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KHYBER PAKHTUNKHWA

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PROVINCIAL ASSEMBLY SECRETARIAT KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 05th December, 2019.

No. PA/Khyber Pakhtunkhwa/Bills-83/2019/15297.— The Khyber Pakhtunkhwa Minerals Sector Governance (Amendment) Bill, 2019 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 13th November, 2019 and assented to by the Governor of the Khyber Pakhtunkhwa on 26th November, 2019 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA MINERALS SECTOR GOVERNANCE (AMENDMENT) ACT, 2019. (KHYBER PAKHTUNKHWA ACT NO. XLVI OF 2019)

*(First published after having received the assent of the Governor of the
Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa,
(Extraordinary), dated the 05th December, 2019).*

AN
ACT

*to amend the Khyber Pakhtunkhwa Minerals
Sector Governance Act, 2017.*

WHEREAS it is expedient to amend the Khyber Pakhtunkhwa Minerals Sector Governance Act, 2017 (Khyber Pakhtunkhwa Act No. XXXVI of 2017) for the purposes hereinafter appearing;

It is hereby enacted as follows:

1. Short title and commencement.—(1) This Act may be called the Khyber Pakhtunkhwa Minerals Sector Governance (Amendment) Act, 2019.

(2) It shall come into force at once except section 4, clause (a) of section 5 and section 44 which shall come into force on such date as the Government may notify in this behalf.

2. Amendment of the long title of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.--- In the Khyber Pakhtunkhwa Minerals Sector Governance Act, 2017 (Khyber Pakhtunkhwa Act No. XXXVI of 2017) hereinafter referred to as the said Act, in the long title for the words "Minerals Sector Governance" the words "Mines and Minerals" shall be substituted.

3. Amendment of section 1 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.--- In the Khyber Pakhtunkhwa Minerals Sector Governance Act, 2017 (Khyber Pakhtunkhwa Act No. XXXVI of 2017) hereinafter referred to as the said Act, in section 1,-

- (a) in sub-section (1), for the words "Minerals Sector Governance" the words "Mines and Minerals" shall be substituted; and
- (b) in sub-section (2), the full stop appearing at the end shall be substituted with a comma and thereafter the following shall be added, namely:

"except merged districts and sub-divisions where mineral resources shall be regulated in accordance with the special provisions contained in **Schedule-VIII** of this Act for a maximum period of ten years.

Exemption:- The provisions of Part-VII of this Act shall not be applicable to the merged districts and sub-divisions for a period of five years."

4. General amendment to the Khyber Pakhtunkhwa Act No. XXXVI of 2017. --- In the said Act, for the words "Appellate Authority" wherever occurring the words "Appellate Tribunal" shall be substituted.

5. Amendment of section 2 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017. -- In the said Act, in section 2,-

- (a) for clause (a), the following shall be substituted, namely,-
 - "(a) "**Appellate Tribunal**" means the Appellate Tribunal established under section 102-A of the Act, to hear appeals against the orders of Licensing Authority in relation to small scale mining, large scale mining and minor minerals;
- (b) after the existing clause (a), the following new clause shall be inserted, namely
 - "(a-i) "**Additional Director General**" means the Additional Director General Mines and Minerals in the Directorate General;"

- (c) in clause (j), after the words "such work" the words "in relation to exploration operation" shall be inserted;
- (d) in clause (t), after the word "Act" the words "and includes his successors-in-interest", shall be added;
- (e) in clause (u), in sub-clause (ii), for the words "Director General" the words "Additional Director General" shall be substituted and after the existing clause (u), the following new clause shall be inserted, namely:

"(u-i) **"Merged districts and sub-divisions"** means the areas merged with the Province of Khyber Pakhtunkhwa and duly notified by Government after the Constitution (Twenty-fifth Amendment) Act, 2018 (Act No. XXXVII of 2018);"; and

- (f) after the existing clause (ff), the following new clause shall be inserted, namely:

"(ff-i) **"public organization"** means such organization which independently, or if it is a consortium, the majority shareholders therein is an entity, Department, agency, corporation, company or other body or institution established by or under a Federal law or a Provincial law or an entity, agency, corporation, company or other body or institution in which more than fifty percent (50%) shares are owned or controlled by the Federal Government or a Provincial Government and also includes state owned enterprise, entity, agency, corporation or a company, in which more than fifty percent (50%) shares are owned or controlled, either directly or indirectly, by a foreign State;"

6. Insertion of new section 2A in the Khyber Pakhtunkhwa Act No. XXXVI of 2017.--- In the said Act, after section 2, the following new section shall be inserted, namely:

"2A. Ownership of minerals.---Notwithstanding anything to the contrary contained in any other law, or in any order or decree of Court or other authority, or in any rule of custom or usage, or in any contract, instrument, deed or other document, all mines and minerals shall be and shall always be deemed to have been the property of Government, and Government shall have all powers necessary for the proper enjoyment of its right thereto."

