

Notification

The Ministry of Economic Affairs is pleased to notify that following provisions of the Mines and Mineral Management Regulations (MMMR), 2002 and the Lease Agreement in **Annexure I-E**, has been reviewed and the revised Provisions of the MMMR, 2002 and the Annexures therein will come into force from November 1, 2010. The relevant provisions as revised by the Ministry are as follows:

A. Mines and Mineral Management Regulation 2002

Sections 4, definition for the following terminologies have been added:

4.32 *“Captive Mine” means a mine from where the products are used as raw materials for the specifically intended industries.*

4.33 *“Strategic Minerals” are those minerals which have a very high value in its raw form and/or have very high economic and political impacts. These include gold, platinum, tungsten, diamond, radioactive minerals, oil etc. Construction materials like stone and sand shall also be considered as strategic minerals.*

4.34 *“Bhutanese Individual” means a natural born Citizen of Bhutan, or a firm holding a license issued by the Royal Government of Bhutan.*

Section 13 - “Any Bhutanese individual, licensed firm or a company shall be eligible to obtain a mining lease”, is revised as follows:

13. *The following shall be eligible to obtain a mining lease:*

13.1 *Any Bhutanese individual or a company.*

13.2 *Any government agency or government projects solely for the use of the project during the construction phase as captive mine. The Mine may be leased directly to the government agency or its contractor on their behalf, on the recommendation of the government agency.*

Section 17 - “A proprietor of an enterprise, an individual or a company may not be eligible to obtain or operate more than two mining/quarrying leases at any given instant” is revised as follows:

“A proprietor of an enterprise, an individual or a company may not be eligible to obtain or operate more than two mining/quarrying leases at any given instant. However, this limit shall not apply to the government or government authorized agencies”.

Sections 23, 24, 25, 26 and 27 –

- “23. After acceptance of the applications, the Director shall convene a technical committee consisting of at least two mining engineers and on availability, a geologist of DGM, to assess and scrutinize:
- 23.1 The applicant’s capability as per Article 21 of the MMMA.
 - 23.2 That the applicant has operated the earlier leases satisfactorily.
 - 23.3 The types of mineral required for the applicant’s proposed operation
 - 23.4 The annual requirement of material.
 - 23.5 The potential size and extent of the deposit.
 - 23.6 The possibility of carrying out the proposed mining works with respect to the location, topographical conditions and behavior of the deposit.
 - 23.7 The fulfillment of other requirement as per the form B in Annex I.
24. The technical committee shall submit its report on its finding to the Director.
25. The Director shall review the findings of the technical committee and submit it to the Minister for approval.
26. The Director shall then consult with the concerned agencies and seek necessary clearances for issue of mining lease.
27. After obtaining necessary clearances, the Director shall communicate to the applicant to carry out Final Mine Feasibility Study of the proposed mining activity.” are revised as follows:
23. *DGM shall assess and scrutinize the application based on the information required in Form B.*
 24. *Preliminary rapid site assessment shall be carried out by a multi-sectoral team comprising of DGM, National Environment Commission, Department of Forest & Park Services and Local Government.*

25. *DGM shall review the report of the multi-sectoral team and if found feasible, the proponent shall be asked to proceed with topographical survey and geological investigation.*
26. *The DGM shall simultaneously demarcate the mine boundary and seek clearances from the relevant agencies.*
27. *Upon the receipt of clearances and the completion of the geological studies the proponent shall be asked to carry the Final Mine Feasibility Study based on the geological report.*

Section 30 “The FMFS shall be revised after its presentation and five copies of it shall be submitted to the Department for final review and approval” is revised as follows:

“The FMFS shall be revised after its presentation and final review and five copies of it shall be submitted to the Department for approval”.

Section 36 “The grant of mining lease is confirmed upon signing of lease agreement in Form E of Annex I of these Regulations, which shall start on the first day of calendar quarter falling on 1st January, 1st April, 1st July and 1st October” is revised as follows:

“The grant of mining lease is confirmed upon signing of lease agreement in Form E of Annex I of these Regulations, which shall start on the first day of calendar quarter falling on 1st January, 1st April, 1st July and 1st October. The format provided in Form E may be amended as may be necessary with the approval of the Minister”.

