

**SPECIAL ISSUE**

*Taita Taveta County Gazette Supplement No. 15 (Bills No. 12)*



REPUBLIC OF KENYA

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**TAITA TAVETA COUNTY GAZETTE  
SUPPLEMENT**

**BILLS, 2016**

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**NAIROBI, 13th September, 2016**

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**THE TAITA TAVETA COUNTY MINING BILL, 2016****A Bill for**

**AN ACT of the County Assembly of Taita Taveta to provide a legal framework for the regulation, promotion and protection of mining and mining related activities, in Taita Taveta County and for connected purposes**

**ENACTED** by the County Assembly of Taita Taveta, as follows—

**PART I—PRELIMINARY**

1. This Act may be cited as the Taita Taveta County Mining Act, 2016 and shall come into operation upon the expiry of ninety days from the date of its publication. Short Title

2. In this Act, unless the context otherwise requires— Interpretation

“Artisanal Mining” refers to mining by individuals, groups, families or cooperatives with minimal or no mechanization, often in the informal (illegal) sector of the market;

“Board” means the Board of the Corporation established under section 7 of this Act;

“common minerals” includes all forms of rock, limestone, stones, gravel, sands, soils, clay, volcanic ash, volcanic cinder and any other minerals used for the construction of buildings, roads, dams, aerodromes and landscaping or similar works.

“Community Development Agreement” means an agreement between large scale and small scale prospecting, mining or exploring entities with communities in Taita Taveta to mitigate negative effects of prospecting, mining or exploration or to generally develop social and economic infrastructure within the communities.

“County Integrated Development Plan” means the County Integrated Development plan developed by the County under the County Governments Act;

“County Annual Development Plan” means the County Annual Development plan developed by the County under the County Governments Act;

**“County Fiscal Strategy Paper”** means the County Fiscal Strategy Paper developed by the County under the Public Finance Management Act;

**“Consent”** means free, prior and informed consent, non-coercive negotiations between investors, communities, the county government, companies and national government prior to the development and establishment of mining activities in Taita Taveta County.

**“County”** means Taita Taveta County;

**“County Assembly”** means the Taita Taveta County Assembly;

**“Corporation”** means the Taita Taveta Mining Corporation established under section 5 of this Act;

**“County Governor”** means the Governor of Taita Taveta County;

**“Exploration”** means is the process of finding ores (commercially viable concentrations of minerals) to mine;

**“Mining”** is the process or industry of obtaining gemstones or other minerals from a mine;

**“Mining Community”** means as a mining town or mining village or mining ward or a mining camp that houses miners, prospectors or explorers or minerals or gemstones;

**“Mining levy”** includes all taxes, rates and monies collected by the county government from mining and mining related activities;

**“Mining Zone”** is an area designated for mining by the national or county government;

**“Protected Area”** means an area protected by statute including but not limited to water catchment areas, rivers, lakes, marshland, forests, game parks and game reserves;

**“Prospecting”** means the exploring or searching for minerals.

**3. The objects of this Act are—**

Objects of the Act.

- (1) to promote the activities of prospectors and miners.

(2) to provide for a framework for value addition activities to gemstones and minerals;

(3) to provide for prospecting, mining, processing, refining, treatment, transport and any dealings in minerals;

(4) to protect communities from negative effects of mining activities and from unprofitable mining activities;

(5) to provide for legal framework to enable the county government provide oversight over mining activities in the county;

(6) to protect the human rights and social heritage of the county in relation to prospecting and mining activities; and

(7) to provide for the management and disposal of mining related waste.

4. The guiding principles of this Act are—

Guiding Principles.

- (a) Transparency;
- (b) Accountability;
- (c) Inclusion;
- (d) Sustainability;
- (e) Public participation; and
- (f) Equity.

## **PART II—ORGANIZATION AND ADMINISTRATION**

5. (1) There is established the Taita Taveta Mining Corporation.

Taita Taveta  
Mining  
Corporation.

