

NO. 12 OF 2016

MINING ACT

SUBSIDIARY LEGISLATION

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**LAND DECLARED TO BE EXCLUDED FROM
PROSPECTING AND MINING UNDER SECTION 7(1)(J)**

[G.N. 50/1933, G.N. 71/1933, G.N. 264/1933, G.N. 457/1933, G.N. 193/1934, G.N. 223/1934, G.N. 286/1934, G.N. 806/1934, G.N. 133/1935, G.N. 105/1936, G.N. 477/1938, G.N. 1683/1954, G.N. 3064/1960, G.N. 1925/1961, L.N. 156/1960, L.N. 256/1960.]

The area of approximately 318 acres known as Bukura Farmers' Training Centre in the North Nyanza District situated on both sides of the Butere-Kakamega Road and demarcated by beacons, and delineated on a plan kept at the office of the Commissioner.

[G.N. 50/1933.]

The area of approximately 50 acres allocated to the Government African School in the North Nyanza District, adjoining the western boundary of Kakamega Township, and delineated on a plan kept at the office of the Commissioner.

The area in the North Nyanza District described under the name of the North Maragoli Trading Site in the Proclamation dated the 15th August, 1910, at page 514 of the *Gazette* for 1910.

The area in the North Nyanza District described under the name of Marama Bazaar in the Proclamation dated the 21st October, 1910, at page 625 of the *Gazette* for 1910.

The exclusion of the above four areas does not affect any prospecting or mining rights already granted and existing.

Any part of the flood plain or area covered by swamp which extends for more than fifty feet from the centre of the Edzawa River in the North Nyanza District.

[G.N. 71/1933.]

The area in the North Nyanza District contained by a line extended from the junction of the Kisumu-Yala-Mumias Road with the Yala-Kisa-Maragoli Road (just south of Yala Trading Centre), thence easterly along the latter road to its junction with the Kakamega-Kisumu Road, thence northerly along that road for about half a mile to its junction with the road running easterly to Odangas Camp, thence easterly along that road to its junction with the Kakamega-Bidakho-Kaimosi Mission Road, thence south-easterly along that road to its junction with the Kaimosi-Kisumu Road, thence south-westerly along that road to its intersection with the *Gazetted* boundary of North and Central Kavirondo, thence generally westerly along that boundary to its intersection with the Kisumu-Yala-Mumias Road, thence northerly along that road to the point of commencement.

The exclusion of the above area does not affect any prospecting or mining rights already granted and existing.

[G.N. 264/1933.]

All trading centres from time to time declared under the Trading Centres Act (Cap. 278 (1948)), but without prejudice to any prospecting or mineral rights already granted and existing.

[G.N. 457/1933.]

The islands in Lake Victoria situated in the Nyanza Province.

[G.N. 193/1934.]

The area of land situate in the Elgon Nyanza District and the North Nyanza District the boundaries whereof, commencing at a post bearing 69° magnetic from the centre of the railway bridge over the Luguzi River and at a distance of about 700 feet from that bridge;

run thence on a bearing of 236° 26' for a distance of 1,574.3 feet;

thence on a bearing of 228° 0' for a distance of 634.8 feet;

thence on a bearing of 196° 5' for a distance of 794.8 feet;

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thence on a bearing of 262° 30' for a distance of 1,000 feet;

thence on a bearing of 192° 0' for a distance of about 830 feet to the left bank of an unnamed stream;

thence south-easterly by the left bank of that stream to its junction with the Nzoia River;

thence easterly for a distance of about 200 feet to the left bank of that river;

thence south-easterly by the left bank of that river for a distance of about 1,370 feet;

thence on a bearing of 28° 0' for a distance of 108 feet to a post;

thence on a bearing of 38° 27' for a distance of 205.8 feet;

thence on a bearing of 31° 0' for a distance of 737.8 feet;

thence on a bearing of 14° 37' for a distance of 565.9 feet;

thence on a bearing of 3° 49' for a distance of 900.2 feet;

thence on a bearing of 26° 57' for a distance of 610.3 feet;

thence on a bearing of 56° 26' for a distance of 1,099.5 feet;

thence on a bearing of 343° 0' for a distance of 1,270 feet to the point of commencement.

The exclusion of the above area does not affect any prospecting or mining rights already granted and existing.

[G.N. 223/1934.]

The following areas in the Central Nyanza District—

- (a) the area of land the boundaries whereof, commencing at a beacon bearing 249° 31' from the south end of the railway bridge over the Yala River and at a distance of about 1,949 feet from this bridge;
- run thence by a straight line bearing 20° 0' for a distance of 745 feet to a beacon;
- thence by a straight line bearing 296° 30' for a distance of 403 feet to a beacon;
- thence by a straight line bearing 280° 0' for a distance of 550 feet to a beacon;
- thence by a straight line bearing 236° 10' for a distance of 751 feet to a beacon;
- thence by a straight line bearing 270° 0' for a distance of 402 feet to a beacon;
- thence by a straight line bearing 260° 20' for a distance of 500 feet to a beacon;
- thence by a straight line bearing 289° 40' for a distance of 493 feet to a beacon;
- thence by a straight line bearing 252° 40' for a distance of 502 feet to a beacon;
- thence by a straight line bearing 260° 30' for a distance of 995 feet to a beacon;
- thence by a straight line bearing 167° 30' for a distance of 615 feet to a beacon;
- thence by a straight line bearing 100° 0' for a distance of 300 feet to a point on the north bank of the Yala River;
- thence by the north bank of that river in an easterly direction for a distance of approximately 2,500 feet to a beacon;
- thence by a straight line bearing 96° 10' for a distance of 958 feet to a beacon;
- thence by a straight line bearing 56° 30' for a distance of 360 feet to a beacon;
- thence by a straight line bearing 110° 0' for a distance of 350 feet to the point of commencement;
- (b) an area of approximately five acres demarcated with stone beacons at Ombo in the Seme Location;
- (c) an area of approximately five acres demarcated with stone beacons at Mariwa in the Seme Location.

[G.N. 286/1934.]

Water Areas Nos. 53, 54, 55, 56, and 57 comprising the area of Lake Victoria which lies within the Nyanza Province, and delineated on a plan kept at the office of the Commissioner.

[G.N. 806/1934.]

The following areas in the North Nyanza District—

- (a) an area containing approximately 1,006 acres the boundaries whereof, commencing at the beacon on the Kakamega Forest Reserve boundary on the eastern side of the track from Liboona, Irina and Shikoosa (approximately X-68350 and Y-118750); run thence eastwards for a distance of approximately 1,175 feet along the forest boundary to the commencement of a cut and beacons line; thence along that line due south until it meets the Luanda River; thence downstream for a distance of some 2,000 feet to the commencement of a cut and beacons line on the western bank; thence westwards and north-westwards by that line until it meets the forest boundary; thence north-eastwards and eastwards along that boundary to the point of commencement;
- (b) an area containing approximately 495 acres the boundaries whereof, commencing at a point on the western boundary of Kakamega Forest Reserve, where the cut and beacons boundary meets the Lugusidz River (approximately X-55250 and Y-94750); run thence up-stream for a distance of approximately 2,500 feet to the commencement of a cut and beacons line on the northern bank; thence along that line northwards for a distance of approximately 7,275 feet; thence westwards by a beacons line for a distance of approximately 3,300 feet to the forest boundary; thence southwards along that boundary to the point of commencement.

The exclusion of the above two areas does not affect any prospecting or mining rights already granted and existing.

[G.N. 133/1935.]

The area within a radius of half a mile from the pier on the foreshore at the Trading Centres of Kadimu and Asembo in the Central Nyanza District.

Those areas to which the Land Titles Act (Cap. 282) has been applied.

[G.N. 105/1936.]

The exclusion of the lastly above-mentioned areas does not affect any prospecting or mining rights already granted and existing.

[G.N. 477/1938.]

The area of land in the Kajado District and formerly forming the Amboseli National Reserve, the boundaries of which are set out in the Schedule to Government Notice No. 1233 of 1948, excepting the following areas—

- (a) an area of approximately eight square miles the boundaries whereof, commencing at that point on the Kenya-Tanganyika boundary from which the trigonometrical beacon Magadini lies at a true bearing of 280°; run thence in a north-westerly direction along the Kenya-Tanganyika boundary for a distance of approximately 4,480 yards to a point; thence on a true bearing of 65° for a distance of approximately 8,960 yards to a point; thence in a south-easterly direction parallel to the Kenya-Tanganyika boundary for a distance of approximately 4,480 yards to a point; thence on a true bearing of 245° for a distance of approximately 8,960 yards to the point of commencement;

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- (b) an area of approximately 159 square miles the boundaries whereof, commencing at the intersection of a straight line connecting the two trigonometrical beacons Magadini and Meshanai with the Kenya-Tanganyika boundary;
- run thence in a north-westerly direction along the Kenya-Tanganyika boundary for a distance of approximately 64,900 feet to a point;
- thence due north for a distance of approximately 51,500 feet to the south-western peak of the Ngorigaishi Hills, known as Lengarunyeni (altitude approximately 4,360 feet);
- thence on a true bearing of approximately 97° 51' for a distance of approximately 82,218 feet to the trigonometrical beacon Meshanai;
- thence on a true bearing of approximately 199° 38' for a distance of approximately 74,883 feet to the point of commencement.

The exclusion of the above area does not extend to any part thereof in respect of which any prospecting or mining rights have already been granted, during their subsistence, whether by renewal or otherwise.

[G.N. 1683/1954, G.N. 1925/1961.]

An area of approximately eight square miles situated in the Kajiado District, the boundaries whereof, commencing at that point on the Kenya-Tanganyika boundary from which the trigonometrical beacon Magadini lies at a true bearing of 280°;

run thence in a north-westerly direction along the Kenya-Tanganyika boundary for a distance of approximately 4,480 yards to a point;

thence on a true bearing of 65° for a distance of approximately 8,960 yards to a point;

thence in a south-easterly direction parallel to the Kenya-Tanganyika boundary for a distance of approximately 4,480 yards to a point;

thence on a true bearing of 245° for a distance of approximately 8,960 yards to the point of commencement;

but excepting therefrom every area in respect of which any prospecting or mining right has been granted under the Act and is still subsisting on the 1st July, 1960.

[G.N. 3064/1960.]

An area of approximately 38 $\frac{3}{4}$ square miles situated in the South Nyanza District of the Nyanza Province as marked upon a map deposited with the Commissioner (Mines and Geology), Nairobi, and more particularly described as follows:—

Commencing at the confluence of the centre lines of the KUJA and MIGORI RIVERS;

thence in a straight line on a true bearing of 305° 30' for an approximate distance of 25,400 feet to KIMAI R.C.M. SCHOOL;

thence in a straight line on a true bearing of 17° 30' for an approximate distance of 27,650 feet to GOTMAGUNGA;

thence in a straight line on a true bearing of 54° for an approximate distance of 8,550 feet to OBWARE D.S.B. SCHOOL;

thence in a straight line on a true bearing of 151° 30' for an approximate distance of 32,400 feet to the north-west corner of the area of SPECIAL MINING LEASE No. 11;

thence in a straight line on a true bearing of 117° for an approximate distance of 13,617 feet to the north-east corner beacon of the area of SPECIAL MINING LEASE No. 11;

thence in a straight line on a true bearing 121° 30' for an approximate distance of 14,700 feet to a point;

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thence in a straight line on a true bearing of 203° 30' for an approximate distance of 18,500 feet to the junction of the SUNA-MOHORU ROAD and the road to GORI MARIA MINE;

thence in a straight line on a true bearing of 295° for an approximate distance of 30,400 feet to the point of commencement.

[L.N. 156/1960.]

A total area of approximately one square mile comprising—

- (a) approximately .5 square miles situated in the West Suk District of the Rift Valley Province; and
- (b) an adjoining .5 square miles situated in the Turkana District of the Northern Province

and further described as follows, that is to say, two equal strips of land each 110 yards wide and 6 1/2 miles long, situated one on each side of the Turkwell (or Suam) River, together with the bed of that river, the said distance of 6 1/2 miles being measured downstream from the point of confluence of the said river with a small eastward-flowing unnamed tributary thereof, the said confluence being situated approximately three-quarters of a mile south from Korpu Camp:

Excluding every area in respect of which any prospecting or mining right has been granted under the Mining Ordinance and is still subsisting at the 31st day of July, 1960.

[L.N. 256/1960.]

MINING REGULATIONS

ARRANGEMENT OF REGULATIONS

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[Cap. 168 (1948), Sub. Leg., G.N. 1046/1954, L.N. 100/1956, L.N. 604/1961, L.N. 142/1963, L.N. 56/1965, L.N. 273/1969, L.N. 154/1987, L.N. 46/1999, L.N. 149/1999, L.N. 38/2014.]

PART I – PRELIMINARY PROSPECTING

1. Citation

These Regulations may be cited as the Mining Regulations.

2. Applications

(1) An application for a prospecting right or any renewal thereof shall be made to the Commissioner in Form 1 in the First Schedule.

(2) Prospecting rights may be issued or renewed by the Commissioner, or by any officer appointed by him on his behalf.

(3) A prospecting right or a renewal thereof shall follow as closely as may be Form 2 in the First Schedule.

3. Protection notices

The holder of a prospecting right may in any area open to prospecting himself post a notice (to be called a protection notice), and such notice—

- (a) shall follow as closely as possible Form 3 in the First Schedule; and
- (b) shall be carried on an upright artificial support erected in a conspicuous and accessible place; and all brushwood around such notice shall be cleared for a distance of 10 metres and the place shall be marked by a flag elevated 4 metres above the ground.

4. Effect of protection notice

The posting of a protection notice shall confer upon the holder the exclusive right of prospecting an area having a radius of 500 metres measured horizontally from the notice in any direction (such area to be called a protection area) for a period of thirty days from the date of posting.

5. Extensions of protection period

(1) The Commissioner, at his discretion, may extend the period of protection provided by the notice, on payment of the prescribed fees, for further periods of thirty days each, up to a maximum of one hundred and eighty days each in all from the date of posting such notice.

(2) Application for an extension shall be accompanied by a statement of work, which shall be in Form 4 in the First Schedule.

(3) The Commissioner shall, upon the extension of a period of protection, issue a certificate of extension with an official registered number to such protection area, and shall cause an entry thereof to be made in a book to be kept for the purpose. The registration number and the date to which the protection from time to time is extended shall be marked forthwith on the protection notice by the holder thereof. The certificate of extension shall follow as closely as may be Form 5 in the First Schedule.

6. Protection notice to be maintained

The holder of a prospecting right who has posted a protection notice in accordance with regulations 3 and 23 shall, during the period of protection, maintain such notice in such manner as to be clearly legible.

7. Posting of second protection notice prohibited

(1) Until the protection notice posted under a prospecting right is removed, no second or

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further protection notice shall be posted in the same administrative district by virtue of such prospecting right.

(2) Any person who contravenes this regulation shall be guilty of an offence.

PART II – EXCLUSIVE PROSPECTING LICENCES

8. Application for exclusive prospecting licence

An application for an exclusive prospecting licence shall be made to the Commissioner in quadruplicate in Form 6 in the First Schedule, and the prescribed fee shall accompany the application.

9. Sketch plans

(1) A sketch plan in quadruplicate on a reasonable scale shall accompany the application, and shall be in accordance with the delineation set forth in the form of application, and shall show the following details—

- (a) the main topographical features in and about the area applied for in such a manner as will enable the boundaries to be identified on the ground;
- (b) an approximate estimate in square kilometres of the area applied for; and
- (c) such other information as will enable the area to be delineated on the general map of the district in which the area applied for is situated.

(2) If the Commissioner is not satisfied with the adequacy of the sketch plan submitted under subregulation (1) of this regulation, or with the programme of work or the financial provision submitted under subsection (2) of section 18 of the Act, he may refuse to consider the application.

10. Procedure on granting of application

Every person who has applied for an exclusive prospecting licence, and who is informed that his application will be granted, shall forthwith cause all boundaries to be beacons in the manner specified in Part II of the Fourth Schedule, or beacons or demarcated in accordance with the written directions of the Commissioner, and shall, if required by the Commissioner, cause a survey of the area to be made in strict conformity with the requirements of the regulations made under the Survey Act (Cap. 299) and at the expense of the applicant and to the satisfaction of the Commissioner, submitting the plan, field notes and computations of such survey (which shall become the property of Government) to the Director of Surveys for his examination and approval.

11. Painting and maintenance of beacons

(1) Within fourteen days of the grant of an exclusive prospecting licence, the holder thereof shall forthwith paint clearly on an iron plate securely bolted to every beacon on the side facing the area the subject of such licence his name and the official number of such exclusive prospecting licence.

(2) The holder of an exclusive prospecting licence shall during the period of such licence—

- (a) maintain his beacons in good condition and in proper position;
- (b) keep clearly painted on such beacons the particulars required by subregulation (1); and
- (c) keep cut and cleared of vegetation all or any of the boundaries specified by the Commissioner for a distance of not less than 50 metres from the beacons defining such boundaries.

12. Form of licence

Every exclusive prospecting licence shall follow as closely as may be Form 7 in the First Schedule.

13. Renewal of licences

(1) Application for the renewal of an exclusive prospecting licence shall be lodged with the Commissioner not later than two months before the date of expiration of such licence.

(2) When a licence holder who has so applied has, up to and including the date on which his licence is due to expire, not received any notification of the allowance or dis-allowance of his application, he may continue his operations until he receives such notification.

(3) Where such application is allowed, the licence shall be renewed as from the date of expiry.

PART III – LOCATIONS

14. Pegging of locations

(1) The holder of a prospecting right or of an exclusive prospecting licence in respect of the area of such licence may peg off a location in the following manner: in the case of a lode location the shape of the location and of each of the claims shall be, as nearly as circumstances permit, a rectangular parallelogram, and the length of the longer side of each claim shall not exceed thrice the length of the shorter side; in the case of an alluvial location, the width of each claim shall not be less than 20 metres.

(2) Such holder shall, on the completion of such pegging, post a notice (to be called the registration notice) on a substantial artificial support at corner peg "A" of such location as prescribed by paragraph (a) of subregulation (2) of regulation 17.

(3) Any such registration notice shall in respect of lode locations or alluvial locations follow as closely as may be Forms 8 and 10 respectively in the First Schedule.

15. Classes and areas of locations

For the purpose of these Regulations, a location shall consist of a block of not more than ten claims of one of the following classes and dimensions—

- (a) a precious metals lode location, of which each claim shall be of an area of not more than 20,000 square metres;
- (b) a precious stones lode location (excluding diamonds, unless authorised by the Commissioner by an endorsement on the certificate of registration), of which each claim shall be of an area of not more than 20,000 square metres;
- (c) a non-precious minerals lode location, of which each claim shall be of an area of not more than 50,000 square metres;
- (d) a precious metals alluvial location, of which each claim shall be of an area of not more than 1,000 square metres;
- (e) a precious stones alluvial location (excluding diamonds, unless authorised by the Commissioner by an endorsement on the certificate of registration), of which each claim shall be of an area of not more than 1,000 square metres;
- (f) a non-precious minerals alluvial location, of which each claim shall be of an area of not more than 1,000 square metres.

16. Pegging and the posting of notices after dark forbidden

The posting of any protection or registration notice or the pegging of any location between sunset and sunrise is forbidden, and shall not be deemed to confer any rights whatsoever.

17. Erection of corner pegs

(1) Every person pegging a location shall, before he posts the registration notice on such location, erect upon every claim thereof four corner pegs.

(2) The following conditions shall be fulfilled as regards the corner pegs—

- (a) they shall be placed at all the points of intersection of the claim boundary lines (which must be straight):

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Provided that where a peg, by reason of its position, can be regarded as common to contiguous claims it may be reckoned as one peg in respect of each of such claims, and may bear accordingly the required letter of the alphabet and the number or numbers of the claims (1 to 10) to which it is common (see specimen Forms 12 and 13 in the First Schedule);

- (b) they shall carry a plate not less than 10 centimetres square, which shall be marked with the appropriate letter and number or numbers of the claims;
- (c) they shall be not less than 1 metre in height and, if constructed of wood, shall measure not less than 10 centimetres in diameter;
- (d) the peg marked "A" shall bear the registration notice.

18. Pegging an area in excess of prescribed area

Where a person is found to have pegged in excess of his claim, he shall, if required by the Commissioner, reduce the claim to the area prescribed by these Regulations, and, at the discretion of the Commissioner, either re-peg within fourteen days the excess area as a new location or abandon such excess area:

Provided that if the pegger re-pegs such excess area he shall, upon applying for the registration of the location, pay a registration fee of treble the amount of the fee ordinarily payable, in respect of the ground so pegged in excess.

19. Application for registration of locations, and certificate of registration

(1) Every application for a certificate of registration shall be made to the warden of the mining district in which the location is situated, and the applicant shall lodge with such warden for inspection or filing, as the case may be, the following documents—

- (a) two copies of his registration notice and a plan in triplicate giving the dimensions in metres of the claims to be registered within the location, together with such detailed particulars and measurements as will enable the location to be located on the general maps of the district;
- (b) a certificate signed by the applicant to the effect that the copies of such notice are true copies, and that all the facts stated therein are true and correct;
- (c) a written statement of the class of minerals for which the location is to be registered; and
- (d) the prospecting right and (where such exists) any power of attorney or other instrument under whose terms the location has been pegged.

(2) The fees payable in respect of claims shall be—

- (a) for a lode claim: Sh. 10;
- (b) for an alluvial claim: Sh. 2.

(3) The certificate of registration shall in respect of lode locations or alluvial locations follow as closely as may be Forms 9 and 11 respectively in the First Schedule.

20. Registered numbers

(1) The warden shall upon the original registration of every location assign an official registered number to such location, and shall cause an entry thereof to be made in a book to be kept for the purpose.

(2) Such registered number shall be added, as soon as may be, to the particulars on the registration notice of the location.

21. Disputes as to titles

In all cases of dispute between peggers of locations as to the right and title to any particular location the principle of priority of title shall prevail, provided the priority title has not been abandoned.

22. Replacement of corner pegs with beacons

(1) Within a period of four months from the date of the issue of a certificate of registration in respect of any location, all the external pegs demarcating the periphery of such location shall be replaced by stone beacons as specified in Part I of the Fourth Schedule.

(2) The peg of every stone beacon demarcating the periphery on a location shall bear a notice board or notice containing, in the order shown, the following particulars—

- (a) a letter and number or numbers corresponding to the letter and number or numbers assigned to such peg in the registration notice;
- (b) the name of the lode and/or class of the location;
- (c) the registered number of the location;
- (d) the date of the original pegging of the location;
- (e) the office at which the location is registered;
- (f) the name or names of the holder or holders; and
- (g) in the case of renewal to a common date, the date to which renewed.

(3) The registration notice shall be maintained until such time as the location covered by it has been permanently beacons in accordance with this regulation.

23. Notice boards

(1) Notice boards on which protection or registration notices are posted, or which are fixed to pegs or beacons marking the boundaries of a location, shall be at least thirty centimetres square.

(2) A notice shall be distinctly and legibly written, printed or painted, and all dates and times shall be pricked through the writing.

(3) No paper or other material liable to be rendered illegible by rain or exposure shall, except for purely temporary purposes, be deemed a proper marking.

(4) The holder of a location shall, during the duration of such location, maintain all prescribed notices and markings in such a manner as to be clearly legible, and shall keep all prescribed pegs and beacons in good condition and in their proper position.

