

5. Amendment of section 3.
6. Repeal and substitution of section 5.
7. Addition of section 5A.
8. Amendment of section 8.
9. Amendment of section 9.
10. Repeal and substitution of section 10.
11. Repeal and replacement of sections 11 and 12.
12. Repeal and replacement of Part III.
13. Addition of sections 27A and 27B.
14. Amendment of section 28.
15. Amendment of section 29.
16. Amendment of section 37.
17. Amendment of section 38.
18. Amendment of section 41.
19. Amendment of section 42.
20. Amendment of section 45.
21. Amendment of section 49.
22. Amendment of section 54.
23. Amendment of section 63.
24. Amendment of section 87.
25. Amendment of section 88.
26. Amendment of section 111.
27. Amendment of section 113.
28. Addition of new Parts VIII, IX and X.

PART III

AMENDMENT OF THE PETROLEUM ACT,

CAP. 392

- 29. Construction.
- 30. Amendment of section 47.
- 31. Amendment of section 113.

PART VI

AMENDMENT OF THE INCOME TAX ACT, CAP. 332

- 32. Construction.
- 33. Amendment of section 8.
- 34. Amendment of section 65E.
- 35. Amendment of section 65M.
- 36. Amendment of section 65N.
- 37. Amendment of the First Schedule.
- 38. Amendment of the Third Schedule.

PART V

AMENDMENT OF THE INSURANCE ACT,

CAP. 394

- 39. Construction.
- 40. Amendment of section 67.
- 41. Repeal and replacement of section 72.
- 42. Repeal and replacement of section 133.
- 43. Repeal of section 134.
- 44. Repeal of section 137.

PART VI

AMENDMENT OF THE TAX ADMINISTRATION ACT,

CAP. 438

- 45. Construction.

- 46. Amendment of section 3.
- 47. Amendment of section 54.

PART VII

AMENDMENT OF THE VALUE ADDED TAX ACT,

CAP. 148

- 48. Construction.
- 49. Amendment of section of 68.

—————
NOTICE
—————

This Bill to be submitted to the National Assembly is published for general information to the public together with a statement of its objects and reasons.

Dar es Salaam,
27th June, 2017

JOHN W. H. KIJAZI,
Secretary to the Cabinet

A BILL

for

An Act to amend certain written laws in the extractive industry and financial laws with a view to enhancing control and compliance, ensuring maximum collection of revenues and securing national interests.

ENACTED by Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY PROVISIONS

Short title and commencement

1.-(1) This Act may be cited as the Written Laws (Miscellaneous Amendment) Act, 2017 and shall come into force on the date of publication.

Construction

2. The written laws specified in the Parts of this Act are amended in the manner specified thereunder.

PART II

AMENDMENT OF THE MINING ACT

Construction
Cap 123

3. This Part shall be read as one with the Mining Act, hereinafter referred to as the “principal Act”.

Amendment of
section 3

- 4.** The principal Act is amended in section 3, by:
- (a) deleting the term “Board” and its definition and substituting for it the following:

““Commission” means the Mining Commission established by section 20;”
 - (b) deleting the term “Board” wherever it appears and substituting for it the term “Commission”;

- (c) deleting the definition of the designation “Commissioner”;
- (d) deleting the designation “Commissioner” wherever it appears in the Act and substituting for it the term “Commission”
- (e) deleting the definition of the term “mining operations” and substituting for it the following:
 - “mining operations” means operations carried out in the course of undertaking mining activities;
- (f) deleting the term “Zonal Mines Office” and its definition and wherever the term appears in the Act;
- (g) deleting the designation “Zonal Mines Officer” wherever it appears and substituting for it the word “Commission”;
- (h) inserting in an appropriate alphabetical order, the following new definitions:
 - “mineral processing” means the process of separating commercial value minerals from their ores;
 - “ Mining Cadastre” means a system established pursuant to section 27F;
 - “mineral concentrate” means minerals

or associated minerals won through the process of direct extraction of minerals from the ore which need further processes to extract minerals and associated minerals such as:

- (a) minerals in the category of gold, silver, copper, sulphur, iron, nickel, zinc;
- (b) minerals in the category of platinum which includes:
 - (i) rhodium; and
 - (ii) iridium;
- (c) minerals with elements of metals of rare earth elements, transition elements and light element which includes:
 - (i) ytterbium;
 - (ii) beryllium;
 - (iii) tantalum;
 - (iv) lithium; and
- (d) any other mineral found in the periodic table.”

“tax expenditure” means the quantified value of tax incentives granted to a company by the

Government.”

“local content” means “local content” means the quantum of composite value added to, or created in, the economy of Tanzania through deliberate utilization of Tanzanian human and material resources and services in the mining operations in order to stimulate the development of capabilities indigenous of Tanzania and to encourage local investment and participation;

“integrity pledge” means a formal and concrete expression of commitment by mineral right holder to abide ethical business practices and support a national campaign against corruption and prepared by the Commission;

“Executive Secretary” means the Executive Secretary of the Commission appointed under section 26.

“Commissioner for Minerals” means

the Commissioner for Minerals
appointed under section 20;
“Mineral Cadastral” means the Mineral
Cadastre established pursuant to
section 27F;”

Repeal and
substitution of
section 5

5. The principal Act is amended by repealing
section 5 and substituting for it the following:

“Ownership of
minerals and
Government lien

5.-(1)The entire property in and
control of all minerals in, and under or
upon any land, rivers, streams, water
courses throughout Tanzania, area
covered by territorial sea, continental
shelf or the exclusive economic zone is
the property of the United Republic and
shall be vested in the President in trust
for the People of Tanzania.

(2) The Government shall have
lien over any material, substance,
product or associated products extracted
from the mining operations or mineral
processing.”

Addition of sections
5A

6.The principal Act is amended by adding
immediately after section 5 the following new section:

“Declaration of
mining controlled
areas

5A.-(1) The President may, after consultation with the relevant local authorities through the Minister responsible for local government, and by order in the *Gazette* declare any area of Tanzania which is subject to mining operations to be a controlled area.

(2) The order made under this section shall prescribe conditions applicable to the controlled area, and upon such order being made, the conditions specified in the order shall apply to the specified area and any contravention of such conditions shall be an offence.

(3) For the purpose of subsections (1) and (2), the Commission shall recommend to the Minister, regulations applicable to mining operations and activities in the controlled areas.”

Amendment of
section 8

7. The principal Act is amended in section 8, by:
(a) deleting paragraph (a) and substituting for it the following:

“(a) an individual who-

- (i) is under the age of eighteen years;
- (ii) not being a citizen of the United Republic, has not been ordinarily resident in the United Republic for a period of four years or such other period as may be prescribed;
- (iii) is an undischarged bankrupt, having been adjudged or, otherwise declared bankrupt under any written law whether under the laws of the United Republic or elsewhere, or enters into any agreement or scheme of composition with creditors, or takes advantage of any law for the benefit of debtors;
- (iv) has been convicted, within the previous ten years, of an offence of which dishonesty is an

element, or of any offence under this Act, any related or similar Act, or any similar written law in force outside the United Republic and has been sentenced to imprisonment or to a fine exceeding twenty million shillings.”

