

**The Islamic Republic of Afghanistan  
The Ministry of Mines and Industries  
Department of Minerals**

**Minerals Law of Afghanistan**

Year: 1384 [2005]

Table of contents

**In the name of Almighty Allah,  
the beneficent and merciful**

**Minerals Law of Afghanistan**

**Chapter One**

**General Provisions**

***Article one: the basis***

This Law is enacted pursuant to the provision of Article nine of the Constitution of Afghanistan in order to provide for State ownership and control of Mineral Substances, [to provide for] the procedures for the protection, management, use, utilization, and attraction and promotion of private investment in Mineral Activities, and to regulate other activities connected with the foregoing.

***Article two: Management of Minerals***

The ownership, control, prospecting, exploration, exploitation, extraction, concentration, Processing, Transformation, transportation, marketing, sale, and export of Mineral Substances in the territory of Afghanistan, [whether] under or











51- "Surface Rights Fees" mean the fees the amount, payment conditions, and duration of which shall be established in the Mining Regulations.

52- "Stores of scrap materials [Tailings]" means the stores of material rejected from the exploitation of Mines or Quarries or any solid or liquid residue deriving from Processing.

53- "Tailings Exploitation" means any activity by means of which an individual or a legal entity, extracts Mineral Substances from an Artificial Deposit of scrap material, and processes them, in order to sell them





- 6- Cancel or withdraw Licenses or other Mineral Rights, accept declarations of relinquishments of Mineral Rights and certify the expiry of Mineral Rights;
- 7- Grant or refuse to grant Licenses and to establish the particular rights and obligations attaching thereto;
- 8- Propose to the council of ministers for its approval of the execution of Mining contracts with other persons for the implementation of Mineral projects.
- 9- Propose to the council of ministers for its approval the Deposits which are subject to tender or are to be awarded on the basis



### ***Article Nine: The Mining Inspectorate***

(1) There shall be established within the Ministry of Mines and Industries a Mining Inspectorate for inspection and supervision of Mineral Activities.

(2) The Mining Inspectorate shall have the following duties and responsibilities:

- 1- To inspect and supervise Mines with regard to health, safety, work procedures for production, concentration, Processing, Transformation, transport and sale.
- 2- Financial and technical evaluation of applications for Mineral Rights;
- 3- Inspect the sites, equipment [facilities], and books and records of participants in Mineral Activities and Artisanal Exploitation;
- 4- Monitor the compliance by Holders with terms of the contracts, including the payment of Surface Rights Fees;
- 5- Issue orders concerning payment of fines and penalties as provided under this Law;
- 6- To require the production of information in order to carry out its functions under this Law;
- 7- to supervise the compiling and publishing of statistics and information about the production and sale of products from Mines and Quarries.
- 9- Perform such other functions as are assigned to it by the Ministry of Mines and Industries in accordance with the provisions of this law.

### ***Article ten: Environmental Protection Department***

(1) There shall be established within the Ministry of Mines and Industries an Environmental Protection Department for the protection of the

cultural heritage in connection with Mineral Activities, in accordance with the provisions of this law.

### ***Article eleven: The Geological Survey***

(1) There shall be established within the Ministry of Mines and Industries a Geological Survey for conducting geological studies and research.

(2) The Geologic Survey shall have the following duties and authorities:

1- Promotion of the Minerals, Hydrocarbons, and hydrology sectors through geological research

2- Compiling, publication and maintaining a national geological information system;

3- Conduct geological research activities and studies;

4- Provide information and perform mapping for exploration work and for Mineral Substances on a regional and national scale;

5- preparation and provision of geological data and at appropriate cost;

6- Perform such other functions as may be assigned to it by the Ministry of Mines and Industries, in accordance with this law.

(3) The Geological Survey shall be entitled to receive submissions from Holders of Mineral Rights of periodic information (including exploration and production data in synthesized and usable form or raw materials) and duplicate [samples] from all samples or sample batches taken in the National Territory for analysis or assaying.

(4) The Geological Survey may issues its opinion in the following events:

(a) Classification, declassification or reclassification of Mineral Substances as Mines or as Quarry Materials and conversely;

(b) Opening and closing down of an artisanal exploitation area; and

(c) Classification, declassification or reclassification of a substance declared to be a "Precious Metal", "Gemstone", "Ornamental Stone" or "Restricted Substance".

