

MINERALS ACT (NO. 3) B.E. 2522

BHUMIBOL ADULYADEJ, REX.

GIVEN ON THE 8TH DAY OF MAY, B.E. 2522

BEING THE 34TH YEAR OF THE PRESENT REIGN,

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that :

Whereas it is deemed expedient to revise the law on minerals;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly in its capacity as Parliament as follows :

Section 1. This Act shall be called the "Minerals Act (No. 3) B.E. 2522."*

*The Minerals Act B.E. 2510 as amended by the Minerals Act (No. 2) B.E. 2516 is amended by the Minerals Act (No. 3) B.E. 2522.

Section 2. This Act shall come into force as from the day following the date of its publication in the Government Gazette.**

**Government Gazette (special issue) Vol. 96 Part 77, Dated 12th May 1979.

Section 3. The provision of Section 6 bis of the Minerals Act B.E. 2510, as amended by the Minerals Act (No. 2) B.E. 2516, shall be repealed and replaced by the following:

Section 6 bis. For the purpose of prospecting, testing, studying or researching in connection with minerals, the Minister shall with the approval of the Council of Ministers, have the power to issue a notification in the Government Gazette specifying any area to be the area for prospecting, testing, studying or researching in connection with minerals.

Unless the Minister deems expedient to permit application in a special case by notifying in the Government Gazette, no person shall be allowed to apply for an Atchayabat, Provisional Prathanabat or Prathanabat in the area designated under paragraph one.

The Minister shall announce in the Government Gazette the cancellation of the Notification at the end of necessity for the use of the area under paragraph one."

Section 4. The following provision shall be added as Section 6 quarter of the Minerals Act B.E. 2510 :

Section 6 quarter. For the benefit of the national economy, the Minister, with the approval of the Council of Ministers, shall have the power to establish by Notification in the Government Gazette any area, which is neither a water-head nor a swampy forest but which is known to be a mineral deposit of high economic value, as a mineral area for the purpose of issuing of Provisional Prathanabat or Prathanabat at the first priority to any reservation, restriction or utilization for other purposes, provided due consideration is given to its effect on the environmental quality."

Section 5. The following provision shall be added as Section 9 ter of the Minerals Act B.E. 2510:

Section 9 ter. In the event necessity should arise for the use of land in any area under an Atchayabat, Provisional Prathanabat or Prathanabat for the benefit of public utility, national defence or other purpose for the general benefit of the State, the Minister, with the approval of the Council of Ministers, shall be empowered to recall the aforesaid Atchayabat, Provisional Prathanabat or Prathanabat for the alteration in its area.

In the case where an alteration in the area under an Atchayabat, Provisional Prathanabat or Prathanabat under paragraph one has been made the holder to the said Atchayabat, Provisional Prathanabat or Prathanabat may not claim any damage arising from such alteration."

Section 6. The provision of Section 12 of the Minerals Act B.E. 2510 as amended by the Minerals Act (No. 2) B.E. 2516 shall be repealed and replaced by the following :

Section 12. In an Exclusive Prespecting Atchayabat area, Special Atchayabat area, mining area, area licensed for retaining slime or tailings or area already demarcated by the competent official for the aforesaid purpose, no other person other than the holder of the Atchayabat, Provisional Prathanabat, Prathanabat or licence shall enter to take over, occupy destroy or deteriorate the land or resources therein unless such person has the right to do so lawfully."

Section 7. The following provisions shall be added as Section 15 bis of the Minerals B.E. 2510 :

Section 15 bis. The competent official is empowered to seize or impound, as evidence for legal proceedings until the final non-prosecution decision is reached by the prosecutor or until the final outcome of the case, regardless of whether they belong to the offender or to a person suspected under valid circumstances of being an offender, all the minerals possessed by means of an offence and any tools, equipment, beasts of burden, vehicles or any machinery used or suspected under valid circumstances of having been used by a person in the commission of an offence or used as an accessory to derive results from the commission of an offence under this Act.

In the event the prosecutor reaches a final decision against prosecution or in the event of the absence of a court judgment for their forfeit and their owner or possessor makes no claim for their recovery within six months of his knowledge of the seizure or of the final order against prosecution or of the date of a final judgment, as the case may require, the property seized or impounded under paragraph one shall come under the ownership of the Department of Mineral Resources.