(b) deleting paragraph (b) and substituting for it the following:

“(b) a company-

- (i) which has not established a physical and postal address in the United Republic for the purpose of serving legal notices and other correspondences;
- (ii) unless, such company is incorporated under the Companies Act and intends to carry out the business of mining under a mining licence;

- (iii) which is in liquidation other than a liquidation that forms part of a scheme for the reconstruction or amalgamation of the holder;
- (iv) which has among its directors or shareholders any person who would be disqualified in terms of paragraph (a)(iii) and (iv).”

(c) adding immediately after subsection (2) the following new sub-sections:

“(3) Notwithstanding subsection (2), the Commission may, on recommendation of the Resident Mines Officer and upon satisfying itself that a primary mineral licence holder needs a technical support which cannot be sourced within Tanzania, allow the primary mineral licence holder to contract a foreigner for the technical support.

(4) The provisions of subsection

(1)(a)(iii) and (iv) shall apply in relation to engagement of foreign technical support.”

(d) renumbering subsections (3), (4), (5) and (6) as (4), (5), (6) and (7) respectively.

Amendment of section 9

8. The principal Act is amended in section 9 by deleting subsection (4) and substituting for it the following:

“(4) The consent of the licensing authority where it is required under subsection (2), shall not be given unless there is proof that substantial developments have been effected by the holder of a mineral right.”

Repeal and substitution of section 10

9. The principal Act is amended by repealing section 10 and substituting for it the following:

“State participation

10.-(1) In any mining operations under a mining licence or a special mining licence the government shall have not less than sixteen non-dilutable free carried interest shares in the capital of a mining company.

(2) In addition to the free carried interest shares, the Government shall be

entitled to acquire, in total, up to fifty percent of the shares of the mining company commensurate with the total tax expenditures incurred by the Government in favour of the mining company.

(3) Acquisition by the Government of shares in the Company shall be determined by the total value of the tax expenditures enjoyed by the mining company.”

Repeal and replacement of sections 11 and 12

10. The principal Act is amended by repealing sections 11 and 12 and substituting for them the following:

“Review and renegotiation of development agreements

11. Notwithstanding the provisions of this Act and any other written law, all development agreements concluded prior to the coming into force of this section shall, subject to the provisions of the Natural Wealth and Resources Contracts (Review and Renegotiation of Unconscionable Terms) Act, 2017, remain in force.”

Repeal and replacement of Part

11. The principal Act is amended by repealing

III Part III and replacing it with the following:

“PART III
ADMINISTRATION

Role of the
Minister

19. The Minister shall be responsible for:

- (a) preparing policies, strategies and legislative framework for exploration and exploitation of mineral resources with special reference to establishing national priorities having due regard to the national economy;
- (b) monitoring the implementation of laid down government policies on minerals;
- (c) monitoring the operations of all bodies or establishments with responsibility for minerals and report to the Cabinet;
- (d) promoting mineral resources of Tanzania for research and exploitation;
- (e) monitoring the issuance by the Commission of licenses for

mining activities in Tanzania;
and

- (f) providing support for the creation of a favourable environment for private investment in the mining industry.

Commissioner for Minerals

20. There shall be appointed by the President a suitably qualified public officer to be a Commissioner for Minerals who shall be responsible for advising the Minister on all matters relating to the mining sector.

Establishment of the Mining Commission

21.-(1) There is established a Commission to be known as the Mining Commission.

(2) The Commission shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of-

- (a) suing and being sued;
- (b) purchasing or otherwise acquiring, holding, charging or disposing of its movable and

immovable property;

- (c) borrowing and lending;
- (d) entering into contracts;
and
- (e) performing all such other things or acts for the proper execution of its functions which may lawfully be performed by a body corporate.

(3) The common seal of the Commission shall be kept in such custody as the Commission may direct and shall not be used except by the order of the Commission.

(4) The Commission shall be composed of:

- (a) the Chairman;
- (b) the Permanent Secretary Treasury;
- (c) the Permanent Secretary from the Ministry responsible for lands;
- (d) the Permanent Secretary from the Ministry responsible for defence;
- (e) the Permanent Secretary

- from the Ministry responsible for local government;
- (f) the Secretary to the Chamber of Minerals and Energy;
- (g) Deputy Attorney General;
- (h) two eminent persons who possess proven knowledge and experience in the mining sector.

(5) The Chairman and the Commissioners referred under paragraph (g) of subsection (4) shall be appointed by the President and shall serve on full time basis.

(6) The Commissioners referred to in paragraphs (b) (c), (d), (e), (f) and (g); shall discharge their responsibilities under this Act by parttime basis but they shall have equal rights with full-time members

(6) The First Schedule shall have effect on the proceedings of the meeting of the Commission and other

matters related to it.

Functions of the
Commission

22. The functions of the
Commission shall be to:-

- (a) supervise and regulate the proper and effective carrying out of the provisions of this Act;
- (b) regulate and monitor the mining industry and mining operations in Tanzania;
- (c) ensure orderly exploration and exploitation of mineral resources in Tanzania and the optimal utilization of mineral resources at all mining operations in accordance with the mining policies and strategy;
- (d) resolve disputes arising out of mining operations or activities;
- (e) carry out inspections or investigations on health and safety issues related to mining operations or

activities;

- (f) advise the Government on, and ensure compliance with all applicable laws and regulations related to the health and safety of persons involved in mining operations or activities;
- (g) monitor and audit environmental management, environmental budget and expenditure for progressive rehabilitation and mine closure;
- (h) counteract minerals smuggling and minerals royalty evasion in collaboration with relevant Government authorities;
- (i) advise the Government on all matters relating to the administration of the mineral sector with main focus on monitoring and auditing of mining operations to maximize

- Government revenue;
- (j) promote and conduct research and development in the mineral sector that will lead to increased Government revenue;
 - (k) examine and monitor implementation of feasibility reports; mining programs and plans; annual mining performance reports; and environmental management plans and reports of mining companies;
 - (l) secure a firm basis of comprehensive data collection on national mineral resources and technologies of exploration and exploitation for national decision making;
 - (m) suspend and revoke exploration and exploitation licences and permits;
 - (n) ensure general compliance with the laid down standards

in mining operations, laws and the terms and conditions of mineral rights.

- (o) monitor and audit quality and quantity of minerals produced and exported by large, medium and small scale miners; to determine revenue generated to facilitate collection of payable royalty;
- (p) audit capital investment and operating expenditure of the large and medium scale mines for the purpose of gathering taxable information and providing the same to the Tanzania Revenue Authority (TRA) and other relevant authorities;
- (q) sort and assess values of minerals produced by large, medium and small scale miners to facilitate collection of payable

royalty; and

- (r) produce indicative prices of minerals with reference to prevailing local and international markets for the purpose of assessment and valuation of minerals and assessment of royalty.

Committees of
the Commission

25.-(1) For the purpose of facilitating performance of the functions of the Commission, it may form such number of committees to advise on matters relating to mining and minerals.

(2) The committees shall perform the functions assigned to it by the Commission upon such terms and restrictions as the Commission may determine.

(3) The provisions of the First Schedule shall apply with necessary modification to the proceedings of committees.

Executive
Secretary

26.-(1) There shall be the

Executive Secretary of the Commission who shall be appointed by the President.

(2) The Executive Secretary shall-

(a) exercise supervisory powers over the management of officers and staff of the Commission; and

(b) be responsible for the day to day management of the affairs of the Commission and carrying out directives of the Commission.

