

**FOR THE EXTRAORDINARY GAZETTE ISSUE OF
THE KHYBER PAKHTUNKHWA**

**PROVINCIAL ASSEMBLY SECRETARIAT
KHYBER PAKHTUNKHWA**

NOTIFICATION

Dated Peshawar, the 3 /01/2017.

No.PA/Khyber Pakhtunkhwa/Bills/2017/ 605 The Khyber Pakhtunkhwa Minerals Sector Governance Bill, 2016 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 20th December, 2016 and assented to by the Governor of the Khyber Pakhtunkhwa on 30th December, 2016 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

**THE KHYBER PAKHTUNKHWA MINERALS SECTOR GOVERNANCE ACT, 2016
(KHYBER PAKHTUNKHWA ACT NO. I OF 2017)**

(First published after having received the assent of the Governor of the
Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa.
(Extraordinary), dated the /01/2017).

(Here print as in the accompaniment).



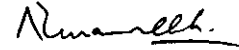
SECRETARY,

Provincial Assembly of Khyber Pakhtunkhwa.

No. and date (as per notification above).

A copy of the above notification with the accompaniment is forwarded to the Manager, Government Stationery and Printing Department, Peshawar, with the request to publish the same in the extraordinary issue of the Khyber Pakhtunkhwa Government Gazette of today's date and distribute copies thereof immediately in accordance with the list given overleaf.

Proof should be sent to this Secretariat before publication.



SECRETARY,

Provincial Assembly of Khyber Pakhtunkhwa

E.No. PA/Khyber Pakhtunkhwa/Bills/2017/ 606-10 Dated 3 /01/2017

A copy of the above is forwarded to:-

1. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. The Secretary to Government of Khyber Pakhtunkhwa, Minerals Department.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department.
4. The Director Information, Khyber Pakhtunkhwa.
5. The Director I.T/ Special Secretary Provincial Assembly of Khyber Pakhtunkhwa.



SECRETARY,

Provincial Assembly of Khyber Pakhtunkhwa

LIST OF COPIES TO BE DISTRIBUTED

S.No.	Designation of Officer	No of Copies to be Supplied
1.	The Secretary, Provincial Assembly of Khyber Pakhtunkhwa.	75
2.	The Secretary to Government of Khyber Pakhtunkhwa Minerals Department.	5
3.	The Secretary to Government of Khyber Pakhtunkhwa Law, Parliamentary Affairs and Human Rights Department.	10

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**AN
ACT**

to improve governance, foster development, regulate mining procedures and practices, remove impediments and nurture an enabling environment for domestic and foreign investments in the minerals sector in the Province of the Khyber Pakhtunkhwa

WHEREAS it is expedient to provide for effective regulation of minerals, mines and mining in the Province of Khyber Pakhtunkhwa, through development of the sector by establishment of transparent administrative, management, legal and fiscal frameworks and to cater for internationally competitive, stable, conducive and enabling business environment for investments in the minerals sector thereof;

**PART-I
PRELIMINARY**

1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Minerals Sector Governance Act, 2016.

(2) It shall extend to whole of the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

2. Definitions.---In this Act, unless the context otherwise requires,-

(a) **“Appellate Authority”** means the Secretary to Government, Minerals Development Department, to hear appeals against the orders of Mineral Title Committee in relation to Small Scale Mining and Minor Minerals;

(a-i) **“Authority”** means the Khyber Pakhtunkhwa Minerals Investment Facilitation Authority constituted under section 3 of this Act;

(b) **“Company”** means a Company as defined in the Companies Act, 1984 (Act No. XLVII of 1984), or a body incorporated in Pakistan under any law for the time being in force;

(b-i) **“Department”** means the Mineral Development Department of Government;

(c) **“Director General”** means the Director General Mines and Minerals, Khyber Pakhtunkhwa;

(d) **“Director Licensing”** means the Director Licensing in the Directorate General;

(e) **“drilling”** means the perforation of the earth’s surface for collection of core samples otherwise than by pitting, trenching or sinking a shaft, whether the hole is vertical, inclined or horizontal, and includes all operations for preventing the collapse of the sides of the hole or for preventing the hole from becoming filled with extraneous matter, including water;

- (f) "exploration" means search for minerals, and includes the determination of their ~~extent~~ and economic value and evaluation;
- (g) "exploration area" means the area of land, including its lateral limits, to which an exploration license relates;
- (h) "exploration operation" or "prospecting operation", as the case may be, means and includes any operation for exploration and prospecting purposes for access to the licensed areas, geological mapping and the collection of surface and sub-surface mineral samples for the purpose of mineralogical examination, assaying and the test work but such work shall not include commercial mineral extraction or marketing;
- (i) "Government" means the Government of the Khyber Pakhtunkhwa;
- (j) "group of minerals" means a group of minerals as specified in Schedule-IV;
- (k) "land" includes surface bearing any mineral, land beneath water and the sub-soil of land;
- (l) "large scale mining" means a process of mining requiring reconnaissance license over an area up to 1000 square kilometers or exploration license over an area up to 500 square kilometers or both as a pre requisite to a mining lease or mineral deposit retention license over an exploration area or mining lease up to 50 square kilometers;
- (m) "lateral limits" in relation to an area of land pertaining to a mining lease or a prospecting license means the vertical lines towards the earth passing through the sides by which that area is bounded;
- (n) "lease" means a mining lease granted under this Act;
- (o) "lessee" means a person, a firm or a Company to whom a mining lease is granted under this Act and includes their successor-in-interest;
- (p) "license" means a prospecting license, a reconnaissance license, an exploration license or as the case may be, a mineral deposit retention license granted under this Act;
- (q) "Licensing Authority" means,-
 - (i) in relation to large scale mining and small scale mining, the Committee constituted under section 6 of this Act; and
 - (ii) in relation to minor minerals, the Director General Mines and Minerals;
- (r) "mine" means any ~~surface~~ or underground excavation horizontal, inclined and vertical where any operation for the purpose of searching for or obtaining a mineral has been or is being carried out, and includes all works, machinery,

tramway, ropeway and siding, whether above or below ground, on or adjacent or belonging to or appurtenant to a mine but does not include the manufacturing or processing plant;

