

LEGAL NOTICE NO. 87

THE MINING ACT

(No. 2 of 2016)

THE MINING (LICENCE AND PERMIT) REGULATIONS, 2017

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THE MINING ACT, 2016

(No. 2 of 2016)

IN EXERCISE of the powers conferred by sections 12 (3), 153 (3) and 223 (2), (c), (d), (g), (j), (k) and (l) of the Mining Act, 2016, the Cabinet Secretary for Mining makes the following Regulations—

THE MINING (LICENCE AND PERMIT) REGULATIONS, 2017

PART I—PRELIMINARY

1. These Regulations may be cited as the Mining (Licence and Permit) Regulations, 2017.

Citation.

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

Interpretation.

“Act” means the Mining Act, 2016;

No. 12 of 2016

“application date” means the date (day/month/year) and time (hour/minute/second) recorded respectively as (dd/mm/yyyy) and (hh:mm:ss) in Kenya time at which the licence or permit application registration receipt was issued by the Cadastre;

“artisanal mining area” means an area that is subject to an artisanal mining permit;

“Artisanal Mining Committee” has the meaning assigned to it in section 4 of the Act;

“Board” means the Mineral Rights Board established under section 30 of the Act;

“Cadastre” means an online repository and information management tool established for the purposes of regulating the issuance of licences and permits of mineral rights and dealings in minerals;

“cadastral coordinates” means the GPS coordinates denoting the various boundary points of a mineral right;

“cadastral map” means a map showing all registered geospatial data relating to mineral rights;

“cadastral register” means a digital and paper-based, spatially integrated database and associated application used to manage all mineral rights and mineral dealings within Kenya;

“dealer’s rights” means a mineral dealer’s licence or a mineral dealer’s permit granted under the Act;

“exploration” means the search for, or evaluation of a mineral or a mineral deposit to determine its potential economic value;

“feasibility study” means the advanced exploration of a mineral deposit to determine its size, grade, mining options, environmental and community factors, mineral processing, infrastructure requirements and considerations, and economic modelling in order to establish commercial viability of exploiting that mineral deposit;

“holder” has the meaning assigned to it under section 4 of the Act;

“invasive activities” used in the context of prospecting or mining operations means activities that disturb the natural surface of and below the earth, including air and water, within the licence or permit area;

“mine development” means the work undertaken to prepare a licence or permit area for mining operations including the rehabilitation, construction or commissioning of necessary infrastructure and related facilities;

“mining permit programme” means the programme that shall contain particulars of the proposed mining operations to be carried out under the permit;

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

“programme for prospecting operations” means the final, fully-costed and approved series of time-based actions to be carried out under a prospecting licence, based on the proposal submitted in support of the application for the prospecting licence;

“reconnaissance licence work programme” means the final, fully-costed and approved series of time-based actions to be carried out under a reconnaissance licence, based on the proposal submitted in support of the application for the reconnaissance licence;

“Registrar” means the authorised officer of the Ministry, appointed as Registrar of mineral rights who also heads the Mining Cadastre Office; and

“county representative of the Director of Mines” is the head of the County office of the Ministry.

3. These Regulations shall apply to all mineral rights.

Application.

PART II — REGISTRATION, RECORDS AND MINING CADASTRE

4. (1) There is established an Online Mining Cadastre hereinafter referred to as the Cadastre for the purposes of regulating the issuance of licences and permits for mineral rights and dealings in minerals.

Online Mining Cadastre.

(2) The Cadastre shall be the official means of submitting any application or reports relating to mineral rights and dealings in minerals.

(3) The Cadastre may be accessed through the website of the Ministry.

5. Any person may —

Public access to the Cadastre.

(a) access the non-confidential information on mineral rights and dealings in minerals through the Cadastre; and

(b) obtain hard copies of any non-confidential information contained in the Cadastre upon the payment of a prescribed fee.

6. (1) All information submitted to or sent from the Cadastre shall be held in a cadastral register. Cadastral register.

(2) All mineral rights and mineral agreements issued under the Act shall be maintained in a digital format in the Cadastre.

(3) The holder of a mineral right shall be issued with one hard copy of the mineral right and an additional copy shall be retained by the Ministry.

7. (1) The Registrar shall establish and maintain an up-to-date cadastral register. Registrar.

(2) The cadastral register shall include for each application, the following information –

- (a) the application number, which shall be a unique number sequentially incorporating the date and time on which the application was accepted as complete;
- (b) the full name, nationality and address of the applicant;
- (c) the date and time that the application registration receipt was issued;
- (d) the date on which the Board received the report from the Director of Mines;
- (e) the date on which the Cabinet Secretary received the recommendation of the Board;
- (f) the date on which the Cabinet Secretary granted or denied the mineral right, mineral dealer's right, import or export permit;
- (g) the date on which the Registrar notified the applicant that the application was granted or denied;
- (h) the date on which the applicant accepted the offer for grant of an application;
- (i) the date on which the mineral right, mineral dealer's right or import and export permit was registered as issued; and
- (j) such other information as may be prescribed or required.

(3) The Registrar shall enter into the cadastral register any prescribed information including –

- (a) the online mining cadastre registration number;
- (b) the full name, nationality and contact details of the holder or a party to an agreement;
- (c) the date of issuance and expiry of a licence or permit;
- (d) the description of the licence or permit including, where relevant, the mineral right area;
- (e) the mineral or minerals for which a licence or permit was issued;

- (f) the cadastral coordinates defining the mineral right area including any updates as a result of enlargement or relinquishment;
- (g) the duplicate licences, permits or mineral agreements, including all conditions;
- (h) the date that an official receipt was issued confirming the receipt by the Ministry of any report submitted as required by these Regulations and the type of report;
- (i) for a mining licence, the date on which any Community Development Agreement became effective and the name of the affected community;
- (j) the date on which any notice was sent by the Ministry to the holder or party to a mineral agreement and the nature of such notice;
- (k) the date that any communication was received by the Ministry from the holder or the party to a mineral agreement and the nature of such communication;
- (l) all confidential and non-confidential reports;
- (m) all environmental reports;
- (n) all notices from the Ministry and any other government agency;
- (o) dates on which a fee was paid, the service to which it relates, and the amount;
- (p) dates on which royalty was paid, the category of minerals for which it was paid, the weight and quantity of the mineral on which the royalty was calculated, and the amount paid;
- (q) the date and nature of any assignment or transfers;
- (r) any other modification including any extension or renewal, areas relinquished and any charges or encumbrance in respect thereof; and
- (s) such other information as may be required.

8. (1) The Ministry shall establish and maintain an up-to-date digital mining cadastral map of Kenya. Cadastral maps.

(2) The cadastral map maintained within the Cadastre shall indicate all areas –

- (a) where mineral rights' applications are pending;
- (b) where mineral rights are currently in force;
- (c) which are reserved for small-scale mining or artisanal mining operations;
- (d) which are reserved for the award of mineral rights by tender;
- (e) which are excluded from prospecting and mining operations under the Act or any other written law; and

(f) that have been declared to be strategic minerals or strategic mineral deposits.

9. (1) Pursuant to section 194 of the Act, the holder of a mineral right, dealer's licence or permit, or export permit may apply online for a replacement or duplicate document upon stating the reason for such request and upon payment of the prescribed fee.

Duplicate documents.

(2) The Director of Mines shall issue such replacement or duplicate document within fourteen days of the application.

PART III— APPLICATIONS

10. (1) All applications made under the Act and supporting documents shall be submitted online.

Applications.

(2) A person submitting an application must be a registered portal user.

(3) A person shall register as a portal user by completing Form OMC1 as set out in the Schedule.

(4) A user registration under sub regulation (3) is valid for a period of twelve months and is renewable.

(5) The user shall be responsible for maintaining a valid user electronic mail account and updating any information in respect of the holder.

11. (1) An application for a mineral right shall be submitted by a registered user by completing the prescribed form, uploading the required documents and payment of the prescribed fee.

Applications for a licence or permit.

(2) Upon uploading the proof of payment of the application fee, the application shall be registered.

(3) An applicant, may at any time withdraw the application.

(4) Upon withdrawal of an application, all the information submitted for the purposes of the application shall be deleted.

(5) In the case of any withdrawal, the application fee is not refundable.

(6) Any false information submitted in the application, shall result in the rejection of the application and in the event a mineral right is granted, the mineral right shall be revoked.

12. Where the area applied for overlaps an existing licence or permit area or any area closed to applications, the applicant may –

Overlapping applications.

(a) accept the reduced area;

(b) modify the area; or

(c) withdraw the application and terminate the application process.

13. Any applicant for a mineral right shall comply with the requirements of the Environmental Management and Coordination Act and any regulations or guidelines made thereunder before any mineral right is granted.

Environmental requirements in support of an application (No 8 of 1999).

