

CHAPTER 447

THE TANZANIA EXTRACTIVE INDUSTRIES (TRANSPARENCY AND ACCOUNTABILITY) ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 447

THE TANZANIA EXTRACTIVE INDUSTRIES (TRANSPARENCY AND ACCOUNTABILITY) ACT

An Act to provide for establishment of the Extractive Industries (Transparency and Accountability) Committee for purposes of ensuring transparency and accountability in extractive industries and to provide for other related matters.

[25th September, 2015]

[GN. No. 455 of 2015]

Acts Nos.
23 of 2015
6 of 2021

PART I

PRELIMINARY PROVISIONS

Short title **1.** This Act may be cited as the Tanzania Extractive Industries (Transparency and Accountability) Act.

Application **2.**—(1) This Act shall apply to—
 (a) Mainland Tanzania; and
 (b) Mainland Tanzania as well as Tanzania Zanzibar in relation to extractive industry companies undertaking joint petroleum operations or petroleum activities in specific areas or overlapping blocks in accordance with the Petroleum Act.

Cap. 392 (2) The extractive industry activities undertaken within Tanzania Zanzibar shall be governed and administered in accordance with the laws of Tanzania Zanzibar.

Interpretation **3.** In this Act, unless the context otherwise requires—
“Committee” means the Tanzania Extractive Industries (Transparency and Accountability) Committee established under section 4;

Cap. 418

- “Controller and Auditor-General” has the meaning ascribed to it under the Public Audit Act;
- “Chairman” means the Chairman of the Committee appointed under section 5;
- “Executive Secretary” means the Executive Secretary of the Committee appointed under section 12;
- “extractive industry company” means a private or state owned company engaged in exploitation of minerals, oil, natural gas and includes any other company engaged in natural resources extraction;
- “Extractive Industries Transparency Initiative” also described as “EITI” means a global initiative that provides standards for governing extractive industries;
- “Extractive Industries Transparency Initiative Standard” means an international framework that provides guidance to implementing countries in governing extractive industries;
- “extractive industry” means an industry dealing with natural resources;
- “independent administrator” means a qualified firm appointed under section 17;
- “local content” means an added value brought and or developed in Tanzania through participation of the national labour, technology, goods, services, capital and research capabilities in the extractive industry activities;
- “Minister” means the Minister responsible for mining, oil and natural gas;
- “reconciliation” means a process of verifying payments made by extractive companies and revenues received by the Government pursuant to section 14;
- “statutory recipient” means an entity of the Government responsible for collection of revenues from extractive industry companies;
- “sub-committee” means a committee established by the Committee under paragraph 14 of the Schedule to this Act.

PART II

ADMINISTRATIVE PROVISIONS

Establishment
of Committee

4.–(1) There shall be a Committee to be known as the Tanzania Extractive Industries (Transparency and Accountability) Committee.

(2) The Committee shall be an independent Government entity which shall be an oversight body for promoting and enhancing transparency and accountability in the extractive industry.

Composition
of Committee
Act No.
6 of 2021 s. 51

5.–(1) Subject to the provisions of this Act, the Committee shall be composed of a Chairman to be appointed by the President and not more than eight other members who possess knowledge and experience on governance of industries.

(2) The eight members referred in subsection (1) shall be-

- (a) four persons from Government entities appointed by the Minister one of whom shall be the Attorney General or his representative;
- (b) two persons from extractive industry companies; and
- (c) two persons from civil society organisations.

(3) The Executive Secretary shall be the Secretary of the Committee.

(4) Members appointed in terms of subsection (2)(b) and (c) shall be appointed by the respective umbrella organisations in accordance with procedures set out by such organisations and submitted to the Minister for announcement.

(5) Appointments, referred to under this section shall have regard to gender balance.

Nomination
Committee

6.–(1) There is established a Committee to be known as the Nomination Committee.

(2) The Nomination Committee shall be composed of the following members:

- (a) the Permanent Secretary of the Ministry responsible for mineral matters who shall be the Chairman of the Nomination Committee;

- (b) the Permanent Secretary of the Ministry responsible for finance;
- (c) the Permanent Secretary of the Ministry responsible for public service;
- (d) the Permanent Secretary of the Ministry responsible for labour; and
- (e) two experts in extractive industries nominated in accordance with subsection (3).

(3) One of the two persons referred to in subsection (2)(e) shall be appointed by the Minister from three names submitted by extractive industry companies and the other person from three names submitted by the civil society umbrella organisations.

(4) The Nomination Committee shall work on *ad-hoc* basis depending on the need for nomination.

(5) The Committee shall pay from its funds expenses incurred by the Nomination Committee in the cause of the discharge of its duties as may be approved by the Minister.

