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THE UNITED REPUBLIC OF TANZANIA

ACT SUPPLEMENT

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THE WRITTEN LAWS (MISCELLANEOUS AMENDMENTS) ACT, 2017

ARRANGEMENT OF SECTIONS

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THE UNITED REPUBLIC OF TANZANIA

NO.7 OF 2017

I ASSENT

JOHN POMBE MAGUFULI,
President

[5th JULY, 2017]

An Act to amend certain written laws in the extractive industry and financial laws with a view to enhancing control and compliance, ensuring maximum collection of revenues and securing national interests.

ENACTED by Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

Short title and commencement

1. This Act may be cited as the Written Laws (Miscellaneous Amendments) Act, 2017 and shall come into force on the date of publication.

Amendment of certain written laws

2. The written laws specified in the various Parts of this Act are amended in the manner specified in the respective laws.

PART II
AMENDMENT OF THE MINING ACT, CAP. 123

Construction Cap 123

3. This Part shall be read as one with the Mining Act, hereinafter referred to as the "principal Act".

General amendment

3A. The principal Act is amended generally by-

(a) deleting the word "Board" wherever it appears in the Act and substituting for it the word "Commission"; and

(b) deleting the designation "Commissioner" wherever it appears in the Act and substituting for it the word "Commission".

Amendment of section 4

4. The principal Act is amended in section 4, by:

(a) deleting the definition of the term "Agency";

(b) deleting the term "Board" and its definition and substituting for it the following:

""Commission" means the Mining Commission established by section 21;";

(c) deleting the definition of the designation "Commissioner" and substituting for it the following:

"Commissioner" means the Commissioner for Minerals appointed under section 20"

(d) deleting the definition of the term "mining operations" and substituting for it the following:

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

(e) deleting the designation "Zonal Mines Office" and its definition and wherever the word appears in the Act;

(f) deleting the designation "Zonal Mines Officer" wherever it appears and substituting for it the word "Commission";

(g) deleting the definition of "licensing authority" and substituting for it the following:

"licensing authority" means the Commission and includes any other person authorized by the Commission to perform licensing activities;";

(h) inserting in its appropriate alphabetical order, the following new definitions:

""mineral processing" means the process of separating commercial value minerals from their ores;

"Mining Cadastre" means the central online system for processing applications for mining rights and mineral processing licences established pursuant to section 27G;

"mineral concentrate" means minerals or associated minerals won through the process of direct extraction of minerals from the ore which need further processes to extract metals and bi-products such as:

(a) minerals in the category of precious and base metals-
   (i) gold;
   (ii) silver;
   (iii) copper;
   (iv) iron;
   (v) nickel;
   (vi) zinc; and
   (vii) lead;

(b) minerals in the category of platinum group metals-
   (i) platinum;
   (ii) rhodium, and
   (iii) iridium;

(c) minerals in the category of rare earth elements, transition element which includes-

(i) ytterbium;
(ii) beryllium;
(iii) tantalum; and
(iv) lithium;

(d) minerals in the category of non-metallic minerals-
(i) graphite; and
(ii) sulphur and bi-product from smelting;

(e) minerals in the category of industrial and ceramic minerals-
(i) limestone, gypsum, clays and refractory minerals;
(ii) agro-minerals for fertilizers such as phosphate;
(iii) coal; and
(iv) soda ash;

(f) minerals in the category of alloy metals-
(i) manganese;
(ii) chromium;
(iii) cobalt;
(iv) molybdenum; and
(v) vanadium;

(g) minerals in the category of light metals-
(i) aluminium;
(ii) magnesium; and
(iii) titanium;

(h) minerals in the category of gemstones-
(i) diamond;
(ii) tanzanite;
(iii) and all other gemstones; and

(i) any other minerals found in the

periodic table;

"tax expenditure" means the quantified value of tax incentives granted to a company by the Government;"

"local content" means the quantum of composite value added to, or created in, the economy of Tanzania through deliberate utilization of Tanzanian human and material resources and services in the mining operations in order to stimulate the development of capabilities indigenous of Tanzania and to encourage local investment and participation;

"integrity pledge" means a formal and concrete expression of commitment by mineral right holder to abide ethical business practices and support a national campaign against corruption, prepared by the Commission;

"Executive Secretary" means the Executive Secretary of the Commission appointed under section 26;

"Commissioner for Minerals" means the Commissioner for Minerals appointed under section 20; and

"Mineral Cadastral" means the Mineral Cadastre established pursuant to section 27F;".

Repeal and substitution of section 5

5. The principal Act is amended by repealing section 5 and substituting for it the following:

"Ownership of minerals and Government lien

5.-(1)The entire property in and control of all minerals in, and under or upon any land, rivers, streams, water courses throughout Tanzania, area covered by territorial sea, continental shelf or the exclusive economic zone is the property of the United Republic and shall be vested in the President in trust for the People of Tanzania.

(2) The Government shall have lien over any material, substance, product or associated products extracted from the mining operations or mineral processing."

Addition of section 5A

6.The principal Act is amended by adding immediately after section 5 the following new section:

"Declaration of mining controlled areas

5A.-(1) The President may, after consultation with the relevant local authorities through the Minister responsible for local government, and by order in the *Gazette* declare any area of Tanzania which is subject to mining operations to be a controlled area.

(2) The order made under this section shall prescribe conditions applicable to the controlled area, and upon such order being made, the conditions specified in the order shall apply to the specified area and any contravention of such conditions shall be an offence.

(3) For the purpose of subsections (1) and (2), the Commission shall recommend to the Minister regulations applicable to mining operations and activities in the controlled areas."