24. Powers of Commissioner where claim expired, abandoned, forfeited or transferred

(1) When any claim in any location has expired or been abandoned, forfeited or transferred, it shall be lawful for the Commissioner to give directions in writing to the holder of such location or, in the case of a transferred claim, to both the transferor and the transferee, requiring him or them to amend the particulars or position of the registration notice, or of the notice boards or notices appearing on any peg or stone beacon or to alter the alignment of any demarcating trench, or to do such other acts as are necessary to define clearly the situation and boundaries of the claims which remain existent.

(2) Such directions may require the erection and maintenance of notice boards containing diagrams of existing claims, and may require the holder, in the case of the expiry, abandonment or forfeiture of any claim in a location, in respect of the claims then existent, to apply to the Commissioner for the cancellation of the certificate of registration and for re-registration under regulation 31, and, in the case of the transfer of any claim in a location, may require the transferor or the transferee or both of them to make similar applications.

(3) Such directions shall be complied with within fourteen days of such expiry, abandonment, forfeiture or transfer:

Provided that the Commissioner may in his discretion extend the time for compliance for such period as he shall think fit not exceeding thirty days from such expiry, abandonment, forfeiture or transfer.

25. Development of locations

(1) The holder of any location (other than a lode location) shall commence, within a

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period of thirty days after the date of his application for registration, unless he has been informed that registration has been refused, and with due diligence during the continuance of the location carry out, or cause to be carried out, prospecting or mining operations to the satisfaction of the Commissioner.

(2) The holder of a lode location shall during each year of the continuance of the location execute upon the area of each claim at least 4 metres of development work of the nature set forth in the Second Schedule, not less than half of which shall be completed in the first six months of each year, save that in the case of renewal to a common date the proportion of development work to be done for the period for which renewal is made shall be in the ratio of one development metre per claim for each three-month period or part thereof:

Provided that—

- (i) when in any one year or at the conclusion of a renewal period the work done on any one claim is in excess of the prescribed amount of development, such excess may count towards the amount of development work required in respect of the remaining claims in the same location in the same year or renewal;
- (ii) where the work done on any location is in excess of the prescribed amount of development, the Commissioner may permit such excess to be taken into account in reckoning the amount of development work required in respect of locations in the same ownership and in the same vicinity, and, if such development work has been underground development work, shall allow to be carried forward any excess then remaining towards the development work required in respect of such locations in the following location year or renewal period, but not longer.

(3) Notwithstanding anything in this regulation contained, the Commissioner may, in his discretion, permit a location holder to pay a sum not exceeding twenty shillings per claim in lieu of carrying out the development work for any year prescribed for such claim, or may for good and sufficient reason permit a location holder to perform a smaller amount of development work than that prescribed, or may extend for a period not exceeding six months the time in which such development is to be completed.

26. Development work while prospecting

Prospecting work performed by the holder of a prospecting right on ground which is subsequently registered by him as a location may be included and reckoned in the amount of work certified in the statement of development.

27. Renewal of locations

(1) Application for the renewal of a location or part thereof shall be lodged with the warden of the mining district in which the location is situated before the date of expiration thereof, and in Form 15 in the First Schedule. When such application has been made and the holder has not been notified as to whether his application has been allowed before the date on which the location expires, he may continue his mining operations unless and until notified that his application is disallowed. Where the application is allowed, the renewal shall date from the day on which the location would, but for such renewal, have expired.

(2) A fee of ten shillings shall be paid in respect of each renewal of a lode claim, and a fee of two shillings in respect of each renewal of an alluvial claim.

(3) No application for a renewal shall be considered unless accompanied by the prescribed fees and until supported by statements of development for the current year or period of renewal to a common date as required under paragraph (c) of sub-regulation (1) of regulation 37; such statements of development shall follow as closely as may be Form 14 in the First Schedule, and shall be lodged with the warden of the mining district in which the location is situated not later than seven days after the date due for expiry, except in cases where renewal is authorised under subsection (4) of section 29 of the Act, and in any such case the lodgment shall be made before the last day on which renewal is so authorised.

(4) The certificate of renewal of registration shall, in respect of lode locations or alluvial locations, follow as closely as may be form 16 in the First Schedule.

28. Transfer of Locations

(1) The holder of a location may transfer the same or part thereof on payment of a registration fee of two shillings for each claim or part thereof contained in such location.

(2) Every such transfer shall be evidenced by the completion of a form which shall follow as closely as may be Form 17 in the First Schedule to these Regulations.

29. Proceeding to production

(1) The holder of any lode location may proceed to production after having given reasonable notice in writing to the Commissioner of his intention so to do.

(2) Any holder who proceeds to production without having given such notice shall be guilty of an offence.

30. Survey may be required

(1) The Commissioner, if satisfied that a survey is necessary for the prevention of differences as to the boundaries of the land included in any location or licence or for securing a proper definition of the area included therein, may give notice to the holder of such location or licence that a survey in strict conformity with the requirements of the regulations made under the Survey Act (Cap. 299) and at the expense of the applicant is required to be made of the land included in such location or licence, and that a plan thereof must be furnished to the Commissioner, and may require the cost of the survey and plan to be estimated as hereinafter provided; and thereupon such holder shall within the time specified in such notice deposit with the Commissioner such sum as may be the estimate of the Director of Surveys be necessary to cover the cost of such survey and plan.

(2) As soon as conveniently may be after payment of the sum demanded, the Director of Surveys shall cause a proper survey of the land included in such location or licence to be made, and shall forward a plan thereof to the Commissioner together with a report in writing upon all matters which appear necessary to him, or upon which the Commissioner, by written instructions, has required him to report.

(3) In any case where a holder to whom notice has been given in pursuance of this regulation fails to pay the amount demanded as the cost of such survey within the time specified, the location or licence in respect of which such survey is required shall become liable to forfeiture.

(4) The Commissioner authorised to hear suits under the Act may, during the hearing of a suit before him, if it appears necessary, order any party to the suit to cause a survey and a plan to be made by a licensed land surveyor of any land which is the subject matter of a suit, and may adjourn the hearing of the suit for such purpose; and the Commissioner may make such order as to the payment of the costs of any such survey and plan as he may think fit.

(5) No person shall make a survey required to be made by the Act or by any regulation thereunder except under the instructions of the Director of Surveys; and any plan which has not been passed and signed by the Director of Surveys or an officer acting under his authority shall not be received or acted upon by the Commissioner or any warden, nor shall the making of a survey or the preparation of a plan be deemed to be a compliance with a notice requiring survey (given by an officer duly authorised in that behalf), unless the survey has been made under the instructions of the Director of Surveys and the plan has been passed as aforesaid.

(6) The cost of a surface survey shall be estimated and charged in accordance with the scale of fees for the time being charged by the Survey Department.

31. Cancellation of certificate of registration without abandonment

(1) The Commissioner, upon application by the holder of any location and on the production of the certificate of its registration together with any certificate of renewal, may, at his discretion, cancel such certificates and such registration of such location without

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abandonment or forfeiture of such location resulting therefrom, and may cause to be issued to such holder at one and the same time a fresh certificate of registration in respect of the whole or any part of such location which has been previously beaconed off in the manner prescribed by these Regulations, assigning to it a fresh official number.

(2) Within a period of seven days from the date of issue of such certificate of registration, or within such period as the Commissioner may prescribe, all the beacons of the original location not being in use for the beaconing of the said part shall be removed by the holder of such location, and on the beacons of the said part the official number originally assigned to such location shall be replaced by the new official number assigned to such portion.

32. Expiration, etc., of locations, licences and leases

(1) Lists of locations or licences which have expired shall be posted on a board to be exhibited in some conspicuous place outside the office of the warden in whose district the locations or licences were situated.

(2) A list of registered locations, licences or leases which have expired or have been abandoned, surrendered or forfeited shall be published from time to time in the *Gazette*.

(3) Where any signed statement of abandonment is made by a registered holder of any location or licence, the abandonment of such location or licence shall be deemed to be of full force and effect as from the date of the receipt of such statement by the Commissioner.

(4) Where any location, licence or lease is forfeited, the forfeiture of such location, licence or lease shall be deemed to be of full force and effect as from the date given in the Commissioner's notice of forfeiture.

PART IV – MINING LEASES

33. Applications

(1) The holder of any location may apply in Form 18 in the First Schedule to the Commissioner for a lease covering the whole or any portion of the area covered by any location or locations held by him; he shall deposit with his application a plan showing the boundaries of the area applied for and the boundaries of his location or locations, and the abutting areas in respect of which prospecting, mining or surface rights may have been granted; and he shall further deposit with the Commissioner the certificate of registration and any certificate of renewal issued in connection with such location or locations, together with a written undertaking that he will defray the cost of survey and the cost of suitable plans for attachment to the lease.

(2) The applicant for a lease of a location or locations shall, with his application, file an affidavit setting forth that the pegs or beacons of the location or locations have been *bona fide* erected and properly maintained and continued, and also, where possible, naming all the adjoining locations or leases (if any).

(3) The Commissioner, upon receipt of any such application, shall at the expense of the applicant cause a notice containing particulars of the application to be inserted once in the *Gazette* and three times (at intervals of not less than a week) in a local newspaper; and the Commissioner shall give written notice of the application to all holders of adjoining locations and to all persons who, to his knowledge, have or claim to have any interest in the land to which the application relates.

(4) Objections in writing against any such application may be lodged with the Commissioner, by any person interested, at any time within a period of ninety days from the date of the last of the publications provided for in subregulation (3); no objection shall be received or considered which has not been lodged within the said period.

(5) Every such objection shall be heard and determined by the Commissioner, who shall make such order thereon as the justice of the case requires; an appeal shall lie to the Minister from any such order of the Commissioner, but no appeal shall be admitted after the expiration of thirty days from the date of the order appealed against.

(6) Where no such objection has been lodged with the Commissioner within the prescribed time, or where such objection has been disallowed or has lapsed, and the

requirements of this regulation have been satisfactorily complied with, the Commissioner may issue to the applicant a lease.

(7) So soon as an applicant has been informed that a lease will be granted to him, the Commissioner shall cause the land to be surveyed in strict conformity with the requirements of the regulations made under the Survey Act (Cap. 299), at the cost of the applicant, and under the direction of the Director of Surveys, and the plan of the area signed by the Director of Surveys shall be attached to the lease.

(8) Upon the completion of the survey, the applicant shall forthwith cause all boundaries to be beacons in the manner specified in Part III of the Fourth Schedule, and in accordance with the directions of the Commissioner.

(9) Every such survey shall be lodged with the Director of Surveys, and shall become the property of the Government.

34. Painting and maintenance of official number of lease

(1) Upon the grant of the lease, the lessee shall forthwith paint clearly on every beacon on the side facing the area leased the official number of such lease.

(2) The lessee shall during the period of such lease maintain his beacons in good condition and proper position, and keep clearly painted on such beacons the official number of such lease.

35. General provisions as to leases

(1) The Commissioner shall retain a duplicate of every lease and of every plan issued by him, and shall cause such duplicates to be filed preserved in the mining register.

(2) Every mining lease shall follow as closely as may be Form 19 in the First Schedule.

(3) The lessee may, with the consent of the Commissioner, assign his lease; any such assignment shall follow as closely as may be Form 20 in the First Schedule.

(4) A lessee may, with the consent of the Commissioner, surrender his lease; any such surrender shall follow as closely as may be Form 21 in the First Schedule.

36. Leases: development

(1) Every lessee of a lode lease shall, during each year of the continuance of his lease, execute at least 8 metres of development work of the nature set forth in the Second Schedule in respect of every 4 hectares or portion thereof included in the area of the lease.

(2) Every lessee of an alluvial lease shall work the same to the satisfaction of the Commissioner.

(3) Notwithstanding anything in this regulation contained, the Commissioner may in his discretion, for good and sufficient reason shown, permit a lessee to perform a smaller amount of development work than that prescribed, or may extend the time in which such development is to be completed.

(4) Where the work done on any lease is in excess of the prescribed amount of development, the Commissioner may, in his discretion, permit such excess to be taken into account in reckoning the amount of development work required in respect of leases or locations in the same ownership and in the same vicinity.

(5) Before the lessee of a subterranean lease begins prospecting or mining on the surface lying above the area comprised in such subterranean lease, he shall submit plans, in triplicate, to the warden of the mining district in which the lease is situated, showing the boundaries and dimensions in metres of those portions of the surface lying above the area comprised in the subterranean lease upon which he intends to carry out prospecting or mining operations and shall, if required by the warden, demarcate such portions by means of beacons as specified by Part I of the Fourth Schedule; and such portions may be varied from time to time by the lessee, provided they do not exceed; in the aggregate, the area permitted under section 50 of the Act.

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PART V – GENERAL

37. Returns and reports

(1) The following prescribed returns and reports of operations shall be lodged as follows—

- (a) by every lessee, and every holder of a location, a special licence or an exclusive prospecting licence who is producing minerals, with the inspector of mines on or before the 14th day of each month, in Forms 22 and 23 in the First Schedule;
- (b) by every lessee, and every holder of a location, a special licence or an exclusive prospecting licence, with the Commissioner, in January and July of every year, a written statement setting forth—
 - (i) the name of the lessee or holder;
 - (ii) the date and number of the lease, location or licence;
 - (iii) any change which may have been made in the appointment of the attorney, and, in the case of a company, in the officers of the company, during the preceding six months;
 - (iv) any change of address of the lessee, holder, attorney or officers;
 - (v) the nature of the operations being conducted on the area of the lease, location or licence;
 - (vi) the average number of employees in the technical, executive, supervisory, skilled and unskilled categories employed on the area in mining or prospecting during the preceding six months;
 - (vii) the amount paid in wages to persons actually engaged in mining or prospecting operations on the area of the lease, location or licence, or in supervising such operations, during the preceding six months;
 - (viii) the nature and value of any machinery or plant brought on to or removed from the area since the previous return;
 - (ix) the kind, quantity and quality of minerals obtained during the preceding six months and the manner in which they have been disposed of;
 - (x) the particulars of any death or accidents which may have occurred amongst the employees during the preceding six months;
 - (xi) the amount expended in Kenya on account of mining or prospecting; and
 - (xii) any further particulars that the Commissioner may call for; and
- (c)
 - (i) by every holder of a location, with the warden in whose office the location is registered, within seven days from the expiry of each period of six months commencing from the date of pegging or common renewal date, as the case may be, a statement of development in duplicate, in Form 14 in the First Schedule, certifying that the prescribed development has been duly performed, remitted or compounded for in accordance with regulation 25; and in the case of a lode location the statements shall be accompanied by sketch plans in duplicate illustrating the development effected during the period; and
 - (ii) by every lessee, with the Commissioner, a statement every twelve months, commencing from the date of the grant of the lease, certifying that the development required under regulation 36 has been duly effected; and in the case of a lode lease the statements shall be accompanied by plans illustrating the development effected.

(2) The returns required by this regulation shall be signed and certified to be correct—

- (a) in the case of an individual lessee or holder resident in Kenya, by the lessee or holder;

- (b) in the case of an individual lessee or holder not so resident, or in the case of a company, body of persons or partnership having its head office out of Kenya, by the resident attorney of the lessee, holder, company, body of persons or partnership;
- (c) in the case of a company, body of persons or partnership having its head office in Kenya, by the manager or secretary of the company, body of persons or partnership.

38. Payment of royalties

All royalties shall be payable on demand to the Commissioner, who may, if so requested and after payment has been made, issue a permit to export the mineral on which royalty has been paid; such export permit shall follow as closely as may be Form 24 in the First Schedule.

39. Rates of royalties

(1) Such royalties as the Minister may, from time to time by notice in the *Gazette*, prescribe shall be payable on minerals.

(2) Within three months of the export of any minerals originating in Kenya, or within such extended time as the Commissioner may allow, a sales account in respect of such minerals shall be produced to the Commissioner, and any adjustments which may be necessary to ensure payment of the full amount of royalty due shall be made.

40. Commissioner may refuse permit to export minerals

The Commissioner may refuse to issue a permit to export minerals unless and until the applicant for such permit has satisfied the Commissioner that—

- (a) the export will not, by reason of the proposed destination and the nature of the minerals to be exported, constitute a threat to the security of any country;
- (b) any precautions with regard to security and safety which the Commissioner considers necessary have been or will be taken;
- (c) the minerals to be exported conform to any specifications which on any of the documents relating to the export are claimed in respect thereof;
- (d) any moneys due to the Government in respect of such export have been paid:

Provided that any person aggrieved by the refusal of the Commissioner to issue an export permit on any of the grounds contained in this regulation may appeal from such refusal to the Minister, whose decision shall be final.

41. Accounts

Every location holder, licensee or lessee shall keep, to the satisfaction of the Commissioner, proper books, records and accounts, showing the expenses incurred and the profits earned, and the Commissioner or any official authorised by him in writing shall have access at all times to such books, records and accounts, and shall be entitled to make extracts therefrom.

42. Appointment of attorneys

(1) Every lessee and every holder of a special licence, an exclusive prospecting licence or a location who is not resident in Kenya, or who intends to be temporarily absent from Kenya, shall appoint some person resident in Kenya as his attorney with full powers to represent him during his absence from Kenya, in all matters relating to his lease, licence or location.

(2) When any company, body of persons or partnership whose registered or head office is outside Kenya is a lessee or a holder of a special licence, an exclusive prospecting licence or location, such company, body of persons or partnership shall at all times be represented by an attorney resident in Kenya and having full powers to represent such lessee or holder in all matters relating to such lease, licence or location.

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(3) Every lessee or holder who gives a power of attorney as required by subregulations (1) and (2) shall forthwith forward to the Commissioner a copy of such power of attorney, and shall likewise on the revocation or variation of such power of attorney forthwith forward a copy of any document effecting such revocation or variation.

43. Fees

The fees set out in the Third Schedule shall be paid in respect of the matters and things specified in that Schedule.

44. Registration

(1) The Registrar of Mines shall keep a register of mining leases, special licences and exclusive prospecting licences and of documents assigning or transferring such leases or licences or any right, title or interest arising therefrom.

(2) The Registrar of Mines shall file in the register a copy of every lease, special licence or exclusive prospecting licence.

(3) A register of locations shall be kept in the Mines Office, and a return of all duplicate certificates of registration shall be sent monthly to the Registrar of Mines.

(4) Any person desiring to apply for the registration of any document assigning, transferring, surrendering or in any way dealing with or affecting any mining lease, location, special licence or exclusive prospecting licence, or any right or interest under the same, shall send the original document, with a copy thereof and a copy of any plan attached to such document together with the prescribed fee, to the Registrar of Mines, with a request that the same shall be registered.

(5) The Registrar of Mines having first satisfied himself that the copy of the original document and of the plan (if any) is correct, and that the requisite approval of the assignment, transfer, surrender or other transaction has been obtained, and that the document if liable to stamp duty has been duly stamped, shall endorse on the document over his signature the word "registered", together with the date on which the document was presented for registration, and shall return the document so endorsed to the person who presented it for registration, and shall file the copy in the register.

(6) The Registrar of Mines or Warden of Mines shall, when application is made together with payment of the prescribed fees, allow searches to be made in any register at all reasonable times, and shall supply copies or extracts from any entry in the register or of any documents or certificates issued under the Act.

SCHEDULES

[L.N. 142/1963, L.N. 56/1965, L.N. 273/1969.]

FIRST SCHEDULE

Form No.

1. Application for Prospecting Right or renewal thereof (regulation 2(1)).
2. Prospecting Right or renewal (regulation 2(3)).
3. Protection Notice (regulation 3(a)).
4. Statement of Work and Application for Extension of the Rights conferred by a Protection Notice (regulation 5(2)).
5. Certificate of Extension of the Rights conferred by a Protection Notice (regulation 5(3)).
6. Application for Exclusive Prospecting Licence (regulation 8).
7. Exclusive Prospecting Licence (regulation 12).
8. Registration Notice: Lode Location (regulation 14(3)).
9. Registration Notice: Lode Location (regulation 14(3)).

- 10. Registration Notice: Lode Location (regulation 14(3)).
- 11. Registration Notice: Lode Location (regulation 14(3)).
- 12. Specimen Form of Lettering and Numbering Claims in a Location (regulation 17(2)(a)).
- 13. Specimen Form of Pegging (regulation 17(2)(a)).
- 14. Six-monthly Statement of Development (regulation 27(3) and regulation 37(1)(c)(i)).
- 15. Application for Renewal of a Location (regulation 27(1)).
- 16. Certificate of Renewal of Registered Mining Location (regulation 27(4)).
- 17. Transfer of Claims or Locations (regulation 28(2)).
- 18. Application for a Mining Lease (regulation 33(1)).
- 19. Mining Lease (regulation 35(2)).
- 20. Assignment of Mining Lease (regulation 35(3)).
- 21. Surrender of Mining Lease (regulation 35(4)).
- 22. Monthly Return A (regulation 37(1)(a)).
- 23. Monthly Return B (regulation 37(1)(a)).
- 24. Export Permit (regulation 38).
- 25. Memorandum of Complaint.
- 26. Notice of Complaint.

FORM No. 1

APPLICATION FOR A PROSPECTING RIGHT OR RENEWAL THEREOF

[Regulation 2(1).]

To the Commissioner (Mines and Geology).

- 1. Full name of applicant
- 2. Nationality of applicant
- 3. Age of applicant
- 4. Applicant's address in Kenya at which notices, etc., may be served
.....
- 5. Whether the applicant intends to prospect on his own account or as an agent of any other person
- 6. If as agent of any other person, the name and address of such person
- 7. Whether he has previously made an application for a prospecting right or licence
- 8. Has any such application been refused?
- 9. Has the applicant, or his principal, if any, previously held any prospecting right, claim, location, licence or lease authorising prospecting or mining in Kenya which has been revoked or forfeited?
- 10. I am not in possession of a valid prospecting right [or]
I hereby surrender Prospecting Right No.

[Strike out whichever is inapplicable]

I hereby declare the above particulars to be true.

.....
Signature of Applicant

Mining

[Subsidiary]

FIRST SCHEDULE—continued

FORM No. 2

PROSPECTING RIGHT OR RENEWAL OF PROSPECTING RIGHT NO.

[Regulation 2(3).]

No.

The right, subject to the provisions of the Mining Act, and of the regulations thereunder now in force, or which may come into force during the continuance of this right, is hereby granted to (1)

..... of

(2)

for one year from the date hereof to prospect for minerals.

Dated this day of, 20.....

FEE: SH. 20.

.....
Commissioner (Mines and Geology)

Note:

- (1) Insert name, address and description of prospector.
- (2) If the prospector is to use this right as employee on behalf of a company, body of persons, partnership or individual, state name, address and description of employer.

FORM No. 3

PROTECTION NOTICE

[Regulation 3(a).]

Date and time of posting

Prospecting Right No. dated, 20

Signed

Agent for

Witness

Registered No.

Extended to

FORM No. 4

STATEMENT OF WORK PERFORMED AND APPLICATION FOR EXTENSION OF THE RIGHTS CONFERRED BY PROTECTION NOTICE

[Regulation 5(2).]

I hereby certify that I,

holder of Prospecting Right No. issued at the office

of at

on the of, 20

have completed the following work on the area covered by my Protection Notice erected on

FIRST SCHEDULE, FORM No. 4—continued

....., 20 at [place].....
 in Area No.
 (a) Trenches (¹)
 Pits
 Shafts
 Drives and cross-cuts
 Drilling (mechanical)
 Drilling (hand-auger)
 (b) Any other method of prospecting
 In virtue of having performed the above work. I hereby apply for an extension of
 days to be granted in respect of the Protection Area covered by the above-
 mentioned Protection Notice.
 Dated this day of, 20
 (²) Fees enclosed, Sh.