14. (1) Subject to section 9 of the Act, a person who reports a discovery of a mineral shall have the exclusive right to apply for a mineral right over the area within ninety days from the date of the report of the discovery.

Discovery of minerals.

(2) During such period, the area in and around the discovery shall be closed to other applications for mineral rights.

(3) Where the mineral discovered is a strategic mineral, the Regulations dealing with strategic minerals shall apply.

PART IV— INSTITUTIONAL ARRANGEMENTS

15. (1) The Board shall meet at least once every month for the conduct of its business at the times and in the places determined by the chairperson.

Meetings of the Mineral Rights Board.

(2) The chairperson shall, on the request of not less than one-third of the membership convene a special meeting of the Board.

(3) The quorum at a meeting of the Board shall be five members.

(4) The chairperson shall preside at the meetings of the Board and in the absence of the chairperson, a member of the Board elected by the members present from among their number shall preside.

(5) Any question before the Board shall be decided by a majority of the members present and voting.

(6) The chairperson or the person presiding at a meeting of the Board shall in the event of equality of votes have a casting vote.

(7) The Board may co-opt a person to act as an adviser at any of its meetings but a co-opted person is not entitled to vote at the meeting.

16. (1) A member of the Board who has an interest in any matter for discussion by the Board shall disclose the nature of the interest to the Board and is disqualified, unless the meeting otherwise directs-

Disclosure of interest.

(a) from participating in the deliberations on that matter, and

(b) from voting on a decision on that matter.

(2) A member who fails to disclose any interest under sub regulation (1) shall be sanctioned by the Board and any decision in relation to the matter shall be null and void.

17. (1) The Board shall report on every application received in a timely manner, providing reasons in writing for every recommendation it makes.

Reporting.

(2) The Board shall, not later than ninety days after the end of each year, submit a report to the Cabinet Secretary summarising the activities of the Board during the year.

(3) Notwithstanding sub regulation (2), the Board shall submit to the Cabinet Secretary such other reports as the Cabinet Secretary may, from time to time request.

18. The members of the Board shall be paid allowances determined by the Salaries and Remuneration Commission.

Allowances for members.

19. The Secretary of the Board shall notify the Cabinet Secretary of any vacancy that occurs in the membership of the Board within seven days of the occurrence and which shall be filled in accordance with the Act.

Vacancies.

PART V—GENERAL PROVISIONS ON MINERAL RIGHTS

20. (1) The physical boundaries of a mineral right area shall be the vertices defining the mineral right area.

Demarcation of mining right area

(2) The horizontal surface demarcation points of a retention licence area, a mining licence area and a mining permit area shall be identified by markers set in or on the ground or river bed, which shall be positioned using the cadastral coordinates that define the vertices of the mineral right area.

(3) The major vertices enclosing the mineral right area shall be demarcated using global positioning system equipment in the prescribed format.

(4) The holder shall be responsible for erecting, marking and maintaining the mineral right boundary markers in a mineral right area.

(5) At every demarcation point, markers as prescribed shall where physically possible, consist of a round post that shall be not less than ten centimetres in diameter or a square post each side of which shall not be less than ten centimetres in width, standing at least one metre above the surface and sunk not less than fifty centimetres in the ground or riverbed.

(6) The part of the posts erected under sub-regulation (4) that appear above the surface, shall be painted white.

(7) The holder shall ensure that each post is engraved, or marked in a permanent manner with the holder's name and the licence or permit number.

(8) Where it is not possible to insert a post, a holder of a mineral right shall—

(a) erect a cairn of stones, or a concrete cone, at least fifty centimetres high; and

(b) paint the cairn of stones or concrete cone white.

(9) Where the terrain, physical features or other impediments prevent placement of a demarcation marker in the designated point, the holder may erect a witness demarcation describing distance and bearing to the actual vertices, and shall confirm in writing to the Cabinet Secretary that such a witness demarcation has been made.

(10) Upon revocation or expiry of the licence, the holder shall remove any boundary markers that demarcate the mineral right area.

(11) A holder of a retention licence, a mining licence or a mining permit shall, within thirty days from the date of the grant of the mineral

right, complete the placement of all demarcation point markers in accordance with these Regulations.

(12) A holder of a mining permit or mining licence shall not undertake any mining operations in the mineral right area until the requirements relating to demarcation as set out in this regulation are satisfied.

(13) If there is any contradiction between a demarcation point and cadastral coordinates defining that point, the cadastral coordinates shall prevail.

(14) Any person challenging the validity of the location of any demarcation marker, may request the Director of Surveys, through the Director of Mines, to order a survey of that marker's location and that person shall bear the costs of the survey.

(15) The Director of Mines may request the holder of a retention licence, a mining licence, a prospecting permit or a mining permit –

- (a) to have the mineral right area, or any part thereof specified by the Director, surveyed or further surveyed to establish the positioning of demarcation points and boundaries;
- (b) cause to be removed any miss-located demarcation point markers; and
- (c) to place demarcation point markers at such locations as are determined by such survey.

(16) The demarcation point marker locations shall be surveyed by a licensed land surveyor.

(17) The applicant or holder to whom an order is made under this regulation shall pay all costs associated with the work carried out by a licensed land surveyor.

(18) The area and boundaries of a reconnaissance licence or permit shall be based on the coordinates of cadastral blocks and do not require demarcation, however, the holder may demarcate the licence or permit area in the manner prescribed under this regulation.

21. The boundaries of mineral rights shall be deemed to extend vertically from the surface. Sub-surface boundaries.

22. (1) Any dispute between parties on the demarcation of boundaries, placement of markers or any other boundary matter shall be reported to the Director of Mines for resolution.

(2) Each party shall be given an opportunity to be heard.

(3) The Director of Mines may convene a panel of experts to conduct a review.

(4) The Director of Mines may seek advice from experts at the shared cost of the parties or at the cost of the party found to be in violation of the boundary determination.

(5) The Director of Mines shall resolve any dispute that may arise on or from the demarcation of a mineral right area and, in writing, notify the holders of the decision.

(6) Where operations are underway, the Director of Mines may determine that the operations be suspended in whole or part, if a boundary dispute requires such action.

23. (1) Except as otherwise provided in the Act, an application for a mineral right shall only be granted with the consent of the landowner.

Consent from land owner to conduct mineral or mining operations.

(2) Consent shall be in the form of a written agreement that clearly describes the boundaries of the land in relation to the licence or permit area which is the subject of the application.

(3) Subject to sections 36, 37, and 38 of the Act, an applicant shall —

- (a) seek the written consent of the land owner; and
- (b) submit copies of the signed consents or agreements to the Ministry.

(4) Consent for the purposes of the Mining Act and these Regulations means the —

- (a) right of the county government and local communities to be adequately informed about the potential benefits and impacts of any mineral activity or mining operation in a timely manner and be given the opportunity to approve or reject the mineral activity or mining operation before the commencement of any activity or operations;
- (b) parties shall strive for full and prior disclosure of any relevant information as part of the consultation;
- (c) process of consultation and participation is undertaken through negotiation and good faith between the applicant for a mineral right and the local communities; and
- (d) outcome of any negotiated agreement is formalized in a written document and is a legal commitment binding on both parties.

(5) The support of community leaders shall not substitute the need for community consent.

(6) The process of consultation and participation does not necessarily require unanimity and may be achieved when majority of the individuals or groups within the local community agree.

Information, reports and confidentiality.

24. (1) All prospecting and mining reports, including original and analytical data and prospecting methodology, shall be confidential.

(2) Upon termination of a mineral right, all data and information relating to the mineral right shall become the property of the State and shall be added to the geoscience database of Kenya.

25. (1) Application for the mortgage, assignment, or transfer of an interest or part of an interest in a mineral right shall be submitted online to the Cabinet Secretary by completing Form TR1 as set out in the Schedule.

Assignment,
transfer and
mortgage of
mineral rights.

(2) The Cabinet Secretary shall notify an applicant of the approval or rejection of an application –

- (a) within ninety days of the date of application in the case of a large scale mineral right; and
- (b) within sixty days of the date of application for a small scale or artisanal mining permit.

(3) An applicant who is aggrieved by the decision of the Cabinet Secretary may appeal to the Environment and Land Court within thirty days of receipt of the notification of the rejection of the application.

26. (1) Subject to section 153(2) of the Act, a mineral right holder shall deliver a bond as guarantee against a claim for compensation payable to a landowner or lawful occupier that –

Land
compensation
guarantee bond.

- (a) shall be of an amount prescribed to cover for any loss of land use, damage to land or loss of earnings;
- (b) may be in the form of a letter of credit or cash; and
- (c) shall be held by the Ministry in a non-interest bearing escrow account.

(2) Subject to section 153(3) of the Act, the Cabinet Secretary shall, in consultation with the Government Valuer, determine the amount and nature of the compensation bond.

27. The holder of a mineral right shall report the discovery of any cultural, historic or archaeological relics found within the mineral right area to the Cabinet Secretary within seven days of the discovery.

