

**Draft Mines and Minerals Management
Bill, 2016**

**Department of Geology and Mines
Ministry of Economic Affairs**

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PREAMBLE

An Act to reform the law on regulation and management of mining activities in the country for long term development of mining sector, building global value chain, ensuring broad-based ownership, achieving economy of scale of mines, enhancing transparency and accountability, and ensure environment-friendly and socially responsible mining.

Parliament of the Kingdom of Bhutan hereby enacts the Mines and Minerals Management Act 2017 on the ___Day of the ... Month of the..... Year of the Bhutanese Calendar corresponding to the ...Day of, 2017 as follows:

CHAPTER - I PRELIMINARY

Short title, extent and commencement

1. This Act shall:
 - 1) be called the Mines and Minerals Management Act 2017;
 - 2) extend to the whole of Kingdom of Bhutan; and
 - 3) come into force with effect from theDay of the....Month of theYear of the Bhutanese Calendar corresponding to.....Day of the.....Month of 2017.

Application

2. This Act shall apply to all prospecting, exploration, and mining and related activities in country.

Repeal

3. This Act shall repeal the Mines and Minerals Management Act 1995.

Supersession

4. This Act shall supersede provisions of any other Act, Rules and Regulations that are inconsistent with this Act on matters relating to mines and minerals, unless otherwise specified.

Mineral Rights

5. In accordance with Article 1 (12) of the Constitution of the Kingdom of Bhutan, *the rights over mineral resources shall vest in the State, and are the properties of the State, which shall be regulated by law.*

6. No person or organization shall be permitted to carry out prospecting, exploration, mining and related activities except as provided under this Act.
7. The Ministry shall be the competent authority to authorize or restrict mining activities in the country.

CHAPTER – II

POWERS AND FUNCTIONS OF THE MINISTRY

Powers of the Ministry

8. The Ministry shall prescribe Rules and Regulations and issue notifications for any purpose consistent with the intent of this Act.
9. The Ministry shall formulate separate Rules and Regulations for underground mining as and when required.
10. The Ministry shall delegate functions to the departments, agencies and officials under its jurisdictions for the proper implementation of the Act.
11. The Ministry shall have the power to review and propose mineral royalty, levies and fees.
12. The Ministry may issue directives to the Authority on matters related to mines & minerals for the protection of national and public interest, and may also direct to furnish information, reports and status on mines, leases and directives.
13. The Ministry shall have the power to administer all prospecting, exploration, and decision to allocate mines in the country.
14. The Ministry shall have the power to authorize the Authority to expedite allocation of short term quarries for nationally important and time bound projects, including small deposit mineral extraction for optimal utilization.

Functions of the Ministry

15. The Ministry may issue directives to the Authority for lease and auction of mines in the designated area based on the provisions of this Act. A directive shall not be issued in respect of a matter pending before the Authority.
16. The Ministry shall:
 - (1) design, formulate and review mineral policies and laws to harness the mineral resources sustainably and efficiently;
 - (2) assess the viability of the mineral deposits and mineral development strategy;
 - (3) accord approval for prospecting, exploration and mining applications;

- (4) assess eligibility criteria requirements for prospecting, exploration and mining;
- (5) administer prospecting and exploration activities accorded to any qualified party, including collection of exploration fees;
- (6) ensure reclamation of the disturbed area, if any, after completion of the prospecting or exploration activity;
- (7) provide professional advice relating to mining and related activities; and
- (8) list, review and update strategic minerals whenever necessary.

CHAPTER III MINING REGULATORY AUTHORITY

Establishment of the Mining Regulatory Authority

17. There shall be Mining Regulatory Authority established under this Act.
18. The Authority:
 - (1) shall be a fully autonomous and independent body with perpetual succession;
 - (2) shall have the Board;
 - (3) shall have an official seal; and
 - (4) may sue and be sued in its own name.

Board

19. The Board shall consist of:
 - (1) a Chairman;
 - (2) not less than three members; and
 - (3) a Head of Authority.
20. The appointment under Section 19 shall be done by the Ministry on such terms and conditions as he may determine for a period not exceeding five years.
21. Except for members who may be appointed on ex-officio basis, no member of the Board shall be eligible to serve more than two consecutive terms as chairperson or as member of the Board.
22. A member of the Board may resign at any time by giving one month's notice in writing to the Ministry.
23. The seat of a member shall become vacant.
 - (1) on his death or permanent disability;
 - (2) if he, without sufficient cause, which is to be decided by the Board, fails to attend three consecutive meetings of the Board;
 - (3) if he breaches the code of conduct;

- (4) if he is declared an insolvent; or
 - (5) if he resigns.
24. Appointment for any vacant seat under section 22 and 23 may be done in accordance with Section 20 and any person so appointed shall hold office for so long as the member in whose place he is appointed would have held office.