(2) The Corporation shall be a body corporate with perpetual succession, and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing and disposing of movable and immovable property;
- (c) borrowing money after consultation with the County Executive Committee and with the approval of the County Assembly in accordance with the relevant law;

- (d) entering into contracts; and
- (e) doing such other things as may be necessary for the proper discharge of its functions under this Act, which may be lawfully done or performed by a body corporate.

**6. The functions of the Corporation shall be to—**

Functions of the Corporation.

- (a) engage in mineral prospecting, mining and any other related activities;
- (b) invest on behalf of Taita Taveta County government in the mining industry;
- (c) acquire by agreement or hold interests in any undertaking, enterprise or project associated with the exploration, prospecting and mining;
- (d) acquire shares or interest in any firm, company or other body of persons, whether corporate or unincorporated which is engaged in the refining, grading, producing, cutting, processing, buying, selling or marketing of minerals;
- (e) provide prospecting and mining extension services to small scale prospectors and miners in the County at subsidised costs and at market rates for large scale prospectors and miners;
- (f) provide mineral value added services;
- (g) provide access to Mining related data including but not limited to Geological data, Financial Data, Value Chain Data, Market data, production and exports, investments, taxes collected, employment opportunities created, environmental impact studies, audited financial statements, policies and legislation;
- (h) carry out research and development on mining in the county;
- (i) co-ordinate and carry out public engagement activities;
- (j) co-ordinate mining stakeholders involved in mining related activities in the county;
- (k) ensure the enforcement of wildlife and environmental standards in mining and



prospecting areas in cooperation with relevant wildlife and environmental protection institutions;

- (l) carry on its business, operations and activities whether as a principal agent, contractor or otherwise, and either alone or in conjunction with any other persons, firms or bodies corporate;
- (m) be the liaison office between the county government, private, public, international and national mining institutions;
- (n) encourage and provide incentives for local communities to take part in mining activities;
- (o) market minerals and gems within and outside the county; and
- (p) manage and monitoring of the issuing of consents and the consent process.

7. (1) The Corporation shall be managed by a Board Board of the Corporation.  
comprising of —

- (a) The chairperson of the board;
- (b) four board members;
- (c) the County Executive Committee member for the time being in charge of mining in the county; and
- (d) Four board members elected from special interest groups to represent —
  - (i) Women;
  - (ii) Youth;
  - (iii) Persons with disabilities; and
  - (iv) Historically marginalised communities.

(2) The Chairperson and four board members in Sections 1 (a) and 1(b) shall be competitively recruited by the County Public Service Board. The Service Board shall send names of top two candidates for each position who shall be nominated by the County Governor, vetted by the County Assembly and appointed by the County Governor.

(3) The Board members under Sections 1(a) and 1(b) shall serve for a period of three years and may be eligible for reappointment for one further term of two years.

(4) The Board members under Section 1(d) shall serve for a period of two years and may be eligible for re-election for one further term of two years.

(5) A person shall be eligible for appointment as the Chairperson of the Board or Board Member if that person

- (a) for the position of Chairperson and Chief Executive Officer holds a degree from a university recognised in Kenya;
- (b) for the position of non-elected boards members has at least five years management experience in a public or private institution;
- (c) for the position of elected board members has at least five years' experience in the mining sector in Kenya;
- (d) meets the requirements of Chapter Six of the Constitution; and
- (e) has not been convicted of an offence and is not serving a term of imprisonment.

(5) The two-thirds gender rule shall apply to the composition of the Board.

8. (1) There shall be a chief executive officer of the Corporation who shall be competitively recruited by the Board.

Chief Executive of the Corporation.

(2) The chief executive officer shall be—

- (a) the accounting officer for the Corporation;
- (b) the secretary to the Board; and
- (c) responsible for the day to day administration and management of the affairs of the Corporation.

(3) A person shall be qualified for appointment as the chief executive officer, if that person—

- (a) holds a degree from a university recognised in Kenya;
- (b) has at least five years management experience in a public or private institution;

(c) meets the requirements of Chapter Six of the Constitution; or

(d) has not been convicted of an offence and is not serving a term of imprisonment.