Discovery of
cultural, historic
or archaeological
relics.

PART VI: SURRENDER, SUSPENSION AND REVOCATION OF MINERAL RIGHTS

28. (1) Subject to section 143 of the Act, a holder of a mineral right may apply to the Cabinet Secretary to surrender all or part of the mineral right by completing Form SR1 set out in the Schedule.

Surrender of
mineral rights.

(2) An application fee is not payable in the case of a partial or complete surrender of a mineral right.

(3) An application to surrender shall include —

- (a) the coordinates of the cadastral blocks of that part of the area to be surrendered;
- (b) a report prepared according to the guidelines on work programmes and exploration reports, covering all activities carried out in the area to be surrendered including –
 - (i) the status of any mining operations up to the date of surrender;
 - (ii) the plans for the removal of equipment and infrastructure;

- (iii) the status of mine and mine-related workers affected by the surrender;
- (iv) a confirmation from the authorised agency that approved environmental and social management plans relating to the area being surrendered indicating that the plans have been fully implemented; and
- (v) the status of implementation of any Community Development Agreement.

(4) The holder of a mineral right shall submit two bound hardcopies of all documents relating to the surrender to the Cabinet Secretary within seven days from the date of the online submission.

(5) The Cabinet Secretary shall, on the advice of the Board, issue a notice to the holder of a mineral right that the application for surrender has been approved.

(6) The Cabinet Secretary shall not approve a surrender if the applicant is in default or fails to provide records and reports in relation to the applicant's mineral operations.

(7) Where a surrender is approved, the Cabinet Secretary shall, where only part of the land subject to the mineral right is surrendered, amend the relevant mineral right accordingly or cancel the mineral right where the surrender is in respect of the whole area covered by the mineral right.

(8) The surrender shall be effected in the Cadastre within fourteen days from the date of approval by the Cabinet Secretary.

(9) The surrender of an area under a mineral right shall not affect a liability incurred by a person in respect of that land before the date on which the surrender took effect.

PART VII – LARGE-SCALE MINING OPERATIONS

RECONNAISSANCE LICENCE

29. A reconnaissance licence grants a holder –

- (a) the right to carry out non-invasive investigations for minerals in or over the licence area according to an approved work programme; and
- (b) a non-exclusive right to the mineral right area.

30. Subject to the provisions of the Act, an application for the grant of a reconnaissance licence shall be made to the Cabinet Secretary using Form RL1 set out in the Schedule.

31. Subject to section 62(3) of the Act, a person shall not hold more than two reconnaissance licences concurrently.

32. (1) The Cabinet Secretary shall issue a reconnaissance licence in digital and hard copy using Form RL2 set out in the Schedule.

(2) Subject to section 68 of the Act, a reconnaissance licence shall specify the –

Rights under a reconnaissance licence.

Application for a reconnaissance licence.

Maximum number of reconnaissance licences.

Form of a reconnaissance licence.

- (a) full name, nationality and address of the licence holder;
- (b) coordinates delineating the licence area, in the prescribed format;
- (c) term of the licence;
- (d) digital map showing the approximate geographical reconnaissance area;
- (e) approved reconnaissance licence work programme;
- (f) approved minimum operational expenditure commitment for the first year of the licence and an estimated minimum operational expenditure commitment for the subsequent years;
- (g) approved plans for the procurement of Kenyan goods and services; and
- (h) approved plan for the employment and training of Kenyan citizens.

33. (1) A holder may apply to amend an approved reconnaissance licence work programme.

(2) A holder shall provide a written justification for any proposed amendment based on the results of the reconnaissance work or other new and relevant information that support the need for amendment.

34. (1) A reconnaissance licence permits the holder to conduct preliminary exploration for minerals through aerial, geophysical, geochemical and geological surveys together with limited sampling of surface soil and rocks.

(2) A reconnaissance licence allows the collection of surface samples in accordance with the reconnaissance licence work programme but excludes intrusive activities such as drilling, trenching and excavation.

35. The State shall have the power to conduct an airborne survey over part of or the entire territory of Kenya.

PROSPECTING LICENCE

36. Subject to the provisions of the Act, a prospecting licence grants the holder an exclusive right to prospect for a mineral or minerals in the licence area according to an approved programme of prospecting operations.

37. (1) Subject to the provisions of the Act, an application for the grant of a prospecting licence shall be made to the Cabinet Secretary using Form PL1 set out in the Schedule.

(2) A person shall not hold more than ten prospecting licences concurrently.

38. (1) The Cabinet Secretary shall issue a prospecting licence in digital and hard copy using Form PL2 set out in the Schedule.

Amendments to an approved reconnaissance licence work programme.

Rights and restrictions under a reconnaissance licence.

Airborne survey by the State.

Rights under a prospecting licence.

Application for a prospecting licence.

Form of a prospecting licence.

(2) Subject to section 78 of the Act, a prospecting licence shall specify or have appended to it –

- (a) the name, nationality and address of licence holder;
- (b) the mineral or minerals in respect of which the prospecting licence is granted;
- (c) the cadastral coordinates in the prescribed form defining the prospecting area;
- (d) a digital map with the approximate position of the prospecting area marked upon it, and any directly adjacent mineral right areas, with the exception of reconnaissance licences;
- (e) the duration of the licence;
- (f) the approved programme for prospecting operations;
- (g) plans for the procurement of local goods and services;
- (h) the approved plan for employment and training of Kenyan citizens; and
- (i) the environmental licence.

39. Subject to the provisions of the Act, a holder of a prospecting licence may apply for a renewal of the licence using Form PL3 set out in the Schedule.

Renewal of a prospecting licence.

40.(1) A holder may apply to amend an approved work programme for a reconnaissance or a prospecting licence by completing Form RL3 or PL4 as set out in the Schedule.

Amendments to approved programme for reconnaissance or prospecting operations.

(2) A holder shall provide a written justification for any proposed amendment based on the results of the reconnaissance or prospecting work or other new and relevant information that supports the need for amendment.

41. The Cabinet Secretary shall, on the advice of the Board, approve or reject an application for renewal of a prospecting licence within ninety days of the date of application.

Processing of application to renew a prospecting licence.

RETENTION LICENCE

42. Subject to section 85 of the Act, a holder of a prospecting licence may apply to the Cabinet Secretary for a retention licence by completing Form RTL1 set out in the Schedule.

Application for a retention licence.

43. The Cabinet Secretary shall issue a retention licence digitally together with a hard copy using Form RTL2 set out in the Schedule.

Form of licence.

44. The Cabinet Secretary on the advice of the Board shall approve or reject an application for a retention licence within ninety days of the date of application.

Processing of an application for a retention licence.

45. A holder of a retention licence may apply for a renewal of the initial term of the licence by completing Form RTL3 set out in the Schedule.

Renewal of a retention licence.

46. The Cabinet Secretary, on the advice of the Board, shall approve or reject an application for renewal of a retention licence within ninety days from the date of the application.

Processing of application to renew a retention licence.

MINING LICENCE

47. A mining licence grants a holder the exclusive right to mine a mineral.

Purpose.

48. Subject to Section 101 of the Act, an application for a mining licence shall be made to the Cabinet Secretary by completing Form ML1 set out in the Schedule.

Application for a mining licence.

49. The Cabinet Secretary shall issue a mining licence digitally together with a paper copy using Form ML2 set out in the Schedule.

Form of a mining licence.

50. Subject to section 114 of the Act, the holder of a mining licence may apply for a renewal of the licence by completing Form ML3 set out in the Schedule.

Application for a renewal of a mining licence.

51. Pursuant to section 114 of the Act, the Cabinet Secretary, on the advice of the Board, shall approve or reject an application for renewal of a mining licence within one hundred and twenty days from the date of the application.

Processing of an application to renew a mining licence.

PART VIII – SMALL-SCALE MINING OPERATIONS

RECONNAISSANCE PERMIT

52. Subject to section 125 of the Act, a reconnaissance permit grants a holder the non-exclusive right to carry out non-invasive investigations for minerals within the permit area.

Purpose.

53. Subject to section 125 of the Act, an application for the grant of a reconnaissance permit shall be submitted to the Cabinet Secretary by completing Form RP1 set out in the Schedule.

Application for a reconnaissance permit.

54. The Cabinet Secretary, on the advice of the Board, shall approve or reject an application for a reconnaissance permit within sixty days from the submission of the application.

Processing of an application for a reconnaissance permit.

55. (1) The Cabinet Secretary shall issue a reconnaissance permit digitally together with a paper copy using Form RP2 set out in the Schedule.

Form of a reconnaissance permit.

(2) A reconnaissance permit shall be issued for a specific County.

56. A reconnaissance permit shall be granted for a period not exceeding one year.

Duration.

