

GOVERNMENT NOTICE NO. 418 published on 24/5/2019

THE MINING ACT
(CAP.123)

REGULATIONS

(Made under section 27C(2) and (129))

THE MINING (MINERAL AND GEM HOUSES) REGULATIONS, 2019

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the Mining (Mineral and Gem Houses) Regulations, 2019.
- Application 2.-(1) These Regulations shall apply in relation to Mineral and Gem Houses and shall come into operation after publication in the Gazette.
(2) Trading of building or industrial or energy minerals shall not apply to these Regulations.
- Interpretation 3. In these Regulations, unless the context otherwise requires-
- Cap.123 “Act” means the Mining Act;
“auction” means the organized process of buying and selling minerals by offering them for bid, taking bids and selling them to the highest bidder;
“authorized officer” means an officer in charge of the Mineral and Gem House and includes any other officer acting on behalf of the Commission;
“bid” means an offer to purchase minerals during the mineral auction made by the prospective buyer of such minerals;
“Commission” means the Mining Commission established under the Act;
“designated buying station” means a station established by the commission under section 27C of the Act;
“mineral right holder” means a person who holds any of the

- licences referred to under section 7 of the Act;
- “Minister” means the Minister responsible for mining;
- “market” means a specified centre designated for purposes of disposing and buying of minerals;
- “mineral auction centre” means a specified place where mineral auctions are conducted;
- “mineral clearing house” means a facility where settlement of payment and delivery of minerals are conducted;
- “mineral concentrates” has the meaning ascribed to it under the Act;
- “minerals exchange” means a platform for facilitating selling and buying of minerals;
- “mineral import permit” means a mineral import permit issued under section 86A of the Act;
- “Mineral Ore” shall have the meaning ascribed to it under the Act;
- “Mineral and Gems Houses” shall have the meaning ascribed to it under the Act;
- “Small Scale Miner” shall have the meaning ascribed to it under the Act;
- “Tailings” shall have the meaning ascribed to it under the Act;

PART II

MINERAL AND GEM HOUSES

Establishment
of Mineral and
Gem Houses

4.-(1) There shall be the Mineral and Gem Houses in each geographical administrative area of the region or district.

(2) Each Mineral and Gem Houses shall situate at an area designated by the Regional Administrative Secretary.

(3) For the purpose of sub-regulation (2) and subject to sub-regulation (4), the Commission shall consult and agree with the Regional Administrative Secretary for a suitable area.

(4) In the consideration of a place for designation as Mineral and Gem House, the Commission and Regional Administrative Secretary shall have regard to the following factors:

- (a) production;
- (b) supporting infrastructure;
- (c) traditional market;
- (d) traditional routes; and
- (e) any other factor as the Commission may determine.

Regulation of
Mineral and

5.-(1) The Mineral and Gem Houses shall provide:

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- Gem Houses
- (a) a platform for mineral auction , minerals exchange, minerals warehouse and minerals clearing house; and
 - (b) a one stop centre for all mineral transactions.
- (2) Subject to the Act, the Commission may issue general or specific directives to the Mineral and Gem Houses.
- (3) Without prejudice to sub regulation (2), the Mineral and Gem Houses shall operate and adhere to the following principles:
- (a) transparency;
 - (b) publicity;
 - (c) fairness;
 - (d) continuity; and
 - (e) protection of legitimate rights and interests of the people conducting business.
- Sale at the Mineral and Gem Houses
- 6.-(1) A person who wishes to buy or dispose of mineral may do so through the Mineral and Gem Houses.
- (2) Notwithstanding sub-regulation (1), holders of mining licence and special mining licence may dispose of minerals extracted from respective licenced areas at the Mineral and Gem Houses.
- (3) Artisanal and Small scale miners who dispose of minerals through the Mineral and Gem houses shall be exempted from paying withholding tax and Value added tax (VAT) in accordance with the Income Tax Act, and the Value Added Tax respectively.
- Caps 332 and 148
- (4) A licenced broker shall be allowed to buy or acquire minerals in designated buying stations and to sell or dispose of minerals so acquired to a licenced dealer at the Mineral and Gem Houses
- (5) A person who contravenes the provision of sub-regulation (1) commits an offence and shall, be liable to a fine equivalent to three times of the value of the mineral involved.
- (6) In addition to penalty prescribed under sub-regulation (5), the court shall:
- (a) order the convict to pay all taxes, royalties or other charges that would have been payable in accordance with these Regulations; and
 - (b) order the minerals involved to be confiscated to the Government and revocation of the licence, in respect of which the offence was committed.

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Powers to set minimum price

7.-(1) The Commission shall have powers to set a minimum price for each type of the mineral to be transacted at the Mineral and Gem House.

(2) In setting the minimum price, the Commission shall design a formula in accordance with the standard prices obtaining in domestic and international markets as well as national interest.

(3) An authorized officer shall ensure that the price of minerals at all times does not fall below the minimum prices.

