

SUBSIDIARY LEGISLATION

to the Gazette of the United Republic of Tanzania No. 28 Vol 99 dated 13th July, 2018
Printed by the Government Printer, Dar es Salaam by Order of Government

GOVERNMENT NOTICE No 304 Published on 13/07/2018

THE MINING ACT

[Cap. 123, R.E.2002]

REGULATIONS

Made under Section 106 (3)

THE MINING (INTEGRITY PLEDGE) REGULATIONS, 2018

PART I

PRELIMINARY PROVISIONS

Citation and
Commencement

1. These Regulations may be cited as The Mining (Integrity Pledge) Regulations, 2018 and shall come into operation on the date of its publication in the Government Gazette.

Application

2. These Regulations shall apply to all holders of Mineral Rights who undertake prospecting and

mining activities in Tanzania Mainland.

Interpretation

Cap 123

Cap 123

Cap 123

3. In these Regulations, unless the context otherwise requires:

“Act” means the Mining Act;

“Commission” means the Mining Commission established by Section 21 of the Act;

“Mineral Right” means licences referred to under Section 7 of the Act;

“Holder of Mineral Right” means the person in whose name a Mineral Right is registered;”

“Mining operations” means operations carried out in the course of undertaking mining activities;

“Mining activities” means any activity engaged 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, decommissioning planning, design, construction, installation, operation and use of any facility for the purpose of the mining operations; and

“Integrity Pledge” means a formal and concrete expression of commitment by a mineral right holder to abide in ethical business practices and support a national stand against corruption, as stated in the Schedule to these Regulations.

PART II
CORPORATE INTEGRITY PLEDGE
OBJECTIVES AND PRINCIPLES

- General Objectives
4. The objectives of the Integrity Pledge are to:
- (a) develop a nation of high integrity, that is resilient and embraces universal good values;
 - (b) promote integrity, accountability and proper management of anti-corruption programme, for adoption by the corporate community operating in the mining industry;
 - (c) reinforce corporate governance, integrity, transparency and accountability in the daily operational processes and procedures of companies and businesses;
 - (d) facilitate, support and provide technical assistance for companies and businesses to implement the business integrity system as an effective preventive measure against corrupt and unethical practices;
 - (e) ensure proper insurance cover against losses, injuries or damage to environmental, communities, individual and properties that may be occasioned in the course of carrying mining activities; and
 - (f) complement the Prevention and Combating of Corruption Bureau's efforts to set up the best business practice in Tanzania.
- Integrity Pledge Principles
5. Any Contractor, Sub-contractor, Licensee, or any other person conducting mining activities shall adhere to the following underlying integrity requirements:

- (a) Promoting integrity values, transparency and good governance;
- (b) Strengthening internal systems that support prevention of corruption;
- (c) Complying with laws, policies and procedures relating to anti-corruption;
- (d) Supporting prevention of corruption initiatives by the Government;
- (e) maintaining appropriate financial reports;
- (f) implementing a whistle blowing system;
- (g) refraining from dealing with unethical companies; and
- (h) ensuring proper operations in the course of carrying out Mining activities to avoid losses, injuries or damage to environmental, communities, individual and properties.

PART III

OBLIGATIONS AND RESPONSIBILITIES

General Obligations

6. The Contractor, Subcontractor, Licensee, or any other person shall establish and maintain a compliance programme throughout the term of the licence that includes the following principles:
 - a) Written Code of Conduct, policies and procedures;
 - b) Training, awareness campaigns and education; and
 - c) Any notification of Government investigation or legal proceedings.

Mining (Integrity Pledge) Regulations

GN. No. 304 (contd.)

Integrity Pledge covers all malpractices

7. (1) A holder of Mineral Right shall not engage in any malpractices including tax evasion, double taxation, under or overpricing, transfer pricing and corruption.

(2) Any person who contravenes the provisions of sub-regulation (1) commits an offence and shall be liable upon conviction, to a fine of not less than one hundred million shillings or to an imprisonment for a term of not less than ten years or to both fine and imprisonment.

Requirement of Signing the Integrity Pledge

8. (1) A holder of Mineral Right that carries out prospecting or mining activities shall sign an Integrity Pledge form as prescribed in the First Schedule to these Regulations.

(2) A holder of Mineral Right shall ensure that any person it engages with in undertaking any activity in connection with mining activities complies with the Integrity Pledge requirements.

Obligations to comply with Integrity Pledge by the Holder of Mineral Right

9. A holder of Mineral Right who carries out mining activities shall:

- (a) conduct mining operation or activities with utmost integrity;
- (b) desist from engaging 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 from engaging 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;

Mining (Integrity Pledge) Regulations

GN. No. 304 (contd.)

- (e) maintain 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 and/or activities; or
- (f) disengage in an arrangement that undermines or is otherwise prejudicial to Tanzania's national security;
- (g) ensure that is fully in compliance with the Laws, Regulations, Rules and Policies.
- Investigations
10. The Commission may at any time, for the purposes of enforcing these Regulations initiate an investigation into an activity of a Contractor, Sub-contractor, Licensee or any other Person.
- Code of Conduct
11. A holder of Mineral Right, Contractor, Sub-contractor or such other person shall develop, implement and distribute a Written Code of Conduct unto whom it applies thereof.