In the event the seized or impounded property should present a risk of damage or incur a higher cost of custody than its intrinsic value, the Minister or the person entrusted by him may sell or dispose of it before the end of the period under paragraph one. Proceeds therefrom shall be kept *in lieu* of the property.

The sale or disposal of the property under paragraph three shall be according to the rules to be designated by the Minister."

Section 8. The following provisions shall be added as Section 15 ter of the Minerals Act B.E. 2510 :

Section 15 ter. In the event the property seized under Section 15 bis does not belong to the offender or a person suspected under valid circumstances of being an offender, the competent official is required, with the approval of the Minister, to return them or the financial proceeds, as the case may be, to their owner before the period under Section 15 bis in the case where:

1. The said property is not required as evidence in the trial of the case bringing about its seizure, or
2. The offender or the person suspected under valid circumstances of being an offender has acquired the said property from its original owner through the commission of a criminal offence."

Section 9. The following provision shall be added as (3 bis) of Section 17 of the Minerals Act B.E. 2510 as amended by the Minerals Act (No. 2) B.E. 2516 :

"(3 bis) prescribing rules and procedures concerning the issuance of a licence to sub-leasing the mining right and cancellation thereof."

Section 10. The provision of section 19 of the Minerals Act B.E. 2510 shall be repealed and replaced by the following:

Section 19. The committee shall have a duty to render consultation, advice and opinion to the Minister in matters concerning :

1. The issuance of the Exclusive Prospecting Atchayabat, Special Atchayabat, Provisional Prathanabat and Prathanabat in the national forest reserves of officially declared restricted areas.
2. The renewal of the Special Atchayabat and Prathanabat.
3. The approval on the transferring of Prathanabat.
4. The revocation of Atchayabat and Prathanabat.
5. Other matters entrusted by the Minister."

Section 11. The provision of paragraph two of Section 33 of the Minerals Act B.E. 2510, as amended by the Minerals Act (No 2) B.E. 2516, shall be repealed and replaced by the following :

"The applicant for a Special Atchayabat shall specify his prospecting obligations by stating the amount of each year's expenditure throughout the duration of the licence and may also offer special benefits to the interest of the State in accordance with the rules laid down by the Minister. The said offer shall further bind the holder of the Special Atchayabat in the event he receives any Provisional Prathanabat or Prathanabat in the area for which the Special Atchayabat has been granted."

Section 12. The provision of Section 44 of the Minerals Act B.E. 2510, as amended by the Minerals Act (No 2) B.E. 2516, shall be repealed and replaced by the following:

Section 44. A person who wishes to apply for a Prathanabat shall submit an application to the Local Mineral Resources Official together with a reliable evidence to prove the discovery or existence of the mineral for which he wishes to mine in the area applied for and may also offer special benefits to the interest of the State, in the event of his receipt of the Prathanabat in accordance with the rules laid down by the Minister.

Unless it is an application of a Prathanabat to mine in the offshore, an application for a Prathanabat shall be for an area not exceeding 300 rais."

Section 13. The provision of Section 45 of the Minerals Act B.E. 2510 shall be repealed and replaced by the following :

Section 45. In the issuance of a Prathanabat for offshore mining, the Minister is empowered to designate the mining area for each applicant to an extent not exceeding 50,000 rai, unless the Minister, with the approval of the Council of Ministers, deems expedient to extend it exceed the 50,000 rai limit.

In issuing a Prathanabat under paragraph one, the Minister may, as he deems expedient, set any special condition for the holder of the Prathanabat to perform."

Section 14. The provision of Section 55 of the Minerals Act B.E. 2510, as amended by the Minerals Act (No. 2) B.E. 2516, shall be repealed and replaced by the following :

Section 55. In addition to the fee for the issuance of a Provisional Prathanabat or Prathanabat, the holder thereof is required to pay in advance on a yearly basis a surface rental fee for mining to the size of the entire mining area and to pay a special subscription at a rate not exceeding ten per cent of the royalty paid for minerals produced from the areas under the Provisional Prathanabat or Prathanabat. This special subscription shall be kept by the Department of Mineral Resources as an expense budget for the restoration of the mined area, for the prevention and suppression of offences prohibited under this Act and for use as local development funds in the mining provinces.

