



## Regulatory Alert

# Withholding of royalty and inspection fees from amounts payable to a constructor by a public sector entity

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### In Brief

Effective 14 March 2025, a public sector entity that makes payments to a constructor that uses minerals in the construction contract is required to withhold royalty and inspection fees payable for such minerals and remit it to the Mining Commission within seven days from the date of the collection.

### Background and details of the new requirement

Mining royalty is a fee paid by a holder of mineral rights or (i) a licensed dealer/broker (where minerals are sold to them by a mineral right holder), and (ii) an importer of minerals, to the Government as required by section 87 of the Mining Act, 2010. The amount is computed as a percentage (which varies depending on the type of mineral) of the “gross value<sup>1</sup>” of the minerals.

Inspection fees on the other hand are also payable to the Government prior to clearance of minerals for domestic use or export at 1% of the gross value of minerals (subject to certain exemptions). The gross value is the market value of mineral at the point of refining or sale or, in the case of consumption within Tanzania, at the point of delivery within Tanzania.

The Written Laws (Miscellaneous Amendments) (No.2) Act, 2025 which is

effective from 14 March 2025 has introduced a requirement for a public sector entity that makes payments to a constructor (who uses minerals for construction) to withhold royalty and inspection fees payable for the minerals used and remit it to the Mining Commission within seven days from the date of the collection of the fees. The withholding obligation of a public sector entity will not be impacted due to any law that provides otherwise.

The definition of a public sector entity covers “ministry, Government department, regional secretariat, local government authority, regulatory authority, public corporation, executive agency, commercial entity owned by the government and any other public institution”.

### Commentary

The introduction of this requirement on public sector entities raises several questions that require clarification.

Ordinarily, the majority of the constructors (who have not been defined, so we assume the ordinary meaning) will not be authorised miners or dealers hence they do not have the obligation to account for royalty and inspection fees in the first place. Additionally, the royalty and inspection fees would already have been remitted by either the authorised miner or the dealer

<sup>1</sup> broadly refers to value calculated as at the final destination



before the minerals are purchased by the constructor for domestic use. The question would be whether this change was meant to operate on the assumption that the royalty and inspection fees due remains unpaid by a miner or dealer. However, the law already prohibits disposal of minerals in such cases<sup>2</sup>.

Perhaps this requirement is intended to target construction companies who are also mineral licence holders that extract the minerals required for production of construction materials used in the construction activity, as in this case, there is no mechanism to enforce payment of royalties and inspection

fees as there is no sale of minerals in their original form but rather uses the same as raw materials), but we expect further guidance.

The change (subject to further clarification on applicability) will potentially increase administrative burden to both the public sector entities and the constructors because they will need to know beforehand the type and value of minerals that will be utilised in construction projects and more importantly whether the royalties and inspection fees due on such minerals have been remitted (by either the authorised miner or dealer) to the Mining Commission.

Additionally, there is also a need for clarity on (i) whether the amendment applies to raw minerals and/ or processed minerals used in producing construction materials and (ii) whether any provisional royalties already paid by the authorised miner or dealer will be deducted in arriving at the withholding royalty payable.

We hope that further guidance and clarification with regards to this amendment is issued soon so as to understand the motive and more importantly how it will operate in practice.

<sup>2</sup> Section 91 Mining Act, 2010

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