Signature
 Address

Note:

- (1) Measurements to be given in Development Metres.
- (2) The following fees are payable in respect of extension of the rights conferred by a Protection Notice:—

	<i>Sh.</i>
(a) First thirty days' extension	10
(b) Second thirty days' extension	20
(c) Third thirty days' extension	30
(d) Fourth thirty days' extension	40
(e) Fifth thirty days' extension	50

FORM No. 5

CERTIFICATE OF EXTENSION OF THE RIGHTS CONFERRED BY A PROTECTION NOTICE

[Regulation 5(3).]

Extension

This is to certify that the Protection Area acquired by
 under Prospecting Right No. at [place]
 in Area No. has been registered as No. ,
 and that the rights acquired thereunder are hereby extended until

Dated this day of, 20
 FEES PAID: SH.

.....
 Commissioner (Mines and Geology)

Mining

[Subsidiary]

FIRST SCHEDULE—continued

FORM No. 6

APPLICATION FOR AN EXCLUSIVE PROSPECTING LICENCE

[Regulation 8.]

- Original
- Duplicate
- Triplicate
- Quadruplicate

(Accompanied by Plan of Area applied for in accordance with Regulation 9)

To the Commissioner (Mines and Geology)

- Date and hour of receipt by the Commissioner
1. Full name of applicant
 2. Nationality of applicant
 3. Address in Kenya at which notices, etc., may be served
 4. Number of applicant's prospecting right
 5. Name of company, body of persons, partnership or person (if any) represented by applicant
 6. Position held by applicant in relation to or under such company, body of persons, partnership or person
 7. Delineation and approximate area (in square kilometres) of area applied for (see below)
 8. Minerals for which applicant desires to prospect
 9. Statement of geographical position of the area and its position in regard to some town, village or river-crossing or junction
 10. Name and nationality of directors of company, body of persons or partnership (if any)
 11. A financial statement as to the position of the applicant is appended in a Schedule hereto
 12. Is a copy of the memorandum and articles of association lodged with the Commissioner? If not, a copy must be enclosed herewith.
 13. Remittance of Sh. Enclosed herewith.
 14. Programme of work submitted herewith.
 15. Any other information called for by the Commissioner.

.....
Signature of Applicant

*DELINEATION

An area of approximately

commencing (here give situation of point of commencement in relation to a trigonometrical beacon or some physical feature):

thence on a true bearing of

at a distance of metres;

thence on a true bearing of

at a distance of metres;

FIRST SCHEDULE, FORM No. 6—continued

thence on a true bearing of
at a distance of metres to the point of commencement.

.....
Signature of Applicant

*Note—All descriptions should be clockwise.

FORM No. 7

EXCLUSIVE PROSPECTING LICENCE

[Regulation 12.]

No.

The Exclusive Licence, subject to the provisions of the Mining Act and of the regulations thereunder now in force or which may come into force during the continuance of this Licence or any thereof, for one year from the day of, subject to the special conditions hereunder written, is hereby granted to [insert name, address and description of licensee] to prospect for minerals [or as the case may be] within the following limits [insert boundaries of area] as delineated approximately on the plan attached hereto and coloured

Dated this day of, 20

.....
Commissioner of Mines

SPECIAL CONDITIONS

.....
.....
.....
.....

FEE: SH. 150.
REGISTRATION FEE: SH. 10.
STAMP DUTY: SH. 10.

FORM No. 8

[REGISTRATION NOTICE (LODE LOCATION)]

Regulation 14(3).]

Notice is hereby given that the undersigned, being lawfully entitled to act under Prospecting Right No. issued at the office of at on the day of, 20, has, under the said right, pegged off a block of (1) lode claims of the form shown below and in the position shown on the plan to be lodged with a copy of this notice at the Mines Office at on registration.

Mining

[Subsidiary]

FIRST SCHEDULE, FORM 8—continued

Name of location

Date and time of completion of pegging

Attach or insert in space opposite a diagram showing the form and the position of all pegs and the points of the compass in reference to block and the length of all lines.

Note:

- (1) Insert the number of claims pegged in the location, and the class of minerals for which the location is to be registered in accordance with regulation 15 of the Mining Regulations.

CERTIFICATE

I,, of hereby certify that the above Registration Notice is a true copy of the notice posted on the ground, and that the facts stated therein are true and correct.

As Agent for (2)

Date

Note:

- (2) Delete if inapplicable.

FORM No. 9

CERTIFICATE OF REGISTRATION OF LODGE LOCATION

[Regulation 19(3).]

Official No.

District Office

....., 20

This is to certify that is the registered holder of lode claims comprising Location No. named the situation of which is stated to be and numbered in my register for one year from the (1) day of, 20

Commissioner (Mines and Geology)

Note:

- (1) Date of completion of pegging.

FORM No. 10

REGISTRATION NOTICE (ALLUVIAL LOCATION)

[Regulation 14(3).]

Notice is hereby given that the unsigned, being lawfully entitled to act under Prospecting Right No. issued at the office of at on the day of, 20, has pegged off a block of alluvial claims (1) of the form shown below and in the position shown on the

FIRST SCHEDULE, FORM 10—continued

plan to be lodged with a copy of this notice at the Mines Office at

Date and time of completion of pegging

Attach or insert in space opposite a diagram showing the form of the location and position of all pegs and the points of the compass in reference to the claims and the length of each side.

Note:

- (1) Insert the number of claims pegged in the location and the class of minerals for which the location is to be registered in accordance with regulation 15 of the Mining Regulations.

CERTIFICATE

I,, of hereby certify that the above Registration Notice is a true copy of the notice posted on the above ground, and that the facts stated therein are true and correct.

Date As Agent for (2)

Note:

- (2) Delete if inapplicable.

FORM No. 11

CERTIFICATE OF REGISTRATION OF ALLUVIAL LOCATION

[Regulation 19(3).]

Official No. District Office , 20

This is to certify that is the registered holder of alluvial claims comprising Location No. the situation of which is stated to be and numbered in my register for one year from the (1) day of, 20

Commissioner (Mines and Geology)

Note:

- (1) Date of completion of pegging.

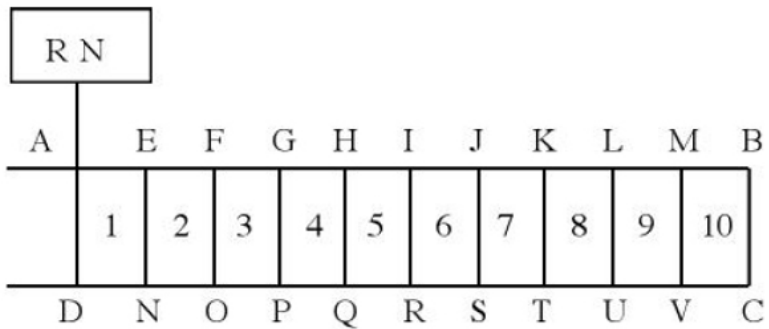
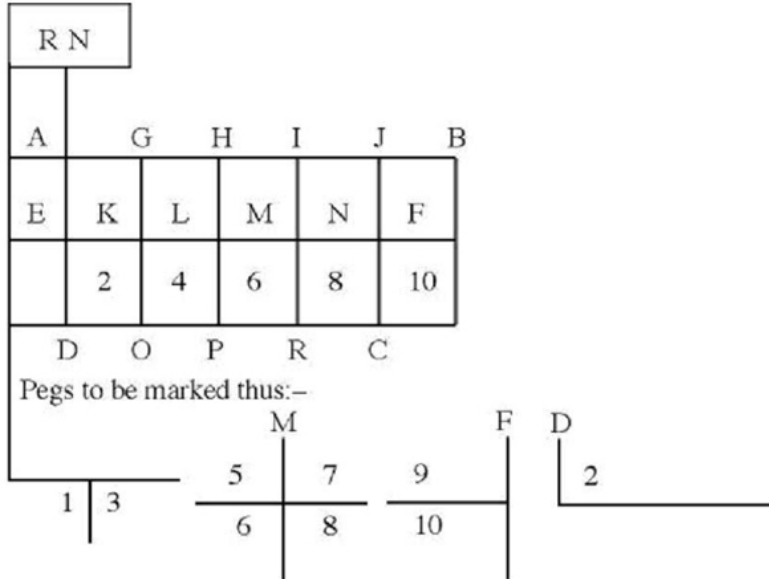
[Subsidiary]

FIRST SCHEDULE—continued

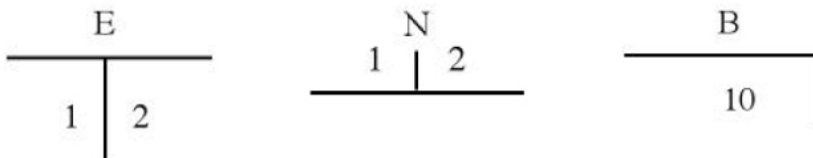
FORM No. 12

SPECIMEN FORM OF LETTERING AND NUMBERING CLAIMS IN A LOCATION

[Regulation 17.]



Pegs to be marked thus:—



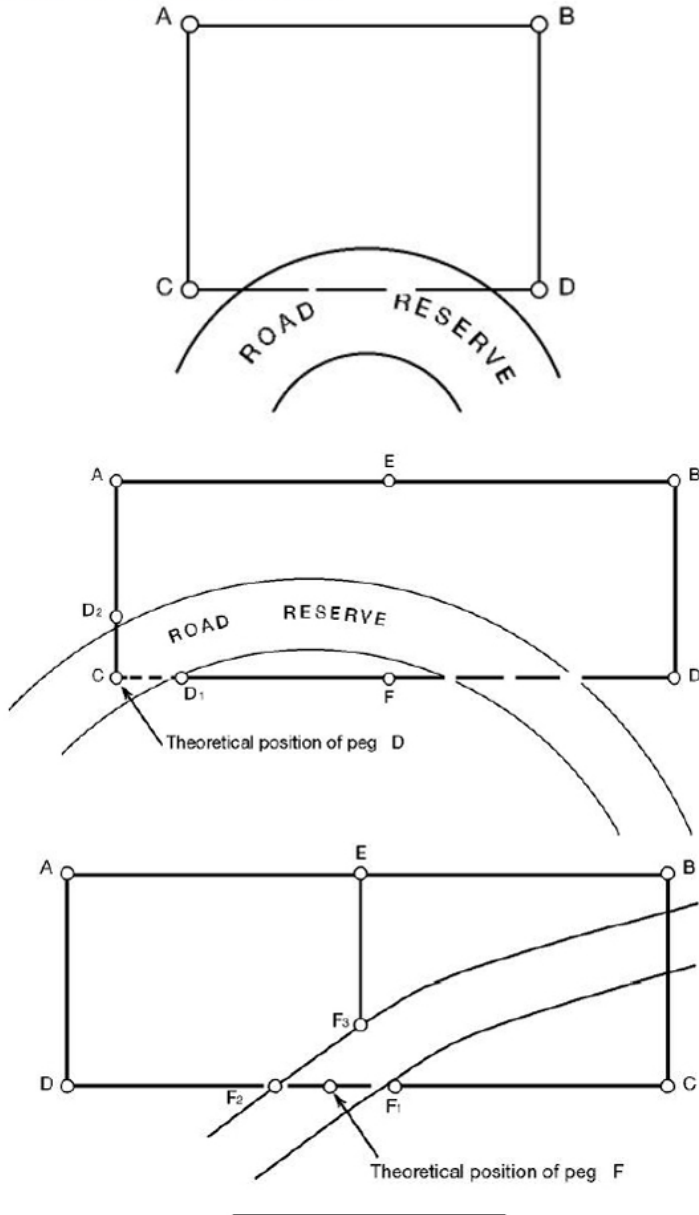
FIRST SCHEDULE—continued

FORM No. 13

SPECIMEN FORM OF PEGGING

[Regulation 17(2)(a.)]

Examples of claims pegged so as to avoid any peg failing within a road reserve, railway reserve or other area closed to mining and prospecting.



Mining

[Subsidiary]

FIRST SCHEDULE—continued

FORM No. 14

SIX-MONTHLY STATEMENT OF DEVELOPMENT

[Regulations 27(3) and 37(1)(c)(i).]

I, of being the [authorised representative of the] registered holder of location[s] enumerated below, hereby certify that development has been performed on the location[s] held as follows:—

Location No.	Date of pegging	Development according to Second Schedule of the Mining Regulations	Period during which the development has been performed

*and that the plan submitted herewith is a true representation of the development work performed; and that such development is sufficient to fulfil the prescribed conditions in full; or that the Commissioner (Mines and Geology)—

- (i) has permitted (ref. his letter No. of) excess development of location to count towards the development on locations and such development is sufficient to fulfil the prescribed conditions;
- (ii) has remitted development conditions on location to the extent of metres;
- (iii) has permitted the payment of a fee of Sh. in lieu of development on locations
- (iv) has extended the period for performance of the development on location for months.

Signed

Date

* Not applicable to alluvial locations. Strike out words that do not apply.

FORM No. 15

APPLICATION FOR RENEWAL OF LOCATION

[Regulation 27(1).]

To the Warden of Mines

1. I [registered holder], of hereby apply for the renewal of Location[s] No.[s] for one year from the day of, 20
2. A remittance of Sh. for renewal, late and compounding fees is enclosed herewith⁽¹⁾.

FIRST SCHEDULE, FORM 15—continued

3. I undertake to lodge with the Warden, not later than seven days after the date due for expiry of the Location[s] mentioned in paragraph 1 hereof, Statements of Development for the current year as required by regulation 27(3) of the Mining Regulations.

Date Signed (2)

Note:

- (1) Delete reference to any fees inapplicable.
- (2) To be signed by the Registered Holder, or by his Attorney duly authorised.

FORM No. 16

[Regulation 27(4).]

CERTIFICATE OF RENEWAL OF REGISTERED MINING LOCATION

..... Renewal No.

This is to certify that the Alluvial Lode Mining Location registered by as No. is renewed until in respect of claims numbered therein.

FEE PAID: SH.

PENALTY: SH.

..... Warden of Mines

FORM No. 17

TRANSFER OF CLAIMS OR LOCATION

[Regulation 28(2).]

I, of, in consideration of paid to me by do hereby transfer to him the following claims of my Location No. claim[s] No[s] subject to all and singular the terms and conditions under which the said Location and claims have been held by me, and I,, of, do hereby accept the said claim[s] subject to the terms and conditions as aforesaid.

Dated at this day of, 20

..... Transferor

Witness Occupation Address

..... Transferee

Witness Occupation

Mining

[Subsidiary]

FIRST SCHEDULE, FORM 17—continued

Address
STAMP DUTY: SH.
REGISTRATION FEE; SH. 2 for each claim.

FORM No. 18

APPLICATION FOR A MINING LEASE

[Regulation 33(1).]

To the Commissioner (Mines and Geology)

- Date and hour of receipt by the Commissioner
1. Name of applicant(s)
2. Nationality of applicant(s). If a company, body of persons or partnership, give names, nationalities and descriptions of members and directors, if any, in a separate Schedule.
3. Address in Kenya at which notices, etc., may be served
4. Number(s) of applicant's location(s) and district of registration
5. A financial statement as to the position of the applicant(s), including the amount of nominal capital, subscribed capital and working capital, is appended in a Schedule hereto.
6. A copy of the memorandum and articles of association is lodged herewith.
7. Area
8. Kind of mining lease desired and mineral to be mined
9. Term desired

Date, 20

Signature of Applicant

Approved

Commissioner (Mines and Geology)

FORM No. 19

MINING LEASE

[Regulation 35(2).]

No.

This lease is granted to [insert name, address and description of lessee] for the purpose of mining [insert the mineral or minerals in respect of which the lease is granted] in, under or upon [describe area with boundaries], as the same is delineated and coloured on the plan annexed hereto, for a term of years from the day of, 20, at an annual rent of Sh. according to the true intent and meaning of the Mining

Mining

[Subsidiary]

FIRST SCHEDULE, FORM 19—continued

Act, and subject to the provisions thereof and of any Act amending the same or substituted therefor and of all regulations now in force or which may come into force under any of the said Acts, during the continuance of this lease and to the special conditions hereunder written.

Dated this day of, 20

Witness

Commissioner of Mines

Accepted:

.....

Lessee

Witness

Occupation

Address

FEE: SH. 100.

REGISTRATION FEE: SH. 10.

STAMP DUTY: SH.

SPECIAL CONDITIONS

FORM No. 20

ASSIGNMENT OF MINING LEASE

[Regulation 35(3).]

WHEREAS, under the provisions of the Mining Act, a lease for the purpose of mining minerals [or as the case may be] upon or under [describe area with boundaries, etc., as in original lease] was on the day of, 20, granted to

..... for a term of years from the date thereof, and duly registered in Volume Folio of the Register of Mining Leases.

NOW these presents witness that in consideration of the sum of the said lessee doth hereby assign to al his rights, title and interest in and under the said lease as from the day of, 20, for the remainder of the term thereof.

In witness, etc.

Lessee

Witness

Occupation

Address

.....

Witness

Assignee

Occupation

Mining

[Subsidiary]

FIRST SCHEDULE, FORM 20—continued

Address

Approved:

Commissioner of Mines

STAMP DUTY: SH.

REGISTRATION FEE: SH. 10.

FORM No. 21

SURRENDER OF MINING LEASE

[Regulation 35(4).]

WHEREAS, under the provisions of the Mining Act, a lease for the purpose of mining minerals [or as the case may be] upon or under [describe area with boundaries, etc., as in the original lease] was on the day of, 20, granted to for a term of years from the date thereof, and duly registered in the Register of Mining Leases;

AND WHEREAS the said desires to surrender the said lease, and the Commissioner is willing to accept such surrender:

NOW these presents witness that the said doth hereby surrender all his rights, title and interest in and under the said lease as from the day of, 20

In witness, etc.

Approved:

Commissioner of Mines

STAMP DUTY: SH.

REGISTRATION FEE: SH. 10.

FORM No. 22

RETURN A

PRODUCER'S MONTHLY RETURN FOR MINES OTHER THAN ALLUVIAL

[Regulation 37(1)(a)]

(A separate Form shall if so required by the Commissioner be used for each Location or Lease)

- 1. Month and year for which the return is being rendered 20
2. Number of mining unit (location or lease) from which mineral produced (1)
3. Name of mine of which the above unit forms a part
4. Mining district in which the unit is situated
5. Name of registered owner
6. Number of tonnes of ore crushed— tonnes.

FIRST SCHEDULE, FORM 22—continued

- 7. Number of tonnes of ore treated ⁽²⁾—
tonnes.
- 8. Method of treatment ⁽³⁾
- 9. Number of tonnes of sand treated tonnes
- 10. Number of tonnes of slimes treated tonnes
- 11. Mineral recovered—

	From ore	From sand	From slimes	Total
Gold	grams	grams	grams	grams
Silver	grams	grams	grams	grams
Other mineral (to be specified) ⁽⁴⁾				
- 12. Approximate value, in weight of mineral per tonne of tailings
- 13. Average grade of ore per tonne
- 14. Percentage of recovery per cent
- 15. Depth from which mineral mined to nearest 50 feet feet
- 16. Remarks
- 17. Adjustment for month of 20

[Difference between the declared and the true weight of mineral produced]

I hereby declare the above particulars true to the best of my knowledge and belief.

Dated this day of 20

Signed

On behalf of Owner

Position held by Signatory

Address

Notes:

- (1) State clearly whether locations or lease.
- (2) Long tonne: 2,240 lb.
- (3) e.g. smelting, amalgamation, cyanidation, etc.
- (4) Tin should be given in kg. of concentrate; copper, lead and zinc in kg. of metal; other non-precious minerals in kg. of product as sold.

This return must be sent to the Inspector or Mines not later than the 14th of the month following that in respect of which it is furnished.

FORM No. 23

RETURN B

PRODUCER'S MONTHLY RETURN FOR ALLUVIAL WORKINGS

[Regulations 37 (1)(a).]

(A separate Form must be used for each Location, Licence or Lease)

- 1. Month and year for which this return is being rendered
- 2. Number of mining unit (location, licence or lease) from which mineral produced ⁽¹⁾
- 3. Name of lake, river or stream covered by the above unit

Mining

[Subsidiary]

FIRST SCHEDULE, FORM 23—continued

4. Mining district in which unit is situated

5. Name of registered owner

6. Number of cubic metres treated cubic metres

7. Method of treatment ⁽²⁾

8. Mineral recovered—
 Gold gm.
 Silver gm.
 Tin kg.
 Other minerals [to be specified] kg. of concentrate

9. Average recovery per cubic yard

10. Remarks

11. Adjustment for the month of, 20

[Difference between the declared and the true weight of mineral produced]

I hereby declare the above particulars true to the best of my knowledge and belief.

Dated this day of, 20

Signed

On behalf of the Owner

Position held by Signatory

Address

Notes:

- (1) State clearly whether location, licence or lease.
- (2) e.g. hand sluicing, dredging, etc.

This return must be sent to the Inspector of Mines not later than the 14th of the month following that in respect of which it is furnished.

FORM No. 24

EXPORT PERMIT

[Regulation 38]

No.

Permission is hereby granted to
 on behalf of
 to export packages
 of ⁽¹⁾ containing ⁽²⁾
 produced from the ⁽³⁾ District
 and marked, on which royalty has been paid,
 or secured to the satisfaction of the Commissioner (Mines and Geology).

Dated this day of, 20

.....
Commissioner (Mines and Geology)

FIRST SCHEDULE, FORM 24—continued

Note:

- (1) Here state mineral; if gold, state whether reef or alluvial.
- (2) Quantity: gold and silver in grams; tin in kg. of concentrate; copper, lead and zinc in kg. of metal; other non-precious minerals in kg. of product as sold.
- (3) Mining district from which the mineral was produced.

FORM No. 25

MEMORANDUM OF COMPLAINT

To the Commissioner (Mines and Geology).

A.B., of , complains of
 E.F., of ,
 and says—

- 1. That, etc.
- 2. That, etc.

[Set forth the subject-matter of the complaint in paragraphs].

The complainant therefore prays
 [set forth relief sought] or such other further relief as shall be just.

The amount sought to be recovered so far as the demand is pecuniary is

Dated this day of , 20

Signed
 A.B.

FORM No. 26

NOTICE OF COMPLAINT TO DEFENDANT

Complaint No.

To [name of the defendant]
 of

You are hereby summoned to appear before me at
 on the day of , 20 , at
 o'clock in the noon, precisely, to answer the complaint, a copy
 of which is sent herewith, of [name of complainant].

You may have a summons to compel the attendance of any witness, or for the production of any
 books or documents, by applying at my office.

Given under my hand this day of , 20

.....
 Commissioner (Mines and Geology)

Mining

[Subsidiary]

SECOND SCHEDULE

[Rules 25(2) and 36(1).]

DEVELOPMENT

1. Development work shall include shafts, drives, crosscuts, winzes, raisers, adits, boreholes, trenches and hand-auger holes.
2. Development need not be done upon a lode, but it is requisite that it shall be done with a view to actual development of a lode and that it shall be new work and not the restoration or clearing of development work previously done or of earlier workings.
3. Development returns shall be rendered in terms of development metres, and, subject to the provisions of paragraphs 4 and 5 of this Schedule, shall be calculated as set out hereunder.

(a) *Underground Work—*

COLUMN I	COLUMN II	COLUMN III		
<i>Adits</i>	<i>Shafts, winzes, raises, drives and cross-cuts</i>	<i>Number of development metres equivalent to each metre of advance of workings in Columns I and II</i>		
<i>Distance from point in centre of roof at entrance</i>	<i>Depth</i>	(a) <i>Area of cross-section under 4 sq.m.</i>	(b) <i>Area of cross-section 4-7 sq.m.</i>	(c) <i>Area of cross-section over 7 sq.m.</i>
0-30 metres	0-20 metres	1	2	3
30-90 metres	20-30 metres	1½	3	4½
Exceeding 90 metres	30-60 metres	2	4	6
	60-90 metres	3	6	9
	90-120 metres	4	8	12
	120-150 metres	5	10	15
	150-220 metres	6	12	18
	220-300 metres	7	14	21
	Exceeding 300 metres	8	16	24

(b) *Surface Work—*

- (i) Every fourteen cubic metres of trenching shall count as one development metre;
- (ii) every three metres bored in a hand-auger hole below the first two metres shall count as one-third of a development metre.

