

ORDINANCE ON MINERAL RESOURCES

Mineral resources are the most precious assets of the nation which need to be protected and subjected to sustainable use with the aim of satisfying short term need for mineral materials and the long term goals of social and economic development.

Pursuant to articles 19, 36 and 100 of the Constitution of the Socialist Republic of Vietnam;

This Ordinance makes provisions in relation to the management and protection of mineral resources in terms of geological exploration, mineral exploitation, and protection of untapped mineral resources.

CHAPTER I

GENERAL PROVISIONS

Article 1

In this Ordinance the following technical terms shall have the meanings ascribed to them hereunder:

1. Mineral resources means natural materials in solid, liquid, and gaseous forms located under the ground including those at the disposal of the mineral industry, or for present or future exploitation and use.
2. Mine or mineral field means an accumulation of a mineral resource, the quality or quantity of which causes the field to be a target for mineral exploitation.
3. Geological exploration means geological research activities underground, and the search for and exploration of, mineral resources.
4. Mineral exploitation means the act of extracting a mineral resource from a mine with the aim of producing mineral materials, minerals in their existing form, inground water, mineral water and hot water, (hereinafter referred to as mineral materials) in order to meet different needs and uses.
5. Mineral exploitation field means a specific part of or total mineral field which is the subject of, and the surface and depth of which is defined in, the decision made to assign the mineral exploitation field or the licence issued for the exploitation of its mineral resources.
6. Untapped mineral resource means a mineral resource which has not been geologically explored or has been explored but the exploitation of which has not been permitted by an authorised State body in accordance with the provisions of this Ordinance.

Article 2

Total mineral resources contained within the land, continental shelves, and inland and sea territory of the Socialist Republic of Vietnam constitute the unified mineral resources reserve of the State which is owned by the people and subject to uniform management by the State.

Article 3

The State encourages investment by organisations and individuals in the form of labour, materials, capital, and successful scientific and technical applications for the purposes of geological exploration and exploitation of mines, and the protection of mineral resources, except in respect of those mineral resources and areas which are subject to other provisions.

The State encourages foreign organisations and individuals, international organisations, and overseas Vietnamese to invest capital and technology in the areas of geological exploration and exploitation of mines, and the manufacture of mineral materials in Vietnam in accordance with the provisions of the Law on Foreign Investment in Vietnam and this Ordinance.

Article 4

Where good results are achieved as the result of investment by organisations and individuals in the search for and exploration of, mineral resources, those investors shall be given priority in exploiting the mine in which those mineral resources are located.

The State guarantees that organisations or individuals exploiting a mine which has been allocated to them shall enjoy legal benefits such as the right to enter a joint venture enterprise for exploration, exploitation and sale of products, the right to bequeath and inherit exploitation rights, and to transfer, assign or sell, investment projects constructed in the area of mineral exploitation, in accordance with the provisions of the law.

Article 5

Any organisations and individuals carrying out operations in geological exploration and mineral exploitation shall be obliged to implement regimes in relation to management, protection of mineral resources, the environment and other resources, regimes which ensure safety within a mine, and pay taxes and fees in accordance with the provisions of the law.

Article 6

The geological exploration and exploitation of mineral resources and use of an underground field containing mineral resources without the permission of an authorised State body, in accordance with the provisions of this Ordinance, shall be prohibited.

Article 7

State management of mineral resources shall include:

1. Preparation of a scheme and schedule of work for geological exploration, and mineral resources protection.
2. Making provisions for regimes for management and protection of mineral resources in relation to geological exploration, mineral exploitation, and protection of untapped mineral resources.
3. Allocating and recovering mineral exploitation fields, granting permission for, and ceasing the exploitation of, mineral resources, geological exploration, and the use of land on the surface and underground containing mineral resources.
4. Registration of responsibilities in relation to geological exploration, of field and mineral exploitation projects, and of the underground areas to be protected; establishment of titles to mine and lease mineral resources; preparation of scientific data in relation to the mineral resources reserve; maintaining a file of documents on mineral exploitation and geological samples.
5. State inspection of mineral resources and environment protection.
6. Resolving disputes which arise in relation to rights to geological exploration and mineral exploitation, protecting mineral resources and dealing with breaches of the law on mineral resources, and on protection of the surrounding environment.

Article 8

The Council of Ministers shall unify the individual State management of mineral resources.

The State management body responsible for mineral resources and the State management body responsible for mineral exploration and mineral exploitation shall assist the Council of Ministers in this respect.

The ministries shall, in relation to the exploitation, manufacturing, and the use of mineral resources, assume the responsibility of managing and protecting mineral resources delegated in accordance with stipulations by the Council of Ministers.

The people's councils and People's Committees at all levels shall in accordance with the stipulation by the Council of Ministers have the power to manage and protect the mineral resources within their locality in accordance with the size amount and importance of those mineral resources.