(3) The Executive Secretary shall be the Chief Executive Officer of the Commission and shall hold office for a term of five years and shall be eligible for re-appointment.

Appointment of
staff of the
Commission

27.-(1) The Commission may appoint such officers and staff for the proper discharge of its functions under such terms and conditions in accordance with the Public Service Act.

Cap. 298

(2) The Minister in consultation with the Commission may appoint a Chief Inspector of Mines, Resident Mines Officers, Mines Resident Officers Inspectors of Mines and other public officers as may be required for the better performance of functions under this Act.

(3) Officers and staff shall, in the performance of their functions be responsible to the Commission.

Prohibition
against the
disclosure of
information

28.-(1) No information furnished, or information in a report submitted, pursuant to section 100 by the holder of a mineral right shall, for so long as that mineral right or another mineral right granted to the holder has effect over the land to which the information relates be disclosed, except with the consent of the holder of the mineral right.

(2) Nothing in section (1) shall operate to prevent the disclosure of information where the disclosure is

made-

- (a) for or in connection with the administration of this Act;
- (b) for the purpose of any legal proceedings;
- (c) for the purpose of any investigation or inquiry conducted under this Act;
- (d) to any person being a consultant to the Government or public officer who is authorised to receive such information; or
- (e) for or in connection with, the preparation by or on behalf of the Government of statistics in respect of prospecting or mining.

(3) Any person who contravenes the subsection (1) commits an offence and is liable on conviction-

- (a) in the case of partnership or community group, to a fine not less than two hundred million shillings or to imprisonment for a period not exceeding twelve months, or to both; and

- (b) in the case of a body corporate,
to a fine not less than one billion
shillings.

Mines Resident
Officer

29.-(1) The Commission shall station in every mining site where mining operations take place a Mines Resident Officer who shall be responsible for:

- (a) monitoring the day to day production process at the mining site;
- (b) verifying records, information and production reports kept by the holder of mineral right; and
- (c) authorizing entry into the minerals storage facility at the mine on behalf of the Government.
- (d) Oversight over mineral removals and transportation to Government Minerals Warehouse.

(2) For the purpose of the discharge of functions under this Act, the Mines Resident Officer shall have all the powers conferred to authorised

officers under section 101.

Geological
Survey
of
Tanzania

30.-(1) There is established the Geological Survey of Tanzania.

(2) The Geological Survey of Tanzania shall be responsible for all matters related to geological activities other than prospecting, exploration and mining activities, and in particular shall-

- (a) advise the Minister on geological matters;
- (b) undertake the geological mapping of Tanzania, and may for that purpose, engage contractors;
- (c) provide data concerning the geology and mineral resources of Tanzania, and generally assist members of the public seeking information concerning geological matters; and
- (d) maintain such laboratory, library and record facilities as may be necessary for the

discharge of his functions.

Addition of sections
27A and 27B

12. The Principal Act is amended by adding immediately after new section 27 the following new sections:

“Geological
survey, mapping
and prospecting

27A. The Agency shall, for the purpose of carrying out the geological mapping of Tanzania-

- (a) enter upon any land for the purpose of carrying out such mapping; and
- (b) carry out any operations which may be carried out in accordance with this Act.

Establishment of
the gem and
minerals houses

27B.-(1) The Commission shall establish such number of the mineral and gem houses, which shall comprise of the minerals auction centre, the minerals exchange, and the minerals clearing house.

(2) The Minister shall, in consultation with the Commission and minister responsible for finance, make regulations for the operation and running of the Minerals Auction Centre, the minerals exchange, and the minerals

clearing house.

Establishment of
the National Gold
and Gemstone
Reserve

27C.-(1) The Minister responsible for finance shall, after consultation with the Commission and the Governor of the Bank of Tanzania and by order published in the *Gazette*, establish the National Gold and Gemstone Reserve into which shall be deposited:

- (a) all royalties required to be paid in refined minerals.
- (b) all minerals impounded or otherwise confiscated in accordance with the law;
- (c) minerals purchased by the Government in accordance with the provisions of this Act;
- (d) dividend minerals paid under any arrangement or agreement;
- (e) any minerals otherwise acquired by the Government.

(2) The National Gold and Gemstone Reserve established under this section shall be under the control of the Bank of Tanzania.

Establishment of
the Government
Minerals
Warehouse

27D.-(1) The Minister responsible for finance shall after consultation with the Commission and the Governor of the Bank of Tanzania, establish the government minerals warehouse which shall be the central custodian of all the metallic minerals and gemstones won by mineral rights holders in Tanzania.

(2) The Minister shall make regulations for the transfer and deposit of minerals by the mineral right holders in the government minerals warehouse, and for the attendant procedures and fees.

Establishment of
the National
Mineral
Resources Data
Bank

27E.-(1) The Geological Survey of Tanzania shall establish under it the National Mineral Resources Data Bank.

(2) All mineral data generated under this Act shall be owned by the Government.

(3) The mineral right holder shall submit to the Agency accurate geological maps and plans, geophysical records, and interpretations relating to

the mineral right area.

(4) The mineral right holder shall give copies of data generated under subsection (2) to the Geological Survey of Tanzania free of charge.

(5) The Geological Survey of Tanzania may permit the mineral right holder to market the right of use of data on terms to be agreed.

(6) The mineral right holder shall not export any core, cuttings, rock samples, fluid samples or any other data collected without the written authorisation of the Geological Survey of Tanzania.

(7) The Geological Survey of Tanzania shall prescribe rules for the better compliance with the requirements under this section, including the keeping of records and submission of reports and returns.

Mining Cadastre

27F.-(1) There shall be established a Mining Cadastre which shall-

- (a) receive and process applications for mining rights and mineral processing licences;
- (b) administer mining rights and mineral processing licences; and
- (c) maintain public cadastral maps and cadastre registers.

(2) The Commission may establish regional mining cadastre offices which shall receive applications for mining rights and forward applications for processing by the Mining Cadastre.

(3) The Minister may after consultation with Minister responsible for lands, make Regulations to prescribe the operationalization and management of the Mining Cadastre.

Indemnity

27G. An officer of the Commission or committee shall be liable for anything done or omitted to be done in good faith in the performance or purported performance of any function vested in that officer by, or in accordance with an appointment made under this Act;”

Amendment of
section 28

13. The principal Act is amended in section 28(2), by:

(a) adding immediately after paragraph (f) the following new paragraphs:

“(g) a statement of integrity pledge in a prescribed form; and

(h) local content plan.”

(b) deleting the designation “Minister” wherever the designation is used in Part IV in relation to issuance of all categories of licence under that Part.

Amendment of
section 29

14. The principal Act is amended in section 29, by deleting the words “for advice” appearing in subsection (2).

Amendment of
section 37

15. The principal Act is amended in section 37(2), by adding immediately after paragraph (c) the following new paragraphs:

“(d) a statement of integrity pledge in a prescribed form; and

(e) local content plan.”

Amendment of
section 38

16. The principal Act is amended in section 38(3), by deleting the phrase “or in a relevant development agreement”.

Amendment of
section 41

17. The principal Act is amended in section 41,

by:

(a) adding immediately after paragraph (h) appearing in subsection (4) the following new paragraphs:

“(i) a statement of integrity pledge in a prescribed form; and

(j) local content plan.”

