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THE MINING (MINE SUPPORT SERVICES) REGULATIONS

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Mining Act

The Mining (Mine Support Services) Regulations Legal Notice 151 of 2017

Legislation as at 1 February 2024

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The Mining (Mine Support Services) Regulations (Legal Notice 151 of 2017)

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MINING ACT

THE MINING (MINE SUPPORT SERVICES) REGULATIONS

LEGAL NOTICE 151 OF 2017

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[Revised by [24th Annual Supplement \(Legal Notice 221 of 2023\)](#) on 31 December 2022]

[Amended by [Mining \(Mine Support Services\) \(Amendment\) Regulations, 2024 \(Legal Notice 40 of 2024\)](#) on 1 February 2024]

1. Citation

These Regulations may be cited as the Mining (Mine Support Services) Regulations

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**Act**” means the Mining Act ([Cap. 306](#));

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

“**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;

“**licence**” means a mine support services licence granted under these Regulations;

“**licensee**” means a holder of a mine support services licence; and

“**mine support services contract**” means a contract between a holder and a mine support services provider for the provision of a mine support service.

3. Application of these Regulations

These Regulations shall apply to any person who intends to provide a mine support service for any period of more than six months and for a contract sum of a value of more than fifty million shillings in aggregate.

4. Application for a licence

- (1) A person may on application to the Cabinet Secretary be granted a licence to provide mine support services in accordance with these Regulations.
- (2) An application shall be made online by completing Form MS1 in the First Schedule.
- (3) An application shall be registered by the Cadastre only when complete and upon payment of the fees specified in the Second Schedule.

[L.N. 40/2024, r. 2.]

5. Processing of an application

- (1) The Cabinet Secretary shall approve or reject an application for a licence within thirty days from the date of the submission of a complete application.

- (2) Where the application is approved, the Cabinet Secretary shall serve a notice requiring the applicant to accept or reject the grant of the licence within fourteen days from the date of notification of the approval.
- (3) Where the applicant fails to notify the Cabinet Secretary of the acceptance of the grant of the licence, the approval of the application shall lapse immediately after the period specified under sub-regulation (2).

6. Issue of licence

- (1) Where an applicant accepts the grant of licence under sub-regulation (5), the Cabinet Secretary shall issue a licence using Form MS2 set out in the First Schedule.
- (1A) The issuance of the license under subregulation (1) shall be upon payment of the annual fee specified in the Second Schedule.
- (2) The licence shall specify—
 - (a) the name, nationality and address of the holder;
 - (b) the mine support service which the holder intends to provide;
 - (c) the term of the licence; and
 - (d) plans for the procurement of local goods and services; and
 - (e) the approved plan for the employment and training of Kenyans.

[L.N. 40/2024, r. 3.]

7. Term of a licence

A licence shall be valid for a period not exceeding three years.

8. Assignment or transfer of licence

A licence may be assigned or transferred with the consent of the Cabinet Secretary.

- (1) An application for assignment or transfer of a license under this regulation shall be made online by completing Form MS5 in the First Schedule.
- (2) An application under subregulation (1) shall be registered by the Cadastre upon completion and payment of the fee specified in the Second Schedule.

[L.N. 40/2024, rr. 4 & 5.]

9. Application for renewal of licence

- (1) A licensee may apply to the Cabinet Secretary for the renewal of the licence.
- (2) There shall be no limit to the number of renewals that may be granted except that any renewal is subject to compliance with the terms and conditions of the initial licence and these Regulations.
- (3) The licensee shall make an application for renewal of a licence by—
 - (a) completing Form MS3 set out in the First Schedule not later than thirty days before the expiry of the licence;
 - (b) submitting a report covering all services or activities carried out under the initial term of the licence; and
 - (c) paying the fee specified in the Second Schedule.

- (4) The Cabinet Secretary shall within thirty days from the date of receipt of a complete application, grant a renewal of the licence.
- (5) Where the licensee has made an application for a renewal of the licence and the renewal is not granted by the time of the expiry of the licence, the licence shall continue in force until the application is determined.
- (6) The term for renewal of a licence shall not exceed three years.

[L.N. 40/2024, r. 6.]

