

PROVINCIAL ASSEMBLY OF SINDH
NOTIFICATION
KARACHI, THE 28TH DECEMBER, 2021

NO.PAS/LEGIS-B-16/2021-The Sindh Mines and Minerals Governance Bill, 2021 having been passed by the Provincial Assembly of Sindh on 25th November, 2021 and assented by the Governor of Sindh on 17th December, 2021 is hereby published as an Act of the Legislature of Sindh.

THE SINDH MINES AND MINERALS GOVERNANCE ACT, 2021.

SINDH ACT NO. XXXIV OF 2021

AN
ACT

to provide for an effective regulation of minerals, mines, mining and mineral dressing in the Province of Sindh.

WHEREAS it is expedient to provide for an effective regulation of minerals, mines, mining and mineral dressing in the Province of Sindh so as to create a transparent, competitive and enabling business environment for investment in mining and development of minerals and to provide for institutional oversight to steer and develop mining sector and for this purpose to regulate grants of mineral titles, mineral permits and mineral dressing in the Province of Sindh, and to provide for matters ancillary thereto;

Preamble.

It is hereby enacted as follows:-

**CHAPTER-I
PRELIMINARY**

1. (1) This Act may be called the Sindh Mines and Minerals Governance Act, 2021.

**Short title,
extent and
commencement.**

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

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context -

Definitions.

(i) "Abetment" means abetment as defined under section 107 of the Pakistan Penal Code (XLV of 1860);

(ii) "Abettor" means a person who abets an offence as described under section 108 of the Pakistan Penal Code (XLV of 1860);

(iii) "Appellate Authority" means the Secretary to Government of Sindh for Mines and Minerals Development Department to hear appeals against the orders of Licensing Authority in relation to Small Scale and Large Scale Mining;

(iv) "Assign" shall, with its grammatical variations and cognate expressions, include transfer or mortgage of mineral title or permit;

(v) "Assignee" means a person, a firm or a company, to whom a license, lease or permit is assigned, transferred or mortgaged under this Act;

(vi) "Authorized Officer", in relation to any provision of this Act, means any officer authorized by the Licensing Authority;

(vii) "Company" means a Company as defined in the Companies Act, 2017 (Act No.XIX of 2017), or a body incorporated in Pakistan under any law for the time being in force;

(viii) "Conditions" includes terms, limitations and stipulations;

(ix) "Department" means the Mines & Mineral Development Department of Government of Sindh;

(x) "Director Exploration" means Director Exploration of Mines and Minerals Development, Sindh;

(xi) "Director General" means the Director General Mines and Minerals Development, Sindh;

(xii) "Director Title and Licensing" means the Director Title and Licensing in the Directorate General Mines and Minerals Sindh;

(xiii) "Enforcement Officer" means the Enforcement Officer of Mines and Mineral Development, Sindh for carrying out the duties under this Act and rules;

(xiv) "Environment" means the environment associated with mining and its auxiliary operations viz. crushing, grinding transportation and finishing processes and it includes both working environment and adjacent environment;

(xv) "Exploration" means search for minerals, and includes the determination of their extent and economic value and evaluation;

(xvi) "Exploration Area" means the area of land, including its lateral limits, to which an exploration license relates;

(xvii) "Exploration License" means an exploration license issued under this Act;

(xviii) "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 **for** marketing;

(xix) "Force" means the Mines and Minerals Force established under this Act;

(xx) "Functions" includes powers and duties of various authorities and officers as prescribed under this Act and rules;

(xxi) "Good Reconnaissance Practices" "Good Exploration Practices" or "Good Mining Practices" means practices which are generally accepted internationally by persons involved in reconnaissance operations, exploration operations, or mining operations, as the case may be, as good, safe and necessary in carrying out such operations;

(xxii) "Government" means the Government of Sindh;

(xxiii) "Group of minerals" means a group of minerals found in mining area;

(xxiv) "Default" means breach of any provision of this Act or of any condition of a mineral title or mineral permit;

(xxv) "Land" includes surface bearing any mineral, land beneath water and the subsoil of land;

(xxvi) "Large Scale Mining" means a process of mining requiring reconnaissance license, exploration license, mining lease or mineral deposit retention license;

(xxvii) "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;

(xxviii) "Lease" means a mining lease granted as may be prescribed;

(xxix) "Lessee" means a person to whom a lease is granted under **this act and** rules;

(xxx) "License" means a prospecting license, a reconnaissance license, an exploration license or as the case may be, a mineral deposit retention license and license granted as may be prescribed;

(xxxi) "Licensee" means a person to whom a license is granted under the rules;

(xxxii) "Licensing Authority" means the Director General, Mines and Minerals Development, Sindh to whom applications for mineral title, mineral permit, temporary permit for leveling of land for the purpose of **extraction and** lifting of mineral or application for installing of crush plant or application for stocking of minerals are to be submitted;

(xxxiii) "Mine", when used as a noun, means any surface or underground excavation, including quarry, where any operation for the purpose of searching for or obtaining or **mining** a mineral has been or is

being carried on, and includes all works, machinery, **track**, rope-ways, headings and siding, whether above or below ground, in or adjacent or belonging to or appurtenant to a mine, but does not include the manufacturing or processing plant; or when used as a verb, means to carry on mining operations;