(b) renaming paragraph (i) as (k);

(c) deleting the words “for advice” appearing in subsection (5);

(d) adding new subsection (6) as follows:

“(6) For purposes of paragraph (c) of subsection (4), the Commission shall verify the forecasted capital investment for purposes of checking mis-invoicing or any other form of malpractice in respect of mining licence and special mining licence holders.”

Amendment of
section 42

18. The principal Act is amended in section 42,

by-

(a) introducing a new subsection (1) as follows:

“(1) Where upon satisfying itself

that the applicant for special mining

licence complies with all requirement,
the Commission shall submit the
application with all relevant documents
to the Minister for tabling to the Cabinet
for approval.”

(b) renumbering subsection (1) , (2), (3), (4) and (5)
as (2), (3), (4), (5) and (6) respectively.

(c) deleting the opening phrase to subsection (2) as
renumbered and substituting for it as follows:

“(2) Upon approval by the
Cabinet, the Commission shall grant a
special mining licence to the applicant of
the minerals licence in respect of the
area of the land requested in application
if -”

(d) deleting the phrase “taking account of any
relevant stipulation in a development
agreement”.

Amendment of
section 45

19. The principal Act is amended in section 45,
by deleting the words “for advice” appearing in
subsection (3);:

Amendment of
section 49

20. The principal Act is amended in section 49(1), by:

(i) adding immediately after paragraph (h) the following new paragraphs:

“(i) include a statement of integrity pledge in a prescribed form; and

(j) include a local content plan.”

(ii) renaming paragraph (i) as (k).

Amendment of
section 54

21. The principal Act is amended in section 54(1), by:

(a) adding immediately after paragraph (b) the following new paragraphs:

“(c) include a statement of integrity pledge in a prescribed form; and

(d) include a local content plan.”

Amendment of
section 63

22. The principal Act is amended in section 63(1), by deleting the phrase “and any relevant stipulation in a development agreement”.

Amendment of
section 87

23.The principal Act is amended in section 87, by:-

(a) deleting the word “five” appearing in paragraph (b) of subsection (1) and substituting for it the word “six” ;

(b) deleting the word “four” appearing in paragraph (c) of subsection (1) and substituting for it the word “six”;

(c) deleting the definition of the term “gross value” and substituting for it the following:

"gross value" means the market value of minerals as determined through valuation pursuant to section 100B of this Act:

Provided that-

(a) for the purposes of calculating the amount of royalties payable, the Government shall be entitled to reject the valuation if such value is low on account of deep negative volatility, unless the raw minerals are disposed of for beneficiation within the United Republic;

(b) where the Government rejects the valuation, it shall have the option to buy the minerals at the low value ascertained.”

Amendment of
section 88

24. The principal Act is amended in section 88(1), by-

(a) adding immediately after subsection (1) the following new subsection:

“(2) One-third of the royalty payable shall be paid to the Government by depositing refined minerals equivalent to the ascertained royalty into the National Gold and Gemstone Reserve.;

(b) renumbering subsections (2) and (3) as (3) and subsections (3) and (4) respectively.

Amendment of Part
VII

25. The principal Act is amended in Part VII, by-

(a) deleting the heading to that Part and substituting for it the following:

“GENERAL PROHIBITIONS, RESTRICTIONS,
REPORTS AND RIGHT OF ENTRY”

(b) by deleting section 94.

(c) adding immediately after section 100 the following new sections:

Storage of raw
minerals

100A.-(1) Every mineral right holder shall construct a secure storage facility for storing of won raw minerals.

(2) Access to the raw minerals storage shall be procured from joint authorization by an appointed official of the mining company and the Mines Resident Officer and shall be entered in special logbook showing date and time of entry and the purpose for the entry.

(3) Any won raw minerals shall be stored at the mine for not more than five days before they are moved to the Government Minerals Warehouse to await disposal for home refining, authorized mineral dealers or, where so permitted, for export.

(4) The Minister shall by rules published in the *Gazette* prescribe procedures and standards for storage of minerals.

Sorting and
valuation

100B.-(1) All won minerals shall be sorted and valued in the presence of Mines Resident Officer, an Officer from the Tanzania Revenue

Authority and the relevant of state organ of the state for that purpose before being entered for storage at the mine storage facility.

(2) All minerals won from the mines shall be beneficiated within the United Republic before they can be dealt with in any way.

(3) Reports on the sorting and valuation shall be made and verified by both an authorized official of the mineral right holder and the Mines Resident Officer and submitted to the Commission.

(4) The report referred to under subsection (3) shall be used for the purpose of calculating Government royalties.

Control over
removal of raw
minerals

100C.-(1) Raw minerals shall only be removed from the mine under the supervision of the Government and shall be kept secured in the Government Minerals Warehouse established in accordance with the regulations.

(2) It shall be an offence to remove minerals stored at the Mine without Government authorization and by means of transportation not approved by the Government.

(3) For avoidance of doubt, no licence or permit shall be issued under this Act or any other written law for exportation of raw minerals and mineral concentrates.

(4) Raw minerals shall only be withdrawn from the Government Minerals Warehouse for beneficiation within the United Republic or for use by authorized mineral dealers.

(5) Where Government authorisation is given for the exportation of raw minerals, any benefits given under any law for the promotion of Tanzanian products in external markets shall not be extended to such exportation of raw minerals.

(6) Subject to the regulations prescribed by the Minister, all minerals shall be processed within the United Republic.

Handling of
mineral
concentrates

100D-(1) The Government shall subject to the provisions of section 5A, have lien in all mineral concentrates.

(2) Mineral concentrates shall be stored in a secure yard within the mines in a manner prescribed in the regulations.

(3) Mineral concentrates shall not, after being analysed and valued by the Commission, be disposed for mineral processing within Tanzania as trading commodity.

(4) The provisions relating to removal and transportation of raw minerals shall apply to transportation of minerals.

Regulation over
use of
stabilization
clauses

100E-(1) In any negotiations for the provision of a stabilization regime in the extractives sector, it shall be prohibited to use stabilization arrangements that entail the freezing of laws or contracting away the sovereignty of the United Republic.

(2) Stabilization arrangement shall be specific and time bound and it shall be unlawful to conclude stabilization arrangement or agreement guaranteed to last for a lifetime of any mine.

(3) Stabilization arrangements shall make provision for renegotiation from time to time as may be necessary and, as much as possible, be based on the economic equilibrium principle.

(4) Any stabilization arrangement involving tax expenditures by the Government shall provide for the quantification of the value of the tax expenditures and how the mining company shall recompense the Government for the foregone revenues.

(5) The Government shall have the option to convert the quantified values into equity holdings in the mining company

Plough-back of
profits from
minerals sector

100F.-(1) Any mineral right holder shall undertake to participate in the growth of the Tanzanian economy

by investing a portion of the returns from the exploitation of the country's mineral wealth.

(2) The mineral right holder shall file annual returns showing the efforts undertaken to enhance the performance of the Tanzanian economy and the value such annual returns.

(3) In considering any extension or renewal or permission to transfer any mineral right, the Government shall take into account the extent of ploughed back returns into the Tanzanian economy.

(4) Any mineral right holder may agree with the Commission on planned investments to enhance the Tanzanian economy.”