10. Suspension and revocation of a licence

- (1) The Cabinet Secretary may suspend or revoke a licence if the licensee—
 - (a) fails to make any payment under the terms of the licence to the Ministry or any Government agency as required by law on the due date;
 - (b) becomes insolvent or bankrupt;
 - (c) makes a statement or submits any report to the Cabinet Secretary or to the Ministry in connection with the licence which the holder knows or ought to have known to be false; or
 - (d) fails to comply with the terms and conditions of the licence.
- (2) The Cabinet Secretary shall before suspending or revoking a licence, give notice to the licensee and shall in the notice, require the licensee to remedy a breach of the terms and conditions of the licence within thirty days, of the notice and where the breach cannot be remedied, to show cause to the reasonable satisfaction of the Cabinet Secretary why the licence should not be suspended or revoked.
- (3) Upon suspension or revocation of a licence under this Regulation, the rights of the licensee shall cease but without prejudice to the liabilities or obligations already incurred by the licensee.

11. Records and reports

- (1) A licensee shall—
 - (a) inform the Ministry of any changes of its registered address; and
 - (b) submit to the Ministry a quarterly report on its activities or operations under the licence.
- (2) The report under sub regulation (1)(b) shall be submitted not later than thirty days of the month following the end of each quarter in the format set out in Form MS4 in the First Schedule.
- (3) The report shall contain a signed declaration by the Chief Executive Officer or an authorised representative of the licensee that the particulars contained in the report are accurate and complete.
- (4) The Cabinet Secretary may give notice to a licensee to provide further information on any matter related to an earlier report, or on any other matter which the Cabinet Secretary may consider necessary for the purpose of these Regulations.

[L.N. 40/2024, r. 7.]

12. Contract for a mine support service

- (1) The licensee shall submit to the Cabinet Secretary a copy of any mine support services contract or agreement entered into with any holder of a mineral right.
- (2) Any agreement or contract that is submitted under sub-regulation (1) shall contain the following—
 - (a) the parties to the agreement or contract;

- (b) the type of mine support service that is the subject of the contract;
- (c) duration of the contract;
- (d) the value of the contract; and
- (e) number of employees including the number of expatriates, if any.

13. Environmental obligations of mine support services providers

A licensee shall comply with the conditions and obligations of any licences or authorizations issued under the Environmental Coordination and Management Act (No. 8 of 1999) that are issued to the holder of a mineral right where the licensee is operating.

14. Offences and penalties

Any person who engages in any mine support service without a licence or contravenes a provision of these Regulations, commits an offence and is liable on conviction to fine or imprisonment as provided in the Act.

FIRST SCHEDULE

FORMS

[L.N. 40/2024, rr. 8 & 9.]

Form MS1

(r. 4(2))

[Application for a Mine Support Services Licence]

1. Applicant's identity and contact information

Full Name: _____

(Physical Address): _____

Address: _____

Town/City: _____ County: _____

Postal Address

Address: _____

Town/City: _____ County: _____

Other required information:

Phone number: _____

Mobile: _____

Email address: _____

2. Type of Mine Support Service

Name the type of mine support services for which a licence is required (refer to the attached List):

<i>Type of Service</i>	<i>Check box if applicable</i>
Drilling and/or blasting	
Mineral exploration for holders of mineral rights	
Mineral Assaying	
Contract mining	
Others (specify)	

Name the type of mine support services for which a licence is required (refer to the attached List):

Licence term applied for: (Please indicate appropriate option)

- ☐ 1 year
- ☐ 2 years
- ☐ 3 years
- ☐ Others (specify)

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

- ☐ duplicate copy of receipt 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;
- ☐ "Director Information", a list of the full names and nationalities of all the applicant company's directors;
- ☐ "Profile and History", in the case of an application for contract mining services, a description of the applicant's profile and history of contract mining services in Kenya or elsewhere [mandatory for applicants for contract mining services];
- ☐ "Technical and Financial Qualifications", a statement giving particulars of the technical and financial resources available to the applicant;
- ☐ Tax compliance certificate.

Declaration

If any information provided in this form is found to be false, the application will be rejected or terminated and if discovered after the grant and the person whose signature appears below shall be guilty of an offence and subject to penalty as provided in the Act.

Form MS2

(r. 6(1))

[Mine Service Support Licence]

Mine Support Service Licence Registration No. MSL _____

Term of Licence: _____ years (*not to exceed 3 years*)

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

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

Provided all conditions under the Act and these Regulations have been met, the term of this licence may be renewed.

