

GOVERNMENT NOTICE NO. 3 published on 10/01/2018

THE MINING ACT,
(CAP. 123)

REGULATIONS

(Made under sections 102 and 112)

THE MINING (LOCAL CONTENT) REGULATIONS, 2018

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THE MINING ACT,
(CAP. 123)

REGULATIONS

(Made under sections 102 and 112)

THE MINING (LOCAL CONTENT) REGULATIONS, 2018

PART I

PRELIMINARY PROVISIONS

Citation

1. These Regulations may be cited as the Mining Local Content Regulations, 2018.

Application

2. These Regulations apply to local content with respect to mining activities.

Interpretation

3. In these Regulations, unless the context otherwise requires-

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"Act" means the Mining Act;

"Award Notification Form" means a form issued by a contractor or licensee to inform a successful bidder of an award of a contract;

"bid rigging" means the manipulation of a bid process by dishonest means;

"cartelization" means a collection of businesses that act together as a single producer and agree to

influence prices for certain goods and services by controlling the supply through production and marketing activities;

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"Commission" means the Mining Commission established by the Act;

"Committee" means the Local Content Committee established under these Regulations established under these regulation;

"common qualification system" means a centralized system of pre-qualifying service providers in mining industry based on capacities, capabilities and local content strength to enable ranking and categorization of the service providers as well as tracking and monitoring their performance;

"contractor" means a person who has entered into a mining agreement with the United Republic to undertake mining exploration and production activities under the Act;

"corporation" means the entity to be established or designated as such to for purposes of holding control of Government mineral assets;

"front" means to deceive or behave in a particular mannerintended to conceal the fact that a company is not an indigenous Tanzanian company;

"in-country spend" means the amount of money spent in Tanzania in relation to the mining activities carried by the mining company;

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"indigenous Tanzanian company" means a company incorporated under the Companies Act that -

- (a) has at least fifty-one percent of its equity owned by a citizen or citizens of Tanzania; and
- (b) has Tanzanian citizens holding at least eighty percent of executive and senior management positions and one hundred percent of non-managerial and other positions;

"licensee" means a person granted a licence to undertake mining activities;

"local content" means the quantum or percentage of locally produced materials, personnel, financing, goods and services rendered in the mining industry value chain and which can be measured in monetary terms;

"local content monitoring" means keeping track of, or monitoring compliance with these Regulations;

"long term local content plan" means a local content plan that covers a period of five years as specified in the First Schedule;

"National Policy on Local Content" means the Local Content and Local Participation in Mining Activities Policy Framework issued by the Ministry responsible for minerals;

"mining activities" means any activity engaged in within and outside Tanzania related to the exploration for, development and production of minerals, the acquisition of data, mining and extraction or

mining of minerals, storage, transportation and decommissioning and the planning, design, construction, installation, operation and use of any facility for the purpose of the mining operations;

"mining operations" means operations carried out in the course of undertaking mining activities;

"mining industry value chain" means the processes involved in the mining industry such as exploration, development and production, transportation, processing and marketing;

"qualified" means technical competence and financial capability to fulfil all obligations under a mining agreement or mining license;

"subcontractor" means a third party to whom the Corporation or a contractor has entered into a mining contract for the provision of services for Mining operations;

"technical core staff" includes geologists, engineers and technicians;

"value-addition" means the economic improvement of a product or service in the mining industry.

Objectives

4. The objectives of these Regulations are to-

- (a) promote the maximization of value-addition and job creation through the use of local expertise, goods and services, businesses and financing in the mining industry value chain and their retention in Tanzania;

- (b) develop local capacities in the mining industry value chain through education, skills transfer and expertise development, transfer of technology and know-how and active research and development programmes;
- (c) achieve the minimum local employment level and in-country spend for the provision of the goods and services in the mining industry value chain as specified in the First Schedule;
- (d) increase the capability and international competitiveness of domestic businesses;
- (e) create mining and related supportive industries that will sustain economic development;
- (f) achieve and maintain a degree of control by Tanzanians over development initiatives for local stakeholders;
- (g) provide for a robust and transparent monitoring and reporting system to ensure delivery of local content policy objectives;
- (h) provide for the submission of the local content plan and related sub-plans by contractors, subcontractors, licensees and any other allied entity involved in the mining industry including-
 - (i) the provision of goods and services;
 - (ii) the transfer to the Corporation or the Commission and Tanzanians of advanced technology and skills related to mining activities;
 - (iii) a recruitment and training programme; and
- (i) supervise and coordinate the implementation and monitoring of local content.

PART II

ADMINISTRATIVE PROVISIONS

Local Content
Committee

5.-(1) There shall be established a Local Content Committee for the mining activities.

(2) The Committee shall have the following members:

- (a) one full time member of the Commission who shall be the Chairman;
- (b) the Director of Labour and Employment;
- (c) a representative of the Tanzanian Private Sector Foundation;
- (d) the Chief Executive Officer of the Geological Survey of Tanzania;
- (e) the head of legal services department of the Ministry responsible for Minerals; and
- (f) the Executive Secretary of the Commission.