Amendment of
section 111

26. The principal Act is amended in section 111(1), by deleting the phrase “Subject to any qualifications, exceptions or limitations that may be set out in a development agreement”.

Amendment of
section 112

27. The principal Act is amended in section 112,

by-

- (a) in subsection (1), by inserting between the words “may” and “make” the words “on recommendation of the Commission”
- (b) in subsection (2), by adding immediately after paragraph (s) the following new paragraphs:
 - “ (t) local content principles including the requirements for provision of goods and services by Tanzanian entrepreneurs, training and employment of Tanzanians and technology transfer;
 - (u) principles relating to corporate social responsibility;
 - (v) principles and procedures relating to integrity pledge;
 - (w) conduct of mineral auctions and mineral houses;”

Addition of new
Parts VIII, IX and X

28.The principal Act is amended by:

- (a) adding immediately after Part VII the following new Parts VIII, IX and X as follows:

“PART VIII

LOCAL CONTENT, CORPORATE SOCIAL
RESPONSIBILITY AND INTEGRITY PLEDGE

Provision of
goods and
services by
Tanzanian
entrepreneurs

102.-(1) A mineral right holder shall give preference to goods which are produced or available in Tanzania and services which are rendered by Tanzanian citizens and or local companies.

(2) Where goods and services required by the mineral right holder are not available in Tanzania such goods shall be provided by a company which has entered into a joint venture with a local company.

(3) The local company referred to in subsection (2) shall own share of at least twenty five percent in the joint venture or otherwise as provided for in the regulations.

(4) For purposes of subsections (1) and (2), mineral right holder shall prepare and submit to the Commission a procurement plan for a duration of at least five years indicating among

others, use of local services in insurance, financial, legal, accounts, security services, cooking and catering services and health matters and goods produced or available in Tanzania.

(5) A mineral right holder shall ensure that entities referred to in subsection (1) notify the Commission on-

(i) quality, health, safety and environment standards required by mineral right holder;

(ii) upcoming contracts as early as practicable; and

(iii) compliance with the approved local content plans.

(6) The entities referred to in subsection (1) shall-

(a) have capacity to add value to meet health, safety and environment standards of mining operations carried out by mineral right holder; and

(b) be approved in accordance with criteria prescribed in the regulations.

(7) Within sixty days after the end of each calendar year, the mineral right holder shall submit to the Commission a report of its achievements in utilising Tanzanian goods and services during that calendar year.

(8) The mineral right holder shall submit to the Commission:

(a) a report on the execution of a programme prescribed in the regulations; and

(b) a detailed local supplier development program in accordance with approved local content plans.

(9) For the purpose of this Act, “local companies” means a company or subsidiary company incorporated under the Companies Act, which is one hundred percent owned by a Tanzanian citizen or a company that is in a joint

venture partnership with a Tanzanian citizen or citizens whose participating shares are not less than fifty percent,

Training and
employment of
Tanzanians

103.-(1) A mineral right holder shall, within twelve months after the grant of a licence, and on each subsequent anniversary of that grant, submit to the Commission for approval, a detailed programme for recruitment and training of Tanzanians in accordance with an approved local content plans.

(2) The programme shall provide training and recruitment of Tanzanians in all phases of mining operations and take into account gender, equity, persons with disabilities, host communities and succession plan in accordance with the Non-Citizens (Employment Regulation) Act.

(3) Where a programme or a scholarship proposed to be awarded under this section is approved by the Commission, it shall not be varied without permission of the Commission.

(4) The mineral right holder shall submit to the Commission annually, a report on the execution of the programme in a manner prescribed in the regulations.

Training and
technology
transfer

104.-(1) A report referred to under subsection (4) of section 103 shall include:

- (a) a clearly defined training programme for the Tanzanian employees of the mineral right holder, which may be carried out within or outside Tanzania and may include scholarships and other financial support for education; and
- (b) a commitment by the mineral right holder to maximize knowledge transfer to Tanzanians and establish management and technical capabilities and any necessary facilities for

technical work, including interpretation of data.

(2) The technology transfer required under sub section (1) shall be a shared responsibility between the Government and mineral right holder.

(3) A mineral right holder shall be required to provide a report on the progress made by Tanzanians on training program and steps taken by licensee to close any identified learning gaps.

(4) The Minister may make regulations prescribing requirements for mineral right holder to provide technology transfer and skills relating to mining operations to Tanzanians who are employed in that sector.

Corporate social responsibility

105.-(1) A mineral right holder shall on annual basis, prepare a credible corporate social responsibility plan jointly agreed by the relevant local government authority or local government authorities in consultation

with the Minister responsible for local government authorities and the Minister of Finance and Planning.

(2) The plan prepared under subsection (1) shall take into account environmental, social, economic and cultural activities based on local government authority priorities of host community.

(3) The corporate social responsibility plan referred to under subsection (1) shall be submitted by a mineral right holder to a local government authority for consideration and approval.

(4) Subject to the provision of this section, every local government authority shall-

- (a) prepare guidelines for corporate social responsibility within their localities;
- (b) oversee the implementation of corporate social responsibility action plan; and
- (c) provide awareness to the public on projects in their areas.

(5) In this section “host communities” means inhabitants of the local area in which mining operations activities take place.

Integrity pledge

106.-(1) A mineral right holder who undertakes mining shall be required to comply with the integrity pledge.

(2) The integrity pledge referred to under sub-section (1) implies the following national requirements-

- (a) the conduct of mining operation or activities with utmost integrity;
- (b) desist to engage in any arrangement that undermines or is in any manner prejudicial to the country’s financial and monetary systems, in particular, all earnings, payments or receivables derived from or in respect of mining operations or activities shall be received in, and accounted for in Tanzania;
- (c) desist to engage in any

arrangement that undermines or is otherwise prejudicial to Tanzania's tax system;

(d) disengage in arrangement that is inconsistent with the country's economic objectives, policies and strategies;

(e) maintenance of satisfactory and effective insurance coverage against losses, injuries or damage to environment, communities, individuals and properties, that may be occasioned in the course of carrying out mining operations or activities; or

(f) disengage in arrangement that undermines or is otherwise prejudicial to Tanzania's national security

(3) The Minister shall make regulations guiding compliance with the integrity pledge.

(4) Any person who fails to comply with integrity pledge shall breach the conditions of licence or

permission to engage in mining operation or activity and such licence or permission shall be deemed to have been withdrawn or cancelled and the Government shall exercise the right of takeover facilities provided for under this Act.

PART VII
ENVIRONMENTAL PRINCIPLES AND
LIABILITIES

Compliance with
environmental
principles

Cap.191

106.-(1) The licence holder and any other person who exercise or perform functions, duties or powers under this Act in relation to mining operations shall comply with environmental principles and safeguards prescribed in the Environmental Management Act and other relevant laws.

(2) The licence holder and contractor shall ensure that the management of production, transportation, storage, treatment and disposal of waste arising out of mining

operations is carried out in accordance with environmental principles and safeguards prescribed under the Environmental Management Act and other relevant written laws.

(3) The licence holder shall contract a separate and competent entity to manage transportation, storage, treatment or disposal of waste arising out of mining operations.

(4) The licence holder shall be responsible for activities referred to under subsection (3).