1. Subject to the Act, and these Regulations,

Name: _____

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

Address: _____

City: _____ Postal Address: _____

County: _____

is by this licence granted the right to carry out mine support services as specified in Annex I of this licence.

2. Commence activities within thirty (30) days from the date the licence is granted;

Annex 1: Approved programme

DATED THIS _____ DAY OF _____ 20 ____

*(signature)*Cabinet Secretary (*name*)

In the presence of:

Director of Mines (*name*)*(signature)*

*(dated seal
here)*

Form MS3

(r. 9(3)(a))

[Application for Renewal of a Mine Support Services Licence]**1. Applicant's identity and contact information**

Full Name: _____

Physical Address: _____

Address: _____

City: _____ County: _____

Postal Address: _____

Address: _____

City: _____ County: _____

Other required information:

Phone number: _____

Mobile: _____

Email address: _____

1. Number of years of the renewal being applied for (not to exceed three years each)

(Please indicate appropriate option):

☐ First renewal:☐ 1 year☐ 2 years☐ 3 years☐ Others (specify)**2. Declaration**

If any information provided in this form is found to be false, the application will be rejected and the person whose signature appears below shall be guilty of an offence and subject to a penalty in accordance with the Act.

I am the holder of the mine support service licence (or in the case of a company

the holder's authorised representative) and by this application request that a renewal be granted for the mine support service identified herein. By submitting this application, I declare that the following statements are true:-

1. All reports required to be submitted in accordance with the terms and conditions pertaining to the mine support licence during the initial term have been submitted and submission receipts have been obtained.
2. All fees, charges and taxes required under the licence have been paid.
3. All environmental obligations if required under any law applicable to the licence have been met.
4. All environmental authorisations, if required under any applicable law for the renewal have been obtained.

5. All activities or services during the initial term of the licence have been carried out in accordance with the approved proposals.

6. At the time of applying for this renewal, no law, regulations or guidelines pertaining to mine support services have been breached.

Form MS4

(r. 11(2))

[Mine Support Services Licence Quarterly Report]

Mine Support Service Licence Registration Code Number: MS _____

Year: _____

1. CONTACT INFORMATION OF THE LICENSEE

Name of licensee: _____

Address: _____

Town/City: _____ County: _____

Postal Code: _____

County: _____

Phone number: _____

Mobile: _____

Email address: _____

2. Declaration

If any information provided in this form is found to be false, the application shall be rejected and the person shall be guilty of an offence and subject to penalty in accordance with the Act.

I hereby declare that the Mine Support Service Licence Quarterly Report attached to this form was prepared under my supervision. The information as provided above and in the attached report is truthful and accurate in all its details.

Date: _____

Name: _____ Position: _____

Email: _____ Telephone: _____

Mobile Number: _____

Address: _____

Form MS5

(r. 4(1))

Application for Transfer of Mine Support Services License

1. *Transferor's identity and contact information*

Full Name:

Physical Address:

Postal Address:

Town/City: County:

Other required information:

Phone number:

Mobile:

Email address

2. *Transferee's identity and contact information*

Full Name:

Physical Address:

Postal Address:

Town/City: County:

Postal Address

Other required information:

Phone number:

Mobile:

Email address:

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

- (a) duplicate copy of receipt of payment of application fee.
- (b) copy of Mine Support Services License.
- (c) a certified copy of the transferee company's certificate of incorporation.
- (d) "Director Information", a list of the full names and nationalities of all the transferee company's directors;
- (e) "Profile and History", in the case of an application for contract mining services, a description of the transferee's profile and history of contract mining services in Kenya or elsewhere [mandatory for transferee for contract mining services];
- (f) "Technical and Financial Qualifications", a statement giving particulars of the technical and financial resources available to the transferee;
- (g) Tax compliance certificate of transferee.

Declaration:

If any information provided in this form is found to be false, the application will be rejected or terminated and if discovered after the grant and the person whose signature appears below shall be guilty of an offence and subject to penalty as provided in the Act.

SECOND SCHEDULE [[rr. 4(3), 6(1A), 8(2), (9)(3)(c)]]**FEES**

[L.N. 40/2024, r. 10.]

Fees	<i>Amount (Kshs)</i>
Application and renewal	5,000
Annual Fee	50,000
Transfer Fee	50,000