Secretariat

25. The Authority shall have a secretariat headed by the Head of Authority.
26. The Head of Authority shall:
- (1) be *ex-officio* Secretary of the Board;
 - (2) carry out such functions as the Authority or the Chairman may assign to him;
 - (3) record and keep the minutes of all proceedings of the Board and other records of the Board;
 - (4) have custody of the seal of the Authority; and
 - (5) in the performance of his duties, be responsible to the Chairman.
27. The Head of Authority may appoint staff subject to approval of the Board as to the numbers, and the terms and conditions shall be as specified in the service rules issued by the Authority.

Meeting, quorum and decisions of the Board

28. The Board shall convene meetings on the affairs of the Authority at least four times in a year or upon a request in writing to the members by the Chairman.
29. The Board shall meet at such time and place as the Chairman may decide.
30. The Chairman may also call a special meeting of the Board.
31. A meeting of the Board shall be convened by a notice to each member, signed and issued by the Secretary at least fourteen days before the meeting except that a shorter notice may be given for a special meeting.
32. The quorum at a meeting of the Board shall be a simple majority.
33. The decisions of the Board shall be made by a majority vote of the members present.
34. Each member shall have one vote, and the Chairman shall have a casting vote in the event of a tie.
35. The minutes recorded under Section 26(3) shall be signed by the participating members.

36. A member of the Board shall declare conflict of interest if he is directly or indirectly interested in a matter being considered at a meeting of the Board.
37. A member making a disclosure under Section 36 shall not take part in any discussion or decisions relating to the matter.
38. A disclosure of interest made under Section 36 shall be recorded in the minutes of the meeting.

Functions of the Secretariat

39. The Head of Authority shall be the representative of the Authority and be responsible for general superintendence and direction in the conduct of the affairs of the Authority and shall inter alia:
 - 1) be responsible for all financial operations of the Authority; and
 - 2) exercise and discharge powers and functions assigned by the Board
40. The Head of Authority may, where necessary, issue notifications for effective implementation of the relevant provisions of this Act.
41. The Secretariat shall:
 - (1) lease and auction mines as per the directives of the Ministry;
 - (2) issue mining related permits including for surface collection of minerals, sand and stones;
 - (3) control, regulate and monitor mining activities in the approved areas as per provision of this Act;
 - (4) impose fines and penalties prescribed under this Act and the Rules and Regulations issued thereunder;
 - (5) maintain statistics, documents, maps and appropriate technical and financial records of all mining leases;
 - (6) inspect any land, mine or other premises directly or indirectly related to a mining lease or minerals to ensure compliance with the provisions of this Act;
 - (7) coordinate socio-economic benefit sharing for development of the community, including Community Development Agreement and Community Development Fund;
 - (8) collect Environmental Reclamation Fund from the mines and mobilize to fund the implementation of respective Mine Closure and Reclamation Plan;
 - (9) spearhead consultation with the public to discuss post mining reclamation towards the end of mining operation;
 - (10) ensure that the restoration of the mined area is carried out in accordance with the approved Mine Closure and Reclamation Plan;
 - (11) assess, levy, collect and audit mineral royalty, fees, charges and rents on time;
 - (12) monitor import and export of minerals;

- (13) provide professional advice to the Ministry on all aspects related to policy and improved management of mineral resources; and
- (14) provide periodic reports and status of the mines and leases to the Ministry.

Code of conduct

- 42. The Authority shall perform its functions in a manner that:
 - (15) is transparent and objective;
 - (16) is fair, reasonable and efficient;
 - (17) is non-discriminatory; and
 - (18) promotes fair competition.

Finance

- 43. The activities of the Authority shall be funded from:
 - (1) levies, fees and other charges payable to the Authority in his performance of functions under this Act, including but not limited to auction license fees; and
 - (2) budgetary support from the Government to the extent that proceeds from (1) is not adequate to meet the budget requirement of the Authority.

Framework for governing Human Resource, Delegation of Powers and Procurement

- 44. The Authority shall establish its own Service Rules to govern Human Resource and service matters and, develop Delegation of Powers and Procurement Rules.

Remuneration

- 45. The Chairman and the Members shall be paid such remuneration, sitting fees, travel and other allowances determined by its Service Rules.
- 46. The Head of Authority and the staff members shall be paid such remuneration, travel and other allowances as specified in the Service Rules.

CHAPTER IV MINERAL PROSPECTING AND EXPLORATION

Eligibility and Limitation

- 47. Prospecting of minerals shall be carried out by the Department or where authorized by the Department, by persons or agency through issuance of a permit under such terms and conditions as may be prescribed.

