

Government Notice No. 6 Published on 10/1/2018

THE MINING ACT,
(CAP. 123)

REGULATIONS

(Made under Section 112)

THE MINING (GEOLOGICAL SURVEY) REGULATIONS, 2018

Regulation

Title

PART I

PRELIMINARY PROVISIONS

1. Citation
2. Interpretation

PART II

ADMINISTRATION

3. Establishment of Board
4. Functions of the Board
5. Appointment, powers and duties of officers
6. Consultations by Geological Survey Officers

PART III
GEOLOGICAL SURVEYS BY GEOLOGICAL
SURVEY OFFICERS

7. Authority for geological survey
8. Power to enter land and notice to enter land
9. Power of a Geological Survey Officer
10. Claim for compensation for damage

PART IV
GENERAL OBLIGATIONS ON
GEOLOGICAL SURVEY

11. Application of Part IV
12. Notice on person prospecting
13. Finding of fossiliferous material to be notified
14. Development of certain wells to be notified
15. Certain excavations to be notified

PART V
GEOLOGICAL SURVEY ARCHIVES AND
COLLECTIONS

16. Establishment of archives and collections
17. Appointment of Keeper of Archives and Curator of Collections
18. Retention and disposal of specimens and samples

PART VI

GENERAL PROVISIONS

- 19. Funds of GST.
- 20. Financial year.
- 21. Budget
- 22. Accounts and audit

PART VII

GENERAL PROVISIONS

- 23. Verification of information
- 24. General penalty
- 25. Offences by bodies of persons and by servants and agents

“Board” means the Board of Geological Survey of Tanzania established by Regulation 3;

“Chief Executive Officer” means the Chief Executive Officer of GST appointed under section 27A(3) of the Act;

“fossiliferous material” means any mineral substance, including rock material, which contains remains or traces of animals or plants which have been preserved by natural processes in the earth’s crust;

“geological survey” means any systematic investigations of the surface, subsurface, or content of earth by means of physical measurements of segments of earth crust, or samples taken from the earth, terrestrial water or vegetation;

“geochemical survey” means any systematic investigation of the surface, subsurface, or content of the earth by means of chemical analysis of specimens or samples taken from the earth, terrestrial water or vegetation;

“Geological Survey of Tanzania” means the Geological Survey of Tanzania established under section 27A (1) of the Act also known in its acronym “GST”.

“Geological Survey Officer” means any person appointed under Regulation 5;

“identification” means the naming of a sample using

simple physical and chemical tests when necessary;

“mineral” means any substance, whether in solid, liquid or gaseous form, occurring naturally in or on the earth, or in or under the seabed formed by or subject to a geological process, but does not include petroleum or surface water;

“ore” means solid naturally occurring mineral aggregate of economic interest from which one or more valuable constituents may profitably be recovered by treatment;

“rock material” means any rock, stone, marble, gravel, sand, earth segment, laterite, loam, clay, soil, mud, tuff, peat, coral, shell or guano within or upon any land;

“sample” means a fraction of naturally occurring matter representative of the mass of which it forms a part;

“specimen” means a fraction of naturally occurring matter not necessarily representative of the mass of which it forms a parts.

“superficial geological survey” means any systematic investigation of the surface, subsurface, or content of the earth by means of natural geophysical survey, geochemical survey or physical examination;

“systematic investigation” means any investigation including preliminary examination.

PART II
ADMINISTRATION

Establishment of Board

3.-(1) There shall be the Board of GST which shall be composed of-

- (a) the Chairman who shall be appointed by the President; and
- (b) Executive Secretary of the Mining Commission;
- (c) the Commissioner for Minerals;
- (d) a law officer representing Attorney General's Chambers; and
- (e) three eminent persons who possess proven knowledge and experience in the mining sector appointed by the Minister at least one of whom shall be a woman.

(2) The Chief Executive Officer shall be the Secretary of the Board.

Functions of the Board

- 4.-(1)** The Board of GST shall-
- (a) assess organizational performance both technical and financial;
 - (b) scrutinize and approve the operational budget of the Agency;
 - (c) establish strategic direction and setting performance targets for GST;

- (d) be responsible for the management and control of GST in accordance with the provisions of the Act and the Regulations;
- (e) ensure availability of up-to-date geoscientific maps, data and information in the country;
- (f) enhance the knowledge of geology and mineral resources potential of the country together with establishing exploration criteria for the resources;
- (g) assess the levels of geo-hazards (landslides, earthquakes, volcanoes, effects of mining and mineral processing to the environment), their risks and establish mitigation measures;
- (h) ensure that the relevant operational policies in procurement and administrative procedures are adhered to; and
- (i) ensure progressive capacity building within GST while maintaining effective management and utilization of the resources to optimise output.