(4) The chief executive officer shall be appointed for a term of three years, which may be renewed for one further term.

(5) The chief executive officer may be removed from office in accordance with the terms and conditions set out in the contract and for violation of any written law or violation of the terms and conditions of the contract.

9. The Board shall have all powers generally necessary for the execution of its functions under this Act. Powers of the Board.

10. (1) The Conduct and regulation of the business and affairs of the Board shall be as provided in the Schedule. Conduct of business and affairs of the Board.

(2) Except as provided in the Schedule, the Board may regulate its own procedure.

11. (1) The staff of the Corporation shall comprise of— Staff of the Corporation.

(a) two deputy directors appointed by the Board each of who shall be responsible for one of the following—

(i) mining industry oversight; and

(ii) Investment.

(b) such officers and other staff as the Board may appoint to assist it in the discharge of its functions under this Act, upon such terms and conditions as it may determine.

12. The Board shall pay its members and staff such remuneration or allowances as it may determine upon the advice of the Salaries and Remuneration Commission. Remuneration of Board members and staff of the Board.

13. (1) No act or omission by any member of the Board or by any officer, employee, agent or servant of the Board shall, if the act or omission was done bona-fide for the purposes of executing a function, power or duty under the Act render such member, officer, employee, agent or servant personally liable to any, action, claim or demand whatsoever. Protection from personal liability.

(2) The provisions of subsection (1) shall not relieve the Board of the liability to pay compensation to any person for any injury to him, his property or to any of his interests caused by the exercise of any power conferred by this Act or by failure, whether wholly or partially, of any works.

14. (1) The common seal of the Board shall be kept in such custody as the Board may direct and shall not be used except on the order of the Board. Common Seal.

(2) The affixing of the common seal of the Board shall be authenticated by the signature of the Chairperson and the Chief Executive Officer and any document not required by law to be made under seal and all decisions of the Board may be authenticated by the signatures of both the Chairperson and the Chief Executive Officer.

(3) Notwithstanding the provisions of subparagraph (2) the Board shall, in the absence of either the Chairperson or the Chief Executive Officer in a particular matter, nominate one member to authenticate the seal on behalf of either the Chairperson or the Chief Executive Officer.

(4) The common seal of the Board when affixed to a document and duly authenticated shall be judicially and officially noticed and unless and until the contrary is proved, any necessary order or authorization by the Board Under this section shall be presumed to have been duly given.

### **PART III—MINERAL RIGHTS APPLICATION**

15. (1) The County Government shall exercise control of all common minerals in the county whose rights shall only be granted by the County government. Minerals under the county government

(2) Minerals that the National Government has devolved shall also be administered by the county government whose rights shall be granted as provided for in national legislation.

16. Mineral rights in the county shall be categorised as Categories of Mineral Rights.

- (a) sand harvesting rights;
- (b) exploration rights;

- (c) mining rights; and
- (d) tailings management.

**17. (1)** An application for a mining right to which this Act applies shall be in such form as may, from time to time, be specified by the Corporation and shall include the name, address, contact details of the applicant, a description of the mining rights in respect of which the mining right is sought and GPS coordinates of the area the mining right may be exercised.

Mineral rights applications.

(2) In addition to any information provided an applicant for a mining rights shall, if so requested by the Corporation, furnish such additional information as the Corporation may reasonably require for the purposes of assessing the application and the Corporation may refuse to grant a mining right to an applicant who fails or refuses to comply with a request made under this subsection.

(3) The corporation shall develop regulations to put into effect this section.

**18.** A holder of a county mineral right may maintain the right to such conditions as may be determined by the Corporation including conditions concerning —

Maintaining a mineral right.

- (a) the protection of the mineral interests;
- (b) the protection of the environment;
- (c) community development;
- (d) safety of prospecting and mining operations;
- (e) health and safety of persons undertaking those operations;
- (f) the protection of the lawful interests of the holders of any other mineral right; and
- (g) the maximum number of licences a person may hold.