Amendment of section 8

7. The principal Act is amended in section 8, by:

(a) deleting paragraph (a) and substituting for it the following:

"(a) an individual who-

(i) is under the age of eighteen years;

(ii) not being a citizen of the United Republic, has not been ordinarily resident in the United Republic for a period of four years or such other period as may be prescribed;

(iii) is an undischarged bankrupt, having been adjudged or, otherwise declared bankrupt under any written law whether under the laws of the United Republic or elsewhere, or enters into any agreement or scheme of composition with creditors, or takes advantage of any law for the benefit of debtors; or

(iv) has been convicted, within the previous ten years, of an offence of which dishonesty is an element, or of any offence under this Act, any related or similar Act, or any similar written law in force outside the United Republic and has been sentenced to imprisonment or to a fine exceeding twenty million shillings.";

(b) deleting paragraph (b) and substituting for it the following:

"(b) a company-

(i) which has not established a physical and postal address in the United Republic for the purpose of serving legal notices and other correspondences;

(ii) unless, such company is incorporated under the Companies Act and intends to carry out the business of mining under a mining licence;

(iii) which is in liquidation other than a liquidation that forms part of a scheme for the reconstruction or amalgamation of the holder;

(iv) which has among its directors or shareholders any person who would be disqualified in terms of paragraph (a)(iii) and (iv).";

(c) adding immediately after subsection (2) the following new sub-sections:

"(3) Notwithstanding subsection (2), the Commission may, on recommendation of the Resident Mines Officer and upon satisfying itself that a primary mineral licence holder needs a technical support which cannot be sourced within Tanzania, allow the primary mineral licence holder to contract a foreigner for the technical support.

(4) The provisions of subsection (1)(a)(iii) and (iv) shall apply in relation to engagement of foreign technical support.";

(d) renumbering subsections (3), (4), (5) and (6) as (4), (5), (6) and (7) respectively.

Amendment of section 9

8. The principal Act is amended in section 9 by deleting subsection (4) and substituting for it the following:

"(4) The consent of the licensing authority where it is required under subsection (2), shall not be given unless there is proof that substantial developments have been effected by the holder of a mineral right.".

Repeal and substitution of section 10

9. The principal Act is amended by repealing section 10 and substituting for it the following:

"State participation

10.-(1) In any mining operations under a mining licence or a special mining licence the Government shall have not less than sixteen percent non-dilutable free carried interest shares in the capital of a mining company depending on the type of minerals and the level of investment.

(2) In addition to the free carried interest shares, the Government shall be entitled to acquire, in total, up to fifty percent of the shares of the mining company commensurate with the total tax expenditures incurred by the Government in favour of the mining company.

(3) Acquisition by the Government of shares in the Company shall be determined by the total value of the tax expenditures enjoyed by the mining company.".

Repeal and replacement of sections 11 and 12

10. The principal Act is amended by repealing sections 11 and 12 and substituting for them the following:

"Review and renegotiation of development agreements

11. Notwithstanding the provisions of this Act and any other written law, all development agreements concluded prior to the coming into force of this section shall, subject to the provisions of the Natural Wealth and Resources Contracts (Review and Re-negotiation of Unconscionable Terms) Act, 2017, remain in force.".

Repeal and replacement of Part III

11. The principal Act is amended by repealing Part III and replacing it with the following:

"PART III
ADMINISTRATION

Role of the Minister

19. The Minister shall be responsible for:

(a) preparing policies, strategies and legislative framework for exploration and exploitation of mineral resources with special reference to establishing national priorities having due regard to the national economy;
(b) monitoring the implementation of laid down government policies on minerals;
(c) monitoring the operations of all bodies or establishments with

responsibility for minerals and report to the Cabinet;

(d) promoting mineral resources of Tanzania for research and exploitation;

(e) monitoring the issuance by the Commission of licenses for mining activities in Tanzania; and

(f) providing support for the creation of a favourable environment for private investment in the mining industry.

Commissioner for Minerals

20. There shall be appointed by the President a suitably qualified public officer to be a Commissioner for Minerals who shall be responsible for advising the Minister on all matters relating to the mining sector.

Establishment of the Mining Commission

21.-(1) There is established a Commission to be known as the Mining Commission.

(2) The Commission shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of-

(a) suing and being sued;

(b) purchasing or otherwise acquiring, holding, charging or disposing of its movable and immovable property;

(c) borrowing and lending;

(d) entering into contracts;

and

(e) performing all such other things or acts for the proper execution of its functions which may lawfully be performed by a body corporate.

(3) The common seal of the Commission shall be kept in such custody as the Commission may direct and shall not be used except by the order of the Commission.

(4) The Commission shall be composed of:

(a) the Chairman;

(b) the Permanent Secretary Treasury;

(c) the Permanent Secretary from the Ministry responsible for lands;

(d) the Permanent Secretary from the Ministry responsible for defence;

(e) the Permanent Secretary from the Ministry responsible for local government;

(f) the Chief Executive Officer of the Federation of Miners Associations of Tanzania;

(g) Deputy Attorney General;

(h) two eminent persons who possess proven knowledge and experience in the mining sector one of whom shall be a woman.

(5) The Chairman and the Commissioners referred under paragraph (h) of subsection (4) shall be appointed by the President and shall serve on full time basis.

(6) Members referred to in paragraphs (b) (c), (d), (e), (f) and (g); shall discharge their responsibilities under this Act by part-time basis but they shall have equal rights with full time members.

(7) The First Schedule shall have effect on the proceedings of the meeting of the Commission and other matters related to it.

Functions of the Commission

22. The functions of the Commission shall be to:

(a) supervise and regulate the proper and effective carrying out of the provisions of this Act;

(b) issue licenses under this Act;

(c) regulate and monitor the mining industry and mining operations in Tanzania;

(d) ensure orderly exploration and exploitation of mineral resources in Tanzania and the optimal utilization of mineral resources at all mining operations in accordance with the mining policies and strategy;

(e) resolve disputes arising out of mining operations or activities;

(f) carry out inspections or investigations on health and safety issues related to mining operations or activities;

(g) advise the Government on, and ensure compliance with all applicable laws and regulations related to the health and safety of persons involved in mining operations or activities;

(h) monitor and audit environmental management, environmental budget and expenditure for progressive rehabilitation and mine closure;

(i) counteract minerals smuggling and minerals royalty evasion in collaboration with relevant Government authorities;

(j) advise the Government on all matters relating to the administration of the mineral sector with main focus on monitoring and auditing of mining operations to maximize

Government revenue;