Section 42 “An application for renewal of the lease shall be made to the Director at least one year before expiry of the existing lease in Form J of Annex I” is revised as follows:

“An application for renewal of the lease shall be made to the Director at least one year before expiry of the existing lease in Form J of Annex I. A mining lease for the operation of captive mine will be renewed depending on the availability of mineral reserve and the compliance to the rules and regulations”.

Section 50 “The royalty and mineral rent payable shall be on the actual quantity of mineral dispatched from the mine for each quarter ending on 31st March, 30th June, 30th September and 31st December”, is revised as follows:

“The royalty and mineral rent payable shall be on the actual quantity of mineral dispatched and the payment shall be made as per the agreed schedule in the Lease Agreement”.

Section 59 “On surrender, termination or the expiry of the mining lease, the Government shall allow the lessee to reclaim the bond, along with any earned interest when it has received certification by the Director that the restoration work in the mine and the surrounding area has been satisfactorily completed”, has been divided into two parts as follows:

59(i) “On surrender, termination or the expiry of the mining lease, the Government shall allow the lessee to reclaim the bond, along with any earned interest when it has received certification by the Director that the restoration work in the mine and the surrounding area has been satisfactorily completed.”

(ii). In case of mines auctioned under Section 15 of this Regulation, and if the mineral deposit is not exhausted at the end of the auctioned lease period, the environmental restoration bond will be deposited with the Government and the government will be responsible for carrying out the restoration works after the deposit gets exhausted.

B. Annexure I- E of the MMR 2002; (Lease Agreement)

“The Mining Lease Agreement, including the three annexures attached hereto, is made on the.....Day of.....of the yearbetween the Department of Geology & Mines, Ministry of Trade and Industry, Thimphu, on behalf of the Royal Government of Bhutan, hereinafter called the “Lessor” of the one part and M/shereinafter called the “Lessee” of the other part” is revised as follows:

“The Mining Lease Agreement, including the three annexures attached hereto, is made on the.....Day of.....of the yearbetween the Department of Geology & Mines, Ministry of Economic Affairs, Thimphu, on behalf of the Royal Government of Bhutan, hereinafter called the “Lessor” of the one part and M/shereinafter called the “Lessee” of the other part.”

“Whereas Messrs.have applied to the Royal Government for the grant of a Mining Lease for mining of(Mineral).....atinDzongkhag, and whereas the Ministry of Trade and Industry has been pleased to consider the said application favourably vide approval No.” is revised as follows:

“Whereas the Ministry of Economic Affairs has been pleased to grant the Mining Lease for mining of (Mineral)..... atinGewog underDzongkhag, vide its approval No.....datedto Messrs., based on(application with date OR Auction).....”

“Now this Mining Lease Agreement witnesses that in consideration of the rent and royalties hereinafter reserved and of the covenants on the part of the Lessee hereinafter contained, the Lessor does hereby demise to the Lessee on terms and conditions given in this Agreement thedeposit situated in,Dzongkhag covering an area ofhectares together with the right to mine(Mineral).....in and upon the AREA” is revised as follows:

“Now this Mining Lease Agreement witnesses that in consideration of the rent and royalties hereinafter reserved and of the covenants on the part of the Lessee hereinafter contained, the Lessor does hereby demise to the Lessee on terms and conditions given in this Agreement thedeposit situated in(place)...., underGewog ofDzongkhag covering an area ofhectares (.....acres) delineated by DGM and indicated in the Map at Annexure I, hereinafter called the “AREA”, together with the right to mine(Mineral).....in and upon the AREA.”

