

Mining Law

Summary: The mining law which was approved on 16 May, 1998 in the Islamic Consultative Assembly (Majlis) is based on the articles 44 and 45 of the Constitution of the Islamic Republic of Iran and Article 2 of the new law which has delegated ownership of mines in the country to the Ministry of Mines and Metals. The law, comprising 36 articles and 4 chapters, provides a general description, definition, exploration, exploitation and general regulations concerning mining in the country.

Text: In order to eliminate defects and blank points and further expand exploration and exploitation in the mining sector, development and processing of minerals, supply raw material to factories, replace foreign raw material and half-manufactured goods with domestic ones, remove obstacles, establish facilities for participation of non-governmental mining works and ensure active public participation to rid the country of a single product economy, the government decided to formulate a new mining law and the necessary bill was submitted to the Islamic Consultative Assembly.

In keeping with principles 44 and 45 of the Constitution of the Islamic Republic of Iran and based on Article 2 of the new mining law, the ownership of the country's mines has been vested on the Ministry of Mines and Metals. This ownership covers the following areas:

- Protection of mining reserves
- Issuing permits for mining operations
- Supervision of mining works
- Preparing grounds for mining activities
- Achieving value added in mining raw material
- Promoting mining material with value added
- Providing employment opportunities in the mining sector
- Increasing the role of mining sector in economic and social development.

Thanks to the continued exertions by the government and Majlis and raising different perspectives by the Majlis deputies, the mining law was ratified in the open session of the Majlis on May 16, 1998 and was endorsed on June 13, 1998 by the Expediency Council with a series of amendments.

The special features of the new mining law are enumerated as below:

- Guaranteeing proven mining reserves as acceptable security (Article 10, note 2).
- Increasing the term of exploitation from 6 years to 35 years by offering priority to owners of exploitation licenses which possess official and negotiable instruments or title deeds (Article 10, Note 2).
- Encouraging and supporting the Ministry of Mines and Metals in the extraction and processing of minerals for export and generation of value added (articles 16 and 17).

- Organizing and making optimum use of services for mining experts and geologists (Article 27).
- Eliminating regulations that impose unnecessary and overhead expenses for production of material in order to create stability in the calculation of the economics of production of mining products (Article 29).
- Establishing a capital investment fund for mining activities in order to compensate all or a part of financial losses incurred by exploiters and extractors of minerals.
- Preventing the destruction and waste of mineral reserves (Article 34).

It is hoped we can witness serious upheaval in the mining sector with the enforcement of the new mining law.

Chapter 1

Definitions and Generalities:

Article 1: The following definitions have been employed in the present law:

- a.** Mining material (mineral). Means any material or natural combination developed in the form of solid, gas, liquid or solution in water as a result of geological developments
- b.** Mineral. Means the existing mining products or minerals which enjoy economic value
- c.** Mining reserve: Means natural concentration or accumulation of one or several mining matter (s) under or over the ground or in the form of solution in water
- d.** Mine. Means a mineral reserve whose exploitation is deemed economical.
- e.** Exploration. Means willing search to discover mines which might entail the following operations:
1. Tracing, sampling and testing the quantity and quality
 2. Geological, geophysical, and geochemical studies and the like as well as matters related to such examinations
 3. Open or underground drilling (excavation)
 4. Determining the form, quality and quantity of mineral reserves and preparing the related maps
- f.** Exploitation license. Means a license issued by the Ministry of Mines and Metals which permits exploitation of minerals within a specified scope.
- g.** Discovery certificate. Is an endorsement certificate issued by the Ministry of Mines and Metals in the name of the owner of exploration license after the completion of exploration and discovery.

h. Exploitation. Means all operations required to extract and sort the minerals and achieve salable minerals.

i. Extraction. Means a combination of operations needed to segregate the mineral from the mine and transfer it to its storage area.

j. Exploitation license. Means license issued by the Ministry of Mines and Metals to provide building material needed for development projects and extraction of deposits and limited and marginal reserves as well as laboratory operations.

k. Government right. Means the government's revenue from extraction and exploitation of each unit of substance or mineral.

l. Sorting minerals. Means physical, chemical or physico-chemical operations performed to separate part of the useless matter from the main mineral or separating minerals from each other.

m. Processing: Includes all operations conducted on raw mineral or sorted minerals resulting in the production of industrial raw material.

n. Material depot. Means a place outside exploitation workshop and tunnels and wells where the extracted material is stored.

o. Waste matters. Means matters which are separated from the mineral as a result of extraction or sorting.

p. Ordinary sand and gravel: Means sand and gravels which do not contain valuable minerals and whose segregation is not considered economically feasible and are normally used for house building, road building, concrete filling and like operations.