The rate of payment of the special subscription and the rules, procedures and conditions for its collection, including the budgetation thereof, shall be prescribed by a Ministerial Regulation."

Section 15. The following provision shall be added as paragraph two of Section 76 of the Minerals Act B.E. 2510:

"The rules, procedures and conditions for the issuance of a licence to sublease the mining operation and the cancellation thereof *shall be* prescribed by a Ministerial Regulation."

Section 16. The provision of Section 103 bis of the Minerals Act B.E. 2510 as amended by the Minerals Act (No. 2) B.E. 2516, shall be repealed and replaced by the following :

Section 103 bis When it is deemed expedient, the Minister may, by issuing the Notification in the Government Gazette, determine any kind of mineral and its quantity from which the persons who purchase, sell or store shall be exempted from the necessity to comply with the provisions of this Chapter of the Act, provided royalty for such minerals has been duly paid in full as required by Section 104."

Section 17. The provision of Section 104 of the Minerals Act B.E. 2510, as amended by the Minerals Act (No. 2) B.E. 2516, shall be repealed and replaced by the following :

Section 104. The holders of a Provisional Prathanabat, Prathanabat mineral purchasing licence, the possessor of other minerals derived from ore-dressing and the holder of a metallurgical processing licence shall pay the royalties under the law on mineral royalty rates as follows:

1. Royalties for the minerals defined in the Prathanabat, including other minerals which are collected as mining by-products, shall be paid in full and in accordance with their quantities before their removal from the mining area.
2. The holder of a mineral purchasing licence who purchases minerals from a panning licensee shall pay royalties for the minerals purchased in the previous month within the fifth day of the month subsequent to the month of purchase.

3. In the case where the holder of a Provisional Prathanabat, or the holder of a mineral purchasing licence who purchased minerals from a panning licensee transports the minerals to his own ore-dressing or metallurgical area or to that of others with prior approval from the Director-General, the said person may ask for a deferment of the royalty payment until the completion of ore-dressing or metallurgical processing, provided he furnishes to the Local Mineral Resources Official, as may be opted by the Local Mineral Resources Official, a cash deposit or a bank guarantee issued by a bank approved by the Director-General as an insurance against the royalty payment.
4. In the case where the ore-dressing separates other kinds of minerals, mineral royalty must be paid for the recovered minerals together with the application for the possession thereof as required by Section 105.
5. In the case where the slag contains other minerals at a quantity exceeding that designated by the Director-General and for which royalties have not previously been paid, the metallurgical processor shall pay in full royalties for the alien minerals according to the quantity assessed before removing the slag from the metallurgical processing area.

In the case where the purchase and sale of minerals forfeited by the State, and for which royalties have remained unpaid, the purchaser shall pay the royalties under the law on mineral royalty rates side by side with the application for the possession of the said minerals as required by Section 105."

Section 18. The provision of Section 105 of the Minerals Act B.E. 2510, as amended by the Minerals Act (No. 2) B.E. 2516, shall be repealed and replaced by the following:

Section 105. No person shall be allowed to have under his possession an excess of two kilogrammes of each kind of minerals, unless it is:

1. the mineral for which a possessing licence has been issued or for which exemption has been given under Section 103 bis;
2. the mineral acquired from prospecting for use in analysis or research at a quantity not exceeding that specified in the Atchayabat;
3. the mineral acquired from mining in the mining area in which it is stored;
4. the mineral for which a Mineral transporting licence has been issued for its removal to the place under the mineral store licence;
5. the mineral which is in the course of transportation under a mineral transporting licence or which is kept in a transit store specified in the said mineral transporting licence;
6. the mineral in the mineral purchasing place and which is acquired under a document designated under Section 98;
7. the mineral transported under a mineral transporting licence to the ore-dressing or metallurgical processing area for dressing or processing;
8. the mineral acquired under an individual mining licence or panning licence or under paragraph two (3) of Section 92;

9. the mineral kept under possession for the purpose of study or research by a private research institute, which has received written permission from the Director-General, government agencies, government organizations or education institutes;
10. the mineral which has been given written permission in a special and individual case to be kept under possession by the Director-General, or
11. the mineral in the processed form of finished products which are utensils, decorative articles, sculptures or of products from metallurgical or industrial processes."