(c) *Boreholes—*

Subject to the provisions of paragraph 4 of this Schedule, every linear metre drilled shall count as one development metre.

4. For the purpose of making the calculation referred to in paragraph 3 of this Schedule the following shall apply—

- (a) the depth of a shaft shall be the depth in metres below the natural surface of the ground;
- (b) the depth or height of inclined workings shall be measured on the incline;
- (c) the area of cross-section shall be measured at right-angles to the line of direction of the working.

5. The following shall not count as development work—

- (a) any drive, cross-cut, winze, raise or adit having an area of cross-section of less than 1.5 square metres;

Mining

[Subsidiary]

- (b) any shaft which has been sunk to a total incline or vertical depth of less than 6 metres from the surface level;
- (c) any borehole which is of less diameter than 22 millimetres;
- (d) any borehole which has been drilled to a total incline or vertical depth of less than 15 metres from the surface level;
- (e) any trench the depth of which is less than one metre;
- (f) any hand-auger hole sunk to a total depth of less than two metres below surface level.

THIRD SCHEDULE

[Rule 43, L.N. 154/1987, L.N. 46/1999, s. 2, L.N. 149/1999, L.N. 38/2014.]

FEES — GENERAL

<i>Fees General</i>	<i>KSh.</i>
<i>Prospecting and Mining</i>	
(a) Prospecting right or renewal thereof	5,000
(b) Application fee for a mining location	1,000
(c) For registration of a lode claim	1,000
(d) For transfer of a claim	10,000
(e) For renewal of a lode claim	1,000
(f) Application fee (exclusive Prospecting Licence, Special Prospecting Licence, Mining lease, Special Mining lease)	50,000
(g) Annual ground rent for an exclusive prospecting licence or special licence	2,500 per square kilometre subject to a minimum of 50,000
(h) Penalty for not surrendering area for an exclusive prospecting licence or special licence	10,000 per square kilometre
(i) For renewal of an exclusive prospecting licence or special licence	2,500 per square kilometre subject to a minimum of 50,000
(j) For transfer of an exclusive prospecting licence or special licence	2,000 per square kilometre subject to a minimum of 100,000
(k) Annual ground rent for a lease per hectare	2,000 per hectare subject to a minimum of 500,000
(l) For renewal of a lease	4,500 per hectare subject to a minimum of 1,000,000
(m) For registration of a document for which no special provision is made	1,000
(n) Fees in lieu of development for each claim or part thereof (not exceeding)	1,000
(o) For copy of a prospecting right, for every half an hour or part thereof of search of register or mining cadastre	1,000
(p) For copy of prospecting right, location certificate or extract from any registered document, or register, for every 100 words or part thereof (stamp duty, Sh 2)	1,000
(q) For extra carbon copy of or extract from any registered document or register, for every page.	500
(r) On complaint to the commissioner (including hearing fee and order fees)	5,000
(s) For every witness summons	1,000

Mining

[Subsidiary]

<i>Fees General</i>	<i>KSh.</i>
<i>Mineral Dealing</i>	
1. Dealers Permit—(Local) per calendar year	5,000
2. Dealers Licence—per calendar year	20,000
3. Dealers Permit—gold (Local) per calendar year	5,000
4. Dealers Licence—gold (Ordinary) per calendar year	20,000
5. Dealers Licence—gold (Special/exporters) per calendar year	350,000
6. Dealers Licence—Diamond (Ordinary) per calendar year	20,000
7. Dealers Licence—Diamond (special/exporters) per calendar year	350,000
8. Export permit (processing)	2,000

ASSAY FEES, ETC.

[L.N. 46/1999.]

<i>Sample Preparation</i>	<i>KSh.</i>
Drying of sample at 70°C (up to 3kg)	20.00
Sieving of mineral sample into fractions (time basis)	50.00
Sample of crushing by jaw crusher pulverising up to 3kg	50.00
pulverising up to 100 mesh.....	50.00
drill core sample splitting by coning and quartering	10.00
sample weighing and packaging.....	20.00
Heavy liquid separation of soil, mineral sample and magnetic separation of light fractions	200.00
Filtration of water sample (0.45 um) and conservation by addition of nitric acid, max 100ml	50.00
Ashing of humus and plant samples at 480°C to 600°C	50.00
Preparation of microscopic slides for petrographic studies	50.00
Cutting and polishing of dimension stone slabs	200.00
Screen analysis (particle size distribution)	100.00
Examination of thin and polished sections and interpretation	50.00
Heavy mineral separation by tabling	100.00
Gold amalgamation per 5kg sample	100.00
Simple sample test:	50.00
specific gravity determination	
hardness	
acid test	
WATER ANALYSIS (per element)	
Element determination of filtered water sample conserved by nitric acid by the FAAS technique	50.00

Element determination of filtered water sample, filtered conserved by nitric acid by the GAAS technique	50.00
The potentiometric determination of F, PH and electrical conductivity (EC) of an untreated water sample (detection limit for F is 0.05mg/())	50.00
Titrimetric determination of alkanity by KMnO_2 method	50.00
Determination of Hg in a water sample filtered and conserved by addition of potassium dichromate/nitric acid by HAAS technique	100.00

ENVIRONMENTAL ANALYSIS (sample digestion)

Leaching by 1 M ammonium acetate at room temperature of dried sieved soil samples	50.00
Leaching 1 M ammonium chloride at room temperature of dried sieved samples (pilot programme on integrated monitoring method (EAF)	50.00
Leaching by 0.025 M ammonium nitrate of dried and sieved soil samples	50.00
Water leach at room temperature of dried and sieved soil samples (Pilot Programme on Integrated Monitoring Method PHEW20)	50.00
Leaching by 6 M hydrochloric acid at 90°C	50.00
Leaching by 7 M Nitric Acid at 90°C	50.00
Leaching by nitric acid and hydrogen peroxide of dried and sieved soil samples	50.00
Leaching by nitric acid using aluminium heating block of sediment and soil samples... ..	50.00
Aqua regia leach at 90°C	100.00
Digestion by nitric acid and perchloric acid of humus and plant samples	100.00
Elemental determination of the leaches 3.1 to 3.10 by FAAS technique	50.00

GEOCHEMICAL ANALYSIS (per element)

Titrimetric determination of Fe, Ca, Mg by EDTA	50.00
Gravimetric determination of loss on ignition at 1000°C	100.00
Gravimetric determination of moisture content at 105°C	50.00
Gravimetric determination of sulphur trioxide, sulphate by precipitation with barium chloride solution	100.00
Gravimetric determination of SiO_2	100.00
Gravimetric determination of aluminium as oxinate by precipitation with 8- hydroxyquinoline.....	100.00
Gravimetric determination of tin by precipitation as metastannic acid	100.00
Spectrophotometric determination of TiO_2 , P_2O_5 , SiO_2	100.00
Determination of S by sulphur analyser	100.00
Determination of C by Carbon analyser	100.00
Determination of combined water in gypsum and other minerals with water crystallisation	100.00
Spectrophotometric determination of tungsten as the dithiol complex from 10m hydrochloric acid extraction of the sample	200.00

Mining

[Subsidiary]

Determination of major rock elements by FAAS	100.00
Precious metal determination by conventional fire assay with gravimetric finish (using 30g sample weight)	200.00
Gold determination by conventional fire assay with flame FAAS finish (30g sample weight)	200.00
Gold assay and refining of industrial gold articles, amalgams and alluvial gold by flux fusion:	
gold amalgam per gramme	3.00
alluvial gold per gramme	4.00
Manufactured gold per gramme	5.00
Silver extraction from photographic sludge by plus fusion per gm of sludge	1.50
Gold determination by aqua regia leach, concentrated into organic phase MIBK by flame AAS finish	200.00
Rapid gold determination by flameless AAS in the ppb and ppm ranges	200.00
Extraction by 7 M HCL at 90°C	50.00
Extraction by aqua regia at 90°C	50.00
Aqua regia, hydrofluoric acid, perchloric acid digestion	50.00
Base metals determination by FAAS technique Base metals determination by GAAS technique	50.00
Aqua regia leach at room temperature, followed by mercury co-precipitation using a 20g sample weight GAAS finish	200.00

X-RAY FLUORESCENCE ANALYSIS

Determination of the major components using Lithium metaborate, lithium tetraborate fusion as sample preparation	100.00
Multi-element determination using pressed powder pellets of sample for measurement	100.00
FAAS determination of Be using lithium metaborate fusion for ample decomposition	100.00

MINERALOGICAL ANALYSIS (per sample)

Sample preparation for XRD analysis	100.00
XRD scan with interpretation	100.00
Diamond testing	100.00
Gem identification	300.00
Use of laboratory facilities under specified conditions per day	1,000.00
Hiring of services of technical officers per day exclusive of expenses	5,000.00

FOURTH SCHEDULE

[Rules 10, 22, 33(8) and 36(5).]

PART I – BEACONS FOR LOCATIONS

1. Every stone beacon shall be at least sixty centimetres high and one hundred and twenty centimetres in diameter at the base, and in the centre of such beacon shall be solidly and securely fixed a peg in an upright position and standing not less than thirty centimetres above the top of such beacon.
2. At such beacon or peg a trench one hundred and eighty centimetres in length and thirty centimetres in width and depth shall be dug in the alignment of the next beacon or peg:

Provided that on stony ground a wall of stones of the same dimensions may be built.

PART II – BEACONS FOR EXCLUSIVE PROSPECTING LICENCE AREAS

The minimum beacon shall consist of an angle-iron one hundred and twenty centimetres in length, and weighing not less than 3 kg, set in concrete and surrounded by a cairn of stones or a mound of earth. An iron plate, of a size sufficient for the clear inscription of the official number of the Exclusive Prospecting Licence and the name of the holder of such licence, shall be securely bolted to the angle-iron.

Not less than 6 kg of cement shall be used for each beacon in concrete, and the angle-iron shall be sunk to a depth of at least 50 centimetres in the ground.

Two reference marks consisting of 50 centimetre iron pins shall be driven in flush with the ground on boundary lines at distances of 120 centimetres from each beacon.

PART III – BEACONS FOR LEASE AREAS

Beacons of lease areas shall consist of concrete blocks moulded in the shape of truncated cones (the horizontal cross-section being a circle) and reinforced by an iron rod or pipe in the centre not less than one centimetre in diameter. The concrete shall be well mixed in the proportion of 2 cement, 2 clean sand, 4 stone, and the beacon shall be sunk 60 centimetres in the ground.

The minimum dimensions shall be—

- (a) height: 120 centimetres;
- (b) diameter of base: 75 centimetres;
- (c) diameter of top: 30 centimetres.

**ROYALTIES PRESCRIBED UNDER REGULATION
39(1) OF THE ABOVE REGULATIONS**

[G.N. 448/1951.]

There shall be payable on all diamonds originating in Kenya an *ad valorem* royalty of fifteen per centum of the gross value thereof as assessed by an approved valuer appointed under the Diamond Industry Protection Regulations (Cap. 310, Sub. Leg.).

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MINING (SAFETY) REGULATIONS

[Cap. 168 (1948), Sub. Leg. G.N. 576/1954, L.N. 603/1961, L.N. 142/1963, L.N. 587/1963, L.N. 275/1967.]

1. Citation

These Regulations may be cited as the Mining (Safety) Regulations.

2. Interpretation

In these Regulations, except where the context otherwise requires—

“**adit**” means a tunnel having an inclination of less than three degrees from the horizontal driven from the surface into higher ground;

“**banksman**” means a person who is appointed by the manager to be stationed at the shaft top to supervise the loading and unloading of persons and materials in the cage, bucket or other shaft conveyance, and to give the necessary signals to the engine driver;

“**boiler**” means any apparatus adapted to convert continuously by the application of heat any liquid into steam, vapour or gas at a higher pressure than that of the atmosphere, together with all fittings and appurtenances, including superheaters and economisers;

“**cage tender**” means a person appointed by the manager to have charge of the cage, bucket or other shaft conveyance underground in which persons or material are being raised or lowered, and to give the necessary signals to the engine driver and banksman;

“**engine**” means an arrangement of machinery which converts physical into mechanical power;

“**explosives**” means nitro-glycerine, dynamite or any other nitro-glycerine compound, gun-cotton, blasting power and detonators, and every other substance (whether similar to those mentioned or not) used in mining operations with a view to producing a practical effect by explosion;

“**ganger**” means a person in charge of workmen in one or more working places in or on a mine, whether he is the holder of a blasting certificate or not;

“**inspector of mines**” means an officer appointed as an inspector of mines under section 9 of the Act;

“**manager**” means the person registered as responsible under these Regulations for the control, management and direction of a mine:

Provided that, should there at any time be no registered manager, then for the purposes of these Regulations the owner shall be deemed to be the manager;

“**mine captain**” or “**underground manager**” means the person in charge of underground workings of a mine acting under the direction of the manager;

“**mine shift boss**” means any person in charge of a shift in any underground working of a mine acting under the instruction of a mine captain;

“**misfire**” or “**misfired hole**” means a hole in which explosive has failed to explode;

“**owner**” means any person who is the immediate holder or lessee of a mine or the registered holder of a mining location or the holder of a special licence or an exclusive prospecting licence, and, in the case of registered or incorporated companies, includes every director or representative of the company in Kenya, and in the case of an unincorporated body of persons includes every member of that body in Kenya;

“**raise**” or “**rise**” means a heading excavated in an upward direction;

“**safety pillar**” means every portion of a mineral deposit or country rock left *in situ* for the support and protection of the surface, objects thereon and underground workings;

“**shaft**” means a heading excavated downwards of greater inclination than three degrees from the horizontal;

“**shaft conveyance**” includes cage, skip, bucket or other means of shaft conveyance;

“**socket**” means a hole or part of a hole which remains after being charged with explosive and blasted and which is not known to be a misfired hole;

“**steeply inclined**” in connection with shafts or winzes or other underground excavations means an inclination to the horizontal of more than 45 degrees;

“**stope**” means a working in which a section or block of ore or waste which is being or has been opened up by means of levels and their connections is being or has been removed;

“**surveyor**” means the person registered as responsible under these Regulations for the upkeep of mine plans and for the accurate survey of the workings;

“**winze**” means a heading excavated in a downward direction of a greater inclination than three degrees from the horizontal from an interior working;

“**workings**” means all excavated and open portions of a mine.

3. Copy of Regulations to be kept in mine office

A copy of these Regulations shall be kept in the office of every mine, and every ganger and every mine official appointed under these Regulations on a mine shall have in his possession a copy of these Regulations, and shall sign a statement to the manager to the effect that he has read them.

General Precautions

4. Fences

(1) Where necessary for the prevention of danger to workmen or to other persons, the following shall be securely fenced or otherwise protected to the satisfaction of an inspector of mines—

- (a) temporarily disused excavations;
- (b) the mouth of every shaft, winze or pit and the entrance to every underground working, whether above or below ground;
- (c) any places where mining operations have caused or are likely to cause subsidences of the surface;
- (d) every elevated and exposed platform or gangway; and
- (e) all exposed machinery which when in motion may be dangerous to persons.

(2) At any place where a winze or raise or chute leads directly into a travelling way, such way, and also any working place situated on its lower or dip side, shall be securely fenced or otherwise protected so that persons working therein are protected against the danger of falling stones or materials:

Provided that such fences may under proper precautions be temporarily removed for the purpose of repair or other necessary operation.

5. Loose material or articles near unprotected edges

(1) No excavated material, tools, wood or loose articles of any kind shall be allowed to lie dangerously near the unprotected edge of any excavation.

(2) The ground or other material excavated from every trench shall be disposed so as to form ridges of approximately equal height at the sides and ends of the trench.

6. Filling in or securing excavations

(1) Disused excavations shall be filled or otherwise rendered safe to the satisfaction of the Commissioner.

[Subsidiary]

(2) Failing compliance with subregulation (1), the Commissioner may cause such disused excavations to be filled or fenced to his satisfaction at the expense of the owner.

Surface Protection

7. Safety pillars to be left

(1) Safety pillars shall be left for the protection of ground and any surface objects which it is necessary to protect in the interests of personal safety or public traffic; the size, shape and position of such pillars shall be subject to the approval of an inspector of mines.

(2) Permission for the entire or partial excavation of ground beneath such surface objects may be given by an inspector of mines to such extent and under such precautions as he may prescribe in each separate case.

8. Excavations contrary to regulations to be filled in

All excavations made contrary to regulation 7 shall be immediately filled with loose rock, debris or earth by the persons responsible for such excavations, failing which they shall be filled by Government at the expense of the owner of the mine.

9. Construction of dam or catchment

No person shall construct any catchment area or dam or any other construction for the purpose of conserving water, or any cyanide plant, unless he has submitted to the Government mining engineer plans and specifications giving full details of the proposed construction and has obtained the approval of the Government mining engineer to such construction.

10. Slimes dam

Any slimes dam in the neighbourhood of any building, thoroughfare, public road or railway shall be so constructed as not to endanger the safety of any person or to cause damage to property.

11. Prevention of flooding

The manager shall provide for an adequate watch to be kept on all artificial constructions on his mine for conserving water or working which may cause water to converge or accumulate, and shall give notice without delay to the managers, or their representatives, of all mines or workings situated below such construction of any possibility of flooding by reason of such construction.

Opencast Workings

12. No undercutting

In opencast workings, no undercutting shall be allowed unless suitable support is provided for the material undercut.

13. High vertical faces prohibited in alluvial and other workings unless securely timbered

In the opencast working of alluvial or of soil, soft rock, gravel, clay, tailings, slimes, ashes, debris or other weak ground, no vertical face, unless securely timbered, shall have a height of more than two and a half metres, but such unsupported open face shall be worked in terraces or at a safe angle of slope.

14. Angle of slope

An inspector of mines may determine from time to time the angle of slope to be maintained on any mine workings to ensure the safety thereof, and in such case shall give notice in writing to the manager of the angle of slope to be maintained.

*Underground Workings***15. Roofing material for shafts, etc.**

No inflammable roofing material such as thatch or wood shall be used as roof covering on shelters erected over the mouths of shafts or other deep workings.

16. Inflammable material

(1) No inflammable debris or refuse shall be stored, dumped or allowed to accumulate underground in any mine.

(2) No naked lights shall be so placed that there is any risk of their igniting any wood, timber or other material underground in a mine.

17. Surface drainage

The manager shall take all reasonable precautions against the flooding of any workings in which men are employed.

18. Responsible person to be informed in case of danger

(1) Should any person have reason to believe that any part of a working place or any other part of a mine is in a dangerous condition, he shall at once inform the ganger or the mine shift boss or mine captain or the mine manager.

(2) The mine official so informed shall take the necessary steps to remove the danger; and such information shall be passed on to a responsible person on the oncoming shift.

19. Dangerous workings to be made secure

(1) Where the ground is not naturally safe, every working shaft, pumping shaft, travelling way, airway, working place, stope and underground passage shall be made secure, and kept in safe condition so long as it is in actual use.

(2) No person shall enter any such place as is referred to in subregulation (1) until it has been made secure, except for the purpose of repairing or exploring such place.

(3) The ganger or miner in charge of working parties carrying out such repairs or exploration shall take all reasonable precautions that the persons under his charge are secured against falls of rock and other dangers whilst performing such work, and shall be responsible for seeing that all exists are in good repair.

20. Reserve of timber to be kept

For every working place where the ground is not naturally safe a sufficient reserve of suitable timber shall be so placed as to be readily accessible.

21. Supporting roof and sides

If an inspector of mines considers that the system of supporting the roof and sides adopted in any underground working is unsafe, he may require the manager to fix some less distance between the supports or otherwise alter the system.

22. Workings approaching water or gas and approaching workings

(1) When any working approaches a place which is likely to contain a dangerous accumulation of water or noxious gases, boreholes shall be kept at least one and a half metres in advance of the drilling face of the said working, and any such additional precautions shall be taken as may be deemed necessary to obviate the danger of a sudden influx of such water or gases, and such working shall not exceed two metres in width.

(2) When the distance between approaching workings in either of which blasting is being done becomes reduced to ten metres, work at one of the faces shall be stopped.

(3) In mines where a surveyor has been appointed, the surveyor shall exercise supervision at such working face and shall be responsible for informing the manager when the conditions set forth in subregulations (1) and (2) occur.

[Subsidiary]

23. Safety pillars at mine boundaries

(1) No underground working shall approach to within ten metres of the outside boundary of a mine.

(2) On the joint application of the owners of adjoining mines, an inspector of mines may give permission to either party to reduce, cut through or work their respective pillars between such mines.

(3) In the absence of such joint application, the Commissioner shall have power to give written permission for the partial working, reducing or cutting through of such pillars.

24. Sand filling

When sand is used for filling worked-out areas underground, the moisture content in such sand and the liquid draining therefrom shall not have a higher cyanide content than 0.005 per cent expressed as cyanide of potassium.

25. Distance between shafts

No shaft shall be sunk within ten metres of any other shaft without the written permission of an inspector of mines.

26. Notice must be given of reopening workings

Written notice shall be given by the manager to an inspector of mines when work is to be started for the purpose of reopening an abandoned mine or part of a mine.

Winding and Hauling

General

27. Banksman and cage tender

(1) There shall be a banksman in charge of the landing and dispatching of shaft conveyances at or from the surface.

(2) There shall be a cage tender in charge of the shaft conveyance during the time while it is in operation in the shaft.

28. Quality of winding ropes

(1) Ropes used for winding and hauling purposes shall be in good condition and of good quality and manufacture.

(2) Every rope used for winding purposes in shafts and winzes shall be made of steel wire, and the wires used in the construction of the ropes shall be of size suitable for use with the sheaves and drums fitted.

29. Connection between rope and conveyance

The connection between rope and shaft conveyance must be of such a nature that no accidental disconnection can take place.

30. Securing of materials during winding

When tools or materials are to be lowered or hoisted in a shaft conveyance, they shall be so loaded or secured in place that the ends cannot project beyond the sides of the shaft conveyance, and if the ends of such tools or materials project above the top of the shaft conveyance they shall be securely fastened to the winding rope.

31. Sinking shaft conveyance; amount of filling allowed

(1) In sinking a shaft or winze, the shaft conveyance shall not be so filled as to cause danger of spilling.

(2) Before the bucket or similar shaft conveyance leaves the top or bottom of the shaft or winze, it shall be steadied under the supervision of the banksman or cage tender.

32. Protection of workmen at shaft bottom

(1) Where a shaft is being sunk to a greater depth than 30 metres, suitable protection shall be provided for men working at the bottom of the shaft during the winding of rock, materials or water, such protection being not more than 30 metres from the shaft bottom.

(2) While ordinary winding is going on, men employed at the bottom of any shaft or winze shall be securely protected by a cover overhead.

33. Winding by hand

(1) Windlasses in use in shafts and winzes shall be provided with stoppers, pawls or other reliable holders; and care shall be taken that the attaching or releasing of buckets or other shaft conveyances is done without danger to workmen.

(2) Ropes shall have at least four turns round the drum of every windlass when the bucket or shaft conveyance is at the lowest part of the shaft or winze; where only one bucket or shaft conveyance is in use, one end of the rope shall, in addition, be securely fastened to the drum.

(3) When lowering or raising persons by windlass, there shall not be less than four men controlling the handles.