PART IV

MONITORING AND ENFORCEMENT

- Monitoring and Compliance
12. The Commission shall monitor the compliance of these Regulations through:
- (a) enforcement of the Integrity Pledge as set forth in the Act and these Regulations; and
- (b) investigation to determine whether any holder of Mineral Right, Contractor, Sub-contractor or any such other person who has violated the provisions of these Regulations.
- Powers of the Commission
13. The Commission shall have the following powers:
- (a) to summon any person to submit or provide any information that the Commission deems necessary in the course of discharging its duties or

- functions;
- (b) to suspend or revoke any license on grounds of failure to comply with the requirements under these Regulations; and
- (c) to do all things which are necessary or desirable to give effect to the provisions of these Regulations.

PART V

BREACH AND DEFAULT PROVISIONS

Penalties for Failure to Comply with the Provisions of the Integrity Pledge

14. A holder of Mineral Right who fails to comply with the requirement of the Integrity Pledge shall be liable to the following penalties:
- (a) suspension of a License or permit to engage in mining operation or activity;
 - (b) withdrawal or cancellation of a License;
 - (c) payment of fine as prescribed in the Act and any other applicable laws; and
 - (d) any other penalty as prescribed under the Act and any other Written Laws of United Republic of Tanzania.

PART VI

MISCELLANEOUS PROVISIONS

Transitional Provisions

15. Within three months after these Regulations come into force a holder of Mineral Right who undertakes prospecting or mining activities shall make arrangements to the satisfaction of the Commission as are necessary in order to comply with the provisions of these Regulations.

Mining (Integrity Pledge) Regulations

GN. No. 304 (contd.)

SCHEDULE

(Made under Regulation 8(1))

INTEGRITY PLEDGE

1. I/We, *(full names in blocks)* do believe that, unethical business practices, corruption and other malpractices are potential impediments to sustainable economic growth and prosperity and erode public confidence in Governments and their institutions' ability to serve their citizens fairly.
2. As a Company involved in prospecting/mining activities in Tanzania, we acknowledge our responsibility to ensure good governance and corporate governance because it is necessary for continued growth and business sustainability. I/We also acknowledge the importance of conducting our business with the highest standards of transparency, ethics and integrity.
3. While the Government and its institutions have initiatives for prevention of corruption and other unethical practices, I/We realize that those initiatives cannot fully succeed without individual and collective commitment from the business community to level the playing field and to build integrity in the business environment.
4. In view of the foregoing, I/We pledge the following:
 - a) to conduct operations or activities with utmost integrity;
 - b) desist from engaging 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 from engaging 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) maintain 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.
 - g) not, through any of its employees, representatives or agents, to be involved in any form of bribery, corruption, whether direct or indirect or unethical behavior in whatever form;

Mining (Integrity Pledge) Regulations

GN. No. 304 (contd.)

- h) to clearly communicate with all employees and business partners about the stance on fighting all forms of bribe, corruption and other unethical practices in whatever form;
 - i) to maintain and share with our employees the code of ethics and conduct which will be a guide in executing our daily business operations in order to comply with high ethical standards, ethical conduct and anti-corruption laws;
 - j) to maintain appropriate financial reporting mechanisms that are accurate and transparent;
 - k) to enter into integrity pacts with business partners and Government agencies when dealing with procedures related to bidding and procurement of supplies, materials, equipment and construction;
 - l) to maintain channels by which employees and other stakeholders can raise ethical concerns and report suspicious circumstances in confidence without risk of reprisal; and
 - m) not to engage in any arrangements that undermine or are prejudicial to the national security.
5. To ensure my/our collective action in preventing any unethical and corrupt practices and the highest standards of ethics, integrity and transparency in business transactions in Tanzania, I/We commit to:
- (a) support a nationwide initiative intended to create fair market conditions, transparency in business transactions and ensure good governance and corporate governance;
 - (b) participate in roundtable discussions, meetings and fora to identify the key concerns and current problems affecting the mining sector related to integrity and transparency in business transactions;
 - (c) share the international best practices, tools and concepts which are intended to be used by all participating entities to achieve the goals of the nationwide integrity behavior initiative;
 - (d) participate in the creation of key measures and control of activities intended to ensure transparency, integrity and ethical business practices.
6. To confirm my/our commitment to this Integrity Pledge, I/We hereby commit ourselves as a Company and individuals to be bound in all aspects by this Integrity Pledge and shall be responsible for all the consequences which may result to its non-compliance.
7. To fight any unethical form of corrupt practices whereby there will be zero tolerance against any corrupt employee, staff or other person involved in corruption in relation to the business, regardless of position and status.
8. To report any corrupt or unethical practices that occurs in the business place to the relevant Authority.

Mining (Integrity Pledge) Regulations

GN. No. 304 (contd.)

All that is stated hereinabove, I/We shall conscientiously ensure that my/our employees and agents comply with this Integrity Pledge and in any event of non-compliance, I/We commit ourselves to be responsible and accountable for any misconduct (s).

SWORN/AFFIRMED at.....this.....day of.....20.... by
.....who is the Director(s) of M/S
.....(name of a Company/individual(s)) a
holder of Primary Mining Licence/Prospecting Licence/Mining Licence/Special Mining
Licence/Processing Licence/Refining Licence/Smelting Licence No.....

SIGNATURE and/or SEAL OF THE COMPANY

Signature:
Name:
Designation:

BEFORE ME:

Signature:
Name:
Designation: COMMISSIONER FOR OATHS AND NOTARY PUBLIC
Date:

Dodoma
10th July, 2018

ANGELLAH J. M. KAIRUKI (MP.)
Minister for Minerals