Article 9

State management bodies, social organisations and citizens shall be obliged to protect mineral resources and the surrounding environment.

The State bodies shall, in accordance with their powers and obligations, be responsible for giving full consideration to the recommendations of social organisations and individuals made in relation to the implementation of measures for the management and protection of mineral resources and the surrounding environment.

The State shall protect the interests of local residents residing at a place where an operating mine is located.

CHAPTER II

GEOLOGICAL EXPLORATION

Article 10

Geological exploration operations shall be permitted, subject to a licence being obtained from, or a decision to approve the project being made by, the authorised State management body stipulated by the Council of Ministers.

Article 11

Before performing a geological exploration project, the organisation or individual carrying out the geological exploration shall register the objectives of the project with the State management body for geological exploration.

Article 12

People's Committees at all levels shall, within the scope of their powers, be responsible for the creation of conditions for the use of land and for allocating land in accordance with the provisions contained in articles 13 and 39 of the Land Law to organisations and individuals in order that they may implement the objectives of the geological exploration project registered.

Article 13

In establishing and performing geological exploration projects, organisations, and individuals performing geological exploration shall be obliged to:

1. Clearly determine the objectives, contents, degree, scope, and method of work which has a scientific basis ensuring quality and success.
2. Ensure the accuracy of the quantity and quality of the main mineral reserve, the type of mineral resources and other useful materials contained therein, and specify the economic and technical production arising from exploitation of a mine in accordance with State provisions in relation to the phases and degree of search and exploration.
3. Use technical and industrial methods to protect the mineral resources and surrounding environment and ensure safety.
4. Deduct the amounts extracted from the reserve and prepare statistics in relation to the mineral resources reserve; register and establish mine titles; and manufacture mineral resources.
5. Pay fees and fulfil all other obligations in accordance with the provisions of the law.
6. Pay compensation in respect of damage caused by the geological exploration.

Article 14

In completing the implementation of the geological exploration project, organisations and individuals carrying out geological exploration shall be responsible for the following:

1. The maintenance of land survey and geology projects which are still required, and after the dismantling of geological projects in order to ensure safety and the protection of mineral resources.
2. Establishment of data files, geological reports, geological samples and the submission of records to the State in accordance with the provisions of the Law.
3. Submission of geological reports to the authorised State body for approval where the project is to be implemented using capital from the State and for evaluation where the project is to be implemented with funding from other sources.

Article 15

The economic and technical basis for calculation of a mineral resource reserve shall be established and approved in respect of each mine which is explored using funds invested by the State, in accordance with the regulations of the body considering and approving the mineral resource reserve.

CHAPTER III

EXPLOITATION OF MINES

Article 16

The allocation of a mineral exploitation field and granting of permission to exploit mineral resources shall be based on the following considerations:

1. The economic policy, social development plan, and mineral exploitation strategy of the State.
2. The results of geological exploration of, and the reserve of mineral resources within, the field which is the subject of the application for exploitation.
3. The feasibility study for exploitation ensuring the full exploitation and sustainable use of the mineral resources of the mine.

4. Conditions in respect of finance, the economy, technology, professional knowledge of geology, mineral exploitation and management capacity of the organisation which or individual who is applying to operate the mine and has signed the contract for operation of the mine.
5. Requirements necessary for protection of the environment, historical and cultural buildings and famous landscapes, and for ensuring security and defence.
6. State provisions in relation to technology and safety in the operation of mines and manufacture of mineral materials.

Article 17

Decisions to allocate mineral exploitation fields and grant permission for the exploitation of mineral resources shall be made within the powers of the Council of Ministers, the State management body responsible for mineral resources, and the People's Committees of provinces and cities under central authority, and equivalent administrative units.

The Council of Ministers shall, on the basis of ensuring the centralised and uniform management of mineral resources by the State, make detailed provisions for the delegation of its power to allocate mineral exploitation fields or grant permission for the exploitation of mineral resources, especially in respect of important mineral resources and mines throughout the country or in individual economic zones, while ensuring the improvement of strength, active character, self sufficiency, and in accordance with the size of the development in the local economy and the management capacity of local government.

Article 18

The allocation of land for the purpose of operation of a mine shall take place in accordance with the provisions contained in articles 13 and 39 of the Land Law. The body allocating land for operation of a mine shall base its decision to allocate the land on the plan and operating strategy.