(5) The National Environmental Management Council in consultation with the Commission may, grant a licence for management, transportation, storage, treatment or disposal of waste arising out of mining operations to an entity contracted by a licence holder under subsection (3) on terms and conditions prescribed in the licence.

(6) A person contracted by the licence holder under subsection (3) shall not carry out mining operations without having a licence issued by the

Minister responsible for environment.

(7) A person who carries on management of productions transportation, storage, treatment or disposal of waste arising out of mining operations without a licence or fails to comply with the terms and conditions prescribed in the licence, commits an offence and shall be liable on conviction to a fine of not less than five million shillings or to imprisonment for a term of not less than six months.

Pollution
damage

107.-(1) This Part applies in relation to damage caused by pollution from a facility if the damage occurs in Tanzania or affects a Tanzanian vessel or facility in adjacent areas.

(2) The Minister may, make regulations relating to liability for pollution or damage caused by mining operations with agreement with a foreign State.

(3) Regulations made under subsection (2) shall not restrict the right to compensation in accordance to this

Act and relevant written laws in respect of any injury, death or damage of property under the Jurisdiction of Tanzania.

Liability of licence holder for pollution damage

108.-(1) The licence holder shall be liable for pollution damage without regard to fault.

(2) Where it is demonstrated that an inevitable event of nature, act of war, exercise of relevant Commission or a similar event of act of God has contributed to a considerable degree to the damage or its extent under circumstances, which are beyond the control of the licence holder or contractor, the liability may be reduced to the extent that is reasonable, with particular consideration to the-

- (a) scope of the activity;
- (b) situation of the party that has sustained the damage; and
- (c) opportunity for taking out insurance on both sides.

Liability for pollution damage caused without a licence

109.-(1) Where pollution or damage occurs during a mining

operations and the operation has been conducted without a licence, the party conducted the mining operations is liable for the damage, regardless of fault.

(2) The liability shall be applied to any other person who has taken part in the mining operations, and who knew, or should have known that the activity was conducted without a licence.

Claiming of
damages

110.-(1) The liability of a licence holder and contractor for pollution damage may be claimed in accordance with this Act and any other applicable law.

(2) Liability for pollution damage may not be claimed against-

(a) any person other than a licence holder and contractor who undertakes measures to avert, limit pollution damage, save life or rescue values which have been endangered in connection

with the mining operations, unless the measure taken conflict with prohibitions imposed by the Commission or express prohibition by the law values threatened; or

(b) any person employed by a licence holder or person referred to in paragraph (a).

(3) Where the licence holder and contractor have been ordered by court to pay compensation for pollution damage, but fail to pay within the time stipulated in the judgment, the party that has sustained damage may bring an action against the party that has caused the damage to the same extent as the licence holder and contractor may bring an action for recourse against the party who caused the damage.

(4) The licence holder and contractor may claim compensation from the party who caused pollution damage to the licence holder and contractor to the same extent as the licence holder and contractor may bring

action for recourse against the party caused the damage.

Claiming
compensation for
pollution

111.-(1) The licence holder and contractor may not claim compensation for damage caused by pollution against a person exempted from liability, except where such person acted wilfully or negligently.

(2) Recourse liability may be mitigated to the extent that it is considered reasonable in view of manifested conduct, economic ability and the circumstances in general.

(3) Any agreement on further recourse in respect of a person against whom liability is imposed contrary to subsection (1) shall be is invalid and not claimable for damages.

Jurisdiction

112. A legal action for compensation for pollution damage shall be brought before a competent court in the area where the effluence or discharge of mining operations takes place or where damage is caused.

PART IX

FINANCIAL PROVISIONS

Funds of the
Commission

113.-(1) The funds of the Commission shall consist of-

- (a) moneys appropriated by Parliament for the purposes of the Commission;
- (b) grants received by the Commission ; and
- (c) any other moneys legally acquired and received by the Commission for the execution of its function.

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

- (a) salaries and allowances of staff members of the Commission; and
- (b) any other expenses incurred by the Commission in the execution of its functions.

Financial year

114. The financial year of the Commission shall be the period of one

year ending on the 30th June.

Budget

115.-(1) The Commission 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 Commission shall, submit to the Minister the annual budget and every supplementary budget for approval.

Accounts and
audit

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

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

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

with-

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

Annual report

117.-(1) The Commission shall, on or before the 30th December of each year, prepare an annual report in respect of that financial year up to immediately preceding 30th June, and submit the report to the Minister who shall lay the report before the National Assembly.

(2) The annual report shall consist of-

- (a) detailed information regarding the activities of the Commission during the year to which it relates;
- (b) a copy of the audited accounts; and
- (c) any other information as the Commission may be required to provide by this Act.”

(b) renumbering Parts VIII, IX, X and XI as XI, XII and XII respectively.

PART III
AMENDMENT OF THE PETROLEUM ACT,
CAP. 392

Construction Act
Ca. 392 **29.** This Part shall be read as one with the Petroleum Act hereinafter referred to as the principal Act.

Amendment of section 47 **30.**The principal Act is amended in section 47, by adding immediately after subsection (4) the following new subsections:

“(5) Any agreement entered into under subsection (1):

(a) shall observe the following principles-

- (i) benefit, justice and equitable distribution;
- (ii) favouring the interest of the nation;
- (iii) participation, transparency and accountability;
- (iv) sustainability and care for the environment;

(v) conscionableness and fair dealing;

(vi) compliance and non-derogation from the laws of the United Republic;

(b) shall not seek to disenfranchise or otherwise lockout the people of the United Republic in any manner whatsoever.

(6) Notwithstanding the provisions of this Act and any other written law, the agreement under subsection (1) shall only enter into force upon approval by the National Assembly.”

Amendment
section 113

of

31.The principal Act is amended in section 113,

by-

(a) inserting the phrase “before determining the proportions to be allocated to cost petroleum and profit petroleum” between the words “shall” and “pay” appearing in subsection (1); and

(b) deleting subsection (3) and substituting for it the following:

“(3) Where the licence holder and the Contractor fail to pay any

royalty payable under this Act on or before the due date, PURA may, by notice in writing served on the licence holder and the Contractor, prohibit the removal of, or any dealings in or with any petroleum from the development area concerned until all outstanding royalty has been paid or an arrangement has been made and accepted by PURA for the payment of the royalty and the licence holder and the Contractor shall comply with the order of PURA.”

PART VI

AMENDMENT OF THE INCOME TAX ACT, CAP. 332

Construction

32. This Part shall be read as one with the Income Tax Act, hereinafter referred to as the “principal Act”.

Amendment of section 8

33. The principal Act is amended in section 8, by adding immediately after paragraph (h) appearing in subsection (2) the following new paragraph:

“(i) the value of any benefit or advantage accrued from the shifting of any tax obligation from the person chargeable to income tax to another person under any

contractual agreement or arrangement at the rate specified in paragraph 1(3)(c) of the First Schedule to this Act”.

Amendment of section 65E

34.The principal Act is amended in section 65E(1), by inserting a proviso to paragraph (b) as follows:

“Provided that, the depreciation basis for purposes of depreciation allowance shall not exceed the cost of investment as determined by the Commission under section 41(6) of the Mining Act.”