(xxxiv) “Mineral” means all surface and sub-surface natural deposits of ores and metals and other metallic and non-metallic substances, including naturally occurring aqueous solutions, **commercially extractable quantity**, containing more than one percent mineral salt in solution, but does not include –

- (i) radioactive minerals necessary for the generation of nuclear energy except Beryl;
- (ii) mineral oil;
- (iii) natural gas; and
- (iv) coal;

(xxxv) “Mineral Agreement” means an agreement to be executed under the provisions of the **act and** rules;

(xxxvi) “Mineral Operation” means geological and geochemical exploration operations or mining operations or both;

(xxxvii) “Mineral Deposit Retention License” means a mineral deposit retention license issued under this Act;

(xxxviii) “Mineral Dressing” means processing, crushing and grinding of minerals;

(xxxix) “Mineral Permit” means an exploration permit or a mining permit issued under the rules;

(xl) “Mineral Title” means a reconnaissance license, an exploration license, a mineral deposit retention license or a mining lease;

(xli) “Mines Committee” means a Committee constituted under section 5;

(xlii) “Mines and Mineral Force” means force appointed under this Act;

(xliii) “Mining Area” means an area of land including its lateral limits within the mining lease or permit limits;

(xliv) “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;

(xlv) “Prescribed” means prescribed by rules made under this Act;

(xlvi) "Province" means the Province of Sindh;

(xlvii) "Reconnaissance License" means a reconnaissance license issued under the **act and** rules;

(xlviii) "Reconnaissance Operations" means any operations carried on in a general search for any mineral by means of aerial sensing techniques, including geophysical surveys, photo-geological mapping or imagery carried on from the air, and reconnaissance shall be constructed accordingly;

(xlix) "Rent" means a rent for an area granted and demarcated for a mineral title or mineral permit **to the owner of the land**;

(l) "Retention Area" means the area of land, including its lateral limits, to which a mineral deposit retention license relates;

(li) "Rules" means rules made under this Act;

(lii) "Small Scale Mining" means a mining other than the large scale mining;

(liii) "Stock of Minerals" means accumulation of minerals including Reti (Sand) and Bajri made at any place in Sindh for the purpose of **selling** or marketing;

(liv) "Temporary Permit" means the temporary permit issued under the rules for leveling and lifting of mineral, leveling of land and removing of debris.

CHAPTER-II ADMINISTRATION

3. (1) Except with the prior sanction of the Licensing Authority, no license to prospect for minerals or quarrying of mineral, for exploration of mineral, lease of mines and minerals, permit of mines and mineral, permit for making stocks of minerals and license for establishing mineral dressing unit (processing, crushing, grinding) shall be granted, otherwise than in accordance with the provisions of this Act or rules made under this Act.

**Grant of Licences
leases and permits.**

(2) No sanction shall be accorded if it adversely affects the topography, archaeology, ecology and environment of that area.

4. Any Mineral title, prospecting license or quarry license or mining lease or mineral permit granted or renewed by the competent authority under any law or rules for time being in force, before the commencement of this Act, shall be deemed to have been granted or renewed in accordance with the provisions of this Act and shall continue to remain in operation for a period for which it is granted.

**existing licences, leases
and permits to
continue.**

5. There shall be a Mines Committee, which shall advise the Licensing Authority, in relation to such matters concerning the administration of this Act and the rules made there under with respect -

Mines Committee.

- (a) to grant or renew **or refuse or cancel** a reconnaissance, an exploration, prospecting, or mineral deposit retention license, a mining lease, an exploration permit, a mining permit, a temporary permit for lifting of mineral for the purpose of leveling of land, a permit for making stock of minerals, a license for establishing mineral dressing unit (viz: processing, crushing and grinding);
- (b) to amend the terms **and** conditions of any reconnaissance, a prospecting, an exploration, or mineral deposit retention license, a mining lease, an exploration permit, a mining permit, a temporary permit for lifting of mineral for the purpose of leveling of land, a permit for making stock of minerals and a license for establishing of Mineral Dressing Unit (viz processing, crushing and grinding);
- (c) to invite competitive bids in case there are more than one application of mineral title or permit as deemed appropriate in public interest;
- (d) to grant a reconnaissance, an exploration, prospecting, or mineral deposit retention license, a mining lease, an exploration permit or a mining permit to a person or company in excess of the limit;
- (e) **to grant an additional area for reconnaissance in excess of the allowed area but not exceeding the area described under the rules and policy;**
- (f) to convert, assign, amend, **approve**, surrender, the reconnaissance, an exploration, prospecting, or mineral deposit retention license, a mining lease or a mining permit;
- (g) oversee the enforcement of laws, rules and regulations relating to mines and minerals;
- (h) review and determine the rates of fee and royalty, from time to time, with the approval of Government;
- (i) assist the Licensing Authority in performance of its functions under this Act or rules made thereunder.

(2) Government may by notification in the Official Gazette, determine the composition of the Mines Committee.

(3) The quorum of meeting shall be two-third of its members and all the decisions shall be taken by simple majority of total numbers of votes of the Mines Committee.

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

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

(6) The Mines Committee may delegate any of its functions to **a sub-committee of a minimum of three members of the Committee.**

(7) The office of Director General, Mines and Minerals, Sindh shall provide secretariat support to the Committee.

6. (1) Where any matter is referred to the Mines Committee for its advice and the Licensing Authority decides to dispose of the matter in accordance with the advice of the Mines Committee, the Licensing Authority shall, before disposing of the matter, furnish the committee with a statement of its reasons for so doing.