7. Amendment of section 3 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.---
- In the said Act, in section 3,-

- (a) for sub-section (2), the following shall be substituted, namely:

"(2) The Authority shall consist of-

- | | | |
|-------|---|----------------------------|
| (i) | Minister for Minerals Development to Government; | Chairperson |
| (ii) | Secretary to Government, Minerals Development Department; | Member |
| (iii) | Secretary to Government, Finance Department or his nominee not below the rank of an Additional Secretary; | Member |
| (iv) | Secretary to Government, Environment, Forestry and Wildlife Department or his nominee not below the rank of an Additional Secretary; | Member |
| (v) | Secretary to Government, Law, Parliamentary Affairs and Human Rights Department or his nominee not below the rank of an Additional Secretary; | Member |
| (vi) | Vice-Chairman, Khyber Pakhtunkhwa Board of Investment and Trade; and | Member |
| (vii) | Director General. | Member-cum-Secretary"; and |

(b) sub-section (3) shall be deleted.

8. Amendment of section 4 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.--

- In the said Act, in section 4,-

(a) in sub-section (1),

(i) for clause (e), the following shall be substituted, namely:

“(e) “recommend to the relevant authorities for financial and tax incentives, including minimum price supports and subsidized rates for import and purchase of machinery, for mineral title holders, in order to encourage mechanized mining method; and

(ii) after clause (g), the following new clauses shall be inserted, namely:

“(g-i) recommend policies to Government or other relevant authorities for promotion and facilitation of export of minerals and provide incentives to mineral title holders, to encourage export of minerals and finished products;

(g-ii) promote sustainable mining practices, to ensure that mining of mineral resources is undertaken after taking into consideration present requirements and balancing them against the requirements of further generations;” and

- (b) in sub-section (3), for the words "Minerals Development Department", the words "Directorate General" shall be substituted.

9. Amendment of section 5 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.--

- In the said Act, in section 5, in sub-section (3), the existing clauses (a) and (b) shall be deleted.

10. Amendment of section 6 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.--

- In the said Act, in section 6, in sub-section (2),-

- (a) after clause (i), the following new clause shall be inserted, namely:

"(i-a) Additional Director General, Mines Member"; and
and Minerals;

- (b) after clause (v), the following new clause shall be inserted, namely:

"(v-a) Director Exploration; and Member".

11. Amendment of section 7 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.--

- In the said Act, in section 7,-

- (i) in sub-section (1), in clause (f), after the word "application", the words "and their annual increase" shall be deleted; and

- (ii) sub-sections (2) and (5) shall be deleted.

12. Insertion of new section 8A in the Khyber Pakhtunkhwa Act No. XXXVI of 2017.--

In the said Act, after section 8, the following new section shall be inserted, namely:

"8A. Establishment of District Mining Liaison Committee.--(1) The Department shall by notification, establish in each district a District Mining Liaison Committee with the following composition, namely:

- (a) concerned Deputy Commissioner; Chairman
(b) concerned District Police Officer; Member
and
(c) Assistant Director Mineral Member-cum-
concerned. Secretary.

(2) The Chairman may co-opt any other person or persons to attend the meetings of the District Mining Liaison Committee for expert views; provided that the person or persons so co-opted shall have no right of vote.

(3) The Chairman may call the meetings of the District Mining Liaison Committee as frequently as may be required on his own motion or on the request of Secretary of the Committee.

(4) The presence of two members including the Chairman shall constitute the quorum of the District Mining Liaison Committee.

(5) The decisions of the District Mining Liaison Committee shall be made by majority of its members present; provided that in case of a tie the Chairman shall have a casting vote.