(3) The Chairman of the local content committee shall be appointed by the Chairman of the Commission.

Functions of the
Committee

6.-(1) The Committee shall be responsible for overseeing the implementation of these Regulations and ensuring measurable and continuous growth in local content in all mining activities..

(2) Without prejudice to the generality of sub-regulation (1), the Committee shall-

- (a) oversee, coordinate, and manage the development of local content;
- (b) prepare guidelines, to include targets and formats for local content plans and reporting;

- (c) make appropriate recommendations to the Commission for smooth implementation of these Regulations;
- (d) set minimum standard requirements for local content in local content plans where applicable;
- (e) undertake public education;
- (f) undertake local content monitoring and audit; and
- (g) perform any other functions conferred on the Committee by the Commission.

(3) The Committee shall submit quarterly reports of its activities to the Commission.

Local content
requirement

7. A contractor, subcontractor, licensee, the Corporation or other allied entity carrying out a mining activity shall ensure that local content is a component of the mining activities engaged in by that contractor, subcontractor, and licensee, the Corporation or other allied entity.

Interest of a citizen
in mining
operations

8.-(1) An indigenous Tanzanian company shall be given first preference in the grant of a mining license with respect to mining activities subject to the fulfillment of conditions specified in these Regulations.

(2) There shall be at least a five percent equity participation of an indigenous Tanzanian company other than the Corporation to be qualified for grant of a mining licence.

(3) Despite sub-regulation (2), the Minister may vary the requirement specified in that sub-regulation, in circumstances where an indigenous Tanzanian company is unable to satisfy the requirement of five percent equity participation.

(4) For the purpose of sub regulation (2), the Minister shall determine the persons qualified.

(5) The interest of an indigenous Tanzanian company arising from a mining license is not transferable to a non-indigenous Tanzanian company.

(6) A non-indigenous Tanzanian company which intends to provide goods or services to a contractor, a subcontractor, licensee, the Corporation or other allied entity within Tanzania shall incorporate a joint venture company with an indigenous Tanzanian company and afford that indigenous Tanzanian company an equity participation of at least twenty percentum.

(7) A contractor, subcontractor, licensee or other allied entity shall before the commencement of mining activities submit a plan to the Commission specifying-

- (a) the role and responsibilities of the indigenous Tanzanian company;
- (b) the equity participation of the indigenous Tanzanian company; and
- (c) the strategy for the transfer of technology and know-how to the indigenous Tanzanian company.

PART III

LOCAL CONTENT PLAN

Setting up local office

9. As far as practicable, before carrying out any work or activity in the mining industry a contractor, subcontractor, licensee or other allied entity shall set up a project office within the district where the project is located.

Submission of local content plans for approval

10.-(1) A contractor, subcontractor, licensee or other allied entity shall when making application to undertake mining activity prepare and submit a local content plan for approval by the Commission.

(2) For purposes of sub-regulation (1) a contractor, subcontractor, licensee, or other allied entity shall submit to the Commission-

- (a) a long term local content plan which corresponds with the work programme that accompanies the application; and
- (b) an annual local content plan in respect of each year.

(3) The Commission shall, within seven working days of the receipt of a local content plan, acknowledge receipt and submit the local content plan to the Committee.

Review of local
content plan

11.-(1) The Committee shall within twenty-five working days of the receipt of the local content plan submitted under regulation 7(3), review and assess the plan and inform the Commission in writing of the recommendations of the Committee.

(2) The Committee shall, if satisfied that the plan complies with the requirements of these Regulations, recommend the local content plan to the Commission for approval.

(3) Where the Committee is dissatisfied with the local content plan, it shall recommend that the Commission reject the plan and it shall state the reasons for the recommendation.

(4) The Committee may for the purpose of reviewing or assessing the local content plan-

- (a) provide as far as practicable to persons involved in the mining industry or likely to be affected by the decision a reasonable opportunity of being heard; and

- (b) take into account any representation made before submitting its recommendation to the Commission.

(5) The Commission shall approve the local content plan if it is satisfied that the local content plan complies with the provisions of these Regulations and shall communicate its decision to the applicant within seven working days of the approval of the recommendations of the Committee.

(6) Where, based on the recommendations made by the Committee, the Commission determines not to approve the local content plan in whole or in part, the Commission, shall within seven working days of making the determination, notify the applicant and furnish the applicant a written statement of the reasons for rejection by the Commission to approve the local content plan.

(7) Where the Commission rejects to approve the local content plan submitted by the applicant, the applicant shall

- (a) revise the local content plan taking into account the recommendations of the Commission; and
- (b) within fourteen working days, submit the revised local content plan to the Commission.

(8) Where the Commission fails to notify the applicant of its approval or otherwise of the revised local content plan, the revised local content plan shall be deemed to have been approved upon expiry of fifty working days of the submission.