**Meetings and
Procedure for
Meetings of the Mines
Committee.**

(2) Minutes shall be recorded of all meetings of the mines committee and shall be signed by all members of the committee who attended the meeting.

(3) Subject to the provisions of this Act, the Mines Committee shall determine its own procedures as may be prescribed in the rules; provided that the Committee shall meet **at-least once in ninety days.**

7. (1) Government may, by notification in the Official Gazette, delegate any of its powers under this Act or rules made thereunder to any officer of the Department.

Delegation of powers.

(2) The Licensing Authority may by general or special order and subject to such conditions may delegate its powers under this Act or rules to any officer of the Department with the permission of the Department but such powers shall not be the powers delegated to it by any other authority.

8. (1) Information disclosed under this Act to the Licensing Authority or the Department, shall not be disclosed to any unauthorized person without prior approval of the Department, except to the extent that-

Confidentiality.

- (a) disclosure is authorized or required by law;
- (b) disclosure is required by order of a competent court, or for the purpose of any arbitration or litigation involving Government;
- (c) disclosure relates to information contained in the title register or Permit register;
- (d) disclosure is necessary to compile and publish official statistical information concerning the geology and mineral resources of Sindh;
- (e) disclosure is for the purpose-
 - (i) implementing this Act or rules made thereunder or a mineral title or mineral agreement;

(ii) the formation and implementation of policy relating to development of mineral resources in the Province of Sindh, mineral policy or of giving advice to other Government Departments or agencies; or

(iii) any discussion or dealing with the Federal Government:

- (f) disclosure is effected with the prior permission in writing of the Minister Incharge of the Department granted in respect of any matter which, in the opinion of the Minister, is of a general nature and may be disclosed in the public interest; or
- (g) disclosure is in accordance with a relevant mineral agreement or a mineral title; and
- (h) the person providing the information authorized its disclosure at the time of providing information.

(2) If the Licensing Authority or an officer employed in or by the Department uses, for the purpose of personal gain, any information disclosed under this Act, that comes to the Licensing Authority or that officer in the course of, or by reason of that employment, that authority or officer is guilty of an offence and shall be punishable under the Efficiency and Discipline Rules in force in the Government.

(3) Where a mineral title or mineral permit ceases to have effect in relation to an area of land and the holder of the title or permit does not acquire a further title or permit over that area, the government shall have the right to disclose any information which it has received from the holder in respect of that area.

9. (1) No liability shall attach to an officer employed in or by the Mines and Mineral Development Department, the licensing authority or an authorized officer, in respect of the exercise or performance, or purpose of exercise or performance in good faith of any function under this Act or rules made thereunder.

**Immunity of Officers,
etc.**

(2) No suit, prosecution or other legal proceedings whatever shall lie against any officer or official for anything which is done or intended to be done in good faith under this Act or rules made there under.

10. For the purpose of development of mineral resources in the Province, the following shall be granted or issued, as the case may be, by the Licensing Authority on advice of the Mines Committee as per the procedure prescribed by rules:-

**Licenses, leases or
permits for minerals.**

- (i) mineral title for large scale mining and mineral permits for small scale mining respectively as provided in the rules;
- (ii) temporary permit for lifting of mineral for the purposes of Leveling of land;
- (iii) license for establishment of mineral dressing unit (viz: processing, crushing and grinding);

(iv) permit for making stock of minerals for purpose of **selling** or marketing at any place in the Province.

11. Notwithstanding anything contained in this Act or rules, the Licensing Authority on the recommendations of Mines Committee may, by general or special order, grant license and mining lease or mining permit for such period and for such area on such terms and conditions as may be specified in the order to such public organization, as deemed appropriate in the public interest. **Exception.**

12. For the purpose of small scale mining, preferential rights may be given to the persons residing in that local area subject to the condition that the person of that local area has applied for such small scale mining. **Preferential Rights.**

13. (1) The holder of a mineral title or mineral permit shall, with the permission of the Licensing Authority, have the right to **access** or use the data such as geological, geo-chemical, petro-physical, engineering, cores and production data, as well as all interpretative and derivative data including reports, studies, **analysis**, interpretations, bulk sampling results, assaying results, evaluations and other information in respect of exploration or mining operations. **Rights Over Data.**

(2) The data under sub-section (1) may be accessed or used, free of cost, for the purpose of exploration or mining operations and to retain copies or samples of material or information constituting the data.

CHAPTER-III FINANCIAL

14. (1) The holder of a mineral title, mineral permit or temporary permit other than holder of reconnaissance license who has won **the bid of** any mineral in the course of any exploration or mining operations carried in by him, shall pay to Government, in respect of any such mineral disposed of by him, royalty as may be prescribed by rules. **Royalties payable on minerals.**

(2) Any mineral shall be deemed to have been disposed of if it is –

- (a) sold, donated or bartered;
- (b) appropriated to treatment or other processing; or
- (c) exported without having been dealt with as provided in clauses (a) or (b), prior to export.

(3) The holder of an exploration license or prospecting license, or as the case may be, minerals deposit retention license, shall pay to Government in respect of any such mineral or group of minerals removed from the exploration or prospecting, or as the case may be, retention area for the purpose of testing, assaying or pilot plant studies and royalty as may be prescribed.

(4) Rate of royalty on minerals shall be determined as provided under clause (j) of section 5.

