



## **Mining Local Content Regulations have been Amended**

- Mining activities, Contractor and Subcontractor definitions have been amended
- New Local Content Committee members announced
- Two Conditions for sole sourcing have been provided
- Provision of goods and services in a joint venture with an indigenous Tanzanian company
- Time changed for submission of annual local content performance report
- Format for annual and quarterly performance reports provided
- Penalty for non-submission of performance reports introduced
- The administrative penalty has been reduced

The Government of the United Republic of Tanzania has taken a welcomed move of amending the Mining Local Content Regulations, 2018 (the amended Regulations) by issuing the Mining (Local Content) (Amendment) Regulations (the amendments) vide Government Notice No. 479 of 2022.

The Amendments have changed the definitions of various key terms:

### **Definitions**

The definition of the word “contractor” has been deleted and substate for a person who has entered into a contract with a licensee within or outside the United Republic for provisions of goods and services in mining operations.”.

The definition of the term “mining activities” has been changed to mean any activity engaged in within and outside Tanzania related to the exploration for, development, and production of minerals, the acquisition of data, mining and extraction or mining of minerals, storage, transportation and decommissioning, and the planning, design, construction, installation, operation, provision of goods, services, and use of any facility for the purpose of the mining operation.

The definition of the term “sub-contractors” has been changed to mean means a third party to whom a corporation or contractor has entered into a contract for the provision of goods and services for mining operations;”

The above means that all persons providing goods and/or services in the mining sector are labeled as contractors. All these suppliers will have to therefore comply by submitting plans and their reports such as local content plans and reports as to goods supplied and services such as their workforce etc. to the Mining Commission. This also applies to the sub-



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contractors.

### **Local Content Committee**

The Local Content Committee for the mining activities has been amended by substituting the Director of Labour and Employment with The Labour Commissioner.

Also, two new members of the committee have been added:

1. A representative from the Immigration Department.
2. A representative of the Commissioner for Minerals is responsible for local content.

This is to mean that the committee members now representatives are no

1. One full-time member of the Commission shall be the Chairman.
2. The Labour Commissioner.
3. A representative of the Tanzanian Private Sector Foundation.
4. The Chief Executive Officer of the Geological Survey of Tanzania.
5. The head of the legal services department of the Ministry is responsible for Minerals.
6. The Executive Secretary of the Commission.
7. A representative from the Immigration Department.
8. A representative of the Commissioner for Minerals is responsible for local content.

### **Joint Venture**

Regulation 15 has been amended by deleting paragraph (b) of sub-regulation (5) and substituting for it the following: “(b) provide the goods and services in a joint venture with an indigenous Tanzanian company;”

This is to mean that Where a non-indigenous Tanzanian company is required to provide goods and services to a contractor, subcontractor, licensee, or other allied entity, that non-indigenous Tanzanian company shall incorporate a company in Tanzania and operate it from Tanzania; and provide the goods and services in a *joint venture* with an indigenous Tanzanian company and not “provide the goods and services in *association* with an indigenous Tanzanian company “as it was before!

### **Sole Sourcing**

Regulation 16 has been amended by adding sub-regulation 4 to bring about sole sourcing or what is commonly known as single source conditions there to that A contractor,



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subcontractor, licensee, or other allied entity shall inform the Commission in writing of each proposed contract or purchase order related to mining activities which are to be sole-sourced shall only be allowed under the following conditions:

1. a contractor, subcontractor, licensee, or other allied entity has issued an advertisement relating to an expression of interest for the provision of the particular goods or services and is only able to obtain one particular tenderer who is suitable for the provision of the goods and services: or
2. there is an urgent need for the goods and services and engaging in tendering proceedings would therefore be impractical. However, the circumstances that gave rise to the urgency were neither foreseeable by a contractor, sub-contractor, licensee, or other allied entity nor the result of dilatory conduct on its party. These conditions continue to indicate rareness in which contractors, subcontractors, or licensees may be allowed to procure goods and services without undergoing competitive bidding procedures. Although the amendments introduce conditions prior to sole sourcing, the presence of such conditions now enhances certainty regarding the circumstances under which sole sourcing may be allowed.

### **Quarterly Local Content Reporting Time**

Another amendment is to the effect that the quarterly performance report shall be filled in the format specified in the Fourth Schedule the regulations and to be submitted to the Commission not later than fourteen days after the end of each quarter

### **Annual Reporting Time**

Moreover, the amendments now require the submission of annual local content performance reports to the Mining Commission by A contractor, subcontractor, licensee, or other allied entity within (60) sixty days of the beginning of each year after the commencement of mining activities. This is a departure from the earlier forty-five (45) days requirement.

### **Fine**

Also, vide the Fourth Schedule to the Regulations, the format of the annual and quarterly performance reports is also provided and failure to submit any quarterly or annual performance report within the required time is punishable by payment of a fine of TZS 10M equivalent to USD 5,000. There is also a further punishment for failure to effect payment or continuous non-submission of the report which will eventually bring about the prohibition of bidding on the provision of goods and services until the requirement for submission of the reports is complied with.



## **Consequences of Carrying our Mining Activities without fulfilling the required local content**

The amendments provide that carrying out mining activities without fulfilling the local content requirement.

1. non-submission of local content plan.
2. failure to satisfy the content requirement of a local content plan.
3. failure to inform the Mining Commission of each proposed contract or purchase order shall lead to:
4. cancellation of a contract in respect of mining activities
5. payment to the Commission an administrative penalty of five percent of the value of the proceeds obtained from the mining activity in respect of which the breach is committed or fifty million shillings (equivalent to USD 25,000) whichever amount is more significant (A departure from the earlier requirement of paying five (5) million United States Dollars.)

To read the Mining (Local Content) Regulations, 2018 click here ⇒ [MINING LOCAL CONTENT REGULATIONS 2018](#)

To read the Mining (Local Content) (Amendment) Regulations, 2022 click here ⇒ [THE MINING \(LOCAL CONTENT\) \(AMENDMENT\) REGULATIONS, 2022](#)

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