the coming into force of the Act;

“mine development” means construction and other infrastructural development work carried out on a mining licence area prior to production;

“party” means the holder or community which is a party to a Community Development Agreement; and

“mining operations” has the meaning assigned to it in the Act.

**3. Purpose**

The purpose of these Regulations is to ensure that—

- (a) benefits of mining are shared between the holder and the community;
- (b) mining is consistent with the continuing economic, social and cultural viability of the community;
- (c) mining significantly contributes to the improved economic, social and cultural wellbeing of the community; and
- (d) there is accountability and transparency in mining related community development.

**4. Application of the Regulations**

These Regulations apply to a holder of a—

- (a) mining licence; or
- (b) lease or a special mining lease which is valid after coming into force of these Regulations.

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[Subsidiary]

## 5. Identification of a community

(1) As part of the environmental social impact assessment carried out in accordance with the Environmental Management and Coordination Act, the holder shall identify one or more communities with which it proposes to enter into an Agreement.

(2) The holder shall, within thirty days of the grant of a mining licence, notify the community in writing of its intention to enter into an agreement and send a copy to the Cabinet Secretary.

(3) A community that has not been identified by the holder may give notice to the holder that it should be identified as a party to the Agreement.

(4) Where a community gives notice to a holder that it should be identified as a party to the Agreement and the holder is not in agreement, that community may submit a petition to the Cabinet Secretary.

(5) The Cabinet Secretary in consultation with the County Government and the National Environmental Management Authority shall notify the holder within ninety days from the receipt of the petition, whether the community should be identified as a party to the Agreement.

(6) A party that is aggrieved by the decision of the Cabinet Secretary may appeal to the Environment and Land Court within thirty days from the date of notification.

## 6. Multiple communities and multiple community agreements

(1) Where a holder is required to enter into an agreement with more than one community, it shall enter into one Agreement that includes multiple communities.

(2) Notwithstanding sub-regulation (1), where several communities are located in more than one county, the holder may have a separate Agreement with a community that is located in a different county.

(3) A community may enter into multiple Agreements where it is impacted by more than one mining operation under different holders or may enter into one Agreement that includes multiple holders operating in the community.

## 7. Community Development Agreement Committee

(1) There shall be established a Committee comprising of—

- (a) the Governor or a representative appointed by the Governor;
- (b) the National Government representative in charge of administration at the County;
- (c) the County Assembly representative of the electoral area within which the community is located;
- (d) one representative of women elected by the community;
- (e) one representative elected from among the village elders of the community;
- (f) two representatives of the youth of either gender from the community;
- (g) one representative elected by civil society organisations working in the area of extractives in the County;
- (h) one representative of marginalised groups, ethnic and other minorities;
- (i) one representative of persons with disability from the community;
- (j) the Member of Parliament of the constituency of the community; and
- (k) three representatives of the holder.

(2) The Committee members shall elect the Chairperson and Secretary from among the members.

(3) The members under subregulations (1)(d), (e), (f), (g), (h) and (i) shall serve for a period of three years and the term may be renewed once.

(4) The Committee shall—

- (a) monitor and evaluate compliance with the terms of the Agreement;

- (b) provide a platform for the community to debate whether the use of revenues provided by the holder to fund programmes under the Agreement conform to the development priorities of the community;
- (c) facilitate continuous engagement and serve as the link between the community and the holder;
- (d) settle all disputes that may arise between parties to the Agreement in respect of any matter in connection with or under the Agreement; and
- (e) settle any other issue, matter, grievance or complaint that is not related to the Agreement that may be made by raised by the holder or the community.

(5) Whenever it becomes necessary to resolve a dispute or complaint relating to the Agreement, the Committee shall meet at such times and place as the Chairperson may decide.

(6) The quorum for a meeting shall be two-thirds majority of the members.

(7) The Committee shall determine its own procedures for every meeting.

## 8. Drafting of Community Development Agreement

(1) The Agreement shall be prepared by the holder and the representatives of the community in accordance with these Regulations.

(2) The Agreement shall—

- (a) be prepared in Kiswahili and English and where possible in the local language of the community; and
- (b) have charts and schedules to reflect activities, timelines and other information.

(3) The issues to be addressed in the Agreement may include—

- (a) the role of the County Government;
- (b) educational scholarship, apprenticeship, technical training and employment opportunities for the people of the community;
- (c) employment for members from the communities;
- (d) financial or other forms of support for infrastructural development and maintenance including education, health, roads, water and power;
- (e) assistance with the setting up of and support to small-scale and micro enterprises;
- (f) special programmes that benefit women, youth and persons with disabilities;
- (g) agricultural product marketing;
- (h) protection of the environment and natural resources;
- (i) support for cultural heritage and sports;
- (j) protection of ecological systems;
- (k) funding and control mechanisms to ensure funds are utilised as intended and accounting processes are transparent and audited; dispute resolution; and
- (l) any other areas as may be agreed between the parties.

(4) Any project that is executed under the Agreement shall complement but shall not replace or displace national or county government development plans, projects and services that have been provided or are to be provided.

## 9. Content that shall not be included in the Agreement

The Agreement shall not include the following—

- (a) the imposition of any additional rent, fee, or tax for the benefit of the community that is not set out by law;

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[Subsidiary]

- (b) the provision of any vehicle to any individual or single family unit of the community other than a specialized purpose vehicle such as an ambulance, fire engine, water truck, or bus for the benefit of the entire community;
- (c) the provision of any monetary amount, service, good, or facility for the sole benefit of any group, an individual, clan or single family unit in the community, political party or other person; and
- (d) any matter that is illegal under any written law.

## 10. Consultations

(1) The holder and the community shall agree on the manner in which consultations under these Regulations shall be held.

(2) The agreed consultations shall be in accordance with an agreed schedule which shall be published in a manner that is acceptable to the community or any other mode of publication mutually agreed upon by the parties.

(3) All consultations shall be conducted by the holder and the community with mutual respect and in good faith including but not limited to—

- (a) timely performance of consultations and other efforts to conclude the Agreement;
- (b) timely performance of obligations under the Agreement;
- (c) ongoing monitoring and evaluation of obligations under the Agreement and, where required, amending and updating the provisions in the best interests of the parties; and
- (d) assurance that the community is adequately consulted and represented in all deliberations without isolating any particular individuals, groups or persons.

(4) The holder shall provide the community with at least five written copies of the Agreement within a timeframe that may be agreed with the Committee.