15. The Licensing Authority may, for the purpose of verification or collection of royalty on minerals dispatched from the licensed or leased area or areas under mining permit, establish check posts at suitable places, authorize any officer or official to check the mineral in transit and recover royalty.

Establishment of check posts.

(2) The Licensing Authority may order the collection of royalty on minerals dispatched from the licensed or leased area or areas under mining permit, as the case may be through competitive and transparent process that may include sealed tenders or open auction or any other method as may be decided by Government on the terms and conditions determined by it.

16. (1) The holder of a mineral title or a mineral permit shall pay an annual rent fee as may be prescribed in respect of the area to which the mineral title or permit relates –

Rental and Renewal Fees

- (a) in the case of the land belonging to Government in accordance with the rate as may be prescribed;
- (b) if the land belongs to a private person, a title or permit holder shall pay surface rent to the owner of the land actually used or occupied superficially at such rate and in such manner as may be mutually agreed upon between the lessee or permit holder and the land owner, and in case of disagreement between them, at such rate and in such manner as may be determined by Licensing Authority or the Surface Rent Committee appointed by the Licensing Authority.

(2) Payment of the annual surface rent in respect of a mineral title or mineral permit shall be made within thirty days after the date of issue of the mineral title and thereafter shall be made on the same date of each year.

(3) Where any person has failed to pay any amount of annual surface rent under this section, he shall be liable to pay fine equal to fifty percent of the actual annual rent as prescribed under the rules.

(4) The holder of a minerals title or mineral permit shall also pay to Government, in respect of private land occupied or used by that holder for the purpose of mineral operation, the water rates, if any, assessable under any law or rules regulating the irrigated water, which would have applied to the land if it had been occupied for that purpose.

(5) A renewal fee in respect of the renewal of a mineral title or a mineral permit shall be paid in accordance with the rules.

17. (1) Every licensee, lessee or mining permit holder shall pay such annual fee as notified by Government on the recommendations of the Mines Committee from time to time for the area covered by the license, lease or mineral permit.

Annual fee.

(2) The fee shall be payable for each mineral separately even if the area under license, lease of mineral permit for different minerals remains the same.

CHAPTER-IV
MINERAL PRODUCTION AND DISPATCH

18. (1) The minerals excavated from any licensed or leased area under mining permit shall be dispatched from the area on prescribed dispatch slips printed by the Department through Government Printing Press and duly authenticated by the Licensing Authority or its authorized officer.

Dispatch of minerals.

(2) The dispatch slips shall clearly indicate the date, time, license lease, permit number, name of buyer, vehicle number, quantity of mineral and its destination.

(3) Any vehicle or carrier found carrying mineral without dispatch slip under sub-sections (1) and (2) shall be considered as unauthorized excavated mineral and shall be dealt in accordance with this Act or any other law or rules which prohibit the excavation of minerals.

19. (1) If it is discovered that the holder of a mineral title or mineral permit has under reported mineral production, the Licensing Authority shall charge royalty up to ten times of the notified rate, on the quantity of mineral under reported, forfeit the security deposit and performance guarantee and may also cancel the mineral title or mineral permit considering 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 or mineral permit.

Underreporting of mineral production.

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

CHAPTER-V
RESTRICTIONS, VIOLATION AND PUNISHMENTS

20. No mining concession shall be granted in any area notified by Government as banned area, from time to time.

Restriction on grant of Mining Concession.

21. No person shall make mineral stock at any place in the Province without prior permission in writing from the Licensing Authority as may be prescribed.

Restriction on making of illegal mineral stock.

22. No person shall perform mineral dressing (viz. processing, crushing and grinding), without written permission from the Licensing Authority as may be prescribed.

Restrictions on mineral dressing.

23. (1) Government or officer authorized by it may, by order, require the person directly or indirectly involved in illegal mining, to immediately stop such illegal mining, remove the structure, machinery and equipment, if any, from the mining or exploration area.

Stopping of mining operation and Removal of machinery from area under cancelled / expired mineral concession.

Explanation.- Lessee or licensee or permit holder who after the expiry of the period of lease, license or permit on determination of such lease, license or permit, continues to retain unlawfully possession of mining area shall, for the purpose of this sub-section, be deemed to be responsible for illegal or unauthorized mining or exploration.

(2) The order under sub-section (1) may be served by-

- (a) giving or tendering it to the person responsible for illegal and unauthorized mining or exploration; or
- (b) affixing it at a conspicuous place on or near the mining or exploration area to which it relates or sending it by registered post, reliable courier service or through publication in the leading newspapers.

(3) If Government or officer authorized by it, is satisfied that illegal or unauthorized mining or exploration is being carried out despite the order served under sub-section (2), the authority or authorized officer shall direct the person(s) responsible for illegal mining or exploration to stop such illegal or unauthorized mining or exploration forthwith.

(4) Whosoever including abettor disobeys the orders under sub-section (3) shall be punished with imprisonment of either description for a period of six months or with fine not less than fifty thousand rupees or with both.

24. (1) If any person refuses or fails to comply with the order under sub-section (1) of section 23 after thirty days from the receipt of order, he shall be evicted by such force as may be necessary by an Enforcement Officer or officer authorized by Government in this behalf and the structure, machinery, equipment etc., if any, on the mining or exploration site, shall stand forfeited to Government.