Section 19. The provision of Section 110 of the Minerals Act B.E. 2510 shall be repealed and replaced by the following :

Section 110. The holder of a mineral transporting licence can, at each time, transport minerals between places at a quantity specified in the licence.

The extent and quantity of each kind of minerals that can be transported in excess of the limit set in the mineral transporting licence shall be prescribed by a Ministerial Regulation.

The minerals transported in excess of the licence under paragraph two shall be regarded as that allowed by the licence, provided royalty for the excess quantity is duly paid.

The excess quantity of the minerals transported in violation of the Ministerial Regulation shall cause the entire lot of minerals to be regarded as being transported without a licence."

Section 20. The following provision shall be added as Section 113 bis of the Minerals Act B.E. 2510:

Section 113 bis. The Minister shall be empowered to designate, by notification in the Government Gazette, any location or place with a specified area as a mineral checkpoint."

Section 21. The provision of Section 148 of the Minerals Act B.E. 2510 shall be repealed and replaced by the following:

Section 148. Whoever violates Section 105 or Section 108 shall be liable to a fine from one to five times the value of minerals based on the price fixed under the law on mineral royalty rates in force on the date of the offence. The Minister has the power to revoke the Provisional Prathanabat, Prathanabat or licence in case of the following:

1. Unpermitted possession of minerals from other sources in the mining area, ore-dressing area, metallurgical area, storage place or mineral purchasing area or
2. Unpermitted transportation of minerals from the mining area, ore-dressing area, metallurgical area, storage place or mineral purchasing area."

Section 22. The following provision shall be added as Section 148 bis of the Minerals Act B.E. 2510 :

Section 148 bis. Whoever violates Section 106 or fails to comply with the conditions prescribed under Section 106 or 109 shall be liable to a fine not exceeding five thousand Baht."

Section 23. The provision of Section 152 of the Minerals Act B.E. 2510 shall be repealed and replaced by the following :

Section 152. Whoever violates Section 129 shall be liable to imprisonment for a term not exceeding ten years or to a fine from five to ten times the value of mineral based on the price fixed under the law on mineral royalty rates in force on the date of the offence, or to both.

When it appears that the illegally exported minerals are from any Provisional Prathanabat, Prathanabat, mineral purchasing area, storage place, ore-dressing area or metallurgical area, in which the holder of the Provisional Prathanabat, Prathanabat or licence as the case may be, is an offender, abettor or accomplice in the offence, the Minister shall have the power to revoke the said Provisional Prathanabat, Prathanabat or licence.

Provisions of the customs law and the customs officer's powers invested thereof, especially those concerning inspection, seizure, forfeit, arrest of offenders, false declaration and prosecution, shall also apply to the import and export of minerals subject to the import and export control under Section 129."

Section 24 The following provision of shall be added as Section 152 bis of the Minerals Act B.E. 2510:

Section 152 bis. whoever fails to comply with the conditions prescribed under Section 130 shall be liable to a fine not exceeding ten thousand Baht."

Section 25. The following provision of shall be as Section 152 ter of the Minerals Act B.E. 2510 :

Section 152 ter. In the event of a shortage of minerals from the production stock-book kept by the holder of a Provisional Prathanabat, Prathanabat, or from the balance-in-stock book kept by the holder of a mineral storage licence, mineral possessing licence, ore-dressing licence or metallurgical processing licence, without being able to prove his innocence of the fault, the holder of the Provisional Prathanabat, Prathanabat, mineral purchasing licence, mineral storage licence, mineral possessing licence, ore-dressing licence ore metallurgical processing licence, as the case may be, shall be liable to a fine from one to three times the value of the missing minerals, basing on the price fixed by the law on mineral royalty rates in force on the date of the offence. In such a case, the Minister shall have the power to revoke the Provisional Prathanabat, Prathanabat or licence involved."

Section 26. The following provision shall be added as Section 153 bis of the Minerals Act B.E. 2510:

Section 153 bis. As for the Commission of an offence under Section 148 or Section 152 ter, the Director- General shall have the power to settle it by a fine at an amount not less than the minimum set by law. Payment of the fine by the offender shall bring the case to extinction."