PROSPECTING PERMIT

57. A prospecting permit grants a person or body corporate the exclusive right to prospect for minerals in the permit area according to an approved programme for prospecting operations.

Purpose.

58. Subject to section 129 of the Act, a prospecting permit application shall be made to the Cabinet Secretary, using Form PP1 set out in the Schedule.

Application for a prospecting permit.

59. (1) The Cabinet Secretary shall issue a prospecting permit digitally together with a paper copy using Form PP2 set out in the Schedule.	Form of a permit.
(2) Pursuant to section 129 of the Act, a prospecting permit shall specify –	
<ul style="list-style-type: none"> (a) the full name, nationality and address of permit holder; (b) in the case of a company, the name and registered address; (c) the mineral or minerals in respect of which the prospecting permit is sought; (d) the cadastral coordinates in the prescribed form defining the prospecting area; (e) the duration of the permit; (f) the approved programme of prospecting operations; and (g) details of the experience and financial resources available to the applicant to enable the prospecting operations. 	
60. The term of a prospecting permit shall be specified in the permit and shall not exceed five years.	Duration.
61. A person shall not hold more than five prospecting permits concurrently.	Maximum number of prospecting permits.
62. The Cabinet Secretary, on the advice of the Board, shall approve or reject an application for a prospecting permit within ninety days from the date of application.	Processing of an application for a prospecting permit.
63. Subject to section 134 of the Act, the holder of a prospecting permit may apply for renewal of the permit not later than ninety days before the expiry of the permit by completing Form PP3 set out in the Schedule.	Renewal of a prospecting permit.
64. The Cabinet Secretary, on the advice of the Board, shall approve or reject an application for renewal of a prospecting permit within sixty days from the date of the submission of the application.	Processing of an application to renew a prospecting permit.
MINING PERMIT	
65. A mining permit grants a holder the exclusive right to carry out small scale mining operations in the permit area according to an approved mining permit programme.	Purpose.
66. Subject to section 136 of the Act, a person may apply for a mining permit to the Cabinet Secretary by completing Form MP1 set out in the Schedule.	Application for a mining permit.
67. The Cabinet Secretary on the advice of the Board, shall approve or reject an application for a mining permit within ninety days from the date of the submission of the application.	Processing of an application for a mining permit.
68. The Cabinet Secretary shall issue a mining permit digitally together with a paper copy using Form MP2 set out in the Schedule.	Form of a mining permit.

69. Subject to section 141 of the Act, the holder of a mining permit may apply for the renewal of the permit to the Cabinet Secretary by completing Form MP3 set out in the Schedule.	Application for renewal of a mining permit.
70. The Cabinet Secretary, on the advice of the Board, shall approve or reject an application for renewal of a mining permit within ninety days from the date of the application.	Processing of an application to renew a mining permit.
PART IX – ARTISANAL MINING PERMIT	
71. Subject to section 95 of the Act, an artisanal mining permit grants an eligible person the exclusive right to mine a mineral in accordance with the terms and conditions of the permit.	Purpose.
72. Subject to section 95(4) of the Act, an application for an artisanal mining permit may be submitted to the county representative of the Director of Mines by completing Form AMP1 set out in the Schedule.	Application for an artisanal mining permit.
73. The county representative of the Director of Mines shall issue an artisanal mining permit digitally together with a paper copy using Form AMP2 set out in the Schedule.	Form of an artisanal mining permit.
74. The county representative of the Director of Mines on the advice of the Artisanal Mining Committee shall accept or reject an application within sixty days from the date of the application.	Processing of an application for an artisanal mining permit.
75. Subject to section 96(1) of the Act, the holder of an artisanal mining permit may apply for the renewal of the permit to the county representative of the Director of Mines by completing Form AMP3 set out in the Schedule three months prior to expiry of the permit.	Application for renewal of an artisanal mining permit.
76. The county representative of the Director of Mines on the advice of the Artisanal Mining Committee shall accept or reject an application for a renewal of an artisanal mining permit within sixty days from the date of the application.	Processing of an application to renew an artisanal mining permit.

SCHEDULE

Form OMC1

(r.10(3))

[Application for an Online Mining Cadastre User Registration]

REGISTRATION

I wish to make use of the online mining cadastre on my own behalf

*Complete section A and D**Please provide:*

- *Proof of identity (passport or ID card)*

I wish to make use of the online mining cadastre on behalf of an individual/ company, either as an employee or agent of that individual/company

*Complete sections A, B, C and D**Please provide:*

- *Proof of identity (passport or ID card)*
- *Proof of company registration (certified copy of certificate of incorporation)*
- *Signed letter of authority to use the Mining Cadastre Portal on behalf of the Company*

I am already a registered user on the online mining cadastre and would like to act as an employee or agent of another company

*Complete sections A, B, C and D**Please provide:*

- *Proof of identity (passport or ID card)*
- *Proof of company registration (certified copy of certificate of incorporation)*
- *Signed letter of authority to use the Online Mining Cadastre (OMC) on behalf of the Company*

SECTION A: DETAILS FOR THE AUTHORISED USER

Surname

First Names

E-mail

Address

(used for login)

and e-mail
notifications)

Mobile
Number
(used for SMS
notifications)
e.g. +44822354111 not +44(0)822354111

Title

Identity
Number
and / or

Passport
Number

Nationality

Date of Birth / /

Gender

Physical
Address

Line 1

Line 2

Line 3

Province

Post Code /
Zip

Country

Postal Address
Same as Physical

Line 1

Line 2

Line 3

Province

Post Code /
Zip

Country

Telephone 1
e.g. +44822354111 not +44(0)822354111

Telephone 2
e.g. +44822354111 not +44(0)822354111

Fax Number
e.g. +44822354111 not +44(0)822354111

SECTION B: DETAILS FOR THE INDIVIDUAL BEING REPRESENTED

Surname

First Names

E-mail
Address
(used for login
and e-mail)

notifications)

Mobile
Number
(used for SMS
notifications)
e.g. +44822354111 not +44(0)822354111

Title

Identity
Number
and / or

Passport
Number

Nationality

Date of Birth

Gender

Physical
Address

Line 1

Line 2

Line 3

Province

Post Code /
Zip

Country

Postal Address

 Same as Physical

Line 1

Line 2

Line 3

Province

Post Code /
Zip

Country

Telephone 1

e.g. +44822354111 not +44(0)822354111

Telephone 2

e.g. +44822354111 not +44(0)822354111

Fax Number

e.g. +44822354111 not +44(0)822354111

SECTION C: COMPANY DETAILSCompany
Name

Abbreviation

Registration
Number

Registered Country											
Registration Date	d	d	/	m	m	/	y	y	y	y	
Company Type	Private	Listed									
Physical Address											
Line 1											
Line 2											
Line 3											
Province											
Post Code / Zip											
Country											
Postal Address	Same as Physical										
Line 1											
Line 2											
Line 3											
Province											
Post Code / Zip											

Country

Telephone 1

e.g. +44822354111 not +44(0)822354111

Telephone 2

e.g. +44822354111 not +44(0)822354111

Fax Number

e.g. +44822354111 not +44(0)822354111

Website

SECTION D: TERMS OF USE

I confirm that all information provided is correct

I agree to the terms of use and Privacy Statement of the Online Mining Cadastre

FOR OFFICIAL USE ONLY

 Yes

All documents received and in good order

 Yes

All existing mineral rights are in good standing (where such rights existed)

 Yes

User added to Online Mining Cadastre

 Yes

User given access to requested Company

Comments

DD / MM / YYYY

Signed by Cadastre Officer

Date

Location

Form TR1

(r.25(1))

[Application for the transfer of a mineral right]

1. Assignor's or transferor's identity and contact information to be provided by the assignor or transferor

a. Full name : _____

b. Physical Address Address: _____

City: _____ County: _____ Postal Code: _____

Country : _____

c. Other required contact information:

Phone number: _____

Mobile: _____

Fax number (if any): _____

E-mail address: _____

2. Assignee or transferee's identity and contact information to be provided by the assignor or transferor

a. Full name : _____

b. Physical Address Address : _____

City: _____ County: _____ Postal Code: _____

Country : _____

c. Other required contact information:

Phone number: _____

Mobile: _____

Fax number (if any): _____

E-mail address: _____

3. Mandatory attachments (tick each item attesting that the required document is attached to this application)

proof of payment of the application fee;

- a signed copy of the agreement between the parties to the assignment or transfer; details of the proposed mortgage, assignment or transfer including copies of any agreement; and details of the assignee or transferee, confirming that:
 - (i) the assignee or transferee is a qualifying person under the Act; and
 - (ii) the assignee or transferee has the requisite technical and financial capabilities to carry out the obligations of the holder's licence or permit.

4. Declaration

(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).

