



Local Content Compliance

Guidance for Businesses in the Extractives Sector



What is Local Content and Why is it needed?



- Local content generally refers to participation, goods, services, human resources etc sourced locally.
- Local Content policies are laws, policies and directives instituted to promote local participation and use of locally sourced goods, services, and other resources.

Benefits of Local Content

- ❖ To promote job creation through the use of local expertise, goods and services, businesses and financing in the industry;
- ❖ Increase capability and international competitiveness of domestic business;
- ❖ Create support industries that will provide jobs and sustain economic development;
- ❖ Achieve and maintain a degree of participation for Ghanaians or companies incorporated in the country in the industry's value chain; and
- ❖ To develop local capacities through education, skills transfer and expertise development, transfer of technology and know how and research and development programmes;

Examples Of Local Content In Ghana

The Banks and Specialised Deposit-Taking Institutions Act, 2016 (Act 930)

- a non-citizen cannot be a shareholder of a microfinance institution

The Payment Systems and Services Act, 2019 (Act 987)

- an applicant for a licence should have at least thirty percent (30%) Ghanaian equity participation

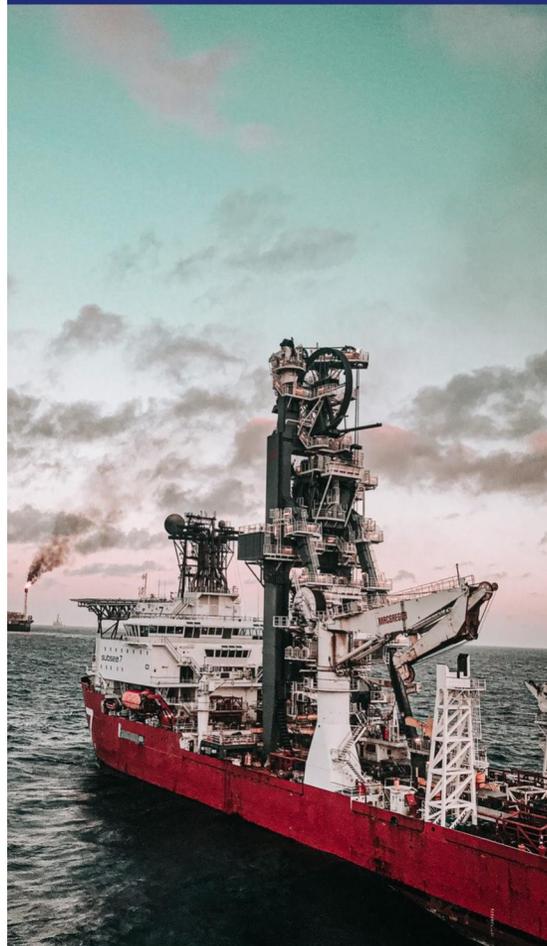
The Ghana Investment Promotion Centre Act, 2013 (Act 865)

- the sale of goods or provision of services in a market, petty trading or hawking or selling of goods in a stall at any place;
- the operation of taxi or car hire service in an enterprise that has a fleet of less than twenty-five vehicles;
- the operation of a beauty salon or a barber shop;
- the production of exercise books and other basic stationery;
- the retail of finished pharmaceutical products.

Local Content in Oil & Gas and Mining Sectors



The Oil and Gas Sector



- Exploration for hydrocarbons in Ghana started in 1896, when oil seepages were sighted onshore in the Western Region. The first offshore well was drilled in the Saltpond Basin in 1970.
- Commercial production started in the late 70's in the offshore Saltpond area in the Central basin of Ghana. In December 2010 first oil was produced from the Jubilee field, which was discovered in 2007.
- The passing of the Petroleum (Exploration and Production) Law, 1984 (PNDCL 84) laid the foundation for local content requirements.

- A contractor or sub-contractor shall...ensure that opportunities are given as far as is possible for the employment of Ghanaians having the requisite expertise or qualifications in the various levels of the operations.
- A contractor or sub-contractor shall, as far as practicable...use goods and services produced or provided in Ghana for his operations in preference to foreign goods and services.
- A contractor or sub-contractor shall...prepare and implement...plans and programmes for training Ghanaians in all job classifications and in all aspects of petroleum operations.

Local Content in Oil and Gas

- The **Petroleum (Local Content and Local Participation) Regulations, 2013 (L.I. 2204)** were enacted in 2013 and were groundbreaking. They have formed the basis for local content rules in other sectors.
- The objectives of LI2204 include the following:
 - *promote the maximisation of value-addition and job creation through the use of local expertise, goods and services, businesses and financing in the petroleum industry value chain and their retention in the country;
 - *develop local capacities in the petroleum industry value chain through education, skills transfer and expertise development, transfer of technology and know-how and active research and development programmes;
 - *create petroleum and related supportive industries that will sustain economic development.