(4) When lowering or raising persons by windlass, there shall be provided a substantial fibre rope traversing the whole length of that part of the shaft in which men are being raised or lowered, and so situated that any person riding in the shaft conveyance can at all times reach such rope.

34. Winding by power

Where winding is effected by means of an engine or a mechanical or electrical hoist—

- (a) an adequate brake of a type approved by the Government mining engineer shall be attached to every drum and kept in proper working order; such brake shall be so arranged that, whether or not the engine is working, it can be easily and safely manipulated by the engine driver when standing at the levers controlling the engine, and it shall be capable of maintaining such winding drum unclutched from the engine in a position of rest with no more slipping than thirty centimetres when bearing double its full working load;
- (b) brake blocks and all other necessary spare parts shall always be kept in stock at the mine;
- (c) an inspector of mines shall at all times have the power to order or conduct a test of the efficiency of all brakes;
- (d) winding engines or mechanical hoists in which the drum is driven by means of a dog-clutch shall be fitted with some device for locking the said clutch in the engaged position; and such device shall at all times be employed to prevent the accidental disengagement of the clutch;
- (e) lowering men or materials from an unclutched drum is prohibited;
- (f) a machinery record book shall be kept in which shall be entered particulars of the said hoist and of all repairs and alterations thereto, together with a description of the materials used, and all relevant dates.

35. Guides for conveyances in shafts

(1) All vertical shafts in which mechanical hoisting is employed shall be equipped with steel or timber sets and, except where the haulage compartment is completely and suitably lined with timber, with guides down to a point not more than 15 metres from the shaft bottom, except with the written permission of an inspector of mines.

(2) If a bucket or similar conveyance is used in a vertical shaft which is equipped with guides and in which mechanical hoisting is employed, it shall be provided with a crosshead sliding up and down the guides, and the stops upon which the crosshead comes to rest at the bottom of its travel shall not be higher than the lowest set but one in the shaft.

[Subsidiary]

(3) Where a crosshead is used in a shaft or winze in conjunction with a bucket or other shaft conveyance, some mechanical device shall be employed to prevent the crosshead from being left behind accidentally when the bucket or other shaft conveyance is descending:

Provided that the Government mining engineer may grant written exemption from the conditions of this paragraph under such conditions as he may consider desirable.

36. Shaft conveyance to be stopped before reaching bottom

In no case shall any shaft conveyance be lowered directly to the bottom of a shaft when men are working there, but it shall be stopped at least 5 metres above the bottom until the signal to lower further has been given by one of the sinkers thereat:

Provided that this regulation shall not apply to shafts which are less than 15 metres in depth.

37. Winding prohibited during repairs

No winding shall be permitted while repairing or maintenance work in the winding compartment is being carried out, except the minimum winding necessary for such repairs; but this regulation shall not be deemed to prohibit persons from working below the lowest point from which winding is taking place, provided such persons are securely protected.

38. Shaft signals required

Every winding shaft or winze shall be provided with some efficient means of interchanging distinct and definite signals between the winding apparatus and all working places and stations in it:

Provided that this provision shall not apply to the bottom of shafts while they are being sunk, in which case a simple bell-pull may be used.

39. Restrictions concerning signals

(1) The engine driver is prohibited from starting his engine before he has received a distinct signal.

(2) No person other than a banksman or cage tender or a person authorised by the manager shall give a signal, other than the accident signal; and no cage tender shall give a signal other than the accident signal unless the shaft conveyance is at his station, or unless he is in the shaft conveyance.

(3) Special instructions shall be issued by the manager forbidding access to signal wires to any person other than those authorised to use them; and care shall be taken to guard against the signal wires being accidentally put into operation.

40. Code of signals

In signalling the following shaft signals shall be used:

Knocks or rings or flashes of a lamp—

- 1 — Raise, when engine or windlass is at rest.
- 1 — Stop, when engine or windlass is in motion.
- 2 — Lower.
- 3 — Men about to ascend or descend.
- 3 — In reply, from the engine driver: Men may enter cage or other conveyance.
- 10 — Accident signal.
- 5 — Repeated three times: Blasting.

41. Signal for hoisting men

(1) In shafts where an interchange of signals between the surface and working places or stations is possible, no person shall enter a shaft conveyance until the back signal "3" has been received.

(2) After receiving the signal “3” signifying that men are about to ascend or descend, the engine driver shall wait for at least ten seconds on receipt of the signal “1” or “2” before starting his engine.

(3) No engine driver shall act on any signal if he has been unable to do so within sixty seconds after receiving it, in which case he shall await a fresh signal.

42. Special signals; signals to be advertised

(1) Special signals in addition to the above may be used at any mine, provided they are easily distinguishable from the foregoing code and do not interfere with it in any way, and are first approved by an inspector of mines.

(2) The code of signals specified in regulation 40, as well as any special signals that may be in use on a mine, shall be painted on a board or enamelled plate, measuring not less than 50 centimetres by 50 centimetres, in the form of a distinctly legible notice in English and in Kiswahili, and shall be posted up in the engine room, at the top of the shaft, and at all shaft stations for the time being in use.

43. Blasting signal in shaft sinking

(1) In shaft-sinking, special care must be taken that the engine driver is notified by the blasting signal when blasting is about to take place.

(2) On receipt of the signal he shall raise the bucket or shaft conveyance a short distance and then lower it back to its original position in readiness to hoist away on receipt of the signal to raise.

Raising or Lowering Persons by Mechanical Power

44. Winding of persons, permission required

(1) No winding plant shall be used for the raising or lowering of persons unless the special written permission of an inspector of mines has been granted; such permit shall state the maximum number of persons to be raised or lowered at any one time, and the maximum speed of winding, and under no circumstances when men are being raised or lowered shall the speed of winding or the number of persons carried be in excess of that laid down in the said written permission.

Conditions of permission

(2) Such permission shall not be granted unless the following special conditions are observed—

(a) by actual test it shall be proved to the satisfaction of an inspector of mines—

Winding engine to be easily manipulated

(i) that the winding engine running at various speeds with light and heavy loads can be readily retarded and stopped, and after stopping can be immediately started again in either direction by the engine driver;

Winding engine capacity

(ii) that the winding engine can lift from the bottom to the top of the shaft the maximum unbalanced load on one drum;

Efficiency of brake

(iii) that the brakes comply with the requirements of paragraph (a) of regulation 34; and

Rope slip on drum

(iv) that in the case of a hoist where no part of the rope is rigidly fixed to the drum, there can be no dangerous slipping of the rope on the drum under any possible working condition;

Winding ropes; factor of safety

(b) (i) no winding rope shall be used for raising or lowering persons if its breaking strain is or has become reduced to below six times the

[Subsidiary]

maximum working load; the working load includes the weight of rope in the shaft when at the lowest working point;

- (ii) in no case shall a spliced winding rope be used;

Winding ropes; sample to be supplied to inspector of mines

- (c) at the request of an inspector of mines, an adequate sample from the end of any winding rope shall be supplied to him, also such data as may be required regarding manufacture, dimensions and class of steel;

Winding ropes and connections to be tested before use for winding persons

- (d) winding ropes newly put on, and also connecting attachments between the ropes and the shaft conveyance, shall be carefully examined and properly tested as to their working strength by some competent and reliable person authorised for that purpose by the manager, and shall be used for the ordinary transport of persons only after having run two complete trips up and down the working portion of the shaft or winze under full load; the result of the above examination shall be immediately recorded in the machinery record book;

Minimum amount of rope allowed on drums

- (e) there shall be not less than three rounds of rope upon the drum when the shaft conveyance is at the lowest point of the shaft from which hoisting is being conducted;

Attachment of rope to drums

- (f) the end of the rope shall, unless it is attached to a balancing load, be properly fastened to the drum in a manner approved by an inspector of mines;

Flanges or other appliances on drums to prevent slipping

- (g) there shall be on the drum of the winding engine such flanges or horns, and also, if the drum is conical or spiral, such other appliances, as may be sufficient to prevent the rope from slipping laterally;

Doors required for cages

- (h) cage entrances shall be fitted with doors or bars so as to prevent any person riding therein from accidentally coming into contact with the timbering or sides of the shaft, and such doors or bars shall be constructed in such manner that they cannot open accidentally;

Covers and safety catches, required

- (i) shaft conveyances used in vertical or steeply inclined shafts shall, wherever possible, be fitted with a proper roof or cover and with safety catches;

Reliable depth indicator necessary

- (j) when it is considered necessary by an inspector of mines, every engine used in raising or lowering persons shall be provided with a reliable depth indicator (in addition to any marks on the rope) which will clearly and accurately show to the engine driver on his driving seat the position of the conveyance in the shaft at all times, and which, in shafts exceeding 100 metres in depth, will ring a bell in the engine room when the conveyance is 20 metres from the top landing place;

Indicator to show places needing reduction of speed

- (k) the position of every place in a shaft where it is necessary to reduce winding speed shall be clearly marked on the depth indicator;

Speed indicator may be required

- (l) a reliable speed indicator shall be attached to the winding engine if considered necessary by an inspector of mines;

Provision against over-winding

- (m) an automatic device approved by an inspector of mines to prevent overwinding of shaft conveyances shall be provided at every winding shaft

or winding engine where the speed of winding is in excess of 80 metres per minute; and

Height of headgear and clearance necessary

- (n) the headgear shall be so constructed that the shaft conveyance can be raised 8 metres above its highest landing position without striking any obstruction.

45. Regulations where winding of persons is permitted

Where winding in shafts in accordance with regulation 44 is permitted, the following provisions shall, save as hereinafter mentioned, be strictly observed—

Examinations to be made

- (a) at least one competent person, specially deputed by the manager for the purpose, whose name or names must be entered by him in the machinery record book, shall carefully examine—

Weekly examination

- (i) at least once a week, the guides and the winding compartments generally, the signalling apparatus and the external parts of the winding engine, the aerial gear, the winding ropes and their attachment to the shaft conveyances and to the drums of the hoist, the brakes, the depth indicators, the cages and their safety catches, the buckets or other shaft conveyances, the sheave wheels and every essential external part of the winding arrangements;

Monthly examination

- (ii) at least once a month, the structure of the rope, for the purpose of ascertaining the amount of the deterioration of the same; for the purpose of this examination the rope must be carefully cleaned and measured at selected places;

Yearly examination

- (iii) at least once a year, the winding engine as to the working condition of the internal parts;

Any defects to be made good before persons lowered or raised

- (b) should, as a result examination, any weakness or defect be discovered by which life or limb might be endangered, the defect shall be immediately reported to the manager and remedied, and no person shall be lowered or raised until the defect is made good;

Machinery record book to be kept

- (c) the result of every such examination shall be recorded without delay in the machinery record book, and shall be signed by the person who made the examination;

Spare rope to be kept

- (d) at least one spare rope as described in regulation 28 and paragraph (b) of subregulation (2) of regulation 44 shall always be kept in reserve ready for use;

No riding on partly loaded conveyances

- (e) no persons shall be allowed to ascend or descend a shaft or winze on the side or bow of a skip or in or on a loaded or partly loaded cage, bucket or other shaft conveyance:

Provided that the mine captain may authorise the carrying of tools or other materials in small quantities with men in a shaft conveyance, and that a cage tender may travel with materials in a cage;

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No changing of position

- (f) no person travelling in a shaft conveyance shall change his position therein whilst being raised or lowered;

Conveyance to run complete trip after stoppage

- (g) after any stoppage of winding for repairs exceeding two hours, each shaft conveyance shall, before any person is allowed to ride therein, be run at least one complete trip up and down the working portion of the shaft or winze with a view to ensuring that everything is in good working order;

Special duties of banksmen and cage tenders

- (h) at every shaft head or shaft station in which persons are regularly allowed to ride, the banksmen and cage tenders shall be responsible for the observance of paragraphs (e) and (g), for the giving of correct signals, for seeing that the number of persons carried at any one time does not exceed that authorised by an inspector of mines and for the proper closing of the doors or bars of the cages; and

Entering engine house or distracting the attention of engine driver prohibited

- (i) no person other than the driver of the winding engine or an inspector of mines shall at any time enter or remain in a winding engine house or shed while winding is in progress unless authorised to do so by the manager for the purpose of carrying out repairs, adjustments or inspection, and no person shall speak to or in any way distract the attention of the person operating a winding engine while it is in motion.

46. Savings for certain persons

Notwithstanding the provisions of regulation 45, persons in charge of underground work, persons engaged in examining a shaft, shaft-sinkers and workmen engaged in repairing a shaft may be raised or lowered in a shaft—

- (a) on or in a partly loaded shaft conveyance;
- (b) by means of winding plant not permitted under regulation 44 of these Regulations to raise or lower persons.

Underground Tramways

47. Signalling apparatus and refuges to be provided

The following provisions shall apply to underground tramways—

- (a) a signalling apparatus shall be provided by which distinct signals can be given from any part of the tramway—
 - (i) to the engine driver if the tramway is operated by machinery;
 - (ii) to the brake operator if the tramway is operated by gravity and exceeds 45 metres in length.
- (b) where persons are allowed to travel along a tramway operated by gravity or by machinery, places of refuge shall be provided at intervals of not more than fifteen metres if there is not ample room for a person to stand between the moving trucks and the wall; and every place of refuge shall at all times be kept clear of obstruction.

Travelling and Ladder Ways

48. Ladders and ways of exit

The mine manager shall provide and maintain to the satisfaction of an inspector of mines such ladder or other ways as will furnish effectual means of exit from all underground workings without the assistance of winding machinery.

49. Second outlet from mine may be necessary

Where in any working served by only one shaft it appears to an inspector of mines that a second outlet has become necessary, either for the safety of the workmen employed or for proper ventilation, the manager shall on being required to do so provide such second outlet.

50. Where single shaft allowed, proper ladder way to be provided

Where any single shaft exceeding thirty metres in depth is allowed to form the only means of ingress and egress to the persons other than shaft-sinkers employed underground, such shaft shall be provided with a separate compartment or ladder way for foot travelling.

51. Ladders and travelling ways to be bratticed or fenced

(1) In vertical or steeply inclined shafts where one compartment is used as a ladder way, it shall be securely bratticed from the other compartments; in all other shafts any ladder or foot travelling way shall be adequately fenced so as to prevent any person from inadvertently entering the winding compartment:

Provided that, when a shaft is being sunk, no brattice shall be installed between the lowest working level and the shaft bottom.

(2) All brattices shall be of material which is not readily inflammable.

52. Workmen not to cross shaft

At every station in a vertical shaft where it is necessary for workmen to pass from one side of the shaft to another provision shall be made for them to do so without entering or crossing a winding compartment; such passage shall be securely protected from moving parts of machinery.

53. Entering winding compartment prohibited

(1) Entering a winding compartment of a vertical shaft is prohibited except for the purpose of ascending or descending by means of a shaft conveyance, or for the purposes of inspection, maintenance or repairs.

(2) This regulation shall not apply to persons employed in timbering vertical shafts whilst sinking operations are in progress.

54. Provisions as to ladder ways

(1) In ladder ways exceeding fifteen metres in depth platforms or resting places shall be provided at intervals not exceeding ten metres.

(2) Every ladder shall be so erected that it covers the manhole below it, except in the case of shafts in which no three consecutive manholes are in the same straight line.

(3) The top of every ladder shall, wherever possible, project at least one metre above the platform, resting place or other surface to which it gives access, except where strong handrails are so placed as to make such projection of the ladder unnecessary.

55. Construction and fastening of ladders

(1) Every ladder in a mine shall be—

- (a) of strong construction;
- (b) securely fastened to the timbering or walls of the shaft, winze or stope; and
- (c) maintained in good repair.

(2) Such ladders shall be constructed of wood or iron where possible, but where they are in danger of damage from blasting, chain or wire-rope ladders shall be used; in shafts or winzes such chain or wire-rope ladders shall extend to the bottom of the shaft or winze.

56. Carrying tools or loose materials in ladder ways prohibited

Carrying tools or any loose materials up or down the ladder ways in vertical or steeply inclined shafts or winzes is prohibited, except where absolutely necessary.

*Ventilation and Sanitation, etc.***57. Ventilation of underground workings**

All parts of every underground working shall be properly and sufficiently ventilated to the satisfaction of an inspector of mines.

58. Disused workings to be examined before being used

Underground workings, especially shafts, sumps and winzes, which have been in disuse for some time shall be tested with a candle flame by a party of not less than three persons before being used again, in order to ascertain whether or not foul air or other dangerous gases have accumulated there; until such places are fit to work in they shall be fenced or otherwise made inaccessible and no person shall be allowed to enter.

59. Sanitary conveniences

On the surface, and also in underground workings, there shall be provided sufficient and suitable sanitary conveniences, regard being had to the number of persons employed in the mine.

60. Wooden conveniences underground prohibited

No wood shall be used in the construction of sanitary conveniences underground.

*Lighting***61. Stationary lights to be used at all stations**

(1) Adequate stationary lights shall be provided during working hours at all stations in vertical and inclined shafts and at all stopping places in levels where winding or hauling is effected and at night at all working places on the surface.

(2) The unauthorised removal of any such light shall constitute an offence.

62. Working parts of machinery to be well lighted

All places where winding, pumping or other machinery is erected and in proximity to which persons are working and moving about, and which are not fenced in such a way that it is impossible for anyone to come inadvertently in contact with the machinery, shall be so lighted whilst the machinery is in operation that the moving parts of such machinery can be clearly distinguished.

63. Light to be carried underground

No person shall move about in any unilluminated part of a mine without a light.

*Workmen***64. Employment underground**

(1) No female of any age shall be employed on underground work in any mine, except as prescribed in section 10 of the Employment of Women, Young Persons and Children Act (Cap. 227).

(2) No male under the age of sixteen years shall be employed either underground or on the surface of any mine.

65. Record of all employees must be kept

A register or other sufficient record of all persons employed in or about the mine shall be kept to the satisfaction of an inspector of mines at the office of every mine.

66. Drunken persons, etc., not allowed near mine

If any person who is under the influence of alcohol or drugs, or who owing to the loss of a limb or other physical disability or through any other cause is likely to be incapable of taking care of himself or of persons under his charge, enters a mine or is in proximity to any

working place on the surface or to any machinery in motion within any mining property, he shall be guilty of an offence, and any person who permits any such person to enter a mine or to be in proximity to any working place on the surface or to any machinery in motion within any mining property shall be guilty of an offence:

Provided that an inspector of mines may grant written permission to any such person to enter a mine or mining property on such conditions as he may specify, which permission may at any time be withdrawn.

67. Forbidden articles

No person shall have in his possession in any mine or any place of work at a mine any dangerous weapon, glass bottle, intoxicating liquor or drug except with the special permission of the manager.

68. Hard hats

(1) Every person while in a vertical or steeply inclined shaft or in a winze, rise or stope shall wear a hard hat of a type approved by an inspector of mines, unless otherwise authorised by him in writing.

(2) Such hat shall be provided by the management free of cost.

69. Hoist drivers

Hoist drivers shall not be permitted to work more than one eight-hour shift in any consecutive twenty-four hours:

Provided that once only in each week a hoist driver may be required to work for two eight-hour shifts within one period of twenty-four hours in order that he may change to another shift for the ensuing week.

70. Medical examination

Before any person is employed as driver of a winding engine exceeding 30 horse-power, he shall undergo a medical examination and receive a certificate of fitness from a medical practitioner; and an inspector of mines may require such winding engine drivers to be re-examined at the expense of their employer at intervals of not less than one year.

71. Licensing of hoist drivers

(1) Every driver of a power driven hoist shall be licensed by an inspector of mines; and no unlicensed driver shall drive or be allowed to drive any power driven hoist:

Provided that a learner-driver may drive such a hoist while under the direct supervision of a licensed driver.

(2) At all times when any learner-driver is operating a power driven hoist a notice board of a size not less than thirty centimetres by thirty centimetres, bearing in red the letter "L", shall be clearly displayed on the outside of the hoist house in such a position that it is at all times clearly visible from the shaft collar.

(3) If it appears to an inspector of mines that the holder of a hoist driver's licence has caused or contributed or has acted in a manner likely to cause or contribute to any accident, such inspector of mines may cancel or suspend such licence, and may refuse to renew it for any time he may think proper, subject to the right of appeal by the holder to the Commissioner within thirty days of such cancellation or refusal.

Explosives

Storage and Transport of Explosives

72. Storage and transport on the surface

The transport and storage of explosives on the surface workings of a mine shall be in accordance with the provisions of the Explosives Act (Cap. 115) and the rules and regulations made thereunder.

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73. Storage of more than 50 kg. underground

Explosives in greater quantity than 50 kg. weight shall not be stored underground in a mine, except with the written permission of an inspector of mines and in such quantities and under such conditions as he may in writing stipulate.

74. Storage of less than 50 kg. underground

Explosives in less quantity than 50 kg. weight may be stored underground, provided that the following conditions are observed—

- (a) they be kept in properly constructed wooden boxes and stored in a dry place, not less than 35 metres from any blasting operations;
- (b) the boxes in which they are stored shall themselves be locked or shall be kept in a locked store or receptacle; such boxes, stores or receptacles shall have the word "explosives" painted on them in distinct and legible letters;
- (c) detonators shall not be kept in the same box with other explosives, but shall be kept in separate locked boxes, which shall not be placed within two metres of boxes containing other explosives;
- (d) any person in charge of explosives shall keep the boxes, places or receptacles containing explosives locked by means of substantial locks, and shall not allow the keys to leave his possession;
- (e) no other materials, implements or tools shall be placed in boxes which contain explosives.

75. Transporting detonators with other explosives forbidden

Except in the case of made-up primers, detonators shall not be carried in the same case or canister with dynamite or any other explosives.

76. Notice to engine driver

Notice shall be given to the engine driver by the banksman immediately before explosives are conveyed in a shaft by means of machinery.

77. Conveyance of explosives in shaft

The engine driver shall gently lower or raise any shaft conveyance containing explosives, and the explosives shall not be placed in or taken out of the shaft conveyance except by a person authorised by the manager or mine captain.

78. Precautions in carrying explosives

Save as provided in regulation 80, whilst carrying explosives (unless such explosives are contained in unopened cases or suitable closed containers) no person shall carry a naked light.

General Precautions

79. Calcium carbide

(1) No person shall carry or cause or permit to be carried any calcium carbide underground except in lamps or in watertight receptacles.

(2) No person shall store or leave calcium carbide or spent calcium carbide underground or coming off shift.

80. Lights and smoking

During the handling of explosives, the preparation of charges and the process of blasting, there shall be no fires nor smoking in the vicinity, and, save for the purpose of lighting the fuses, no naked light or flame shall be allowed within one metre of any explosive.

81. Disposal on mine closing down

No explosives shall be stored in any closed down mine without the written permission of an inspector of mines.

82. Temporary charge

Any person in whose charge explosives have been temporarily left shall be responsible therefor until some other trustworthy person accepts charge thereof.

83. Unauthorised removal or possession

No person shall take away from a mine any explosive without the written permission of the manager, and no person shall secrete or be in possession of explosives in a mine, except as provided for in these Regulations.

Blasting Certificates

84. Blasting certificate necessary

No person shall conduct or be allowed to conduct any blasting operations in or on a mine at a depth of ten metres or more, measured from the surface along or down a shaft, adit, well or tunnel unless he holds a miner's blasting certificate or a provisional blasting certificate.

85. Miner's blasting certificate

(1) A miner's blasting certificate, which shall be in the form in the First Schedule, shall be issued by an inspector of mines to any person who proves to his satisfaction that he is competent to take charge of blasting operations; and if a blasting certificate is granted to a person who has less than three months' mining experience underground, an endorsement to that effect shall be made on the blasting certificate and signed by the inspector of mines.