PART III

ACQUISITION, TRANSPORTATION AND STORAGE OF MINERALS

Declaration of minerals

8.-(1) A person other than a mineral right holder, holder of minerals import permit, a licensed dealer or licensed broker or who is in possession of minerals shall be required to declare such minerals to the Commission.

(2) Upon declaration, the Commission shall allow the declarant to transport or trade or dispose such minerals in accordance with the Act.

(3) A person who fails without reasonable cause to declare the acquired minerals shall be deemed to commit an offence under subsection (1) of section 18 to the Act and shall, be liable under subsection (4) of section 18 to the Act.

Acquisition and registration of minerals

9.-(1) A person shall be considered to have acquired mineral if possession of the minerals have come into ownership by any of the following means:

- (a) importation of minerals from outside Mainland Tanzania;
- (b) extracting minerals through mining activities; or
- (c) any other legal means not specified under these Regulations.

(2) The Commission may register and recognize a person as qualified to trade in the Mineral and Gem Houses for an acquired minerals as it may direct.

Importation and storage of minerals

10.-(1) A person who imports minerals in the Mainland Tanzania may be required to use warehouses for storage of imported minerals pending disposition or processing.

(2) For the purpose of sub – regulation (1), every person who is in possession of minerals, other than minerals which are in secured storage facility of the owner or possessor pending transfer to the warehouse, may be required to deliver the minerals in the warehouse for storage.

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Duty of the warehouses owner 11. The owner of the warehouse in which the minerals may be kept for storage shall have the duty to ensure that the minerals are stored in a manner that does not, in any way, jeopardise the quality or quantity of the minerals.

Disposing of minerals 12.-(1) The minerals in the Mineral and Gem Houses may be disposed of by selling.
(2) Any disposal of minerals under these Regulations shall be subject to payment of royalties, taxes or other charges, if any, as provided for in any written law.

Transportation of minerals within the country 13. A person shall not transport or transfer minerals from one point to another within the country without first getting written authorization from the Commission.

\Refinery, elusion and leaching plant 14.-(1) The owner or operator of the refinery or elusion or VAT leaching plant shall not refine any minerals or mineral concentrates unless there is a written authorization from the Commission with regard to such minerals or mineral concentrates.
(2) The owner or operator who contravenes the provisions of sub regulation (1) shall be deemed to commit an offence under subsection (1) of section 18 to the Act and shall, be liable under subsection (4) of section 18 to the Act.

PART IV

OPERATION OF MINERAL AND GEM HOUSES

(a) Auction Centres

Minerals auctions 15.-(1) The Commission shall organize mineral auctions.
(2) In organizing mineral auctions, the Commission shall:
(a) set date and time for inspection of minerals which are subject to auctions in the warehouses;
(b) set date and time for mineral auctions; and
(c) determine the manner in which the auction may be conducted.

Requirements for participating in auctions 16.-(1) A participant at the mineral auction shall be required to present to the Commission receipt of payment of fees for participating in the auction.

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(2) A company or firm participating in the mineral auction may appoint up to three persons in the mineral auction one of whom shall be a representative authorized to place bids.

(3) The Commission shall determine the rates of fees to be paid by participants at the mineral auction.

Viewing of minerals

17.-(1) A participant at the mineral auction who intends to buy minerals may view the minerals on the date, time and venue as determined by the Commission.

(2) Pursuant to sub regulation (1), each registered buyer may bring one or more than one staff for purpose of viewing the minerals.

(3) The process of viewing minerals shall be on first come first served basis.

Bidding

18.-(1) During the bidding for the buying of minerals, a participant depending on preference, may offer to buy all or some of the minerals.

(2) The buyer shall be required to fill in the bidding *Form BF.4* specified in the Schedule to these Regulations and make declaration committing to pay the amount in relation to the disposing price without delay.

Return of bids

19.-(1) The bid form shall be returned to the Commission in a sealed envelope not later than 15.30 hours on the day set as deadline for submission of the bid form.

(2) The Commission shall not accept a bid form from any person after the time prescribed under sub regulation (1).

Announcement of auction results

20.-(1) The Commission shall announce eligible buyers on the same day of the auction after completion of evaluation or analysis of the submitted bid forms.

(2) The buyer with the highest price shall be announced as a winner and be offered to buy the relevant minerals.

(3) Notwithstanding the provisions of sub regulation (2), where it appears that a buyer has succeeded to place the highest bid for all lots of minerals offered for sale in the mineral auction, such buyer shall be allowed to buy only seventy five percent of the mineral concerned unless other buyers fails to reach the price offered by the buyer.

Withdrawal of minerals from

21. The Commission shall have the right to withdraw at any time during the auction any minerals prepared for sale, if the

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the auction Commission is not satisfied with the price offered or by any reason as it may be determined by the Commission.

Refusal to honour the bid 22.-(1) The winning bidder shall not refuse to pay for the mineral unless the Commission consents upon being satisfied with the reasons advanced by the bidder.

(2) Where the winning bidder refuses to pay for the mineral without consent of the Commission, such bidder shall be prohibited from participating in any mineral auction session conducted in the mineral auction centres for the period of one year.

(3) In addition to the prohibition, the winning bidder shall be liable to pay a fine of not less than ten million shillings.

