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THE MINING ACT,
(CAP. 123)

REGULATIONS

(Made under Section 112)

THE MINING (AUDIT AND INSPECTION OF RECORDS) REGULATIONS, 2018

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PART I

PRELIMINARY PROVISIONS

Citation and
Commencement

1. These Regulations may be cited as the Mining
(Audit and Inspection of Records) Regulations, 2018.

Interpretation

2. In these Regulations unless the context otherwise
requires:-

Cap. 123

"Act" means the Mining Act;

"audit standards" means standards issued by local and
international audit and accounting bodies applied by
the Commission in the conduct of its functions;

"authorized officer" means the Chief Inspector of Mines,
Resident Mines Officers, Mines Resident Officers,
Inspector of Mines and public officers appointed
pursuant to section 25 of the Act;

"Code of ethics and conduct" means a code of ethics and
conduct for the Public Service and shall include the
relevant Professional Codes of Ethics and Conduct in
respect of audit and inspection of mines developed

and adopted by the Commission;

“Commissioner” means Commissioner for Minerals appointed pursuant to section 20 of the Act,

“auditor” means a person duly authorized in terms of the Act to inspect mine records;

“licence” when used as a noun means, a mineral right and when used as a verb includes any associated licensing activities which include receiving, processing, and validating applications, and granting and issuing of mineral rights as defined under the Act;

“licensing activities” means activities as defined under the Act;

“mine operator” in relation to a mine, means the person who is in control directly or indirectly of the operations of the mine or a mineral right holder;

“Minister” means the Minister responsible for mining;

“mine records” means any records including books of accounts, vouchers, documents, maps, drilling logs or records related therewith;

“person” means an individual or an entity involved directly or indirectly in mining activities or mining operations.

PART II KEEPING OF RECORDS

Obligation to
keep records

3.-(1) Every mineral right holder shall keep and maintain records in respect of all mining activities or operations within the mining areas or at the mineral rights holder’s office located in Tanzania or as the Commission or an authorized officer determines whether or not such mineral rights holder is in compliance with the provisions of the Act.

(2) Records referred to under sub-regulation (1)

shall be kept longer after the date of the last entry was made for a period of five years or such other period as the Commission may determine.

(3) Records to be kept by the mineral right holder shall include:

- (a) books of accounts, documents, or records of any kind;
- (b) drilling logs;
- (c) maps;
- (d) vouchers;
- (e) all reports of, and findings and recommendations resulting from inspections, investigations, and audits carried out at the mine in line with Act;
- (f) a record of and reports about all serious accidents and high potential incidents that have happened at the mine;
- (g) all directives issued under the Act, to the operator and the operator's agents or representatives; and
- (h) any other reports or information that may be prescribed by the Commission.

Alternative way
to keep records

4.-(1) The mineral rights holder may decide how best the records shall be made and stored on the basis that any information contained is to be stored accurately, legibly and can be easily retrieved.

(2) For the purpose of these Regulations, when records are kept electronically, the system shall provide backup so that copies of records can be retrieved if they are inadvertently deleted or lost through software or hardware malfunction.

Access to records

5.-(1) The Commission or an authorized officer shall have unrestricted access to mineral rights holder's documents, computers and other information systems and assets as the Commission or an authorized officer reasonably considers necessary for the proper performance of functions, carrying out statutory responsibilities and the exercise of powers.

(2) The Commission or an authorized officer may, at all reasonable time, inspect and take copies of any mine records pursuant to the provisions of the Act, and these Regulations.

(3) The Commission or an authorized officer may retain any document produced by any mineral rights holder under these Regulations but such mineral rights holder shall be entitled to a certified copy of the document retained by the Commission or authorized officer.

Duration for keeping records

6. A person shall not destroy, deface or alter records for the period of the life of the mine or duration of the mining licence whichever period is longer.

PART III

AUDIT AND INSPECTION OF RECORDS

Notice of audit and inspection

7. Notice of the time and place appointed for the holding of audit and inspection shall be given to the mineral rights holder fourteen days before audit and inspection is undertaken.

Scope of audit and inspections

8. The Commission or an authorized officer shall determine the scope and extent of the audit and inspection of the mine records of each mineral rights holder in a manner desirable in carrying out responsibilities and functions specified under the Act.

Production of records for audit and inspection

9.-(1) Mineral rights holder shall produce records which, in the opinion of the Commission or authorized officer, are required to enable proper assessment of the mining activities or operations in accordance with section 101(1) of the Act.

(2) The Commission or an authorized officer may require attendance and presentation from all persons as is necessary for proper conduct of audit and inspection of such records.

Mode of audit and inspection and duration

10.-(1) Audit and inspection of records shall commence after the meeting between Commission or authorized officer and mineral right holder whereby the Commission or authorized officer shall cause the minutes of the meeting to be kept and attached in inspection report.

(2) Audit and inspection of records shall commence and be concluded within thirty days except where there is reasonable cause to extend the time, the maximum time which shall not exceed the maximum of sixty days.

Communication of audit and inspection results

11. The Commission or authorized officer shall prepare an audit and inspection report and disseminate the report to the mineral rights holder and submit a copy of the report to the Minister.