(2) The Board may, by resolution either generally or in any particular case, delegate the exercise of its powers to any of its committee, director, any employee or agent of the authority.

(3) The tenure, termination of members and proceedings of the Board and such other matters in

relation to the Board shall be as set out in the Schedule to these Regulations.

Appointment,
powers and duties
of officers

5.-(1) There shall be appointed by the Board such other officers of SGT as may be deemed necessary for carrying out the purpose of the Act and these Regulations.

(2) The duties and powers of the officers appointed under this regulation shall be those assigned to them by this Regulations.

(3) Every officer appointed under this regulation shall be deemed by such appointment to be vested with all the powers of any geological survey officer subordinate to him.

(4) The Chief Executive Officer may authorize any person in writing to conduct a geological survey on behalf of SGT.

(5) Every appointment and authorization under this regulation shall be published in the *Gazette*.

(6) For purposes of the Chief Executive Officer shall have superintendence over all other officers appointed or persons authorized by SGT.

Consultations by
Geological Survey
Officers

6.-(1) The Chief Executive Officer may authorize any geological survey officer to undertake consultation, analysis or other services for any other person.

(2) A geological survey officer authorized under sub-regulation (1) may require the person consulting him

to obtain the written approval of the proprietor or occupier of all land into which he requires to enter, and to obtain such permits and authority as may be necessary under any law for the purpose of the consultation, analysis or other service.

(3) In the event of any specimen or sample being submitted for analysis a geological survey officer authorized under sub regulation (1) may order the retention or disposal of the specimen or sample or any portion thereof as he deems fit.

(4) Fees for consultation, analytical and other services may be charged at such rates as may be prescribed.

PART III
GEOLOGICAL SURVEYS BY GEOLOGICAL
SURVEY OFFICERS

Authority for geological survey

7.A geological survey officer or an authorized person shall have power to enter upon any land within the designated area for the purpose of geological survey.

Power to enter land and notice to enter land

8.-(1) A geological survey officer or an authorized person shall cause a notice to be served on any person who is the proprietor or occupier of any land, or lessee in the case of mining land, within the designated area notifying that person of his intention to

enter upon the land for purpose of geological survey.

(2) The notice shall be served not less than fourteen days prior to the date of the intended entry.

(3) Where entry to or egress from the designated area cannot be effected without passing through an alienated land, mining land or land occupied under temporary occupation licence, the geological survey officer or the authorized person shall serve a notice on the proprietor, lessee or occupier thereof notifying his intention to enter and re-enter such land for purpose of access to the designated area.

(4) The notice shall be served not less than fourteen days prior to the date of the intended use of the land as an access.

(5) Any notice to be served under this regulation may be served on a person or body of persons in the following manner, that is to say:

- (a) by delivering the notice to the person; or
- (b) by delivering the notice-
 - (i) at the person's usual or last known place of abode or business to his servant or to an adult member of his family; or
 - (ii) at the body's registered office or usual or last known place of business to its servant or agent; or
- (c) by sending the notice by pre-paid registered post

to the person or body-

(i) at the person's usual or last known abode or place of business; or

(ii) at the body's registered office or usual or last known place of business; or

(d) where the Chief Executive Officer is satisfied that a notice under this regulation cannot be served personally or by post (either because the person to be served is evading service or for some other reason) –

(iii) by publishing a copy of the notice in the *Gazette* and if he thinks fit, in one or more of the newspapers circulating in an area where the land is situated.

(6) Any person who upon being served with the notice under sub-regulations (2) and (3) shall allow any geological survey officer or authorized person to enter the land or any part thereof.

7. Any person who obstructs or hinders any authorised person, his assistants or employees, or takes away or displaces or defaces or destroys any post, stone, mark or object which has been set up or placed as provided in these regulations commits an offence and on conviction shall be liable to a fine of five million or imprisonment to a term of one year or both

Power of a
Geological Survey
Officer

9.-(1) Upon service of the notice and subject to provisions of sub-regulation (2) the geological survey officer or authorized person may, for purpose of making such investigations as the Chief Executive Officer considers desirable in relation to any geological survey-

- (a) enter upon any land within the designated area;
- (b) cut, remove or otherwise clear such uncultivated vegetation as may be necessary for the proper conduct of such survey;
- (c) erect or emplace such pegs and marks as may be necessary for the proper conduct of such survey;
- (d) conduct a superficial geological survey;
- (e) conduct an artificial geophysical survey;
- (f) bore, drill, fracture, dig or pit over the land;
- (g) obtain and remove any specimen or sample from the land in furtherance of such survey and remove and dispose of as he deems fit such superficial or cognate material as may be necessary to obtain the specimen or sample.