Article 19

In preparing a feasibility study of, and plan for the operation of, a mine, the body preparing the feasibility study or plan shall be obliged to include the following:

1. An appropriate system of establishment of projects on the surface and underground at locations, which ensure maximum recovery from the mineral reserve and safety in the mine.
2. Technical methods and system to be used, industrial area and rate of progress of exploitation, industrial manufacture of mineral materials ensuring maximum utilisation, general use of principal mineral resource, other mineral resources and useful composition.
3. Appropriate use of soil and discarded stone; statistics, protection of mineral resources or soil and stone which is exploited for the purpose of extracting a particular mineral resource but also contains other useful mineral resources not required at the time.
4. Geological exploration work; and surveys to be carried out during the course of construction and operation of a mine.
5. Measures to be taken to ensure the safety of the mine and the protection of the surrounding environment; and rehabilitation of the land in order that it may again be used sustainably after exploitation.

Article 20

Upon commencing operations, organisations and individuals operating mines shall register the field being exploited or the exploitation project with the State management body responsible for mineral resources.

Article 21

Organisations and individuals operating mines shall have the following obligations:

1. To comply with the decision made to allocate to it the right to exploit the mineral field, operate within the defined exploitation areas, manufacture those mineral materials which have been approved, and observe rules on mine safety and protection of the surrounding environment.
Where an amendment to an exploitation plan or diagram or manufacturing mineral materials is to be made which shall result in an increased amount of mineral resources being removed, such amendment shall be approved by the State management body of mineral resources.
2. To carry out the tasks of surveying the land for the mine and geological exploitation; calculation of real loss, deduction, statistics, and balancing the mineral reserve in accordance with State provisions.
3. To implement measures which decrease the rate of loss, enable extraction of any further mineral resources discovered or located within the allocated mineral exploitation field; to refrain from deliberately choosing to exploit only high quality mineral resources, and from leaving out parts of the mineral reserve in the list of its resources; building fixtures or construction on, or removing discarded soil and stone to an area containing untapped mineral resources.
4. To pay royalties fees, and fulfil other obligations in accordance with provisions of the law.
5. To reimburse the costs incurred by the State or other investors who or which funded in advance the original search and exploration of the mines.
6. To pay compensation in respect of losses caused due to the operation of a mine; recover the land in order that it may again be used reasonably after the completion of the mineral exploitation.

Article 22

Organisations and individuals operating mines shall be entitled to the following benefits:

1. They shall be permitted to use the mineral exploitation field in order to perform their activities of mineral resources exploitation in accordance with the decision made by the State to allocate to them a mineral exploitation field in terms of space, time, quantity and type of mineral resources.
2. They shall be permitted to transfer, assign, sell or use the products of their operation in the mine in accordance with State provisions regarding the circulation of such products after payment of royalties has been made and all other obligations have been fulfilled, in accordance with provisions of the law.
3. They shall be permitted to apply for a reduction in or exemption from payment of royalties in accordance with the provisions of the law.
4. They shall be entitled to bequeath to successors the right to exploit, transfer, assign and sell the projects constructed as part of their investment for the purpose of operation of the mine in accordance with the provisions of the law.
5. They shall be compensated for real loss in special cases where the mineral exploitation field being used is recovered due to the needs of the State or society, and shall be allocated another mineral exploitation field if required;

6. They shall be guided and assisted by the State in technical and industrial exploration, exploitation, and the manufacture of mineral materials.

7. They shall be protected by the law where the right to legally use the allocated mineral exploitation field has been breached by any organisation or individual.

Article 23

Where the mine is closed for maintenance or its operation has been terminated, the individual or organisation operating the mine shall take all measures necessary to ensure the safety of the mine, maintain data in relation to mineral geology, and protect untapped mineral resources and surrounding areas.

Article 24

A mineral exploitation field shall be recovered or its exploitation ceased in any of the following cases:

1. If, after one to two years, depending on the particular exploitation site, from the date on which a decision was made to allocate an exploitation field, the task of mineral construction or exploitation has not been implemented with approval obtained from an authorised body.
 2. Where the period for operating the mine has expired and the authorised body has not granted an extension.
 3. Where the organisation operating the mine has been dissolved or the individual who is the owner of the exploitation license dies without bequeathing to a successor the right to operate the mine in accordance with the provisions of the law; or where there is a lack of capacity and conditions necessary for continuing the exploitation or a deliberate delay in the exploitation.
 4. The decision to allocate a mineral exploitation field or to grant permission to mine has not been made by an appropriate authority in accordance with the provisions of article 17 of this Ordinance.
 5. The use of land within a mineral exploitation field is required for the needs of the State or society in accordance with a decision made by the Chairman of the Council of Ministers.
 6. The organisation or individual operating the mine commits a serious breach of the regimes for the management and protection of mineral resources and the surrounding area.
- The body which has the power to make a decision to allocate a mineral exploitation field or to permit the exploitation of a particular type of mineral resource shall have the power to make a decision to recover the mineral exploitation field or to cease the exploitation of that particular type of mineral resource.

CHAPTER IV

PROTECTION OF UNTAPPED MINERAL RESOURCES

Article 25

State bodies, social organisations and citizens shall be obliged to protect untapped mineral resources. Where a mineral resource is discovered, it shall be reported to the State management body responsible for mineral resources as soon as possible, the State management body responsible for geological exploration or to People's Committees.