Circumstance where queries arise during audit and inspection

12.-(1) Where audit and inspection by the Commission or authorized officer raises questions, the mineral rights holder shall be required to reply to each of the questions within thirty days after issuance of the audit and inspection report.

(2) Failure to reply to the questions raised within the time specified, the Commission may require the mineral rights holder to show cause as to why the

Commission should not make an order to revoke or suspend the licence.

Investigation where breach of the provisions in respect of records arise

13. Where the Commission or authorized officer has reason to believe that a mineral right holder has violated the provision of the Act it shall make such investigations as is necessary and may examine such other persons and compel the production of any other addition evidence to establish non-compliance of the Act.

Obligation of the officers

14. For the purpose of auditing and inspection by the the Commission or authorized officer:-

- (a) in handling audit and inspection matters an officer shall not take part in the audit and inspection if he has an interest in the mineral right holder or mine operator or the matters thereon.
- (b) shall not divulge any information which relates to the business secrets of the mineral rights holder which comes to theirs knowledge in the course of audit and inspection.
- (c) shall observe the professional code of ethics and conduct under Regulation 14.

Audit and Inspection Standards and Code of Ethics

15.-(1) The Commission or an authorized officer shall, in discharging functions and responsibilities, determine which auditing and inspection standards be applied and may issue auditing and inspection standards to be applied for audit and inspection performed by the Commission or an authorized officer.

(2) Pursuant to sub-regulation (1), the Commission or an authorized officer may be guided by international auditing and inspection standards and code of ethics and conducts or other auditing and inspection standards as may deemed fit.

PART IV

GENERAL PROVISIONS

Offences and penalties

16.-(1) A person shall not:

- (a) refuse or fail to comply with a requirement stipulated under Regulation 7 to the extent of being unable of complying with it;
- (b) in purported compliance with such a requirement, knowingly furnish information that is false or misleading in any material particular;
- (c) when responding to any question from the Commission or any other person in accordance with such requirements, knowingly make a statement or produce a document that is false or misleading in material particular;
- (d) when making available books or documents in accordance with such a requirement, knowingly make available a book or document that is false or misleading in material particular;
- (e) make or cause to be made any declaration, certificate, or other document, which is false or incorrect in any particular;
- (f) when required in accordance with the Act or these Regulations to answer any question put to him or her by an officer, refuse to answer such question or make any false or incorrect statement in reply to the question; or
- (g) without written consent of the Commission, publish or disclose information obtained in the cause of an audit and inspection to any person other than in the cause of work or when required to do so by a court of law.

(2) Any person who commits an act or omission in contravention of sub-regulation (1) commits an offence and shall be liable on conviction to a fine not exceeding fifty million shillings or to imprisonment for a term not

exceeding twelve months or to both.

(3) Where a person who commits an offence is a body corporate, that person shall be liable to fine of not less than fifty million shillings but not more than one hundred fifty million shillings.

Obstruct or resist Commission or an authorized officer from exercising his duties under this regulations

17. Any person who obstructs or resists the Commission or authorized officer in the exercise of powers of access, or power to call for relevant information, commits an offence and on conviction liable to a fine not exceeding six five million shillings or to imprisonment for a term not exceeding twelve months or to both.

Powers of the Commission to Compound Offence

18.-(1) The Commission may compel or order the production of any document relevant to the audit and inspection or recall any document for audit and inspection.

(2) Where the Commission makes any order under sub-regulation (1):

- (a) the order shall be put into writing and attached to it the request of the person to the Commission to deal with the matter; or
- (b) a copy of the order shall be given to the person who requests.

(3) Where the mineral rights holder fail to implement the order issued under sub-regulation (2) the Commission may cause the licence to be suspended or cancelled.

Offence by the Officer

19.-(1) Any staff of the Commission or an authorized officer, an auditor or inspector and an expert acting on behalf of the Commission or an authorized officer commits an offence who:-

- (a) demands or takes bribe, recompense or reward for the neglect or non-performance of duty;
- (b) willfully fails to report to the Commission or an authorized officer any abuse or irregularity that

comes to his notice in the course of auditing and inspection duties;

- (c) makes any report to the Commission or an authorized officer which he knows to be false or has no reason to believe it to be true; or
- (d) abuses his powers, engages in malpractices for personal gains, neglects duties or divulge state's or mineral rights holders business secrets.

(2) Any person convicted of an offence under these Regulations shall, in addition of other disciplinary penalty that may be taken against such person, be liable to a fine not exceeding fifty million shillings or to imprisonment for a term not exceeding two years or to both.

Duty to furnish information to other Government bodies

20. For purposes of the audit and inspection functions by the Commission or an authorized officer, any information of material facts that are deemed to have the risk of loss of revenue that prevails outside the jurisdiction of the Commission shall be addressed to the responsible office having jurisdiction for prevention of the loss of Government revenue including but not limited to the Tanzania Revenue Authority, National Environment Management Council, Tanzania Extractive and Transparency Initiatives Committee and any other body concerned.

Dar es Salaam
9th January, 2018

ANGELLAH J. M. KAIRUKI,
Minister for Minerals