Content of the local
content plan

12.-(1) The local content plan submitted to the Commission by a contractor, subcontractor, licensee or other allied entity shall contain detailed provisions-

(a) to ensure that-

(i) first consideration is given to services provided within the country and goods manufactured in the country where the goods meet the specifications of the mining industry as established by the Standards Authority or by other internationally acceptable standards;

(ii) qualified Tanzanians are given first consideration for employment; and

(iii)adequate provision is made for the training of Tanzanians on the job;

(b) on how the contractor, subcontractor, licensee or other allied entity intends to guarantee the use of locally manufactured goods where the goods meet the specifications of the mining industry.

(2) A collective bargaining agreement entered into by a contractor, subcontractor, licensee or other allied entity in respect of the terms and conditions of employment of an association of employees shall be in accordance with the Employment and Labour Relations Act.

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(3) Without limiting sub-regulations (1) and (2), a local content plan shall have the following sub-plans:

(a) an Employment and Training Sub-Plan;

(b) a Research and Development Sub-Plan;

(c) a Technology Transfer Sub-Plan;

(d) a Legal Services Sub-Plan; and

(e) a Financial Services Sub-Plan.

Minimum local
content levels

13.-(1) The minimum local content for any mining activity in Tanzania shall be of the levels specified in the First Schedule.

(2) A contractor, subcontractor, licensee, the Corporation or other allied entity shall achieve the minimum local content levels specified in the First Schedule.

(3) Without limiting sub-regulation (2), the Commission shall take into account the work programme of a contractor, subcontractor, licensee, the Corporation and other allied entity specified in the respective mining licence in determining the minimum local content levels to be achieved;

(4) Notwithstanding sub-regulation (2) the Minister in consultation with the Commission, may prescribe any additional the minimum local content level specified in the First Schedule.

Preference to
indigenous
Tanzanian
companies

14.A contractor, subcontractor, licensee or other allied entity shall establish and implement a bidding process for the acquisition of goods and services to give preference to indigenous Tanzanian companies.

Basis of bid
evaluation

15.-(1) A contractor, subcontractor, licensee or other allied entity shall not award a contract based solely on the principle of the lowest bidder.

(2) Where an indigenous Tanzanian company has the capacity to execute a job, that indigenous Tanzanian company shall not be disqualified exclusively on the basis that it is not the lowest financial bidder.

(3) Where the total value of the bid by a qualified indigenous Tanzanian company does not exceed the lowest bid by more than ten percent, the contract shall be awarded to that indigenous Tanzanian company.

(4) Where during an evaluation of bids, the bids are adjudged to be equal, the bid containing the highest level of local content shall be selected.

(5) Where a non-indigenous Tanzanian company is required to provide goods and services to a contractor, subcontractor, licensee, or other allied entity, that non indigenous Tanzanian company shall-

- (a) incorporate a company in Tanzania and operate it from Tanzania; and
- (b) provide the goods and services in association with an indigenous Tanzanian company, where practicable.

(6) The Commission shall establish bid evaluation guidelines in accordance with applicable laws and regulations for ensuring that the year on year progression of the local content objectives of these Regulations are met.

Submission of
proposed contracts

16.-(1) A contractor, subcontractor, licensee or other allied entity shall inform the Commission in writing of each proposed contract or purchase order-

- (a) related to mining activities which is to be sole sourced; or
- (b) where it is to be sourced by a competitive bidding procedure that is estimated to be in excess of the shilling equivalent of one hundred thousand United States Dollars.

(2) A contractor, subcontractor, licensee or other allied entity shall submit the following documents for the approval of the Commission:

- (a) advertisements relating to expression of interest;
- (b) requests for proposals;
- (c) prequalification criteria;

- (d) technical bid documents;
- (e) technical evaluation criteria; and
- (f) any other information requested by the Commission to enable the Commission determine that the local content requirements have been complied with.

(3) The Commission shall, within ten working days of receipt of the documents, communicate its decision to the contractor, subcontractor, licensee or other allied entity.

(4) Where the Commission without good cause fails to communicate its decision to the contractor, subcontractor, licensee or other allied entity within the period specified in sub-regulation (3), the documents shall be deemed approved.

Submission of
quarterly forecasts

17.-(1) Without limiting the requirements of regulations 13, a contractor, subcontractor, licensee or other allied entity shall not later than the first day of each quarter submit to the Commission a list of-

- (a) contract of purchase orders to be sole sourced; and
- (b) contracts or purchase orders estimated to exceed the equivalent of one hundred thousand United States Dollars and intended to be tendered for or executed in the next quarter.

(2) A contractor, subcontractor, licensee or other allied entity shall provide information specified in the Second Schedule in respect of each contract or purchase order.

Documents
required for
bidding process

18.-(1) A contractor, subcontractor, licensee or other allied entity shall provide the Commission with the following information at the various stages of the bidding process-

- (a) before issuing a prequalification notification to prospective bidders, the information specified in Part A of the Third Schedule;
- (b) before issuing a Request for Proposals or a Request for Quotations, the information specified in Part B of the Third Schedule; and
- (c) before awarding of a contract or purchase order to the selected bidder, the information specified in Part C of the Third Schedule.

