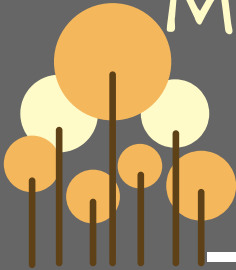


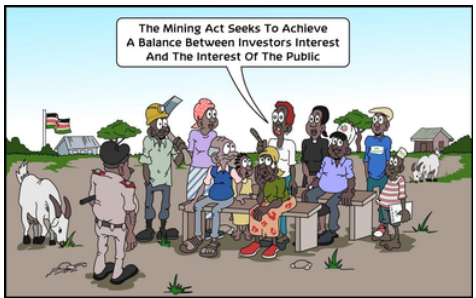
What Community Need to Know about Mining Act 2016



Mining Act became in use on
27th May 2016

Mineral Ownership

Every mineral on land; lake, river, stream or sea within Kenya belongs to the Republic and is vested in the national government in trust for the people of Kenya



Affected Community

A group of people living around an exploration and mining operations area or a group of people who may be displaced from land intended for exploration and mining operations.

Administration



- Cabinet Secretary is the one in charge of administering the act
- Cabinet Secretary and any person administering the Act must be guided by the values & principles in the constitution

Minerals Rights Board

- Advises the Minister on matters related to licenses and permits, trading, procurement and tendering and transfer of mineral rights Agreements.
- Considers grants, rejection, renewal or revocation of mining license



National Mining Corporation



- This is the investment arm of the National Government in Minerals
- Can Prospect and Invest in Minerals in Kenya

County Mining Office

- In charge of granting, renewing and revoking of artisanal mining permits.
- Keep register of the artisanal miners
- Ensure fair trade by ensuring that Artisanal Miners

Types of Mining

- Large Scale carried out in a large area
- Small Scale Mining
- Artisanal Mining

Mineral Rights/Licenses



- Reconnaissance License- for large scale mineral survey for 2 years non-renewable
- Prospecting License-for large scale mineral search for 3 years and renewable twice
- Retention License - For preserving minerals in an area for 2 years and renewable for any period up to 2 years
- Mining License - allow mining and selling of minerals for 25 years and renewable for 15 years or remaining life of mine
- Reconnaissance Permit - for small scale mineral survey for 1 year nonrenewable
- Prospecting Permit-for small scale mineral search for 5 years and renewable once
- Mining Permit-allow mining in small scale up to 5 years duration nonrenewable
- Artisanal Mining Permit-allow artisanal mining for 3 years and renewable once

Artisanal Mining



- This is mining using basic tools and traditional skills
- Allowed only for Kenyan Citizens above 18 years
- Controlled at the county Level through the county director of mine office
- One must acquire a mining permit
- Miners encouraged to form associations

Artisanal Mining

Committee

- To be set up in all counties and its role is to advice on granting, renewal and revocation of artisanal mining permits
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- Chaired by the Governor's representative and representative of the Director of Mines as the secretary;
- 3 persons not being public officers elected by the association of artisanal miners in the County
- A person from inspectorate division of the Ministry;
- A person from NEMA
- A person from the county lands board

- For mining right to be granted on community or private land, the registered owner (s) must give free and informed CONSENT
- The land owner (s) cannot deny CONSENT to mine without proper reason
- The CONSENT is given if there exists a legally binding arrangement with regard to mining right

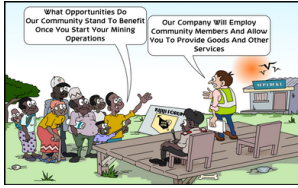
CONSENT

Benefit Sharing.

- The Act provides for a ratio of sharing of royalties 70%-National government, 20% to county government and 10% to the community.



Local Content



- Goods and services—The mining company to source for goods and services locally before thinking of importing.
- Employment and Training—Kenyans and locals are given a first priority in employment and the mining company to train locals to fill up positions held by foreigners after a certain period of time.

Community Development Agreement

- For a large Scale operation, there must be a community development agreement with an affected community.
- The preparation of the agreement shall be done by community development committee bringing together representatives of affected community, mining company, county governor or a representative, national government representative, area elected local leaders, village elders, civil society organization representative, youth and women representatives



Health, Safety and Environment

- Any person granted mineral rights, licenses and permits under the mining act are not exempted and must comply with the environmental laws.
- An applicant for a mining license cannot be issued with a mining license unless s/he has obtained: **Environmental Impact Assessment, Social Heritage Assessment and Approved Environmental Management Plan.**
- The Mining Right Holders must comply with the Occupation, Health and Safety Act on matters concerning safety of workers and mining operations
- Prospecting license, retention license or mining license shall not be granted to the applicant without a site mitigation, rehabilitation or mine closure plans for approval.

Compensation is to be given when...

- Mining disturbs or prevents the owner or any lawful occupier or user of the land or part of the land;
- Mining causes loss of or damage to buildings and other immovable property;
- Mining causes damage to the Water table or hinders water access to owner;
- Mining causes any loss of earnings or sustenance by the lawful owner/occupier
- It is a requirement of Compensation before starting Mining
- Mineral Bond: A mineral right holder will be required to deposit a compensation guarantee bond with the relevant Ministry