(2) Unless otherwise provided for in the mineral right, the condition subject to which a mineral right is granted shall continue to have effect and be enforceable after the —

- (a) expiration of the term of the mineral right;

(b) surrender of the whole or part of the area specified in the mineral right; or

(c) revocation of the mineral right in respect of the whole or part of the area specified in the right.

(3) Subject to sub-section (2), the Corporation may enforce the conditions, as if the conditions were contained in a contract between the Corporation and the holder of the mineral right and valuable consideration had been given to the holder for the holder's compliance with the condition.

**19. (1)** A holder of a mineral right shall not —

*Mining practice.*

(a) engage in wasteful mining or treatment practices; or

(b) conduct his operations otherwise than in accordance with this Act, mining best practice and any other guidelines as shall be prescribed from time to time by the Corporation.

(2) The Corporation or an officer authorised by the Corporation, may issue directions to the holder of a mineral right requiring the holder to undertake measures necessary to —

(a) prevent wasteful mining practices; or

(b) ensure that prospecting or mining operations are carried out in accordance with mining best practice, the Act or guidelines under this Act.

(3) The holder of a mineral right shall comply with any direction given under this Act.

(4) A person who does not comply with the provisions of this section commits an offence.

**20. (1)** Mining zones shall be as provided for in the County Spatial Plan, County Integrated Development Plan and Annual Development plan. Such mining zones shall include zones designated by the national and county government.

*Mining zones.*

(2) The Corporation in designating mining zones shall ensure that protected areas such as water catchment areas, forests, game parks, game reserves and marshlands are not negatively affected by mining activities.

(3) The Corporation will work with national statutory institutions to gain consent for mining and mining related activities in protected areas.

**21.** (1) The Corporation and the county government shall be guided by the national mining cadastre system on matters related to mining. Mining Cadastre System.

(2) A county mining cadastre system shall be developed by the corporation and made accessible to members of the public.

**22.** (1) The corporation, county executive and county assembly shall ensure objective and sustained community and stakeholder engagement on all mining issues. Community and Stakeholder Engagement.

(2) Community and stakeholder engagement shall be carried out up to the village level.

(3) the corporation shall ensure that communities and stakeholders have access to all mining related information in a language and form that they understand.

(4) the corporation shall maintain records of community and stakeholder engagement activities.

(5) mining entities operating within the county shall provide express proof of community and stakeholder engagement before receiving consent from the county government.

**23.** The Corporation and County Government shall ensure there is access to all information regarding and related to mining in the county. Access to information.

**24.** (1) There is established a community liaison committee in every ward. Community Liaison Committees.

(2) Each community liaison committee shall be composed of seven members. The composition of each committee shall ensure diversity with members of diverse ages, gender, clan, disability, political affiliation, social and economic status.

(3) Community liaison committee members shall be elected by mining companies, associations, self-help groups, co-operatives and associations.

(4) Community liaison committee members shall serve for a three years and may be re-elected for a further term of two years.

(5) The functions of the community liaison committees are to—

(a) co-ordinate community and stakeholder engagement in collaboration with the corporation; and

(b) advise the corporation on all matters relating to mining in the wards.

(6) The Corporation shall develop regulation to give effect to this Section.

25. (1) The corporation shall provide legal and technical assistance to private and community land owners who wish to grant consent for mineral rights within their land. Consent Applications

(2) private and community land owners shall in the prescribed form indicate to the corporation that they understand the ramifications of granting consent and the benefits that shall accrue to them.

26. A land owner has priority on consent over a mineral right holder and any other person wishing to undertake any activities on the land where the mineral right exists. Priority in consents.

27. (1) Consents for purposes of the county shall be valid for a minimum duration of five years subject to compliance with county and national mining regulations and conditions set out in the consent agreement. Duration of Consent.

(2) Consent may be revoked where—

(i) there is a violation of the consent agreement; or

(ii) there is violation of national and county mining regulations.