48. Exploration of minerals shall be carried out by the Department or where authorized by the Department, by persons or agency through issuance of a permit under such terms and conditions as may be prescribed.
49. Any Bhutanese individual, licensed firm or a company fulfilling the required criteria shall be eligible to obtain prospecting or exploration permit from the Department.
50. Accidental discovery of minerals and fossil specimens that are rare, of high value and or with security implication and any cultural and historical artifacts in the process of prospecting or exploration shall be the property of State.

Prospecting Permit

51. Any Expression of Interest application for prospecting of permissible mineral of interest in the permissible area shall be made to the Department.
52. A prospecting permit holder shall have the right to prospect minerals specified in the prospecting permit.
53. A prospecting permit shall be issued for the duration of maximum one year and may be renewed based on the performance and progress of the work.
54. Prospecting in private property shall be subject to serving an appropriate notice of entry to the landowner or any person in custody of such land by the department.
55. The landowner shall allow any authorized person to enter his land to carry out mineral prospecting.
56. Issuance of prospecting permit shall not require any sectoral clearances from relevant agencies.
57. A prospecting permit holder shall have the priority right to apply for exploration permit of the permissible mineral discovered within the prospecting area. However, this right shall be exercised within two years from the date of completion of prospecting.
58. Accidental discovery of non strategic minerals beside the intended mineral shall be permissible for further prospecting subject to approval from the Department.
59. Discovery of minerals with security implication shall not be allowed for exploration.
60. A prospecting permit holder shall be required to submit a detail report on prospecting and discovery of mineral to the Department to realize Section 58.

Exploration Permit

61. Any Expression of Interest application for exploration of permissible mineral of interest shall be made to the Department.
62. Subject to the provisions of this Act, Rules and Regulations issued thereunder and the terms and conditions of the exploration permit, the permit holder may in the permitted area:
 - (1) have exclusive right to explore for specified minerals;
 - (2) drill, use equipments and machineries, work plans, build communication systems and other facilities necessary for mineral exploration purpose
63. The exploration area covered shall be as determined and specified in the permit by the Department.
64. An exploration permit shall be used for the intended purpose only and not for speculation and land banking.
65. Exploration in private property may be allowed subject to written consent from the property owner.
66. Exploration permit shall be issued upon obtaining necessary environmental clearance from the relevant agency or the competent authority.
67. Accidental discovery of non strategic minerals beside the intended mineral shall be permissible for further exploration and mining subject to approval from the Department.
68. An exploration permit holder shall have the priority right to apply for a mining lease of the minerals explored within the permitted area. However, this right shall be exercised within five years from the date of completion of exploration.
69. An appropriate compensation schemes or a mechanism may be devised for collaborative development of the mineral deposits explored under Section 51.
70. An exploration permit holder shall be required to submit a detail report on the exploration and findings to the Department.

CHAPTER V MANAGEMENT OF MINING ACTIVITIES

Management of Mining Rights

71. The State shall have the prerogative to promote and develop minerals whether they occur on private or State land, including reserved and protected areas in the national interest.
72. The Government shall have the prerogative to allocate Strategic Minerals.

Management of Mining Lease

73. Any Bhutanese individual, licensed firm or a company fulfilling the required criteria shall be eligible to obtain a mining lease as defined in the Rules and Regulations issued thereunder.
74. All pre identified mineral deposits proven by the Department, except for strategic minerals, shall be allocated based on the allocation framework developed.
75. All auctioned mines shall be required to float share to general public.
76. There shall be a separate mine leasing process developed to facilitate Section 14 in the Rules and Regulations issued thereunder.
77. All minerals shall be developed in accordance with the priorities of the Royal Government of Bhutan, with due respect for efficient use of the resources, beneficiation, protection of the environment, and public health and safety.

Grant of Mining Lease

78. Any Expression of Interest application for the lease of permissible mineral for mining shall be made to the Department. The pre-feasibility valuation by the Department shall, *inter alia*, include verification of any one of the following:
 - (1) The prospecting report;
 - (2) The exploration report; or
 - (3) The pre-feasibility study report.
79. A mining lease shall be granted provided the applicant has:
 - (1) adequate financial resources, technical competence and experience to carry out mining operations effectively; and
 - (2) not been disqualified by the Department or the Authority to apply for a mining lease.
80. The Department shall scrutinize the application, validate the report submitted and may direct the Authority to process and lease the mine.
81. Any inactive application shall be considered invalid after one year of application.
82. The Department shall adopt a sustainable approach in the approval of mines to avoid unnecessary proliferation of mines.
83. A mining lease shall be granted only after obtaining required clearances from the concerned authorities.
84. The validity of all clearances obtained shall be for the life of the mine except for the environmental clearance which is contingent for the operations of the mine.