- (s) "mineral" for the purpose of this Act, means all surface and sub-surface natural deposits of ores and metals and other metallic and non-metallic substances including naturally occurring aqueous solutions containing more than one per cent mineral salt but does not include radioactive materials, mineral oil and natural gas;
- (t) "mineral operation" means geological and geochemical exploration operations or mining operations or both;
- (t-a) "mineral title" means a title for concession granted through a license and or lease under either of the large scale mining, small scale mining or minor minerals, as provided for in Part-II of the Act;
- (u) "mining area" means an area of land, including its lateral limits within the mining lease limits;
- (v) "mining operation" means any operation carried out in connection with the development of a mine, or the production of minerals from the mine, or both;
- (w) "minor minerals" means *bajri, shingle*, ordinary sand, gravel, and ordinary stones or any other mineral notified by the Government as minor mineral.
- (x) "Mineral Titles Committee" means the Mineral Titles Committee, constituted under section 6 of this Act;
- (y) "prescribed" means prescribed by rules made under this Act;
- (z) "Province" means the province of the Khyber Pakhtunkhwa;
- (aa) "reconnaissance operation" means any operation carried out for a general search of any mineral by means of aerial photographs and remote sensing techniques through satellite imageries and air borne geophysical surveys, for geological mapping and other reconnaissance stage exploration techniques;
- (bb) "rent" means a rent prescribed under this Act for an area granted and demarcated for a mineral title;
- (cc) "retention area" means the area of land, including its lateral limits, to which a mineral deposit retention licenses relates;
- (dd) "rules" means rules made under this Act; and
- (ee) "small scale mining" means a process of mining other than the large scale mining and minor minerals.

PART-II

MINERALS INVESTMENT FACILITATION AUTHORITY AND MINERAL TITLES COMMITTEE

3. Establishment and constitution of the Authority.---(1) Soon after the commencement of this Act, Government shall, by notification in the official

Gazette, establish an Authority to be known as the Khyber Pakhtunkhwa Mineral Investment Facilitation Authority.

(2) The Authority shall consist of-

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|--------|---|-------------|
| (i) | Minister for Minerals Development to Government; | Chairperson |
| (ii) | Chairperson, Standing Committee on Minerals Development in the Khyber Pakhtunkhwa Provincial Assembly; | Member |
| (iii) | one member of the Khyber Pakhtunkhwa Provincial Assembly nominated by the Leader of the House; | Member |
| (iv) | one member of the Khyber Pakhtunkhwa Provincial Assembly nominated by the Leader of Opposition; | Member |
| (v) | Secretary to Government, Minerals Development Department; | Member |
| (vi) | Secretary to Government, Finance Department or his nominee not below the rank of an Additional Secretary; | Member |
| (vi-a) | Secretary to Government, Environment, Forestry and Wildlife Department or his nominee not below the rank of an Additional Secretary; | Member |
| (vi-b) | Secretary to Government, Law, Parliamentary Affairs and Human Rights Department or his nominee not below the rank of an Additional Secretary; | Member" |
| (vii) | Vice-Chairman, Khyber Pakhtunkhwa Board of Investment and Trade; | Member |
| (viii) | Director, National Center of Excellence in Geology, University of Peshawar; | Member |
| (ix) | Chairperson, Department of Mining Engineering, University of Engineering and Technology, Peshawar; | Member |
| (x) | President, Khyber Pakhtunkhwa Chamber of Commerce and Industries; | Member |
| (xi) | President, Khyber Pakhtunkhwa | Member |

Women Chamber of Commerce and Industries;

(xii) President, Mines Owners Association, Member
Khyber Pakhtunkhwa; and

(xiii) President, Mines Workers Association, Member
Khyber Pakhtunkhwa.

(3) Secretary to Government, Minerals Development Department shall also act as the Secretary of the Authority.

4. **Functions of the Authority.**---(1) The Authority shall-

- (a) provide strategic leadership and guidance to Minerals Development Department;
- (b) lay down policy for investment and programme for development of mineral sector;
- (c) facilitate and encourage investment in minerals sector;
- (d) review and recommend to the Government, for approval, annual rents, royalties and excise duty, payable by the holders of mineral titles, on minerals produced and carried away;
- (e) **hear appeals against the decision of the Mineral Title Committee in relation to Large Scale Mining;**
- (f) **recommend** standards for safety in mines and welfare of mine workers;
- (g) review and evaluate the performance of the mines and minerals sector in the province;
- (h) publish annual report on the state of mines and minerals in the Province;
- (i) undertake policy research and advisory services in matters connected with or ancillary to mines and minerals sector; and
- (j) perform any other function that it deems appropriate to be undertaken for the purposes of this Act.

(2) The Authority may delegate any of its powers to the committee of members.

(3) Minerals Development Department shall provide secretariat support to the Authority.

5. **Meetings of the Authority.**---(1) In addition to the mandatory meetings, the Chairperson may convene meetings of the Authority on such date, time and place as **the Chairperson** may deem appropriate.

(2) The Authority shall have four mandatory meetings **including** three quarterly meetings and one annual review meeting.

(3) In its quarterly meetings the Authority shall consider and decide-

- (a) appeals instituted with the Authority;
- (b) reports on safety in mines;
- (c) schemes for welfare of mine workers; and

(d) schedule of activities for various wings in the Minerals Development Department.

(4) In its annual review meeting, the Authority shall:

- (a) review annual rent of area, royalties and excise duty on minerals, propose changes and make recommendations for approval of the government;
- (b) review report of the mineral sector for the preceding year;
- (c) review implementation status of its decisions; and
- (d) consider revision of targets and proposals for course correction.

(5) Subject to this Act, the business of the Authority shall be conducted in such manner, and in accordance with such procedure, as may be determined by the Authority.