(6) The District Mining Liaison Committee shall perform the following functions, namely:

- (a) resolve surface rent disputes amongst mineral titles holders and landowners on such rates and such manner as may be determined by it;
- (b) resolve land compensation disputes amongst mineral title holders and landowners;
- (c) resolve boundary disputes arising amongst the mineral title holders;
- (d) make efforts to control un-authorized mining;
- (e) recover Government dues from the defaulters through District Administration; and
- (f) remove hindrances that arise in the operations of mineral title and ensuring un-obstructed access of the mineral title holders to the area granted under the mineral title.

(7) In the performance of its functions under sub-section (6), the District Administration, the District Police and all other authorities, offices or agencies of Government in the District shall act in aid of the District Mining Liaison Committee. The District Administration, the District Police and all other authorities, offices or agencies of Government shall render all out assistance to the District Mining Liaison Committee as and when requested by it.”.

13. Amendment of section 9 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.--
- In the said Act, in section 9, in sub-section (1), in clause (b), for the word “five” the word “eight” shall be substituted.

14. Amendment of section 10 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.--
-- In the said Act, in section 10,-

- (a) after the word “public” appearing for the first time, the words “or private” shall be inserted;
- (b) before the word “area”, the word “un-granted” shall be inserted; and

- (c) the full stop appearing at the end shall be substituted with a colon and thereafter the following shall be added, namely:

“Provided that on the initiative of Government, or where a proposal is received from any public or private organization, for the grant of mining rights of any area on the basis of profit sharing with Government, the Mineral Titles Committee shall cause a tender in one major English and one major Urdu daily newspaper and invite bids for maximum share in profit with Government from amongst relevant competing public or private organizations. The maximum rate of profit, so quoted by any relevant organization in response to such advertisement shall become a reference value, against which the Mineral Titles Committee may grant mining rights to any organization of its choice under this section notwithstanding anything contained in any other law for the time being in force:

Provided further that where the tender has been invited by Department on the proposal received from a public or private organization under the preceding proviso, the Mineral Titles Committee shall give first right of refusal, in accordance with the reference value as determined in the preceding proviso, to such an organization:

Provided also that where the tender has been invited on the initiative of Government, the Mineral Titles Committee shall grant mining rights to that public or private organization who has quoted maximum rate of profit within the period prescribed in the advertisement.”.

15. **Insertion of new section 10A in the Khyber Pakhtunkhwa Act No. XXXVI of 2017.**--- In the said Act, after section 10, the following new section shall be inserted, namely:

“**10A. Special provision for projects of national importance.**---The Licensing Authority may grant temporary permission, in special circumstances, to contractors of public project of national importance having project cost to be determined by the Department for utilization of minerals or minor minerals from un-granted area for a specific period for undertaking that particular project under such terms and conditions, which shall include the cost of material and duration as determined by the Department through notification.”.

16. **Amendment of section 11 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.**--- In the said Act, for section 11, the following shall be substituted, namely:

“**11. Period of Lease.**---(1) The initial period of the mining lease and its further renewals for similar periods, if permissible, shall be as provided in **Schedule-IX**.

(2) All the renewals permissible under sub-section (1) shall be on the basis of performance to the satisfaction of the Licensing Authority.”.

17. Amendment of section 14 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.— In the said Act, in section 14, in clause (f), after the words “retention license”, the words “over the area of exploration license” shall be inserted.

18. Amendment of section 15 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.— In the said Act, in section 15, in clause (e), after the words “a mining lease”, the words “over the area of mineral deposit retention license” shall be inserted.

19. Amendment of section 16 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.— In the said Act, in section 16, in clause (g), the full stop appearing at the end shall be replaced with a semi colon and the word “and”, and thereafter the following new clause shall be inserted, namely:

“(h) the right to sell or otherwise dispose of the mineral to which the license relates, found or excavated in the course of prospecting operations subject to any condition of the prospecting license or mineral agreement relating to the satisfaction of the internal requirements of Pakistan.”.

20. Insertion of new section 19A in the Khyber Pakhtunkhwa Act No. XXXVI of 2017.— In the said Act, after section 19, the following new section shall be inserted, namely:

“**19A. Force majeure.**—(1) Any failure on the part of the holder of a mineral title to fulfill any of the obligations or conditions under a mineral title, or to meet any requirement of this Act, shall not be treated as a breach of the holder’s mineral title in so far as the failure arises from an act of war, hostility, insurrection, or an act of God, or from any other cause specified in the conditions of the mineral title as constituting force majeure.