85. A mining lease shall be granted for the expected economic life of the mine up to a maximum of thirty years.
86. A mining lease may be renewed for the expected economic life of the mine up to a maximum of thirty years.
87. A mining lease shall only be transferred or sold subject to the transferee fulfilling Section 79 of this Act.

Mining on State Land

88. The necessary land clearance involved in the lease of State Land for mining purpose shall be in line with the procedure prescribed under the Land Act of Bhutan 2007.

Mining on Private Land

89. Where mining has to be carried out on private land, compensation for the private land acquisition shall be as per provisions of the Land Act of Bhutan 2007.

Mine Plan and Design

90. Prior to obtaining a mining lease, a Mine Feasibility Study report shall be required to be prepared, in keeping with the format determined, and submitted for approval.
91. The Mine Feasibility Study shall include, *inter alia*, a Mine Plan, Environmental and Social Risk Mitigation and Management Plan and initial conceptual mine closure plan, and other data as prescribed.
92. The Mine Feasibility Study report shall be prepared by a certified mining engineer.
93. The Mine Feasibility Study report shall be periodically updated and submitted for approval to the Authority to ensure continuous operation of mine as per the plan.
94. The final Mine Closure and Reclamation Plan shall be prepared in consultation with affected local community and submitted for approval before expiry of the mining lease.

Technical Manpower

95. There shall be adequate professional manpower in the mine, determined based on the type and size of the mine, to manage it scientifically.

96. The mines manager who shall be made known to the Authority in writing, shall, on behalf of the lessee:
- (1) be responsible for all control and daily supervision of the mine; and
 - (2) reside close to such mines.

Compliance with Proper Mining Procedure

97. The lessee shall be responsible for ensuring compliance with the following:
- (1) Employment of adequate technical manpower.
 - (2) Payment of timely mineral levies, fees and charges.
 - (3) Health and safety of workers in and around mines.
 - (4) Sanitary and drinking water conditions and facilities in and around mines.
 - (5) Emergency medical facilities.
 - (6) Training to be provided for miners.
 - (7) Management for the safe use and storage of explosives in mines.
 - (8) Management and safe disposal of waste, refuse and poisonous substance in mines.
 - (9) Submission of reports on accidents occurring in the mines.
 - (10) Maintenance of records and accounts relating to mine operations.
 - (11) Execution of formalized community development activities.

Accident Reporting, Investigations

98. Where an accident resulting in loss of life or serious bodily injury to any person in connection with work directly or indirectly related to a mining lease, the lessee shall report such accident to the Authority in such form as may be prescribed.
99. On report of the accident under Section 98, the Authority shall immediately carry out the necessary investigation for redressal and record.
100. Except having to carry out immediate rescue and safety operations for workers and people, the accident spot shall be kept intact until the Authority's investigation is completed.

Expiry, Surrender or Termination

101. Upon expiry, surrender or termination of a mining lease, subject to the provisions of this Act and any conditions of the lease agreement, the lessee shall:
- (1) Remove any building, machinery or other movable property from the mining area within six months after the date of permanent closure unless otherwise required by the Authority.

- (2) Not be entitled to any compensation from the Government for any immovable property or infrastructures developed in the mining area unless otherwise specified in the lease agreement.
- (3) Be entitled to reasonable compensation from the government in the event the termination is due to change in government policy or in the national interest and without any fault of lessee.

CHAPTER VI RIGHTS AND OBLIGATIONS OF THE MINING LEASEHOLDERS

Rights of Lessee

102. Subject to the provisions of this Act and the mining lease agreement; a lessee may in the mining area:
 - (1) Have the exclusive right to mine the mineral or minerals specified.
 - (2) Construct, operate and maintain mines, work plans, roads, aerial ropeways, communication systems and other facilities necessary or convenient for carrying on the purpose of the lease.
 - (3) Establish processing plants upon obtaining necessary license and approval from the Ministry.
 - (4) Sell the minerals mined.
 - (5) May surrender the mining area covered by the lease or part thereof by giving the Authority not less than three months notice of his intention to do so, which shall be render effective on approval in writing.