(6) The quorum of meeting shall be half of its members and all the decisions shall be taken by majority of votes.

(7) No proceedings or decision of the Authority shall be invalid by reason only of the existence of a vacancy or defect in the constitution of the Authority.

6. **Establishment of Mineral Titles Committee.**---(1) Soon after the commencement of this Act, Government shall, by notification in the official Gazette, establish a Committee to be known as the Khyber Pakhtunkhwa Mineral Titles Committee.

(2) The Committee shall consist of-

- (i) **Director General, Mines and Minerals;** **Chairperson**
- (ii) **Deputy Secretary to Government, Law, Parliamentary Affairs and Human Rights Department;** **Member**
- (iii) **Deputy Secretary to Government, Forestry, Environment and Wildlife Department;** **Member**
- (iv) **Senior Inspector Mines and Minerals Department, Government of Khyber Pakhtunkhwa to be nominated by the Department;** **Member**
- (v) **Deputy Commissioner, Mines and Minerals Department; and** **Member**
- (vi) **Director Licensing, Mines and Minerals Department to be nominated by the Department.** **Member-cum-Secretary"**

7. **Functions of the Committee.**---(1) The Committee shall-

- (a) grant, convert, assign, amend, surrender, cancel the mineral titles and renew mining leases for the purpose of

clause (d) of sub-section (1) of section 9 and for clause (b) of sub-section (2) of section 9;

- (b) lay down process and procedure for award of licenses and mining leases;
- (c) supervise and regulate mining operations in the province through specific or general written instruments authorizing officers to perform functions and exercise powers on behalf of the Licensing Authority;
- (d) oversee enforcement of laws, rules and regulations relating to mines and minerals in the province;
- (e) exercise supervision and oversight over mining activities in the province;
- (f) review and determine the rates of fee for application and their annual increase;
- (g) publish periodical mineral enforcement gazette; and
- (h) assist the Authority in performance of its functions under this Act.

(2) While deciding the grant of mineral titles, the Committee shall take into consideration the factors of ownership of land surface, identification of mineral, technical soundness of the proposal and financial capacity of the applicant.

(3) The Committee may delegate any of its functions to the Committee of members or any officer.

(4) The quorum of meeting shall be half of its members and all the decisions shall be taken by majority of votes.

(5) The office of Director General, Mines and Minerals, Khyber Pakhtunkhwa shall provide secretariat support to the Committee.

8. **Meetings and Procedure for Meetings of the Committee.**---(1) The Committee shall hold at least one meeting every month to perform functions given in clause (a) of sub-section (1) of section 7 of this Act, to approve the schedule for inviting applications through publication via website/print media for Mineral Titles and to evaluate mineral enforcement activities.

(2) Subject to this Act, the business of the Committee shall be conducted in such manner, and in accordance with such procedure, as may be determined by it.

(3) No proceedings or decision of the Committee shall be invalid by reason only of the existence of a vacancy or defect in its constitution.

PART-III
MINERAL TITLES, MINERAL AGREEMENTS, RIGHTS AND OBLIGATIONS OF MINERAL TITLE HOLDERS

9. **Types of mineral titles.**---(1) For the purposes of large-scale mining, the following mineral titles may be granted, namely:

- (a) reconnaissance license for a period of one year over an area up to 1000 square kilometers;

- (b) exploration license for a period of five years over an area up to 500 square kilometers;
- (c) mineral deposit retention license for a period of two years over the area of exploration license; and
- (d) mining lease over an area up to 50 square kilometers.

(2) For the purposes of small scale mining, the following mineral titles may be granted, namely:

- (a) prospecting license for a period of five years subject to area limitation as indicated in Schedule-I; and
- (b) mining lease subject to area limitation as indicated in Schedule-I.

(3) For the purposes of minor minerals, mining lease for a period up to three years may be granted.

9A. Notwithstanding, anything contained in this Act, the Committee with the approval of the Authority, in unavoidable circumstances, may grant license and mining lease for any such period, for any area, under any terms and conditions, to such public and private organization or persons and subject to such provisions of this Act, as deemed appropriate in public interest.

10. Mineral agreements.---(1) In case of large scale mining, Department may, on the recommendations of the Licensing Authority, enter into an agreement, relating to a mineral title, not inconsistent with this Act or any other law for the time being in force, with a Company, if it is satisfied that substantial investment is likely to be made in mineral operations and that the carrying out of the undertaking in question is desirable in the interest of the development of the mineral resources in the Province.

(2) Every mineral agreement shall make provisions with respect to all or any of the matters included in Schedule-II.

(3) Nothing contained in a mineral agreement shall be construed as absolving any party thereto from complying with any requirement laid down by law for applying and obtaining any mineral title, license, approval, permission or other document required by any law for the time being in force.

11. Rights of holder of reconnaissance license.---A reconnaissance license shall confer on the holder of the license the right to-

- (a) carry out reconnaissance operation in relation to the reconnaissance area in question in respect of any mineral or group of minerals to which the license relates; and
- (b) the erection or construction of ancillary works, in the reconnaissance area as may be reasonably necessary for, or in connection with, any reconnaissance operation, unless expressly prohibited under the terms of the license.

12. Rights of holder of exploration license.---An exploration license shall confer upon the holder-

- (a) an exclusive right to carry out exploration operation in respect of the area and any mineral or group of minerals to which the license relates;
- (b) the right to enter and occupy the land which comprises the exploration area for the purpose of carrying out exploration operations, subject to the rights of surface holder:

- (c) the right to take and divert water on or flowing through such land and use it for any purpose necessary for exploration operations subject to and in accordance with the provisions of law for the time being in force;
- (d) to remove from the exploration area, limited quantity of mineral or group of minerals or sample thereof, for the purpose of testing, assaying or pilot plant studies, from any place where it was found or incidentally won in the course of such exploration operations to any other place whether within or outside the Province subject to prior written permission of the Licensing Authority and such other permission as may be required under law for the time being in force, outside Pakistan; and
- (e) the erection or construction of ancillary works, in the exploration area, as may be reasonably necessary for, or in connection with, any exploration operations unless expressly prohibited under the terms of the license.