Form SR1

(r.28 (1))

[Application to surrender a mineral right area]

1. Applicant's identity and contact information

a. Full name : _____

b. Physical Address : _____

City : _____ County: _____

Postal Code: _____

Country : _____

c. Other required contact information:

Phone number: _____

Mobile: _____

Fax number (if any): _____

E-mail address: _____

2. Mandatory attachments (tick each item attesting that the required document is attached to this application)

- a map and coordinates of the area to be retained;
- a map of the area to be surrendered;
- a report on the surrendered area prepared in accordance with the guidelines on work programme and exploration reports;
- In the case of a surrender of the entire mineral right, all records and reports with respect to the mineral right operations carried out in the mineral right area to be surrendered including but not limited to:
 - (i) status of any prospecting or mining operations as of date of surrender;
 - (ii) plans for the removal of equipment and infrastructure;
 - (iii) status of mine and mine-related workers affected by the surrender;

- (iv) a confirmation from the authorised agency that approved environmental and social management plans, relating to the area being surrendered have been fully implemented and
- (v) status of implementation of any Community Development Agreement.

3. Declaration

(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).

Form RL1

(r.30)

[Application for a reconnaissance licence]

1. Applicant's identity and contact information

- a. Full name : _____
- b. Physical Address

City : _____ County: _____

Postal Code: _____

Country : _____

c. Other required contact information:

Phone number: _____

Mobile: _____

Fax number (if any): _____

E-mail address: _____

2. duration of licence applied for: (Please indicate appropriate option)

- 1 year
- 2 years

3. Mandatory attachments (Check each item attesting that the required document is attached to this application)

- Proof of payment of application;
- Certified copy of the company's certificate of incorporation and certified copy of its memorandum and articles of association;
- Mineral or minerals for which the licence is sought;
- A list of the full names and nationalities of all its directors,
- A list of the names of every shareholder who is the beneficial owner of ten per cent (10%) or more of the issued share capital
- A description of the applicant's profile and history of reconnaissance operations in Kenya or elsewhere;

- A statement giving particulars of the technical and financial resources available to the applicant for the reconnaissance operations;
- A proposed work programme setting the work intended over the term of the licence;
- “Environmental licence if required;
- A description giving particulars of the applicant’s plan to employ and train Kenyans; and
- A description of the particulars of the applicant’s plan for the procurement of local good and services.

Declaration

(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Mining Act.)

Form RL2

(r.32 (1))

[Reconnaissance licence]

Reconnaissance licence Registration No.RL _____

Term of licence: _____ years

Term commences on: day _____, month _____, year _____

Term ends on : day _____, month _____, year _____

1. Subject to the conditions set out in the Mining Act, in the regulations made under the Act and in this reconnaissance licence,

Name : _____

(Hereinafter referred to as the “holder”) whose registered office in Kenya is at
Address: _____

City : _____ County _____ Postal Code: _____

County : _____

is by this licence granted the non-exclusive right to do reconnaissance work for ... (name of minerals) within and over the mineral right area specified in Annex 1 of this licence .

DATED THIS _____ DAY OF _____ 2 _____

Cabinet Secretary (name)

(signature)

In the presence of:

Director of Mines (name)

(signature)

Holder/Authorised Representative (name)

(signature)

In the presence of:

Witness (*name*)

(*signature*)

2. Terms and Conditions

(1) Rights conferred by the licence

This licence confers on the holder the non-exclusive right within the reconnaissance area:

- (a) to enter on or fly over the reconnaissance area to carry out approved reconnaissance operations;
- (b) to take and remove specimens and samples from the reconnaissance area not exceeding such limit as is reasonably required for reconnaissance purposes;
- (c) subject to other laws of Kenya, take timber and water from any lake or watercourse for the purposes of reconnaissance operations;
- (d) erect equipment, plant and buildings necessary to carry out the reconnaissance operations; and
- (e) remove on or before the termination of the reconnaissance operations, any camps, temporary buildings or installations which the holder may have erected in the licence area.

(2) The Obligations under the licence

- (a) commence reconnaissance within three months of grant of the licence;
- (b) carry out reconnaissance in accordance with the approved programme of reconnaissance operations;
- (c) expend on reconnaissance in accordance with the programme of reconnaissance, not less than such amount as may be specified in the reconnaissance licence;
- (d) not engage in drilling, excavation or other subsurface exploration techniques;
- (e) inform and consult on an ongoing basis with the national and county government authorities and communities about the reconnaissance operations that require physical entry onto the land within their jurisdiction;
- (f) not enter land that is excluded from the reconnaissance licence;
- (g) compensate users of land for damage to land and property resulting from reconnaissance operations in the licence area;
- (h) not remove any mineral from reconnaissance area except for the purpose of having such mineral analysed, valued or tested;
- (i) ensure that the amount of work and amount of expenditure as specified in the approved programme or reconnaissance operations is actually expended in the course of undertaking reconnaissance operations within the mandated deadlines stipulated in the plan and reported in the reports that may be required by the relevant regulations;
- (j) notify the Cabinet Secretary without any unreasonable delay of the discovery of any mineral deposit of potential commercial use;
- (k) notify the Cabinet Secretary of any archaeological discovery;

- (l) comply with the conditions of the licence and any directions issued by the Cabinet Secretary or authorised officer in accordance with the Act;
- (m) submit to the Cabinet Secretary geological and financial reports and such other information relating to reconnaissance operations as may be prescribed;
- (n) carry out reconnaissance in accordance with the international good practice standards and any guidelines as may be prescribed; and
- (o) remove within sixty days of the expiration of the reconnaissance licence , any camps, temporary holder and repair or otherwise make good any damage to the surface of the ground occasioned by such removal to the satisfaction of the Cabinet Secretary or a duly appointed officer.

ACCOMPANYING ANNEXES

Annex 1: Map of reconnaissance area

Annex 2: Approved reconnaissance programme

Form PL1

(r.37(1))

[Application for a prospecting licence]

1. Applicant's identity and contact information

a. Full name : _____

b. Physical Address _____

Town/City: _____ County: _____

Postal Code: _____

Country: _____

c. Other required contact information:

Phone number: _____

Mobile: _____

Fax number (if any): _____

E-mail address: _____

2. Mineral or minerals in respect of which the licence is sought

3. Duration of licence applied for: (Please indicate appropriate option)

1 year

2 years

3 years

4. Mandatory attachments (tick each item attesting that the required document is attached to this application)

Proof of payment of application fee;

a certified copy of the applicant company's certificate of incorporation and certified copy of its memorandum and articles of association;

- A list of the full names and nationalities of all the applicant company's directors;
- A list of the names of every shareholder of the applicant company who is the beneficial owner of ten per cent or more of the issued share capital;
- A description of the applicant's profile and history of Prospecting Operations in Kenya and elsewhere;
- A description of the technical and financial resources available to the applicant;
- The prospecting work programme for the period the licence is sought;
- Environmental licence;
- A description giving particulars of the applicant's plan for the employment and training of Kenyans; and
- A description of the particulars of the applicant's plan for the procurement of local goods and services.

5. Declaration

(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act)

Form PL2

(r.38(1))

[Prospecting licence]

Prospecting licence Registration No.PL _____

Term of licence: _____ years

Term commences on: day _____, month _____, year _____

Term ends on : day _____, month _____, year _____

1. Subject to the conditions set out in the Mining Act, in the regulations made under the Act and in this prospecting licence,

Name : _____

(Hereinafter referred to as the "holder") whose registered office in Kenya is at

Address: _____

City : _____ County: _____ Postal Code: _____

County : _____

is by this licence granted the exclusive right to prospect for ... (name of minerals) within and over the mineral right area specified in Annex 1 of this licence .

DATED THIS _____ DAY OF _____ 2 _____

Cabinet Secretary (name)

(signature)

In the presence of:

Director of Mines (name)

(signature)

Holder/Authorised Representative (*name*)

(*signature*)

In the presence of:

Witness (*name*)

(*signature*)

3. The terms and conditions

(1) Rights conferred by this licence

The holder of this licence may, in the exercise of the rights conferred under this licence:

- (a) demarcate the areas that fall within the licence area;
- (b) enter the area of land specified in the licence and take all reasonable measures on or under the surface of the land to carry out prospecting operations;
- (c) erect equipment, plant and buildings necessary to carry out the prospecting operations.
- (d) appoint a person to act as an agent of the holder who may exercise the rights of the holder of the licence under the licence, subject to any limitations on the powers of the agent contained in the instrument of appointment.