Functions of
Nomination
Committee

7.–(1) The functions of the Nomination Committee shall be to nominate persons for appointment as-

- (a) Chairman of the Tanzania Extractive Industries (Transparency and Accountability) Committee; or
- (b) the Executive Secretary of the Committee.

(2) The Nomination Committee may take such actions as are reasonably necessary to identify and attract the best candidates such as by advertising in the newspapers widely circulating within the country.

(3) The Nomination Committee shall submit to the Minister-

- (a) in case of the Chairman, three names of persons to be forwarded to the President by the Minister to be considered for appointment as Chairman; and
- (b) in case of the Executive Secretary, three names to be considered by the Minister for appointment as an Executive Secretary.

(4) The Nomination Committee shall regulate its own proceedings and other matters related thereto.

Tenure of office **8.** The Chairman and members of the Committee shall hold office for a period of three years and shall be eligible for re-appointment for one further term of three years.

Proceedings of Committee **9.** The provisions of the Schedule to this Act shall have effect to the proceedings of the Committee.

Functions and powers of Committee **10.–(1)** The Committee shall be responsible for ensuring that benefits of extractive industry are verified, duly accounted for and prudently utilized for the benefit of the citizens of Tanzania.

(2) Pursuant to subsection (1), the functions of the Committee shall be to-

- (a) develop a framework for transparency and accountability in the reporting and disclosure by all extractive industry companies on revenues due to or paid to the Government;
- (b) require from any extractive industry company or from the statutory recipients an accurate account of money paid by and received from the company at any period, as revenue accruing to the Government from such company for that period;
- (c) require extractive industry companies to disclose to the Committee accurate records of the cost of production, capital expenditures at every stage of investment, volumes of production and export data from extractive industry company in respect of each licence;
- (d) promote the effective citizen participation and awareness of extractive industry companies and its contribution to socio-economic development;
- (e) conduct investigations on material discrepancy from revenue payments and receipts in the extractive industry companies in accordance with the provisions of this Act;

- (f) make reconciliations on payments from extractive industry companies and Government receipts;
 - (g) identify discrepancies and undertake measures to enhance capacity of any relevant organ of the Government or local government authority having statutory responsibility to monitor revenues and payments by all extractive industry companies to the Government;
 - (h) disseminate by way of publication of reconciliation and investigation reports or otherwise any information concerning revenues received by the Government from extractive industry companies as it may consider necessary;
 - (i) promote the effective citizen participation and awareness of resources governance in extractive industry and its contribution to socio-economic development;
 - (j) make consultation amongst Government, civil society and companies for effective management of natural resources;
 - (k) supervise affairs of the Secretariat;
 - (l) carry out research or studies for furtherance of the functions of the Committee; and
 - (m) undertake any other activities related to its functions.
- (3) The Committee shall report to the Minister the implementation of functions referred to under subsection (2) for appropriate actions and better governance of the extractive industry companies.

Delegation of powers

11. The Committee may delegate any of its functions to a subcommittee or the Secretariat.

Appointment of Executive Secretary

12.—(1) There shall be an Executive Secretary of the Committee who shall be appointed by the Minister.

(2) The Executive Secretary shall be the head and accounting officer of the Secretariat, and shall be responsible for implementation of the day to day activities of the Committee.

(3) A person shall be qualified for appointment as Executive Secretary if the person-

- (a) possesses at least a degree in the field of engineering, economics, laws, management, development studies, geology or finance;
- (b) has relevant knowledge and experience of at least five years on matters relating to extractive industry; and
- (c) has a proven leadership ability.

(5) The Executive Secretary shall hold office for a period of five years and may be eligible for a re-appointment for one further term of five years.

Secretariat

13.-(1) There shall be a Secretariat of the Committee which shall be responsible for implementation of activities of the Committee.

(2) The officers and staff of the Secretariat shall be public servants.

PART III

OBLIGATIONS OF EXTRACTIVE COMPANIES AND STATUTORY RECIPIENTS

Threshold and obligation of extractive companies and statutory recipients

14.-(1) The Committee shall in every financial year set out a threshold for the purpose of identifying extractive industry companies that qualify for reconciliation on payments made and revenues received by the Government.

(2) The extractive industry company that qualifies under subsection (1) shall submit to the Committee information and data containing all forms of taxes and charges made to the Government in a manner prescribed in the regulations.

(3) A statutory recipient that receives payments from extractive industry companies shall submit to the Committee information and data on revenue receipts.

Information on local content, corporate social responsibility and capital expenditures

15.-(1) An extractive industry company shall submit to the Committee annual reports containing information on local content and corporate social responsibility.

(2) Notwithstanding subsection (1), the extractive industry company shall submit to the Committee capital expenditures at every stage of investment.