The State management body responsible for mineral resources, people's councils and People's Committees at all levels shall be responsible for the implementation of measures necessary to protect the untapped mineral resources, ensure the sustainable use of land, and protection of the surrounding area.

Article 26

The State management body responsible for mineral resources and the State management body responsible for geological exploration shall determine the specific areas where mineral resources are in need of protection.

The consent of the State management body responsible for mineral resources shall be required in respect of the preparation of plans, the construction design of centralised residential area projects, of industrial projects, or hydraulic projects and or other construction projects within areas containing mineral resources.

Article 27

Special geological formations, rare archaeological sites, and other objects situated underground which are of scientific and geological value shall be protected in accordance with the provisions of this Ordinance.

CHAPTER V

Article 28

The State management body responsible for mineral resources shall perform the function of State inspection of mineral resources throughout the country.

Article 29

The duties involved in State inspection of mineral resources shall include:

1. Inspection of the implementation of plans for management and protection of mineral resources during geological exploration.
2. Inspection of the implementation of plans for management and protection of mineral resources during mineral exploitation and of protection of untapped mineral resources.

Article 30

The State management body responsible for mineral resources shall have the power:

1. To form inspection groups or to delegate to inspectors the responsibility to carry out State inspection of mineral resources.
2. To make decisions compelling organisations and individuals to implement measures aimed at the prevention and termination of acts in breach of the law in relation to mineral resources.
3. To order that all geological exploration, mineral exploitation and other acts which are committed contrary to the law in relation to mineral resources cease.
4. To deal with breaches in accordance with its powers or make recommendations to the State body which has the power to punish organisations or individuals breaching the law on mineral resources and protection of the surrounding environment.

Article 31

In carrying out State inspection of mineral resources, the inspection group or inspector shall have the power:

1. To demand that the organisations and individuals concerned provide data and documents and reply to matters necessary for the inspection, to perform the task of technical inspection at the scene.
2. To temporarily cease geological exploration, mineral exploitation and other acts committed in breach of the law where it has clear evidence that those acts are likely to result in an accident or substantial loss of mineral resources.
3. To prepare a report on, punish within its powers, or make recommendations to the State body which has the power to punish, any organisation or individual breaching the law on mineral resources or protection of the surrounding environment.

Article 32

The people's councils and People's Committees at all levels shall, within their respective localities, control and inspect compliance with the law in relation to mineral resources.

People's Committees at all levels shall have the power to stop all geological exploration and exploitation of mineral resources which takes place without the requisite license having been issued in accordance with the provisions of this Ordinance.

CHAPTER VI

RESOLUTION OF DISPUTES

Article 33

The power to resolve disputes arising from geological exploration rights or from exploitation of mineral resources shall be as follows:

1. The State management body responsible for geological exploration shall resolve disputes which arise from geological exploration rights.
2. The body which has the power to make decisions to allocate a mineral exploitation field and grant permission to exploit the particular type of mineral resources it contains shall be responsible for resolving disputes which arise from the right to operate the mine and that particular type of mineral resource.
3. The People's Committees of provinces and cities under central authority, and equivalent administrative units, shall resolve disputes arising from the implementation of rights of geological exploration and exploitation of mineral resources, and the protection of mineral resources and other areas within the boundaries of their localities.
4. In the event that the parties disagree with the decision of the body resolving the disputes then they shall be entitled to complain to the next highest body to that which resolved the dispute. The decision of the higher body shall be binding.
5. Where a dispute arises in relation to rights to geological exploration and exploitation of mineral resources in Vietnam in which one or more parties are foreign Organisations or individuals then the dispute shall be resolved in accordance with the laws of Vietnam except in cases where an agreement signed between Vietnam and a foreign country or international organisation contains provisions to the contrary.

CHAPTER VII

REWARDS AND PENALTIES

Article 34

Any body, organisation or individual recording achievements in the discovery of mineral resources or geological materials which have scientific value and in the management, protection, and sustainable use of mineral resources shall, according to the degree of achievement, be commended and rewarded in accordance with general provisions.

Article 35

Any person who, carrying out geological exploration or exploitation of mineral resources, illegally causes damage to mineral resources beyond a fixed level, illegally uses a field containing mineral resources which are protected, obstructs the legal implementation of geological exploration work or exploitation of a mineral resource, or who breaches other provisions of this Ordinance shall, according to the degree of seriousness of the offence and the nature of the act committed, be disciplined or subject to administrative penalty or criminal prosecution in accordance with the provisions of the law.

CHAPTER VIII

CONCLUDING PROVISION

Article 36

The Council of Ministers shall make detailed provisions for the implementation of this Ordinance.

All previous provisions which are contrary to this Ordinance are hereby repealed.