Obligations of the holder under the licence

(2) The holder of a prospecting licence shall—

- (a) commence prospecting operations within three months of the grant of the prospecting licence or a period specified in the approved programme for prospecting operation;
- (b) undertake prospecting operations in accordance with the approved programme of prospecting operations;
- (c) ensure that the amount of work and expenditure specified in the approved programme of prospecting operations is actually expended in the course of undertaking prospecting operations within the deadlines stipulated;
- (d) comply with the terms and conditions of the environment licence;
- (e) without any unreasonable delay, notify the Cabinet Secretary of the discovery of any mineral deposit of potential commercial value including mineral deposits for which the holder of the licence was not authorised to prospect;
- (f) notify the Cabinet Secretary of any archaeological discovery;
- (g) comply with the conditions of the licence or any existing and applicable minerals agreement, and any directions issued by the Cabinet Secretary or an authorized officer in accordance with this Act;
- (h) submit to the Cabinet Secretary geological and financial reports and such other information relating to prospecting operations as may be prescribed either quarterly or at such other intervals as may be determined by the Cabinet Secretary; and

(i) carry out prospecting activities in accordance with the international best practice standards and guidelines as may be prescribed.

ACCOMPANYING ANNEXES

Annex 1:Map of prospecting area

Annex 2: Approved prospecting programme

Form PL3

(r.39)

[Application to renew a prospecting licence]

1. Applicant's identity and contact information

a. Full name: _____

b. Physical Address Address : _____

City: _____ County: _____ Postal Code: _____

Country : _____

c. Other required contact information:

Phone number: _____

Mobile: _____

Fax number (if any): _____

E-mail address: _____

2. Duration of the renewal for the prospecting licence:

a. First renewal:

- 1 year
- 2 years
- 3 years

b. Second renewal:

- 1 year
- 2 years
- 3 years

3. Mandatory Attachments

- Proof of payment of the application fee;
- Summary report on prospecting operations and the cost incurred for the term of the licence;
- The work programme including the expenditure to be incurred during the renewal period;
- The map and coordinates of the area to be retained and also relinquished in respect of which the renewal is sought
- Current environmental audit report.

4. Declaration

(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).

Form RL3/PL4

(r. 40(1))

[Application to amend work programme]

This form is being submitted to amend the work programme for the following licences
(*tick as appropriate*):

- Reconnaissance licence (Form RL-3)
- Prospecting licence (Form PL-4)

1. Applicant's identity and contact information

- a. Full name _____
- b. Physical Address _____

City : _____ County: _____ Postal Code: _____
Country : _____

c. Other required contact information:

Phone number: _____
Mobile: _____
Fax number (if any): _____
E-mail address: _____

2. Attached a report containing the following:

- o For a Reconnaissance licence
 1. An updated summary report covering all reconnaissance activities carried out since the licence was first granted. The report shall summarise the work reported in any earlier technical report and provide a detailed account of the reconnaissance work carried out with the expenditure incurred. In addition to the electronic document, a bound hardcopy shall be delivered to the Mining Cadastre Office within seven days;
 2. The justification for the amendment and a revised work programme;
 3. A statement of expenditure to be incurred;
- o For a Prospecting licence
 1. A revised programme for prospecting operations. The justification for such amendment and the expenditure to be incurred. In addition to the electronic document a bound hardcopy of each required document shall be delivered to the Mining Cadastre Office within seven days.
 2. A summary report covering all prospecting activities carried out under the licence at the time of the application and the expenditure incurred. The report shall summarise the work reported in earlier annual technical reports plus give a detailed account of the prospecting work carried out to date.

3. Declaration

(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).

Form RTL1

(r.42)

[Application for a retention licence]

1. Applicant's identity and contact information

a) Full name : _____

b) Physical Address

Town/City : _____ County: _____ Postal Code: _____

Country : _____

c) Other required contact information:

Phone number: _____

Mobile: _____

Fax number (if any): _____

E-mail address: _____

2. Retention licence duration applied for:

- 1 year
- 2 years

3. Mandatory attachments (Check each item attesting that the required document is attached to this application)

- Proof of payment of application fee;
- A description justifying the application for a retention licence.

4. Declaration

(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).

Form RTL2

(r.43)

[Retention Licence]

Retention licence Registration No. RTL _____

Term of licence: _____ years

Term commences on: day _____, month _____, year _____

Term ends on : day _____, month _____, year _____

1. Subject to the conditions set out in the Mining Act, in the regulations made under the Act and in this retention licence,

Name : _____

(Hereinafter referred to as the "holder") whose registered office in Kenya is at

Address: _____

City : _____ County: _____ Postal Code: _____

County : _____

is by this retention licence granted the exclusive right to continue the prospecting of...(name of minerals) within and over the mineral right area specified in Annex 1 of this licence .

DATED THIS _____ DAY OF _____ 2 _____

Cabinet Secretary (name)

(signature)

In the presence of:

Director of Mines (name)

(signature)

Holder/Authorised Representative (name)

(signature)

In the presence of:

Witness (name)

(signature)

2. The terms and conditions

(1) Rights conferred by this licence

- (a) The holder of this licence may, in the exercise of the rights conferred under this licence:
 - (i) demarcate the areas that fall within the licence area;
 - (ii) enter the area of land specified in the licence and take all reasonable measures on or under the surface of the land to carry out prospecting operations;
 - (iii) erect equipment, plant and buildings necessary to carry out the prospecting operations.
 - (iv) appoint a person to act as an agent of the holder who may exercise the rights of the holder of the licence under the licence, subject to any limitations on the powers of the agent contained in the instrument of appointment.

Obligations of the holder under the licence

(2) The holder of a prospecting licence shall—

- (a) commence prospecting operations within three months of the grant of the retention licence;
- (b) undertake prospecting operations in accordance with the approved programme of under the retention licence;

- (c) ensure that the amount of work and expenditure specified in the approved programme of prospecting operations is actually expended in the course of undertaking prospecting operations within the deadlines stipulated;
- (d) comply with the terms and conditions of the environment licence;
- (e) without any unreasonable delay, notify the Cabinet Secretary of the discovery of any mineral deposit of potential commercial value including mineral deposits for which the holder of the licence was not authorised to prospect;
- (f) notify the Cabinet Secretary of any archaeological discovery;
- (g) comply with the conditions of the licence or any existing and applicable minerals agreement, and any directions issued by the Cabinet Secretary or an authorized officer in accordance with this Act;
- (h) submit to the Cabinet Secretary geological and financial reports and such other information relating to prospecting operations as may be prescribed either quarterly or at such other intervals as may be determined by the Cabinet Secretary; and
- (i) carry out prospecting activities in accordance with the international best practice standards and guidelines as may be prescribed.

ACCOMPANYING ANNEXES

Annex 1:Map of retention area

Annex 2: Approved programme to be carried out under the retention licence

3.The terms and conditions

(1) Rights conferred by this licence

- (a) The holder of this licence may, in the exercise of the rights conferred under this licence:
 - (i) demarcate the areas that fall within the licence area;
 - (ii) enter the area of land specified in the licence and take all reasonable measures on or under the surface of the land to carry out prospecting operations;
 - (iii) erect equipment, plant and buildings necessary to carry out the prospecting operations.

(2) Obligations of the holder under the licence

The holder of a retention licence shall—

- (a) commence prospecting operations within three months of the grant of the prospecting licence or a period specified in the approved programme for the retention licence;
- (b) undertake prospecting operations in accordance with the approved programme of prospecting operations;
- (c) ensure that the amount of work and expenditure specified in the approved programme of prospecting operations is actually expended in the course of undertaking prospecting operations within the deadlines stipulated;
- (d) comply with the terms and conditions of the environment licence;

- (e) without any unreasonable delay, notify the Cabinet Secretary of the discovery of any mineral deposit of potential commercial value including mineral deposits for which the holder of the licence was not authorised to prospect;
- (f) notify the Cabinet Secretary of any archaeological discovery;
- (g) comply with the conditions of the licence or any existing and applicable minerals agreement, and any directions issued by the Cabinet Secretary or an authorized officer in accordance with this Act;
- (h) submit to the Cabinet Secretary geological and financial reports and such other information relating to prospecting operations as may be prescribed either quarterly or at such other intervals as may be determined by the Cabinet Secretary; and
- (i) carry out prospecting activities in accordance with the international best practice standards and guidelines as may be prescribed.

ACCOMPANYING ANNEXES

Annex 1:Map of prospecting area

Annex 2: Approved prospecting programme

Form RTL3

(r.45)

[Application for the renewal of a retention licence]

1. Applicant's identity and contact information

a. Full name : _____

b. Physical Address Address : _____

City : _____ County: _____ Postal
Code: _____

Country : _____

c. Other required contact information:

Phone number: _____

Mobile: _____

Fax number (if any): _____

E-mail address: _____

2. Duration of retention licence applied for (Please indicate appropriate option):

- 1 year
- 2 years

3. Attach the following the following:

- a report summarising the activities carried out to date during the first term of the retention licence;
- a description justifying the reasons for the renewal which shall include but not limited to the analysis of the relevant adverse market conditions, economic

factors, technical constraints or any other factors preventing development of the deposit during the initial term of the retention licence;

- a statement of expenditure incurred during the initial term of the licence.

4. Declaration

(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).