(5) The community shall conduct consultations on the draft Agreement and provide comments to the holder within a timeframe that may be agreed with the holder.

(6) For the purposes of these Regulations, consultation—

- (a) means a process of discussion or dialogue involving the community and other interested parties at the village level and conducted in a location that is reasonably accessible to all members of the community and other parties for the purposes of coming to an understanding; and
- (b) may not necessarily require unanimity but shall be insufficient if held only with a few people or elders of the community.

(7) Where a community determines that it lacks the capacity to negotiate an Agreement, the holder shall assist the community to build that capacity including the provision of funds to the community to hire experts or consultants as are reasonable in the circumstances.

(8) Any fee or payment to the experts or consultants that may be recruited by the community to assist the community in the negotiation of the Agreement shall be agreed with the holder and shall be treated as deductions that the holder may be entitled to under the Income Tax Act (Cap. 470).

## 11. Negotiation of Agreement

(1) Negotiation of the Agreement shall be conducted by the Committee.

(2) The Committee—

- (a) shall, at all times act in trust on behalf of the community;
- (b) shall develop an agreement negotiation schedule that will include the date, time and issues for each negotiation meeting; and
- (c) may consult experts to assist in the negotiations.

(3) The Secretary of the Committee shall take minutes of each meeting of the Committee.

(4) If negotiations fail, the Committee may petition the Cabinet Secretary for resolution.

(5) The Cabinet Secretary shall, within ninety days of receipt of the petition, determine the matter.

(6) Any party that is aggrieved with the determination of the Cabinet Secretary may apply to the Environment and Land Court within thirty days of the decision of the Cabinet Secretary.

(7) The Cabinet Secretary shall within thirty days from the date the Agreement is approved by the holder and the community, publish the Agreement at the website of the Ministry.

## **12. Minimum expenditure commitments**

(1) The holder shall spend a minimum of at least one per cent of the gross revenue from the sale of minerals in every calendar year to finance the projects under the Agreement.

(2) Any payment or money that is required to finance any activity or meet any expenditure requirements under the agreement shall be disbursed by the holder and shall be used solely for the activities or projects that have been agreed to by the parties to the Agreement.

(3) The holder shall not make any direct payment to the Committee or any member of the community for any expenditures or expenses required under the Agreement.

## **13. Valuation of contributions in kind**

Where any contribution or payments in kind are made by the holder as part of its obligations under the Agreement, the holder shall state the nature and value of such contributions or payments and provide supporting notes to explain how the value has been determined.

## **14. Duration of agreement**

The Agreement shall be in force for the productive life of the mine and may be modified or amended by the parties from time to time.

## **15. Review of agreement**

The Agreement shall be reviewed at least every five years from the date of signing.

## **16. Reporting requirements**

(1) A holder shall, not later than sixty days after the end of the year, submit an annual report to the Cabinet Secretary and the County Government in accordance with the check list set out in the Schedule.

(2) The annual report shall include the expenditure of all projects carried out under the Agreement.

## **17. Transparency**

All reports relating to the Agreement and community development annual expenditure reports including all required attachments submitted as required by these Regulations shall also be made available to the public on the website of the Ministry and the County Government.

## **18. Transfer of rights and obligations**

Where a mining licence is transferred to another holder in accordance with the Act, the transferee shall, in writing, to the Cabinet Secretary assume all rights and obligations of the transferor under any agreement relating to the mining licence or transitional mining right.

## **19. Compliance by holders of pre-existing mineral rights**

The holder of a mining lease or special mining lease granted prior to the coming into force of these Regulations shall comply with these Regulations no later than eighteen months from the coming into force of these Regulations.

[Subsidiary]

**20. Pre-existing agreements**

Where a holder of a mining lease or special mining lease has entered into or started some community development initiative, scheme or social development programme prior to the coming into force of these Regulations, the holder shall ensure that such a scheme, initiative, programme or agreement shall comply with the requirements of these Regulations within eighteen months after coming into force of these Regulations.

**21. Effectiveness of Community Development Agreement**

(1) A Community Development Agreement shall come into force after the Agreement has been signed by both parties.

(2) The Cabinet Secretary shall ensure that the Agreement in subregulation (1) meets the requirements of the Act and these Regulations.

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SCHEDULE

CHECKLIST FOR ANNUAL REPORT

FORM CD1 (r. 16(1))  
[Community Development Agreement Annual Report]

Regulation 17 of the Community Development Agreement Regulations, 2017

Name of the holder of the mining licence: \_\_\_\_\_

Date: \_\_\_\_\_

Period being reported:

Check list

**Name or description of the community**

Year that the Community Development Agreement with the community was originally approved

Year that the Community Development Agreement was last amended and such amendment was approved if any.

Description of the goals of the Community Development Agreement

Description of the community development objectives and how they are to be met;

Community Development Agreement activities, milestones and results for the period being reported;

Development programme plan activities, milestones including timelines for performance, expenditures and results for the period being reported;

Description of community related challenges encountered, how these challenges are or

may affect the project, and how the challenges are or will be addressed;

Description of environmental and social impacts of Community Development Agreement activities;

Special programmes that benefit youth, women, marginalised groups and persons with disabilities

(Note: when any attestation provided in this form is found to be false, the person whose signature appears below shall be guilty of an offence and subject to penalty.)

I hereby attest that the Community Development Agreement Annual Report attached to this form was prepared under my supervision. The information as provided above and in the attached report is truthful and substantially accurate in all its details.

Date: \_\_\_\_\_

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[Subsidiary]

Name:

Position:

Signature:

Email:

Telephone:

Address:

Attestation

I hereby attest that the Community Development Annual Expenditure Report attached to this form was prepared under my supervision. The information as provided above and in the attached report is truthful and substantially accurate in all its details.

Signature: \_\_\_\_\_

Date:

Name: \_\_\_\_\_

Position:

Email: \_\_\_\_\_

Telephone:

Address: \_\_\_\_\_



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**THE MINING (MINE SUPPORT SERVICES) REGULATIONS**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation
2. Interpretation
3. Application of these Regulations
4. Application for a licence
5. Processing of an application
6. Issue of licence
7. Term of a licence
8. Assignment or transfer of licence
9. Application for renewal of licence
10. Suspension and revocation of a licence
11. Records and reports
12. Contract for a mine support service
13. Environmental obligations of mine support services providers
14. Offences and penalties

SCHEDULES

SCHEDULE —

FORMS

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## THE MINING (MINE SUPPORT SERVICES) REGULATIONS

[Legal Notice 151 of 2017]

### 1. Citation

These Regulations may be cited as the Mining (Mine Support Services) Regulations.

