

# Mines & Minerals Act, 2042 (1985)

## Date of Royal Assent

2042-07-14 (October 30, 1985)

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## Amending Act:

1. Mines and Minerals (First Amendment) Act, 2050 2051.2.5 (18 April, 1994)
2. Republic Strengthening and Some Nepal Laws Amending Act, 2066 (2010)<sup>1</sup> 2066.10.7 (21 Jan, 2010)

Act Number 28 of the year 1985

## An Act made to provide for matters concerning to Mines and Minerals

**Preamble:** Whereas, in order to maintain convenience and economic welfare of the public-in-general and for rapid economic development of the country, it is expedient to develop mines and minerals deposit existing in the country;

Now, therefore, be it enacted by His Majesty King Birendra Bir Bikram Shah Dev on the advice and with the consent of the *Rastriya Panchayat*.

1. **Short Title and commencement:** This Act may be called as “Mines and Minerals Act, 1985 (2042).”

(2) This Act shall come into force on such date as Government of Nepal may, by a Notification in the Nepal Gazette appoint.<sup>2</sup>

<sup>1</sup> This Act came into force on 15 *Jestha* 2065 (28 June 2008), "*Prasasti*" and the word Kingdom has been deleted.

<sup>2</sup> This Act has come into force on September 16, 1999 (2056-5-31) by a Notification of Nepal Gazette on 2056-5-31.

2. **Definitions:** Unless the subject or the context otherwise requires, in this Act;

- (a) “Minerals” means inorganic substance with a chemical compound of any definitive physical properties and elements, other than those of petroleum and gas, located on the surface or underground of the land.
- (b) “Prospecting operations” means all types exploration and feasibility studies to be operated for discovering mines or minerals or for determining the category, quality and quantity etc. of minerals.
- (c) “Excavation” means the working of opening, producing, purifying, processing, transporting, storing or selling and supplying minerals.
- (d) “Mining operations” means prospecting and excavation.
- (e) “Licensee” means a person who has obtained a license for mining operations.
- (f) “Mining area” means an area referred to in the license for mining operations.
- (g) “Department” means the Department of Mines and Geology of Government of Nepal.
- (h) “Prescribed” or “as prescribed” means prescribed or as prescribed in the Rules framed under this Act.

3. **Property of Government of Nepal:** All minerals lying or discovered on the surface or underground in any land belonging to an individual or the government within Nepal shall be the property of the Government of Nepal.

<sup>3</sup>**3A. Classification of Minerals:** (1) For the purpose of this Act, the minerals shall, on the basis of nature and importance of minerals, be classified as follows:

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<sup>3</sup> Inserted by the First Amendment

- (a) Classification on the basis of nature of the minerals:
  - (1) Metallic minerals, and
  - (2) Non-metallic minerals
- (b) Classification on the basis of importance of minerals:
  - (1) Very precious minerals
  - (2) Precious or valuable minerals
  - (3) Ordinary minerals

(2) There shall be the minerals as prescribed under the classes as referred to in Sub-section (1).

**4. Power to carry out the Mining Operations:** (1) Government of Nepal shall have the exclusive power (authority) to carry out mining operations.

(2) The Department may undertake mining operations by itself or it may cause to undertake by any person having issued a license, subject to this Act.

(3) Government of Nepal shall have the power (authority) to be a partner in mining operations by investing capital there for or otherwise.

**5. License for the Mining Operations:** (1) Any person desirous to undertake mining operations, subject to this Act and the Rules framed hereunder, shall submit an application in the prescribed format to the Department for obtaining a license for prospecting operations at first, in the case of minerals where quality and quantity thereof have not yet been determined, and for excavation in the case of minerals where quality and quantity thereof have already been determined along with the proposed scheme of excavation.

(2) The Department shall, after receiving an application under Sub-section (1), make necessary inquiries and may grant a license for mining operations in the format and charging fees as prescribed, if it is found that

the applicant has financial and technical capacity as well as qualifications required for undertaking mining operations.

(3) Notwithstanding anything contained in Sub-section (1), the Department may, in the case of any specified minerals, conclude a mining contract with any person who has financial and technical capacity and qualifications required for undertaking mining operations and grant him a license for mining operations in a format and charging fees as prescribed.

(4) If a person who has obtained a license for prospecting operations under this section desires to obtain a license for excavation he/she shall be required to submit an application to the Department in the prescribed format before the expiry of the period of prospecting operations along with a detailed report of such operations and a scheme for action relating to excavation.

(5) The Department shall, after receiving an application under Sub-section (4), make necessary inquiries, and may grant a license for excavation in the prescribed format upon charging prescribed fees if it finds that the scheme of excavation is fit.

(6) Government of Nepal may, if it so desires, obtain the cost amounted to the expenses incurred directly on such prospecting operations or equivalent shares thereof from any person desirous to obtain a license for excavation of minerals where quality and quantity thereof have already been determined through prospecting operations undertaken by the Department.

(7) The Department shall, while issuing a license for mining operations under this Section, specify the area, period of the mining operations, and related matters if Government of Nepal has to become a partner in such mining operations.