(2) The Commission shall confirm that each document submitted is satisfactory or otherwise provide written comments on the document submitted during the bidding process within fourteen working days of the receipt of the document.

(3) Where the Commission, without good cause fails to acknowledge receipt of the documents submitted by the contractor, subcontractor, licensee or other allied entity within the period specified in sub-regulation (2), the submission shall be deemed as approved.

Review of contract

19.-(1) The Commission shall, where it considers necessary, review some contracts.

(2) The Commission shall, within seven working days of the commencement of a quarter of the year, advise the contractor, subcontractor, licensee or allied

entity of which contracts have been chosen for review by the Commission.

(3) The Commission shall inform the contractor, subcontractor, licensee or other allied entity of the outcome of the review or assessment before the first day of the relevant quarter.

PART IV

EMPLOYMENT AND TRAINING SUB-PLAN AND SUCCESSION PLAN

Employment and
Training Sub-Plan

20.-(1) The Employment and Training Sub-Plan submitted by a contractor, subcontractor, licensee or other allied entity to the Commission with respect to a mining activity shall include-

(a) a forecast of the hiring and training needs of the contractor, subcontractor, licensee, or other allied entity which includes-

(i) a specification of the skills needed;

(ii) the anticipated skill shortages in the Tanzanian workforce;

(iii) the specific training requirements; and

(iv) the anticipated expenditure that will be incurred by the contractor, subcontractor, licensee or other allied entity in implementing the Employment and Training Sub-Plan as forecasted;

(b) a time frame within which the contractor, subcontractor, licensee or other allied entity will provide employment opportunities for the Tanzanian workforce for each phase of the Mining activity to enable members of the Tanzanian workforce prepare for such opportunities; and

(c) efforts made and procedures adopted for the accelerated training of Tanzanians.

(2) The contractor, subcontractor, licensee or other allied entity shall provide to the Commission a quarterly report on-

(a) employment and training activities for the reporting period; and

(b) a comparative analysis of the Employment and Training Sub-Plan and the employment and training activities to monitor compliance.

21.-(1) The quarterly report shall state the number of new Tanzanian employees employed during the respective quarter and their job descriptions.

(2) The Commission may request any further information the Commission considers necessary for the purpose of the implementation of these Regulations.

(3) Where Tanzanians are not employed because of lack of expertise, the contractor, subcontractor, licensee or other allied entity shall ensure, to the satisfaction of the Commission that every reasonable effort is made to provide training to Tanzanians in that field locally or outside Tanzania.

Succession plan

21.-(1) A contractor, subcontractor, licensee or other allied entity shall, as part of the Employment and Training Sub-Plan, submit to the Commission a succession plan for any employment position that is occupied by a non- Tanzanian to ensure that the minimum local content levels specified in the First Schedule are met.

(2) The succession plan shall make provision for and require Tanzanians to understudy the requirements of the position held by a non-Tanzanian for a period determined by the Commission on a case-by-case basis after which the position occupied by the non-Tanzanian shall be assumed by the Tanzania citizen.

Middle and junior
level positions

22.-(1) A contractor, subcontractor, licensee, or other allied entity engaged in mining activities shall employ only Tanzanians in junior level or middle level positions.

(2) For the purpose of this regulation, "junior or middle level positions" includes the position of foreman, supervisor or any corresponding position designated as such.

PART V PROGRAMME FOR RESEARCH AND RESEARCH DEVELOPMENT SUB-PLAN

Programme for
research,
development and
budget

23. A contractor, subcontractor, licensee or other allied entity shall, after grant of mining licence and before the commencement of Mining activities, submit a programme for research, development and budget to the Commission for the promotion of education, practical attachments, training and research and development in the country in relation to its overall work programme and activities.

Research and
Development Sub-
Plan

24.-(1) A Research and Development Sub-Plan submitted by a contractor, subcontractor, licensee or other allied entity to the Commission with respect to a mining activity shall-

- (a) outline a revolving three to five year programme for Mining related research and

development initiatives to be undertaken in the country;

- (b) provide details of the expected expenditure that will be made in implementing the Research and Development Sub-Plan;
- (c) provide for public calls for proposals for research and development initiatives associated with the activities of the contractor, subcontractor, licensee or other allied entity and criteria for selecting proposals which qualify for support.

(2) The contractor, subcontractor, licensee or other allied entity shall-

- (a) update its Research and Development Sub-Plan annually; and
- (b) submit the updated Research and Development Sub-plan to the Commission for review and approval.

PART VI

TECHNOLOGY TRANSFER PROGRAMMES AND REPORTS

National plan on
technology transfer

25. The Commission shall, in consultation with the Planning Commission, relevant Ministries, Government Departments and agencies identified by the Commission-

- (a) develop the national policy on technology transfer with respect to the mining industry; and
- (b) publish the national policy in the *Gazette* and a newspaper of wider national circulation.

Technology
transfer programme

26. A contractor, subcontractor, licensee, or other allied entity shall support and carry out a programme in accordance with the national plan on technology transfer

and priorities for the promotion of technology transfer to Tanzania in relation to the mining industry.