(2) An inspector of mines may impose such limitation or qualification upon the scope of a miner's blasting certificate as he may deem fit, and shall endorse the certificate accordingly.

(3) The holder of a miner's blasting certificate shall comply with any limitations or qualifications which may be endorsed upon his certificate.

(4) A miner's blasting certificate shall be issued on payment of a fee, and shall expire on the 31st December in the year in which it is issued.

(5) The fee for a miner's blasting certificate shall be ten shillings, and the fee for a certified copy thereof shall be two shillings.

(6) A miner's blasting certificate shall only be valid for the one named province, but it may be endorsed by an inspector to include one or more additional provinces upon the applicant paying an additional fee of ten shillings for each additional province.

86. Application for miner's blasting certificate

Application for a miner's blasting certificate shall be made to an inspector of mines, who shall, as soon as reasonably possible, examine the applicant.

87. Provisional blasting certificates

(1) Mine managers, authorised in that behalf by an inspector of mines, may grant provisional blasting certificates valid for one month to persons who can satisfy them of their fitness to receive such provisional blasting certificates.

(2) All grants of such certificates shall be reported in writing immediately to an inspector of mines.

(3) Every such provisional blasting certificate shall be in the form in the Second Schedule.

88. Suspension or cancellation of blasting certificates

If it appears to an inspector of mines that the holder of a blasting certificate has caused or contributed to any accident by carelessness, incapacity or inebriety, such inspector of mines may cancel such certificate and may refuse to renew it for any time he may think

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proper, subject to a right of appeal by the holder to the Commissioner within thirty days of such cancellation or refusal.

89. Certificate to be retained by manager or mine captain

Every mine manager or mine captain, upon engaging the holder of a blasting certificate (who will be required to conduct blasting operations), shall examine his blasting certificate, and retain it until the determination of his engagement.

Blasting Operations

90. Operations may be restricted

An inspector of mines or an inspector of explosives appointed under section 3 of the Explosives Act (Cap. 115) or a local authority may prohibit or restrict the use of explosives in places where, owing to the close proximity of buildings, blasting may appear to be likely to endanger life or property.

91. Large gangs must be divided

In case a gang of workmen is so large that one ganger is unable to conduct the blasting operations properly by himself, such gang shall be divided into two or more parties, each under an experienced miner holding a blasting certificate.

92. Responsibilities of ganger or miner in charge

The ganger or miner in charge shall be responsible for—

- (a) the safety of every person not in the possession of a blasting certificate who may be working in the same place, whether under his direct supervision or not;
- (b) ensuring that every workman under his supervision is acquainted with the danger attending the contravention of regulations 84, 100 and 104;
- (c) ensuring that work of which he is in the charge is carried on in conformity with the requirements of regulations 93 to 117 (inclusive), and (in cases where the explosives are to be fired electrically) of regulation 120; and
- (d) the storage, in accordance with the requirements of regulation 74, of explosives placed in his charge.

93. Dust and fumes

No person shall enter the working place until the fumes and dust caused by blasting have been sufficiently dissipated.

94. Ganger must be first to enter working place

Before commencing work, either at the beginning of a shift or after blasting, the ganger or miner in charge shall be the first person to enter the working place, and, until he considers it safe, he shall not allow any workmen to enter except those required by him to make the place safe.

95. Scaling down before starting to drill. Face must be carefully examined for misfires

Before drilling is begun, all loose and loosened rock and ground shall first be scaled down from the face and neighbourhood of the working place; the face shall be carefully examined by the ganger or miner in charge for misfired holes and sockets of holes, and such sockets shall be tightly plugged with plain wooden plugs, driven flush with the surface of the rock; and when compressed air is available all sockets shall be blown out with a blowpipe before being plugged.

96. Misfires

The ganger or miner in charge shall immediately plug tightly with a short wooden plug, painted red, every misfired hole discovered if he is not able immediately to deal with it.

97. Plugs

A sufficient supply of wooden plugs for the purpose of regulation 95 and 96 shall be kept conveniently near all places where they may be required.

98. Misfires

(1) Every misfired hole shall be exploded before drilling is recommenced within 5 metres from such misfired hole; and for this purpose the tamping shall be withdrawn in order to allow the insertion of a fresh primer cartridge.

(2) Whenever compressed air is available the tamping shall be withdrawn by means of a blowpipe, but when compressed air is not available, the tamping shall be withdrawn by means only of an instrument made of wood, brass or copper.

(3) This operation shall be performed in person by a holder of a miner's blasting certificate or by a holder of a provisional blasting certificate, and by no other person.

(4) In no case shall a place containing a misfire or a suspected misfire be left without a responsible person in charge.

99. Position and direction of holes

(1) The ganger or miner in charge shall point out to each driller working under him the exact position and direction of the hole to be drilled, and shall see that he does not deviate therefrom.

(2) No hole shall be so placed or directed as to come within fifteen centimetres of any socket or of any other hole which may at any time have been charged with explosive.

100. Deepening of holes forbidden

No drill-hole shall be deepened by an oncoming shift unless the ganger of the shift finishing work definitely informs the ganger of the oncoming shift that such hole is unfinished and has never been charged with explosive and clearly describes its position.

101. Tools to be removed

All drilling shall be completed and the machines and drill steels and tools removed to a safe distance before any explosives are brought to the working place; but air hoses and blow pipes shall not be classed as tools for the purpose of this regulation:

Provided that if the manager has obtained written permission from an inspector of mines he may at his discretion vary the provisions of this regulation in accordance with the permission so obtained.

102. Preparing and firing charges

In the preparation of charges, and the firing of such charges by means other than electricity, a ganger may be assisted by reliable workmen who do not possess blasting certificates, when acting under his direct supervision, but he shall be personally responsible for any blasting accident occurring through such persons' ignorance or inexperience.

103. Cartridges

Explosives of every kind, excepting black powder, shall be used only in the form of cartridges.

104. Withdrawal of explosives forbidden

No explosive shall be extracted, except by means of compressed air and a blow pipe from a hole which has once been charged.

105. Attachment of detonator to fuse

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The detonator shall be attached to the fuse only by means of properly designed pliers or other instrument, approved by an inspector of mines.

106. Detonators and fuse attachment to primer

(1) When blasting with dynamite or other explosive, the fuse with the attached detonator shall be inserted in the primer cartridge only shortly before use.

(2) In making up a charge the fuse with detonator attached shall, after being inserted in the primer cartridge, be securely fastened thereto by means of string or other suitable material so that the fuse with detonator cannot be inadvertently withdrawn.

107. Time for charging holes

Holes shall be charged only within a reasonable time before blasting, and the insertion of the primer cartridge shall be delayed until shortly before firing.

108. Charging stick— forbidden materials

In charging or in stemming holes for blasting, no iron or steel instrument shall be used and no explosives shall be forcibly pressed into a hole of insufficient size.

109. Tamping

Only sand, soft clay, paper or water may be used as tamping material for charges of explosives.

110. Charged holes

(1) When an explosive charge has been placed in a drill-hole, no further drilling shall be done at the face in which the said hole is situated until the said charge has been exploded.

(2) If the blasting certificate holder who has charged a drill-hole with explosive is not able to explode the charge before going off duty, he shall plug the hole in the manner prescribed in regulation 96, and shall inform the ganger of the oncoming shift of the presence of the said unfired explosive charge.

(3) All holes which have been charged with explosive must be fired as soon as is reasonably possible.

111. Giving warning

Before firing charges, due warning shall be given in every direction and every precaution shall be taken to prevent any person from approaching or remaining within dangerous distance and to prevent injury to person or property from projected debris.

112. Ignition of fuses

Where more than one charge is to be fired, fuses shall be ignited only by means of a fuse igniter of a type approved by an inspector of mines.

113. Counting shots

The number of shots exploding shall, except in cases of electric firing, be counted by the blasting certificate holder who fired the charges; and if he is not certain that all the charges have exploded no person shall be allowed to enter the working place in which the charge is situated for a period of thirty minutes after the fuses were lighted.

114. Suspected misfire must be reported

(1) If a misfire is suspected at change of shift, the blasting certificate holder who fired or attempted to fire the charges shall forthwith report such suspected misfire to the mine captain and to the ganger of the following shift.

(2) The responsibility of warning the ganger of the next shift shall rest with the blasting certificate holder who fired or attempted to fire the shots.

115. Precautions against removal of explosives

The holder of a blasting certificate shall not permit any person working under his charge to retain any explosive in his possession or remove it from the mine.

116. Ganger not holding blasting certificate to take precautions for safety

If a ganger who is not the holder of a blasting certificate has any reason to believe that a misfired charge or any unexploded blasting material is present at a place where he is in charge of operations, he shall cause the said place to be examined by the holder of a blasting certificate.

117. Frozen explosives

Blasting gelatine, dynamite and other nitro-compounds shall not be used in a frozen state; they shall be thawed when necessary by being inserted into a pot or pan immersed in hot water and not otherwise, but they shall not in any circumstances be placed in the vicinity of a fire.

118. Electric shot firing

(1) The charging of holes which are to be fired electrically, and the firing of such charges, shall not be performed by any person other than a holder of a miner's blasting certificate, who has been authorised in writing by the manager to use the necessary apparatus.

(2) No unauthorised person shall open or interfere with any magneto-electric machine or other electric shot-firing apparatus.

119. Source of electricity

(1) The only source of electrical energy which may be used for firing charges electrically shall be an efficient battery or magneto-electric machine or other apparatus of a type approved in writing by an inspector of mines; and it shall be so constructed that it can be operated only by a removable handle, plug or key and that the firing circuit is made and broken either automatically or by means of a push button switch.

(2) Such battery, machine or authorised apparatus shall be provided with a shot-firing cable not less than twenty metres in length, which shall consist of two conducting cores covered with insulating material and efficiently protected against mechanical damage by a heavy sheathing of tough rubber, specially designed for rough usage.

(3) Electrical energy from lighting or power circuits shall not be used for firing charges, unless permission has been granted in accordance with subregulation (1).

120. Electric shot firing— additional responsibilities

The blasting certificate holder in charge of electric blasting operations shall be responsible for the observance of the following conditions—

- (a) shot-firing cables used shall conform with the requirements of subregulation (2) of regulation 119:

Provided that a length not exceeding three metres of vulcanised rubber insulated cable of a type approved by an inspector of mines may be attached to the end of each core of the shot-firing cable for the purpose of connecting the cable with the fuse or detonator;

- (b) he shall himself connect the cable to the fuse or detonator wires and shall do so before connecting them to the source of electrical energy; he shall take care to prevent the cable from coming into contact with any power or lighting cables or apparatus, and shall himself couple the cable to the source of electrical energy; and before doing so he shall give warning as required by regulation 111;
- (c) while on duty he shall at all times keep the handle, plug or key of the battery, magneto-electric machine or other apparatus in his personal custody, and shall not place it in position until a shot is about to be fired, and shall remove it as soon as a shot has been fired;

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- (d) he shall, in the event of a misfire—
- (i) not approach or allow any other person to approach the misfired hole until an interval of at least ten minutes has elapsed;
 - (ii) before approaching, or allowing any other person to approach the shot hole, disconnect the cable and remove the handle, plug or key from the source of electrical energy, and shall examine the cable and connections for any defect;
 - (iii) if the misfire is due to a faulty cable or a faulty connection, fire the shot as soon as practicable after the defect has been remedied, but otherwise he shall treat the misfire in the manner prescribed in regulations 96 and 98.

121. Loose wires

At any place where rock or other material broken by electrically fired explosive is being removed, the ganger or miner in charge shall instruct the workmen to report immediately to him, on finding any wires in or under the loose rock; and if any such wires are found he shall at once trace them to their ends to discover whether a misfire has occurred.

Machinery

122. Installation and repair of plant

(1) At least fourteen days before bringing into use any boiler to be used at a pressure exceeding 3.5 kilograms per square centimetre or any steam engine the indicated horse-power of which exceeds 12, or any internal combustion engine (other than that of a motor car or other vehicle used for transport) the rated brake horse-power of which exceeds 12, or any other plant for the generation of power the brake horse-power of which exceeds 12, the manager shall report in writing to an inspector of mines the nature of the plant, its indicated horse-power or brake horse-power (as the case may be), the purpose for which it is to be used and the approximate date upon which it will be brought into use.

(2) A mechanic or electrician approved by the Government mining engineer shall be placed in charge of every such plant.

(3) Such mechanic or electrician shall keep a machinery record book and shall enter therein particulars of the plant and of all repairs and alterations thereto, together with a description of the materials used and all relevant dates.

(4) The provisions of subregulation (2) shall not be deemed to exonerate the manager from responsibility for ensuring that any other plant is used under proper supervision.

123. Boilers, etc., to be in good condition

All boilers, engines, brakes, ropes, winding gear and other mechanical appliances shall be kept in good condition and repair to the satisfaction of an inspector of mines.

124. Safety precautions

(1) Unless his duty necessitates it, no workman shall enter within the safety guards or fences around machinery.

(2) If any workman notices anything which might be dangerous to life or limb or likely to interfere with the proper working of the machinery he shall as soon as possible inform the person in charge thereof.

(3) Workmen engaged near moving machinery shall not wear loose outer clothing.

(4) The repairing, adjusting, cleaning or lubricating of machinery in motion shall not be undertaken where there is risk of personal injury.

(5) Automatic devices for oiling machinery whilst in motion shall be employed wherever practicable.

125. Friction clutches or similar contrivances to be provided

(1) Belt-driven machinery, which it is necessary to start and stop without interfering with the speed of the prime mover, shall be permanently fitted with a satisfactory mechanical appliance for this purpose.

(2) The shipping and unshipping of driving belts by hand whilst the machinery is in motion is prohibited, with the exception of the customary shifting of light belts on the coned pulleys of machine tools for the purpose of alterations in the working speed.

126. Boilers and air receivers, etc., to be fitted with gauges and safety valves, and testing thereof; oil drains

(1) All boilers or all working receivers connected by pipe line to a source whereby the working pressure of the contained air or gas may be increased to a pressure higher than atmospheric shall be fitted with satisfactory apparatus for showing at all times the pressure of the air or gas; they shall also be fitted with a relief or safety valve or other device capable of preventing any undue accumulation of pressure above the safe working limit of the receiver.

(2) The manager shall have every such boiler or receiver tested hydraulically to the extent of one and a half times the working pressure on installation (unless such boiler or receiver is new) and subsequently at intervals not exceeding three years.

(3) A written record shall be made of every test and shall be signed by the person or persons conducting the same, and shall be entered in the machinery record book (if any) and shall be kept in the manager's possession; such records shall give full details of the tests and shall include particulars of all repairs which are found to be required; and subsequent entries, which shall be signed by responsible persons, shall be made recording all repairs done to such boilers or receivers.

(4) Every compressed air receiver shall be fitted with an efficient oil drain placed at the lowest point on the receiver; and any accumulation of oil in such receiver shall be removed by means of such oil drain at least every eight hours while the receiver is in use.

127. Pressure tests and tests for leakage

In testing vessels for leaks or for ability to withstand pressure, no vessel shall be tested at a pressure of more than 0.35 kilograms per square centimetre above that of the atmosphere except by means of hydraulic tests.

128. Supply of pure air for compressor

The supply of air for air compressors shall be drawn from as pure and cool a source as is reasonably possible.

129. Exhaust steam underground

(1) The exhaust from any steam-driven machinery or internal combustion engine which is situated underground shall be led to the surface before being allowed to escape:

Provided that, where such exhaust consists of steam only, an inspector of mines may permit such steam to be disposed of underground by either of the following methods—

- (a) the steam may be discharged into abandoned workings if the inspector of mines is satisfied that such workings have no connection with the active operation of the mine, and do not serve as a regular or emergency exist;
- (b) steam may be discharged under water provided the point of outlet of the steam is not less than 45 centimetres below the surface of the water and provided the temperature of the water is not at any time allowed to exceed 38°C.

(2) No internal combustion engine shall be employed underground unless the pattern has first been approved in writing by an inspector of mines, who, before giving such approval, must satisfy himself that it is reasonably flameproof and is fitted with a suitable standard type exhaust box, and who shall also satisfy himself that the mine ventilation is sufficient at all times when such locomotive is working to ensure that no dangerous concentration of lethal exhaust gases shall occur.

[Subsidiary]

130. Electrical machinery and conductors to be protected

Electrical machinery and all electrical conductors shall be so placed and protected that no person can inadvertently come into contact with them.

131. Electric Power Act to be complied with

In addition to the provisions of regulation 130 of these Regulations, all electrical machinery, apparatus and conductors shall comply with the provisions of the Electric Power Act (Cap. 314) and the rules made thereunder.

132. Inspection of plant

(1) An inspector of mines may at any time give notice in writing to a manager of his intention to inspect a boiler, engine or other plant on a specified date, which shall not be less than one week after the date of such notice and may by such notice require the manager to prepare such boiler, engine or other plant for inspection.

(2) The manager shall comply with the requirements of such notice, and in particular he shall ensure—

- (a) that the boiler, engine or other plant is cold;
- (b) in the case of a boiler, that the boiler is empty of water, the manhole doors and hand-hole doors removed and the mountings taken off and opened out;
- (c) in the case of engines, that the cylinder heads are taken off, and, if required by the written notice, that the connecting rod large ends are opened out, the pistons removed, the piston rings taken off the pistons and the valves removed.

(3) All plant prepared and ready for inspection must be in reasonably clean condition.

133. No admittance to works

No unauthorised person shall enter any place where machinery or steam boilers are erected; notice to this effect shall be posted up at all entrances.

Poisonous Solutions and Fumes

134. Storage of poisons

(1) Mercury, cyanide or other poisonous substances used in any mining, milling or cyaniding process shall be kept in a separate compartment specially set aside for the storage of such poisonous substances; this compartment shall be locked and shall, be in the charge of a trustworthy person duly authorised by the manager.

(2) No person shall remove from a mine any mercury, cyanide or other poisonous substance without the prior written permission of the manager.

135. Drinking water

An adequate supply of wholesome drinking water shall be provided in each testing room and assay office, and this supply shall be distinctly labelled "Drinking Water", in English and Kiswahili.

136. Precautions for poisonous and injurious solutions

(1) Water containing poisonous or injurious substances used in the treatment of gold or other ores shall be effectually fenced or otherwise protected to prevent inadvertent access, and notices in English and Kiswahili shall be erected in suitable places warning persons against making use of such water.

(2) No water containing any poisonous or injurious substance shall be permitted to escape or enter any stream, lake, race, dam or reservoir, except a slimes dam or other stagnant water, without having been previously rendered innocuous.

137. Removal of fumes

When situated in a building, all vessels used for any purpose whereby noxious fumes are generated shall be fitted with hoods or other appliances so designed that the fumes generated in such vessels are carried direct to the external air.

138. Mercury vapour

In any process whereby the vaporisation of mercury is made possible, due care shall be exercised that no person shall be exposed to the resultant fumes, and a warning shall be given to all persons in the vicinity that such process is in operation.

139. Use of gloves

Rubber gloves shall be provided by the management for the use of all persons squeezing or cleaning amalgam.

Mines Plans

140. Plans to be kept and signed and dated

(1) The plans, sections and projections described in subregulation (3) shall be kept at the office of every mine; when they are first made and also on each occasion when they are brought up to date they shall be signed and dated by the surveyor, who shall be responsible for ensuring that they are within the limits of error laid down in regulation 143.

(2) Every such plan or projection on a horizontal plane shall carry a north point or other indication of the direction of true north: every such section or projection on a vertical plane shall carry a clear indication of the direction of the line of section or of the plane of projection, and all such plans, sections or projections shall have the scale to which they have been drawn clearly marked upon them.

(3) The plans, sections and projections referred to in subregulation (1) of this regulation are—

General surface plan

- (a) (i) a general surface plan, or true copy thereof, of the property appertaining to the mine, showing the boundaries of the various holdings, the outcrops and dip of the reef or reefs or other mineral deposits, all open surface workings, shaft openings, boreholes, buildings, watercourses, reservoirs, tailings-sites, dumps, roads, railways, permanent tramways, electric power lines, explosives magazines, telegraph and telephone lines, cable ways, main pipe lines, fences and all surface objects which it is needful to protect against under mining;
- (ii) this plan shall be drawn to a scale of either 1/500 or 1/2,500;
- (iii) this plan shall be brought up to date at least once every year;

Underground plan

- (b) (i) an underground plan or projection on a horizontal plane which shall show on a scale of 1/250 or 1/500 all mine workings, whether abandoned or in use, the boundaries of the ground over which mining rights are held where such boundaries can be shown on a plan of convenient size, and all faults, dykes, important changes in the dip of the reef lode or mineral bed, pillars, packs and underground explosives magazines;
- (ii) where different reefs or mineral deposits overlie one another the workings on each reef or mineral deposit shall be shown on a separate plan when so required by the Government mining engineer;
- (iii) every such plan or projection shall be brought up to date at least once every three months;

Transverse sections of workings

[Subsidiary]

- (c) (i) a section, or true copy thereof, to a scale of 1/250, 1/500 or 1/1,000, showing the transverse section or sections of the workings drawn through the shaft or shafts and main adits of the property and indicating clearly the surface and the dip of the strata and reef and any dislocation of strata or intrusive rock;
- (ii) this section shall be brought up to date at least once in every year;

Vertical projection of workings

- (d) (i) in case where the reef has an average dip of more than 60 degrees, a projection on a vertical plane which shall show on a scale of 1/250, 1/500 or 1/1,000 the underground workings of the mine;
- (ii) this projection shall be brought up to date at least once in every year;

Assay plans

- (e) (i) a proper assay plan on the plane of the lode, showing all existing stopes to a scale of 1/250 or 1/500;
- (ii) this plan shall be brought up to date at least once in every three months.

141. Large plans may be made in two or more parts

In the event of a property held under mining title being so large that plans required under regulation 140 if made on single sheets would be of an unwieldy size, such plans may in the discretion of the mine manager be made in two or more parts.

142. Measurements

In all mine surveys having for their object the construction of the plans mentioned in regulation 140, linear measurements shall be made in metres by means of a steel tape and angular measurements by means of a theodolite.

143. Limits of error

The following shall be the limits of error in mine surveys—

- (a) the error in closing a traverse shall not exceed 1/1,000;
- (b) the error in length between any two points of a traverse shall not exceed 1/1,000 of the true length;
- (c) the error in the measurement of a line between any two consecutive points of a traverse shall not exceed 1/1,000 of its true length, and the error in the measurement of its direction in reference to the axes of co-ordinates shall not exceed four minutes of arc;
- (d) the error in level between any two points shall not exceed 1/2,000 of the distance between them;
- (e) in special measurements which have for their object the fixing of the position of shafts and the establishment of connections, the error shall not exceed half the limits of error specified in paragraphs (a), (b), (c) and (d).

144. Origin of co-ordinates

The co-ordinates of the surface and underground surveys shall be referred to the same axes as the co-ordinates of the trigonometrical or recognised local cadastral survey of the mining property; but the origin may be changed, provided the constant difference there-by caused is noted on every plan.

145. Exemptions

In mines where the average number of workmen employed underground, on any one shift, is less than sixty, the Government mining engineer may, in his discretion, grant partial or total exemption from the provisions of regulations 140, 142, 143 and 144.

146. Copies of plans to be deposited with Commissioner

(1) Not more than three months after the expiry of each calendar year, the manager shall deposit with the Commissioner true copies made upon tracing cloth of all the plans, sections and projections mentioned in regulation 140 (with the exception of the assay plan), brought up to date at the end of such calendar year.

(2) All such copies shall be certified as correct by the manager.