(2) Where the holder of a mineral title fails to fulfill any of the terms and conditions of the mineral title as a result of the occurrence of any circumstances of a kind referred to in sub-section (1), the holder shall forthwith give notice to the Licensing Authority, giving particulars of the failure and its cause.

(3) The Licensing Authority may, on application made to it by the holder of a mineral title referred to in sub-section (2), who has been prevented from exercising any right under the mineral title conditions as determined by the Licensing Authority, extend the period for which the mineral title in question has been issued by such reasonable period as may be determined by the Licensing Authority.

(4) The Licensing Authority may refuse any application referred to in sub-section (3) if the holder of the mineral title could, by taking reasonable steps which were available to the holder, have exercised the rights concerned during that period.

(5) The provisions of this section shall not be construed as absolving any holder of a mineral title from complying with any obligation under the mineral title or this Act to pay royalties, annual rents or fees.”.

21. Insertion of new sections 20A and 20B in the Khyber Pakhtunkhwa Act No. XXXVI of 2017.--- In the said Act, after section 20, the following new sections shall be inserted, namely:

“20A. Joint Venture.--- (1) A mineral title holder may enter into joint venture with a person, firm or company in the licensed or leased area or part thereof strictly in accordance with this Act subject to the approval of Licensing Authority.

(2) All the rights and obligations under the mineral title shall solely rest with the mineral title holder.

(3) In case of differences between the Mineral Title Holder and joint venture partner due to violation of any of the terms and conditions of the joint venture by any of them, they shall try to resolve the same through mutual negotiation within a period of thirty days. In case they failed to resolve the differences within the aforesaid period, the Mineral Title shall be liable for cancellation by the Licensing Authority under this Act.

20B. Idle Mineral Title.--- In case, the area under a mineral title has been kept idle for more than one year period, the mineral title shall be cancelled by the Licensing Authority subject to thirty days notice.”.

22. Amendment of section 21 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.--- In the said Act, in section 21, in sub-section (4), for the word “Authority” the words “Licensing Authority” shall be substituted.

23. Amendment of section 23 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.--- In the said Act, in section 23,-

(a) in sub-section (2),

(i) after the words “cement manufacturers” the comma and words “, large scale mineral titles holder, subject to the provisions of sub-section (2A)” shall be inserted;

(ii) for the words, brackets and figure “three (03)” wherever occurring the words, brackets and figure “ five (05)” shall be substituted; and

(iii) the full stop appearing at the end shall be substituted with a colon and thereafter the following proviso shall be added, namely:

“Provided that public organization shall be exempted from the bar on number of mineral titles.”; and

(b) after sub-section (2) as so amended, the following new sub-section shall be added, namely;

“(2A) In large scale mining, the cumulative area of all licenses granted to a person shall not exceed fifteen hundred (1500) square kilometers while that of leases shall not exceed one hundred and fifty (150) square kilometers.”.

24. Amendment of section 24 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.-

-- In the said Act, in section 24, for the words “any right or interest in the lease, or part with the possession of the area” the words “the area under the mineral title” shall be substituted.

25. Amendment of section 27 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.-

-- In the said Act, for section 27, the followings shall be substituted, namely:

“27. Grant of other minerals over the already granted area for a mineral.--(1)
The Licensing Authority may grant one mineral over one area to a person, however, in case of discovery of another mineral over the same area, the right of acceptance or refusal for the grant of second mineral shall be offered to the licensee or lessee within a specified period.

(2) In case of no response or refusal of the licensee or lessee for the grant of second mineral located apart separately, the Licensing Authority may delete any viable portion of the area containing the other mineral for grant to the other person, or grant a mineral title over the same area for the other mineral or mines in favor in any other person.

(3) In case two different minerals are inter-bedded or closely located, the Licensing Authority shall direct the licensee or lessee to get the grant of second mineral for systematic mining operation and utilization of mineral resource, within thirty days failing which the main lease or license may be cancelled.

(4) The second applicant shall deposit application fee as prescribed by Government, for grant of the applied mineral.”.

26. Amendment of section 35 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.-

-- In the said Act, in section 35, in sub-section (1), for the words “power line” the words “high transmission power line of 132 KV and above” shall be substituted.