13. Rights of holder of mineral deposit retention license.--- A mineral deposit retention license shall authorize the holder of the license-

- (a) to retain the retention area, to which the license relates for further mining operations for two years;
- (b) to carry out a programme of operations including evaluation of the mineral deposit concerned, as may be specified in the license;
- (c) to remove from the retention area limited quantity of a mineral or group of minerals or samples thereof, for the purpose of testing, assaying or pilot plant studies, from any place where it was found or incidentally won in the course of carrying out such programme of operations to any other place whether within or outside the Province, subject to prior written permission of the Licensing Authority and such other permission as may be required under any law for the time being in force, outside Pakistan; and
- (d) to do all other things, including the carrying out of investigations and operations and the erection or construction of ancillary works, in the retention area, as may be reasonably necessary for, or in connection with, any operation unless expressly prohibited under the terms of the license.

14. Rights of holder of prospecting license.---A prospecting license shall confer upon the holder-

- (a) an exclusive right to carry out prospecting operations in respect of the area and any mineral to which the license relates;
- (b) the right to enter and occupy the land which comprises the prospecting area for the purpose of carrying out prospecting operations, subject to the rights of surface holder;
- (c) the right to take and divert water on or flowing through such land and use it for any purpose necessary for prospecting operations subject to and in accordance with the provisions of law for the time being in force;

- (d) to remove from the prospecting area, limited quantity of mineral or group of minerals or samples thereof, for the purpose of testing, assaying or pilot plant studies, from any place where it was found or incidentally won in the course of such operations to any other place whether within or outside the Province subject to prior written permission of the Licensing Authority and such other permissions as may be required under law for the time being in force, outside Pakistan;
- (e) the erection or construction of ancillary works, in the prospecting area, as may be reasonably necessary for, or in connection with, any prospecting operation unless expressly prohibited under the terms of the license;
- (f) the holder of a prospecting license shall have a right to a mining lease, if he has—
 - (i) carried out geological prospecting operations to the satisfaction of the Licensing Authority;
 - (ii) proved mineral reserves;
 - (iii) been paying all the Government dues regularly and has paid such compensation, if any, as is provided in this Act; and
 - (iv) applied in the prescribed form for the grant of a mining lease at least three months before the expiry of the prospecting license:

Provided that in case of failure to apply by the deadline of three months before the actual date of expiry, a fine at the rate of rupees five thousands per day shall be imposed on the applicant, that shall compulsorily be paid as arrears at the time of submission of application.

- (g) in case the holder of a prospecting license fails to apply for a mining lease till the expiry date of the prospecting license, no application for conversion for the same shall be entertained.

15. Rights of holder of mining lease.---A mining lease shall confer on the holder of the lease -

- (a) the exclusive right to carry out mining operations in the mining area and in respect of any mineral or group of minerals to which the lease relates;
- (b) the right to enter and occupy the land which comprises the mining area for the purpose of carrying out mining operations, exploration operations and prospecting operations in respect of any mineral or group of minerals to which the lease relates;
- (c) the right to carry out prospecting and exploration operations in the mining area in conjunction with mining operations in relation to any such mineral or group of minerals to which the lease relates;
- (d) the right to remove from the mining area, any mineral or group of minerals to which the lease relates. from any place

where it was found or mined in the course of mining operations or found or incidentally won in the course of prospecting operations or exploration operations, to any other place within or outside the Province or, subject to such other permissions as may be required under any relevant law, to any place outside Pakistan;

- (e) the right to take and divert surface and ground water on or flowing through such land and use it for any purpose necessary for mining operations subject to and in accordance with the provisions of the relevant laws;
- (f) the right to sell or otherwise dispose of any such mineral or group of minerals subject to any condition of the mining lease or mineral agreement relating to the satisfaction of the internal requirements of Pakistan; and
- (g) the right of erection or construction of ancillary works, as may be reasonably necessary for, or in connection with, the mining, exploration or prospecting operations, removal, selling or disposal of mineral or group of minerals to which the lease relates.

16. Obligations of holder of exploration license.---It shall be a condition of an exploration license that the holder of the license shall-

- (a) commence operations within three months of the grant of the license, and carry out exploration operations in the exploration area in accordance with **the principles of good exploration practices**;
- (b) take all reasonable steps necessary to secure the safety, welfare and health of persons employed for the purposes of those operations in the exploration area;
- (c) take all reasonable steps to protect the environment;
- (d) maintain in good condition and repair all structures, equipments and other goods in the exploration area and used in connection with the exploration operations;
- (e) remove from the exploration area all structures, equipments and other goods not used or not intended to be used in connection with the exploration operations;
- (f) take reasonable steps to warn persons who may, from time to time, be in the vicinity of any such structures, equipments or other goods of the possible hazards resulting therefrom;
- (g) give to the Licensing Authority notice of the discovery of a deposit of any mineral or group of minerals to which the holder's license relates within ten days after the holder determines that the deposit is of potential commercial interest; and
- (h) give to the Licensing Authority notice of the discovery of a deposit of any mineral or group of minerals including radioactive minerals necessary for the generation of nuclear energy, mineral oil and natural gas, other than a mineral or group of minerals to which his license relates, within ten days after making the discovery.

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17. **Obligations of holder of mineral deposit retention license, prospecting license and mining lease.**---The provisions of section 16 shall apply *mutatis mutandis* in relation to a mineral deposit retention license, a prospecting license and a mining lease as they apply in relation to an exploration license, and for that purpose, the reference to the holder of an exploration license shall be deemed to be a reference to the holder of a mineral deposit retention license, the holder of a prospecting license or, as the case may be, the holder of a mining lease.

18. **Obligations of the holder of prospecting license to submit prospecting scheme.**---(1) It shall be the duty of the holder of a prospecting license to prepare and submit, within two months of the grant of the license, a scheme of prospecting, in respect of the area covered by the license, for approval of the Licensing Authority and shall not commence operations unless the scheme has been approved.

