

LEGAL NOTICE

THE MINING ACT

(No. of 2016)

IN EXERCISE of the powers conferred by section of 223 of the Mining Act, 2016, the Cabinet Secretary for Mining, Blue Economy and Maritime Affairs, makes the following Regulations—

**THE MINING (DEALINGS IN MINERALS) (AMENDMENT)
REGULATIONS, 2023**

Citation.

1. These Regulations may be cited as the Mining (Dealing in Minerals) (Amendment) Regulations, 2023.

Amendment of
regulation 4 of L.N.
88 of 2017.

2. The Mining (Dealings in Minerals) Regulations, 2017, in these Regulations referred to as the “principal Regulations” are amended in regulation 4 (5) by inserting the words “as set out in the Third Schedule” immediately after the words “prescribed application fee”.

Amendment of
regulation 5 of L.N.
88 of 2017.

3. The principal Regulations are amended in regulation 5—

(a) by inserting the word “recognized” between the words “any” and “financial”;

(b) by deleting sub-regulation (2) (g) and substituting therefor the following new sub-regulation;

(g) where applicable, appointed agents of the applicant, their identity card numbers, physical and postal addresses, contacts and their areas of operation.

Amendment of
regulation 7 of L.N.
88 of 2017.

4. The principal Regulations are amended in regulation 7—

(a) by inserting the word “set” in between the words “as” and “out” in sub-regulation (1);

(b) by deleting sub-regulations (2) (c) (i) and (ii);

(c) by inserting the words “where applicable” immediately after the words “environmental licence”

(d) by deleting sub-regulation (2) (k) and substituting therefor the following new sub-regulation;

(k) where applicable, appointed agents of the applicant, their identity card numbers, physical and postal addresses, contacts and their areas of operation;

(e) by inserting the word “processing” between the words “dealer’s” and “licence”;

Amendment of
regulation 8 of L.N.
88 of 2017.

5. The principal Regulations are amended in regulation 8—

(a) by inserting the word “in” between the words “issued” and “Form”;

(b) by deleting the words “digitally together with a paper copy using” appearing immediately after the words “shall be issued”.

Amendment of
regulation 11 of L.N.
88 of 2017.

6. Regulation 11 is amended—

(a) in sub-regulation (1) by adding the word “jewellery” immediately after the words “a mineral dealer’s licence for trading”;

(b) in sub-regulation (3) by deleting the expression “Environment and Land Court” and substituting therefor the words “relevant courts”

Amendment of
regulation 15 of L.N.
88 of 2017.

7. The principal Regulations are amended in regulation 15—

(a) in sub-regulation (1)—

i. by inserting the word “in” between the words “issued” and “Form”;

ii. by deleting the words “digitally together with a paper copy using” appearing immediately after the words “shall be issued”.

(b) in sub-regulations (3) (c) and (e) by deleting the word “licence” and substituting therefor the word “permit”.

Amendment of
regulation 17 of L.N.
88 of 2017.

8. The principal Regulations are amended in regulation 17 (4) by deleting the expression “Environment and Land Court” and substituting therefor the words “relevant courts”.

Amendment of regulation 18 of L.N. 89 of 2017.

9. The principal Regulations are amended in regulation 18 by inserting the words “mineral export” in between the words “a” and “permit”.

Amendment of regulation 19 of L.N. 88 of 2017.

10. The principal Regulations are amended in regulation 19 (a) by adding the words “(trading, jewellery or processing)” immediately after the words “a holder of a mining licence, mining permit or a dealer’s”

Amendment of regulation 20 of L.N. 88 of 2017.

11. The principal Regulations are amended in regulation 20 (1) by adding the words “and pay a fee specified in the Third Schedule” immediately after the words “as set out in the Second Schedule”.

Insertion of the Third Schedule to L.N. 87 of 2017.

12. The principal Regulations are amended in the Schedule by inserting a Third Schedule immediately after the Second Schedule.

THIRD SCHEDULE

MINERAL DEALINGS FEES.