6. **Right to Undertake Excavation:** (1) A licensee for prospecting operations of any mineral in any area shall have the right to obtain a license for excavation for the same mineral in the same area.

(2) While undertaking prospecting operation by a licensee for prospecting operations, if he/she prospects the minerals other than those referred to in his/her license, he/she shall be required to submit a notice to the Department within a period of Thirty days and priority shall be given to such a person to undertake mining operations of such minerals.

Provided that, such a person shall have no right to obtain a license for mining operations of the minerals prescribed in Sub-section (3) of Section 12.

7. **Renewal of the License:** The licensee shall be required to renew the license for mining operations every year having paid the prescribed fees within the prescribed time limit.

8. **Size and Area of Mining Field:** The size and area of a mining area shall be as prescribed.

9. **Period for Prospecting Operations:** The period for prospecting operations shall be as prescribed according to the nature of such operations.

10. **Period of Excavation:** The period of excavation shall be as prescribed according to the nature and volume of the minerals and on the technology, capital and projected return of investment required for excavation.

11. **Mining Operations:** (1) The licensee shall undertake mining operations within the prescribed time limit from the date on which he/she obtains a license.

(2) The procedures and process to be followed by a licensee and conditions to be abided by such a person in undertaking mining operations shall be as prescribed.

**411A. No Significant Adverse Effect Shall be Caused on Environment**

**While Undertaking Mining Operations:** (1) The person undertaking mining operations shall, in undertaking mining operations, have to undertake it without causing significant adverse effect on environment. Likewise, a person undertaking such operations shall have to adopt protective measures as prescribed on environmental protection.

(2) The Department shall, in case the person undertaking mining operation is found to have caused significant adverse effect on environment, issue necessary directives to the concerned person for correction in such operations.

**Explanation:** For the purpose of this Section “significant adverse effect on environment” means effect as prescribed to be caused on environment in undertaking mining operations.

**12. Special Provisions:** (1) The Department may, with a view to national security, public interest or historical importance, declare any area as prohibited for mining operations or grant a license for mining operations in any area having specified special conditions.

(2) The Department may undertake mining operations by itself in an area for which a license has already been issued for the minerals other than those covered by such a license in such a way so that such operations do not hamper the mining operations of the licensee, or may cause to any other person undertake such operations having issued a license.

(2) Government of Nepal may specify that the mining operations of any specified minerals shall be undertaken only by the Department or by any other governmental agency as prescribed by the Department.

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<sup>4</sup> Inserted by the First Amendment

(3) Government of Nepal may make separate arrangements as prescribed for minerals that have been using for personal purposes by the public-in-general such as ordinary soil, boulders, and sand to be used in construction works in such a way so that such arrangements shall not make detrimental impact on the customary use of such minerals.

**13. Power to Issue Orders:** The Department may issue necessary orders for preventing any damage that might cause to mines or mineral deposits, any loss or damage to any installation and soil erosion <sup>5</sup> ... .. from mining operations.

**14. Export of Minerals:** (1) Government of Nepal may, with a view to national security or ensure supply to meet the internal demand, impose necessary restrictions having issued an order for prohibiting the export of any minerals in aboard.

(2) The licensee may export the minerals excavation by him/her to the foreign countries as prescribed except in circumstances where necessary restrictions have been imposed under Sub-section (1).

**15. Power to Keep Weapons for Security:** The licensee may, in order to safeguard life and property in the course of mining operations, keep necessary weapons as decided by Government of Nepal and subject to the laws in force.

**16. Power to Keep Communications Equipment:** The licensee may, for the purpose of mining operations, keep necessary communications equipment as decided by Government of Nepal and subject to the law in force.

**17. Facilities and Concessions:** The facilities and concessions to be enjoyed by the licensee while undertaking mining operations shall be as prescribed.

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<sup>5</sup> Omitted by the First Amendment

18. **Royalty and Other Charges:** The licensee shall pay royalty and other charges as prescribed to the Department on the basis of the category, quality, and quantity of the minerals.
19. **Local Development Fee:** The licensee shall pay local development fee to the prescribed office at the rate as prescribed on the basis of the royalty.
20. **Information and Reports:** The licensee shall furnish the information and reports as prescribed to the Department as prescribed.
21. **Acquisitions of Land or Entry into Land:** (1) Any land, other than those located in the area which has been prohibited under Sub-section (1) of Section 12, may be used or acquired, if necessary, for undertaking mining operations on a permanent or temporary basis, subject to the following provisions;
- a) If such land belongs to Government of Nepal, the licensee may use such land having paid land rent as prescribed to Government of Nepal.
  - b) If such land is under private ownership, Government of Nepal may cause to acquire to the licensee according to laws in force on his/her own cost, or may cause to provide it on land rent.
- (2) In case any land is required to install any machinery, equipment, or tools or to conduct any other works on mapping or mining operations for some time for the purpose of such operations, the operations may be undertaken by entering into such lands, subject to Sub-section(3).
- (3) In case any landowner is deprived from using his/her land as a result of the mining operations undertaken by the Department or a person holding a license or crops, trees, buildings, goods or other property located in such lands are damaged as a result of such mining operations, a compensation shall be paid to the concerned landowner in consultation with



the <sup>6</sup>Village Development Committee or Municipality, as the case may be, having considered to the prevailing market rates.

**22. Use of Explosives:** The licensee may import, store, transport and use explosives required for mining operations subject to the laws in force and conditions as decided by Government of Nepal from time to time.

**23. Inspection and Investigations:** (1) The Department may authorize any expert, authority or agency to inspect and investigate whether or not mining operations have been undertaken in accordance with this Act and the Rules framed hereunder.

(2) It shall be the duty of the licensee to permit the expert, authority or agency authorized under Sub-section (1), to enter into the mining area or any other place and to make available documents and information demanded by him in the course of such inspection and investigation.

**24. Minerals Development Centre:** (1) Government of Nepal may, in order to develop mines and mineral resources and extend cooperation in mining operations launch a minerals promotion programme.

(2) Government of Nepal may, establish a Minerals Development Centre in order to launch the programmes as referred to in Sub-section (1).

(3) The functions, duties, powers and working procedures of the Minerals Development Centre established under Sub-section (2) shall be as prescribed.

**25. Penalties:** (1) Government of Nepal may in case any person undertakes mining operations without obtaining a license under this Act, stop such mining operations, seize the machinery equipment, instruments and goods used for such mining operation including the minerals explored in an unauthorized manner, and punish such a person with a fine not exceeding

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<sup>6</sup> Amended by the First Amendment

One Hundred Thousand Rupees and also cause to recover compensation for the property lost or damage resulting from such operations.

<sup>7</sup>(2) In case a licensee fails to comply with the directives issued under Section 11A or the orders issued under Section 13, the Department may issue an order for suspending his/her mining operations until he/she complies with directives or orders, as the case may be, or may also revoke the license, and if any damage is caused to the mine or the minerals deposit or soil erosion or caused injury or loss of property of any person by reason of such non-compliance with the directives or orders, such a person shall be liable to a fine not exceeding One Hundred Thousand Rupees and also with recovery of a reasonable amount of compensation on the basis of damage caused by him/her.

(3) The Department may, in case the licensee fails to furnish information or reports to be furnished pursuant to Section 20, issue an order for suspension of mining operations until such information or reports are furnished.

(4) The Department may, in case the licensee acts in contravention to this Act or the Rules framed hereunder, in connection with matters other than those referred to in this Section, punish such a person with a fine not exceeding One Hundred Thousand Rupees or may revoke the license issued for mining operations.

(5) The Department shall give an opportunity to the concerned person to submit his/her defense before initiating any action pursuant to Sub-sections (1), (2), (3) or (4).

(6) In case any person hinders or obstructs mining operations undertaken by the Department or a licensee pursuant to this Act, such a

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<sup>7</sup> Amended by the First amendment

person shall be liable to the punishment with a fine not exceeding Ten Thousand Rupees or with an imprisonment for a term not exceeding Six month or with both by an order issued by the authority as specified by Government of Nepal by a Notification in the Nepal Gazette.

(7) Any person who is not satisfied with the penalties imposed pursuant to Sub-sections (1), (2), (3), (4) or (6) may file an appeal to the Court of Appeal within Thirty-Five days (from such punishment).

**26. Arbitration:** In case Government of Nepal and the licensee fail to resolve any dispute arising out of any matters relating to mining operations through mutual discussions between the Two parties such a dispute shall be resolved through an arbitration as provided, if any, in the agreement concluded between Two parties, and in absence of which through an arbitration as prescribed.

**27. Special Powers:** (1) Government of Nepal may, if it deems necessary from the viewpoint of national security or public interest, revoke the license upon stopping the mining operation.

(2) While revoking a license for mining operations by Government of Nepal pursuant to Sub-section (1), the licensee shall be paid reasonable amount of compensation for loss or damage caused directly to such a person.

**28. Power to Frame Rules:** (1) Government of Nepal may, in order to implement the objectives of this Act, frame Rules.

(2) Without prejudice to the generality of the powers conferred by Sub-section (1), such Rules may be framed for the following matters in particular:-

- (a) Qualifications of a person desirous of obtaining mining operations licensee,

- (b) Matters to be included in the mining agreement and the license,
- (c) Survey, measurement, maps and relinquishment of mining area,
- (d) Procedure to be followed and conditions to be abided by, while undertaking mining operations,
- (e) Safety measures to be made for safeguarding life and property while undertaking mining operations and for preventing soil erosion and <sup>8</sup>significant adverse effect on environment,
- (f) Royalty, chares and local development fee to be paid by a licensee,
- (g) Accounts and book of records for mining operations to be maintained by a licensee,
- (h) Information, reports and other particulars to be furnished by a licensee,
- (i) Procedures relating to inspections and investigations, and
- (j) Process relating to arbitration.

**29. Repeal and saving:** (1) Nepal Mines Act, 2033 (1966) is, hereby, repealed.

(2) The licenses relating to minerals issued under Nepal Mines Act, 2033 (1966) and actions undertaken in that connection, shall be deemed to have been issued or undertaken under this Act.

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<sup>8</sup> Amended by the First Amendment