27. Amendment of section 38 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.-

-- In the said Act, in section 38,-

(a) in sub-section (2), for the words “Licensing Authority through district surface rent assessment committee appointed by the Authority” the words “District Mining Liaison Committee”, shall be substituted;

(b) in sub-section (6), for the words “Licensing Authority” occurring for the first time, the words “District Mining Liaison Committee” shall be substituted; and

(c) in sub-section (8), after the words “mineral title” the words “and ownership of the acquired land shall rest with the Director General” shall be added.

28. Amendment of section 42 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.— In the said Act, in section 42, for sub-section (3), the followings shall be substituted, namely:

“(3) Any vehicle or carrier found carrying minerals without dispatch slip as explained in sub-section (1) and (2) shall be considered as un-authorized excavated minerals. The vehicle and loaded minerals shall be impounded and the person involved in un-authorized mining or transportation shall be dealt as per the provisions of section 56 of this Act.”.

29. Amendment of section 43 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.— In the said Act, in section 43, in sub-section (1),-

- (a) for the word “seventh”, the word “fourteenth” shall be substituted; and
- (b) the comma and word “duty” shall be deleted.

30. Insertion of new section 47A in the Khyber Pakhtunkhwa Act No. XXXVI of 2017.— In the said Act, after section 47, the following new section shall be inserted, namely:

“47A. Conservation of dimension stone (marble and granite) deposits through scientific mining by restricting indiscriminate blasting.—(1) The prospecting and mining operations of Marble and Granite shall be carried out in such a manner so as to ensure systematic development and conservation of Marble and Granite deposits.

(2) The use of explosives shall not be permissible for extraction of such categories of Marble and Granite to be notified by the Department in order to ensure optimum production with minimum waste generation. Every mineral title holder shall endeavor to deploy machinery and equipment for development of Marble and Granite deposits on scientific lines:

Provided that limited blasting shall only be permissible during development phase of Marble and Granite quarries including removal of topsoil, overburden or waste rock or other rejected material:

Provided further that limited blasting may also be permissible in production phase including removal of waste rock or overburden, opening of free faces etc.

(3) The Department may notify a grace period as deemed appropriate for the mineral title holders of Marble or Granite to switch from blasting method to mechanized mining.”.

31. Amendment of section 52 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.— In the said Act, in section 52, the existing clause (b) shall be deleted.

32. Amendment of section 53 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.-
-- In the said Act, in section 53, in sub-section (4), for the word "Authority" the words "Licensing Authority" shall be substituted.

33. Amendment of section 54 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.-
-- In the said Act, in section 54,

(a) for sub-section (1), the following shall be substituted, namely:

"(1) No holder of a mineral title shall transfer the liberties, powers, rights, titles interests, privileges and obligations under the license or lease, as the case may be, in the form of sub-letting, sub-contracting or by any other means, to a third party in respect of the area demised under the mineral title."; and

(b) in sub-section (2), the full stop appearing at the end shall be substituted by a colon and thereafter the following proviso shall be added, namely:

"Provided that before doing so, the Licensing Authority shall afford a fair opportunity of hearing to the holder of mineral title."

34. Amendment of section 56 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.-
-- In the said Act, in section 56,-

(a) in sub-section (1),-

(i) for the words "three years or a fine" the words "five years and with a fine" shall be substituted;

(ii) after the words "two million" the words "or with both" shall be deleted; and

(iii) the full stop appearing at the end shall be substituted with a colon and thereafter the following shall be added, namely:

"Provided that owner of a land may level the land or make excavation of mineral for agricultural or building purposes other than commercial mineral extraction or marketing subject to prior approval of the Director General.";

(b) in sub-section (3), for the words "administration of the locality" the words "District Administration" shall be substituted; and

(c) after the existing sub-section (4), the following new sub-section shall be added, namely:

“(5) The offences specified in sub-section (1) shall be cognizable and non-bailable and information in this regard shall be reported to the respective police station, by the Licensing Authority or an officer authorized by it in this behalf, for registration of a case against the accused.”.

35. Insertion of new section 56A in the Khyber Pakhtunkhwa Act No. XXXVI of 2017.— In the said Act, after section 56, the following new section shall be inserted, namely:

“56A. Access to other licensee or lessee areas both on surface and underground.---

(1) A licensee or lessee shall allow the existing and future license or lease holders of any area which is comprised in or adjoins or is reached by the land held by the licensee or the lessee, all reasonable facilities of surface or underground access thereto, on the terms and conditions as may be determined by the Licensing Authority.”.