(2) The scheme shall *inter alia* include location of the area, nature of a mineral prospecting, methods of prospecting, machinery and equipment to be used, phasing of prospecting operations, technical personnels to be employed, details of roads, residential accommodation for staff and labourers to be constructed and phase-wise estimated expenditure on the scheme.

(3) The scheme shall be accompanied by necessary geological summary reports, maps and plans.

(4) The Licensing Authority shall communicate the approval of the scheme to the licensee within one month of its receipt.

(5) If the holder of prospecting license fails to fulfill his obligations as required by the scheme, the holder of prospecting license shall forfeit the right to the grant of lease over any part of the area covered by the license.

(6) The holder of prospecting license on or before the determination of the license, shall, within one month after the determination of the license or the date of abandonment of the undertaking, whichever may occur earlier, securely plug all mines and fill up or fence any holes or excavations that he may have made in the area to such extent as the Licensing Authority may require and shall, to the like extent restore the surface of the land and all buildings thereon which he may have damaged in the course of prospecting.

PART-IV GRANT AND MANAGEMENT OF MINERAL TITLES

19. **Applications for mineral titles, documents to be annexed and security deposit.**---(1) An application for a mineral title, other than minor mineral, shall be in the manner set out by the Licensing Authority and shall be accompanied by documents listed in relevant portion of Schedule-II.

(2) Applicant shall obtain online Token No. from the Department Website in accordance with details available on the Website of the Department and the application shall be processed further in accordance with rules.

(3) A separate application shall be made in respect of each area and for each mineral.

(4) Every applicant shall deposit, in respect of the mineral title applied for, a security at the rate and in the form notified by Authority, provided that, if a license is converted into a lease, the security so deposited shall be adjusted towards security for the lease.

(5) The information contained in the application or furnished to the Licensing Authority in pursuance of an application for a mineral title, other than

that incorporated in the register of applications shall be treated as confidential by the Licensing Authority.

20. Register of applications.--- (1) The Licensing Authority shall maintain a register of applications for mineral titles as indicated in **Schedule-III**.

(2) The register, maintained under sub-section (1), shall be open to public for inspection on payment of such fee as is notified by **Mineral Title Committee** from time to time.

21. Availability of area, priority and refusal.---(1) On receipt of the application, the Licensing Authority shall, before granting any mineral title, ascertain that the area applied for does not overlap with an area already covered by a license or a lease.

(2) **No person shall hold more than three (03) licenses or leases; provided that if a person has more than three (03) licenses or leases before the commencement of this Act, he may only retain those three (03) licenses or leases which he deems appropriate and shall, unless otherwise allowed by the Department to assign those to any other person or company on the grounds of having invested substantial amount thereon, return other to Government for further grants in accordance with this Act.**

(3) In case there are more applications than one for the grant of license or a lease in respect of the same mineral or area the principle of first come first served shall apply; provided the applicant is otherwise eligible under this Act.

(4) A mineral title shall stand granted on the issuance of Allotment Letter by the Licensing Authority and execution of an agreement containing the terms and conditions as mentioned in **Schedule-II**.

(5) If, in the opinion of the Licensing Authority, it is not expedient to grant the mineral title applied for, it shall record its reasons in writing and refuse the application.

22. Bar on Assignment.---A holder of a mineral title shall not transfer any right or interest in the title, nor part with the possession of the area or any part thereof without prior approval of the Licensing Authority.

23. Publication.---As soon as may be after the grant, surrender, determination, or lapse of any mineral title under this Act, the Licensing Authority shall publish notice of such grant, surrender, determination, or lapse stating the name of the title holder and a brief description of the area concerned.

24. Shape of area.---Each area in respect of which a license or a lease is granted shall, as far as practicable, be in a compact shape and shall be limited by well-marked and permanent physical boundaries to be bounded by straight lines; provided that where a gap of **twenty** meters or less exists between the licensed or leased area it shall not be granted to the applicant.

25. Grant of other minerals over the already granted area for a mineral.---The Licensing Authority may grant one mineral over one area to a person or company, provided that in case of discovery of another mineral in an unutilized part of any leased area, for which an application is received from any person or company, the decision to grant the lease, by deleting that unutilized viable portion of the leased area containing the other mineral, shall rest with the Licensing Authority.

26. Reciprocity.---A license or a lease shall not be granted to, or held by, any person who is or becomes controlled directly or indirectly by a national of, or by a Company incorporated in, any country the laws and customs of which do not permit subjects of Pakistan or companies incorporated in Pakistan to acquire, hold and operate mining concessions on conditions which, in the opinion of the

Government, are reasonably comparable with conditions upon which such rights are granted to nationals of that country in Pakistan.

27. Application by an alien or a company incorporated outside Pakistan: --
-In the case of an application for a license or lease by an alien or a company incorporated outside Pakistan, such license or lease shall only be granted to a company incorporated in Pakistan for the purpose of receiving and working any such license or lease.

28. Responsibility of the applicant to submit development and exploitation scheme.---(1) It shall be the duty of every applicant for grant of a lease to submit, along with the application, a development and exploitation scheme, duly prepared and authenticated by a qualified and registered mining engineer and geologist, for the approval of the Licensing Authority.

(2) The development scheme shall, *inter alia*, include the details indicated in Schedule-II.

(3) The Licensing Authority shall approve the development and exploitation scheme within a period of one month from the date of submission of the scheme.

(4) If the development scheme is rejected, the Licensing Authority shall communicate to the applicant the reasons for such rejection.

(5) The applicant shall within one month of the receipt of such communication, submit a revised scheme to the Licensing Authority, failing which the right of the applicant for the grant of the lease shall lapse.

29. Commencement and conduct of operations.---(1) Every mineral title holder shall commence and carry out operations in accordance with the approved development scheme from the date of communication of the approval to the mineral title holder.