Obligations of Lessee

103. Subject to the provisions of this Act and the mining lease agreement, a lessee shall:
 - (1) carry out mining operations in accordance with the Mine Plan, Environmental and Social Risk Management and Mitigation Plan and schedules submitted to and approved by the Authority in accordance with the Act and the terms and conditions laid down in the mining lease agreement;
 - (2) keep accurate records of all components of the mining operation carried out in such form as may be prescribed;
 - (3) keep accurate financial records of all components of the mining operation in such form as may be prescribed;
 - (4) notify the Authority at least three months in advance if the lessee desires to cease, suspend or curtail production from his mine;
 - (5) erect and maintain integrity of boundary pillars as may be prescribed once the mining area is demarcated by the Authority;
 - (6) transport minerals only after being issued with Transport Permit by the Authority, through a designated check post;

- (7) abide by all regulations and notifications as may be issued by the Authority;
 - (8) comply with obligations that may continue to apply beyond surrender, suspension, termination or expiry of the lease;
 - (9) continue to be obliged to fulfill all conditions of the lease even in the event of surrender of any area covered by a lease unless the surrender is rendered effective by the Authority; and
 - (10) carry out mine closure and reclamation as per the approved Mine Closure and Reclamation Plan.
104. The lessee shall take appropriate measures to ensure that all mining operations are conducted in accordance with the provisions of this Act and the Rules and Regulations issued thereunder.
105. The Lessee shall be responsible for compliance to the Occupational Health and Safety Standards prescribed in the Labour and Employment Act of Bhutan and relevant Mines Safety Standards adopted.

CHAPTER VII ENVIRONMENTAL AND SOCIAL RISK MANAGEMENT

Protection of the Environment and the Affected Communities

106. The verification of the reports in Section 78 by the Department shall give special emphasis on the environmental carrying capacity and social risk associated.
107. A valid Environmental Clearance shall be prerequisite to lease or operation of a mine.
108. A risk-based Environmental and Social Risk Management and Mitigation Plan shall be prepared by a qualified professional as per the guidelines prescribed by the National Environment Commission.
109. A lessee operating an underground mine or mine with potential hazard to the environment and society shall be required to prepare an Emergency Plan and Hazard Preparedness Response Plan and submitted for approval to the Authority.
110. Land clearance shall be obtained after due public consultation as per the established Public Consultation Guidelines.
111. No persons or public community shall obstruct mining proposal or related activities unless they are able to establish adverse impacts caused by such activities.

112. The lessee shall maintain the existing roads they use, on a cost sharing basis as determined by the Authority in consultation with other relevant agency and the mine operator.
113. Any resettlement of affected community shall be in line with legal requirements.
114. Any damage caused to the available local facilities by the operation of mines shall be rectified instantly.

Environmental Reclamation Fund and Reclamation

115. All mines shall be required to deposit Environmental Reclamation Fund (ERF) as per the standard method established by the Authority to ensure proper post mining reclamation.
116. Post-mining reclamation effort shall be to restore or reclaim the mining area to either economically productive or natural habitat. Apart from re-vegetation, where viable, reclamation may also include building useful structures for the community such as recreational facilities.
117. The lessee shall be required to carry out post mining reclamation to the satisfaction of the Authority and the affected community in line with the final Mine Closure and Reclamation Plan (MCRP) soon after cessation of the mining operation.
118. Progressive reclamation work shall be encouraged and an amount equivalent to the cost of the reclamation work shall be refunded from the ERF.
119. The ERF of the mine along with any earned interest shall be made available to fund reclamation work and its utilization shall be as determined in the Rules and Regulations issued thereunder.
120. Any balance ERF, upon satisfactory reclamation, shall be returned to the lessee. Where the effort of reclamation is not to the satisfaction of the Authority, the Authority shall carry out the reclamation and any further balance ERF shall be returned to the lessee. A mine shall be closed only after reclamation is approved by the Authority.

CHAPTER - VIII MINERAL FISCAL REGIME

Mineral Fiscal Instrument

121. The Ministry may develop and propose a mineral fiscal regime to ensure that mineral levies are proportionate to the value of the mineral or profit of the mines.

122. As per power vested by Section 11, the Ministry shall review and propose mineral royalty, levies and fees from time to time.

Royalty

123. A lessee shall pay Royalty to the Government for any mineral mined, at the rates prescribed by law and notified from time to time.

Mineral Rent

124. A lessee shall pay Mineral Rent to the Government for any mineral mined, at the rates prescribed by law and notified from time to time.

Surface Rent

125. A lessee shall pay Surface Rent to the Government for the mining area falling under State land at the rates prescribed under the applicable law.

126. The lessee shall pay Surface Rent at the same rate to that in Section 125 to the private land owner for the mining area falling under private land.

Exploration Fee

127. An exploration permit holder shall be required to pay an exploration fee, at the rates prescribed by the Ministry of Finance and revisions thereof.

Other Government Levies and Fees

128. The lessee shall pay taxes and other government levies in accordance with the rates prescribed by law and revisions thereof.

129. An Application, Lease Renewal and Lease Transfer fees shall be levied for services provided at the rates determined by the Authority and revisions thereof.