Eviction from mineral site and requiring assistance from local police

(2) If any officer authorized to take action under sub-section (1), requires police assistance, if necessary, for eviction or removal, he may send such requisition to the officer in charge of a police station within the local limits of which the mining or exploration site or area is situated and the police officer shall on such requisition render the required assistance.

25. Where any structure is demolished or machinery removed on eviction under section 24, the cost of demolition or removal of such structure or machinery etc. shall be borne by the person who carried out illegal mining or exploration on the site and shall be recovered from his security deposit with Government.

Cost of demolition and removal of structure.

26. If arrears of rent or any other dues are payable in respect of any granted mine, permit or exploration license by the person evicted therefrom, the amount of such arrears with surcharge, if any, accrued thereon shall be recovered from such person from his security deposit.

Recovery of arrears of land rent and dues.

27. (1) Any person involved in illegal reconnaissance, exploration, mining or stock of any mineral including Reti (sand) and Bajri without the valid license or permit issued by the Licensing Authority, shall be deemed to have committed offence and he shall be liable to punishment with imprisonment of either description for a term, which may extend to three years but not less than six months, or with a fine which may extend to Rs.10,00,000/- (rupees one million) or with a fine of rupees equivalent of the market value of the

Unauthorised Mining, Stock and Dressing of Mineral and punishment.

extracted mineral but not less than Rs.300,000/-(rupees three lacs), whichever is higher, **or with both.**

Explanation.- The market price for the purpose of this section shall be determined by a Committee comprising the Director, Title and Licensing, as its **convener** and members which may include the Director, Exploration, Assistant Director, Concession, Deputy Director or Assistant Director of the concerned District or area and Mineral Development Officer concerned.

(2) An abettor including a public servant who is directly or indirectly involved in assisting or abetting the offence of illegal mining or exploration or mineral stock, as the case may be, shall be punished with imprisonment for a term which may extend to one year but not less than three months, or with fine which may extend to five lac rupees or with both.

(3) If the officer in-charge of police station **willfully** fails to provide the necessary police assistance under sub-section (2) of section 24, the matter shall be reported to the Inspector General of Police, Sindh to take disciplinary proceedings against such officer.

(4) Any person purchases minerals illegally mined out from any land, he shall be deemed to be accomplice and abettor of the persons mentioned in sub-sections (1) and (2) and tantamount to commit the same offense and shall be dealt with accordingly.

(5) If any person obstructs free access of a holder of a mineral title or permit to the licensed or leased area or area under mineral permit or directly or indirectly tries to interfere with the prospecting or exploration or mining operations by a holder of a mineral title, he shall be punished with imprisonment for a term which may extend up to three years but not less than six months or a fine which may extend to two hundred thousand rupees but not less than one hundred thousand rupees or with both.

28. (1) If the holder such mineral title or mineral permit repeatedly violates the provisions of this Act or rules or any terms and conditions of the mineral title or mineral permit and has failed to rectify such violation within the period as fixed by the Licensing Authority, the Licensing Authority shall, subject to notice, reserve the right to cancel the mineral title or mineral permit, as the case may be.

**Repeated violations
and default in payment
of dues.**

(2) If any dues payable under a mineral title or mineral permit are not paid within three months as may be specified by the Licensing Authority in the order, the Licensing Authority may subject to notice, revoke the mineral title or mineral permit and take possession of the premises comprised therein.

29. (1) The Licensing Authority, if is satisfied that there are serious and repeated violations of this Act being committed by the mineral title or mineral permit holder, he shall, by order, blacklist such holder of mineral title or mineral permit, as the case may be.

Black listing.

(2) The mineral title or permit held by such person, on account of his

blacklisting, shall stand terminated and such person shall not be granted or issued mineral title or mineral permit in future by the Licensing Authority.

(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, he shall render such other firm or company ineligible for the grant of mineral title or mineral permit.

CHAPTER-VI ENFORCEMENT

30. (1) Government may for the prevention of illegal and unauthorized mining, to retrieve the possession of minerals from illegal miners or stocker and to enforce the provisions of this Act, establish an Mines and Mineral Force which shall comprise of the following Senior and junior ranks officers, notified by Government:-

**Establishment of Mines
and Mineral Force.**

SENIOR RANK

- (i) Director General of Mines and Mineral Development, Sindh
- (ii) Enforcement Officer

JUNIOR RANK IN EACH DISTRICT

- (i) Inspector of Mines and Minerals Force
- (ii) Sub-Inspector(s), Assistant Sub-Inspector(s) of Mines and Minerals Force.
- (iii) Head Constables and Constables of Mines and Minerals Force.

(2) Government may establish, as many Mines and Mineral Force stations, as are required for the efficient functioning for carrying out the purpose of this Act and rules made thereunder.

(3) The members of the Staff shall be governed by the provisions of the Sindh Civil Servants Act and rules made thereunder.

31. The Force shall have the following functions:-

- (a) to lodge first information report (F.I.R.), inquire into, investigate and prosecute all offenders relating to illegal and unauthorized mining or stock including an attempt or conspiracy to commit, or an abetment of any such offence or any offence committed under this Act or rules;
- (b) to retrieve possession from the illegal and unauthorized mining and stock;
- (c) to use such arms, ammunition and equipment as are supplied to them by the Government through the Director General or Enforcement Officer;
- (d) to perform any other related functions which may be assigned to it by Government.