q. Ordinary lime. Is a sort of soil used to fabricate ordinary unbaked or baked (non-flammable) bricks and also used in building works, road building and farming.

r. Industrial soil. Is a soil which has different industrial uses due to its special physical or chemical properties.

s. Building rubble. Means different stones existing in nature which contain minerals which cannot be separated under the existing conditions and its processing is not deemed economically feasible and according to Ministry of Mines and Metals are not rated as decorative stones. The building rubble is normally used in the foundations or construction of walls in buildings, road construction, fortification and the like.

t. Decorative stones. Are shining or non-shining sedimentary or volcanic and transformed stones which do not contain sizable amount of separate minerals such as marble, semi-marble (marmorite), travertine, granite and the like whose ordinary method of cutting and polishing is not believed to be economical.

u. Exploitation license. Is a certificate issued by the Ministry of Mines and Metals for exploitation of mines within a specified scope.

v. Exploitation plan. is a plan that details the executive programs for exploitation of mines plus the timetable for operation and other information based on the identity card of the mine (a special sample form issued by the Ministry of Mines and Metals and filled by users of mines).

w. Non-transferable mines. Are such mines which are not exploited and their transfer is not prohibited according to the present law.

Article 2: In compliance with articles 44 and 45 of the Constitution the government's responsibility for ownership in the state-owned mines and protection of mineral reserves, issuing license for mining operations provided in the existing law, supervision of such affairs, preparation of facilities for promotion of mining and achieving value added in mining raw material, promoting export of minerals with value added, providing employment opportunities in that sector and increasing the contribution of mining to state economic and social development, has been vested on the Ministry of Mines and Metals.

Enforcement of the above sovereignty shall not prevent the exercise of ownership by real persons or legal entities within the framework of the above regulations.

Article 3: Minerals are classified into following sections:

a. First class minerals including limestone, gypsum, ordinary sand and gravel, sea shell, granulated aggregate, water and stone salt, marl, building rubble and the like;

b. Second class minerals including;

1. Iron, gold, chrome, tin, mercury, lead, zinc, copper, titan, antimony, molybdenum, cobalt, tungsten, cadmium, and like metals;
2. Nitrates, phosphates, alkali salts, sulfates, carbonates, chlorates, (except those specified in first class minerals) and the like;
3. Mica, graphite, kaolin, non-flammables, feldspar, silica stone and stand, perlite, diatomite, bauxite, lime, yellow soil, industrial soils, etc.;
4. Precious and semi-precious stones such as diamond, emerald, jasper, turquoise, different agates, etc;

5. Different decorative and building facing stones;
6. Different coals and non-oil shells;
7. Minerals that can be extracted from water such as mineral gases with the exception of hydrocarbons.

c. Third class minerals including all hydrocarbons except coal, crude, natural gas, tar, oil polymer stones, natural asphalt stones, sand mixed with oil, etc. However if tar, oil polymer stones or natural asphalt stones not handled by the Ministry of Oil or affiliated companies are considered as second class minerals.

d. Fourth class minerals including all radioactive matters including primary and secondary matters.

*** Note:** The classification of those minerals related to first or second class minerals whose classification has not been specified including one matter from one classification or matters from other classifications will be determined by the Ministry of Mines and Metals.

Article 4: The responsibility to determine whether matters belong to class one or class two with the exception of ordinary sand and gravel and lime under the existing law, is vested on the Ministry of Mines and Metals.

*** Note:** The Ministry of Mines and Metals is to distinguish whether the sand, gravel and lime are ordinary in classification.

Chapter 2

EXPLORATION

Article 5: The exploration of reserves shall be performed by real or legal persons in the government, cooperatives or private sector. The Ministry of Mines and Metals also is required to take steps to explore and extract mines throughout the country directly or through its affiliated departments and organizations or by resorting to qualified real and legal persons.

Article 6: One needs an exploration license issued by the Ministry of Mines and Metals to explore minerals. The method of acquisition of license, requirement for exploration, the term of the license, transfer of rights related to the license and other related requirements in keeping with this law will be outlined in the related executive directive.

*** Note:** Exploration during exploitation does not require an exploration license, but should a new mineral reserve or matter be discovered during the operation, the exploitation license will be amended according to the provisions of the existing law or a new certificate will be issued.

Article 7: After examination and endorsement of exploration operation the Ministry of Mines and Metals is required to issue a discovery certificate in the name of the holder of exploration license. In that license the type or types of discovered mineral (minerals), quantity, scope, area and cost of

exploration should be inserted. Upon the approval of Ministry of Mines and Metals one year after the issuance of the license it can be transferred to a third party.