Local Content in Oil and Gas

PARTICIPATION



5% Equity Participation by IGC in a Petroleum Agreement

The interest of an indigenous Ghanaian company arising from a petroleum agreement or a petroleum licence is not transferable to a non-indigenous Ghanaian company.

Companies seeking to provide goods or services must incorporate a JV with an IGC who must have at least 10% shareholding

HUMAN RESOURCES



Where there is lack of expertise, an entity must satisfy PetCom that reasonable effort is being made to train Ghanaians in that field

There must be a succession plan for positions occupied by non-Ghanaians

Employment of only Ghanaians in junior or mid-level positions

Local Content in Oil and Gas

GOODS & SERVICES



- Retain only the services of a Ghanaian legal practitioner or Firm.
- Retain only the services of a Ghanaian financial institution.
- Place insurance through an indigenous brokerage firm. Offshore insurance requires approval.
- Various local content levels for goods and services set out in the schedules to the Regulations.
- A bidding process for the acquisition of goods and services must be established and implemented to give preference to indigenous Ghanaian companies.

MONITORING



Local Content Plans, incorporating the following sub-plans:

Employment and Training Sub-Plan

Research and Development Sub-Plan

Technology Transfer

Enforcement of Local Content Obligations



Investigations



Offences



Penalties

Ghana's Mining Sector



The mining sector attracts a significant proportion of foreign direct investment and generates over 37% of export revenues.

We are also very proud of the fact that Ghana has overtaken South Africa to become Africa's largest gold producer.

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Other mineral mined in Ghana include Diamond, Bauxite, Manganese and Industrial minerals

Laws governing the Mining Sector include:

- **Minerals and Mining Act, 2006 (Act 703) as amended;**
- **Minerals and Mining (Local Content and Local Participation) Regulations, 2020, (L.I 2431) (the “Local Content Regulations”);**
- Minerals and Mining (General) Regulations, 2012 (L.I 2173);
- Minerals and Mining (Support Services) Regulations, 2012 (L.I 2174);
- Minerals and Mining (Compensation and Settlement) Regulations, 2012 (L.I 2175);
- Minerals and Mining (Licensing) Regulations, 2012 (L.I 2176);
- Minerals and Mining (Explosives) Regulations, 2012 (L.I 2177);
- Minerals and Mining (Health, Safety and Technical) Regulations, 2012 (L.I 2182)
- The Minerals Commission Act, 1993 (Act 450); and
- The Constitution of the Republic of Ghana, 1992

Local Content Regulations in the Mining Sector

The Minerals and Mining (Local Content and Local Participation) Regulations, 2020 (L.I. 2431) (the “**Regulations**”)

- ❑ consolidates important mining laws and regulations relating to local content including the Minerals and Mining Act, 2006, Act 703, Minerals and Mining (General) Regulations, 2012 (L.I. 2173) and the Minerals and Mining (Support Services) Regulations, 2012 (L.I. 2174).
- ❑ applies to holders of mineral rights, mining support services companies and holders of licences to export or deal in minerals
- ❑ came into force on 16th October 2020 and the companies have one year within which to comply.
- ❑ The Regulations reinforce Government’s objectives relating to:
 - ❖ training and capacity building for Ghanaians,
 - ❖ promoting the utilization of local goods and services,
 - ❖ creating sustained growth within the local minerals and mining value chain,
 - ❖ introducing more stringent reporting requirements and enforcement regime; and
 - ❖ promotion of gender inclusion within the sector.

Highlights of Local Content Regulations

- ❖ Localization Plans
- ❖ Procurement of Local Goods and Services
- ❖ Professional Services
- ❖ Listing on the Ghana Stock Exchange



Penalties



Localization

- ❖ A person who does not comply with the approved localization programme is liable to pay to the Commission an administrative penalty of one year's gross salary of the expatriate involved for each month or part of the month that the expatriate worked.

● Procurement of Goods and Services

- ❖ A person who fails to comply with procurement of local goods and services is liable to pay the Commission an administrative penalty of the GHS equivalent of USD 10,000 for each month of the first 6 months of default and thereafter USD 10,000 for each day that the default continues.

- ❖ Failure to comply with the Procurement List makes the person liable to certain penalties including:

- For goods, the full customs import duty of the goods imported + 5% of the import value

- For services, an administrative penalty of 5% of the gross contract sum.

Practical Compliance Issues

Challenges

- ❖ Retaining skilled employees
- ❖ Monitoring of Investment
- ❖ Companies may add non-productive jobs to meet quotas

Benefits

- ❖ Reduced relocation costs
- ❖ Positive contribution to social development in area and support of local community
- ❖ Increasing the pool of highly skilled labour

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Thank you



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