(3) Consent may be renewed automatically where conditions under the consent agreement, county and national mining regulations have been previously complied with.



**28. (1)** Mineral rights on county administered land shall only be granted for the benefit of the county.

Mineral Rights on  
County Administered  
Land.

(2) Before a mineral right on county administered land is granted there shall be public consultations and consent with communities around the proposed prospecting or mining area.

**29.** No mineral rights shall be granted on community land without the express consent of the county government and communities with interests and rights on the land.

Mineral Rights on  
Community Land.

**30.** The corporation shall develop compensation guidelines where community land is used for prospecting and mining activities.

Compensation  
Guidelines +  
consent.

**31.** Mineral rights that remain dormant for a period of twenty four months may be revoked on notice by the county government.

Dormant mineral  
rights.

#### **PART IV – EXTENSION SERVICES**

**32. (1)** The Corporation shall collaborate with the National Government to ensure that the Taita Taveta Gemstone Centre fulfils its statutory mandate.

Taita Taveta  
Gemstone Centre.

(2) The functions of the Corporation at the Gemstone Centre shall be to –

- (a) train small scale prospectors and miners on modern and effective methods to carry out their prospecting and mining;
- (b) train small scale entrepreneurs in value addition activities such as gemstones cutting, polishing and jewellery making;
- (c) provide a market for gemstones within and outside the county;
- (d) provide prospecting and mining equipment to small scale prospectors and miners in the county;
- (e) provide advisory services to land owners who wish to lease their land to prospectors and miners;
- (f) establish county level commodity pricing index;
- (g) trade and marketing of minerals, gemstones and gemstone products locally and internationally;

- (h) carry out research and development on mining related activities in the County;
- (i) provide geological services;
- (j) provide linkages between investment and financial institutions with mining groups; and
- (k) value and brand minerals and gemstones leaving the county.

33. (1) To receive extension services from the Corporation, mining entities shall register for the first time with the Corporation within ninety days of the coming into operation of this Act. Mining co-operatives and association.

(2) Registration shall be through the prescribed Forms.

(3) The Corporation shall cause to be kept a register of the registered mining co-operatives and associations within the County. The register shall contain the following details of all mining entities within the county—

- (a) legal registration details;
- (b) details of prospecting and mining licences;
- (c) geographical area of operation;
- (d) list and bio data of all members if registered as a group or company; and
- (e) need for prospecting and mining equipment.

34. (1) The Corporation shall procure prospecting and mining equipment to be leased to small scale prospectors and miners at cost. Prospecting and mining equipment.

(2) Prospecting and mining equipment shall be serviced by the Corporation and shall be kept in good working condition at all times.

(3) The Corporation shall ensure that all small scale prospectors and miners have equitable access to the equipment.

(4) The Corporation shall publish a schedule and regulations on how prospecting and mining equipment shall be equitably shared.

**35.** (1) The Corporation shall establish a commodity price index that shall guide the pricing of minerals and gems within the county. Commodity Pricing Index.

(2) The commodity pricing index shall be guided by national and international commodity pricing indices.

**36.** (1) Value addition activities such as gemstones cutting, polishing and jewellery making may be provided for by the Corporation. Value Addition and Audit Enforcement.

(2) Value addition and audit enforcement for artisanal miners shall be done at cost and not for profit making by the corporation.

## **PART V—PROSPECTING, MINING AND THE ENVIRONMENT**

**37.** (1) The Corporation shall on behalf of the County Government undertake regular human rights assessments on all prospecting and mining activities in the County. Human Rights Impact Assessments

(2) Human rights impact assessments shall include but not limited to the negative impact caused by prospecting and mining activities on the environmental, social and governance issues in the County.

(3) The Corporation shall in its first twenty four months in office undertake a detailed research on historical and current injustices from mining activities in the County.

(4) Human rights impact assessment reports shall be presented to the County Assembly for discussion and action.