Technology
transfer Sub-Plan

27.A Technology Transfer Sub-Plan submitted by a contractor, sub-contractor, licensee or other allied entity shall include a programme of planned initiatives aimed at promoting the effective transfer of technologies from the contractor, subcontractor, licensee or other allied entity to a Tanzanian indigenous company or citizen.

Support for
technology transfer

28.-(1) A contractor, subcontractor, licensee or other allied entity shall support and facilitate technology transfer as regards the formation of joint ventures, partnering of licensing agreements between indigenous Tanzanian companies or citizens and foreign contractors and service companies or supply companies.

(2) The Minister shall consult with relevant Government agencies to propose fiscal incentives to assist:

- (a) foreign companies which aim to develop technological capacity and skills of citizens; and
- (b) indigenous Tanzanian companies which establish factories and production units in the country.

(3) For purposes of sub-regulation (2), the Government agencies consulted shall collaborate with the Commission.

(4) The Commission shall propose criteria for obtaining fiscal incentives.

Technology
transfer report

29.A contractor, subcontractor, licensee or other allied entity shall submit a technology transfer report annually to the Commission stating the technology transfer initiatives being pursued and the current results in relation to the Technology Transfer Sub-Plan.

PART VII

LOCAL INSURANCE SERVICES CONTENT

Insurance and
reinsurance

30.-(1) A contractor, subcontractor, licensee or other allied entity engaged in a mining activity in the country shall comply with the provisions of the Insurance Act.

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(2) The insurable risks relating to mining activity in the country shall be insured through an indigenous brokerage firm or where applicable on indigenous a reinsurance broker.

Approval of
offshore insurance

31.-(1) A person who seeks to obtain offshore an insurance service relating to a Mining activity in the country shall obtain written approval of the Commission of Insurance.

(2) In granting an approval for procuring insurance services offshore, the National Insurance Commission shall ensure that Tanzanian local capacity has been fully exhausted.

PART VIII

LEGAL SERVICES CONTENT

Legal services

32.A contractor, subcontractor, licensee or an allied entity engaged in a mining activity that requires legal services in the country shall retain only the services of a Tanzanian legal practitioner or a firm of Tanzanian legal practitioners whose principal office is located in Tanzania.

Legal Services
Sub-Plan

33.The Legal Services Sub-Plan submitted to the Commission shall include-

- (a) a comprehensive report on legal services utilized in the preceding six months by expenditure;

- (b) forecast of legal services required during the ensuing six months where applicable, and the projected expenditure for the services; and
- (c) annual legal services budget for the ensuing year quoted in Tanzania Shilling and United States Dollars.

PART IX

FINANCIAL SERVICES CONTENT

Financial services

34.-(1) A contractor, subcontractor, licensee or other allied entity that requires financial services with respect to a mining activity shall retain only the services of a Tanzanian financial institution or organization.

(2) Despite sub-regulation (1), a contractor, subcontractor, licensee or an allied entity may with the approval of the Commission engage the services of a foreign financial institution or organization.

Financial Services
Sub-Plan

35. A contractor, subcontractor, licensee or an allied entity who has submitted a Financial Services Sub-Plan to the Commission shall specify the following:

- (a) the financial services utilized in the preceding six months by expenditure;
- (b) a forecast of financial services required in the ensuing six months and the projected expenditure for the financial services; and
- (c) a list of financial services utilized in the preceding six months, the nature of financial services provided and the expenditure for the financial services made by the contractor, subcontractor, licensee or other allied entity.

Operation of bank
account in
Tanzania

36.-(1) A contractor, subcontractor, licensee or other allied entity shall maintain a bank account with an indigenous Tanzanian bank and transact business through banks in the country.

(2) For the purpose of this regulation, "an indigenous Tanzanian bank" means a bank that has one hundred percent Tanzanian or a majority Tanzanianshareholding.

PART X

LOCAL CONTENT PERFORMANCE REPORTING

Requirement for
submitting local
content
performance report

37.-(1) A contractor, subcontractor, licensee or other allied entity shall within forty-five days of the beginning of each year after commencement of mining activities submit to the Commission an annual Local Content Performance Report covering all its projects and activities for the year under review.

(2) The report shall be in a format prescribed by the Commission and shall-

- (a) specify by category of expenditure the local content on both current and cumulative cost basis; and
- (b) Show the employment achievement in terms of hours worked by Tanzanians and foreigners as well as their job positions and remuneration.

Assessment of
performance report

38.-(1) The Commission shall, within fifty working days after receipt of the Local Content Performance Report, assess and review the Local Content Performance Report to ensure compliance with these Regulations.

(2) For purposes of assessment and verification of the report, a contractor, subcontractor, licensee or an allied entity shall allow an employee or a designated agent of the Commission access to their facilities,

documents and information as the Commission may require.

Requirement for
third party
reporting

39.-(1) A contractor, subcontractor, licensee or other allied entity shall ensure that its partners, contractors, subcontractors and allied entity are contractually bound to report local content information to the contractor, subcontractor, licensee or other allied entity and, if requested, to the Commission.