147. Plans confidential

(1) Until the mine to which they refer is abandoned, no copies of the plans, sections or projections mentioned in regulations 140 and 146, nor any information contained in them, shall be given by the Commissioner to any unauthorised person, nor all any such plan, section or projection be open to the inspection of any such person without the permission of the manager of the mine concerned.

(2) Nothing in this regulation contained shall be deemed to prohibit the Commissioner from exhibiting or supplying to the public maps showing boundaries of titles and topography.

148. Check survey

(1) The Government mining engineer may, in his discretion, cause a check survey to be made by a qualified surveyor.

(2) If it is proved by such check survey that any error in the original survey or in plans constructed as a result of such original survey exceeds the limits of error specified in regulation 143, the owner of the mine shall be liable for the cost of such check survey.

149. Procedure on closing down

(1) Before a mine or any part of a mine is closed down or abandoned or rendered inaccessible or the title thereto is abandoned or allowed to expire, notice shall be given in writing to an inspector of mines, and all underground plans and sections shall be brought up to date, and up to date copies of all plans mentioned in regulation 140 shall be lodged with the Commissioner.

(2) When a mine is closed down, all calculation books and survey notebooks relating to such mine shall be handed over to the Commissioner, and shall become the property of Government.

150. Saving

Nothing in regulations 140 to 149 shall be deemed to impose upon the manager of the mine or the surveyor appointed by him any responsibility for the accuracy of any work executed before they assumed their duties.

Procedure in Case of Accident

151. Certain accidents to be reported

Whether personal injury is caused or not, every accident and every occurrence included in the following list or of a similar nature shall be reported without delay to an inspector of mines—

- (a) winding engine or windlass running out of control;
- (b) complete fracture of winding rope or of its attachment to a shaft conveyance or to a drum or a hoist;
- (c) fracture of sheave wheel or axle bearing thereof;
- (d) jamming of shaft conveyance in shaft;
- (e) derailment of shaft conveyance in motion whereby, in the opinion of the management, the winding rope is possibly overstrained;
- (f) failure of brake of winding engine;
- (g) safety catch on shaft conveyance failing to act when required;
- (h) any overwind;
- (i) accidental ignition of explosive.

[Subsidiary]

First Aid

152. Minimum requirements

When thirty or more persons are ordinarily employed on a mine, otherwise than on alluvial workings, stretchers and first aid requisites shall be kept on such mine in good condition and immediately available for use.

153. Full requirements

(1) On every mine where more than sixty persons are employed underground at any one time, an emergency station shall be provided at the head of the main travelling shaft, except in cases where the mine hospital is within two hundred metres of such shaft.

(2) Such emergency station shall be furnished with the following minimum equipment—

- (a) two R.N. stretchers, or stretchers of other pattern approved by the Government mining engineer, each provided with at least two woollen blankets;
- (b) two or more fitted first aid boxes of a type approved by the Government mining engineer;
- (c) a supply of dressings and splints;
- (d) one portable oxygen inhalation apparatus;
- (e) two portable electric lamps.

154. Cyanide antidote

(1) At every mine where cyanide is used, there shall be kept in a conspicuous and convenient place a sufficient supply of a satisfactory and efficient antidote for cyanide poisoning approved by the Government mining engineer.

(2) Such antidote shall be kept in a box labelled "Cyanide Antidote", and explicit directions for the use of such antidote shall be affixed inside the lid of the box.

Responsibility

155. Manager to control working, and provide for safety and discipline

The working of a mine shall be carried on under the control of the manager, who shall provide for the safety and proper discipline of the men employed above and below ground, and shall appoint such persons as may be necessary to assist in the carrying out of these Regulations or any part thereof.

156. Responsibility of manager

Where in any provisions contained in these Regulations no particular person is specified as being directly responsible, the responsibility shall rest with the manager, unless he can prove that he has taken all reasonable precautions to ensure compliance with such provisions.

157. Owner responsible for refusing manager necessary means

Until the mine to which they refer is abandoned, when the manager can prove that the necessary means for carrying out these Regulations have been refused him by the owner or his agent, the latter shall be held responsible for the consequences.

158. Manager responsible for accident occurring with incompetent workmen

In cases when an accident has been caused through an incompetent or inexperienced workman being employed on dangerous work, the manager shall be held responsible unless he can prove that he had taken proper precautions.

159. Each working place to be visited once a shift

The manager or the mine captain or a shift boss shall at least once every shift, whilst the men are at work, visit each working place and shall see that safety is assured in every respect.

Appointment of mine Officials

160. Mine not to be worked without properly appointed manager

(1) No mine shall be worked without a formally appointed manager for a longer period than one month, except with the special written permission of an inspector of mines, and under such conditions as he may prescribe.

(2) No person shall be appointed manager of a mine where the average number of persons employed underground on any one shift exceeds sixty unless he has had practical underground experience for at least three years and has acted in a responsible and supervisory capacity for more than half such period.

(3) In the case of mines in which the average number of persons employed underground on any one shift is less than sixty, any competent person may, with the written permission of an inspector of mines, be appointed manager for such period or periods as the inspector of mines may allow.

161. Mine captain

(1) No person shall be appointed mine captain of a mine where more than sixty persons are on the average employed underground on any one shift, if he has not had practical underground experience for at least two years.

(2) In the case of mines employing fewer than sixty persons underground on the average on any one shift, the appointment of any competent person as mine captain may be permitted by an inspector of mines.

162. Surveyor

(1) On every mine where more than sixty persons are on the average employed underground in one set of intercommunicating workings on any one shift, the manager shall appoint a surveyor who shall be responsible for the observance of regulation 22, and, as far as it is applicable, regulation 140:

Provided that no person shall be so appointed unless he has had more than three months' underground survey experience and possesses qualifications satisfactory to the Government mining engineer.

(2) On mines where fewer than sixty persons are employed underground in one set of intercommunicating workings on any one shift, the manager may appoint as surveyor any person approved for that purpose by the Government mining engineer:

Provided that if no such surveyor be appointed the manager himself shall undertake the duties and responsibilities of the surveyor.

163. All appointments to be notified within 14 days

(1) Each of the appointments mentioned in regulations 160, 161 and 162 shall be made in writing, and shall be notified by the owner, his agent or manager to an inspector of mines within fourteen days of the date thereof.

(2) A copy of the letter of appointment and a specimen signature of the newly appointed official shall accompany such notification.

(3) Every inspector of mines shall keep a register of all such appointments which have been so notified to him.

Powers of Officials

164. Exemptions may be given

(1) An inspector of mines may in writing grant complete or partial exemption, under such conditions as he may think fit, from the provisions of regulations 34(e), 35(2), 38, 51, 53(1), 69, and 120(a).

[Subsidiary]

(2) Whenever the circumstances at any mine or workings are such as to render any provision of these Regulations inapplicable or unduly onerous to such mine or workings, or whenever it is necessary for the purpose of carrying out experiments or tests as to the expediency of any regulation or proposed regulation, an inspector of mines, with the approval of the Commissioner, may grant exemption from such provision under such conditions as he may determine.

165. Government mining engineer

For the purposes of these Regulations, the Government mining engineer shall have all the powers of an inspector of mines.

166. Summary powers of inspector of mines

An inspector of mines, if satisfied that any person has contravened any of these Regulations, may himself impose on such a person a fine not exceeding one hundred shillings for such contravention, which shall be paid to the Commissioner, who shall pay it into the consolidated fund.

SCHEDULES

FIRST SCHEDULE

[Rule 85.]

MINER'S BLASTING CERTIFICATE

THIS IS TO CERTIFY that Mr. of is qualified to conduct blasting operations in a mine.

Date
Inspector of Mines

.....
Signature of holder (made in presence of Inspector of Mines)

SECOND SCHEDULE

[Rule 87.]

PROVISIONAL BLASTING CERTIFICATE

Valid for One Month

I HEREBY CERTIFY that I have examined Mr. of this mine, and am satisfied that he is competent to conduct blasting operations.

This certificate is granted in pursuance of the powers conferred upon me by regulation 87 of the Mining (Safety) Regulations.

Date
Manager
Mine

.....
Signature of holder

MINING (ROYALTY ON CARBON DIOXIDE) REGULATIONS, 1961

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
 2. Interpretation.
 3. Charge of royalty.
 4. Deleted.
 5. Deleted.
 6. Persons assessable.
 7. Appeal.
 8. Royalty when due.
 9. Over-payment of royalty.
-

[Subsidiary]

MINING (ROYALTY ON CARBON DIOXIDE) REGULATIONS, 1961

[L.N. 601/1961, L.N. 142/1963, L.N. 447/1963, L.N. 274/1969.]

1. Citation

These Regulations may be cited as the Mining (Royalty on Carbon Dioxide) Regulations, 1961.

2. Interpretation

In these Regulations—

“**carbon dioxide**” means natural carbon dioxide gas obtained from below the surface of the earth by means of drill-holes, wells or from natural vents;

“**the Commissioner**” means the Commissioner (Mines and Geology) appointed under section 9 of the Act.

3. Charge of royalty

The royalty payable in respect of carbon dioxide sold shall be seven cents per kilogram:

Provided that—

- (i) in cases where any royalty on carbon dioxide is paid to the Government in accordance with the terms of special leases granted before the 1st December, 1961, no additional royalty under these Regulations shall be payable after 31st December, 1962;
- (ii) in cases where the payment of royalties under these Regulations would inflict undue hardship on newly established producers of carbon dioxide, the Minister may in writing remit or reduce the royalty.

4. Deleted by L.N. 447/1963.

5. Deleted by L.N. 447/1963.

6. Persons assessable

The royalty payable in respect of any calendar year shall be assessed by the Commissioner and shall be payable by the person or persons carrying on the business of winning carbon dioxide in that period:

Provided that, where any business has been transferred, any royalty due in respect of that part of the calendar year subsequent to the transfer shall be payable jointly and severally by the transferor and transferee.

7. Appeal Where any person is aggrieved by an assessment he may appeal to the Minister against such assessment within thirty days of the receipt thereof, and the Minister's decision thereon shall be final.

8. Royalty when due

All royalty assessed shall be due and payable to the Commissioner at the expiration of thirty days from the date of receipt of the assessment and shall be recoverable as a debt due to the Government:

Provided that where an appeal is pending against the assessment such part only of the royalty assessed as appears to the Commissioner not to be in dispute shall be paid as if it were royalty in respect of which no appeal was pending, and upon the determination of the appeal any balance chargeable in accordance with the determination shall be paid and any amount overpaid shall be repaid as the case may be.

9. Over-payment of royalty

If it is proved to the satisfaction of the Commissioner that any person has paid royalty for any year in excess of the amount actually due the Commissioner shall at his discretion either refund the amount overpaid or set it off against any royalty due for a subsequent year.

MINING (GOLD ROYALTY) (MIGORI MINE) REGULATIONS, 1967

[L.N. 177/1967.]

Revoked by L.N. 187/2013, r. 8.

EXCLUSION OF LAND FROM PROSPECTING AND MINING, 1988

[L.N. 382/1988.]

In Exercise of the powers conferred by section 7(1)(j) of the Mining Act, the Commissioner of Mines and Geology declares that all the National Parks, National Reserves and local sanctuaries in Kenya existing under the Wildlife (Conservation and Management) Act (Cap. 376) are excluded from prospecting and mining by all persons in effect from the 7th September, 1988.

RE-OPENING OF LAND TO PROSPECTING AND MINING, 1990

[L.N. 450/1990.]

In Exercise of the powers conferred by section 17(1) of the Mining Act, the Commissioner of Mines and Geology declares that the Tsavo West National Park and the Amboseli National Park shall be re-opened to prospecting and mining with effect from the 9th November, 1990, in respect of all those mining titles which were extant as at 7th September, 1988.

Legal Notice No. 382/1988, is varied accordingly.

MINING (ROYALTY ON DIAMONDS) REGULATIONS, 1991

[L.N. 551/1991.]

Revoked by L.N. 187/2013.

**SUBSTANCES DECLARED NOT TO BE MINERALS
UNDER SECTION 2 (DEFINITION OF “MINERALS”), 1992**

[L.N. 247/1992.]

Mineral water.

Brine.

Dolomite.

Kaoline.

Gravel.

Constructional stones (for ballast and aggregate and allied uses).

Building dimension stone except polished marble, limestone, granite and similar stone which is capable of being prepared in regular shape according to specifications and polished and used in facing in the building industry.

Sodium and potassium compounds (except sodium compounds forming part of Lake Magadi saline deposits).

Phyrophyllite (Kisii Stone).

Sand except silica sand.

FEE FOR A MINERAL DEALER'S LICENCE, 1996

[L.N. 19/1996.]

The fee for a mineral dealer's licence shall be twenty thousand shillings (KSh. 20,000) per year, with effect from 1st January, 1996, and, the fee for a duplicate, certified copy or amendment of a mineral dealer's licence shall be five thousand shillings (KSh. 5,000).

MINING (ROYALTY ON FLOUR SPAR) REGULATIONS, 2003

[L.N. 4/2004.]

Revoked by L.N. 187/2013, r. 7.

**MINING (ROYALTY ON MAGADI SODA
PRODUCTS) (VARIATION) REGULATIONS, 2003**

[L.N. 5/2004.]

1. These Regulations may be cited as the Mining (Royalty on Magadi Soda Products) (Variation) Regulations, 2003.
 2. The royalty rates chargeable in respect of Magadi Soda Products as contained in clause 4 (ii) on the Magadi Soda Company Limited's lease documents dated 28th March, 1928, are varied as follows—
 - (a) in respect of every metric tonne sold of raw soda or common salt, the sum of eighteen shillings per tonne;
 - (b) in respect of every metric tonne of products delivered from the raw soda or containing raw soda or its derivatives, such as soda ash, the sum of twenty-five shillings per tonne.
-

MINING (LOCAL EQUITY PARTICIPATION) REGULATIONS, 2012

[L.N. 118/2012.]

1. These Regulations may be cited as the Mining (Local Equity Participation) Regulations, 2012.
2. In these Regulations, unless the context otherwise requires—
 - “**citizen of Kenya**” shall mean a citizen of Kenya within the meaning of Kenya Citizenship and Immigration Act, 2011;
 - “**local equity**” means the share of interest in a mining right which should be held by a citizen of Kenya.
3. It shall be a condition of every mining licence that the mineral right in respect of which the licence is issued shall have a component of local equity participation amounting to at least thirty-five per cent (35%) of the mineral right.

MINING (PUBLICATION OF INFORMATION) REGULATIONS, 2013

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
 2. Publication.
-

[Subsidiary]

MINING (PUBLICATION OF INFORMATION) REGULATIONS, 2013

[L.N. 185/2013.]

1. Citation

These Regulations may be cited as the Mining (Publication of Information) Regulations, 2013.

2. Publication

It shall be a condition of any prospecting or mining licence under the Act that the holder of such a licence or right shall seek for and obtain the approval of the Cabinet Secretary at least twenty one days before the date of the publication of any information relating to analysis, projection or estimates of the prospecting or mining operations.

MINING (PRESCRIPTION OF CORE DRILLING CHARGES) REGULATIONS, 2013

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
2. Charges.

[Subsidiary]

**MINING (PRESCRIPTION OF CORE
DRILLING CHARGES) REGULATIONS, 2013**

[L.N. 186/2013, L.N. 39/2016.]

1. Citation

These Regulations may be cited as the Mining (Prescription of Core Drilling Charges) Regulations, 2013.

2. Charges

(1) The following charges are payable for exploratory core drilling—

(a) between one metre to fifty metres	KSh.8,000 per metre
(b) between fifty one metres and one hundred metres	Ksh.9,000 per metre
(c) between one hundred and one metres and one and fifty metres	Ksh.10,000 per metre
(d) between one hundred and fifty one metre and two hundred metres	Ksh.11,000 per metre
(e) between two hundred and one metres and two hundred and fifty metres	Ksh.12,000 per metre
(f) between two hundred and fifty one and three hundred metres	Ksh.13,000 per metre
(g) between three hundred and one metres and three hundred and fifty metres	Ksh.14,000 per metre
(h) between three hundred and fifty one metres and four hundred metres	Ksh.15,000 per metre

(2) Where drilling goes on beyond four hundred metres deep, the amount to be paid shall be negotiated.

3. For advance of doubt, the charges specified under paragraph 2 shall apply to core drilling services offered by the Ministry responsible for matters relating to mining.

[L.N. 39/2016, r. 3.]

MINING (PRESCRIPTION OF ROYALTIES ON MINERALS) REGULATIONS, 2013

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
 2. Royalty on Extracted Minerals.
 3. Royalty on Export of gold.
 4. Royalty on export of foreign minerals
 5. Royalty on Dealership in Gemstones.
 - 6.. Sub. Leg.
 7. L.N. 4 of 2003.
 8. Sub. Leg.
-

[Subsidiary]

**MINING (PRESCRIPTION OF ROYALTIES
ON MINERALS) REGULATIONS, 2013**

[L.N. 187/2013.]

1. Citation

These Regulations may be cited as the Mining (Prescription of Royalties on Minerals) Regulations, 2013.

2. Royalty on Extracted minerals

The royalty rates chargeable in respect of extracted minerals shall be as follows—

- (a) 12% of the gross sales value for diamonds;
- (b) 10% of the gross sales value for rare earth elements and radioactive minerals;
- (c) 10% of the gross sales value for niobium;
- (d) 10% of the gross sales value for titanium ores and Zircon;
- (e) 8% of the gross sales value for coal;
- (f) 5% of the gross sales value for gold, silver, platinum and other platinoid group metals;
- (g) 5% of the gross sales value for gemstones;
- (h) 8% of the gross sales value for metallic ores, iron ores, manganese ore, chromium ore, nickel ore, bauxite and other ores;
- (i) 5% of the gross sales value for fluorspar, diatomite, natural carbon dioxide gas and all other minerals;
- (j) 1% of the gross sales value for industrial minerals including gypsum, limestone and silica sand; and
- (k) 2% of gross sales value for construction materials.

3. Royalty on export of gold

A mineral dealer shall pay royalty of 2% of the gross sales value of the gold to be exported.

4. Royalty on export of industrial minerals

A mineral dealer shall pay a royalty of 5% of the gross sales value of the industrial minerals including gypsum, limestone and silica sand to be exported.

5. Royalty on Dealership in Gemstones

A dealer in gemstones shall pay a royalty at the rate of—

- (a) 5% on the export value of raw gemstones; and
- (b) 1% on the export value of value-added gemstones.

6. Sub. Leg

The Mining (Royalty on Diamond) Regulations, 1991 are revoked.

7. Revocation of L.N. 4 of 2003

The Mining (Royalty on Fluorspar) Regulations, 2003 (LN. 4/2003) are revoked.

8. Sub. Leg

The Mining (Gold Royalty) (Migori Mine) Regulations are revoked.

**MINING (PRESCRIPTION OF ROYALTY RATES
FOR FLOURSPAR PRODUCTS) REGULATIONS**

[L.N. 220/2013.]

1. These Regulations may be cited as the Mining (Prescription of Royalty Rates for Flourspar Products) Regulations, 2013.
 2. The royalty rates payable for Flourspar Products with effect from the 1st July, 2013 shall be as follows—
 - from 1st July, 2013 to 30th June, 2015—2% of gross sales value;
 - from 1st July, 2015 to 30th June, 2017—3% of gross sales value;
 - from 1st July, 2017 to 30th June, 2019—4% of gross sales value;
 - from 1st July, 2019 and thereafter—5% of gross sales value.
 3. Legal Notice No. 187 of 16th August, 2013 shall not apply to the Flourspar products.
-

**MINING (PRESCRIPTION OF ROYALTY RATES FOR
MAGADI SODA PRODUCTS) REGULATIONS, 2013**

[L.N. 221/2013.]

1. These Regulations may be cited as the Mining (Prescription of Royalty Rates for Magadi Soda Products) Regulations, 2013.
 2. The royalty rates payable for Magadi Soda Products (soda ash, salt and crushed refined soda) with effect from the 1st July, 2013, shall be as follows;
 - from 1st July, 2013 to 30th June, 2015—2% of gross sales value;
 - from 1st July, 2015 to 30th June, 2017—3% of gross sales value;
 - from 1st July, 2017 to 30th June, 2019—4% of gross sales value;
 - from 1st July, 2019 and thereafter —5% of gross sales value.
 3. Legal Notice No. 187 of 16th August, 2013 shall not apply to the Magadi Soda products.
-

**MINING (PRESCRIPTION OF (CEMENT
MINERALS LEVY) REGULATIONS, 2013**

[L.N. 222/2013.]

1. These Regulations may be cited as the Mining (Prescription of Cement Minerals Levy Products) Regulations, 2013.
 2. The cement producers shall pay a cement minerals levy at a rate of KES 140.00 per tonne of cement with effect from 1st January, 2014.
 3. Legal Notice No. 187 of 16th August, 2013 shall not apply to cement producers mining or using limestone and other mineral raw materials used in cement manufacture.
-

**THE MINING (PRESCRIPTION OF ROYALTY
RATES FOR DIATOMITE) REGULATIONS, 2015**

[L.N. 40/2015]

1. These Regulations may be cited as the Mining (Prescription of Royalty Rates for Diatomite) Regulations, 2015.
2. The royalty rates payable for diatomite shall with effect from the 1st July, 2013, be as follows —
 - from 1st July, 2013 to 30th June, 2015-2% of gross sales value;
 - from 1st July, 2015 to 30th June, 2017 -3% of gross sales value;
 - from 1st July, 2017 to 30th June, 2019 -4% of gross sales value;
 - from 1st July, 2019 and thereafter -5% of gross sales value.
3. Legal Notice No. 187 of 2013, shall not apply to the diatomite products.

DECLARATION OF CONSTRUCTION MINERALS

[L.N. 62/2017.]

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.

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

Mining

[Subsidiary]

Soapstone

Trachyte

Tuffs

Wollstonite

MINING (USE OF ASSETS) REGULATIONS, 2017

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 the owner.
 7. Vesting of assets.
 8. Agreement with landowner.
-

MINING (USE OF ASSETS) REGULATIONS, 2017

[L.N. 80/2017.]

1. Citation

These Regulations may be cited as the Mining (Use of Assets) Regulations, 2017.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**Act**” means the Mining Act, 2016 (No. 12 of 2016);

“**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, hangers 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.

- (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.

(4) On receiving the statement under sub regulation (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 sub regulation (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.

MINING (USE OF LOCAL GOODS AND SERVICES) REGULATIONS, 2017

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 businesses.
 10. International procurement.
 11. Procurement report.
 12. Power to publish Guidelines.
 13. Professional services for engineering.
 14. Professional services insurance and reinsurance.
 15. Professional services for accounting and legal.
 16. Reporting requirements.
 17. Assessment of performance report.
-

[Subsidiary]

MINING (USE OF LOCAL GOODS AND SERVICES) REGULATIONS, 2017

[L.N. 81/2017.]

1. Citation

These Regulations may be cited as the Mining (Use of Local Goods and Services) Regulations, 2017.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**Act**” means the Mining Act, 2016 (No. 12 of 2016);

“**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;
- (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—

[Subsidiary]

- (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.

(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.

[Subsidiary]

(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 Director of Mines may request.

MINING (EMPLOYMENT AND TRAINING) REGULATIONS, 2017

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.

SCHEDULE

[Subsidiary]

MINING (EMPLOYMENT AND TRAINING) REGULATIONS, 2017

[L.N. 82/2017.]

1. Citation

These Regulations may be cited as the Mining (Employment and Training) Regulations, 2017.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**Act**” means the Mining Act, 2016 (No. 12 of 2016);

“**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 sub regulation (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
- (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 sub regulation (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 sub regulation (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 sub regulation (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;

[Subsidiary]

- (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 sub regulation (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 sub regulation (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.