36. Amendment of section 59 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.— In the said Act, in section 59,-

(a) in sub-section (1), the words “and repeated” shall be deleted and after the word “Act”, the words “which shall also include non-compliance of the offer letter by the successful bidder” shall be added; and

(b) in sub-section (2), after the word “title”, wherever occurring, the words “or any registration” shall be inserted.

37. Amendment of section 62 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.— In the said Act, in section 62,-

(a) for the word “five” wherever occurring, the word “three” shall be substituted;

(b) for the words “may grant through normal procedure” the comma and the words “, the reserve price shall be reduced and the process of auction shall be repeated on the reduced rate. In case of no success, the area shall be granted through negotiation on the terms and conditions as deemed appropriate by the Licensing Authority” shall be substituted; and

(c) the full stop appearing at the end shall be substituted with a colon and thereafter the following proviso shall be added, namely:

“Provided that the areas for minerals as specified in serial number (2) of schedule IX of this Act shall be re-auctioned after expiry of lease period on the condition that the person holding the area under mineral title before auction shall have the first right of refusal in accordance with the bid amount offered by the highest bidder through issuance of offer letter on the prescribed terms and conditions. In case of failure to comply with the terms and conditions of offer letter the same shall be withdrawn and the highest bidder shall be issued offer letter on prescribed terms and conditions.”.

38. Insertion of new section 62A to the Khyber Pakhtunkhwa Act No. XXXVI of 2017.--- In the said Act, after section 62, the following new section shall be inserted, namely:

“62A. Competitive bidding.---The Licensing Authority may invite competitive bids for the issue of an exploration license or a mining lease in respect of any area of land which is not subject to-

- (a) a reconnaissance license which gives the holder an exclusive right such as is referred to in clause (c) of section 13;
- (b) an exploration license, a mining lease or a mineral deposit retention license or a prospecting license or a mining lease for mineral under small scale mining;

and may, in accordance with this Act, issue appropriate mineral title to the successful bidder.”.

39. Amendment of section 68 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.--- In the said Act, in section 68, in sub-section (1), for the word “seven”, the word “fourteen” shall be substituted.

40. Deletion of section 73 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.--- In the said Act, section 73 shall be deleted.

41. Amendment of section 78 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.--- In the said Act, in section 78,-

- (a) in sub-section (1), the words “or temporary permit” shall be deleted and the full stop appearing at the end shall be substituted with a colon and thereafter the following shall be added, namely:

“Provided that owner of a land may level the land or make excavation of mineral for agricultural or building purposes other than commercial mineral extraction or marketing subject to prior approval of the Director General.”;

- (b) in sub-section (2), for the words “three years”, the words “one year” shall be substituted and after the words “open auction” the words “or sealed tenders or e-bidding” shall be added;
- (c) for sub-section (3), the following shall be substituted, namely:

“(3) A lease shall be granted in respect of all minor mineral blocks in a district duly approved by the District Auction Committee. However, in case of non-auction of the whole district, the District Auction Committee on the approval of Licensing Authority, may auction minor mineral blocks of the

district independently. The lease shall consist of those minor mineral blocks in the district that are approved by the Licensing Authority.”; and

- (d) in sub-section (4), for the words “area in respect of which a lease is granted” the words “minor mineral block” shall be substituted and after the word “lines”, the words “not exceeding thirty two hundred acres” shall be inserted.

42. Amendment of section 80 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.-

-- In the said Act, in section 80,-

- (a) in sub-section (4), for the word “ten” the words “twenty five” shall be substituted and before the word “National” the word “computerized” shall be inserted;

- (b) for sub-section (7), the following shall be substituted, namely:

“(7) On conclusion of the auction proceedings, the committee shall issue demand notice to the highest bidder for deposition of one fourth of the bid money within three days. On payment of this amount, the District Auction Committee shall forward its recommendation to the Licensing Authority for approval. If the highest bidder fails to deposit one fourth of the bid money within three days after the issuance of demand notice, his earnest money shall be forfeited in favor of Government and the bid of second highest bidder shall be considered as highest bid, subject to the condition that the difference between the first and second highest bids is not more than ten percent of the highest bid.”;

- (c) for sub-section (9), the following shall be substituted, namely:

“(9) The earnest money deposited by the applicants shall be refunded immediately after conclusion of the auction proceedings, except to the first highest bidder. Earnest money of the second highest bidder shall also be retained if the difference between the first and second highest bids is not more than ten percent of the highest bid.”;

- (d) sub-section (10) shall be deleted;

- (e) in sub-section (12), after the words “highest bidder”, the words “and the unforfeited earnest money shall be refunded to the relevant bidder” shall be inserted;

- (f) in sub-section (17), the full stop appearing at the end shall be substituted with a colon and thereafter the following proviso shall be added, namely:

“Provided that in case of death of the lessee, the lease may be transferred for the remaining validity period to the legal heirs or successor upon his request

subject to payment of all government dues and completion of requisite codal formalities.”; and

- (g) sub-section (22) shall be deleted.