NO	LICENCE	CHARGES
1	Mineral dealers Processing licence (Precious metals and Base metals)	Application fee- kshs 100,000
		Licence fee-kshs. 500,000 (Annually)
2	Mineral dealers Processing licence (Gemstone Faceting)	Application fee- kshs 5,000
		Licence fee- kshs. 50,000 (Annually)
3	Mineral Dealers (Trading) License 1 calendar year (term Expires on 31st day of December)	Application fee – Ksh 5,000
		Industrial and Construction minerals - Ksh 50,000 (Annually)
		Precious Stones - Ksh 20,000 (Annually)
		Semi – Precious Stones – Ksh 20,000 (Annually)
		Base and Rare Metals -ksh. 500,000 (Annually)
		Precious Metals-Ksh 200,000 (Annually)
4	Mineral Dealers permit 1 calendar year (term Expires on 31st day of December)	Application fee Ksh. 2000
		Industrial and Construction minerals Ksh. 20,000 (Annually)
		Precious stones -Ksh. 5,000 (Annually)
		Semi-precious stones- Ksh. 5,000(Annually)

		Base and Rare metals - Ksh. 5,000 (Annually)
		Precious Metals-Ksh. 5,000(Annually)
5	Mineral Dealers (Jewelers') Licence	Application fee – Ksh. 1,000
		Licence fee of Ksh. 20,000(Annually)
6	Mineral Export permit	Processing fee of Ksh. 5,000

THIRD SCHEDULE

FORMS

FORM DJL-1

Application for a Mineral Dealer's (Jewellery) Licence

1. Full Name: _____ . National I.D No. (Kenyans)

Or, Passport No. / Country (Non-Kenyans) _____ is applying on behalf of:

a. an individual (complete all information in this section)

Full Name: _____ National I.D No. (citizen)

Or, Passport No. / Country (foreigner) _____

b. a company (complete all information in this section)

Registered company name: _____

Registered Certificate No. / Date incorporated: _____

c. Physical Location of business

Street: _____ Building: _____ Floor/Office #

Town / City: _____ Sub – County: _____ County:

d. Address

P.O Box: _____ Code: _____

Town/City: _____ County: _____

Phone # _____ Mobile # _____

Email address (mandatory): _____

e. Name of authorised agent or representative if any:

1) _____ Mobile # _____ Area of operation

2) _____ Mobile # _____ Area of operation

2. Category of Mineral or Minerals as set out in the First Schedule of the Mining (Dealings in Minerals) Regulations

Select the category of minerals for which the licence is required (use separate Forms if more than one category)

- 1) Construction, Industrial, Gaseous Minerals and Coal
- 2) Precious and Semi-Precious Stones [All gemstones except diamonds]
- 3) Precious and Rare Metals.
- 4) Base Metals.

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

- duplicate copy of the receipt of the payment of the prescribed fee;
- where the applicant is a company, a certified copy of the applicant company's certificate of incorporation, current CR12 and certified copy of its memorandum and articles of association;
- where the applicant is an individual, a certified copy of Kenyan national identity or current passport for non-Kenyans
- "Knowledge and Experience", a description of the applicant's knowledge or experience of mineral dealings in Kenya and elsewhere;
- a statement giving particulars of the financial resources available to the applicant;
- Letters of appointment of agents detailing their contacts and areas of operations and their identification documents

4. Declaration

(Note: where any declaration made in this Form is found to be false the applicant shall be guilty of an offence and subject to a penalty as provided for in the Act).

FORM DJL-2

[MINERAL DEALER'S (JEWELLERY) LICENCE]

Mineral Dealer's (Trading) Licence Registration No.

This Licence is valid up to 31st December - _____

1. Subject to the conditions set out in the Mining Act, in these regulations and in this Mineral Dealer's Licence,

Name:

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

Physical Address _____

City / town: _____ County: _____ Nationality: _____

And whose place of business is situated at:

City / town: _____ Ward: _____ Sub-County: _____ County: _____

Is by this licence granted the right to buy, and sell including export of

[insert category of minerals]

DATED This _____ Day of _____
20_____

Cabinet Secretary (*name*)

(*signature*)

In the presence of:

Director of Mines (*name*)

(*signature*)

(*dated seal here*)

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Terms and Conditions

2. The holder, during the term of this licence, shall:
 - (a) carry out trading in minerals in accordance with the conditions set out hereinafter;
 - (b) commence trading in minerals within thirty calendar days from the date the licence is issued;
 - (c) buy the minerals specified in the licence; and
 - (d) sell the mineral to the National Mining Corporation or to any person in Kenya who is lawfully entitled to deal in minerals or to export the minerals.
3. The holder during the term of the licence shall-
 - (a) Keep a register of the mineral dealings in the Form as prescribed
 - (b) Record the following information in respect of each transaction-

- i. the name, grade and weight of the minerals purchase or sold;
 - ii. the price paid or received for the minerals;
 - iii. the date of the purchase or sale;
 - iv. The royalty liability for each transaction;
 - v. The name and address of the supplier or the seller and the source of the minerals; and
 - vi. The name and address of the vendor or the purchaser or consignee.
4. The holder shall submit to the Cabinet Secretary a true copy of the register in duplicate for the preceding three months, together with a statutory declaration of the correctness thereof, in the months of January, April, July and October of every year.