### 2. Interpretation

In these Regulations, unless the context otherwise requires—

“Act” means the Mining Act (Cap. 306);

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to mining;

“Cadastre” means an online repository and information management tool established for the purposes of regulating the issuance of licences and permits of mineral rights and dealings in minerals;

“licence” means a mine support services licence granted under these Regulations;

“licensee” means a holder of a mine support services licence; and

“mine support services contract” means a contract between a holder and a mine support services provider for the provision of a mine support service.

### 3. Application of these Regulations

These Regulations shall apply to any person who intends to provide a mine support service for any period of more than six months and for a contract sum of a value of more than fifty million shillings in aggregate.

### 4. Application for a licence

(1) A person may on application to the Cabinet Secretary be granted a licence to provide mine support services in accordance with these Regulations.

(2) An application shall be made online by completing Form MS1 in the Schedule.

(3) An application shall be registered by the Cadastre only when complete and upon payment of the prescribed fee.

### 5. Processing of an application

(1) The Cabinet Secretary shall approve or reject an application for a licence within thirty days from the date of the submission of a complete application.

(2) Where the application is approved, the Cabinet Secretary shall serve a notice requiring the applicant to accept or reject the grant of the licence within fourteen days from the date of notification of the approval.

(3) Where the applicant fails to notify the Cabinet Secretary of the acceptance of the grant of the licence, the approval of the application shall lapse immediately after the period specified under sub-regulation (2).

### 6. Issue of licence

(1) Where an applicant accepts the grant of licence under sub-regulation (5), the Cabinet Secretary shall issue a licence using Form MS2 set out in the Schedule.

(2) The licence shall specify—

- (a) the name, nationality and address of the holder;
- (b) the mine support service which the holder intends to provide;
- (c) the term of the licence; and
- (d) plans for the procurement of local goods and services; and

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[Subsidiary]

- (e) the approved plan for the employment and training of Kenyans.

#### **7. Term of a licence**

A licence shall be valid for a period not exceeding three years.

#### **8. Assignment or transfer of licence**

A licence may be assigned with the consent of the Cabinet Secretary.

#### **9. Application for renewal of licence**

(1) A licensee may apply to the Cabinet Secretary for the renewal of the licence.

(2) There shall be no limit to the number of renewals that may be granted except that any renewal is subject to compliance with the terms and conditions of the initial licence and these Regulations.

(3) The licensee shall make an application for renewal of a licence by—

- (a) completing Form MS3 set out in the Schedule not later than thirty days before the expiry of the licence;
- (b) submitting a report covering all services or activities carried out under the initial term of the licence; and
- (c) paying the prescribed fee.

(4) The Cabinet Secretary shall within thirty days from the date of receipt of a complete application, grant a renewal of the licence.

(5) Where the licensee has made an application for a renewal of the licence and the renewal is not granted by the time of the expiry of the licence, the licence shall continue in force until the application is determined.

(6) The term for renewal of a licence shall not exceed three years.

#### **10. Suspension and revocation of a licence**

(1) The Cabinet Secretary may suspend or revoke a licence if the licensee—

- (a) fails to make any payment under the terms of the licence to the Ministry or any Government agency as required by law on the due date;
- (b) becomes insolvent or bankrupt;
- (c) makes a statement or submits any report to the Cabinet Secretary or to the Ministry in connection with the licence which the holder knows or ought to have known to be false; or
- (d) fails to comply with the terms and conditions of the licence.

(2) The Cabinet Secretary shall before suspending or revoking a licence, give notice to the licensee and shall in the notice, require the licensee to remedy a breach of the terms and conditions of the licence within thirty days, of the notice and where the breach cannot be remedied, to show cause to the reasonable satisfaction of the Cabinet Secretary why the licence should not be suspended or revoked.

(3) Upon suspension or revocation of a licence under this Regulation, the rights of the licensee shall cease but without prejudice to the liabilities or obligations already incurred by the licensee.

#### **11. Records and reports**

(1) A licensee shall—

- (a) inform the Ministry of any changes of its registered address; and
- (b) submit to the Ministry a quarterly report on its activities or operations under the licence.

(2) The report under sub regulation (1)(b) shall be submitted not later than thirty days of the month following the end of each quarter in the format set out in Form MS4 in the Schedule.

(3) The report shall contain a signed declaration by the Chief Executive Officer or an authorised representative of the licensee that the particulars contained in the report are accurate and complete.

(4) The Cabinet Secretary may give notice to a licensee to provide further information on any matter related to an earlier report, or on any other matter which the Cabinet Secretary may consider necessary for the purpose of these Regulations.

**12. Contract for a mine support service**

(1) The licensee shall submit to the Cabinet Secretary a copy of any mine support services contract or agreement entered into with any holder of a mineral right.

(2) Any agreement or contract that is submitted under sub-regulation (1) shall contain the following—

- (a) the parties to the agreement or contract;
- (b) the type of mine support service that is the subject of the contract;
- (c) duration of the contract;
- (d) the value of the contract; and
- (e) number of employees including the number of expatriates, if any.

**13. Environmental obligations of mine support services providers**

A licensee shall comply with the conditions and obligations of any licences or authorizations issued under the Environmental Coordination and Management Act (No. 8 of 1999) that are issued to the holder of a mineral right where the licensee is operating.

**14. Offences and penalties**

Any person who engages in any mine support service without a licence or contravenes a provision of these Regulations, commits an offence and is liable on conviction to fine or imprisonment as provided in the Act.