(5) Prospecting and mining entities that are adversely mentioned in the report for their negative impact on human rights will be accorded audience in the County Assembly.

(6) The Corporation may on its own motion or application by any person undertake *ad hoc* audits.

**38.** (1) The Corporation shall on behalf of the County Government undertake social heritage audits every three years on all prospecting and mining activities in the County. Social Heritage Audits.

(2) Social heritage audits shall include but not limited to the negative impact caused by prospecting and mining activities on the religious, traditional, agricultural and subsistence issues in the County.

(3) Social heritage audits reports shall be presented to the County Assembly for discussion and action.

39. The Corporation shall ensure that all mines within the County are used, closed and rehabilitated in accordance with National Environmental Guidelines and National Mining law. Mine Rehabilitation.

40. The Occupational Health and Safety Act, 2007 concerning the safety of workers and mine operations shall apply. Health and Safety  
No. 15 of 2007

## **PART VI—ARTISANAL MINING OPERATIONS**

41. The Corporation shall act as the county liaison office with national government county offices. County Liaison with  
National  
Government County  
Offices.

42. (1) There is established an artisanal mining committee. Artisanal Mining  
Committee.

(2) the committee shall comprise of seven members elected by the registered artisanal mining stakeholders. (Establish an  
Artisanal mining  
association)

(3) Committee members shall serve for a period of two years and shall be eligible for re-election for a further term of two years.

(4) the Committee shall be responsible for protecting and promoting the mining rights of artisanal miners.

43. Through extension services, the Corporation shall provide support to community based mining operations. Support for  
Community Based  
Mining  
Organisations.

44. Minerals from artisanal mining activities may be sold through the Taita Taveta Gemstone Centre under the supervision of the Corporation. Sale of Minerals.

## **PART VII—SURRENDER, SUSPENSION AND REVOCATION OF CONSENT ON COUNTY GRANTED MINERAL RIGHT**

45. The holder of a county granted mineral right may surrender a mineral right subject to the approval of the Corporation. Application for  
approval of surrender

46. The Corporation may suspend or revoke a county granted mineral right where— Grounds for  
suspension and  
revocation.

(a) the mineral right holder does not adhere to national mining and environmental regulations;

- (b) the mineral right holder abandons a mining site without notice to the corporation;
- (c) the mineral right holder is a corporation or association that has been legally dissolved; or
- (d) the mineral right holder violated their mineral rights conditions.

**47.** A mineral right holder whose mining rights are revoked shall not carry out any mining activities within the county. Effects of revocation

**48.** (1) Physical audit of all mines within the county should be done annually by the Corporation to ascertain their compliance with national and county mining regulations. Mine audits.

(2) Mines that do not meet national and county mining regulations shall be closed upon notice to the miners.

**49.** Post mine use and planning shall be guided by regulations put in place by the Corporation. Post mine use and planning.

**50.** The Corporation shall have first priority in the purchase of any immovable property in a mine that has been shut down by either the national or county government. Immovable assets of a closed mine.

## **PART VIII—ENFORCEMENT MECHANISMS**

**51.** (1) There is established a county mining enforcement office under the directorate of mining industry oversight. County Mining Enforcement Office

(2) The county mining enforcement office shall collaborate with county and national institutions in the mining industry to ensure compliance with national and county laws.

**52.** On advice from the Corporation, the county mining enforcement office shall have investigative and enforcement powers on the adherence to county mining regulations within the county. Powers of the county mining enforcement office

## **PART VIII—FINANCIAL PROVISIONS**

**53.** (1) The funds of the Corporation, shall comprise of— Funds of the Corporation.

- (a) grants, gifts or donations that the Corporation may receive as a result of public and private appeal

from local and international donors or agencies for the purposes of carrying out its functions.

- (b) such fees, monies or assets as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act or under any written law;
- (c) all monies from any other lawful source provided for or donated or lent to the Board; and
- (d) such sums as may be appropriated by the County Assembly for the purposes of the Corporation.