43. Amendment of section 86 of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.-

-- In the said Act, in section 86, in sub-section (2),-

- (a) in clause (a),-

- (i) for the words and comma “three years, or with fine” the words “five years and with a fine” shall be substituted;
- (ii) after the words “two million” the words “or with both” shall be deleted;
- (iii) for the word “may” appearing for the third time the word “shall” shall be substituted; and
- (iv) for the words “which may extend to one thousand” the words “of five thousand” shall be substituted; and

- (b) in clause (b),-

- (i) after the word “imprisonment” the words “for a term of minimum one month” shall be inserted; and
- (ii) after the words “or fine” the words “of minimum rupees twenty thousand” shall be inserted.

44. Insertion of new section 102A in the Khyber Pakhtunkhwa Act No. XXXVI of 2017.--- In the said Act, after section 102, the following new section shall be inserted, namely:

“102A. Appellate Tribunal.---(1) Government shall, by notification in official gazette, establish an Appellate Tribunal.

(2) The Appellate Tribunal shall consist of a Chairman and such members as may be prescribed.

(3) The qualification and terms and conditions of service of the Chairman, members and other staff of the Appellate Tribunal shall be such as may be prescribed.

(4) Till the appointment of its own subordinate staff by the Appellate Tribunal, the Department shall provide Secretariat support the Appellate Tribunal.

(5) The Appellate Tribunal shall hear appeals against the orders of Licensing Authority in relation to small scale mining, large scale mining and minor minerals in the manner as may be prescribed.”.

45. Insertion of new section 103A in the Khyber Pakhtunkhwa Act No. XXXVI of 2017.--- In the said Act, after section 103, the following new section shall be inserted, namely:

“103A. Amendment of Schedules.---Government may from time to time by notification in the official Gazette, amend the Schedules appended to this Act.”.

46. Amendment of Schedule-I of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.--- In the said Act, in Schedule-I, against serial No.7, for the figure “500” the figure “800” shall be substituted.

47. Amendment of Schedule-II of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.--- In the said Act, in Schedule-II,-

- (a) in the heading “LIMITATION OF AREA FOR SMALL SCALE MINING”, for the table, words and colon “following limits in terms of area:” the words “area limitations as per Schedule-I of this Act.” shall be substituted;
- (b) in the heading “APPLICATION FOR MINING LEASE AND DEVELOPMENT SCHEME”, in clause (1), for the words “one month”, the words “three months” shall be substituted; and
- (c) in the heading “APPROVAL OF DEVELOPMENT SCHEME AND COMMENCEMENT OF OPERATIONS”, in clause (1), after the words “Licensing Authority”, the words “or its authorized officer in this behalf” shall be inserted and for the word “one”, the word “two” shall be substituted.

48. Amendment of Schedule-IV of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.--- In the said Act, in Schedule-IV,-

- (a) in group A,-
 - (i) for the word “emeralds” the word “Granite” shall be substituted;
 - (ii) the words “emerald minerals” shall be deleted; and
 - (iii) after the word “gypsum”, the words “Quartzite, Laterite, Red oxide, Sandstone, Slate stone” shall be inserted; and
- (b) in group B, the word “Indium” shall be deleted.

49. **Amendment of Schedule-V of the Khyber Pakhtunkhwa Act No. XXXVI of 2017.**--- In the said Act, in Schedule-V, in Part-I, the offenses at serial No. 2 and 3 shall be deleted.