**CHAPTER - IX
COMMUNITY ENGAGEMENT AND DEVELOPMENT**

Community Engagement

130. The lessee shall provide preference to the local community for employment opportunities and procurement of goods and services.

Socio-economic Benefit Sharing

131. The affected community shall be compensated through benefit sharing scheme as determined by the Rules and Regulations issued thereunder.

132. The Authority shall formulate a Community Development Agreement for all leased mines outlining the Benefit Sharing Scheme for the affected communities as per the Rules and Regulations issued thereunder. The affected communities shall have access to social infrastructure developed by the mine and other infrastructures such as medical facilities, road and water supply.
133. A Community Development Fund shall be created for all leased mines to fund activities within Community Development Agreement.
134. Any Corporate Social Responsibility contributions as determined by the Companies Act shall form part of the Community Development Fund for incorporated companies.

CHAPTER X DUTIES AND IMMUNITIES OF THE STAFF OF THE MINISTRY AND THE AUTHORITY

General Engagement

135. A staff shall not take any assignment or task in which his relatives are involved or a case in which he may have a conflict of interest.
136. A staff authorized by the Department or the Authority shall carry out inspections in their respective fields as per the procedures laid down under the Rules and Regulations issued thereunder.
137. A staff of the Authority shall identify himself by producing the Official Identity Card during the field assignment.

Ability of Staff

138. No prosecution or legal liability shall lie personally against any staff for any act or omission committed in discharge of lawful duties under this Act or any other Act.
139. Any complaint against a staff shall be made to and inquired into only by the Department or the Authority.

Intelligence and Information

140. It shall be the duty of every staff to communicate intelligence or information relating to the interest of the Department or the Authority.
141. It shall be the duty of the Department or the Authority to treat all such information or intelligence as confidential and to communicate to the Government after due verification of the information.

Anonymity of Informant

142. An informant shall always be treated with confidence and his identity shall not be disclosed even if the information or intelligence is proved wrong.
143. An informant shall not disclose any source of information or intelligence under any circumstances to any person who is not authorized under this Act or any other Act.

CHAPTER XI OFFENCES AND PENALTIES

Major Offences

144. A person shall be guilty of major offence if he:
 - (1) carries out mining activities without prior approval in accordance with this Act;
 - (2) refrains from paying or pays less or commits fraud while paying the applicable mineral levies under this Act;
 - (3) negligently handles explosives leading to destruction of lives or properties while carrying out mining activities;
 - (4) without any reasonable cause interrupts, hinders or obstructs authorized officer while performing his duties under this Act;

Minor Offences

145. A person shall be guilty of minor offence if he:
 - (1) purchases any mineral from a person or transports minerals without proper documents;
 - (2) knowingly makes false or misleading statements while making application for prospecting and exploration permits or lease of the mine or renewal thereof;
 - (3) alters or removes any notices, signboards, boundary posts in any mining area without the approval of the Authority;
 - (4) fails to comply with any terms and conditions of the Prospecting and Exploration permit;
 - (5) fails to comply with any terms and conditions of the mining lease agreement or the surface collection permit;
 - (6) fails to implement the required progressive restoration and mitigation works;
 - (7) fails to submit necessary reports and plans on time;
 - (8) fails to reclaim post-mining reclamation as per Mine Closure & Reclamation Plan;
 - (9) abandons the mine or any portion of the mine lease area with potential danger to the health and safety of the community;

- (10) fails to maintain records, books and registers required by the provisions of this Act or the terms and conditions of the mining lease;
- (11) fails to comply with any provisions constituted as other minor offences in the Rules and Regulations issued thereunder.

Major Penalties

- 146. A person guilty of an offence under Section 144(1) shall be liable to a fine equivalent to twice the value of the products in question along with seizure of the material, equipment and conveyance used for transportation of mineral product.
- 147. A person guilty of an offence under:
 - (1) Section 144(2) shall be liable for tax evasion in accordance with Penal Code of Bhutan.
 - (2) Section 144(3) of the Act, shall be liable for negligent homicide or negligent explosion in accordance with Penal Code of Bhutan;
 - (3) Section 144(4) of the Act shall be liable for obstruction of lawful authority in accordance with Penal Code of Bhutan.

Minor Penalties

- 148. A person guilty of an offence under Section 145(1) shall be liable to a fine equivalent to twice the value of the minerals and seizure of minerals.
- 149. A person guilty of an offence under Section 145(2) shall be liable to a fine as per the Rules and Regulations issued thereunder and the permit or lease request shall only be further processed upon payment of the fine.
- 150. A person guilty of an offence under Section 145(3), (4), (5), (6), (7), (8), (9), (10) and (11) shall be liable for administrative fines on the spot as per the Rules and Regulations issued thereunder.