SCHEDULE  
FORMS

Form MS1 (r. 4(2))  
[Application for a Mine Support Services Licence]

1. Applicant's identity and contact information

Full Name: \_\_\_\_\_

(Physical Address): \_\_\_\_\_

Address: \_\_\_\_\_

Town/City: \_\_\_\_\_ County: \_\_\_\_\_

Postal Address

Address: \_\_\_\_\_

Town/City: \_\_\_\_\_ County: \_\_\_\_\_

Other required information:

Phone number: \_\_\_\_\_

Mobile: \_\_\_\_\_

Email address: \_\_\_\_\_

[Subsidiary]

## 2. Type of Mine Support Service

Name the type of mine support services for which a licence is required (refer to the attached List):

*Type of Service**Check box if applicable*

Drilling and/or blasting

Mineral exploration for holders of mineral rights

Mineral Assaying

Contract mining

Others (specify)

Name the type of mine support services for which a licence is required (refer to the attached List):

Licence term applied for: (Please indicate appropriate option)

o 1 year

o 2 years

o 3 years

o Others (specify)

3. Attachments (tick each item attesting that the required document is attached to this application)

o duplicate copy of receipt of payment of application fee;

o a certified copy of the applicant company's certificate of incorporation and certified copy of its memorandum and articles of association;

o "Director Information", a list of the full names and nationalities of all the applicant company's directors;

o "Profile and History", in the case of an application for contract mining services, a description of the applicant's profile and history of contract mining services in Kenya or elsewhere [mandatory for applicants for contract mining services];

o "Technical and Financial Qualifications", a statement giving particulars of the technical and financial resources available to the applicant;

o Tax compliance certificate.

Declaration

*If any information provided in this form is found to be false, the application will be rejected or terminated and if discovered after the grant and the person whose signature appears below shall be guilty of an offence and subject to penalty as provided in the Act.*

Form MS2 \_\_\_\_\_ (r. 6(1))

[Mine Service Support Licence]

Mine Support Service Licence Registration No. MSL \_\_\_\_\_

Term of Licence: \_\_\_\_\_ years (*not to exceed 3 years*)

Term commences on: day \_\_\_\_, month \_\_\_\_\_, year \_\_\_\_

Term ends on: day \_\_\_\_, month \_\_\_\_\_, year \_\_\_\_

Provided all conditions under the Act and these Regulations have been met, the term of this licence may be renewed.

1. Subject to the Act, and these Regulations,

Name: \_\_\_\_\_



(Hereinafter referred to as the "licensee") whose registered office in Kenya is at:

Address: \_\_\_\_\_

City: \_\_\_\_\_ Postal Address: \_\_\_\_\_

County: \_\_\_\_\_

is by this licence granted the right to carry out mine support services as specified in Annex I of this licence.

2. Commence activities within thirty (30) days from the date the licence is granted;

Annex 1: Approved programme

\_\_\_\_\_  
\_\_\_\_\_

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20 \_\_\_\_\_  
(signature)

Cabinet Secretary (name)

In the presence of:

Director of Mines (name) (signature)

(dated seal here)

Form MS3 (r. 9(3)(a))  
[Application for Renewal of a Mine Support Services Licence]

1. Applicant's identity and contact information

Full Name: \_\_\_\_\_

Physical Address: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ County: \_\_\_\_\_

Postal Address: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ County: \_\_\_\_\_

Other required information:

Phone number: \_\_\_\_\_

Mobile: \_\_\_\_\_

Email address: \_\_\_\_\_

1. Number of years of the renewal being applied for (not to exceed three years each)

(Please indicate appropriate option):

First renewal:

1 year

2 years

[Subsidiary]

- o 3 years
- o Others (specify)

2. Declaration

If any information provided in this form is found to be false, the application will be rejected and the person whose signature appears below shall be guilty of an offence and subject to a penalty in accordance with the Act.

I am the holder of the mine support service licence (or in the case of a company the holder's authorised representative) and by this application request that a renewal be granted for the mine support service identified herein. By submitting this application, I declare that the following statements are true:-

1. All reports required to be submitted in accordance with the terms and conditions pertaining to the mine support licence during the initial term have been submitted and submission receipts have been obtained.
2. All fees, charges and taxes required under the licence have been paid.
3. All environmental obligations if required under any law applicable to the licence have been met.
4. All environmental authorisations, if required under any applicable law for the renewal have been obtained.
5. All activities or services during the initial term of the licence have been carried out in accordance with the approved proposals.
6. At the time of applying for this renewal, no law, regulations or guidelines pertaining to mine support services have been breached.

Form MS4 \_\_\_\_\_ (r. 11(2))

[Mine Support Services Licence Quarterly Report]

Mine Support Service Licence Registration Code Number: MS \_\_\_\_\_

Year: \_\_\_\_\_

1. CONTACT INFORMATION OF THE LICENSEE

Name of licensee: \_\_\_\_\_

Address: \_\_\_\_\_

Town/City: \_\_\_\_\_ County: \_\_\_\_\_

Postal Code: \_\_\_\_\_

County: \_\_\_\_\_

Phone number: \_\_\_\_\_

Mobile: \_\_\_\_\_

Email address: \_\_\_\_\_

2. Declaration

*If any information provided in this form is found to be false, the application shall be rejected and the person shall be guilty of an offence and subject to penalty in accordance with the Act.*

I hereby declare that the Mine Support Service Licence Quarterly Report attached to this form was prepared under my supervision. The information as provided above and in the attached report is truthful and accurate in all its details.

*Mining*

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[Subsidiary]

Date: \_\_\_\_\_

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Email: \_\_\_\_\_ Telephone: \_\_\_\_\_

Mobile Number: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_



**THE MINING (NATIONAL MINING CORPORATION) REGULATIONS**

## ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation
  2. Interpretation
  3. Appointment to the Board
  4. Qualifications of members of the Board
  5. Vacancy in the Board
  6. Meetings of the Board
  7. Disclosure of interest
  8. Establishment of Committees
  9. Allowances for members of the Board
  10. Vacancy of office of the Chief Executive
  11. Removal of the Chief Executive Officer
  12. Appointment of other staff
  13. Funds of the Corporation
  14. Books of account and audit
  15. Application of Regulations to Corporation
  16. Reporting requirements
  17. The Common Seal of the Corporation
-



**THE MINING (NATIONAL MINING CORPORATION) REGULATIONS**

[Legal Notice 150 of 2017]

**1. Citation**

These Regulations may be cited as the Mining (National Mining Corporation) Regulations.

**2. Interpretation**

In these Regulations, unless the context otherwise requires—

“Act” means the Mining Act (Cap. 306);

“Board” means the Board of Directors of the National Mining Corporation;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to mining;

“Corporation” means the National Mining Corporation established under section 22(1) of the Act;

“financial year” means the period of twelve months ending on the thirtieth day of June in each year or as may be prescribed by legislation from time to time; and

“Ministry” means the Ministry for the time being responsible for matters relating to mining.