Amendment of section 65M

35.The principal Act is amended in section 65M:

- (a) in subsection (1), by inserting the words “other than a Contractor” between the words “income” and “from”; and
- (b) in subsection (2), by deleting the words “whether from oil, cost gas” appearing and substituting for them the word “from”.

Amendment of section 65N

36. The principal Act is amended in section 65N in the following manner:

- (a) in subsection (1), by-
 - (i) deleting the word “royalties”

appearing in paragraph (a) of subsection (1);

- (ii) deleting paragraph (b) and substituting for it the following new paragraph:

“(b) depreciation allowances in respect of depreciable assets other than the assets whose costs are recouped from the cost oil or cost gas under a production sharing agreement granted with respect to the operations and calculated in accordance with paragraph 6 of the Third Schedule; and”

- (b) in subsection (2), by-

- (i) deleting figure “17” appearing in paragraph (a);

- (ii) adding immediately after paragraph (a) as amended

new paragraph (b) as follows:

“(b) any expenditure and depreciation allowance in respect of assets covered by cost petroleum

under a production sharing agreement;”

(c) renaming paragraphs (b), (c) and (d) as (c), (d) and (e) respectively.

Amendment of
the First Schedule

37. The First Schedule to the principal Act is amended:

(a) in paragraph 1(2)(b), by adding immediately after item (ii) a new item (iii) as follows:

“(iii) the value of any tax benefit or advantage shall be chargeable under section 8(2)(i);”

(b) in paragraph 1(3), by adding immediately after item (b) a new clause (c) as follows:

“(c) the value of any tax benefit or advantage shall be taxed at the rate of 100 *percentum*”

(c) in paragraph 3, by adding immediately after sub-paragraph (2), a new paragraph as follows:

“(3) the value of any tax benefit or advantage shall be taxed at the rate of 100 *percentum*”.

Amendment of
Third Schedule

38. The Third Schedule to the principal Act is amended in paragraph 3, by adding immediately after subparagraph (10) a new subparagraph (11) as follows-

“(11). The allowance granted to a person in respect of natural resource prospecting, exploration and development expenditure and pooled under class 4 pool of depreciable assets shall cease after ten years of production and the depreciation basis for the pool of depreciable assets shall be adjusted accordingly”

PART V

AMENDMENT OF THE INSURANCE ACT,
CAP. 394

Construction
Cap. 394

39. This Part shall be read together with the Insurance Act, hereinafter referred to as the “principal Act”.

Amendment of
section 67

40. The principal Act is amended in section 67, by deleting the words “one third” appearing in paragraph (b) and substituting for them the words “two thirds”.

Repeal and
replacement of
section 72

41. The principal Act is amended by repealing section 72 and replacing for it the following:

“Payment of
premiums and
commission

72.-(1) The Commissioner shall, by order in the *Gazette*, prescribe minimum rates of premium payable under this Act for different classes of insurance.

(2) Subject to subsection (1), an insured shall pay to a Tanzanian insurer all premiums due to the insurer by depositing to the account of the insurer for insurance cover effected at the instruction of the insured.

(3) A broker shall be entitled to a commission from the insurer for insurance cover issued to the insured under its brokerage.

(4) A broker shall not receive any premium from the insured for insurance cover effected at the instruction of the insured.

(5) Any chief executive officer or principal officer of a broker who receives premium in contravention of subsection (3) commits an offence and shall on conviction be liable to a fine of not less than ten million shillings and not exceeding fifty million shilling or imprisonment of a term not less than two years but not more than

five years or to both.

(6) Without prejudice to subsection (5), any broker who contravenes this section shall, in addition to the penalty, bear all liabilities arising from the act constituting the offence.

Repeal and
replacement of
section 133

42. The principal Act is amended by repealing section 133 and replacing for it the following:

“Insurance held
by Tanzanian
insurer

133.-(1) Insurance cover effected by a Tanzanian resident or a Tanzanian resident company of any class or classes shall be placed with a Tanzanian insurer.

(2) Where a class or classes of insurance required to be placed with a Tanzanian insurer in terms of subsection (1) is or are not available to a person seeking insurance cover that person may, through a resident insurer and with prior written approval of the Commissioner, place that insurance cover with a non -Tanzanian insurer.

(3) For purposes of subsections (1) and (2), ground, marine and air cargo insurance covers for Tanzanian imports

shall be effected by a Tanzanian insurer.

(4) Nothing in this section shall affect the control exercisable by the Bank of Tanzania.”

Repeal of section
134

43. The principal Act is amended by repealing section 134.

Repeal of section
137

44. The principal Act is amended by repealing section 137.

PART VI

AMENDMENT OF THE TAX ADMINISTRATION ACT,

CAP. 438

Construction

45. This Part shall be read as one with the Tax Administration Act, hereinafter referred to as the “principal Act”.

Amendment of
section 3

46. The principal Act is amended in subsection (3) of section 3, by adding at the end of the definition of the word “tax” the following words “and any additional profits tax payable under any arrangement or agreement”

Amendment of
section 54

47. The principal Act is amended in subsection (1) of section 54 by adding immediately after paragraph (g) new paragraph (h) as follows:

“(h) with respect to additional profits tax payable under any arrangement or agreement, shall be paid to the Commissioner General on the due date specified by the arrangement or agreement, or in the absence of such specified due date, as the Commissioner General shall by notice in writing direct.”

PART VII

AMENDMENT OF THE VALUE ADDED TAX ACT,

CAP. 148

Construction
Cap. 148

48. This Part shall be read as one with the Value Added Tax Act, hereinafter referred to as the “principal Act”.

Amendment of
section of 68

49. The principal Act is amended in section 68 by adding a new paragraph immediately after paragraph (c) of subsection (3) as follows:

“(d) an exportation of raw minerals, raw agricultural products, raw forestry products, raw aquatic products and raw fauna products:

Provided that-

- (i) in the case of raw minerals, this amendment shall take effect on the 20th day of July, 2017; and
- (ii) in the case of raw agricultural products, this amendment shall take effect after two years from 20th day of July, 2017.”

OBJECTS AND REASONS

This Bill seeks to enact the Written Laws (Miscellaneous Amendments) Act, 2017 by effecting amendments in the various laws namely; the Mining Act, Cap. 123, the Petroleum Act 392, the Income Tax Act, Cap. 332, the Value Added Tax Act, Cap. 148 and the Tax Administration Act, Cap. 438 with a view to enhancing controls and compliance, ensuring maximum collection revenues and ensuring national interests. It is also proposed to amend the Insurance Act, Cap.394 in order to align it with the provisions of the tax laws and to eliminate loopholes that currently allow unchecked expatriation of revenue outside the Tanzania through foreign insurance services arrangements.

The Bill is divided into Seven Parts. Part I provides for preliminary provisions covering the title, date of commencement, application and interpretation.

Part II and III seek to amend the Mining Act and Petroleum Act respectively. The amendments intend to assert ownership over all minerals, petrol and natural gas to the people of the United Republic in trust of the President of the United Republic. The Bill further make provisions for enhancing controls and compliance in the management of extractive industry in Tanzania. It is on the basis of this background that the Bill proposes:

- (a) to assert ownership and control over all minerals to the peoples of the United Republic;
- (b) to recognise Government lien over all minerals and other related products extracted from Mining Operations and activities in the United republic of Tanzania;
- (c) to enable the President of the United Republic to declare minerals controlled areas for purposes of enhancing control and security in all mining area.
- (d) to establish the Mining Commission which shall be responsible for the regulation and supervision of the mining subsector;
- (e) to eliminate all provisions which currently empowers the Minister responsible for minerals to enter into Mining Development Agreements (MDAs);

- (f) to review the discretionary powers of the Minister and Commissioner for Minerals with a view to aligning the with the functions of the Commission.