(3) A person who is required to furnish information under this section and refuses or fails to comply with such requirement commits an offence.

Obligation to publish information

16.—(1) In order to ensure transparency and accountability in extractive industries, the Committee shall cause the Minister to publish—

- (a) in the website or through a media which is widely accessible all concessions, contracts and licenses relating to extractive industry companies;
- (b) names of individual shareholders who own interests in the extractive industry companies;
- (c) implementation of Environmental Management Plans of the extractive industry companies;
- (d) implementation reports referred to under section 17(5).

(2) For the purpose of subsection (1), all information on activities undertaken by an extractive industry company required to be reported or submitted to its local or foreign stock markets shall equally be reported or submitted to the Committee.

PART IV APPOINTMENT AND THE ROLE OF ADMINISTRATOR

Appointment of independent administrator

17.—(1) The Committee may engage an independent administrator to reconcile and verify payments made by extractive industry companies and revenues received by the Government.

(2) Reconciliation report shall include data on investment expenditure, production, export and any other matters related to the activities of the extractive industry in a particular reporting period.

(3) Independent administrator appointed by the Committee shall be a qualified firm to carry out activities required under subsections (1) and (2).

(4) Independent administrator shall carry out the assignment on such terms and conditions as set out by the Committee.

(5) The independent administrator shall, upon completion of assignment imposed under this section, submit the reconciliation report to the Committee for consideration and publication.

PART V DISCREPANCIES AND ROLE OF CONTROLLER AND AUDITOR-GENERAL

Treatment of
discrepancy

18.-(1) Where the reconciliation report identifies any material discrepancy between payments and receipts, the Committee shall, within fourteen working days upon receipt, submit such report to the Controller and Auditor-General for investigation.

(2) The Controller and Auditor-General shall prepare the audit report and submit it to the Committee and the Minister for consideration.

(3) The Committee shall after receiving the investigation report referred to under subsection (2) forward the investigation report to the relevant authorities for further action.

(4) The relevant authorities shall, after receiving the investigation report from the Committee, take actions on the recommendations made by the Controller and Auditor-General within thirty working days and shall prepare and forward the implementation report to the Committee.

(5) The Committee shall, within fourteen working days after receiving the implementation report referred to under subsection (4), submit investigation report to the Minister for consideration and publication.

PART VI

GENERAL PROVISIONS

Minister to
submit report

19. The Minister shall, as soon as may be practicable and not later than twelve months after the close of the financial year, lay before the National Assembly a report on the implementation of activities under this Act.

Funds and
resources of
Committee

20. The funds and resources of the Committee shall consists of-

- (a) such sums of money as may be appropriated by Parliament;
- (b) money raised by way of loans, donations or grants from, within and outside Tanzania;
- (c) such sums of money or property which may become payable to or vested in the Committee under this Act or any other written law or in respect of any matter incidental to the carrying out of its functions.

Accounts and
audit

21.-(1) The Committee shall cause to be kept and maintained proper books of accounts with respect to-

- (a) sums of money received and expended by the Committee and matters in respect of which the receipt and expenditure take place;
- (b) assets and liabilities of the Committee; and
- (c) the income and expenditure statement of the Committee.

(2) The auditing of the financial reports and books of accounts of the Committee shall be done by the Controller and Auditor-General or a person authorized by him.

Annual report

22.-(1) The Committee shall, not later than six months after the end of financial year, submit to the Minister a copy of the audited accounts and annual report on the activities of the Committee in respect of that year.

(2) The Minister shall within a period of six months after the accounts have been audited lay the audited accounts and audit report before the National Assembly.

- Offences and penalty **23.** A person, who without reasonable causes, or fails to produce a document or an information required under this Act within the specified time, commits an offence and on conviction, shall be liable-
- (a) in case of an individual, to a fine of not less than ten million shillings; and
 - (b) in case of a body corporate, to a fine of not less than one hundred and fifty million shillings.
- False information **24.** A person who-
- (a) gives false information or reports to the Committee regarding data on investment expenditure, production, export and any other information related to the activities of the extractive industry;
 - (b) renders false statement of account or fails to produce a statement of account required under this Act;
 - (c) refuses or fails to give information; or
 - (d) without reasonable excuse, obstructs or hinders the Committee or any person authorised as such from doing any of its functions,
- commits an offence and on conviction shall be liable to a fine of not less than one hundred million shillings.
- Powers to make regulations **25.** The Minister may, in consultation with other relevant Ministries, make regulations prescribing matters which are necessary or convenient to be prescribed for better carrying out or giving effect to the provisions of this Act.
- Power of Minister to specify natural resource **26.** The Minister may, in consultation with other relevant Ministries by order published in the *Gazette* specify any other natural resource to be subject to this Act.
- Savings provision **27.**-(1) All Mineral Development Agreements and Production Sharing Agreements or any other agreements signed prior to coming into operations of this Act, shall, upon coming into force of this Act, be subjected to disclosure requirements under this Act.