**3. Appointment to the Board**

(1) Subject to the Act, the President shall appoint the Chairperson of the Board and the Cabinet Secretary, shall appoint the members under section 25(1)(e) of the Act.

(2) Any appointment under sub regulation (1) shall—

- (a) have regard to the person's integrity, knowledge and expertise in matters relevant to the functions of the Corporation; and
- (b) be in accordance with the provisions of the Constitution.

**4. Qualifications of members of the Board**

(1) A person shall be qualified for appointment as a Chairperson or a member of the Board if that person—

- (a) is a citizen of Kenya;
- (b) holds a minimum of a bachelors degree from a university recognised in Kenya;
- (c) has knowledge and experience of at least ten years in the case of the Chairperson or seven years in the case of a member appointed under regulation 3 (1), in matters relating to any of the following—
  - (i) economics;
  - (ii) engineering;
  - (iii) law;
  - (iv) administration;
  - (v) finance;
  - (vi) commerce; and
  - (vii) earth sciences or geosciences;
- (d) meets the requirements of leadership and integrity as set out in Chapter Six of the Constitution.

(2) A person shall not be appointed to the Board if the person—

- (a) has been convicted of a criminal offence and imprisoned for a term exceeding six months;
- (b) is a member of a governing body of a political party;

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[Subsidiary]

- (c) has previously been removed from public office for contravention of the Constitution or any other written law;
- (d) is an un-discharged bankrupt;
- (e) violates the Constitution or any other written law.

### **5. Vacancy in the Board**

(1) Where the position of a Chairperson is vacant, the Cabinet Secretary shall notify the President, and the President shall take action to fill that vacancy.

(2) Where the position of a member is vacant, the Chairperson shall notify the Cabinet Secretary and the Cabinet Secretary shall take action to fill that vacancy.

### **6. Meetings of the Board**

(1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) A meeting of a Board shall be held on such date and at place as the Board shall decide.

(3) Unless three-quarters of the total membership of a Board otherwise agrees, at least fourteen days' written notice of every meeting of a Board shall be given to every member of the Board.

(4) The Chairperson shall, at the request in writing of not less than one-third of the members, convene an extraordinary meeting within seven days of receipt of the request at a place and time to be determined by the Chairperson.

(5) The quorum for the conduct of business at a meeting of the Board shall be a simple majority of the total number of members of the Board.

(6) The Chairperson of the Board shall preside at all meetings of the Board but in the absence of the Chairperson the members present shall appoint one of their members to preside at the meeting.

(7) Unless a unanimous decision is reached, a decision on any matter before a Board shall be by a majority of votes of the members present and in the case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

(8) The Board may co-opt a person to attend a meeting but that person shall not vote on any matter.

(9) Notwithstanding any provision in this regulation, the Board shall regulate its own procedures and the procedures of any Committee.

(10) The Secretary shall record the minutes of all meetings of the Board and the minutes of each meeting shall be confirmed by the Board and signed by the Chairperson or the member presiding at the meeting.

(11) Any member of the Board present at a meeting of the Board or a Committee, shall have the right to require his or her opinion to be recorded in the minutes if the Board or Committee passes a resolution or takes any decision which in the opinion of that member is contrary to his or her opinion.

### **7. Disclosure of interest**

(1) A member of the Board who has an interest in a matter for consideration by the Board shall—

- (a) disclose the nature of that interest and the disclosure shall form part of the record of the consideration of the matter, and
- (b) not participate in the deliberations in respect of that matter.

(2) A member ceases to be a member of the Board if that member has an interest in a matter before the Board, and—

- (a) fails to disclose that interest; and



- (b) participates in the deliberations of the Board in respect of the matter.

## 8. Establishment of Committees

(1) The Board may establish Committees consisting of members of the Board or of members and non-members of the Board to perform a function or deal with such matters as the Board may direct.

(2) A Committee of the Board shall be chaired by a member of the Board.

## 9. Allowances for members of the Board

Members of the Board and members of a Committee of the Board shall be paid allowances as approved by the Cabinet secretary on the advice of the Salaries and Remuneration Commission.

## 10. Vacancy of office of the Chief Executive

The office of the Chief Executive Officer shall become vacant if the holder—

- (a) dies; or
- (b) become incapacitated on medical grounds; or
- (c) resigns by a written notice of three months addressed to the Board; or
- (d) upon expiry of his or her term; or
- (e) ceases to hold office under regulation 11.

## 11. Removal of the Chief Executive Officer

(1) The Board may terminate a person's appointment as the Chief Executive Officer if that person—

- (a) violates the Constitution or any other written legislation;
- (b) is incompetent;
- (c) is of unsound mind;
- (d) is convicted of a criminal offence and sentenced to a term of imprisonment exceeding six months;
- (e) contravenes the terms and conditions of service; or
- (f) is adjudged bankrupt.

(2) Where the question of the removal of the Chief Executive Officer under sub regulation (1) arises, the Board shall—

- (a) inform the Chief Executive Officer in writing of the reasons for the intended removal; and
- (b) provide the Chief Executive Officer with the opportunity to be heard in accordance with the principles of fair administrative action as set out in Article 47 of the Constitution.

## 12. Appointment of other staff

(1) The Chief Executive Officer with the approval of the Board, shall recruit such employees as may be necessary for the proper and effective performance of the functions of the Corporation.

(2) The appointment of the employees of the Corporation shall be on such terms and conditions of service as the Board shall determine taking into account the need for ethnic, regional balance and gender parity.

(3) A public officer may be transferred or seconded to the Corporation or may otherwise give assistance to it.

(4) The Chief Executive Officer may, with the approval of the Board engage the services of advisers and consultants to assist the Corporation to discharge its functions.

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[Subsidiary]

### 13. Funds of the Corporation

(1) The funds of the Corporation may include—

- (a) moneys as may, from time to time, be appropriated by Parliament for that purpose;
- (b) moneys that accrue to the Corporation in the performance of its functions; and
- (c) grants, donations or gifts to the Corporation for its activities under the Act or these Regulations.

(2) The expenses of the Corporation shall be paid from moneys provided for the Corporation under subregulation (1).

(3) The Corporation shall submit to the Cabinet Secretary, not later than the end of February in every year, estimates of the Corporation's revenue and expenditure for the following financial year.

(4) The annual estimate shall make provision for all the estimated expenditure of the Corporation for the next financial year including—

- (a) the payments of salaries, allowances and other charges in respect of the employees of the Corporation and the Board; and
- (b) any other expenditures that may be necessary for the proper and effective performance of the functions of the Corporation.