* **Note 1:** The method of enforcement of the above article particularly when the exploration operation is not approved will be outlined in the executive directive of the existing law.

** **Note 2:** In case of failure to discover mineral after exploration operation, the holder of exploration license will have no claim whatsoever.

Article 8: Holders of discovery certificates can, within a maximum of one year after the issuance of the discovery certificate, submit their application for discovery of the mineral to the Ministry of Mines and Metals. Failure to file such an application in the specified term will cancel the priority of the user.

Note: In case of failure to submit the above application on time, the expenses mentioned in the discovery certificate will be paid by the exploiter of the discovered mineral to the holder of the certificate as provided in the executive directive of the existing law.

Chapter 3

Exploitation

Article 9: One needs to acquire exploitation license from Ministry of Mines and Metals to exploit minerals. This license is issued on the basis of the identity card of the mine and the exploitation plan issued by the related ministry.

Article 10: The following are considered as exploiters of minerals:

a. Legal and real persons upon the approval of the Ministry of Mines and Metals:

1. Holders of exploration licenses during the term specified in Article 8.
2. Producers of processed minerals with further value added up to the production of primary raw material from permissible mines as far as they continue production.
3. Consumers of industrial mining matters from permissible mines as far as they continue production.
4. Applicants for exploitation who are mining experts or geologists or at least one of staff among the applicant company who is expert in the field can exploit permissible mines as long as the mine enjoys the above mentioned conditions.

b. Units and companies affiliated to the Ministry of Mines and Metals as required.

The above departments and companies may benefit from the services of qualified real or legal persons or exploit mineral reserves with their participation.

c. Mining cooperative companies consisting of mining personnel

*** Note 1:** In case the exploitation applicants are numerous and do not fall in the above categories the basis for action will be the regulations for state transactions and the regulations governing general computations.

**** Note 2:** The identity card of each mine will cover the mine specifications, quantity and quality of the mineral reserve, technical and economic assessment report including the rate of return of domestic capital, the requirements for mining operations, optimal extraction of the said mineral and compliance with the safety rules and technical protection as well as other requirements. The definite mineral reserves cited in the identity card will be guaranteed by the Ministry of Mines and Metals and will be acceptable as a security.

***** Note 3:** The exploitation license is an official and binding document which specifies the period of exploitation according to the mine's identity card and the approved exploitation plan which can be extended, transacted or transferred to third parties including a right to benefit from the mine by the license holder and includes a guarantee by the holder to comply with the related requirements. With an eye to the above stipulations and the existing reserves each term of exploitation will be a maximum of 25 years and the license holder will have the privilege to extend the term.

Article 11: In case of issuing an exploration license the Ministry of Mines and Metals is committed to allow priority to the family of martyrs, disabled war veterans and former prisoners of war, cooperative companies and qualified local individuals in keeping with the existing law.

Article 12: Big mines and their method of exploitation are distinguished by the recommendation of Ministry of Mines and Metals and approval of the council of ministers with an eye to the volume of reserves, purity, extent of extraction, value of the mineral, amount of capital, geographical situation as well as political, social and economic considerations.

Article 13: If necessary and at its own discretion the Ministry of Mines and Metals is permitted to issue license for limited exploitation of mineral reserves or extract specified volumes of limited discovered mines in order to provide building material for development projects or supply material for laboratory tests.

Article 14: The holder of exploitation license must pay a certain annual percentage of the value of the mineral at the mining site to the Ministry of Mines and Metals as mentioned in the exploitation license at daily rates in lieu of government charges. If necessary the ministry is permitted to demand equivalent amount of mineral instead of the government charge.

With an eye to the influential factors including the location and situation of the mine, volume of mineral reserves, method of exploitation, the obligations and preferred profits of exploitation, method of implementation of this article as well as requirements for fixing the above mentioned percentage will be determined in the executive directive of the existing law.

Surely all revenues accumulated as a result of enforcement of this article will be deposited in the state treasury.

*** Note 1:** The basis for basic price for minerals which are delegated through endorsement of the state general computation system will be the average government rights of similar permissible mines.

**** Note 2:** The government rights for owners of exploitation licenses will be the average government rights imposed on adjacent mines. Laboratory and applied examination up to one ton of mineral will be exempted from such charges.

***** Note 3:** The basis for revenues in the last paragraph (a) of Note 66 of the budget law for 1363 (1984/5) will be used to determine the percentage cited in the above article.

Article 15: Should the operator fail to use the waste extracted from mining during the term of operation it will be owned by the government after the expiration of exploitation term and the Ministry of Mines and Metals will dispose such matters as it deems appropriate.

