

LEGAL ALERT

20 February 2019

Mining (Local Content) Regulations 2018 Amended

- *Stake of Tanzanian citizen(s) in an “indigenous Tanzanian company” has been reduced from 51% to 20%*
- *Time for the Committee to review local content plan is extended from 25 to 60 working days*
- *Time for the Mining Commission to communicate its decision on local content plan is extended from 7 to 30 working days*
- *Deemed approval where the Mining Commission fails to communicate its decision within the prescribed time is abolished*
- *The Minister is now obliged to seek stakeholders’ views before prescribing additional minimal local contents levels*
- *The definition of “financial institution” and “financial organization” from the Banking and Financial Institutions Act has been adopted into the Regulations*
- *“an indigenous Tanzanian bank” is now renamed as “a Tanzanian bank”*
- *A definition of a “Tanzanian bank” has been introduced into the Regulations*

On 8th of February 2019, the **Mining (Local Content) (Amendments) Regulations 2019**, which amend the **Mining (Local Content) Regulations 2018**; were published under G.N No. 139 of 2019.

One of the notable changes is the radical amendment on the definition of an “indigenous Tanzanian company”. Under the new definition of an “indigenous Tanzanian company”, the stake or equity to be held by Tanzanian citizen(s) has been reduced from 51% to 20%. This implies that a foreign company in Tanzania that is interested in servicing mining industry will acquire the “indigenous Tanzanian company” status under the Regulations, if 20% of its shares are held by Tanzanian citizen (s). However, in addition to this shareholding requirement, the requirements that Tanzanian citizens must hold at least 80% of executive and senior management positions and 100% of non-managerial and other positions, have been retained.

The amendments have also revised the timeframe within which the Committee should review local content plans that is, from 25 to 60 working days. Similarly, the timeframe for the Mining Commission to communicate its decision on local content plan has been increased from 7 to 30 working days. Another noteworthy aspect is that now there is no time limit on the Mining Commission to make its decision on a revised local content plan. Before, the Regulations provided for a deemed approval where the Commission failed to communicate its decision after the expiry of 50 working days of submission of the revised local content plan. With these amendments in place, the Commission has been vested with immense discretion to approve or reject a revised local content plan.

Furthermore, the new Regulation 13(5) obliges the Minister for Minerals to seek and obtain stakeholders’ views before prescribing additional minimal local content levels under Regulation 13(4).

The amendments further provide that the “Tanzanian financial institution or organization” or “Foreign financial institution or organization” under the new Regulation 34(3), shall have the meaning ascribed to them under the Banking and Financial Institutions Act.

It is also interesting to note that, Regulation 36(1) has been amended by deleting the word “indigenous”, therefore, a contractor, subcontractor, licensee or other allied entity shall maintain a bank account with a “Tanzanian bank” and transact business through such banks in the country. Regulation 36(2), defines a “Tanzanian bank” as any bank that has 100% Tanzanian shareholders or at least 20% of Tanzanian shareholding. This definition somehow clears the air on the shareholding structure of a banker that will qualify to provide banking and financial services to the mining industry.

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