(k) promote and conduct research and development in the mineral sector that will lead to increased Government revenue;

(l) examine and monitor implementation of feasibility reports; mining programs and plans; annual mining performance reports; and environmental management plans and reports of mining companies;

(m) secure a firm basis of comprehensive data collection on national mineral resources and technologies of exploration and exploitation for national decision making;

(n) issue, suspend and revoke exploration and exploitation licences and permits;

(o) ensure general compliance with the laid down standards in mining operations, laws and the terms and conditions of mineral rights;

(p) monitor and audit quality and quantity of minerals produced and exported by large, medium and small scale miners; to determine revenue generated to facilitate collection of payable royalty;

(q) audit capital investment and operating expenditure of the large and medium scale mines for the purpose of gathering taxable information and providing the same to the Tanzania Revenue Authority (TRA) and other relevant authorities;

(r) sort and assess values of minerals produced by large, medium and small scale miners to facilitate collection of payable royalty;

(s) produce indicative prices of minerals with reference to prevailing local and international markets for the purpose of assessment and valuation of minerals and assessment of royalty;

(t) verify the forecasted capital investment specified under section 41(4)(c) for purposes of ascertaining mis-invoicing or any other form of malpractice in respect of mining licence and special mining licence holders and providing the same to the Tanzania Revenue Authority within twelve months after the issuance of such licences;

(u) supervise and monitor the implementation of local content plan and corporate social responsibility by a mineral right holder; and

(v) provide, upon request, information to a mineral right holder or any other person who is engaged in mining operations.

Committees of the Commission

23.-(1) For the purpose of facilitating performance of the functions of the Commission, it may form such number of committees to advise on matters relating to mining and minerals.

(2) The committees shall perform the functions assigned to it by the Commission upon such terms and restrictions as the Commission may determine.

(3) The provisions of the First Schedule shall apply with necessary modification to the proceedings of committees.

Executive Secretary

24.-(1) There shall be the Executive Secretary of the Commission who shall be appointed by the President.

(2) The Executive Secretary shall-

(a) exercise supervisory powers over the management of officers and staff of the Commission; and

(b) be responsible for the day to day management of the affairs of the Commission and carrying out directives of the Commission.

(3) The Executive Secretary shall be the Chief Executive Officer of the Commission and shall hold office for a term of five years and shall be eligible for re-appointment.

Appointment of staff of the Commission

25.-(1) The Commission may appoint such officers and staff for the proper discharge of the functions of the Commission under such terms and conditions of the public service as the Commission may determine.

(2) The Minister in consultation with the Commission may appoint a Chief Inspector of Mines, Resident Mines Officers, Mines Resident Officers, Inspectors of Mines and other public officers as may be required for the better performance of functions under this Act.

(3) Officers and staff shall, in the performance of their functions be responsible to the Commission.

Provisions relating to disclosure of information

26.-(1) No information furnished, or information in a report submitted, pursuant to section 100 by the holder of a mineral right shall, for so long as that mineral right or another mineral right granted to the holder has effect over the land to which the information relates be disclosed, except with the consent of the holder of the mineral right.

(2) Nothing in section (1) shall operate to prevent the disclosure of information where the disclosure is made-

(a) for or in connection with the administration of this Act;

(b) for the purpose of any legal proceedings;

(c) for the purpose of any investigation or inquiry conducted under this Act;

(d) to any person being a consultant

to the Government or public officer who is authorised to receive such information;

(e) for or in connection with, the preparation by or on behalf of the Government of statistics in respect of prospecting or mining; or

(f) for purposes of measures taken in accordance with any written laws aimed at preventing or combating corruption, prevention of financing of terrorism or organised crimes.

(3) Any person who contravenes subsection (1) commits an offence and is liable on conviction-

(a) in the case of partnership or community group, to a fine not less than two hundred million shillings or to imprisonment for a period not exceeding twelve months, or to both; and

(b) in the case of a body corporate, to a fine not less than one billion shillings.

Mines Resident Officer

27.-(1) The Commission shall station in every mining site where mining operations take place a Mines Resident Officer who shall be responsible for:

(a) monitoring the day to day production process at the mining site;

(b) verifying records, information and production reports kept by the holder of mineral right;

(c) authorising entry into the

minerals storage facility at the mine on behalf of the Government; and

(d) oversight over mineral removals and transportation to Government Minerals Warehouse.

(2) For the purpose of the discharge of functions under this Act, the Mines Resident Officer shall have all the powers conferred to authorised officers under section 101.

Geological Survey of Tanzania

27A.-(1) There is established the Geological Survey of Tanzania.

(2) The Geological Survey of Tanzania shall be responsible for all matters related to geological activities other than prospecting, exploration and mining activities, and in particular shall-

(a) advise the Minister on geological matters;

(b) undertake the geological mapping of Tanzania, and may for that purpose, engage contractors;

(c) provide data concerning the geology and mineral resources of Tanzania, and generally assist members of the public seeking information concerning geological matters;

(d) maintain such laboratory, library and record facilities as may be necessary for the discharge of its functions;

(e) provide geo-scientific advice, information and data to the Government;

(f) acquire geo-scientific data and information;

(g) maintain, process, archive and disseminate national geo-scientific data and information;

(h) collect, arrange and maintain geo-scientific books, records, publications, rock or mineral or fossil or core samples for research, learning and future reference;

(i) conduct geo-technical and geo-environmental studies;

(j) monitoring and management of geo-hazard;

(k) support large and small scale miners on geo-scientific services;

(l) maintain laboratory, library and record facilities as may be necessary for the discharge of the functions;

(m) provide geo- scientific laboratory services;

(n) promote investment in mining industry through dissemination of geo-data, information and maps; and

(o) perform any other function as may be assigned by the Government, this Act or any other written law.

(3) For an orderly discharge of duties and exercise of powers of the Geological Survey of Tanzania, there shall be the Chief Executive Officer who shall be appointed by the President.

(4) The Chief Executive Officer shall be responsible for the day to day discharge and exercise of powers of the Geological Survey of Tanzania.