(2) Except for information that is confidential as the Committee may determine, all other information contained in agreements referred to under subsection (1), shall be subject to disclosure requirements under this Act.

PART VII CONSEQUENTIAL AMENDMENTS

Omitted **28.-58.** [Omitted].

SCHEDULE

(Made under section 9)

PROCEDURE OF THE COMMITTEE

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|------------------------------------|---|
| Chairman | <p>1.-(1) The Chairman shall preside at all meeting of the Committee.
 (2) Where at any meeting of the Committee the Chairman is absent, the members present shall elect one of the members to be a temporary Chairman who shall preside at that meeting.
 (3) The Chairman or temporary Chairman presiding at any meeting of the Committee shall have a vote and in the event of an equality of votes, shall have a casting vote in addition to his deliberative vote.</p> |
| Meeting and procedure of Committee | <p>2.-(1) The Committee shall meet once in every quarter of the year and at any additional times which may be fixed by the Chairman or in his absent or unable for any reason to act, the Executive Secretary.
 (2) The Chairman or in his absence, the Executive Secretary may, upon application in writing by at least five members convene a special meeting of the Committee at any time.
 (3) The Executive Secretary of the Committee shall give to each member adequate notice of the time and place of each meeting,</p> |
| Quorum | <p>3. At any meeting of the Committee not less than one half of all the members of the Committee shall constitute a quorum and provided that each group is represented.</p> |
| Absence of member | <p>4. Where any member absents himself from three consecutive meetings of the Committee without reasonable cause, the Committee shall advise the appointing authority of the fact and the appointing authority may terminate the appointment of such member and appoint another member in his place.</p> |

Appointment of temporary member	5. Where any member is by reason of illness, infirmity or absence from Tanzania for a long time, the appointing authority may appoint a temporary member who shall cease to hold office on the resumption of office of the substantive member.
Minutes of meetings	6. Minutes of each meeting of the Committee shall be kept and confirmed by the Committee at the next meeting and signed by the Chairman of the meeting.
Decisions of Committee	7. Subject to the provisions relating to casting vote, decisions at meetings of the Committee shall be determined by consensus of the all members present.
Seal of Committee	8.-(1) The seal of the Committee shall be of a shape size and form as the Committee may determine. (2) The seal shall not be used except in pursuance of a resolution of the Committee and shall be authenticated by the signature of the Chairman, Executive Secretary or any member of the Committee authorised to act in that behalf by the Committee. (3) All documents, other than those required by law to be under seal, made by and all decision of the Committee, may be signified under the hand of the Chairman or the Executive Secretary or any member or officer of the Committee authorised in that behalf by the Committee.
Regulation of proceedings	9. Subject to the provision of this Schedule, the Committee may regulate its own proceedings.
Vacancies not to invalidate proceedings	10.-(1) Subject to the provision of paragraph 3 relating to quorum, the Committee may act notwithstanding any vacancy in its membership. (2) Act or proceeding of the Committee shall not be invalid by reason only of some defect in the appointment of person who purports to be its member.
Cessation of membership	11.-(1) A member of the Committee may resign by giving notice in writing addressed to the Chairman and the appointing authority and as from the date specified in the notice or if no date is specified from the date of receipt of the notice by the Chairman the member shall cease to be a member of the Committee. (2) A member appointed to fill such vacancy shall hold office for the remainder of the term of his predecessor.
Executive Secretary to convene meetings	12. The Executive Secretary shall, in consultation with the Chairman, convene meetings of the Committee also keep minutes of meetings and perform other functions as the Committee may require.
Meetings of Committee	13.-(1) The Committee shall ordinarily meet once in every quarter of the year and at such additional times as may be fixed by the Chairman. (2) The Committee shall hold an extraordinary meeting as may be considered necessary at such time as may be fixed by Chairman.

- Sub-committee of Committee **14.** The Committee may appoint, amongst the members of the Committee, three or more members, at least one from each cluster, to form a sub-committee to carry out on its behalf any of the functions of the Committee as it may determine.
- Co-option of non-member **15.** The Committee may co-opt other person who is not member of the Committee to provide expertise and other assistance as may be required and such persons so invited shall have no right to vote during the deliberations of the Committee or take part in the final decision of the Committee.
- Emolument of Committee members **16.** The Committee shall, after consultation with the Minister, prescribe fees and allowances which may be payable to the Chairman and members.
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