



**MOIRA MUKUKA**

LEGAL PRACTITIONERS

**Budget 2023**

**Policy and Regulatory Shifts for the Mining Sector**



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The 2023 budget presented by the Minister of Finance on 30 September proposes a major shift in Zambia's mining policy and regulatory regime.

The changes have been rationalised to achieve the following objectives:

- (a) enhance regulatory oversight;
- (b) encourage local participation;
- (c) boost investment in exploration to attain 3 million metric tonnes annual mineral production by 2032; and
- (d) attract large scale capital, technology and international experience.

### **Introduction of a Mining Regulatory Commission**

A Mining Regulatory Commission is to be introduced, similar to that of Ghana and Tanzania, to monitor and improve regulatory compliance levels. Under the current legislation, mining and non-mining right holders have an obligation to submit compliance returns to the Director of Mining Cadastre and the Director of Mines Safety as the case may be. Where it is suspected that a licence condition has been breached, the Director of Mines Safety issues a compliance order on the defaulting licence holder. The compliance order may suspend the licence or require the licence holder to take remedial measures.

The functions of the Directors are expected to be re-aligned with the role of the Commission in monitoring compliance by licence holders and imposing sanctions on defaulters. Government also proposes to introduce enhanced reporting obligations on production, costs, and mineral content of mined products. Compliance with these enhanced obligations is expected to be overseen by the Commission.

To formalise the mineral trading sector, Government will also introduce a licencing

regime for buyers of gold and other precious minerals.

### **Government Acquisition of Golden Shares**

The Minister stated that 'given the importance of the mining sector to the economy, Government will enhance its strategic involvement by enhancing its participation through acquisition of golden shares.' Historically, golden shares were held by the Government through the Minister of Finance in mining companies post the privatisation of the different mining assets under the Zambia Consolidated Copper Mines Limited (ZCCM). The golden shares typically gave the Government the right to receive notices of meetings, the right to veto voluntary winding up decisions and to consent to change in control transactions or material changes in the business of the mining company.

It is not clear how the Government will acquire golden shares, the criteria to determine which companies the golden shares will be acquired, the consideration to be paid and the specific nature of rights to be attached to the golden shares. It is also unclear how the acquisition of the golden shares will affect the position of ZCCM-Investments Holdings which is a State-owned investment and operations company with interests across mining companies in Zambia.

### **Reduced Taxes**

The Minister announced the following changes to the tax regime:

- (a) reduction of property transfer tax on mineral exploration licences from 10% to 7.5%;
- (b) reduction of mineral royalty with respect to copper on an incremental value in each adjusted price band. Under the current fiscal regime, mineral royalty is based on the aggregate value when prices cross respective price thresholds.

The lowest marginal rate is to 4%; also proposed to be reduced from 5.5% and

- (c) simplifying the tax regime for artisanal and small-scale mining by introducing a presumptive tax on the gross turnover and shifting away from the current corporate tax paid by artisanal and small-scale miners.

### Increased Local Participation

Government will put in place measures to promote artisanal and small-scale miners. Measures include formalising their operations and providing support in the form of equipment and training to increase production. Once formalised, artisanal and small-scale

miners will artisanal and small-scale miners be able to access capital and partner with investors through joint ventures. The Minister also stated that Government will create off-take market opportunities.

The proposed introduction of a Mining Regulatory Commission and acquisition of golden shares by the Government represent a significant shift in the mining regulatory and policy framework. A simplified tax regime, formalisation and creation of off-take markets for artisanal and small-scale miners will enhance compliance and result in increased production and will be a significant contribution towards the 3 million metric tonnes target. It remains to be seen how these key changes will be implemented.

**Get in touch to seek how these changes, once implemented, may affect your mining investments.**

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