Clause II “The Lessor may terminate this lease upon non-compliance by the Lessee with any of the terms and conditions of the lease or Articles contained in the Mines and Minerals Management Act 1995 and the Regulations issued under it, or if the Lessee is in violation of his covenants for more than two instances, or if it is in the interest of the Royal Government to withdraw the lease on environmental ground” is revised as follows:

*“The Lessor may terminate this lease upon non-compliance by the Lessee with any of the terms and conditions of the lease or Articles contained in the **Mines and Minerals Management Act, 1995** and the **Regulations** issued under it, or if the Lessee is in violation of his covenants for more than two instances, or if it is in the interest of the Royal Government to withdraw the lease.”*

Clause VI “On expiry/termination/surrender of the lease, or at any time, the government shall not be liable to make any payment or compensate to the Lessee for any expenses incurred in connection with the mine or for any roads or other reason” is revised as follows:

“The payment of the compensation on termination of the lease shall be dealt in accordance with the article 29 (iii) of the MMMA 1995. In case of suspension of a mine or its part in accordance with the Article 32 of the MMMA 1995, the Lessee shall not be liable for any compensation from the Government.”

Clause X “The Lessee shall operate the mine only under valid clearances from National Environment Commission Secretariat, Department of Forestry Services, concerned Dzongkhag and Surface right holders and any other authority. The initial clearance references are as follows:”

- Environmental Clearance -dated.....
- Forestry Clearance -dated.....
- Surface Right Holder -dated.....
- Dzongkhag Clearance -dated.....
- Any other authority -dated.....” is revised as follows:

“At any time during the tenure of the Lease Agreement, it shall be the responsibility of the Lessee to update/validate all mandatory clearances, failing which the operation of the mine shall be suspended. In the event the clearances cannot be obtained within a period of 6 months, the LA shall be automatically terminated.”

Clause XI, 2, under ‘Rent and Royalty’ “Royalty, mineral rent, surface rent, sales tax, income/corporate tax and such other government levies shall be as per government schedule of rates, which may be revised from time to time” is revised as follows:

“Royalty, mineral rent, surface rent, sales tax, income/corporate tax and such other government levies shall be as per government schedule of rates, which may be revised from time to time. Surface rent shall be applicable until the area has been formally handed over after restoration.”

New Clause XII has been added as follows: *“The Lessee shall obtain a business license for sale of the minerals/ products and submit a copy to the Lessor, prior to issuance of work order.*

Under “The lessee hereby covenants and agrees” (2) “To ensure that all the work in the AREA is carried out diligently and strictly in accordance with the provisions of the Mines and Mineral Management Act 1995 and Mines and Mineral Management Regulation and any revision or order issued by the Ministry of Trade and Industry in the context from time to time” is revised as follows:

“To ensure that all the work in the AREA is carried out diligently and strictly in accordance with the provisions of the Mines and Mineral Management Act 1995 and Mines and Mineral Management Regulation and any revision or order issued by the Ministry of Economic Affairs in the context from time to time.”

Under the Lessee’s Terms and Conditions, clause (5) “To deposit environmental restoration bond fund at the beginning of each lease year” is revised as follows:

“To deposit environmental restoration bond fund in the last month of each lease year during the first half of the lease period in line with the amount specified in the approved FMFS report.”

Under the Lessee’s Terms and Conditions New Clause (15) will be inserted as follows:

(15) “In the event of conflict between the terms and conditions of the Lease Agreement and the Auction Document, the terms and conditions in the Auction document shall prevail.”

Attachment I (b) “Natural features like hills and rivers or other source of water” is revised as follows:

“b. Natural features like hills and drainage system.”

Attachment I, New (f) “Boundary of various land uses and cadastral features.”

Attachment II, (1) “The rate of surface rent for all surface area occupied by the Lessee shall be Nu 720/- per hectare per annum unless revised by the Royal Government” is revised as follows:

“The rate of surface rent for all surface area occupied by the Lessee shall be Nu.per acre per annum unless revised by the Royal Government, and it is for the period from date of approval till the site has been satisfactorily restored.”

Attachment II, (2) “Royalty and mineral rent shall fall due at the end of each quarter i.e. on 31st March, 30th June, 30th September, and 31st December” is revised as follows:

“Royalty and mineral rent shall require to be paid in advance of the dispatch of the mineral.”