

March 2022

Sector Update – Oil & Gas

The Minister of Energy through Government Notice No. 143 of 2022 has published the Amendment to the Petroleum (Local Content) Regulations of 2017 (the **Regulations**).

The Petroleum (Local Content) (Amendment) Regulations of 2022 (the **Amended Regulations**) has introduced a new provision to the Regulations in relation to ‘application of the local content requirements in relation to agreements involving the Government.’

Rule 49 is introduced by the Amended Regulation which provides that;

“where an agreement provides for special arrangement relating to the implementation of the provisions of rules 15, 21, 22, 24, 26, 28(1) and 47, and the said arrangement has been approved by the Cabinet, the application of the provisions shall not prejudice the terms and conditions of such agreement”

It is our internal understanding that, if there is a special agreement entered between the company and the relevant Government authority (**Parties**) which has been pre-approved by the Cabinet, such agreement will supersede the listed Rules. We have provided brief information regarding the listed Rules where Parties can agree otherwise, subject to the prior approval of the Cabinet:

Rule 15: Procurement of works, goods and services from Tanzanian Entrepreneurs – this Rule covers the requirement to procure goods and services provided, manufactured or locally available in Tanzania. Also, it covers the requirement of a foreign service provider to enter into a joint venture agreement with a local company.

Rule 21: Insurance and reinsurance services – It requires the use of local insurance companies and if a non-resident insurer is to be used, the prior approval from the insurance regulatory authority of Tanzania.

Rule 22: Legal services – It provides on the requirement to use local legal practitioner or a Tanzanian legal firm.

Rule 24: Engineering services – It imposes a requirement to use a Tanzanian engineering firm. If foreign engineering services will be required, a prior approval from the upstream or downstream regulatory authority will be required.

Rule 26: Financial services – Imposes an obligation to prioritize the use of financial services from a Tanzanian financial institution. However, a prior approval from the Bank of Tanzania should be obtained if there will be use of offshore financial service.

Rule 28(1): Operations of Bank Account in Tanzania – This Rule requires the maintenance of a bank account with a Tanzanian bank and transact all business through banks in the country.

Regulation 47: Offences and penalties thereto – this Rule sets penalties for various offences which are committed under the Regulations.

The introduction of Rule 49 by the Amended Regulation sets new precedent that an agreement between the Parties can supersede the provisions of the published laws.

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