(2) If at any time but not less than six months after the grant of the lease, it is found that the lease holder is not working in accordance with the approved development scheme, the Licensing Authority may, impose a fine up to fifty thousand rupees and shall direct the lease holder in writing to rectify the violations within two months.

(3) If the lease holder fails to rectify the violations within the time limit fixed by the Licensing Authority, the lease shall be cancelled.

30. Limits of boundaries.---The boundaries of the area covered by a mineral title shall run vertically downwards below the surface towards the centre of the earth.

31. Demarcation of area and erection of boundary marks.---(1) A mineral title holder shall, within thirty days of the issue of the license or a lease, get the granted area demarcated officially, after paying such fee as notified by the Licensing Authority.

(2) A mineral title holder shall not commence prospecting or exploration or mining operations unless he has obtained the demarcation certificate referred to in sub-section (1).

(3) A boundary dispute in respect of the licensed or leased areas between the mineral title holders shall be referred to the Licensing Authority whose decision shall be final.

(4) The holder of a mineral title shall, at his own expense, erect and at all times maintain boundary marks and pillars standing not less than one meter above the surface of the ground and being not less than one meter square in

diameter at the base at every angle or corner of boundary lines to be fixed according to the demarcation.

32. Prohibition of buildings upon any public place, etc.---(1) A holder of a mineral title shall not erect any building or carry out any surface operation upon any public recreation grounds, grave-yards or place held sacred by any class of people, any house, village site, public road or any other place which Government or the Licensing Authority may specify in this behalf.

(2) No owner of a leased area shall erect any building or undertake any construction activity without permission of the Licensing Authority and in accordance with the terms and conditions specified in the permission so granted.

33. Working near railway line, etc.---A holder of a mineral title shall not carry out or permit to be carried out any prospecting, exploration or mining operation, surface or underground, at or up to any point within a distance of one hundred meters from any railway line, public road, reservoir, canal, power line, gas pipeline or other public works, or building or place of archaeological importance except with the previous permission of the concerned authority and in accordance with such conditions as may be imposed in the permission.

34. Distance from boundaries.---No prospecting, exploration or mining operations shall be carried out by or on behalf of the holder of a mineral title in or under the licensed or leased area at or to any point within a distance of twenty meters from the boundaries of the area except with permission of the Licensing Authority.

35. Compensation.---A holder of a mineral title shall pay such compensation as may be assessed in accordance with the law for the time being in force for all damage, injury or disturbance which may be done by him, or on his behalf, in exercise of the rights granted by the license or the lease and shall indemnify the Licensing Authority and the Government against all claims which may be made by third party in respect of any such damage, injury or disturbance.

36. District surface rent assessment and land acquisition.---(1) A holder of a mineral title shall pay, for all Government land which it may use or occupy superficially for the purposes of the operations conducted under the license or the lease, a land compensation and water-rates at the rate fixed by the Licensing Authority.

(2) If the land belongs to a private person, a holder of the mineral title shall pay compensation to the owner of the land for the area actually used or occupied superficially and in such manner as may be mutually agreed upon between the land owner and the holder of the mineral title and in case of disagreement between them, at such rate and in such manner as may be determined by the Licensing Authority through district surface rent assessment committee appointed by the Authority.

(3) While determining the rates of land compensation, the Licensing Authority shall pay due regard to the nature of the area, location and land value.

(4) The private agreement for land compensation executed between the holder of mineral title and the land owner shall be registered with revenue authority of the district.

(5) Payment of land compensation to the land owner shall be made through the district land collector.

(6) In case of persistent interference and obstruction in the exploration, prospecting, or mining operations by the land owner in any manner after settlement or fixation of land compensation by the Licensing Authority under sub-section (2), the Licensing Authority may on the request of the holder of a mineral

title holder proceed to acquire the land under the Land Acquisition Act, 1894 (Act No. 1 of 1894), required for the said operations or any other ancillary matter.

(7) If in the opinion of the Licensing Authority, it is necessary to acquire land to provide access to the licensed or leased area or if such a request is made by a holder of the mineral title, the Licensing Authority may proceed to acquire the requisite land under the Land Acquisition Act, 1894 (Act No. 1 of 1894); provided that before proceeding with the acquisition, the Licensing Authority shall give the parties reasonable opportunity of being heard.

(8) The cost of land acquired under this section shall be borne by the holder of the mineral title.

37. Cutting or injuring tree.---A holder of a mineral title shall not cut or injure any tree on Government land or on reserved forests without the prior permission in writing of the Licensing Authority or of such officer as the Government may authorize in this behalf, and where such cutting is also permissible under the relevant law.

38. Operation in the reserved and protected forests.---(1) Every application for the grant of prospecting license, exploration license or a mining lease in a reserved or protected forest shall be referred to the Authority for a final decision in terms of relevant forest laws.

(2) All surface and sub-surface exploration, prospecting and mining operations within a reserved or protected forest shall be subject to such terms and conditions as may be approved by the Authority.

(3) It shall be a condition of every license or lease granted that before the commencement of prospecting, exploration or mining operations within a reserved or protected forest, thirty days notice shall be given to the Forest Officer concerned of the intention to commence operations.

(4) Operations shall be conducted subject to such precautions regarding prevention of fire and conservation of forest as the licensee or the lessee may from time to time, be required by the Licensing Authority.

39. Record keeping.---A holder of a prospecting license, exploration license or mining lease shall, at all times, keep in the prescribed form, complete record at the mine premises showing the quantity of minerals obtained and dispatched from the mines, the number and complete plans of the mines and persons employed therein.

40. Dispatch of minerals.---The minerals excavated from any licensed or leased area shall be dispatched from the area on prescribed dispatch slips duly authenticated by the Licensing Authority or its authorized representative.

41. Submission of production and periodical returns.---(1) A holder of a mining lease shall send monthly returns of production and dispatch of mineral to the Licensing Authority in the prescribed form on or before the seventh day of each succeeding month. The monthly returns shall be accompanied with a challan indicating payment and clearance of royalty, duty and other dues thereof.