(2) The funds of the Corporation and its balances at the close of each financial year shall not be paid into the County Mining Fund, but shall be retained for the purposes for which the Corporation is established.

**54.** (1) There is established a Fund to be known as the County Mining Fund. County Mining Fund which shall vest in the Corporation.

(2) There shall be paid into the Fund—

- (a) moneys appropriated by the County Assembly;
- (b) the mining levy;
- (c) grants and donations made to the Corporation; and
- (d) moneys from a source approved by the Corporation.

(3) The Corporation shall apply the moneys received into the Fund to—

- (a) conduct research activities and audits on mining in the county;
- (b) conduct mining education and awareness campaigns;
- (c) provide extension services to miners; and
- (d) carry out the operations of the Corporation.

(4) All receipts, savings and accruals for the Fund and the balance of the Fund at the end of the financial year shall be retained for the purposes for which the Fund is established.

(5) There shall be paid out of the Fund any expenditure incurred by the Corporation in the exercise of

its powers or the performance of its functions under this Act.

**55.** The financial year of the Corporation shall be the period of twelve months ending on the thirtieth of June in each year.

Financial year of the Corporation.

**56.** (1) At least four months before the commencement of each financial year, the Corporation shall cause to be prepared estimates of the revenue and expenditure of the Corporation for that financial year.

Financial Estimates.

(2) The annual estimates shall make provisions for all estimated expenditure of the Corporation for the financial year concerned.

(3) The annual estimates shall be approved by the Corporation before the commencement of the financial year to which they relate and, once approved, the sum provided in the estimates shall be submitted to the County Executive Committee for approval.

**57.** (1) The Authority shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Corporation.

Accounts and Audit

(2) The annual accounts of the Corporation shall be prepared, audited and reported upon in accordance with the provisions of the Public Audit Act (Cap. 412B).

**58.** (1) The County Government shall use revenue received from sharing agreements with the national government to fulfil the objectives of this Act.

Revenue Received from National Government

(2) Regulations shall be put in place to give effect to this Section.

**59.** (1) There is established a community mining fund. The fund shall comprise of—

Community Mining Fund.

- (a) twenty five percent of revenue received from national government as provided for in Section 57; and
- (b) twenty five percent of profits from investments of the corporation.

(2) The community mining fund shall be used to—

- (a) improve social and economic institutions and infrastructure within communities where mining is taking place; and
- (b) sponsor county residents to undertake mining related studies.

**PART IX—PROVISIONS ON DELEGATED POWERS**

**60.** The Corporation may, with the approval of the <sup>Regulations</sup> County Assembly, make regulations generally for the better carrying out of the provisions of this Act.



**MEMORANDUM OF OBJECTS AND REASONS**

Taita Taveta County is endowed with many gemstones and minerals. For decades a majority of the residents of the County have not been able to fully benefit from the gemstones and minerals. National government has drafted legislation that regulates mining and mining related activities in the country. However, this does not comprehensively address some specific challenges being experienced by the County in relation to the mining industry. It is for this reason that the County has developed this Mining Bill specific to Taita Taveta County.

The principal object of this Bill is therefore to establish a legal framework to provide for the regulation of mining and related activities in the county not provided for in national mining legislation and mining extension services to the people of Taita Taveta County. The Bill also provides for collaboration mechanisms between the County government and National governments institutions in relation to mining activities.

The Bill establishes the Taita Taveta Mining Corporation that is mandated to provide extension services to miners and prospectors while also investing in the mining industry of behalf of the County. The Bill further provides for a robust consent process to protect the interest of land owners within the County. The Bill also proposes to establish a Mining Fund to be used to promote mining and mining related education.

The Bill does not limit any fundamental rights and freedoms.

This law when enacted will confer on the Corporation and other organs of the Corporation to be specified in the act, the authority to make provisions having the force of law in Taita Taveta County.

The enactment of this Bill shall occasion additional expenditure of County public funds.

Dated the 12th July, 2016.

**RAYMOND MWANGOLA,**  
*Member of County Assembly.*