**Functions of the Mines
and Mineral Force.**

32. (1) The officers of the Force shall for the purpose of any inquiry or investigation under this Act, have within his jurisdiction, such powers, including the powers relating to search, arrest of persons, seizures of property and such duties, privileges and liabilities as a police officer has in respect of offences under the Code of Criminal Procedure, 1898 (Act V of 1898) or any other law for the time being in force.

Powers of Mines and Mineral Force.

(2) Save when the Director General otherwise directs, an officer of the Force not below the rank of an Inspector may, for the purpose of any inquiry or investigation under this Act, exercise all the powers of an officer-in-charge of the Police station in any area in which he is for the time being and, when so exercising such powers, shall be deemed to be the officer-in-charge of police station discharging his functions as such within the limits of his station including the lodging of the First Information Report.

(3) Without prejudice to the generality of the provisions of sub-section (1) and sub-section (2), any officer of the Force not below the rank of Sub Inspector authorized by the Director General in this behalf, may arrest without warrant, any person who has committed or against whom a reasonable suspicion exists that he has committed any of the offences relating to the illegal or unauthorized mining referred to in this Act or any other law for the time being in force, no person shall be kept in police custody for more than twenty four hours, unless a remand is obtained from a Judicial Magistrate.

(4) An officer of the Force not below the rank of Sub Inspector authorized by the Director General may inquire and investigate and trace the person or persons responsible for the illegal or unauthorized mining.

(5) Government may, in respect of any case registered by, or under investigation, of police or any other investigation agency or authority, by order in writing, entrust inquiry or such investigation to the Force, and thereupon the police or other investigation agency or authority shall transfer the record of the case to the Mines and Minerals Force.

(6) Any member of the Force, not below the rank of Sub Inspector may in performance of his functions, powers and duties, seek assistance from the concerned police and the concerned police shall render all possible assistance.

33. All officers, excluding Enforcement Officer and ministerial staff of the Force, employed on enforcement duties shall wear such uniform as may be prescribed.

Wearing of Uniform.

34. The Sindh Police shall arrange training to the members of the Force on usual charges notified by the Government.

Training.

35. Every officer of the Force in discharging its functions, powers and duties shall be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act No. XLV of 1860).

Public Servant.

36. (1) It shall be the duty of every officer and member of the Force to obey and execute all orders and instructions issued to him by the Director General.

Liabilities of officers and members.

(2) Every officer shall be liable to serve wherever he is required to serve by the Director General.

(3) Every officer who is guilty of any violation of duty or willful breach or neglect of any of the provision of this Act or rules or lawful order made by a Licensing Authority, or who withdraws from his duties without permission, or who, being absent on leave, fails, without reasonable cause, to report himself for duty on the expiration of such leave, or on being recalled to duty earlier or who is engaged without authority in any employment other than his duty under this Act, or who is guilty of cowardice, or who applies any unwarrantable personal violence to any person in his custody, shall be liable to be proceeded against departmentally, or, on conviction before a Judicial Magistrate, to imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both.

37. (1) No Court other than the Special Court for Mines and Minerals established under section 38 shall try offences under this Act.

Cognizance of offences.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1989, every offence under this Act shall, for the purposes of the said Code, be deemed to be non-cognizable.

(3) No prosecution under this Act shall be lodged without the previous sanction of the Licensing Authority or any officer authorized by him, which shall not be given except after serving a notice on the party concerned and giving him a reasonable opportunity of being heard.

38. (1) For the purpose of speedy justice, Government shall in consultation with High Court of Sindh, by Notification, specify for each Division, an existing Court of Civil Judge / Assistant Sessions Judge to be a "Special Court for Mines and Minerals" to try the offences under this Act.

Special Court for Mines and Minerals.

(2) On establishment of Special Courts under sub-section (1), the cases falling within the purview of this Act pending in any court shall be transferred to the Special Court for trial:

Provided that until the Special Courts are established under sub-section (1), the cases pending before any court shall continue to trial.

(3) The Special Court established under sub-section (1), on taking cognizance of a case shall proceed with the trial from day-to-day and shall decide the case within one hundred and twenty days.

39. An appeal against the order passed by a Special Court shall lie to the District and Sessions Court of the concerned district.

Appeal against order of special court.

40. (1) There shall be established as many Police Stations of Mines and Mineral in the Province, as may be considered necessary, for achieving the objectives of this Act.

Establishment of Police Stations for Mines and Minerals.

(2) The jurisdiction of the Police Stations under sub-section (1) shall be determined on the basis of administrative boundary and shall be notified by Government from time to time

(3) The Police Stations established under sub-section (1) shall comprise the officer and staff of the Force as provided under the heading “Junior Rank” of sub-section (1) of section 30.

41. (1) The production in any criminal or civil proceedings in any court of law of any certificate purporting to have been signed by Licensing Authority or an authorized officer certifying whether or not on a date specified in the certificate that – **Evidence.**

- (a) a mineral title or mineral permit was issued renewed or transferred to a person so specified;
- (b) any interest in such a title or permit has been granted, transferred or assigned to person so specified;
- (c) any conditions so specified is or was a condition of a title or permit;
- (d) a person mentioned in the certificate is or the holder of a mineral title or mineral permit;
- (e) a title or a permit has been in respect of an area of land so specified, shall, unless the contrary is proved, be received in evidence as conclusive proof of the fact so certified.

