

**LEGAL NOTICE NO.....**

**THE MINING ACT**

*(No. 12 of 2016)*

**ARRANGEMENT OF REGULATIONS**

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**IN EXERCISE** of the powers conferred by Section 49(1) and 223(2)(m) of the Mining Act, 2016, the Cabinet Secretary for Mining makes the following Regulations—

**MINING (LOCAL EQUITY PARTICIPATION) REGULATIONS, 2017**

Citation.           **1.** These Regulations may be cited as the Mining (Local Equity Participation) Regulations, 2017.

Interpretation.   **2.** In these Regulations, unless the context otherwise requires—

“Act” means the Mining Act, 2016;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to mining;

“Mineral right” has the meaning assigned to it in the Mining Act;

“Local Shareholding” means shares held by a citizen of Kenya or shares held by a company incorporated under the laws of Kenya in which citizens or the government has beneficial interest in the shares of the company;

“Mineral Agreement” has the meaning assigned to it in the Act;

“Public Offer” has the meaning assigned to it in the Capital Markets(Securities)(Public Offers, Listing and Disclosures) Regulations, 2002;

Purpose of Regulations.   **3.** The purpose of these regulations is to—

(1) Ensure the citizens of Kenya participate in mineral resource development;

(2) Allow Kenyans to acquire a stake in mining companies operating in Kenya; and

(3) Encourage mining companies to raise capital locally for mineral resource development.

*Mining (Local Equity Participation) Regulations, 2019*

Application of Regulations.

4. These regulations shall apply to a holder of a mining licence granted under the Act.

Minimum capital expenditure and shareholding requirements.

5. (1) A holder of a mining licence shall list on the stock exchange in Kenya where the proposed capital investment for the mines at least one hundred million United States dollars.

(2) The holder of a mining licence shall list at least twenty percent of equity in Kenya within three years after the commencement of production.

(3) Notwithstanding sub regulation (2), a holder of a mining licence may apply to the Cabinet Secretary to extend the period that the holder is required to list on the stock exchange.

(4) The Cabinet Secretary in consultation with the National Treasury, may extend the period for the holder to list on the stock exchange.

Public offer and listing

6(1) The minimum local shareholding for a holder of a mining licence shall be obtained through a public offer in accordance with the provisions of the legislation relating to capital markets and the listing rules of the stock exchange.

(2) Where the holder has failed to secure the minimum shareholding due to an unsuccessful public offer, the Cabinet Secretary may on the recommendation of the Capital Markets Authority exempt the holder from complying with the Act and these Regulations on such terms and conditions as may be agreed with the holder.