(5) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval with the concurrence of the National Treasury.

(6) The financial year of the Authority shall be the period of twelve months ending on the 30th June in each year or any other day prescribed by national legislation.

### 14. Books of account and audit

(1) The Corporation shall keep or cause to be kept books of accounts and proper records in the form approved by the Auditor General or as required under any written law in Kenya.

(2) Without limiting the scope of subregulation (1), the Corporation shall ensure that all income and liabilities, expenditure, assets, undertakings, contracts, funds, activities, transactions and any other business of the Corporation are properly recorded and kept.

(3) The Corporation shall ensure that all moneys received are properly brought to account, all payments out of its funds are correctly made and properly authorized, and that adequate control is maintained over its assets and liabilities under these Regulations or as required by any other written law.

(4) The Corporation shall, within a period of three months after the end of each financial year, prepare annual financial statements in accordance with the provisions of the Public Finance Management Act (Cap. 412A) and submit them to the Controller of Budget and the Auditor-General or to an auditor appointed under subregulation (6) for audit.

(5) The Corporation shall also prepare the financial statements in a form that complies with the relevant accounting standards as prescribed and published by the Public Sector Accounting Standards Board from time to time.

(6) The auditor referred to in subregulation (4) shall be appointed by the Corporation with the written approval of the Auditor-General.

(7) The appointment of an Auditor shall not be terminated by the Corporation without the prior written approval of the Auditor-General.

(8) The fee for any auditor who is not a public officer shall be determined and paid by the Corporation.

(9) The Auditor-General may give general or special directions to an auditor appointed under subregulation (6), and the auditor shall comply with such directions.

(10) An auditor appointed under subregulation (6) shall report directly to the Auditor-General on any matter relating to the directions given under subregulation (9).

(11) Nothing in these Regulations shall be construed as prohibiting the Auditor-General from carrying out an inspection of the Corporation's accounts or records whenever it appears to him or her to be desirable and such inspections shall be carried out at least once every six months.

### **15. Application of Regulations to Corporation**

The Act, any Regulations and guidelines made under the Act shall apply to the National Mineral Corporation on the same basis as any other applicant or holder of a mineral right.

### **16. Reporting requirements**

(1) Within a period of six months after the end of the financial year, the Auditor-General shall report on the audit of the accounts of the Corporation to the Cabinet Secretary and in the case of the auditor appointed under subregulation 14 (6), the auditor shall submit the report to the Auditor General.

(2) The Cabinet Secretary within one month of receiving the report under subregulation (1), shall submit the report to the National Assembly.

(3) Notwithstanding anything in these Regulations, the Auditor - General may submit to the Cabinet Secretary a special report on any matter.

(4) The Corporation shall—

- (a) within three months after end of the financial year, submit an annual report to the Cabinet Secretary covering all the activities and operations of the Corporation for the financial year to which the report relates; and
- (b) submit to the Cabinet Secretary any other report which the Cabinet Secretary may from time to time request in writing.

(5) The annual report shall include the report of the Auditor General.

(6) The Cabinet Secretary shall, within one month after the receipt of the annual report, submit the report to the National Assembly together with any statement that the Cabinet Secretary may consider necessary.

### **17. The Common Seal of the Corporation**

(1) The common seal of the Corporation shall be kept in such custody as the Board may direct and shall not be used except on the order of the Board or the Chief Executive Officer.

(2) The affixing of the common seal of the Corporation shall be authenticated by the signature of the Chairperson and the Chief Executive Officer.

(3) Any document not required to be made under seal may be authenticated by the signature of the Chairperson or the Chief Executive Officer provided that the Corporation in the absence of the Chairperson or the Chief Executive nominates one member to authenticate the seal on behalf of the Chairperson or the Chief Executive Officer.



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**THE MINING (REPORTING OF MINERAL  
RELATED ACTIVITIES) REGULATIONS**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation
  2. Interpretation
  3. Application of Regulations
  4. Obligation to submit reports
  5. Obligation to prepare reports by the Cabinet Secretary
  6. Publication of reports
  7. Obligation to publish mineral agreements and mineral rights
-



## THE MINING (REPORTING OF MINERAL RELATED ACTIVITIES) REGULATIONS

[Legal Notice 152 of 2017]

### 1. Citation

These Regulations may be cited as the Mining (Reporting of Mineral Related Activities) Regulations.

### 2. Interpretation

In these Regulations, unless the context otherwise requires—

“Act” means the Mining Act (Cap. 306);

“beneficial owner” means any person who, directly or indirectly, ultimately owns, exercises control over or has a substantial economic interest in an entity that holds a mining licence, or receives substantial economic benefit from such entity and includes a company or person that holds a mineral right or any operations associated with a mining licence;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to mining;

“Cadastre” means an online repository and information management tool established by the Ministry for the purposes of regulating the issuance of licences and permits of mineral rights and dealings in minerals;

“community” has the meaning assigned to it in the Act;

“Corporation” means the National Mining Corporation established in section 22 of Act;

“County Government” means the County Government provided for under Article 176 of the Constitution of Kenya;

“dealer's licence” means a mineral dealer's licence or diamond dealer's licence issued under the Act;

“dealer's permit” means a mineral dealer's permit issued under the Act;

“mineral related activities” means any activity involving the reconnaissance and prospecting of minerals or dealings in minerals under the Act or any regulations made thereunder;

“mining related activities” means any activity associated with mining operations;

“Ministry” means the Ministry for the time being responsible for matters relating to mining; and

“payment” means an amount paid, whether in money or in kind for any mining or mineral related activities, where the payment is of the following categories—

- (a) corporate tax or net profit tax of a holder, excluding taxes levied on consumption such as value added taxes and personal income taxes;
- (b) royalties;
- (c) dividends paid to the state as a shareholder or holder of a free-carried interest pursuant to the Act; or
- (d) application fees, licence fees, permit fees, ground rent, cess, levies, penalties or other charges as may be prescribed by the Cabinet Secretary or under any other written law.

### 3. Application of Regulations

These Regulations shall apply to holders of—

- (a) mineral rights;

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[Subsidiary]

- (b) mineral dealers' licences; and
- (c) mineral dealer's permits.

