



**SPECIAL TRAINING SESSION FOR JUDGES AND  
MAGISTRATES ON THE OFFENCES AND PENALTIES  
REGIME UNDER GHANA'S MINERALS AND MINING ACT,  
2006 (ACT 703)**

**GOLDEN TULIP HOTEL, KUMASI  
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# **OVERVIEW OF OFFENCES & PENALTIES UNDER THE MINERALS & MINING (AMENDMENT) ACT, 2019 (ACT 995)**

# OUTLINE

- ❑ Challenges with Minerals and Mining Act, 2006(Act 703)
- ❑ Changes made in Minerals and Mining (Amendment) Act, 2015 (Act 900)
- ❑ Enactment of Minerals and Mining (Amendment) Act, 2019 (Act 995)
- ❑ Overview of sanctions under Act 995.
- ❑ Resolving implementation challenges

# Challenges with Act 703 of 2006 (s. 99)



- ▶ Narrow definition of illegal mining –excluded LSM. Limited to SSM.
- ▶ Prosecution of offences–limited to HC, not widely available.
- ▶ No provision or penalty for foreigners engaged in SSM.
- ▶ No provision for the confiscation of equipment used in illegal SSM mining. Only minerals are to be forfeited to the State.
- ▶ No provision on where to keep seized equipment or product.
- ▶ No provision on what to do with product or equipment after confiscation.

# Changes made by Act 900 of 2015 to s.99

- ▶ Prosecution of offenders- inclusion of Circuit Courts to increase availability/accessibility of courts.
- ▶ Provided sanctions for foreigners engaged in SSM.
- ▶ Provided sanctions for citizens who employ or engage a foreigner to do illegal SSM.
- ▶ Provided that seized equipment or product be kept in police custody.

# Changes made by Act 900 of 2015, cont.

- ▶ Provided for the forfeiture of equipment used in and the product derived from illegal SSM mining.
- ▶ Within 60 days confiscated equipment or product to be allocated by Minister to “appropriate” institution, and name of recipient institution published in the *Gazette*.

# Enactment of Act 995 of 2019 (s. 99)



- ▶ Increased the penalties for breaching the law.
- ▶ Expanded definition of illegal mining to cover all forms of mining operations without a licence or valid authority- SSM & LSM.
- ▶ Provided sanctions for Ghanaians who permit or facilitate foreigners' engagement in illegal mining.
- ▶ Unlawful for non-citizens to provide mine support services to SSM.

# Enactment of Act 995 of 2019,cont.

- ▶ Provided sanctions for providing or being involved in the provision of an excavator or any other equipment for mining operations contrary to law.
- ▶ Provided sanctions for fabricating, manufacturing or using a floating platform or any other equipment for mining, dredging or obtaining minerals in or along the banks of a natural water body, including a river, a stream, a water course.
- ▶ Convicted non-citizens(liable to deportation) to be deported after serving their sentence in accordance with s. 35 of Immigration Act, 2000 (Act 573).



# Overview of Sanctions under Act 995

- ▶ *Can't buy or sell minerals without a licence/valid authority granted by the Government.*
- ▶ *Sanctions:*
  - **Old law(Act 900 of 2015):**
    - Max. fine-**3,000 penalty units**
    - Max jail- **5 years**, or both a fine and imprisonment
  - **New Law (Act 995)**
    - Fine- from **10,000** penalty units up to **15,000** penalty units
    - Jail- **15 years** min. – **25 years** max.
    - *(1 unit = 12GHS)*

# Overview of Sanctions under Act 995, cont.

- ▶ *Can't undertake SSM without a licence by the Minister;*
- ▶ *Unlawful for non-citizens to provide mining support services to SSM.*
- ▶ *Sanctions:*
  - **Old law**
    - Max. fine-**3,000 penalty units**
    - Max jail- **5 years**, or both a fine and imprisonment
  - **New Law (Act 995)**
    - Fine- from **10,000** penalty units up to **15,000** penalty units
    - Jail- **15 years min.** – **25 years max.**

# Overview of Sanctions under Act 995, cont.

- ▶ *Non-Ghanaians prohibited from SSM/facilitating participation of any person in SSM*
  
- ▶ *Sanctions:*
  - **Old law**
    - Fine- **30,000** penalty units- **300,000** penalty units
    - Max jail- **20** years, or both fine and imprisonment
  
  - **New Law (Act 995)**
    - Fine- **100,000** penalty units - **350,000** penalty units
    - Jail- **20** years min – **25** years max, or *both the fine and imprisonment*
    - *Convicted foreigner to be DEPORTED after jail term.*

# Overview of Sanctions under Act 995, cont.

- ▶ *Ghanaians not to permit or facilitate foreigners to engage in SSM.*
- ▶ *Sanctions:*
  - **Old law**
    - Fine- **2,000** penalty units- **20,000** penalty units
    - Jail- **5** years min- **10** years max.
  - **New Law (Act 995)**
    - Fine- from **30,000** penalty units up to **100,000** penalty units.
    - Jail- **15** years min – **25** years max.

# Overview of Sanctions under Act 995, cont.

- ▶ *Can't fabricate/ use a floating platform/ other equipment for SSM in/near a river, a stream, a water course, etc.*

## ❖ ***NEW PROVISION***

- ***Sanctions:***

- Fine- from **50,000** penalty units up to **100,000** penalty units.
- Jail- **15** years min – **25** years max.
- or *both the fine and imprisonment.*

# Overview of Sanctions under Act 995, cont.

- ▶ *Can't provide/be involved in providing an excavator/other mining equipment for SSM in breach of the law.*

## ❖ ***NEW PROVISION***

- **Sanctions:**
  - Fine- **50,000** penalty units -**100,000** penalty units.
  - Jail- **15** years min – **25** years max.
  - or *both the fine and imprisonment.*

# Overview of Sanctions under Act 995, cont.

- ▶ Equipment/product derived from illegal SSM to be **seized** and **kept** with **Police upon arrest** of offenders.
- ▶ **Upon convicting**, Court **obliged** to **order forfeiture** of seized equipment/product to the State.
- ▶ Within 60 days after confiscation, Minister to allocate equipment/product to “*appropriate*” State institution, publish name of recipient institution in the *Gazette*.

# Resolving implementation challenges

- **AWARENESS**-engaging key stakeholders/ partners.
  - The **JUDICIARY- INTERPRETS AND APPLIES THE LAW.**
  - The Courts are an **UNAVOIDABLE** stakeholder in implementing and enforcing the laws.



# ENFORCEMENT

- ▶ **ENFORCEMENT**- may be affected by lack of awareness of the existence of Act 995.
  - may impact prosecution and sentences imposed by the courts;
  - may also hinder research to measure effectiveness of implementation.