Section 27. The provision of Section 154 of the Minerals Act B.E. 2510, as amended by the Minerals Act (No. 2) B.E. 2516, shall be repealed and replaced by the following:

Section 154. All minerals, tools, equipment, beasts of burden, vehicles or any machinery which a person acquires, uses in the commission of offence or uses as accessory to acquire the result of the commission of offence under Section 133, Section 133 ter, Section 135, Section 138, Section 142, Section 143, Section 145, Section 147, Section 148, Section 148 bis, Section 152 or Section 152 bis, shall be forfeited, regardless of any person being sentenced by a judgment, unless such property belongs to any other person who is not involved in the commission of the offence."

Section 28. The provision of Section 155 of the Minerals Act B.E. 2510 as amended by the Minerals Act (No. 2) B.E. 2516, shall be repealed and replaced by the following :

Section 155. For offences under Section 133 ter, Section 135, Section 142, Section 143, Section 145, Section 147, Section 148, Section 138 bis, Section 152, Section 152 bis or Section 152 ter, the Director-General shall order the payment of rewards to the informer who supplies information leading to the arrest and to the person who makes the arrest in accordance with the unless laid down by the Minister at the rate of fifty per cent of the net proceeds of the sale of the exhibits ordered to be forfeited by Court. In the case where the exhibits are not forfeited or in the case where the exhibits are unsalable, the reward shall be paid at the rate of fifty per cent from the fine. Thirty per cent of the fine shall be paid as a reward for cases in which there are no informers.

In the event where the case is concluded by settlement, the Director-General or a competent official who has the power to settle the case shall be the person who orders the payment of rewards under paragraph one.

In the event that the exhibit suspected of having been used in the offence is seized without an owner, the Director-General or the person entrusted by him is required to announce for the owner for a period of thirty days. Unless the owner presents himself within the said period, the exhibit shall be forfeited as State property. In such an event, the Director-General is required to dispose of the exhibit and deduct the net proceeds from the sale thereof as rewards under paragraph one.

Rewards paid under paragraph one shall be equally divided between the informer and the arresting party. If each of the said parties consists of several persons, the reward money shall be equally divided among them."

Section 29. The Schedule of Fees annexed to the Minerals Act B.E. 2510 as amended by the Minerals Act (No. 2) B.E. 2516 shall be repealed and the following schedule of fees shall be substituted thereof.

Countersigned by

S. Hotrakitya

Deputy Prime Minister

Schedule of Fees

Serial No. Particulars Rates of fees

1 Fee for an application each 20 Baht

2 Fee for a Prospecting Atchayabat each 100 Baht

3 Fee for an Exclusive Prospecting Atchayabat each 500 Baht

4 Fee for a Special Atchayabat or its renewal each 1,000 Baht

5 Fee for a Provisional Prathanabat each 1,000 Baht

6 Fee for a Prathanabat or its renewal each 1,000 Baht

7 Fee for a licence or its renewal each 1,000 Baht

8 Surface rental fee

(a) under an Exclusive Prospecting
Atchayabat or a Special Atchayabat,
every one Rai or a fraction thereof each year 6 Baht

(b) under a Prathanabat or Provisional
Prathanabat, every one Rai or a
fraction thereof, per each year 20 Baht
9 Fee for survey, according to the length
of the distance surveyed, every forty
metres or a fraction thereof 20 Baht

Serial No. Particulars Rates of fees

10 Fee for map drawing or duplicating, the
first fifty square centimetres of area in
the map or less each 20 Baht

For every subsequent fifty square 5 Baht
centimetres or a fraction thereof but not exceed
200 Baht

11 Examining fee each case 100 Baht

12 Mining boundary marking post each 100 Baht

13 Fee for a transfer of Prathanabat each 500 Baht

14 Fee for a transfer of mining rights 4 per cent

15 Fee for technological examining,
testing or analysis each sample 1,000 Baht

16 Copying or photocopying fee each page 10 Baht

17 Documents certifying fee each copy 50 Baht

18 Fee for checking documentary
evidence each matter 100 Baht

19 Fee for filling an application forms
at the request of the applicant each 5 Baht

20 Substitute of an Atchayabat, a Provisional

Prathanabat, Prathanabat or licence per copy 200 Baht

21 Fee for registration of power of

Attorney each 100 Baht

22 Fee for suspension of mining operations,

every one Rai or a fraction thereof each year 20 Baht

23 Fee for damming up or drawing water, each year

calculated from every cubic metre or

a fraction thereof of water used per one

minute 100 Baht