(2) A contractor, subcontractor, licensee or other allied entity shall allow an agent or official designated by the Commission access to the records of the contractor, subcontractor, licensee or an allied entity for purposes of assessment and verification of the local content information reported to the contractor, subcontractor, licensee or other allied entity or the Commission.

PART XI

DATA AND INFORMATION ON LOCAL CONTENT

Establishment of a
Common
Qualification
System

40.-(1) The Commission shall, in consultation with stakeholders in the mining industry, establish a Common Qualification System.

(2) The Commission shall manage the Common Qualification System in accordance with these Regulations.

Object of the
Common
Qualification
System

41.(1) The objective of the Common Qualification System shall serve as the sole system for the registration and pre-qualification of local content in the mining industry.

(2) For the purpose of sub-regulation (1), Common Qualification System shall be used for-

- (a) the verification of contractors' capacities and capabilities;
- (b) the evaluation of application of local content submitted by a contractor, subcontractor, licensee or other allied entity;
- (c) the tracking and monitoring of performance and provision of feedback; and
- (d) ranking and categorization of mining service companies based on capabilities and local content.

Availability of
information

42.-(1) Any person may during working hours:

- (a) access and inspect records that relate to local content kept by the Commission and designated as public records; or
- (b) request to be furnished with a certified copy or extract from any document that that person is entitled to access.

(2) The right of a person to inspect or obtain a copy of a recordfiled or kept in electronic form by the Commission shall extend only to the reproductions of the document in written form in a manner that the Commission determines.

(3) An application for an extract or a certified copy of record requested shall be accompanied by a fee determined by the Commission.

(4) The Commission shall publish on its website,information relating to these Regulations and local content and local participation requirements generally.

Public education

43. The Commission shall ensure that public education is undertaken to educate contractors, subcontractors, licensees and other allied entities, the public and industry stakeholders to educate them about the local content policy and philosophy and to ensure the implementation of these Regulations.

Communication of
local content
policies

44.-(1) A contractor, subcontractor, licensee or other allied entity shall-

(a) communicate local content policies, procedures and obligations to any person engaged by that contractor, subcontractor, licensee or other allied entity to perform an aspect of a mining activity; and

(b) monitor and ensure compliance with local content policies, procedures and obligations.

(2) Notwithstanding sub-regulation (1), a contractor, subcontractor, licensee or other allied entity shall make available the local content policies, procedures and obligations of that contractor, subcontractor, licensee or other allied entity available on their respective websites.

PART XII

MONITORING, COMPLIANCE AND ENFORCEMENT

Electronic filing of
documents

45.-(1) The Commission may issue guidelines to provide for a system requiring documents under these Regulations to be filed in electronic form.

Cap...

(2) The system for filing of documents in electronic form shall be in accordance with the Electronic Transactions Act, and shall provide for-

(a) the criteria for authorizing persons to file documents in electronic form; and

(b) the security and authentication of the documents filed.

Establishment of
guidelines and
procedures

46.-(1) The Commission shall establish and constantly review guidelines and procedures for the effective implementation of these Regulations.

(2) Without limiting sub-regulation (1), the Commission shall, in consultation with relevant institutions, issue guidelines for compliance by a contractor, subcontractor, licensee and other allied entity in respect of the following:

- (a) requirements and targets for the growth of research and development of the Mining industry of the country;
- (b) minimum standards, facilities, personnel and technology for training in the Mining industry of the country;
- (c) Investment in or setting up a facility, factory, production unit or other operation in the country to carry out any production or manufacturing or to provide any Mining related service specified in Part Two of the First Schedule otherwise imported into the country; and
- (d) generally for the implementation of these Regulations.

Local content
monitoring

47. The Commission shall monitor and investigate the activities of each contractor, subcontractor, licensee and other allied entity to ensure the achievement of the purpose of these Regulations within the framework of the national policy on local content.

Investigations

48.-(1) The Commission may, for the purposes of enforcing these Regulation, initiate an investigation into an activity of a contractor, subcontractor, licensee or other allied entity.

(2) Without prejudice to sub-regulation (1), the Commission may launch investigations to ensure that-

- (a) the Tanzanian company principle is not diluted by the operation of a front; or
- (b) bid rigging and canalization are avoided in the procurement process.

PART XIII FINAL PROVISIONS

Offences and
penalties

49.-(1) A person who submits a plan, returns, report or other document and knowingly makes false statement, commits an offence and is liable on conviction to a fine of not less than fifty million shillings and not more than five hundred million or to a term of imprisonment of not less than two years and not more than five years or to both.

(2) A citizen who acts as a front or connives with a foreign citizen or company to deceive the Commission as representing an indigenous Tanzanian company to achieve the local content requirement under these Regulations, commits an offence and is liable on summary conviction to a fine of not less than one hundred million shillings and not more than two hundred and fifty million or to a term of imprisonment of not less than one year and not more than five years or to both.