(2) The production in any civil or criminal proceedings in any court, an extract of an entry in the title register, certified by an authorized officer to be a true and correct extract of such an entry shall, unless the contrary is proved, be taken as conclusive proof of the entry.

42. The orders passed under sections 23 and 24 shall, if necessary, be got executed through the Force. **Execution of the orders.**

CHAPTER-VII REGISTRATION

43. (1) The Licensing Authority shall maintain a register of mine surveyors, to be known as registered mines surveyor, who - **Registration of mines surveyor.**

- (a) possesses such qualifications **as prescribed under the rules;**
- (b) apply to the licensing **authority** to be entered in the register;
- (c) in the opinion of the Licensing Authority **is** competent to carry out boundary demarcation **and** surveys both underground and above ground **and** prepare plans.

(2) An application for registration under clause (b) of sub-section (1) shall be accompanied by the fees as may be prescribed.

(3) Where it appears to the Licensing Authority that a registered mines

surveyor has committed gross negligence or misconduct in the discharge of any duties under this Act or rules, the Licensing authority shall –

- (a) afford the registered mines surveyor a reasonable opportunity to be heard on the matter; and
- (b) if satisfied, after hearing the registered mine surveyor, that gross negligence or misconduct was committed, remove the name of that mine surveyor from the register **and blacklist him.**

44. (1) The Licensing authority shall maintain a register of technical persons, to be known as registered mining engineers or geologists, who –

Registration of technical persons.

- (a) possess such qualifications in mining engineering or geology from recognized university;
- (b) apply to the Licensing Authority to be entered his name in the register;
- (c) in the opinion of the Licensing Authority **is** competent to prepare feasibility study report, exploitation scheme, development plan and mineral occurrence certificate or such other technical documents necessary for obtaining mining rights or carrying out mining operation.

(2) An application for registration under clause (b) of sub-section (1), shall be accompanied by the fees as may be prescribed.

(3) Where it appears to the Licensing Authority that a registered technical **person** has committed gross negligence or misconduct in the discharge of any duties under **this Act/Rules** the licensing authority shall –

- (a) afford the registered technical person a reasonable opportunity to be heard on the matter; and
- (b) if satisfied, after hearing the registered technical persons, that gross negligence or misconduct was committed, remove the name of that technical person from the register.

CHAPTER-VIII MISCELLANEOUS

45. (1) A holder of a mineral title or mineral permit or holder of license of mineral dressing unit shall employ such **technically** qualified and competent personnel to carry **out** the operation including but not limited to the preparation of account, maps, plans, programs, reports and studies and the execution of any work required under this Act or rules as is reasonably required by the Licensing Authority, under the laws, rules, and regulations regarding mines safety for the time being in force.

Employment of technical personnel and training.

(2) In the employment of all grades of employees, give preference to citizens of Pakistan and in particular, those possessing domicile of Sindh and who

possess appropriate qualification, expertise and experience for the purposes of the operations to be carried on under the mineral title or permit.

(3) A holder of a mineral title or mineral permit or mineral dressing unit 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.

46. Nothing in this Act shall be construed as authorizing the holder of a mineral title or a mineral permit or holder of license of mineral dressing unit to do anything –

Compliance with other laws.

- (a) which the holder is prohibited from doing under any law for the time being in force; or
- (b) otherwise than in accordance with any such law regulating the doing of that thing, and for that purpose obtaining any permit, License, approval Permission or other document required under any such law.

47. (1) Any failure on the part of the holder of mineral title and mineral permit to **fulfill** any of the conditions of the title and permit, or to meet any requirement of this Act or rules, shall not be treated as a breach of holder's mineral title and permit or this Act or rules in so far as the failure arises from an act of war, hostility, insurrection, or an act of God, pandemic, epidemic or from any other cause specified in the conditions of the mineral title as constituting force majeure for the purpose of this Act.

Force Majeure.

(2) Where the holder of a mineral title or mineral permit fails to **fulfill** any of the conditions of the mineral title or mineral permit as a result of the occurrence of any circumstance referred to in sub section (1), the holder shall forthwith give notice to the licensing authority giving particular of the failure and its causes.

(3) The Licensing Authority may, on application made to it by the licensee, lessee or permit holder referred to in sub section (2) who has been prevented from exercising any rights under the license, lease, permit for the period in the circumstances referred to in sub section (1), extended by in notice in writing, the period for which the license, lease or permit, as the case may be, in the question has been issued by such reasonable period and on such 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 or mineral permit in question, could by taking any responsible steps, which were available to the holder, have exercised the rights concerned during the period of the mineral title or mineral permit.

(5) The provisions of this Act shall not be constructed as exempting any holder of a mineral title or mineral permit from complying with obligation

under the mineral title or mineral permit or this Act to pay any royalties, annual charges rent or fees.

48. (1) Any person dissatisfied by the order passed under this Act by the licensing authority may, within thirty days from the service thereof, on payment of prescribed fee, prefer an appeal to Appellate Authority. **Appeal.**

(2) The appellate authority may, after perusing the appeal filed under sub-section (1) and giving an opportunity to the appellant or his duly authorized agent of being heard, confirm, modify or vacate the order within sixty days on receipt of appeal.