#### 4. Obligation to submit reports

(1) Every holder, including the Corporation shall, not later than thirty days after the end of every quarter, submit to the Cabinet Secretary a report on—

- (a) payments disaggregated by mineral type made to the National Government, a county government or the community;
- (b) sales volumes disaggregated by the type of mineral; and
- (c) gross revenue from the sale of minerals.

(2) A report under sub regulation (1) shall be signed by the director or authorised officer of the holder.

(3) A holder including the Corporation shall submit to the Cabinet Secretary, not later than the first day of March every year, a report on—

- (a) payments disaggregated by mineral type, made to the National Government, a county government, the community or any government agency;
- (b) quantity of ore extracted and processed and the disaggregated production volumes of all minerals;
- (c) the sales volumes disaggregated for all dealings in minerals;
- (d) the gross revenue from the sale of minerals disaggregated by type of mineral;
- (e) the total number of persons directly employed by the holder including expatriates if any;
- (f) the identities of beneficial owners for privately owned companies or entities.

(4) A report under sub regulation (3) shall be signed by the director or authorised officer of the holder.

(5) The Cabinet Secretary may, in writing require a holder to provide within the period specified in the request, any information or order an audit of the records of payments of the holder for the year to which the report relates.

(6) The Cabinet Secretary may appoint an auditor to verify all disclosed company or individual payments and government revenues and to highlight any discrepancies in the information submitted by the holder under this regulation.

(7) Every report submitted by the auditor, shall within thirty days of receipt by the Cabinet Secretary, be published on the website of the Ministry.

(8) The Cabinet Secretary shall implement the recommendations made by the auditor.

#### 5. Obligation to prepare reports by the Cabinet Secretary

(1) The Cabinet Secretary shall prepare an annual report on—

- (a) all payments made to the National Government or any of its agencies, a county government and community by every holder of—
  - (i) a mineral right; and
  - (ii) a mineral dealer's licence or mineral dealer's permit.
- (b) the quantity of ore extracted, processed and production volumes of all minerals;
- (c) the sales volumes of all dealings in minerals; and
- (d) the gross revenue from the sale of minerals.

(2) The report in sub regulation (1) shall include the following—

- (a) the total amount paid to the National Government, a county government and the community;
- (b) payment disaggregated by type of mineral right and all categories of payment;



- (c) production volumes including corresponding mineral concentrations and estimated market rates disaggregated by type of mineral right and mineral;
- (d) gross revenue from the sale of all minerals by holders of mining licences and mining permits disaggregated by type of mineral;
- (e) gross revenue and sales volume of dealings in minerals disaggregated by type of licence, permit and mineral;
- (f) number of each type of mineral right applied for during year, together with number granted and number rejected;
- (g) total land area or blocks for each type of mineral right held at the end of the reporting year;
- (h) total number of each type of mineral right in force at end of the year;
- (i) number of mineral agreements entered into during the year;
- (j) number of mines that commenced production during the year;
- (k) number of operating mines;
- (l) total number of community agreements in force at end of the year;
- (m) identities of beneficial owners of mineral rights; and
- (n) any other information that the Cabinet Secretary may deem necessary.

(3) Where payments in kind are made to the National Government, a county government or community, the report shall state the nature and value of such payments as well as supporting notes to explain how the value has been determined.

## **6. Publication of reports**

(1) The Cabinet Secretary shall, not later than ninety days after the end of the calendar year, publish the report required under regulation 5 on the website of the Ministry.

(2) A quarterly report, prepared under regulation 4(1), shall be published on the website of the Ministry not later than sixty days after the end of every quarter.

## **7. Obligation to publish mineral agreements and mineral rights**

(1) All mineral agreements shall be published by the Cabinet Secretary on the website of the Ministry within thirty days after ratification by Parliament.

(2) The Cabinet Secretary shall ensure that all mineral rights that are granted under the Act, are made available to the public on the Cadastre within thirty days from the date of grant.

(3) Without limiting the scope of sub- regulation (2), all mineral rights that were granted before the commencement of the Act, and are still valid after coming into force of the Act shall be made available to the public on the Cadastre within six months after the coming into force of these Regulations.



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**THE MINING (STRATEGIC MINERALS) REGULATIONS**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation
  2. Interpretation
  3. Purpose of the Regulations
  4. Application of the Regulations
  5. Discovery under a pre-existing mineral right
  6. Approvals and regulatory oversight
  7. Power of the Cabinet Secretary to publish guidelines
  8. Role of the National Mining Corporation
  9. Submission of request to declare a mineral or mineral deposit as strategic
  10. Procedure to declare a mineral or mineral deposit as strategic
-



**THE MINING (STRATEGIC MINERALS) REGULATIONS**

[Legal Notice 149 of 2017]

**1. Citation**

These Regulations may be cited as the Mining (Strategic Minerals) Regulations.

**2. Interpretation**

In these Regulations, unless the context otherwise requires—

“Act” means the Mining Act (Cap. 306);

“agency” means a Ministry, Department or any public institution of the Government or any authority or body established by the State under the Constitution;

“Corporation” means the National Mining Corporation established in section 22 of Act;

“holder” has the meaning assigned to in the Act;

“strategic mineral” has the meaning assigned to it in the Act; and

“strategic mineral deposit” means a mineral deposit declared to be strategic under these Regulations.

**3. Purpose of the Regulations**

The purpose of these Regulations is to—

- (a) provide a framework for declaring minerals and mineral deposits as strategic;
- (b) regulate the manner in which strategic minerals may be explored, mined, processed, marketed, exported and imported; and
- (c) ensure that the exploration and mining of strategic minerals is carried out in a manner that benefits the country and protects the environment.

**4. Application of the Regulations**

These Regulations shall—

- (a) apply to all minerals and mineral deposits declared as strategic by the Cabinet Secretary;
- (b) apply to the export and import of a strategic mineral for purposes of controlling its sale, marketing or use;
- (c) apply to all radioactive minerals;
- (d) not apply to a holder of a licence or permit for a mineral which is declared as strategic during the term of the licence or permit; and
- (e) not apply to a reconnaissance or prospecting permit or licence that is to be converted to a mining permit or licence at the time the mineral is declared strategic.

**5. Discovery under a pre-existing mineral right**

(1) In the event that a holder of an existing mineral right discovers within its licence or permit area a mineral with potential economic value that has been declared strategic but not included in the holder's licence or permit, the holder shall immediately report the discovery to the Cabinet Secretary.

(2) The holder shall have the right to continue with all activities or operations within the licence or permit area in accordance with the approved work programme or programme of mining operations.