(3) A person who connives with a citizen or an indigenous Tanzanian company to deceive the Commission as representing an indigenous Tanzanian company to achieve the local content requirement under these Regulations commits an offence and is liable on summary conviction to a fine of not less than ten hundred million shillings and not more than ten billion shillings or to a term of imprisonment of not less than five years and not more than ten years or to both.

(4) A person who fails to-

- (a) support and carry out a programme in accordance with the national plan on technology transfer;
- (b) support and facilitate technology transfer as regards the formation of joint ventures, partnering of licensing agreements between indigenous Tanzanian companies or citizens and foreign contractors and service companies or supply companies;
- (c) ensure that its partners, contractors, subcontractors and allied entities report local content information to the contractor; or
- (d) communicate local content policies, procedures and obligations to any person engaged by that contractor, subcontractor, licensee or other allied entity to perform an aspect of mining activity; and
- (e) support and carry out a programme in accordance with the national plan on technology transfer,

is liable to pay to the Commission an administrative penalty of one hundred million shillings in the first instance and a further penalty of five percent for each day during which the contravention continues.

(5) A person who fails to comply with a request to furnish information or a record under these Regulations within the period specified in the request is liable to pay to the Commission an administrative penalty two billion shillings in the first instance and a further penalty of ten percent of the penalty for each day during which information or record is unfurnished.

(6) A contractor, subcontractor, licensee or other allied entity that-

- (a) carries out mining activities without the required local content requirement in contravention of regulation 3;
- (b) fails to submit a local content plan in contravention of Regulation 7;
- (c) fails to satisfy the content requirement of a local content plan in contravention of Regulation 9; or
- (d) fails to inform the Commission of each proposed contract or purchase order in contravention of Regulation 13;

shall be liable to pay to the Commission a administrative penalty of five percent of the value of the proceeds obtained from the mining activity in respect of which the breach is committed or five million United States Dollars whichever amount is greater and further liable for cancellation of a contract in respect of the mining activity.

(7) A penalty required to be paid under this Regulation and which is not paid within the period specified in the notice shall be a debt owed to the Republic and recoverable by the Commission under summary procedure.

Complaints to
Minister

50. A person aggrieved by the decision of the Commission in relation to the implementation of these Regulations may lodge a complaint with the Minister who shall, within thirty days of receipt of the complaint, make a decision.

Transitional
provisions

51. Within three months after coming into force of these Regulations, a contractor, subcontractor, licensee, or other allied entity engaged in a mining activity shall

make arrangement and plan to the satisfaction of the Commission as are necessary for complying with these Regulations.

Mining (Local Content)

GN. No. 3 (contd)

FIRST SCHEDULE

(Regulations 13(2))

MINIMUM LOCAL CONTENT IN GOODS AND SERVICES

**A: LOCAL CONTENT LEVELS TO BE ATTAINED FROM DATE OF EFFECTIVENESS OF
LICENCE OR MINING AGREEMENT**

Item	Start	5 years	10 years
1.1. Goods and services	10%	50%	60-90%
1.2. Recruitment and training			
(a) Management staff	30%	50-60%	70-80%
(b) Technical core staff	20%	50-60%	70-80%
(c)			
(d) Other staff	80%	90%	100%

Mining (Local Content)

GN. No. 3 (contd)

B: SPECIFIC LEVELS TO BE ACHIEVED

(a) Research and Development relating to in-Country Services

Description	Start	5years	10 years	Measurement Unit
1.1. Engineering studies-reservoir, facilities, drilling etc.	20%	40%	60%	Spend
1.2. Geological and geophysical services	20%	30%	80%	Spend
1.3. Safety and environmental studies	40%	70%	90%	Spend
1.4. Local materials substitution studies	20%	40%	75%	Spend
1.5. Freight forwarding, logistic management services	80%	90%	100%	Spend
1.6. Supply base, warehouse, Storage services	50%	80%	90%	Spend
1.7. Truck package product, Transportation services	80%	90%	100%	Spend

Mining (Local Content)

GN. No. 3 (contd)

(b) Health, Safety and Environment Services

Description	Start	5years	10 years	Measurement Unit
(a) Site cleanup services	30%	60%	90%	Man Hour
(b) Pollution control	20%	30%	45%	Spend
(c) Waste water treatment and disposals services	40%	60%	80%	Man Hour
(d) Industrial cleaning services	50%	80%	90%	Man Hour
(e) Safety, protection security firefighting system services	30%	50%	90%	Spend
(f) Preservation of mechanical and electrical components services	30%	50%	90%	Man Hour
(g) Equipment brokerage services	50%	70%	90%	Spend
(h) Temporary accommodation, camp services	50%	60%	80%	Spend
(i) Catering Services	100%	100%	100%	Spend
(j) Cleaning and laundry services	100%	100%	100%	Spend
(k) Security services	100%	100%	100%	Spend
(l) Medical services	40%	60%	90%	Spend
(m) Other supporting services	50%	80%	90%	Spend

Mining (Local Content)

GN. No. 3 (contd)