Addition of sections 27B, 27C, 27D, 27E, 27F, 27G and 27H

12. The Principal Act is amended by adding immediately after new section 27 the following new sections:

"Geological survey, mapping and prospecting

27B. The Geological Survey of Tanzania shall, for the purpose of carrying out the geological mapping of Tanzania-

(a) enter upon any land for the purpose of carrying out such mapping;

(b) take soil samples or specimens of rocks, concentrate, tailings or minerals from any licence or permit are for purpose of examination or assay;

(c) break up the surface of the land for the purpose of ascertaining the rocks or mineral within or under it;

(d) dig up any land or fix any post, stone, mark or object to be used on the surface of that land; and

(e) carry out any operations which may be carried out in accordance with this Act.

Establishment of the Tanzania Gem and Minerals Houses

27C.-(1) The Commission shall establish such number of the Tanzania Mineral and Gem Houses, which shall comprise of the Minerals Auction Centre, the Minerals Exchange, and the Minerals Clearing House.

(2) The Minister shall, in consultation with the Commission and Minister responsible for finance, make regulations for the operation and running of the Minerals Auction Centre, the Minerals Exchange, and the Minerals Clearing House.

Establishment of the National Gold and Gemstone Reserve

27D.-(1) The Minister responsible for finance shall, after consultation with the Commission and the Governor of the Bank of Tanzania and by order published in the *Gazette*, establish the National Gold and Gemstone Reserve into which shall be deposited:

(a) all royalties required to be paid in refined minerals;
(b) all minerals impounded or otherwise confiscated in accordance with the law;
(c) minerals purchased by the Government in accordance with the provisions of this Act;
(d) dividend minerals paid under any arrangement or agreement; and
(e) any minerals otherwise acquired by the Government.

(2) The National Gold and Gemstone Reserve established under this section shall be under the control of the Bank of Tanzania.

Establishment of the Government Minerals Warehouse

27E.-(1) The Minister responsible for finance shall after consultation with the Commission and the Governor of the Bank of Tanzania, establish the Government Minerals

Warehouse which shall be the central custodian of all the metallic minerals and gemstones won by mineral rights holders in Tanzania.

(2) The Minister responsible for finance in consultation with the Minister shall make regulations for the transfer and deposit of minerals by the mineral right holders in the Government Minerals Warehouse and for the attendant procedures and fees.

Establishment of the National Mineral Resources Data Bank

27F.-(1) The Geological Survey of Tanzania shall establish under it the National Mineral Resources Data Bank.

(2) All mineral data generated under this Act shall be owned by the Government.

(3) The mineral right holder shall submit to the Geological Survey of Tanzania the following accurate mineral data-

(a) geological maps and plans;

(b) geophysical and geochemical raw data;

(c) processed and interpreted data or maps;

(d) technical reports;

(e) core samples and its mineral exploration database; and

(f) any other information as may be required.

(4) The mineral right holder shall give copies of data generated under subsections (2) and (3) to the Geological Survey of Tanzania free of charge.

(5) The Geological Survey of Tanzania may permit the mineral right holder to market the right of use of data on terms to be agreed.

(6) The mineral right holder shall not export any core, cuttings, rock samples, soil, fluid samples or any other data collected without the written authorisation of the Geological Survey of Tanzania.

(7) The Geological Survey of Tanzania shall prescribe rules for the better compliance with the requirements under this section, including the keeping of records and submission of reports and returns.

Mining Cadastre

27G.-(1) There shall be established a Mining Cadastre which shall-

(a) receive and process applications for mining rights and mineral processing licences;

(b) administer mining rights and mineral processing licences; and

(c) maintain public cadastral maps and cadastre registers.

(2) The Commission may establish regional mining cadastre offices which shall receive applications for mining rights and forward applications for processing by the Mining Cadastre.

(3) The Minister may after consultation with Minister responsible for lands, make regulations to prescribe the operationalization and management of the Mining Cadastre.

Indemnity

27H. An officer of the Commission or committee shall be liable for anything done or omitted to be done in good faith in the performance or purported performance of any function vested in that officer by, or in accordance with an appointment made under this Act.

Amendment of section 28

13. The principal Act is amended in section 28(3), by:

(a) adding immediately after paragraph (f) the following new paragraphs:

"(g) a statement of integrity pledge in a prescribed form; and

(h) local content plan."; and

(b) deleting the designation "Minister" wherever the designation is used in Part IV in relation to issuance of all categories of licence under that Part.

Amendment of section 29

14. The principal Act is amended in section 29, by deleting the words for its advice appearing in subsection (2).

Amendment of section 32

15. The principal Act is amended in section 32, by-

(a) deleting paragraphs (c) and (d) which appear in subsection (1), and substituting for them the following paragraphs:

"(c) a prospecting licence shall not be renewable after the second period of renewal;

(d) where a prospecting licence is no longer renewable the prospecting area shall revert to the Government and thereafter a prospecting licence in respect of the said prospecting area shall be issuable to a local mining company to be designated by the Minister upon approval by the Cabinet; and

(e) any company desiring to carry out prospecting activities in respect of prospecting areas over which a prospecting licence has been issued to a local mining company, shall conclude an arrangement with the company after approval by the Cabinet.; and

(b) deleting subsections (3), (4), (5), (6) and (7).

Repeal of sections 37 and 38

16. The principal Act is amended by repealing sections 37 and 38.

Amendment of section 41

17. The principal Act is amended in section 41, by:

(a) adding immediately after paragraph (h) appearing in subsection (4) the following new paragraphs:

"(i) a statement of integrity pledge in a prescribed form; and

(j) local content plan."

(b) renaming paragraph (i) as (k); and

(c) deleting the words "for advice" appearing in subsection (5).

Amendment of section 42

18. The principal Act is amended in section 42, by-

(a) introducing a new subsection (1) as follows:

"(1) Where upon satisfying itself that the applicant for special mining licence complies with all requirement, the Commission shall submit the application with all relevant documents to the Minister for tabling to the Cabinet for approval.";

(b) renumbering subsection (1) , (2), (3), (4) and (5) as (2), (3), (4), (5) and (6) respectively; and

(c) deleting the opening phrase to subsection (2) as renumbered and substituting for it as follows:

"(2) Upon approval by the Cabinet, the Commission shall grant a special mining licence to the applicant of the minerals licence in respect of the area of the land requested in application if -".