(3) The Cabinet Secretary shall within thirty days of receipt of the report under sub regulation (1), send a team to assess and submit a report on the discovery.

[Subsidiary]

(4) The Cabinet Secretary shall, based on the report submitted under sub regulation (3), determine whether the mineral or the deposit may be explored or mined.

(5) Any decision to explore or mine the mineral shall take into consideration the rights of the holder.

(6) Under no circumstances shall the discovery or declaration of strategic minerals be treated as a nationalisation or expropriation of the mineral right of the holder

## **6. Approvals and regulatory oversight**

(1) Subject to the Act, the Cabinet Secretary may, on the advice of the Mineral Rights Board and with the approval of the Cabinet, declare—

- (a) a mineral or mineral deposit to be strategic; or
- (b) areas to be restricted or excluded from operations under a mineral right.

(2) The Cabinet Secretary shall, in consultation with National Environment Management Authority or other relevant agency, determine whether the exploration or mining of a strategic mineral would significantly affect the natural environment or human health as provided under the relevant laws.

(3) A regulatory authority that is tasked with regulating the use of specific strategic minerals, shall serve as the lead institution in the regulation of the mineral for any use that is included under the mandate of that regulatory authority.

(4) All mining regulations and guidelines shall apply to strategic minerals and strategic mineral deposits.

## **7. Power of the Cabinet Secretary to publish guidelines**

(1) Subject to section 221 of the Act, the Cabinet Secretary may, from time to time publish and disseminate guidelines for—

- (a) the exploration for and reporting of exploration results for strategic minerals;
- (b) mining, processing and beneficiation of strategic minerals;
- (c) the import, export and marketing of strategic minerals;
- (d) the exploration of a strategic mineral found during the exploitation of a mineral which has not been declared as strategic;
- (e) a strategic mineral which is recovered as a by-product of a mineral which has not been declared as strategic; and
- (f) any other matter that the Cabinet Secretary may consider necessary.

(2) The guidelines under sub regulation (1) shall be published in the Gazette.

## **8. Role of the National Mining Corporation**

(1) The Corporation, either on its own or in association with any other person or company, shall be responsible for the exploration and mining of all strategic minerals or deposits.

(2) Without limiting the scope of sub regulation (1), the Corporation shall be responsible for—

- (a) engaging in the reconnaissance, prospecting and mining of a strategic mineral or strategic mineral deposit or any other related mineral activity;
- (b) the processing, refining or smelting of a strategic mineral;
- (c) the marketing or sale of a strategic mineral;
- (d) import and export of a strategic mineral; and
- (e) any other functions that the Cabinet Secretary with the approval of the Cabinet may assign to the Corporation in respect of strategic minerals.

(3) Where it is determined by the Cabinet Secretary that the Corporation does not have the necessary technical, financial or other capacity to effectively explore, mine, refine, smelt,

process or market the strategic mineral or mineral deposit, the Cabinet Secretary with the approval of the Cabinet may authorise the Corporation to seek private sector participation.

#### **9. Submission of request to declare a mineral or mineral deposit as strategic**

An agency may, submit a request to the Cabinet Secretary to declare a mineral or mineral deposit as strategic.

#### **10. Procedure to declare a mineral or mineral deposit as strategic**

(1) Where the Cabinet Secretary deems it necessary for a mineral or mineral deposit to be declared strategic, the Cabinet Secretary shall submit to the Cabinet a request together with a memorandum detailing—

- (a) the area in which the mineral or deposit is located;
- (b) the reasons why it is in Kenya's interests that the mineral or mineral deposit be declared as strategic;
- (c) information about the relevant market for the mineral including its uses;
- (d) the economic significance of the mineral to the country;
- (e) the safety or health dangers of the exploration and mining of the mineral;
- (f) estimated current market value of the mineral; and
- (g) any other reasons why the mineral or mineral deposit should be declared as strategic.

(2) Where the Cabinet approves the request, the Cabinet Secretary shall—

- (a) publish the declaration in the Kenya Gazette and the website of the Ministry; and
- (b) record in the mining cadastre, the location of any declared strategic mineral or declared strategic mineral deposits.

(3) Where the Cabinet rejects the request, the Secretary to the Cabinet shall furnish the Cabinet Secretary with the decision in writing within seven days thereof.





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**THE MINING (GEMSTONE IDENTIFICATION AND  
VALUE ADDITION) (FEES) REGULATIONS, 2023**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation
2. Application
3. Fees

SCHEDULES

FEES FOR GEMSTONE IDENTIFICATION AND VALUE ADDITION

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**THE MINING (GEMSTONE IDENTIFICATION AND  
VALUE ADDITION) (FEES) REGULATIONS, 2023**

[Legal Notice 75 of 2023]

**1. Citation**

These Regulations may be cited as the Mining (Gemstone Identification and Value Addition) (Fees) Regulations, 2023.

**2. Application**

These Regulations shall apply to gemstone identification and value addition at the Voi Gemstone Centre.

**3. Fees**

The fees set out in the Schedule shall apply to the matters respectively indicated.

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## SCHEDULE

[r. 3]

## FEES FOR GEMSTONE IDENTIFICATION AND VALUE ADDITION

Service	Description	Fees in Kshs.			
Identification	Identification Certificate. Gives complete Lab report on the gemstone characteristics	500			
Sawing	Reduction in Size per piece	100			
Faceting	Category 1	0.1ct-0.5ct	0.5ct-2.0ct	3.0ct-4.0ct	Above 4ct
	1. Corundum 2. Tsavorite 3. Tanzanite 4. Spinel 5. Emerald 6. Zircon 7. Demantoid 8. Alexandrite	500KSh. per piece	500KSh. per piece	1000KSh. Per piece	2000KSh. Per piece
	Category 2	0.1ct-0.9ct	1.0ct-3.0ct	4.0ct and above	Special Stones>5.0ct
	1. Aquamarine 2. Tourmaline 3. Rhodolite 4. Pyrope 5. Quartz 6. Spessartite 7. Malaya-garnet 8. Iolite 9. Hessonite 10. Change color garnet	300Ksh. Per piece	300Ksh. Per piece	500Ksh. per piece	1000Ksh. Per piece
Tumbling	Bulk material for bead work, Cabochon material in kilograms	2,500Ksh per kg			
Gabbing	Cabochon material using cabbng Machine per piece	500Ksh. Per piece			