Detention

- 151. Any conveyance transporting minerals illegally and penalized under Section 149 shall be detained till the payment of fine.
- 152. The Authority shall not be held liable for any damage caused to the conveyance during the detention under Section 152.

Penalties for repeated offenders

- 153. If a person is guilty of major offence for more than one instance, the mining lease shall be suspended for up to six months after which the mining lease shall be withdrawn and further legal action shall be taken.

154. If a person is guilty of similar offence mentioned under Section 151 for more than three instances, the mine shall be suspended for a month and thereafter the suspension shall be doubled at every instance.

Search

155. The authorized official shall have the authority to:

- (1) search and control the movement of minerals in designated areas, public roads and all kinds of transport conveyances.
- (2) stop the conveyance and conduct a search for any mineral products or documents, where such conveyance is suspected of being engaged or used for illegal transport of minerals or mineral products;
- (3) search where he has reason to believe that a conveyance has violated the provisions of this Act;

Seizure Procedure

156. The seizure of any mineral, mineral products and or equipments under Section 147 and 149 shall be done after issuance of a show cause notice.

157. On seizure of any products under the provisions of this Act, the right of the goods shall vest with the Government.

Expenses

158. Any expenses incurred with regard to the transport and handling of seized products, machinery and conveyance shall be borne by the offender.

Disposal

159. Any seized mineral product, machinery or conveyance under Section 147 may be sold by public auction or sealed tender.

160. Any seized product under Section 149 may be sold by public auction or sealed tender or disposed by means of destruction in presence of a witness.

161. The disposal of the seized product, machinery or conveyance stated under Section 160 shall be effective only after the administrative appeal procedures under the provisions of Appeal have been exhausted.

CHAPTER - XII APPEALS AND DISPUTE RESOLUTION

Authority Appellate Committee and Ministerial Appellate Committee

162. An Authority Appellate Committee and a Ministerial Appellate Committee shall be established in hierarchical order under this Act to process and redress the appeals filed, as follows:
- (1) Authority Appellate Committee shall consist of five officials chaired by the Head of the Authority but excluding the Officials who may be involved in the dispute.
 - (2) Ministerial Appellate Committee shall be established by the Ministry amongst any five Head of the Departments.

Appeal on Expression of Interests

163. A person may appeal on the rejection of his expression of interest submitted for approval to undertake prospecting, exploration and mining by the Department to the Ministerial Appellate Committee.

Appeal on Lease Approval and Operation of the Lease

164. A person may appeal on the decision of the Authority rejecting his lease approval.
165. A lessee may appeal on the decision of the Authority with regard to the operation of lease if:
- (1) any matter or decision pertaining to the enforcement of any provision of this Act;
 - (2) any matter or decision pertaining to enforcement of any terms and conditions of the Lease Agreement; or
 - (3) any matters pertaining to enforcement of directives and notifications issued by the Authority.
166. A person may appeal against the operation of the mine by a lessee if:
- (1) the safety and environment of an individual or community has been affected or likely to be affected; or
 - (2) non-compliance to the Benefit Sharing Scheme and Community Development Agreement.

Appeal Procedure

167. Unless otherwise mentioned in this Act, the appeal shall be first filed before the Authority Appellate Committee within 30 working days from the date of dispute or conflict.

168. The appeal on the decision of the Authority Appellate Committee may be made to the Ministerial Appellate Committee within 10 working days from the date the decision.
169. The decisions passed thereto by the Authority Appellate Committee and Mining Appellate Committee shall all be conveyed in writing.
170. The decision of the Authority Appellate Committee and Ministry Appellate Committee shall be passed within 60 working days from the date of receipt of an appeal.

Quorum

171. The quorum for convening appeal meetings shall be three in both the Appellate Committees formed by Section 162.

CHAPTER - XIII MISCELLANEOUS

Amendment

172. The amendment of this Act by way of addition, variation or repeal shall be effected by a simple majority of the respective Houses or vote of not less than two-thirds of the total members of Parliament present and voting, in case of a joint sitting.

Authoritative text

173. The Dzongkha text shall be the authoritative text, if there exists any difference in meaning between the Dzongkha and the English text.

Rule of Construction

174. In this Act, unless the context indicates otherwise, the singular shall include the plural and the masculine shall include the feminine.

Definitions

175. In this Act, unless the context otherwise requires:

- (1) “**Act**” means the Mines and Mineral Management Act 2017 or other ancillary provisions enacted by an act of the Parliament.
- (2) “**Affected community**” means the original inhabitants affected by the operations of mine and not include new inhabitants and new land owners settled in the area after commencement of mine operation.

- (3) **“Auction”** means public sale of any mineral or mineral deposits. This can include proven deposits by the Department for the purpose of leasing; minerals seized and seized and lease terminated by the Authority.
- (4) **“Authority”** means the Mining Regulatory Authority.
- (5) **“Captive Mine”** means a mine leased to the promoter of a processing industry for the sole purpose of supplying raw material to that industry.
- (6) **“Department”** means the Department of Geology and Mines under the Ministry.
- (7) **“Environment Reclamation Fund”** means a fund deposited by the Lessee in the account designated by the Authority for reclaiming the mined area to its near original state during the operation period and or after the closure of the mine.
- (8) **“Exploration”** means the geo-scientific investigations necessary to determine the location, extent and economic feasibility of a mineral deposit.
- (9) **“Expression of Interest Application”** means an application seeking a prospecting or exploration permit or mine lease processing approval from the Department.
- (10) **“Feasibility Study report”** means the final mineral deposit assessment report highlighting the technical, financial, environmental and social impact analysis, including the environmental and social risk management and mitigation plan.
- (11) **“Government”** means the Royal Government of Bhutan.
- (12) **“Lease”** means a lease granted by the Authority for exploitation of a mineral for a defined period of time and does not imply the ownership of land.
- (13) **“Lease Agreement”** means a legal document executed between the Authority and the Lessee containing specific terms and conditions for operation of a mine.
- (14) **“Lessee”** mean a person who has been granted a mining lease.
- (15) **“Licence”** means business licence issued by the Ministry.
- (16) **“Mine”** means an opening or excavation in the ground for the purpose of extracting mineral including quarries.
- (17) **“Mine Closure and Reclamation Plan”** means a plan which specifies methods to progressively restore or reclaim the mined area.
- (18) **“Mine Plan”** means a plan which specifies the technical requirements for operation of a mine.
- (19) **“Mine Reclamation”** means the removal of any unwanted structures, equipments used during the operation, and stabilization of dumps or impoundments and restoration of the surface of the lease area so that it is returned to natural or economically usable state in line with the Final Mine Closure and Reclamation Plan.
- (20) **“Mineral”** means any substance occurring naturally in or on the earth and having formed by or subject to a geological process and which can be obtained from the earth by digging, drilling, dredging, quarrying or by other mining operations.

- (21) **“Mineral Deposits”** means a mineral which is potentially viable in terms of both grade and reserve for mining.
- (22) **“Mineral Development”** means any activity related to the exploitation or winning and working of minerals and construction materials, including tipping of spoil and ancillary operations such as the use of processing plant.
- (23) **“Mineral Fiscal Regime”** means all the fiscal instruments developed and applied to the mineral sector.
- (24) **“Mineral Processing”** means the approved value-added beneficiation of minerals obtained from a mine by a physical, chemical or other process.
- (25) **“Mineral Rent”** means a levy imposed for the traded mineral as per the rates prescribed in the Act.
- (26) **“Mineral Resources”** means a concentration or occurrence of mineral in or on the earth's crust in such form, quality and quantity that there are reasonable prospects for eventual economic extraction.
- (27) **“Mining”** means applying physical techniques and methods for extraction of mineral from on or under the earth's crust.
- (28) **“Mining Area”** means land covered under a mining lease.
- (29) **“Ministry”** means the Ministry of Economic Affairs.
- (30) **“Officer/Official”** means a person appointed by the Royal Government and empowered to exercise any powers or discharge any functions conferred upon him under this Act.
- (31) **“Permit”** means approval granted for prospecting, exploration, lifting or any other permits issued under the provision of this Act.
- (32) **“Person”** includes an individual, a company, community, an agency, a legal representative or a legal entity.
- (33) **“Prospecting”** means the geological study of locating prospective minerals, fossils, precious metals or mineral specimens with use of handheld tools only.
- (34) **“Reserve”** means a mineral resource which is economically feasible in terms of quantity for extraction.
- (35) **“Strategic minerals”** means those minerals that have wider implications on the economy in terms of having any one of the following characteristics:
 - a. being in short supply and essential for domestic industries
 - b. rare and high value minerals and those minerals with security implication
- (36) **“Surface Rights”** means right to ownership of land as per Land Act of Bhutan.
- (37) **“Transport Permit”** means the official transport permit issued by the Authority for the purpose of transporting minerals.

- (38) **“Underground Mining”** means a technique used to extract ores and valuable minerals in the ground by digging into the ground using shafts or ad-its as a mode of entrance.
- (39) **“Value addition”** means products of mineral beneficiation and processing covering the whole range of processes from basic ore dressing, such as crushing and screening, through to the manufacturing of semi-final/final consumer goods or chemically altered products.