Form ML1

(r.48)

[Application for a mining licence]

1. Applicant's identity and contact information

a. Full name: _____

b. Physical Address

Town/City: _____ County: _____

Postal Code: _____

Country: _____

c. Other required contact information:

Phone number: _____

Mobile: _____

Fax number (if any): _____

E-mail address: _____

2. Duration of licence applied for: _____ years

3. Mandatory attachments (tick each item attesting that the required document is attached to this application)

- Proof of payment of application fee;
- Mineral or minerals in respect of which the licence is sought;
- Proposed programme of mining operations;
- a certified copy of the applicant company's certificate of incorporation and certified copy of its memorandum and articles of association;
- A list of the full names and nationalities of all the applicant company's directors;
- A list of the names of every shareholder of the applicant company who is the beneficial owner of ten per cent or more of the issued share capital;
- A description the applicant's profile and history of mining operations in Kenya or elsewhere;
- A statement giving particulars of the technical and financial resources available to the applicant;
- The Feasibility Study report;

- environmental licence;
- a description of the particulars of the applicant's plan to employ and train Kenyans; and
- A description of the particulars of the applicant's plan for the procurement of local goods and services

4. Declaration

(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act)

Form ML2

(r.49)

[Mining licence]

Mining licence Registration No. ML_____

Term of licence: _____ years

Term commences on: day_____, month_____, year_____

Term ends on : day_____, month_____, year_____

1. Subject to the conditions set out in the Mining Act, in the regulations made under the Act and in this mining licence,

Name : _____

(Hereinafter referred to as the "holder") whose registered office in Kenya is at

Address: _____

City : _____ County: _____ Postal Code: _____

County : _____

is by this mining licence granted the exclusive right to mine ... (name of minerals) within and over the mineral right area specified in Annex 1 of this licence .

DATED THIS _____ DAY OF _____ 20____

Cabinet Secretary (name)

(signature)

In the presence of:

Director of Mines (name)

(signature)

Holder/Authorised Representative (name)

(signature)

In the presence of:

Witness (name)

(signature)

2. The terms and conditions

(1) Rights conferred by this licence

- (a) The holder of a mining licence shall enjoy the exclusive right to carry out mining operations in respect of the mineral or mineral deposit specified in the licence within the area specified subject to the provisions of the Mining Act and the terms and conditions set out in this licence.
- (b) enter the area of land specified in the licence and take all reasonable measures on or under the surface of the land to carry out mining operations;
- (c) erect equipment, plant and buildings necessary to mine the specified mineral and to transport, dress or treat the minerals so recovered; and
- (d) dispose of any mineral recovered subject to the payment of the required fees and royalties.

(2) Obligations under this licence

- (a) commence mining operations within six months of the grant of the licence, or as may be specified in the approved program for mining operations or in any relevant minerals agreement;
- (b) conduct mining operations in compliance with the approved programme for mining operations;
- (c) comply with the terms and conditions of the approved environmental impact assessment licence, social heritage assessment and environmental management plan relating to the operations to be carried out under the mining licence;
- (d) demarcate and keep demarcated the mining area in the prescribed manner;
- (e) comply with the conditions of the licence, any applicable mineral agreement and any directions issued by the Cabinet Secretary or an authorized officer in accordance with this Act;
- (f) submit to the Cabinet Secretary up to date quarterly returns of mine development and mineral production;
- (g) stack or dump any mineral or waste products in the manner provided for in the licence or as otherwise prescribed, having regard to good mining industry practice;
- (h) carry out prospecting and mining activities in accordance with international best practice and the prescribed guidelines; and
- (i) sign a community development agreement with the community where mining operations are to be carried out in such a manner as shall be prescribed in Regulations.

ACCOMPANYING ANNEXES

Annex 1:Map of mining area

Annex 2: Approved programme for mining operations

Annex 3:Approved plan for the procurement of local goods and services

Annex 4: Approved plan for the recruitment and training of Kenyans

Annex 5: Environmental Licence

[Application to renew a mining licence]

1. Applicant's identity and contact information

a. Full name : _____

b. Physical Address

City : _____ County: _____ Postal

Code: _____

Country : _____

c. Other required contact information:

Phone number: _____

Mobile: _____

Fax number (if any): _____

E-mail address: _____

2. Duration of mining licence applied for:

_____ years (*not to exceed fifteen (15) Years*).

3. Mandatory Attachments

- o Proof of payment of the application fee;
- o a proposed programme of mining operations to be carried out during the term of renewal;
- o a plan of the area in respect of which a renewal of the mining licence is sought including all or any of the contiguous blocks in the mining licence area; and
- o environmental licence for the renewal period.

4. Declaration

(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).

Form RP1

(r.53)

[Application for a reconnaissance permit]

1. Applicant's identity and contact information

a. Full name : _____

b. Physical Address

Address: _____

Town/City : _____ County: _____

Postal Code: _____

c. Other required information

Country : _____

Mobile: _____

Fax number (if any): _____

E-mail address: _____

2. Permit duration applied for: (Please indicate appropriate option)

- 1 year
- 2 years

3. Mandatory attachments (Check each item attesting that the required document is attached to this application)

- Proof of payment of application fee;
- the minerals in respect of which the permit is sought.

4. Declaration

(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).

Form RP2

(r.55)

[Reconnaissance Permit]

Reconnaissance Permit Registration No. ML_____

Term of : _____ years

Term commences on: day_____, month_____, year_____

Term ends on : day_____, month_____, year_____

1. Subject to the conditions set out in the Mining Act, in the regulations made under the Act and in this reconnaissance permit,

Name : _____

(Hereinafter referred to as the "holder") whose registered office in Kenya is at

Address: _____

City : _____ County: _____ Postal Code: _____

County : _____

is by this reconnaissance permit granted the non-exclusive right to carry out reconnaissance for ... (name of minerals) within(name of County).

DATED THIS _____ DAY OF _____ 2 _____

Cabinet Secretary (name)

(signature)

In the presence of:

Director of Mines (name)

(signature)

Holder/Authorised Representative (name) (signature)

In the presence of:

Witness (name)

(signature)

(dated seal
here)

3. The terms and conditions

(1) Rights conferred by this permit

- (a) The holder of this permit shall enjoy the non-exclusive rights to conduct reconnaissance for the mineral or minerals in the area specified in the permit.
- (b) The holder of this permit may, enter into the land within the area specified in the permit and take all reasonable measures to undertake reconnaissance of the land.

(2) Obligations under this permit

The holder of reconnaissance permit shall—

- (a) comply with the terms and conditions specified in the Permit; and
- (b) take all necessary measures to protect the environment.

4. ACCOMPANYING ANNEXES

Annex 1:Map of reconnaissance area

Form PP1

(r.58)

[Application for prospecting permit]

1. Applicant's identity and contact information

a. Full name : _____

b. Physical Address

_____ Town/ City : _____ County: _____

Postal Code: _____

Country : _____

c. Other required information

Mobile: _____

Fax number (if any): _____

E-mail address: _____

2. Duration of permit : (Please indicate appropriate option)

- 1 year
- 2 years
- 3 years
- 4 years
- 5 years

3. Mandatory attachments (tick each item attesting that the required document is attached to this application)

- Proof of payment of application fee;
- a certified copy of the applicant company's certificate of incorporation and certified copy of its memorandum and articles of association;
- A list of the full names and nationalities of all the applicant company's directors;
- A list of the names of every shareholder of the applicant company who is the beneficial owner of ten per cent or more of the issued share capital;
- A description of the applicant's profile and history of prospecting operations in Kenya or elsewhere ;
- A statement giving particulars of the technical and financial resources available to the applicant,;
- A description setting out the prospecting operations work intended to be carried out of the period the permit is sought; and
- Environmental licence.

3. Declaration

(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).

Form PP2

(r.59)

[Prospecting Permit]

Prospecting Permit Registration No. ML_____

Term of : _____ years

Term commences on: day _____, month _____, year _____

Term ends on : day _____, month _____, year _____

1. Subject to the conditions set out in the Mining Act, in the regulations made under the Act and in this prospecting permit,

Name : _____

(Hereinafter referred to as the "holder") whose registered office in Kenya is at

Address: _____

City: _____ County: _____ Postal Code: _____

County : _____

is by this prospecting permit granted the exclusive right to prospect for ... (name of minerals) within and over the mineral right area specified in Annex 1 of this licence .

DATED THIS _____ DAY OF _____ 2 _____

Cabinet Secretary (*name*)

(*signature*)

In the presence of:

Director of Mines (*name*)

(*signature*)

Holder/Authorised Representative (*name*)

(*signature*)

In the presence of:

Witness (*name*)

(*signature*)

(*dated seal here*)

(1) Rights conferred by this permit

(a) The holder of this permit shall enjoy the right to prospect for the mineral or minerals and in the area specified in the permit.