Amendment of section 45

19. The principal Act is amended in section 45, by deleting the words "for advice" appearing in subsection (3);

Amendment of section 49

20. The principal Act is amended in section 49(1), by:

(i) adding immediately after paragraph (h) the following new paragraphs:

"(i) include a statement of integrity pledge in a prescribed form; and

(j) include a local content plan."

(ii) renaming paragraph (i) as (k).

Amendment of section 54

21. The principal Act is amended in section 54(1), by:

(a) adding immediately after paragraph (b) the following new paragraphs:

"(c) include a statement of integrity pledge in a prescribed form; and

(d) include a local content plan."

Amendment of section 63

22. The principal Act is amended in section 63(1), by deleting the phrase "and any relevant stipulation in a development agreement".

Amendment of section 87

23. The principal Act is amended in section 87, by:-

(a) deleting the word "five" appearing in paragraph (b) of subsection (1) and substituting for it the word "six" ;

(b) deleting the word "four" appearing in paragraph (c) of subsection (1) and substituting for it the word "six"; and

(c) deleting the definition of the term "gross value" and substituting for it the following:

"gross value" means the market value of minerals as determined through valuation pursuant to section 100B of this Act:

Provided that-

(a) for the purposes of calculating the amount of royalties payable, the Government shall be entitled to reject the valuation if such value is steeply low on account of deep negative volatility, unless the raw minerals are disposed of for beneficiation within the United Republic; and

(b) where the Government rejects the valuation, it shall have the option to buy the minerals at the low value ascertained.".

Amendment of section 88

24. The principal Act is amended in section 88(1), by-

(a) adding immediately after subsection (1) the following new subsection:

"(2) One-third of the royalty payable shall be paid to the Government by depositing refined minerals equivalent to the ascertained royalty into the National Gold and

Gemstone Reserve.;"

(b) renumbering subsections (2) and (3) as subsections (3) and (4) respectively.

Amendment of Part VII

25. The principal Act is amended in Part VII, by-

(a) deleting the heading to that Part and substituting for it the following:

"GENERAL PROHIBITIONS, RESTRICTIONS, REPORTS AND RIGHT OF ENTRY";

(b) by deleting section 94; and

(c) adding immediately after section 100 the following new sections:

"Storage of raw minerals

100A.-(1) Every mineral right holder shall construct a secure storage facility for storing of won raw minerals.

(2) Access to the raw minerals storage shall be procured from joint authorisation by an appointed official of the mining company and the Mines Resident Officer and shall be entered in special logbook showing date and time of entry and the purpose for the entry.

(3) Any won raw minerals shall be stored at the mine for not more than five days before they are moved to the Government Minerals Warehouse to await disposal for home refining, authorized mineral dealers or, where so permitted, for export.

(4) The Minister shall by rules published in the *Gazette* prescribe procedures and standards for storage of minerals.

Sorting and valuation

100B.-(1) All won raw minerals shall be mined, sorted and valued in the presence of Mines Resident Officer, an Officer from the Tanzania Revenue Authority and the relevant institutions of state organ for that purpose before being entered for storage at the mine storage facility.

(2) All minerals won from the mines shall be beneficiated within the United Republic before they can be dealt with in any way.

(3) Reports on the mining, sorting and valuation of raw minerals shall be made and verified by both an authorised official of the mineral right holder and the Mines Resident Officer and submitted to the Commission.

(4) The report referred to under subsection (3) shall be used for the purpose of calculating Government royalties.

Control over removal of raw minerals

100C.-(1) Raw minerals shall only be removed from the mine under the supervision of the Government and shall be kept secured in the Government Minerals Warehouse established in accordance with the regulations.

(2) It shall be an offence to remove minerals stored at the Mine without Government authorisation and by means of transportation not approved by the Government.

(3) For avoidance of doubt, no licence or permit shall be issued under this Act or any other written law for exportation of raw minerals and mineral concentrates.

(4) Raw minerals shall only be withdrawn from the Government Minerals Warehouse for beneficiation within the United Republic or for use by authorised mineral dealers.

(5) Where Government authorisation is given for the exportation of raw minerals, any benefits given under any law for the promotion of Tanzanian products in external markets shall not be extended to such exportation of raw minerals.

(6) Subject to the regulations prescribed by the Minister, all minerals shall be processed within the United Republic.

(7) For purposes of subsections (3), (4), (5) and (6) any raw minerals impounded during or after an attempted illegal exploration or handling shall be confiscated by the Government and shall forthwith be deposited as part of the National Gold and Gemstone Reserve.

Handling of mineral concentrates

100D-(1) The Government shall subject to the provisions of section 5A, have lien in all mineral concentrates.

(2) Mineral concentrates shall be stored in a secure yard within the mines in a manner prescribed in the regulations.

(3) Mineral concentrates shall not, after being analysed and valued by the Commission, be disposed for mineral processing within Tanzania as trading commodity.

(4) The provisions relating to removal and transportation of raw minerals shall apply to transportation of minerals.

Regulation over use of stabilization clauses

100E-(1) In any negotiations for the provision of a stabilisation regime in the extractives sector, it shall be prohibited to use stabilization arrangements that entail the freezing of laws or contracting away the sovereignty of the United Republic.

(2) Stabilisation arrangement shall be specific and time bound and it shall be unlawful to conclude stabilisation arrangement or agreement guaranteed to last for a lifetime of any mine.

(3) Stabilisation arrangements shall make provision for renegotiation from time to time as may be necessary and, as much as possible, be based on the economic equilibrium principle.

(4) Any stabilisation arrangement involving tax expenditures by the Government shall provide for the quantification of the value of the tax expenditures and how the mining company shall recompense the Government for the foregone revenues.

(5) The Government shall have the option to convert the quantified values into equity holdings in the mining company.

Plough-back of profits from minerals sector

100F.-(1) Any mineral right holder shall undertake to participate in the growth of the Tanzanian economy by investing a portion of the returns from the exploitation of the country's mineral wealth.

(2) The mineral right holder shall file annual returns showing the efforts undertaken to enhance the performance of the Tanzanian economy and the value of such annual returns.

(3) In considering any extension or renewal or permission to transfer any mineral right, the Government shall take into account the extent of ploughed back returns into the Tanzanian economy.

(4) Any mineral right holder may agree with the Commission on planned investments to enhance the Tanzanian economy."

Amendment of section 111

26. The principal Act is amended in section 111(1), by deleting the phrase "Subject to any qualifications, exceptions or limitations that may be set out in a development agreement".

Amendment of section 112

27. The principal Act is amended in section 112, -

(a) subsection (1), by inserting between the words "may" and "make" the words "on recommendation of the Commission";

(b) subsection (2), by adding immediately after paragraph (s) the following new paragraphs:

" (t) local content principles including the requirements for provision of goods and services by Tanzanian entrepreneurs, training and employment of Tanzanians and technology transfer;

(u) principles relating to corporate social responsibility;

(v) principles and procedures relating to integrity pledge; and

(w) conduct of mineral auctions and mineral houses;"

Addition of new Parts VIII, IX and X

28. The principal Act is amended by:

(a) adding immediately after Part VII the following new Parts VIII, IX and X as follows:

"PART VIII
LOCAL CONTENT, CORPORATE SOCIAL RESPONSIBILITY AND INTEGRITY PLEDGE

Provision of goods and services by Tanzanian entrepreneurs

102.-(1) A mineral right holder shall give preference to goods which are produced or available in Tanzania and services which are rendered by Tanzanian citizens and or local companies.

(2) Where goods required by the mineral right holder are not available in Tanzania, the goods shall be provided by a local company which has entered into a joint venture with a foreign company.

(3) The local company referred to in subsection (2) shall own share of at least twenty five percent in the joint venture or otherwise as provided for in the regulations.

(4) For purposes of subsections (1) and (2), every mineral right holder shall prepare and submit to the Commission a procurement plan for a duration of at least five years indicating

among others, use of-

(a) local services in insurance, financial, legal, accounts, security, cooking, catering, health and other services provided or available in Tanzania; and

(b) works, goods and equipment manufactured, produced or available in Tanzania.

(5) A mineral right holder shall ensure that entities referred to in subsection (4) notify the Commission on-

(i) quality, health, safety and environment standards required by mineral right holder;

(ii) upcoming contracts as early as practicable; and

(iii) compliance with the approved local content plans.

(6) The entities referred to in subsection (1) shall-

(a) have capacity to add value to meet health, safety and environment standards of mining operations carried out by mineral right holder; and

(b) be approved in accordance with criteria prescribed in the regulations.

(7) Within sixty days after the end of each calendar year, the mineral right holder shall submit to the Commission a report of its achievements in utilising Tanzanian

goods and services during that calendar year.

(8) The mineral right holder shall submit to the Commission:

(a) a report on the execution of a programme prescribed in the regulations; and

(b) a detailed local supplier development program in accordance with approved local content plans.

(9) For the purposes of this Act,-

"local companies" means a company or subsidiary company incorporated under the Companies Act, which is one hundred percent owned by a Tanzanian citizen or a company that is in a joint venture partnership with a Tanzanian citizen or citizens whose participating shares are not less than fifty one percent.

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Training and employment of Tanzanians

103.-(1) A mineral right holder shall, within twelve months after the grant of a licence, and on each subsequent anniversary of that grant, submit to the Commission for approval, a detailed programme for recruitment and training of Tanzanians in accordance with an approved local content plans.

(2) The programme shall provide training and recruitment of Tanzanians in all phases of mining operations and take into account gender, equity, persons with disabilities, host communities and

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succession plan in accordance with the Non-Citizens (Employment Regulation) Act.

(3) For purposes of subsections (1) and (2) and for the promotion of equality and fairness in the treatment of employees at the workplace, it is prohibited to practice discrimination including payment of salaries to employees of the same cadre irrespective of colour, faith and nationality.

(4) Where a programme or a scholarship proposed to be awarded under this section is approved by the Commission, it shall not be varied without permission of the Commission.

(5) The mineral right holder shall submit to the Commission annually, a report on the execution of the programme in a manner prescribed in the regulations.

Training and technology transfer

104.-(1) A report referred to under subsection (4) of section 103 shall include:

(a) a clearly defined training programme for the Tanzanian employees of the mineral right holder, which may be carried out within or outside Tanzania and may include scholarships and other financial support for education;

(b) a commitment by the mineral right holder to maximize knowledge transfer to Tanzanians and establish management and technical capabilities and any necessary facilities for technical work, including interpretation of data; and

(c) a commitment to reserve adequate practical training opportunities to students from local training institutions.

(2) The technology transfer required under subsection (1) shall be a shared responsibility between the Government and mineral right holder.

(3) A mineral right holder shall be required to provide a report on the progress made by Tanzanians on training program and steps taken by licensee to close any identified learning gaps.

(4) The Minister may make regulations prescribing requirements for mineral right holder to provide technology transfer and skills relating to mining operations to Tanzanians who are employed in that sector.

Corporate social responsibility

105.-(1) A mineral right holder shall on annual basis, prepare a credible corporate social responsibility plan jointly agreed by the relevant local government authority or local government authorities in consultation with the Minister responsible for local government authorities and the Minister responsible for finance.

(2) The plan prepared under

subsection (1) shall take into account environmental, social, economic and cultural activities based on local government authority priorities of host community.

(3) The corporate social responsibility plan referred to under subsection (1) shall be submitted by a mineral right holder to a local government authority for consideration and approval.

(4) Subject to the provision of this section, every local government authority shall-

(a) prepare guidelines for corporate social responsibility within their localities;

(b) oversee the implementation of corporate social responsibility action plan; and

(c) provide awareness to the public on projects in their areas.

(5) In this section "host communities" means inhabitants of the local area in which mining operations activities take place.

Integrity pledge

106.-(1) A mineral right holder who undertakes mining shall be required to comply with the integrity pledge.

(2) The integrity pledge referred to under subsection (1) implies the following national requirements-

(a) the conduct of mining operation or activities with utmost integrity;

(b) desist to engage in any arrangement that undermines or is in any manner prejudicial to the country's financial and monetary systems, in particular, all earnings, payments or receivables derived from or in respect of mining operations or activities shall be received in, and accounted for in Tanzania;

(c) desist to engage in any arrangement that undermines or is otherwise prejudicial to Tanzania's tax system;

(d) disengage in arrangement that is inconsistent with the country's economic objectives, policies and strategies;

(e) maintenance of satisfactory and effective insurance coverage against losses, injuries or damage to environment, communities, individuals and properties, that may be occasioned in the course of carrying out mining operations or activities; or

(f) disengage in arrangement that undermines or is otherwise prejudicial to Tanzania's national security.

(3) The Minister may make regulations guiding compliance with the integrity pledge.

(4) Any person who fails to comply with integrity pledge shall breach the conditions of licence or permission to engage in mining operation or activity and such licence or permission shall be deemed to have been withdrawn or cancelled and the Government shall exercise the right of takeover facilities provided for under this Act.

PART IX
ENVIRONMENTAL PRINCIPLES AND LIABILITIES

Compliance with environmental principles

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107.-(1) The licence holder and any other person who exercise or perform functions, duties or powers under this Act in relation to mining operations shall comply with environmental principles and safeguards prescribed in the Environmental Management Act and other relevant laws.

(2) The licence holder and contractor shall ensure that the management of production, transportation, storage, treatment and disposal of waste arising out of mining operations is carried out in accordance with environmental principles and safeguards prescribed under the Environmental Management Act and other relevant written laws.

(3) The licence holder shall contract a separate and competent entity to manage transportation, storage, treatment or disposal of waste arising out of mining operations.

(4) The licence holder shall be responsible for activities referred to under subsection (3).

(5) The National Environmental Management Council in consultation with the Commission may, grant a licence for management, transportation, storage, treatment or disposal of waste arising out of mining operations to an entity contracted by a licence holder under subsection (3) on terms and conditions prescribed in the licence.

(6) A person contracted by the licence holder under subsection (3) shall not carry out mining operations without having a licence issued by the Minister responsible for environment.

(7) A person who carries on management of productions transportation, storage, treatment or disposal of waste arising out of mining operations without a licence or fails to comply with the terms and conditions prescribed in the licence, commits an offence and shall be liable on conviction to a fine of not less than five million shillings or to imprisonment for a term of not less than six months.

Pollution damage

108.-(1) This Part applies in relation to damage caused by pollution from a facility if the damage occurs in Tanzania or affects a Tanzanian vessel or facility in adjacent areas.

(2) The Minister may, make regulations relating to liability for pollution or damage caused by mining operations with agreement with a foreign State.

(3) Regulations made under subsection (2) shall not restrict the right to compensation in accordance to this

Act and relevant written laws in respect of any injury, death or damage of property under Tanzanian jurisdiction.

Liability of licence holder for pollution damage

109.-(1) The licence holder shall be liable for pollution damage without regard to fault.

(2) Where it is demonstrated that an inevitable event of nature, act of war, exercise of relevant Commission or a similar event of act of God has contributed to a considerable degree to the damage or its extent under circumstances, which are beyond the control of the licence holder or contractor, the liability may be reduced to the extent that is reasonable, with particular consideration to the-

(a) scope of the activity;
(b) situation of the party that has sustained the damage; and
(c) opportunity for taking out insurance on both sides.

Liability for pollution damage caused without a licence

110.-(1) Where pollution or damage occurs during a mining operations and the operation has been conducted without a licence, the party conducted the mining operations is liable for the damage, regardless of fault.

(2) The liability shall be applied to any other person who has taken part in the mining operations, and who knew, or should have known that the activity was conducted without a licence.

Claiming of damages

111.-(1) The liability of a licence holder and contractor for pollution damage may be claimed in accordance with this Act and any other applicable law.

(2) Liability for pollution damage may not be claimed against-

(a) any person other than a licence holder and contractor who undertakes measures to avert, limit pollution damage, save life or rescue values which have been endangered in connection with the mining operations, unless the measure taken conflict with prohibitions imposed by the Commission or express prohibition by the law values threatened; or

(b) any person employed by a licence holder or person referred to in paragraph (a).

(3) Where the licence holder and contractor have been ordered by court to pay compensation for pollution damage, but fail to pay within the time stipulated in the judgment, the party that has sustained damage may bring an action against the party that has caused the damage to the same extent as the licence holder and contractor may bring an action for recourse against the party who caused the damage.

(4) The licence holder and contractor may claim compensation from the party who caused pollution damage to the licence holder and contractor to the same extent as the licence holder and contractor may bring

action for recourse against the party caused the damage.

Claiming compensation for pollution

112.-(1) The licence holder and contractor may not claim compensation for damage caused by pollution against a person exempted from liability, except where such person acted wilfully or negligently.

(2) Recourse liability may be mitigated to the extent that it is considered reasonable in view of manifested conduct, economic ability and the circumstances in general.

(3) Any agreement on further recourse in respect of a person against whom liability is imposed contrary to subsection (1) shall be is invalid and not claimable for damages.

Jurisdiction

113. A legal action for compensation for pollution damage shall be brought before a competent court in the area where the effluence or discharge of mining operations takes place or where damage is caused.

PART X
FINANCIAL PROVISIONS

Funds of the Commission

114.-(1) The funds of the Commission shall consist of-

(a) moneys appropriated by Parliament for the purposes of the Commission;

(b) grants received by the Commission ; and

(c) any other moneys legally

Amendment of section 9

32B. The principal Act is amended in section 9, by deleting paragraph (d) appearing in subsection (2) and substituting for it the following:
(d) the amount of tax benefit or advantage quantified under section 27 of the Act or other amounts required to be included under Division II of this Part, Parts IV, V or VI".

Amendment of section 27

32C. The principal Act is amended in section 27, by-

(a) adding immediately after paragraph (c) appearing in subsection (1) the following new paragraph:

"(d) for the purpose of tax benefit or advantage, the amount of tax benefit or advantage shall be 330 percent of the actual tax benefit or advantage:

Provided that, for the purpose of this paragraph, tax benefits or advantage means benefit or advantage obtained by a person by shifting an obligation to pay income tax to another person;"; and

(b) renumbering paragraph (d) as paragraph (e).

"Amendment of section 8

33. The principal Act is amended in section 8, by deleting paragraph (h) appearing in subsection (2) and substituting for it the following new paragraph:

(h) the amount of tax benefit or advantage quantified under section 27 or other amounts required to be included under Division II of this Part, Parts IV, V or VI".

Amendment of 64E

34. The principal Act is amended in section 65(E), by:-

(a) deleting the words "and royalties" appearing in paragraph (a) of subsection (1); and

(b) inserting a proviso to paragraph (b) as follows:

Provided that, depreciation basis for

purposes of depreciation allowance shall not exceed the cost of investment as determined by the Commission under section 22 of the Mining Act.

Amendment of Section 65M

35. The principal Act is amended in section 65M by deleting the words "whether from cost oil, cost gas" appearing in subsection (2) and substituting for them the word "from".

Amendment of section 65N

36. The principal Act is amended in section 65N in the following manner:

(a) in subsection (1), by-

(i) deleting paragraph (a) and substituting for it the following:

"(a) annual fees incurred by the person with respect to the petroleum right under section 114 of the Petroleum Act". Cap. 392

(ii) deleting paragraph (b) and substituting for it the following new paragraph:

"(b) depreciation allowances in respect of depreciable assets other than the assets whose costs are recouped from the cost oil or cost gas under a production sharing agreement granted with respect to the operations and calculated in accordance with paragraph 6 of the Third Schedule; and"

(b) in subsection (2), by-

(i) deleting figure "17" appearing in paragraph (a);

(ii) adding immediately after paragraph (a) as amended

new paragraph (b) as follows:

"(b) any expenditure and depreciation allowance in respect of assets covered by cost petroleum under a production sharing agreement;"

(c) renaming paragraphs (b), (c) and (d) as (c), (d) and (e) respectively.

PART V
AMENDMENT OF THE INSURANCE ACT, CAP. 394

Construction Cap. 394

37. This Part shall be read together with the Insurance Act, hereinafter referred to as the "principal Act".

Amendment of section 67

38. The principal Act is amended in section 67, by deleting the words "one third" appearing in paragraph (b) and substituting for them the words "two thirds".

Repeal and replacement of section 72

39. The principal Act is amended by repealing section 72 and replacing for it the following:

"Payment of premiums and commission

72.-(1) The Commissioner shall, by order in the *Gazette*, prescribe minimum rates of premium payable under this Act for different classes of insurance.

(2) Subject to subsection (1), an insured shall pay to a Tanzanian insurer all premiums due to the insurer by depositing to the account of the insurer for insurance cover effected at the instruction of the insured.

(3) A broker shall be entitled to a commission from the insurer for insurance cover issued to the insured under its brokerage.

(4) A broker shall not receive any

premium from the insured for insurance cover effected at the instruction of the insured.

(5) Any chief executive officer or principal officer of a broker who receives premium in contravention of subsection (3) commits an offence and shall on conviction be liable to a fine of not less than ten million shillings and not exceeding fifty million shilling or imprisonment of a term not less than two years but not more than five years or to both.

(6) Without prejudice to subsection (5), any broker who contravenes this section shall, in addition to the penalty, bear all liabilities arising from the act constituting the offence.

Repeal and replacement of section 133

40. The principal Act is amended by repealing section 133 and replacing for it the following:

"Insurance held by Tanzanian insurer

133.-(1) Insurance cover effected by a Tanzanian resident or a Tanzanian resident company of any class or classes shall be placed with a Tanzanian insurer.

(2) Where a class or classes of insurance required to be placed with a Tanzanian insurer in terms of subsection (1) is or are not available to a person seeking insurance cover that person may, through a resident insurer and with prior written approval of the Commissioner, place that insurance cover with a non -Tanzanian insurer.

(3) For purposes of subsections (1) and (2), ground, marine and air cargo insurance covers for Tanzanian imports shall be effected by a Tanzanian insurer.

of Tanzania."

Repeal of section 134

41. The principal Act is amended by repealing section 134.

Repeal of section 137

42. The principal Act is amended by repealing section 137.

PART VI
AMENDMENT OF THE TAX ADMINISTRATION ACT, CAP. 438

Construction

43. This Part shall be read as one with the Tax Administration Act, hereinafter referred to as the "principal Act".

Amendment of section 3

44. The principal Act is amended in subsection (3) of section 3, by adding at the end of the definition of the word "tax" the following words "and any additional profits tax payable under any arrangement or agreement".

Amendment of section 54

45. The principal Act is amended in subsection (1) of section 54 by adding immediately after paragraph a new paragraph (g) to read as follows:

"(h) with respect to additional profits tax payable under any arrangement or agreement, shall be paid to the Commissioner General on the due date specified by the arrangement or agreement, or in the absence of such specified due date, as the Commissioner General shall by notice in writing direct."

PART VII
AMENDMENT OF THE VALUE ADDED TAX ACT, CAP. 148

Construction
Cap. 143

46. This Part shall be read as one with the Value Added Tax Act, hereinafter referred to as the "principal Act".

Amendment of
section of 68

47. The principal Act is amended in section 68 by adding a new paragraph immediately after paragraph (c) of subsection (3) as follows:

"(d) an exportation of raw minerals, raw agricultural products, raw forestry products, raw aquatic products and raw fauna products:

Provided that-

(i) in the case of raw minerals, this amendment shall take effect on the 20th day of July, 2017; and

(ii) in the case of raw agricultural products, this amendment shall take effect after two years from 20th day of July, 2017."

Passed by the National Assembly on the 4th July, 2017.

THOMAS DIDIMU KASHILILAH
Clerk of the National Assembly