(2) A holder of a mineral title shall, on prescribed form, submit to the Licensing Authority statistical data, geological reports, including geological and geochemical interpretation, mineral analysis, photographs, ore logs, tests and similar information as may be required by the Licensing Authority.

42. Inspection.---A holder of a mineral title shall provide the Licensing Authority, or an officer authorized in this behalf, all reasonable facilities to enter

upon the mine premises including underground workings for purposes of inspection of mines and shall also make available all records at the mines and elsewhere for carrying out survey, measurement, examination and matters ancillary or incidental thereto.

43. Strengthening and supporting mines.---A holder of a mineral title shall strengthen and support to the satisfaction of the Licensing Authority, whole or any part of the mine when, in its opinion such strengthening or support is needed for the conservation of the mineral and safety of personnel or any railway, public road, reservoir, canal or any other public work or any building, affected by such operations.

44. Power to assess and claim compensation for damage to mineral property.---(1) In the event of any damage caused to the mineral property due to un-scientific working, lack of supervision, negligence or any other omission or commission on the part of holder of a mineral title, the Licensing Authority shall assess by reasonable means the extent of the damage and the compensation thereof shall be payable by the **holder of the mineral title**; provided that before so doing, the Licensing Authority shall afford a fair opportunity of hearing to the holder of the title.

(2) The decision of the Licensing Authority under this section shall be final.

(3) The holder of mineral title shall be liable to pay the compensation so assessed in the same manner as arrears of rent and royalty.

45. Non-conservational mining activities.---(1) If the Licensing Authority has reason to believe that a holder of a mineral title is working in a manner contrary to the conservation of mineral property, it may require the holder in writing to remove the defects or amend the method of mining, exploration or prospecting within a period of one month.

(2) If the holder of the mineral title fails to comply with the instructions within the specified period, the Licensing Authority shall suspend the work of the extraction of mineral in whole or in any part of the area demised under mineral title till such time the defects are removed to the satisfaction of the Licensing Authority.

(3) If the defects are not removed or the method of mining is not amended as instructed within one month from the date of the stoppage of work, the mineral title may be cancelled.

(4) A holder of a mineral title shall not depillar or abandon mines unless depillaring is the part of the approved scheme.

46. Under-reporting of mineral production.---(1) If it is discovered that the holder of a mineral title has under-reported mineral production, the Licensing Authority shall charge royalty upto ten times the notified rate, on the quantity of mineral under-reported, forfeit the security deposit and performance guarantee and may also cancel the mineral title on the merits of the case; provided that no action under this section shall be taken without giving an opportunity of hearing to the holder of mineral title.

(2) An entry in the record of the holder of the mineral title shall be made regarding under-reporting.

47. Employment of technical personnel and training.---(1) A holder of a mineral title shall employ such technical personnel as is reasonably required by the Licensing Authority, under the laws, rules, and regulations regarding mines safety for the time being in force.

(2) A holder of a mineral title shall, when asked to do so by the Licensing Authority, arrange and provide facilities for training to students of any Mining Engineering Institution or to any other person associated with the profession of Engineering, Geology or other related sciences.

48. Discovery of other minerals.---A holder of a mineral title shall, without delay, report to the Licensing Authority, the discovery on or within any of the lands or mines demised under the mineral title of any mineral not specified in the mineral title, but he shall not, unless a fresh title in respect of the mineral so discovered is granted to him under this Act, have any right to that mineral.

49. Pre-emption.---The Government shall at all times have, on payment of fair market price, the right of pre-emption of the minerals lying upon the land in respect of which a mineral title has been granted, or elsewhere under the control of the holder of the mineral title.

50. Preference for internal requirements of Pakistan.---The Government shall have the right to require a holder of a mineral title to-

- (a) meet the internal requirements of Pakistan to the satisfaction of the Government before exporting any mineral or its products to other countries;
- (b) associate Pakistan capital subject to any law for the time being in force of all classes of capital and debentures issued by him;
- (c) employ nationals of Pakistan in his organization in all grades and in all branches including technical and administrative personnel; and
- (d) **arrange for the training in Pakistan or abroad or the nationals of Pakistan to fill up these appointments, in case of Large Scale Mining or investment or any other circumstances to be specified by the Authority.**

51. Exclusion of lands for public purposes and taking possession in emergencies.---(1) If an area or a portion thereof held under a mineral title is required at any time for any public purpose, the holder of a mineral title shall forthwith release to the Licensing Authority such area and to such extent as is required by the Government under such terms and conditions as may be determined by the Licensing Authority.

(2) Where any area excluded under this section becomes subsequently available for the purpose of a mineral grant, the previous holder of the mineral grant shall have prior right over such area if his original mineral title subsists.

(3) In the event of a state of war or national emergency, the Government may take control of works, plants and premises under the mineral title and the holder of mineral title shall conform to and obey all directions issued by the Licensing Authority or the Government in this behalf.

(4) The holder of the mineral title shall be paid a fair compensation of the investment made in the said area or part thereof to be assessed by the Authority.

52. Sub-letting.---(1) No holder of a mineral title shall transfer the liberties, powers, privileges and obligations in the form of sub-letting under the license or lease, as the case may be, to a third party in respect of the area demised under the mineral title.

(2) The mineral title shall be cancelled by the Licensing Authority, if the provisions of sub-section (1) are violated.

53. Holder of a mineral title ceasing to be national of Pakistan.---(1) If a holder of a mineral title ceases to be a national of Pakistan or if a Company ceases to be incorporated in Pakistan, it shall within a period of one month inform the Licensing Authority and apply to it, for consent to assignment of the rights granted by the mineral title under this Act.

(2) In the event of the holder of a mineral title failing to obtain such consent, the Licensing Authority may, without prejudice to any obligation or liability imposed by, or incurred under this Act, revoke the mineral title.