(2) The holder may:

(a) demarcate areas that fall within the permit area;

(b) enter into land that falls within the area specified in the permit and take all reasonable measures to undertake prospecting operations on or under the surface of the land; and

(c) erect equipment, plant and buildings for the prospecting operations.

(3) the holder may take any prescribed quantities required for sampling and assaying purposes.

(2) Obligations under this permit

The holder of a prospecting permit shall –

(a) comply with the terms and conditions specified in the permit;

- (b) take all necessary measures to protect the environment; and
- (c) comply with any prescribed record keeping obligations.

Form PP3

(r.63)

[Application to renew a prospecting permit]

1. Applicant's identity and contact information

a. Full name : _____

b. Physical Address _____

City : _____ County: _____ Postal

Code: _____

Country : _____

c. Other required contact information:

Phone number: _____

Mobile: _____

Fax number (if any): _____

E-mail address: _____

2. Duration of prospecting permit term applied for (Please indicate appropriate option):

- 1 year
- 2 years
- 3 years
- 4 years
- 5 years

3. Mandatory Attachments

- Proof of payment of the application fee;
- a report summarising the prospecting work including the cost incurred to date;
- an updated/revised programme for prospecting operations including the expenditure to be incurred during the renewal period.

4. Declaration

(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).

Form MP1

(r.66)

[Application for a mining permit]

1. Applicant's identity and contact information

a. Full name : _____

b. Physical Address

Address : _____

City : _____ County: _____

Postal Code: _____

Country : _____

c. Other required contact information:

Phone number: _____

Mobile: _____

Fax number (if any): _____

E-mail address: _____

4. During of mining permit applied for (tick the appropriate option)

- 1 years
- 2 years
- 3 years
- 4 years
- 5 years

5. Mandatory attachments (tick each item attesting that the required document is attached to this application)

- Proof of payment of application fee;
- Where the applicant is a body corporate, a certified copy of the company's certificate of incorporation and certified copy of its memorandum and articles of association,
- A list of the full names and nationalities of all its directors,
- A list of the names of every shareholder who is the beneficial owner of ten per cent (10%) or more of the issued share capital,
- A description of the applicant's profile and history of mining operations in Kenya or elsewhere;
- A statement giving particulars of the technical and financial resources available to the applicant;
- a description of the proposed mining scheme, including sufficient detail to indicate the scale of operation including the planned production profile and capacity (maximum amounts of mineral product that might be produced in a year and the possible location of all major mining operation facilities, pits, dumps and dams; the approximate commencement date of mine development; the approximate production start date; the characteristics and nature of the final Mineral Products; the intended market(s) for the Mineral Products.
- "Environmental licence.

6. Declaration

(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).

[Mining permit]

Mining Permit Registration No. ML_____

Term of: _____ years

Term commences on: day _____, month _____, year _____

Term ends on : day _____, month _____, year _____

1. Subject to the conditions set out in the Mining Act, in the regulations made under the Act and in this mining permit,

Name : _____

(Hereinafter referred to as the "holder") whose registered office in Kenya is at

Address: _____

City : _____ County: _____ Postal Code: _____

County : _____

is by this mining permit granted the exclusive right to mine ... (name of minerals) within and over the mineral right area specified in Annex 1 of this licence .

DATED THIS _____ DAY OF _____ 2 _____

Cabinet Secretary (*name*)

(*signature*)

In the presence of:

Director of Mines (*name*)

(*signature*)

Holder/Authorised Representative (*name*)

(*signature*)

In the presence of:

Witness (*name*)

(*signature*)

(1) Rights conferred by this permit

The holder of a mining permit shall enjoy the exclusive rights to carry out mining operations in the area specified in the permit.

(a) the holder of a mining permit may –

- (i) enter the area specified in the permit and take all reasonable measures to carry out the approved mining operations;
- (ii) erect on the area buildings and equipment necessary to carry out the mining operations; and
- (iii) subject to the payment of royalties, use or dispose of any minerals recovered.

(2) Obligations under this permit

The holder of a mining permit shall—

- (a) conduct mining operations in compliance with a plan approved by the Cabinet Secretary;
- (b) demarcate and keep demarcated the mining area in the prescribed manner;
- (c) take all measures necessary to protect and restore the environment within the mining area;
- (d) submit to the Cabinet Secretary up to date quarterly returns on mine development and mineral production;
- (e) comply with any prescribed record keeping obligations;
- (f) stack or dump any minerals or building materials or waste products in the manner provided for in the Mine Safety and Environment Regulations
- (g) not use such equipment as may be prescribed or chemicals such as cyanide and mercury; and
- (h) pay royalties, fees, mining taxes and charges.

5. ACCOMPANYING ANNEXES

Annex 1. Map of mining permit area

Annex 2: Approved work programme

Form MP3

(r.69)

[Application to renew a mining permit]

Mining permit Registration Number: _____

1. Applicant's identity and contact information

a. Full name: _____

b. Physical Address: _____

City : _____ County: _____ Postal
Code: _____

Country : _____

c. Other required contact information:

Phone number: _____

Mobile: _____

Fax number (if any): _____

E-mail address: _____

2. Duration of prospecting permit term applied for (Please indicate appropriate option):

- 1 year
- 2 years
- 3 years

- 4 years
- 5 years

3. Mandatory Attachments

- Proof of payment of the application fee;
- a report summarising mining operations undertaken since the permit was granted;
- a revised mining programme;
- a report describing environmental remediation actions taken during the term of the permit;
- an updated environmental audit report.

5. Declaration

(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).

Form AMP1

(r.72)

1. Applicant's identity and contact information

a. Full name : _____

b. Physical Address _____

City : _____ County: _____ Postal
Code: _____

Country : _____

c. Other required contact information:

Phone number: _____

Mobile: _____

Fax number (if any): _____

E-mail address: _____

2. Duration of artisanal mining permit applied for (tick appropriate option)

- 1 years
- 2 years
- 3 years
- 4 years
- 5 years

3. Mandatory attachments (tick each item attesting that the required document is attached to this application)

- Proof of payment of application fee;
- where the applicant is a body corporate, cooperative or association, attached all incorporation documents;

- Environmental licence;
- Consent from landowner.

4. Declaration

(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).

Form AMP2

(r.73)

[Artisanal mining permit]

Artisanal Mining Permit Registration No. AMP _____

Term of : _____ years

Term commences on: day _____, month _____, year _____

Term ends on : day _____, month _____, year _____

1. Subject to the conditions set out in the Mining Act, in the regulations made under the Act and in this mining permit,

Name : _____

(Hereinafter referred to as the "holder") whose registered office in Kenya is at

Address: _____

City : _____ County: _____ Postal Code: _____

County : _____

is by this artisanal mining permit granted the exclusive right to mine ... (name of minerals) within and over the mineral right area specified in Annex 1 of this permit.

DATED THIS _____ DAY OF _____ 20____

Cabinet Secretary (name)

(signature)

In the presence of:

Director of Mines (name)

(signature)

Holder/Authorised Representative (name)

(signature)

In the presence of:

Witness (name)

(signature)

(1) Rights conferred by this permit

(a) the holder of a mining permit may –

(i) enter the area specified in the permit and take all reasonable measures to carry out mining operations;

- (ii) erect on the area buildings and equipment necessary to carry out the mining operations; and
- (iii) subject to the payment of royalties, use or dispose of any minerals recovered.

(2) Obligations under this permit

The holder of this permit shall—

- (a) conduct mining operations in compliance with Mine Safety and Environment Regulations and guidelines
- (b) demarcate and keep demarcated the mining area in the prescribed manner;
- (c) take all measures necessary to protect and restore the environment within the mining area;
- (d) submit quarterly returns on mine development and mineral production;
- (e) comply with any prescribed record keeping obligations;
- (f) stack or dump any minerals or building materials or waste products in the manner provided for in the Mine Safety and Environment Regulations
- (g) not use such equipment as may be prescribed or chemicals such as cyanide and mercury; and
- (h) pay royalties, fees, mining taxes and charges.

6. ACCOMPANYING ANNEXES

Annex 1. Map of mining permit area

Form AMP3

(r.75)

[Application to renew artisanal mining permit]

1. Applicant's identity and contact information

a. Full name : _____

b. Physical Address

City : _____ County: _____ Postal
Code: _____

Country : _____

a. Other required contact information:

Phone number: _____

Mobile: _____

Fax number (if any): _____

E-mail address: _____

2. Duration of artisanal mining permit term applied for (Please indicate appropriate option):

- 1 year
- 2 years
- 3 years

4. Mandatory Attachments

- Proof of payment of the application fee;
- a report summarising mining operations undertaken since the permit was granted;
- an updated environmental audit report.

Declaration

(Note: when any Declaration provided in this form is found to be false, the person shall be guilty of an offence and subject to penalty in accordance with the Act).

Dated the 9th May, 2017.

DAN KAZUNGU,
Cabinet Secretary, Ministry of Mining.