Settlement of payments 23. The winning bidder shall be required to:
(a) settle payment before the deadline as may be specified in the bid form; and
(b) pay royalty, taxes and other fees in accordance with the provisions of the Act.

(c) Mineral Exchange

Trading on the mineral exchange 24.-(1) Trading on the mineral exchange shall take place on the physical trading floor of the Mineral and Gem Houses or on an electronic platform provided by the Commission.

(2) The mineral exchange shall be open for trading during such days and hours as the Commission shall determine.

(3) Notwithstanding the provisions of sub regulation (2), the Commission may, under exceptional circumstances, close the trading in any or all contracts for more than one trading days.

Commodity Register 25.-(1) There shall be a Commodity Register to be maintained by the Commission in which particulars of the minerals for trading shall be duly recorded.

(2) The Commodity Register shall be accessed by any person eligible to trade in the Mineral and Gem Houses in physical or electronic form.

Particulars relating to minerals for trading 26.-(1) Any person authorized to dispose of minerals in the Mineral and Gem Houses shall submit a warehouse receipt issued to that person by the warehouse.

(2) An authorized officer of the Mineral and Gem Houses shall record particulars contained in the warehouse receipt in the Commodity Register.

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(3) Without prejudice to sub regulation (2), the Commodity Register shall contain the following:

- (a) personal particulars of the seller;
- (b) name and address of the warehouse in which the mineral is stored;
- (c) particulars of the mineral in terms of its identification number, type, grade, weight, quality and place of origin;
- (d) information relating to taxes or charges, if any, that has been paid by the seller; and
- (e) any other information as the Commission may determine.

Requirements relating to buyer

27.-(1) Any person authorized to buy minerals in the Mineral and Gem Houses shall be required to provide the following:

- (a) personal particulars; and
- (b) particulars of the mineral intended to be bought.

(2) An authorized officer of the Mineral and Gem House shall record particulars referred to under sub-regulation (1) in the Commodity Register.

Inspection of the minerals

28.-(1) Where the buyer intends to buy a mineral recorded under Regulation 27, an authorized officer of the Mineral and Gem house shall issue the buyer with an inspection permit.

(2) The inspection permit issued under sub regulation (1) shall authorize the buyer to enter into the warehouse and inspect the mineral he intends to buy.

(3) Without prejudice to sub regulation (2), the buyer shall be required to observe and adhere to the rules and procedures of the warehouse relating to inspection of minerals.

Mineral trading

29.-(1) Where, after inspection, the buyer is satisfied as to the price offered by the seller and particulars of the mineral, the buyer may contact the seller and inform the seller of the intention to buy such minerals.

(2) Upon being informed and agree on the intention of the buyer, the seller and the buyer shall inform an authorized officer at the Mineral and Gem Houses on the agreement for clearing arrangements.

(c) Clearance

Functions of

30. The clearing house shall ensure that:

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the clearing house

- (a) mineral transactions are smooth and each party involved in the transaction receive what is due;
- (b) minerals are delivered to the buyer in a quantity and quality agreed upon by the buyer and seller;
- (c) parties involved in the transactions observe and adhere to the principles and procedures laid down; and
- (d) transactions are settled by payment and delivery.

Clearance of transactions

31.-(1) All mineral transactions in the Mineral and Gem Houses shall be cleared, registered and settled by the clearing house.

(2) No clearance shall be effected unless:

- (a) the buyer has deposited the money due to the seller as the clearing house shall determine;
- (b) all applicable taxes, royalty, fees and other charges have been paid; and
- (c) all conditions, necessary for transportation or exportation of minerals, have been fulfilled.

(3) Where the clearing house is satisfied that the conditions under sub regulation (2) have been fulfilled, it shall instruct in writing the warehouse to effect transfer of ownership from the seller to the buyer.

Declaration for importation of minerals

32. A person who imports minerals to Tanzania Mainland for trading in the Mineral and Gem Houses shall be required to comply with the provisions of section 86A of the Act.

PART V

GENERAL PROVISIONS

Unauthorized trading of minerals

35. Any conduct regarded as unauthorized trading of minerals under section 18 of the Act shall correspondingly apply in these Regulations.

Issuance of directives

36.-(1) The Minister may issue directives to the Commission of general or specific nature pertaining to proper or smooth operations of the Mineral and Gem Houses.

(2) For the purpose of sub-regulation (1), all participants in the Mineral and Gem Houses shall be bound by the directives issued under sub-regulation (1).

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SCHEDULE

(Made under Regulation 18(2))

FORM BF.4

BID FORM

Company Name:.....

TIN No:.....

Buyer Name:.....

Buy Form Number:.....

Schedule	Mineral Category	Details	Weight	Amount(USD)

Proposed buy price in words:.....

Declaration:

I The buyer at the minerals market of.....
in.....Region do hereby declare that I am capable to pay the amount of USD..... Upon
announcement of an eligible buyer by the Commission.

Signature:..... date:.....

Dodoma,
10th May, 2019

DOTO M. BITEKO,
Minister for Minerals