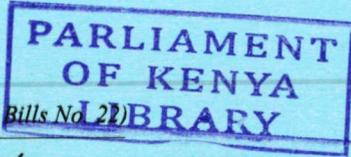


SPECIAL ISSUE



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THE MINING (AMENDMENT) BILL, 2025

A Bill for

AN ACT of Parliament to amend the Mining Act to provide a framework for the utilisation of mineral royalties for the benefit of communities where the exploitation of mineral resources occur; and for connected purposes

ENACTED by the Parliament of Kenya, as follows —

PART I - PRELIMINARY

1. This Act may be cited as the Mining (Amendment) Act, 2025.

Short title.

2. The Mining Act, in this Act referred to as “the principal Act”, is amended by inserting the following new Part immediately after PART XII—

Insertion of new Part XXIIA in Cap. 306.

**PART XXIIA — SHARING OF
MINERAL ROYALTIES AMONG
COMMUNITIES**

Alienation and utilisation of royalties distributed to communities.

190A (1) The Cabinet Secretary shall transfer to the relevant county revenue fund the royalties allocated to county governments and communities under section 183(5)(b) and (c) within twenty one days of receipt of the royalties.

(2) The relevant county executive committee member responsible for finance shall set aside the funds allocated to communities under section 183(5)(c) and only utilise them for projects identified by the relevant community project identification committee.

(3) The Commission on Revenue Allocation shall, in consultation with the affected counties, determine share of funds due to each county pursuant to subsection (1) where a community is domiciled in two or more counties.

Notification of the grant or renewal of a

190B Upon the granting or renewal of a mining licence under sections 103 and 115

mining licence or permit.

or a mining permit under sections 136, 137 and 141, the Cabinet Secretary shall furnish the relevant county executive committee member responsible for mining with the particulars of the licence or permit granted or renewed within seven days of the grant or renewal.

Establishment of community project implementation committees.

190C (1) Upon receipt of particulars furnished under section 190B, the respective county executive committee member responsible for mining shall establish a community project implementation committee comprising the following elected by the respective community—

- (a) a chairperson;
- (b) three men;
- (c) three women; and
- (d) a secretary, who shall be a county public officer appointed by the county executive committee member and who shall be an ex-officio member.

(2) A person qualifies for election as the chairperson of a community project implementation committee if the person—

- (a) is a Kenyan citizen;
- (b) is a member of the respective community;
- (c) holds a first degree from a university recognized in Kenya; and
- (d) meets the requirements of Chapter Six of the Constitution.

(3) A person qualifies for election as a member of a community project implementation committee if the person—

- (a) is a Kenyan citizen;

- (b) is a member of the respective community;
- (c) is proficient in English, Kiswahili or Kenyan Sign Language;
- (d) can read and write; and
- (e) meets the requirements of Chapter Six of the Constitution.

(4) The respective county executive committee member responsible for mining shall publicise and conduct the election of the chairperson and members of a community project implementation committee in the prescribed manner within sixty days of receipt of particulars furnished under section 190B.

(5) The respective county executive committee member responsible for mining shall appoint the chairperson and members of a community project implementation committee, by notice in the *Gazette*, within fourteen days of their election.

(6) The chairperson and members of a community project implementation committee shall serve for a nonrenewable term of five years.

(7) The chairperson and members of a community project implementation committee shall be paid such allowances as shall be determined by the Salaries and Remuneration Commission in consultation with the Council of County Governors.

(8) The respective county executive committee member responsible for mining shall provide respective community project implementation committees with such staff as are necessary for the performance of the functions of the committees.

Functions of
community project
implementation
committees.

190D The functions of a community project implementation committee shall be to—

- (a) in consultation with members of the respective community, identify and present to the relevant county executive committee member responsible for finance the projects to be funded by royalties allocated to the community pursuant to section 183(5)(c);
- (b) monitor the implementation of projects identified under paragraph (a);
- (c) convene community forums to facilitate public participation with regard to the identification of projects to be funded by royalties allocated to the community pursuant to section 183(5)(c); and
- (d) monitor the utilisation of funds allocated to the community pursuant to section 183(5)(c).

Conduct of the affairs of community project implementation committees.

190E (1) The business and affairs of community project implementation committees shall be conducted in accordance with the Third Schedule.

(2) Except as provided for in the Third Schedule, each community project implementation committee may regulate its own procedure.

6. Section 223 of the principal Act is amended in subsection (2) by inserting the following new paragraph immediately after paragraph (b)—

Amendment of section 223 of Cap. 306.

- (ba) the manner in which the election of the chairperson and members of community project implementation committees shall be conducted.

7. The principal Act is amended by inserting the following new schedule immediately after the Second Schedule —

Insertion of new Third Schedule to Cap. 306.

THIRD SCHEDULE

(s. 190E (1))

**PROVISIONS AS TO THE CONDUCT OF
BUSINESS AND AFFAIRS OF A COMMUNITY
PROJECT IMPLEMENTATION COMMITTEE**

1. (1) The Committee shall meet at least once in every three months to conduct its business.

Meetings of the committee.

(2) The first meeting of the Committee shall be convened by the chairperson and the Committee shall meet subsequently at such a time and place as it shall determine.