Article 16: In order to invest capital for processing minerals the Ministry of Mines and Metals is required to support and supervise the related departments and companies as well as non-governmental investment in that sector. In order to do so the Ministry must make necessary feasibility studies and prepare typical projects and specify them in the executive directive.

Article 17: In order to promote processing and export of minerals with value added and boost mining exploration and exploitation activities, upon the recommendation of the Ministry of Mines and Metals the government must examine the policies covering production, trade, financial and monetary aspects and to include them in its development program if ratified. Moreover the government must make necessary provisions to include such plans in its annual budget bills.

*** Note:** The Ministry of Mines and Metals must give priority to the promotion of mineral processing and exports in its executive programs.

Chapter 4

General regulations

Article 18: The Ministry of Mines and Metals shall gradually adjust the condition of exploitation of the existing mines before the expiration of the term of licenses and shall issue new exploitation licenses for users if they are found to be discharging their commitments. Anyhow the above steps

must in no way infringe the rights obtained by the mine exploiters.

Article 19: Whoever makes exploration drilling, extraction or exploitation of minerals without receiving exploration or exploitation licenses will be considered as usurper of public and government properties and will be treated according to related law. In such cases upon the request of the Ministry of Mines and Metals the disciplinary personnel must stop such illegal operation and introduce the delinquent (delinquents) to the judicial authorities for necessary legal action. While taking the above steps the ministry is required to make timely assessment of the amount of damage resulting from such crimes and to inform the judicial authorities accordingly.

Article 20: Should the holder of exploitation license fail to discharge his duties or be unable to discharge them in an appropriate manner, the Ministry of Mines and Metals will warn the holder to comply with his obligations. In case during the term specified in the warning notice the license holder fails to discharge his duties or his performance is deemed insufficient he will be bound to pay damage for non-compliance with his obligations or might be considered incompetent to discharge his obligations in the end. However such a poor performance will not affect the validity of exploitation license or the rights of third parties.

* **Note:** The Ministry of Mines and Metals is bound to insert the conditions for compensation of damage for failure to discharge obligations in the exploitation license as mentioned in this article.

Article 21: The user and holder of former exploitation license is required to transfer all the related properties which damage or harm the mine and separated from the mine upon the discretion of an expert from Ministry of Mines and Metals to the new user at the latest price and on the basis of a rate fixed by the official auditor of the Ministry of Justice. In case the user fails to transfer the properties related to the mine according to the above conditions he will be bound to compensate for the damage inflicted to the mine.

Article 22: If the owners of rehabilitated mine or a site needing rehabilitation is required to take charge of his property, after the endorsement of the Ministry of Mines and Metals the operator will be bound to pay the rent of the premises without computation of the mineral reserves to the landowner upon the discretion of the official expert of the Ministry of Justice on the basis of the latest price. In case the landowner refuses to receive the rent, he shall deposit it at the treasury of the State Land and Deed Organization. In such a case after the ministry has coordinated the matter with related departments the operator will be permitted to continue his work at the site.

The related authorities are to recognize whether a property is rehabilitated or must be rehabilitated as well as the condition of the ownership or ownerships.

* **Note 1:** If the operator needs to dig canals or tunnels in areas outside the above mentioned properties for continuation of exploration or exploitation which canals or tunnels pass the depth of the above mentioned properties, he will be subject to the above regulations; otherwise he will not be bound to the said property. The Ministry of Justice will discern the conventional depth mentioned in this note according to the nature of the application of the lands under mining

operation.

**** Note 2:** The owner or owners of the above mentioned properties or their lawful substitutes who are receiving exploitation license to dig building rubbles or decorative or facing stones within the depth of rehabilitated lands or lands under rehabilitation, as mentioned in the above note, are required to submit their application to the Ministry of Mines and Metals. Before a mining exploration certificate is issued for others the owner will have priority and in such a case any object discovered on the conventional depth of the property will be owned by the owner. Meanwhile being exempt from paying government charges for such explorations, they will be treated according to Article 10, para. 1, item a.

***** Note 3:** Should the landowner prevent the implementation of mining operation mentioned in this article, upon the request of Ministry of Mines and Metals and according to related regulations the disciplinary officers shall immediately lift the prohibition.

Article 23: Any steps taken for exploitation of minerals by executive departments including ministries and government affiliated companies and organizations and public and non-profit revolutionary organs or their subsidiaries, are subject to acquisition of license from the Ministry.

Article 24: In order to expedite the exploration and exploitation of mines the executives bodies are bound to respond to the Ministry of Mines and Metals about the lawful scope of operation and prohibited zones subject of paragraph (a) of Article 3 of the environment protection and rehabilitation law ratified in 1974. Moreover they must observe the law governing the exploitation of state forests and rangelands ratified in 1967 and the subsequent amendment thereto as well as the law governing application of agricultural and horticultural lands ratified in 1995 during the issuance of exploration and exploitation licenses. Failure by executive bodies to announce their opinion in the specified term will construe as their agreement with the above mentioned mining operations.

Article 25: In case the scope of mining operations falls within the scope of national and natural resources, steps will be taken according to Note 4 of Article 3 of state forests and rangelands protection and rehabilitation law and subsequent amendments, but instead of land ownership interests or land fees as specified in the above note and acquisition of 3 percent government charges specified in Article 4 of the present law and notes 1 and 2 for rehabilitation of mining sites, besides the above government fees, the Ministry of Mines and Metals will receive rental fees from users and holders of exploitation licenses and will deposit the money in the related accounts.

Article 26: The limits imposed on the extraction, storage and exploitation of minerals and disposal of mineral waste within national and natural areas which have been specified in the license is considered the mining operation zone and will be the property of the Ministry of Mines and Metals until the end of the mine's life. Any operation beyond those specified in the licenses issued by the Ministry will be considered as unlawful ownership of public properties.

Article 27: In order to properly utilize the services of mining and experts and geologists and specialists in related fields the Ministry of Mines and Metals shall set up technical and engineering office for these groups of personnel. The government is obliged to prepare a mining and geology engineering discipline and submit the bill to the Majlis within six months of ratification of the present law.

Article 28: With an eye to the geographical situation of mines and in order to promote the mining sector the executive departments are required to consider the mining sites as their preferred development plans and to impose preferential and tariff rates for such operations.

Article 29: In order to stabilize the economic feasibility studies of production of minerals, those regulations which lead to unrelated and overhead expenses in production will be considered as null and void after the ratification of the present law.

Article 30: The credits of Ministry of Mines and Metals from the private real or legal persons about government rights, 3 percent fee for rehabilitation and compensation of damage due to failure to comply with obligations as specified in Article 14 and its notes 1 and 2 and articles 20 and 25 of the existing law, are considered as authenticated credits of the government and will be binding on the basis of related documents and are recoverable on the strength of Article 48 of the state general computation law ratified on October 23, 1987 by the Majlis and according to the executive regulations of direct taxes.

The damage resulting from delay in recovering such credits will be according to a table which will be prepared by the Ministry of Mines and Metals and ratified by the council of ministers in the executive directive of the law.

Article 31: In order to achieve sustainable growth in mining the government is required to establish a capital investment insurance fund in the Ministry of Mines and Metals for mining activities to compensate all or part of the possible damage resulting from failure to discover mineral and loss of present capital according to articles of associations which will be ratified by the council of ministers and to propose the needed credits if necessary each year for the government with due attention to production policies in its annual budget.

Article 32: In compliance with paragraph 14 of Article 1 of the law for formation of Ministry of Mines and Metals, ratified in 1984 by the Majlis, in order to expedite research for exploration and identification of minerals and to conduct other mining operations the Ministry of Mines and Metals is permitted to establish operating companies whose articles of association will be ratified by the Council of Ministers.

Article 33: Official government employees in the Ministry of Mines and Metals and companies and organizations affiliated to the government are not allowed directly or indirectly to participate in mining transactions or obtaining mining privileges referred to in this law or benefit from these operations unless a minimum of one year has passed since their resignation from such services. If they are found to be violating the existing law they will be permanently suspended from government duty and will be deprived from concluding any mining contracts or obtaining license

for mining operation for a period of 5 to 10 years.

Article 34: The Ministry of Mines and Metals shall fully supervise all mining operations throughout the country according to the executive directive of the present law in order to prevent destruction or waste of minerals, failure by explorers or exploiters of mines from discharging their obligations and to ensure that all safety regulations covering protection of mining employees are fully adhered to.

Article 35: The executive directive of the present law will be prepared by the Ministry of Mines and Metals with cooperation of other ministries and related organizations or organs within a period of 3 months and will be ratified by the council of ministers.

Article 36: Once the approval of the present law go into effect, the former mining law and its subsequent amendments as well as any other related contrary rules and regulations will be considered as null and void.

The above law consisting of 36 articles and 7 notes was ratified in the open session of the Islamic Consultative Assembly on April 27, 1998 and was endorsed by the Expediency Council on July 13, 1998 after a series of amendments.

Ali Akbar Nateq-Nouri
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