(2) Any geological survey officer or authorized person entering upon any land for the purpose of a geological survey shall, on demand by the occupier of the land, produce to the occupier his letter of authority in the form prescribed.

Claim for
compensation for
damage

10.-(1) Where damage was done to any property during the course of a geological survey, the owner of the property may within six months after the completion of the geological survey on the land where the property was damaged, submit a claim to the Chief Executive Officer, who may –

- (a) reject the claim; or
- (b) cause the damage to be assessed and pay or tender to the claimant the assessed cost of damage.

(2) Where the claimant is dissatisfied with the rejection of the claim or the assessment he may within one month after the service by post of the letter conveying the rejection or after the payment or tender of the assessed cost of damage under sub-regulation (1), appeal to the Minister.

(3) The Minister shall as soon as practicable hear the claim and may dismiss the claim or make an award as may be necessary and just.

(4) For the purpose of hearing an appeal under this regulation, the Minister may appoint a committee involving all necessary expertise on the matter in dispute.

(5) The Minister shall have all the powers of a court for the summoning and examination of witnesses, the administration of oaths or affirmations, and for compelling the production and delivery to him of

documents, including issuing documents of title and other documents evidencing title.

(6) The decision of the Minister on the matter shall be final and conclusive.

PART IV
GENERAL OBLIGATIONS ON
GEOLOGICAL SURVEY

Application of Part IV

11.The provisions of this Part shall apply to all persons other than Geological Survey Officers and authorized persons.

Notice on person prospecting

12.-(1) The Chief Executive Officer may, by notice require any person prospecting land for minerals under licence or permit issued under any law relating to mining for the time being in force to-

- (a) make and submit to him a record of description and place of finding of specimens of rock material, mineral, ore, fossiliferous materials, drill cores or other naturally occurring mineral substance in the earth;
- (b) to surrender to him the aforesaid specimens or samples or part of the specimens or samples for the purpose of identification or analysis provided such request is made within 6 months after the completion of the prospecting;

(c) to give a true account of the results of the prospecting as soon as possible after its completion or at such intervals during its continuance as he may direct.

(2) The Chief Executive Officer may retain such specimens or samples as maybe surrendered to him under sub-regulation (1) (b).

Finding of fossiliferous material to be notified

13.Where any person conducting a geological survey or prospecting finds any fossiliferous material he shall immediately notify the Chief Executive Officer of such details as may from time to time be prescribed.

Development of certain wells to be notified

14.-(1) Any person who bores, drills, digs or otherwise develops a well within a mining area for the purpose of searching for or extracting water therefrom shallnotify the Chief Executive Officer of such details including drill logs and samples as may from time to time be prescribed.

(2) For the purpose of this regulation a well does not include a well which is less than 10 metres in depth without reaching bedrock or yield less than 100 litres of water per day and is used only for the domestic purpose of the development.

Certain excavations to be notified

15.Subject to regulation 14, any person who bores, drills, digs or otherwisedevelops a hole, pit, shaft, tunnel, cutting or other excavation within a mining or

exploration area exposing bedrock shall notify the Chief Executive Officer of such details including drill logs, assay values and samples as may be prescribed from time to time:

Provided that this regulation shall not apply to any person making an excavation incidental to the erection of a single-storeyed or double-storeyed building or to any person making an excavation in accordance with the provisions of any law relating to mining for the time being in force.

PART V
GEOLOGICAL SURVEY ARCHIVES AND
COLLECTIONS

Establishment of
archives and
collections

16.-(1) The Chief Executive Officer shall cause to be established and maintained records of all geological information obtained by him under these Regulations, and such records shall be known as the Geological Survey Archives.

(2) The Chief Executive Officer shall cause to be established and maintained collections of all rocks, minerals, ores, a drill core logs fossils and other naturally occurring mineral substances from the earth obtained or retained by him under these Regulations, and such collections shall be known as the Geological Survey

Collections.

Appointment of
Keeper of Archives
and Curator of
Collections

17.The Chief Executive Officer may appoint any geological survey officer as keeper of the geological survey archives or as the curator of the geological survey collections and may delegate the responsibility for such archives and collections to any geological survey officer so appointed.

Retention and
disposal of
specimens and
samples

18.The Chief Executive Officer may retain any specimen or sample submitted to him for identification or analysis and may at any time arrange for the disposal of such specimens or samples in any way he deems fit, except that such specimens and samples shall be returned to the person submitting them if a request to this effect is made at the time of submission.

**PART VI
FINANCIAL PROVISIONS**

Funds of GST

- 19.**-(1) The funds of GST shall consist of-
- (a) moneys appropriated by Parliament for purposes of GST;
 - (b) fees received pursuant to these regulations;
 - (c) grants received by GST; and

(d) any other moneys legally acquired and received by GST for the execution of its function.