49. (1) Government shall establish **for the purpose of**, prompt and accurate chemical analysis, identification and processing and up gradation of minerals, a reliable and well equipped mineral testing laboratory in the Exploration wing of Directorate General of Mines and Mineral Development Department. **Establishment of Mineral Testing Laboratory.**

(2) The Laboratory established under sub-section (1) shall be manned with qualified and experienced staff for prompt and accurate chemical analysis of minerals, rock and Ore **and** shall, on payment of **prescribed** fees, facilitate mine owners, lease holders and all other parties interested in testing or analysis of rock, ore and mineral samples, mineral processing studies, including research and development studies for up-gradation, processing or value addition.

50. (1) Government may, by notification, in the official gazette, make rules for carrying out the purposes of this Act. **Power to make rules.**

(2) Without prejudice to the foregoing power, such rules shall provide for all or any of the following matters:-

- (a) the manner in which and the authority to whom, application for the grant or renewal of a reconnaissance, an exploration, prospecting, or mineral deposit Retention license, a mining lease, an exploration permit, a mining permit, a temporary permit for lifting of mineral for the purpose of leveling of land, a license for establishing mineral dressing unit (processing, crushing, grinding) shall be made, a permit for making stock of minerals and the prescribing of the fees to be paid on such application;
- (b) the condition in accordance with which the grant or renewal of a reconnaissance, an exploration, prospecting, mineral deposit retention license, a mining lease, an exploration permit, a mining permit, a temporary permit for lifting of mineral for the purpose of leveling of land, a license for establishing mineral dressing unit (processing, crush, grinding) and a permit for making stock of minerals, and the prescribing of forms for the execution or renewal of such license, lease, permit, and concession;

- (c) the circumstances under which renewal of a license, lease, or permit as aforesaid may be refused, or any such license, lease or permit whether granted or renewed may be revoked;
- (d) the determination of the rates at which, and the condition subject to which, royalties, rents and taxes shall be paid by licensees, lessees, permit holder and grantees of mining concessions;
- (e) the refinement of ores and minerals: the control of production, storage and distribution of minerals;
- (f) the manner in which rewards may be given to the members of the Mines and Minerals Force or to the public for rendering commendable service;
- (g) and any matter ancillary or incidental to the matters set out in the foregoing clauses.

(3) The rules made under sub-section (2) shall be subject to previous publication in the official gazette and shall unless some later date is appointed, come into force on the date of such publication.

51. Any rule made under this Act, and any order made under any such rule, shall have effect notwithstanding anything inconsistent therewith contained in any enactment or in any instrument having effect by virtue of an enactment other than this Act.

Effect of rules, etc., inconsistent with other enactments.

52. All sums due under this Act may be recovered according to the law and under the rules for the time being in force for the recovery of arrears of land revenue.

Recovery of arrears.

53. Government may, by notified order, declare that any mineral or any class or description thereof shall be exempt from all or any of the provisions of the rules made under this Act, or that such provisions shall apply thereto with such modification or subject to such conditions as may be specified in the order.

Power to exempt.

54. No suit, prosecution, or other legal proceedings shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

Indemnity.

55. (1) No Court shall have jurisdiction to entertain any proceedings, grant any injunction or make any order in relation to a dispute relating to mining and exploration or stocking for the purpose of this Act, or anything done or intended to be done under this Act.

Bar of jurisdiction and abatement of suits

(2) All suits, appeals and applications relating to, mining or exploration and dispute that any illegal mining or exploration or stock whatsoever for the purpose of this Act, shall abate on coming into force of this Act.

Provided that a party to such suit, appeal or application may, within thirty days of the coming into force of this Act, file an appeal before a Secretary of the Department, in case of a dispute that any mining or exploration is not an illegal mining or exploration that any lease or license in respect of such mining area or exploration or stock has not been determined.

56. If any difficulty arises in giving effect to the provisions of this Act, Government may, by order, remove such difficulty in giving effect to the provisions of this Act. **Removal of difficulty.**

57. (1) The following enactments shall, on the coming into force of this Act, stand repealed to the extent of Province of Sindh:- **Repeal and Saving.**

(i) The Regulation of Mines and Oil field and Mineral Development (Government Control) Act, 1948 (XXIV of 1948);

(ii) The Sindh Prohibition of Taking Minerals including Reti (Sand) and Bajri from any Land Act, 2003 **and** rules made thereunder.

(2) Notwithstanding the repeal under sub-section (1) –

(a) anything done, action taken, notification or order issued thereunder shall, so far as it is not inconsistent with the provisions of this Act be deemed to have been done, taken, made or issued, under this Act and shall have effect accordingly;

(b) any license or lease or permit granted or renewed under any law for the time being in force and existing immediately before the coming into force of this Act shall be deemed to have been granted, renewed or saved for the subsisting period in accordance with the provisions of this Act as if this Act **was** in force at the time such license or lease or permit was granted, renewed or saved and shall be treated accordingly;

(c) any appeal pending immediately before the commencement of this Act, before the Appellate Authority constituted under any legal instrument, shall be considered in accordance with the provisions of this Act by the Appellate Authority empowered under this Act;

(d) any application for the grant, conversion, assignment, amendment, surrender, renewal or cancellation of license or lease, as the case may be, pending before Licensing Authority, under the repealed Act or any legal instrument in this behalf, shall be considered by the Licensing Authority in accordance with the provisions of this Act or rules made there under.

BY ORDER OF THE SPEAKER
PROVINCIAL ASSEMBLY OF SINDH

G.M.UMAR FAROOQ
SECRETARY
PROVINCIAL ASSEMBLY OF SINDH