(3) Notwithstanding the provisions of sub-paragraph (1), the chairperson shall, upon a written request by at least four members of the Committee or at any time where he or she considers it expedient for the transaction of the business of the Committee, convene a special meeting of the Committee.

(4) The members of the Committee shall elect a vice-chairperson from among themselves—

(a) at the first sitting of the Committee; and

(b) whenever it is necessary to fill the vacancy in the office of the vice-chairperson.

(5) A meeting of the Committee shall be presided over by the chairperson or in her or his absence by the vice-chairperson.

(6) Unless three quarters of the total number of the members of the Committee otherwise agree, at least four days written notice of every meeting of the Committee shall be given to every member of the Committee by the Secretary.

(7) The Committee may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the Committee.

(8) The proceedings of the Committee shall not be invalidated by reason of a vacancy within its membership.

(9) The quorum of a meeting of the Committee shall be four members

2. Unless a unanimous decision is reached, a decision on any matter before the Committee shall be by a simple majority of the votes of the members present and voting and in the case of an equality of votes, the chairperson or person presiding over the meeting shall have a casting vote.

Voting.

3. (1) A member of the Committee who has a direct or indirect personal interest in any matter being considered or that is to be considered by the Committee shall, upon the relevant facts concerning the matter having come to her or his knowledge, disclose the nature of her or his interest to the Committee.

Conflict of interest

(2) A disclosure of interest made by a member of the Committee under subparagraph (1) shall be recorded in the minutes of the meeting of the Committee and the member shall not, unless the Committee otherwise determines—

(a) be present during the deliberation on the matter by the Committee; or

(b) take part in the decision of the Committee on the matter.

(3) A member of the Committee who makes a disclosure under subparagraph (1) shall not—

(a) be present in the meeting of the Committee held to determine whether or not the member should take part in the deliberations or decision of the Committee in relation to the matter; or

(b) influence any other member of the Committee in arriving at a particular decision in relation to the matter.

5. (1) Subject to provisions of this Schedule, the Committee may determine its own procedure.

Rules of Procedure and minutes.

(2) The Committee shall cause the minutes of all proceedings of its meetings to be recorded and kept, and the minutes of each meeting shall be confirmed by the Committee at the next meeting of the Committee and signed by the chairperson or the person presiding at the meeting.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The Bill seeks to amend the Mining Act (Cap. 306) to provide a legislative framework for the utilization of mineral royalties for the benefit of communities where the exploitation of mineral resources occur.

The Bill mandates the timely transfer of royalties allocated to county governments and local communities to respective county revenue funds to facilitate the utilization of the royalties by county governments. It further ringfences the royalties allocated to communities for projects identified by respective communities.

The Bill further provides for the establishment community project implementation committees comprising members of the respective community elected by the community. The key function of the committees would be to identify and monitor the implementation of projects that will be funded by royalties allocated to the community under section 183(5)(c) of the Mining Act.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

This Bill, once enacted, would confer on the Cabinet Secretary responsible for mining the power to make regulations providing for the manner in which the election of the chairperson and members of community project implementation committees shall be conducted. It therefore delegates limited and conditional legislative powers.

The Bill does not limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

The Bill concerns county governments as it contains provisions that affect local community participation, administration and utilization of funds within counties. It also makes provision for the transfer and utilization of funds allocated to county governments pursuant to section 183(5)(b) and (c) of the Mining Act.

The Bill therefore affects the functions and powers of county governments in terms of 110(1)(a) of the Constitution.

Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution

The Bill deals with matters other than those listed in the definition of a money Bill under Article 114 (3) of the Constitution and is therefore not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 12th June, 2025.

KAREN NJERI NYAMU,
Senator.

Section 223 of Cap. 306 that the Bill proposes to amend—

2. Power to make regulations

(1) The Cabinet Secretary may make Regulations necessary or convenient for the proper administration and implementation of this Act.

(2) Without prejudice to the generality of the foregoing, the Cabinet Secretary may make Regulations prescribing—

- (a) the fees, royalties, rent and other charges that are payable under this Act or the manner in which they are to be calculated;
- (b) the royalties that are payable for specific minerals or the manner in which they are to be calculated;
- (c) the manner in which an area referred to in a mineral right shall be demarcated;
- (d) the manner in which records, accounts, books and other documents shall be kept, retained and made available for inspection;
- (e) the procedures to be followed in respect of tendering in areas that have been designated for tendering for large scale operations in accordance with this Act;
- (f) the measures to be observed in respect of radioactive and other restricted minerals including, the storage and transportation of radioactive and restricted minerals and the sale or supply of such minerals;
- (g) the measures to be included in programmes for prospecting and mining operations that require the Cabinet Secretary's approval;
- (h) the measures to be observed to protect and rehabilitate the environment;
- (i) procedures for the grant of mineral rights and guidelines for exploration and mining in Kenya's territorial sea, exclusive economic zone and the continental shelf;
- (j) the areas that are excluded areas under this Act;
- (k) the categories of mineral rights that are not to be granted in prescribed areas;
- (l) the form of any licence, permit, form, return or other document to be used for the purposes of this Act; and
- (m) anything which may be prescribed under this Act and for the better carrying into effect the provisions of this Act.