54. Unauthorized mining.---(1) If any person, directly or indirectly, starts prospecting, exploring or mining any mineral outside the area granted to him under a mineral title or in any area for which he has not obtained a mineral title or if any person obstructs free access of a holder of a mineral title to the licensed or leased area or directly or indirectly tries to interfere with the prospecting or mining operations by a holder of a mineral title, he shall be punishable with imprisonment for a term of **minimum six months which may extend up to three years, and a fine of minimum five hundred thousand which may extend up to two million, or with both.**

(2) The Licensing Authority shall appoint a technical committee to assess the losses incurred due to obstruction, hindrance, or closure of the prospecting, exploration or mining operations caused by any person, and shall proceed to recover the assessed losses from such person, which in case of default, shall be recovered as arrears of land revenue.

(3) In the event of any unauthorized mining, obstruction, hindrance or interference in the prospecting, exploration or mining operations, the administration of the locality, on request of the Licensing Authority, shall take all necessary steps to stop the illegal acts to ensure smooth operations of the holder of the mineral title.

(4) Notwithstanding anything contained in sub-section (1), the Licensing Authority shall have the power to stop unauthorized work in such manner as it may deem fit and recover in addition to the penalty, the pit-mouth value of the mineral so excavated from the person responsible for such unauthorized work.

55. Persistent violations and default in payment of dues.---(1) If a holder of a mineral title persists in violating any of the terms and conditions of the mineral title or the provisions of this Act and fails to rectify the violation within such period as may be fixed by the Licensing Authority, the mineral title shall, subject to notice, be cancelled.

(2) If any dues payable under a mineral title are not paid within three months next after the due date, the Licensing Authority may, subject to notice, revoke the mineral title and take possession of the premises comprised therein.

56. Delivery of mines, etc. in good condition.---(1) On the expiry, surrender or determination of a mineral title, the holder of the title shall deliver to the Licensing Authority the demised premises and all mines, if any, in a proper and workable state.

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(2) The holder of the title shall also to the like extent restore the surface of the land and buildings and other structures not belonging to him which he may have damaged in the course of prospecting, exploration or mining.

57. Black listing.---(1) A person, a firm or a company may be black listed by the Licensing Authority on account of serious and repeated violations of this Act.

(2) The mineral title held by such person, firm or company shall stand terminated and such person, firm, or company shall be debarred from obtaining any mineral title.

(3) In case such person or any partner of such firm or a director of such company forms a new firm or becomes a director of another company it shall render such other firm or company ineligible for the grant of mineral title.

58. Establishment of check posts.---(1) The Licensing Authority may, for the purpose of verification or collection of royalty on minerals dispatched from the licensed or leased areas, establish check posts at suitable places, authorize any official to check the mineral in transit and recover royalty.

(2) The Licensing Authority may order the collection of royalty on minerals dispatched from the licensed or leased area or areas, as the case may be, through sealed tenders or open auction on the terms and conditions determined by it.

59. Forfeiture of plants etc.---If any machinery, building structure, mineral or other property belonging to the holder of a mineral title is not removed by him from the licensed or leased area within three months after the date of expiry or determination of the mineral title, the Licensing Authority, or any officer authorized by it, may enter upon the said land, take possession of all the machinery, building structures, minerals or any other property belonging to the holder of the title and may dispose it off in any manner as it may deem fit.

60. Auction of area with proven mineral reserves.---In case of cancellation of mineral title in respect of an area containing proven mineral reserves, the Licensing Authority may lease out the area by inviting competitive bids on such terms and conditions as may be prescribed by it; provided that if an area does not fetch a reasonable bid in five consecutive tenders or auctions, the area may be deleted from the list of tender or auction.

PART-V **CANCELLATION AND SURRENDER OF MINERAL TITLES.**

61. Cancellation of mineral titles.---(1) The Licensing Authority may, by serving thirty days notice in writing, cancel a mineral title, if the holder of the mineral title-

- (a) fails to use the land subject to the title for the purpose for which the title was granted; or
- (b) uses that land for any purpose other than the purpose for which the title was granted; or
- (c) fails to comply with any requirement of this Act or rules which the holder is bound to comply; or
- (d) fails to comply with a condition of the title; or

- (e) fails to comply with a direction lawfully given under this Act or with a condition on which any certificate of surrender is issued or on which any exemption or consent is given under this Act or rules; or
- (f) fails to pay any amount payable by him under this Act or rules within one month after the amount becomes due; or
- (g) being an individual is adjudged bankrupt, or enters into any agreement or scheme of composition with creditors or takes advantage of any law for the benefit of debtors; and
- (h) is a Company **against which** an order is made or a resolution is passed for winding up the affairs of the Company.

(2) On the cancellation of a mineral title, the rights of the holder of the title there under shall cease, and the cancellation shall not affect any liability incurred before the cancellation and any legal proceedings that might have commenced against the holder of the title shall continue against him.

62. Surrender of mineral titles and effect of certificate of surrender.---(1) The holder of a mineral title, other than the lease holder in minor minerals, who wishes to surrender all or a part of the area subject to the mineral title shall apply to the Licensing Authority for a certificate of surrender in respect of the area not less than three months before the date on which he wishes the surrender to have effect.

(2) The Licensing Authority shall issue a certificate of surrender, either unconditionally or subject to such conditions as are specified in the certificate, in respect of the area to which the application relates.

(3) The Licensing Authority shall not issue a certificate of surrender to an applicant who is in default, or to an applicant who fails to comply with any reasonable requirement of the Licensing Authority, or if it is not satisfied that the applicant will surrender the area on which reconnaissance, exploration, prospecting or mining operations have been conducted in a safe and good condition.

(4) Where a certificate of surrender is issued, the Licensing Authority shall cause the title to be amended accordingly, if only a part of the area subject to a mineral title is surrendered and cause the **mineral** title to be cancelled, in any other case.

(5) Area in respect of which a certificate of surrender is issued shall be treated as having been surrendered with effect from the date on which notice of the surrender is given.

(6) The surrender of any area shall not affect any liability incurred before the date on which the surrender has taken effect in respect of the area, and legal proceedings that might have commenced against the holder of the mineral title shall continue against him.