(c) Information Systems, Information Technology and Communication Services

Description	Start	5years	10years	Measured Unit
(a) Network installation, support services	80%	90%	95%	Spend
(b) Software development	40%	60%	80%	Spend
(c) Software support services	60%	80%	90%	Spend
(d) Computer based modeling services	20%	50%	70%	Spend
(e) Computer based simulations and training programme services	20%	50%	70%	Spend
(f) Hardware installation support services	80 %	90%	100%	Spend
(g) Operating system installation and support services	80%	90%	100%	Spend
(h) User support and help desk services	20%	50%	80%	Spend
(i) Information Technology Management consultancy services	30%	50%	80%	Spend
(j) Data Management services	30%	50%	80%	Spend
(k) Telecommunication installation and Other Information Technology services	50%	70%	90%	Spend
(l) support services	30%	50%	80%	Spend

SECOND SCHEDULE

Regulation 17(2)

**INFORMATION TO BE PROVIDED TO COMMISSIONER WITH QUARTERLY
FORECASTS**

A contractor, subcontractor, licensee or other allied entity shall provide the information specified below in respect of each contract, subcontract and purchase order:

- (a) A description of the service or items to be contracted or purchased including the material and equipment specification if requested.
- (b) The estimated value of the contract, subcontract or purchase order.
- (c) The anticipated dates for the following:
 - (i) the issuance and closure of the Request For Proposals; and
 - (ii) Contract award.
- (d) Any other information requested by the Commissioner for the implementation of these Regulations.

THIRD SCHEDULE

Regulation 18(1)

PART-A

**INFORMATION TO BE PROVIDED BY A CONTRACTOR, SUBCONTRACTOR,
LICENSEE OR OTHER ALLIED ENTITY TO COMMISSIONER PRIOR TO ISSUE OF
PREQUALIFICATION OF PROSPECTIVE BIDDERS**

A licensee or contractor shall provide the information specified below prior to issuing a prequalification notice to bidders:

- (a) A description of the scope of work.
- (b) A copy of the prequalification notification, where the related documents differ from the standard prequalification notice previously reviewed and approved by the Commissioner.
- (c) The list of companies indicating locations of head offices and contact persons and numbers to which questions will be directed.
- (d) The anticipated dates for closure of prequalification and issuance of Request for Proposals or a Request for Quotations.

PART-B

(Regulation 15 (1) (b))

**INFORMATION TO BE PROVIDED BY A LICENSEE OR CONTRACTOR TO LOCAL
CONTENT COMMITTEE PRIOR TO ISSUE OF REQUEST FOR PROPOSALS OR
REQUEST FOR QUALIFICATION**

For the purposes of compiling a bidding list for any project, the operator or contractor shall provide the information specified below prior to issuing a Request for Proposals or Request for Qualification:

- (a) A list of bidders;
- (b) A copy of the Request for Proposals or Request for Qualification in respect of which the Commissioner will advise the licensee or contractor of its requirements on a case by case basis;
- (c) A description of the corporate ownership of the bidders, including the main shareholders by percentage;
- (d) The location of any Tanzania based office, plant or facility;
- (e) The anticipated dates for closure of bids and award of contract or purchase orders; and
- (f) Any other information which the Commissioner shall request.

PART-C

(Regulation 15 (1)(e))

INFORMATION TO BE PROVIDED BY A LICENSEE OR CONTRACTOR TO THE COMMISSIONER PRIOR TO THE AWARD OF CONTRACT OR PURCHASE ORDER TO THE SELECTED BIDDER.

Prior to the award of contract or purchase order to the selected bidder, the licensee or contractor shall provide the information specified below:

1. The name of the selected contractor or vendor;
2. A list of designated sub-contractors or sub-vendors;
3. Where applicable, a list of proposed sub-suppliers;
4. In respect of construction or service contracts, the estimated Tanzanian employment level in person-hours;
5. The commencement and completion dates for the contract or purchase order;
6. The Award Notification Form signed by the appropriate official of the operator or contractor;
7. A statement of award rationale or bid evaluation report showing the following:
 - (a) the name of the selected contractor or vendor;
 - (b) the list of designated sub-contractors or sub-vendors;
 - (c) where applicable, a list of proposed sub-suppliers;
 - (d) in respect of construction or service contracts, the estimated Tanzanian employment level in person hours;
 - (e) the commencement and completion dates for the contract or purchase order;
 - (f) the Award Notification Form signed by an appropriate official of the operator;
 - (g) a statement of award rationale or bid evaluation report showing:
 - (i) the percentage difference in price between selected bidder and the other bids;
 - (ii) the primary location of work associated with each bidder;
 - (iii) the estimates of local content associated with the bid of each bidder calculated in accordance with the definition of the local content to be provided by the Commissioner;
 - (iv) Any other information relevant to the evaluation of bids including where applicable, a summary of the technical, commercial and local content aspects of the bid evaluation.

Dar es Salaam
9th January, 2018

ANGELLAH J.M. KAIRUKI
Minister for Minerals