(2) The funds of GST shall be used for payment of-

(a) salaries and allowances of staff members of GST;

(b) any other expenses incurred by GST in the execution of its functions.

Financial year

20. The financial year of GST shall be the period of one year ending on the 30th June.

Budget

21.-(1) The Chief Executive Officer shall, before the end of each financial year, prepare a budget for the following financial year showing estimates of its receipts and expenditure for the following year.

(2) The Chief Executive Officer shall, subject to sub-regulation (1), submit to the Minister the annual budget and every supplementary budget for approval.

Accounts and audit

22.-(1) The accounts of GST shall, at the end of each financial year, be audited by the Controller and Auditor-General.

(2) GST shall cause to be kept all proper books and audited records of accounts of the income, expenditure and assets of GST.

(3) Within a period of three months after the end of each financial year, the Board shall submit to the Controller and Auditor-General the accounts of GST

together with-

- (a) a statement of income and expenditure during the year; and
- (b) a statement of assets and liabilities of GST on the last day of that year.

PART VII

GENERAL PROVISIONS

Submission of information

23.- All mineral right holders shall, within thirty days from the date of publication of these Regulations submit to the Chief Executive Officer all geological information in the possession of such mineral right holders for verification.

General penalty

24. Any person who contravenes any provision of these Regulations or who fails to comply with any lawful direction, notice, condition or restriction imposed thereunder, commits an offence and shall on conviction be liable to a fine specified in section 129(6) of the Act.

Offences by bodies of persons and by servants and agents

25. Where an offence against these Regulations has been committed by a company, firm, society or other body of persons, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer or a partner of the company, firm, society or other body of persons or was purporting to act in such capacity shall be deemed guilty

of that offence unless it is proved that the offence was committed without his consent or connivance and that diligence was exercised to prevent the commission of such an offence as he ought to have exercised, having regards to the nature of functions in that capacity and to all the circumstances.

SCHEDULE

(Made under Regulation 4(3))

TENURE OF MEMBERS AND PROCEDURE OF THE BOARD

- Tenure of office **1.** The Chairman and a member of the Board shall hold office for a period not exceeding three years on such terms and conditions as may be specified in the instrument of appointment and may be eligible for re-appointment for one more term.
- Vacation of office **2.** A person who is member by virtue of his position may-
- (a) at any time resign from office by notice in writing to the Minister; or
 - (b) be removed from office by the Minister if the member-
 - (i) has been absent from three consecutive meetings of the Board without permission from the Chairman;
 - (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;
 - (iii) is convicted of an offence involving dishonesty, fraud or moral turpitude;
 - (iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;
 - (v) is incapacitated by prolonged physical or mental illness; or
 - (vi) is otherwise unable to discharge his functions.
- Meetings **3.-(1)** The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.
- (2)** The quorum of the meeting of the Board shall be half of the total number of members.
- (3)** The Chairman shall preside at every meeting of the Board, and in his absence, members present shall elect one among them to be the Chairman.
- (4)** Unless a unanimous decision is reached a decision on any matter

Mining (Geological Survey) Regulations

GN. No.6.(contd.)

before the Board shall be by a majority of votes of the members present and in the case of an equality of votes, the Chairman or the person presiding shall have a casting vote.

(5) Subject to subparagraph (3), no proceedings of the Board shall be invalid by reason only of a vacancy among members of the Board.

(6) Subject to subparagraph (2), the Board may determine its own procedure and the procedure for any committee of the Board.

Disclosure of interest

4.-(1) Where a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, he shall, before the opening of the meeting disclose the fact and shall not take part in the consideration or discussion of, or vote on any question with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) A disclosure of interest made under subparagraph (1), shall be recorded in the minutes of the meeting at which it is made.

(3) Any member who fails to comply with subsection (1) or (2) shall be guilty of misconduct and shall be removed from the Board and liable for prosecution under the laws of Tanzania.

Common seal

5.-(1) The common seal of the Board shall be authenticated by the signatures of the Chairman and the Secretary on any document required by law to be made under seal.

(2) The decisions of the Board shall be authenticated by signatures of the Chairman and the Secretary.

(3) In the absence of either the Chairman or the Chief Executive Officer, the Board shall nominate one member to authenticate the seal of the Board on behalf of the Chairman or the Secretary.

Proceedings

6.-(1) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of GST by any person generally or specifically authorised by GST for that purpose.

(2) The Chairman and other members of the Board shall be paid fees or allowances as may be fixed by the Board with the approval of the Minister.

Minutes

7. The Board shall cause minutes of all proceedings of meetings of the Board to be entered in books kept for that purpose.

Dar es Salaam
9th January, 2018

ANGELLAH J. M. KAIRUKI
Minister for Minerals