50. **Insertion of a new Schedules to the Khyber Pakhtunkhwa Act No. XXXVI of 2017.**--- In the said Act, after the existing Schedule-VII, the following new Schedules shall be added, namely:

SCHEDULE-VIII

(See sub-section (2) of section 1)

SPECIAL PROVISIONS PERTAINING TO REGULATION OF MINERAL RESOURCES IN THE MERGED DISTRICTS AND SUB-DIVISIONS

1. These special provisions shall be valid for a maximum period of ten years.
2. The Government shall bring necessary provisions or amendments in the Land Revenue Laws commensurate with the local customs or traditions which may include land settlement or any administrative dispensation for the identification of land ownership.
3. Priority for the grant of mineral titles shall be with the local community, who owns and possesses the land having mineral resources.
4. With the consent of the local community, through Jalsa-e-Aam, any person belonging to that community may obtain mineral title for the area being owned by the local community.
5. The due shares of the local community in the mineral bearing area, as per their prevailing customs, shall be identified by the district administration through Jalsa-e-Aam followed by registration of the deed with the concerned sub-registrar or where the post of sub-registrar is not available in the district the same shall be registered in the divisional headquarter.
6. Cases, for grant of mineral titles, in the merged districts and sub-divisions already processed after proper Jalsa-e-Aam and have not been disputed by the respective Tribes, Sections, Sub-sections or Clans, shall get the same priority as was assigned to them by the Mineral Directorate of erstwhile Federally Administered Tribal Areas Development Authority.
7. All granted leases and licenses shall be reduced to the maximum area limitation as per Schedule-I of this Act. The concerned lessee or licensee shall assign the remaining granted area to the local community after payment of the amount incurred on the development of the area duly assessed by a committee nominated by the Licensing Authority. In case of failure to assign the lease or license, to the local community, within six months after payment of the assessed amount, the lease or license shall be cancelled.
8. In case any dispute arises between the stakeholders of mineral bearing area after the grant of mineral title, the matter shall be referred to a Dispute Resolution Committee for submission of its recommendations to the Mineral Titles Committee for consideration. The Committee shall consist of the following, namely:

- | | | |
|-----|--|-----------------------|
| (a) | Concerned Deputy Commissioner; | Chairman |
| (b) | a representative of the local mining association nominated by the Licensing Authority; | Member |
| (c) | a prominent elder of the locality nominated by the Licensing Authority; and | Member |
| (d) | Assistant Director Mineral concerned. | Member-cum-Secretary. |
9. The Dispute Resolution Committee shall also recommend resolution of inter-tribal land disputes, facilitate demarcation and division of land between the sub-sections and clans as per their traditional Rewaj and settled principles of due shares. The matter may be deliberated upon by two such committees if the dispute arises between two tribal districts. The Committee or Committees may seek help of any relevant Department of Government exercise of their duties.
 10. Any lease granted to any Public organization, in the merged districts and sub-divisions before their merger with Khyber Pakhtunkhwa, shall continue to operate as per the terms and conditions of the agreement signed with the Mineral Directorate of erstwhile Federally Administered Tribal Areas Development Authority.
 11. Applications for the grant of mineral title in the merged districts and sub-divisions, received to the Mineral Directorate of erstwhile Federally Administered Tribal Areas Development Authority before its merger with the Department, vide Notification No. SO(E-1)/ E&AD/9-126/2018, dated 15-11-2018, shall be processed for Jalsa-e-Aam as per their priority.
 12. Any online or manual application received for the grant of a mineral title in the merged tribal districts and tribal sub-divisions, during the period from 15-11-2018 till the commencement of the Khyber Pakhtunkhwa Mineral Sector Governance (Amendment) Act, 2019 shall be rejected.
 13. The areas already reserved for auction under section 62 of this Act and any area having mineral reserves, proved as a result of studies carried out at the public expense, shall be leased out, under any terms and conditions, as deemed appropriate by the Licensing Authority.
 14. The provisions of section 102 of this Act shall apply mutatis mutandis in relation to this Schedule.
 15. All other issues regarding mineral titles, not specifically mentioned in this Schedule, shall be governed by the rest of the provisions of this Act.

“SCHEDULE-IX
(See section 11)

The initial period of mining lease shall be as follows:

S. No.	Category	Period of Lease
1.	Areas granted under Small Scale Mining, through normal procedure or open auction, for mineral or group of minerals other than those mentioned in serial No. (2). Also, areas granted to Large Scale Mineral Titles holders or cement manufactures.	Thirty years renewable for further terms of thirty years each.
2.	Areas containing Phosphate, Placer gold, precious or semi-precious gemstones granted through open auction.	Ten years with no further renewal.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA

(NASRULLAH KHAN KHATTAK)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa