

13 July 2022



Mining Local Content Regulations Amended

- Mining activities definition wider
- Contractor and Subcontractor definitions amended
- Conditions for sole sourcing stipulated
- Time provided for submission of annual local content performance report
- Format for annual and quarterly performance report provided
- Penalty for non-submission of performance reports introduced
- Administrative penalty reduced

In a bid to address regulatory and practical challenges pertaining to the Mining Local Content Regulations, 2018 (the amended Regulations) the Minister for Minerals has issued the Mining (Local Content) (Amendment) Regulations (the amendments) vide Government Notice No. 479 of 2022.

According to the amendments, mining activities include provision of goods and services for purposes of mining operations. Now, mining activities are defined as 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 operations.

Further to the above, the amendments define a contractor as a person who has entered into a contract with a licensee within or outside the United Republic for provision of goods and services in mining operations. It is noteworthy that previously, a person became a contractor upon having a mining agreement with the United Republic to undertake mining exploration and production activities under the Mining Act. With these amendments, the subjects to which the Regulations apply is widened, such that, all persons who are contractually obliged to provide services or goods to the mining sector are required to comply with the Regulations as contractors. It follows therefore that service providers such as law firms, telecom companies, financial institutions, and caterers are now required to comply with reporting requirements under the Regulations, including submission of local content plans and performance reports to the Mining Commission.

In the same vein, the term 'subcontractor' is also amended, such that, a subcontractor is a third party to whom a corporation or contractor has entered into a contract for provision of goods and services for mining operations. Prior to these amendments, a subcontractor ought to have a mining contract with a corporation or contractor for provision of services for mining operations.

Further, in a bid to clarify the modes of procurement of goods and services for mining operations, the amendments now stipulate the conditions for sole sourcing. Sole sourcing is only allowed where: (i) a contractor, subcontractor, licensee or other allied entity has issued an advertisement relating to expression of interest for the provision of the particular

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goods or services and is only able to obtain one particular tenderer who is suitable for the provision of the goods and services; or (ii) 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, 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, presence of such conditions now enhances certainty regarding the circumstances under which sole sourcing may be allowed.

Moreover, the amendments now require submission of annual local content performance reports to the Mining Commission within sixty days of the beginning of each year after commencement of mining activities. 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. Furthermore, failure to effect payment or continuous non-submission of the report leads to prohibition of bidding on provision of goods and services until the requirement for submission of the reports is complied with.

The amendments provide that carrying out mining activities without the required local content requirement; non-submission of local content plan; failure to satisfy the content requirement of a local content plan; and failure to inform the Mining Commission of each proposed contract or purchase order shall lead to cancellation of a contract in respect of mining activities and payment of 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 TZS 50M whichever is greater. This departs from the previous penalty which was USD 500M.

To read the (Local Content) Regulations, 2018 [click here](#)

To read the (Local Content) (Amendment) Regulations, 2022 [click here](#)

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