Part IV amends the Income Tax Act. It is proposed to amend section 8 in line with the First Schedule of Income Tax Act to include as one of the income from business the value of any benefit or advantage accrued from the shifting of tax obligation to another person under any contractual arrangement. Further to that, the Bill proposes to amend sections 65M, 65N to eliminate inconsistencies between Tax Laws and laws on Mining and Petroleum which has resulted into loss of Government Revenues.

In Part V, amends the Insurance Act, Cap. 394. Section 72 seeks to give powers to the Commissioner of the Tanzania Insurance Regulatory Authority to set minimum rates for premium payable for various classes of Insurance. The rationale behind the amendment is to restrict the current practice which gives room for brokers set their own rates. Alongside the amendment of section 72, it is proposed to repeal sections 134 and 137 and substitute with section 133 in order to correct deficiencies in the system of collection of premium through brokers. The amendments are also intended to restrict all insurances effected by Tanzanian or Tanzania companies to Tanzania insurers. Accordingly, all imports by Tanzanians or Tanzania Companies shall be insured by Tanzania insurers.

In Part VI, it is sought to amend section 3(3) the Tax Administration Act by reviewing the definition of the word “tax” to include additional profit tax. Under section 54(1), the Bill seeks to add a

new paragraph (i) to provide the date of payment of the additional profit tax.

Part VII proposes amendment of the Value Added Tax Act, Cap. 148. It is sought to amend section 68 with a view to providing incentive for local beneficiation of minerals and to remove wasteful execution of input tax credit.

MADHUMUNI NA SABABU

Muswada huu unakusudia kupendekeza kutungwa kwa Sheria ya Marekebisho ya Sheria Mbalimbali ambazo ni Sheria ya Madini, Sura ya 123, Sheria ya Petroli, Sura ya 392, Sheria ya Kodi ya Mapato, Sura ya 332, Sheria ya Kodi ya Ongezeko la Thamani Sura ya 148 na Sheria ya Bima, Suraya 394. Marekebisho yanayopendekezwa yanalenga kuimarisha mifumo ya udhibiti na uwajibikaji katika sekta ya madini na petroli. Aidha, marekebisho katika Sheria za Kodi na Bima yanalenga kupanua wigo wa ukusanyaji wa mapato yanayohusiana na sekta ya madini na petroli.

Muswada huu umegawanyika katika Sehemu Kuu Saba. Sehemu ya I inahusu masharti ya jumla kama vile jina na kuanza kutumika kwa Sheria inayopendekezwa, matumizi na tafsiri ya misamiati mbalimbali.

Katika Sehemu ya II na ya III, ya Muswada huu unapendekeza kufanyia marekebisho Sheria za Madini ya mwaka 2010 na Sheria ya Petroli ya mwaka 2015. Malengo ya marekebisho ni kuweka masharti

yatakayowezesha Wananchi na Taifa kuweza kunufaika na maliasili ya madini, petrol na gesi asilia. Ili kuwezesha kuwepo kwa manufaa haya, maudhui ya mapendekezo yameweka masharti yatakayo wezesha:

- (a) Kutambua na kuweka Umiliki wa Madini, Petroli na Gesi Asilia kwa Wananchi chini ya Usimamizi wa Rais kwaniaba ya Wananchi;
- (b) Kutambua haki na dhamana ya Serikali juu ya bidhaa zote na masalia yanayotokana na uchimbaji, uchakataji na uchenjuaji wa madini;
- (c) Kuweka ulinzi mahsusi wa maeneo yote yauchimbaji wa madini.
- (d) Kutambua ushiriki wa Serikali katika shughuli zote za uchimbaji, uchakataji na uchenjuaji wa madini na ununuzi wa hisa katika makampuni ya uchimbaji madini.
- (e) Kuweka utaratibu wa Bunge kufanya mapitio na maridhio ya mikataba ya uchimbaji na uendelezaji wa madini;
- (f) Kufanyia mapitio madaraka ya Waziri na Kamishina wa Madini.

Sehemu ya IV ya Muswada inapendekeza marekebisho ya Sheria ya Kodi ya Mapato Sura ya 332. Inapendekezwa kufanya marekebisho katika kifungu cha 8 na Jedwali la Kwanza la Sheria ya Kodi ya Mapato ili kujumuisha kama sehemu ya mapato ya biashara ya faida yoyote inayopatikana kutokana na haueni ya kodi kupitia mikataba mbalimbali ya kibiashara. Aidha, Sehemu hii inapendekeza kurekebisha vifungu vya 65M na 65N kwa lengo la kuondoa mgongano baina ya Sheria za Kodi na Sheria za sekta ya madini na mafuta. Mgongano huu umekuwa ukisababisha Serikali kupoteza mapato.

Sehemu ya V ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Bima Sura ya 394. Marekebisho yanayopendekezwa katika Sheria hii yanalenga kumpa nguvu za kisheria Kamishina wa Mamlaka ya Udhubiti wa Sekta ya Bima (TIRA) kuainisha viwango vya chini vya ada ya Bima (Premium) kwa aina mbalimbali za Bima zitolewazo na makampuni ya Bima. Marekebisho haya yanakusudiwa kuondoa utaratibu wa sasa ambapo kila wakala wa bima hujipangia kiwango cha ada anachotaka. Sambamba na marekebisho katika kifungu cha 72 inapendekezwa kufutwa kwa kifungu cha 134 na 137 na kuboresha masharti ya kifungu cha 133 ili kuondoa kasoro zilizopo sasa katika mfumo wa ukusanyaji wa ada ya bima (Premium) kupitia kwa mawakala wa bima. Kwa mujibu wa marekebisho yanayopendekezwa, bidhaa zote zinazoigizwa nchini zitakatiwa bima na makampuni ya bima ya Tanzania.

Katika Sehemu ya VI, ya Muswada inapendekeza kufanya marekebisho katika kifungu cha 3(3) cha Sheria ya Usimamizi wa Kodi sura ya 438 ili kurekebisha tafsiri ya kodi kwa lengo la kutambua kodi inayotokana na ongezeko la faida. Aidha, inapendekezwa kurekebisha kifungu cha 54(1) ili kuongeza aya ndogo ya (i) kwa lengo la kubainisha tarehe ya kulipa kodi inayotokana na ongezeko la faida.

Sehemuya VII inapendekeza kurekebisha Sheria ya Kodi ya Ongezeko la Thamani Sura ya 148. Inapendekezwa kurekebisha kifungu cha 68 cha Sheria hiyo ili kuweka masharti ya kuthaminisha madini kila baada ya muda Fulani kwa lengo la kupatia thamani yake halisi kwa wakati husika.

Hii itasaidia kujua na kutambua stahili ya nchi kwa kuzingatia thamani halisi ya madini kwa wakati husika.

Dar es Salaam,
23Juni, 2017

PALAMAGAMBA J.A.M KABUDI
Waziri wa Katiba na Sheria