(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.

SCHEDULE

FORM ET 1

[Rule 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.

Mining

[Subsidiary]

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.

MINING (USE OF LOCAL GOODS AND SERVICES) REGULATIONS, 2017

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 businesses.
 10. International procurement.
 11. Procurement report.
 12. Power to publish Guidelines.
 13. Professional services for engineering.
 14. Professional services insurance and reinsurance.
 15. Professional services for accounting and legal.
 16. Reporting requirements.
 17. Assessment of performance report.
-

[Subsidiary]

MINING (USE OF LOCAL GOODS AND SERVICES) REGULATIONS, 2017

[L.N. 83/2017.]

1. Citation

These Regulations may be cited as the Mining (Use of Local Goods and Services) Regulations, 2017.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**Act**” means the Mining Act, 2016 (No. 12 of 2016);

“**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;
- (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—

[Subsidiary]

- (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.

(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.

[Subsidiary]

(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 Director of Mines may request.

MINING (STATE PARTICIPATION) REGULATIONS, 2017

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
 2. Interpretation.
 3. Purpose of Regulations.
 4. Application of Regulations.
 5. Conduct of prospecting and mining operations on behalf of the State.
 6. State right to free carried interest.
 7. State right to paid equity participation.
 8. State participation in prospecting operations.
 9. Consent of Cabinet Secretary.
-

[Subsidiary]

MINING (STATE PARTICIPATION) REGULATIONS, 2017

[L.N. 84/2017.]

1. Citation

These Regulations may be cited as the Mining ((State Participation) Regulations, 2017.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**Act**” means the Mining Act, 2016 (No. 12 of 2016);

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

“**farm-in agreement**” means a written agreement under which a person or entity acquires an interest in, but not full ownership of, a prospecting licence by carrying out exploration work or prospecting operations, or contributing a proportionate part of the cost of the prospecting operations or exploration work to be carried out, in the area covered by the prospecting licence;

“**free carried interest**” means the grant of an equity interest by the holder to the State without any financial obligation, compensation or contribution to the holder of a mining licence by the State;

“**paid equity participation**” means the payment by government of its stake or equity in cash which entitles the State to share in revenue and pay for the costs of operations or mineral activities to be undertaken based on the percentage or proportionate of interest owned; and

“**National Mining Corporation**” means National Mining Company established under section 22(1) of the Act.

3. Purpose of Regulations

The purpose of these Regulations is to provide for State participation in prospecting or mining operations carried out by a holder of a mineral right.

4. Application of Regulations

These Regulations shall apply to all applicants and holders of any mineral right—

- (a) which entitles the State to a ten percent free carried interest;
- (b) where the State acquires any additional interest that may be agreed with the holder of a mining licence; and
- (c) where the State enters into an agreement to participate in prospecting operations or activities under a prospecting licence held by a holder other than the National Mining Corporation.

5. Conduct of prospecting and mining operations on behalf of the State

(1) The National Mining Corporation shall on behalf of the State, be the investment arm of the National Government in respect of all prospecting or mining operations.

(2) Without limiting the scope of sub regulation (1), the National Mining Corporation—

- (a) shall hold the State's ten percent free equity participation or free carried interest in all mining operations;
- (b) shall be responsible for engaging in any operations relating to any additional interest that the State may acquire and which may be agreed with the holder of a mining licence at a fair market value; and
- (c) may acquire any interest in or enter into a joint venture, farm-in agreement or any other arrangement with a holder of a prospecting licence for the purpose of conducting prospecting operations.

6. State right to free carried interest

(1) Where a mining licence is granted in accordance with the Act, the State shall be entitled to a ten percent free equity participation or free carried interest in the mining operations to which the licence relates.

(2) The State shall not make or pay any financial contribution to the holder of a mining licence in respect of the interest acquired under sub regulation (1).

(3) Any free carried interest acquired by the State shall not be diluted unless the State transfers, assigns or sells part or all of interest to the holder or any other party.

(4) The State's right to a free carried interest shall not apply to any right that has been granted to a holder of a mining licence, to mine a mineral before the coming into force of the Act.

(5) The Cabinet Secretary shall by notice in writing to the holder of a mining licence, require the mining company to issue to the State a ten percent interest in the company for no consideration.

(6) The Cabinet Secretary and the holder of a mining licence shall agree on the timeframe for the issuance of shares and in any case shall not be more than one year after the grant of the mining licence.

(7) For the purpose of giving effect to sub-regulation (3), the holder of a mining licence shall undertake the necessary actions towards the issuance of the shares and enter the name of the State in the appropriate register and issue a share certificate to the State in accordance with the laws of Kenya.

(8) The State as a shareholder shall have the right to vote and is entitled to receive notice of, and to attend and speak at, a general meeting of the members of the holder of a mining licence or company.

(9) The Cabinet Secretary on behalf of the State may appoint any person or statutory body to act as its agent for the exercise of any of the rights of the state as a shareholder.

(10) The State as a shareholder shall have the right to transfer, assign or sell all or part of its shares to the holder of a mining licence or a third party for a consideration to be agreed with the holder or third party.

(11) The State shall afford the holder of a mining licence the right of first refusal in any transfer, assignment or sale of part or all of its shares.

(12) The State shall be entitled to receive a percentage of any dividends that are declared by the holder of a mining licence equal to the percentage of its equity share at the time the dividend is declared.

(13) The State shall be entitled to appoint a director or the number of directors proportionate to its shareholding to the Board of the locally incorporated company of the holder of the mining licence.

(14) The free carried interest shall not give the State the right to manage or participate in the day to day management of the operations of the holder of the mining licence.

7. State right to paid equity participation

(1) In addition to the free carried interest or equity that the State is entitled to under the Act and regulation 6(1), the State may purchase an additional interest or share capital of the holder of the mining licence in respect of the mining operations.

(2) Nothing contained in this Regulation shall be construed as giving the State the right of compulsory acquisition or purchase of additional interest or share capital.

Any additional interest that the State may acquire shall be agreed with the holder of the mining licence and the purchase shall be at a fair market value.

(3) Where the State intends to transfer, assign or sell part or all of its additional interest, it shall by notice, offer the holder of the mining licence the right of first refusal.

[Subsidiary]

(4) Subject to sub regulation (4), the holder of the mining licence shall within ninety days from the date of receipt of the notice, be required to notify the State whether it intends to acquire the additional interest.

8. State participation in prospecting operations

(1) Where the holder of a prospecting licence exercises the discretion to invite other interested persons to participate in prospecting operations, the National Mining Corporation may on behalf of the State enter into an agreement with the holder for that purpose according to mutually agreed commercial terms.

(2) Without limiting the scope of sub regulation (1), the agreements that the National Mining Corporation may sign with a holder of a prospecting licence may include but shall not be limited to joint ventures and farm-ins.

9. Consent of the Cabinet Secretary

Any agreement that is entered into or interest acquired pursuant to section 48 of the Act and Regulation 5 shall require the consent of the Cabinet Secretary.

MINING (WORK PROGRAMMES AND EXPLORATION REPORTS) GUIDELINES, 2017

ARRANGEMENT OF GUIDELINES

PART I – PRELIMINARY

1. Citation.
2. Interpretation.
3. Purpose of Guidelines.

PART II – PROVISIONS ON REPORTING

4. Work programmes.
5. Exploration reports.
6. Confidentiality.
7. Expenditure statements.

SCHEDULES

MINING (WORK PROGRAMMES AND EXPLORATION REPORTS) GUIDELINES, 2017

[L.N. 85/2017.]

1. Citation

These Guidelines may be cited as the Mining (Work Programmes and Exploration Reports) Guidelines, 2017.

2. Interpretation

In these Guidelines, unless the context otherwise requires—

“**Act**” means the Mining Act, 2016 (No. 12 of 2016);

“**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.

(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, bi-annual 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.

[Subsidiary]

SCHEDULES

FIRST SCHEDULE

[Para 4(9).]

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

SECOND SCHEDULE

[Para 5(4).]

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

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)

[Subsidiary]

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.

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

THIRD SCHEDULE

[Para 5(4).]

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

 [Subsidiary]

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).]

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 physiography 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.

[Subsidiary]

- 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

FIFTH SCHEDULE

[Para 5(4).]

Checklist for Feasibility Study

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 support services.

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.

[Subsidiary]

SIXTH SCHEDULE

[Para 5(6).]

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).
- 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.

SEVENTH SCHEDULE

[Para 5(6).]

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.
 - Excluded are overseas headquarters costs, overseas staff-related costs, financing costs, and any non-project-related travels.
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MINING (LICENCE AND PERMIT) REGULATIONS

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SCHEDULE

MINING (LICENCE AND PERMIT) REGULATIONS, 2017

[L.N. 87/2017.]

PART I — PRELIMINARY

1. Citation

These Regulations may be cited as the Mining (Licence and Permit) Regulations, 2017.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**Act**” means the Mining Act, 2016 (No. 12 of 2016);

“**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;

"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;

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- (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
- (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 sub regulation (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 (No 8 of 1999)

Any applicant for a mineral right shall comply with the requirements of the Environmental Management and Coordination Act 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

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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 sub regulation (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 sub regulation (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 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.

[Subsidiary]

(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.

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;

[Subsidiary]

- (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.

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.

[Subsidiary]

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 non-exclusive right to carry out non-invasive investigations for minerals within the permit area.

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.

[Subsidiary]

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 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.

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.

SCHEDULE

FORM OMC1

[Reg. 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*

Mining

[Subsidiary]

SECTION A: DETAILS FOR THE AUTHORISED USER

Surname

First Names

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

Mobile Number (used for SMS notifications)

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

Title Mr Mrs Ms Prof Hon Other

Identity Number

and / or

Passport Number

Nationality

Date of Birth d d / m m y y y y y

Gender Male Female

Physical Address

Line 1

Line 2

Line 3

Province

Post Code/Zip

Country

Postal Address Same as Physical

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 notifications) . .

Mobile Number (used for SMS notifications) . .

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

Title Mr Mrs Ms Prof Hon Other

Identity Number

and /or

Passport Number

Nationality . . .

Date of Birth d d / m m y y y y

Gender Male Female

Physical Address

Line 1 . . .

Line 2 . . .

Line 3 . . .

Province . . .

Post Code/Zip . . .

Country . . .

Postal Address Same as Physical

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

Mining

[Subsidiary]

SECTION C : COMPANY DETAILS

Company Name

Abbreviation

Registration Number

Registered Country

Registration Date

Company Type Private Listed

Physical Address

Line 1

Line 2

Line 3

Province

Post Code/Zip

Country

Postal Address Same as Physical

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

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

.....
 Date Location

FORM TR1 [Reg. 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
 - 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. 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)
 - o proof of payment of the application fee;
 - o 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:

Mining

[Subsidiary]

- (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

[Reg. 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

[Reg. 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)
 - 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;
 - 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.)

[Subsidiary]

FORM RL2

[Reg. 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 (<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>)
----------------------------------	-------------------------------

- 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 are 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;
 - (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

[Subsidiary]

FORM PL1

[Reg. 37(1).]

[Application for a prospecting 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. 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;
 - the prospecting work programme for the period the licence is sought;
 - environmental licence;
 - a description giving particulars of the applicant's plan for the employment and training of Kenyans; and
 - 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

[Reg. 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*).....
(*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

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;
- (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;

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- (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

[Reg. 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

[Reg. 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:

2. Attached a report containing the following:

- 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;
- 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.

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[Subsidiary]

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

[Reg. 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:

- 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;
- 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

[Reg. 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—

- (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

[Subsidiary]

- (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

[Reg. 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):
 - o 1 year
 - o 2 years
3. Attach the following the following:
 - o a report summarising the activities carried out to date during the first term of the Mention licence;
 - o 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;
 - o 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

[Reg. 48.]

[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)
 - o Proof of payment of application fee;
 - o Mineral or minerals in respect of which the licence is sought;
 - o Proposed programme of mining operations;
 - o A certified copy of the applicant company's certificate of incorporation and certified copy of its memorandum and articles of association;

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[Subsidiary]

- o A list of the full names and nationalities of all the applicant company's directors;
- o 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;
- o A description 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 The Feasibility Study report;
- o Environmental licence;
- o A description of the 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 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

[Reg. 49.]

[Mining Licence]

Mining licence Registration No. ML

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 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 (<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>)

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;
- (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

[Subsidiary]

FORM ML3

[Reg. 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

[Reg. 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)
 - 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 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

[Reg. 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:

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 (<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>)

.....
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

[Subsidiary]

(b) take all necessary s measures to protect the environment.

4. ACCOMPANYING ANNEXES

Annex 1: Map of reconnaissance area

FORM PP1

[Reg. 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;
- a 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).

Mining

[Subsidiary]

FORM PP2

[Reg. 59.]

[Prospecting Permit]

Prospecting 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 prospecting permit,

Name:

(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 (<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>)
----------------------------------	-------------------------------

(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;

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[Subsidiary]

- (b) take all necessary measures to protect the environment; and
- (c) comply with any prescribed record keeping obligations.

FORM PP3

[Reg. 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

[Reg. 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)
 - o 1 year
 - 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

[Reg. 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:

Mining

[Subsidiary]

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.

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)

(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

[Reg. 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:
 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;
 - a revised mining programme;
 - a 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

[Reg. 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
 - 4 years
 - 5 years

Mining

[Subsidiary]

- 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

[Reg. 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 (*name*) (signature)

In the presence of:

.....
Director of Mines (*name*) (signature)

.....
Holder/Authorised Representative (*name*) (signature)

In the presence of:

.....
Witness (*name*) (signature)

- (1) Rights conferred by this 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 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

[Reg. 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;
 - a report summarising mining operations undertaken since the permit was granted;
 - 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).

MINING (DEALINGS IN MINERALS) REGULATIONS, 2017

ARRANGEMENT OF REGULATIONS

1. Citation.
2. Interpretation.
3. Application of Regulations.
4. Applications for dealings in minerals.
5. Application for mineral dealer's (trading) licence.
6. Form of a mineral dealer's (trading) licence.
7. Application for a mineral dealer's (processing) licence.
8. Form of a mineral dealer's (processing) licence.
9. Rights and obligations of a holder of mineral dealer's licence (trading).
10. Rights and obligations of a holder of mineral dealer's (processing) licence.
11. Renewal of a mineral dealer's licence.
12. Sale of jewellery, gold coins and mineral artifacts.
13. Purpose of a mineral dealer's permit.
14. Qualification for a grant of a mineral dealer's permit.
15. Application and form of a mineral dealer's permit.
16. Rights and obligations of a holder of a mineral dealer's permit.
17. Renewal of a mineral dealer's permit.
18. Export of minerals.
19. Qualifications for the grant of an export Permit.
20. Application for an export permit.
21. Form of an export permit.
22. Term of an export permit.
23. Records and reporting requirements.
24. Import of minerals.
25. Sale of minerals by holders of artisanal mining permits.
26. Mineral samples.
27. Dealings in strategic minerals.

SCHEDULES

MINING (DEALINGS IN MINERALS) REGULATIONS, 2017

[L.N. 88/2017.]

1. Citation

These Regulations may be cited as the Mining (Dealings in Minerals) Regulations, 2017.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**Act**” means the Mining Act, 2016 (No. 12 of 2016);

“**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 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.

(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;

[Subsidiary]

- (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 sub regulation (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 sub regulation (1), the holder may—

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

[Subsidiary]

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—

- (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;

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- (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 sub regulation (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.

SCHEDULES

FIRST SCHEDULE

[Regs. 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].
3. Precious and Rare Metals.
4. Base Metals.

SECOND SCHEDULE

FORMS

Form DTL-1

[Reg. 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: 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)

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

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- 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

[Reg. 6.]

[Mineral Dealer's (Trading) Licence]

Mineral Dealer's (Trading) Licence Registration No. MDL/T

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

Cabinet Secretary (name)

(signature)

In the presence of:

Director of Mines (name)

(signature)

(dated seal here)

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 Kenya 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

[Reg. 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
 - 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

Mining

[Subsidiary]

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;
 - (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

[Reg. 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

Cabinet Secretary (name)

(signature)

In the presence of:

Director of Mines (name)

(signature)

dated
seal
here

..... 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;
 - 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;

Mining

[Subsidiary]

- (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

[Reg. 11(1).]

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:

- e. Email address (mandatory):
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. 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

[Reg. 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:
- 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).

Mining

[Subsidiary]

Form DP-2

[Reg. 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:

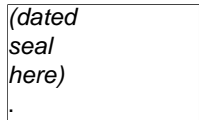
is by this permit granted the right to buy and sell [insert mineral(s) to be bought or sold].

DATED THIS DAY OF 2

.....
Cabinet Secretary (*name*) (*signature*)

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—
 - (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

[Reg. 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. Area 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.

Mining

[Subsidiary]

Form EP-1

[Reg. 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

Mining

[Subsidiary]

Form EP-2

[Reg. 21(1).]

[Mineral Export Permit]

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

- 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

.....

.Cabinet Secretary (*name*)

(*dated seal here*)

(*signature*)

In the presence of:

.....

Director of Mines (*name*)

(*signature*)

Mining

[Subsidiary]

Form DTR

[Reg. 23(a).]

[Dealings (Trading) Register]

Dealings Right No.

Name of Holder

Report for the month of 20

.	Minerals bought		.	Minerals sold		Royalty	Royalty
	Quantity	Value		Seller	Quantity		
b/f							
Date							
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							
21							
22							
23							
24							
25							
26							
27							
28							
29							
30							
31							
Total							

Mining

[Subsidiary]

Form DTQ

[Reg. 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
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 e.g. zinc, lead, etc

Mining

[Subsidiary]

Form DPQ

[Reg. 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:

Brought forward	Minerals			Processed			Royalty Liability			Royalty paid		
	(a)	(b)	(c)	(d)	(a)	(b)	(c)	(a)	(b)	(c)		
January	Feed- stock	Pro- duct	Feed- stock	Pro- duct	Feed- stock	Pro- duct	Feed- stock	Pro- duct				
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

[Reg. 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

[Reg. 26(2).]

[Application to Remove Samples]

.....
Hereby apply for authority to remove samples on behalf of:
.....

(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:

MINING (COMMUNITY DEVELOPMENT AGREEMENT) REGULATIONS, 2017

ARRANGEMENT OF REGULATIONS

1. Citation.
2. Interpretation.
3. Purpose.
4. Applications 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 contribution 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

**MINING (COMMUNITY DEVELOPMENT
AGREEMENT) REGULATIONS, 2017**

[L.N. 148/2017.]

1. Citation

These Regulations may be cited as the Mining (Community Development Agreement) Regulations, 2017.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**Act**” means the Mining Act, 2016 (No. 12 of 2016);

“**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.

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 sub regulations (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;

[Subsidiary]

- (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;
- (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.

[Subsidiary]

(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 at 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.

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 sub regulation (1) meets the requirements of the Act and these Regulations.

SCHEDULE

[Reg. 16(1).]

FORM CD1

[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:

Name:

Position:

Mining

[Subsidiary]

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:

.....

.....

MINING (STRATEGIC MINERALS) REGULATIONS, 2017

ARRANGEMENT OF REGULATIONS

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.
-

[Subsidiary]

MINING (STRATEGIC MINERALS) REGULATIONS, 2017

[L.N. 149/2017.]

1. Citation

These Regulations may be cited as the Mining (Strategic Minerals) Regulations, 2017.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**Act**” means the Mining Act, 2016 (No. 12 of 2016);

“**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.

(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.

[Subsidiary]

(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.

MINING (NATIONAL MINING CORPORATION) REGULATIONS, 2017

ARRANGEMENT OF REGULATIONS

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 accounts and audit.
15. Application of Regulations to Corporation.
16. Reporting requirements.
17. The Common Seal of the Corporation.

SCHEDULES

[Subsidiary]

MINING (NATIONAL MINING CORPORATION) REGULATIONS, 2017

[L.N. 150/2017.]

1. Citation

These Regulations may be cited as the Mining (National Mining Corporation) Regulations, 2017.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**Act**” means the Mining Act, 2016 (No. 12 of 2016);

“**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 chairman 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 chairman 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 chairman 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;
- (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 chairman 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 Chairman 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 Chairman 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 Chairman.

(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 Chairman of the Board shall preside at all meetings of the Board but in the absence of the Chairman 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 Chairman 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 Chairman 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.

[Subsidiary]

(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.

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 sub-regulation (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 sub-regulation (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, 2012 (No. 18 of 2012) and submit them to the Controller of Budget and the Auditor - General or to an auditor appointed under sub-regulation (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 sub-regulation (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.

[Subsidiary]

(9) The Auditor-General may give general or special directions to an auditor appointed under sub-regulation (6), and the auditor shall comply with such directions.

(10) An auditor appointed under sub-regulation (6) shall report directly to the Auditor-General on any matter relating to the directions given under sub-regulation (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 sub-regulation 14 (6), the auditor shall submit the report to the Auditor General.

(2) The Cabinet Secretary within one month of receiving the report under sub-regulation (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 Chairman and the Chief Executive Officer.

(3) Any document not required to be made under seal may be authenticated by the signature of the Chairman or the Chief Executive Officer provided that the Corporation in the absence of the Chairman or the Chief Executive nominates one member to authenticate the seal on behalf of the Chairman or the Chief Executive Officer.

MINING (MINE SUPPORT SERVICES) REGULATIONS, 2017

ARRANGEMENT OF REGULATIONS

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 a 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 service providers.
14. Offences and penalties.

SCHEDULE

[Subsidiary]

MINING (MINE SUPPORT SERVICES) REGULATIONS, 2017

[L.N. 151/2017.]

1. Citation

These Regulations may be cited as the Mining (Mine Support Services) Regulations, 2017.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**Act**” means the Mining Act, 2016 (No. 12 of 2016);

“**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
- (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.

[Subsidiary]

(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

Form MS1

[Reg. 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:

Mining

[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)	

Licence term applied for: *(Please indicate appropriate option)*

- 1 year
- 2 years
- 3 years
- Others (specify)

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

- duplicate copy of receipt 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;
- "Director Information", a list of the full names and nationalities of all the applicant company's directors;
- "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];
- "Technical and Financial Qualifications", a statement giving particulars of the technical and financial resources available to the applicant;
- 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

[Reg. 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:

Mining

[Subsidiary]

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

.....
Cabinet Secretary (name) (signature)

In the presence of:

.....
Director of Mines (name) (signature)

(dated seal here)
.
.
.

Form MS3

[Reg. 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
- 3 years
- 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

[Reg. 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.

Date:

Name: Position:

Email: Telephone:

Mobile Number:

Address:

**MINING (REPORTING OF MINING AND MINERAL
RELATED ACTIVITIES) REGULATIONS, 2017**

ARRANGEMENT OF REGULATIONS

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.
-

[Subsidiary]

**MINING (REPORTING OF MINING AND MINERAL
RELATED ACTIVITIES) REGULATIONS, 2017**

[L.N. 152/2017.]

1. Citation

These Regulations may be cited as the Mining (Reporting of Mineral Related Activities) Regulations, 2017.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**Act**” means the Mining Act, 2016 (No. 12 of 2016);

“**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;

- (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;

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- (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.

MINING (AWARD OF MINERAL RIGHTS BY TENDER) REGULATIONS, 2017

ARRANGEMENT OF REGULATIONS

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.
-

[Subsidiary]

**MINING (AWARD OF MINERAL RIGHTS
BY TENDER) REGULATIONS, 2017**

[L.N. 153/2017.]

1. Citation

These Regulations may be cited as the Mining (Award of Mineral Rights by Tender) Regulations, 2017.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**Act**” means the Mining Act, 2016 (No. 12 of 2016);

“**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—

- (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.

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(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.