## Chapter three:

Classification of Mineral Deposits,, Prohibited Are

the Ministry of Mines and Industries may submit the

## Chapter four

### Mineral Rights

#### ***Article fifteen: Types of Mining Rights***

(1) Mineral Rights consist of Licenses and Authorizations, which shall be classified as follows:

- 1- Licenses consist of Exploration Licenses and Exploitation Licenses.
- 2- Exploitation Licenses consist of ordinary Exploitation Licenses and Small-scale Exploitation Licenses. Exploitation Licenses shall in accordance with the provisions of this law be equivalent to Small-scale Exploitation Licenses unless otherwise specified in this Law or the Mining Regulations.
- 3- Authorizations consist of:
  - (a) Authorizations for Quarry Exploration;
  - (b) Authorizations for Temporary Quarry Exploitation;
  - (c) Authorizations for Permanent Quarry Exploitation;
  - (d) Authorizations for Tailings Exploitation;
  - (e) Authorizations for Artisanal Exploitation; and
  - (f) Authorizations for the treatment, Processing, Transformation, transportation or trading of Minerals.

(2) Rights of Holders of Mineral Rights shall constitute interests in possessed property within the validity period of the contract, which shall be assignable and transferable in accordance with the provisions of this Law, the Mining Regulations and, to the extent not inconsistent therewith, the civil law of Afghanistan. A Mineral Right does not confer upon

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## ***Article sixteen: Eligibility to obtain Mineral Rights***

(1) The following Persons are eligible to hold Mineral Rights:

- 1- Any individual having an age of 18 or more years who is a citizen of Afghanistan;
- 2- Any individual having an age of 18 or more years, who is a citizen of a foreign country, and legally entitled to reside in Afghanistan;
- 3- Any legal entity organized in accordance with law or a legal entity organized as a cooperating legal entity; [and]
- 4- Any legal entity organized or cooperating under foreign law or that is legally entitled to reside, invest, or do business in Afghanistan.

Only persons who are citizens of Afghanistan are eligible to hold an Authorization for Artisanal Exploitation.

(2) The following are not eligible to obtain Mineral Rights:

- 1- High ranking state officials, magistrates, members of the Armed Forces, the Police and the Security Services, other public employees;
- 2- Any individual who does not have legal capacity;
- 3- Any Person that is bankrupt;
- 4- Any Person convicted by a valid conclusive [non-appealable] judgment of the authorized court, for a period of two years of imprisonment; and
- 5- Any Person whose Mineral Right has been prematurely withdrawn, cancelled or terminated.

(3) Any person with a foreign citizenship as referred in paragraph one of this article shall be obliged to establish and maintain a permanent representative office in Afghanistan or to appoint [and maintain] an authorized agent resident in Afghanistan .

## ***Article seventeen: [Public] Tender***

(1) The decision to reserve a Deposit or other subject of a Mineral Right shall be awarded by means of a [public] tender pursuant to the approval of the government. The tender procedure, the terms and conditions, and other related issues of bids shall be provided in the approval.

(2) The Inter-ministerial Committee shall take the following actions to implement the approval of the government: (a) review and approve the bid documents, including the tender procedure, the bidding terms and conditions and type of contract; (b) evaluate the bidding and select a winning bidder;



***Article nineteen: Mining Perimeters***

(1) Mineral Rights are granted for Mineral Substances situated inside the Perimeter identified in the relevant License or Authorization.





(7) The lessee and the lessor of a Mineral Right, as the case may be, shall be jointly and severally liable to the State concerning the Mining Right, including the payment of Mineral Royalties.

(8) Any Person who inherits a Mineral Right shall be required within 12 months of the death, personal incapacity, or bankru

Holder and shall automatically become property of the State, without payment of cost; [and]

2- the buildings, and permanent installations constructed affixed to land outside the Perimeter covered by the Mineral Rights, which is later on relinquished, , shall, subject to Article 75, be disposed of with the agreement of the Holder of such Mineral Right and the owner of t

7- persistent violation of laws or violations of obligations of the Holder relating to health and safety of labor, human rights, protection of the environment or protection of affected communities; and

8- Public order or necessity.

(3) Prior to the withdrawal or termination of a Mineral Right on the basis of the grounds set forth in paragraph 2 of this article, the Holder shall be given not less than 30 days' written notice of the Ministry of Mines and Industries's intention to withdraw or terminate the Mineral Right.

(4) If the withdrawal or termination of a Mineral Right is based solely on the grounds of public order or necessity, compensation shall be paid to the Holder in accordance with the provisions of this law.

(5) A withdrawing or terminating of Mineral Rights shall be based on a written and reasoned Order of the Ministry of Mines and Industries, and is subject to appeal by the Holder.

(6) Unless otherwise specified in the Mining Regulations, the withdrawal or termination of the Mineral Right does not relieve the Holder from its responsibilities relating to the protection of the environment, rehabilitation of sites or in respect of any other obligation established in the contract of Mineral Rights.

(7) The Holder of a withdrawn or terminated Mineral Right may within six



relating to the area of such Rights shall be transferred to the Ministry of Mines and Industries, free of charge.

***Article twenty six: distribution of Exploration Licenses***

(1) Exploration Licenses shall be issued upon the conclusion of a contract by the Ministry of Mines and Industries to any eligible Person having presented an application that conforms to the requirements set forth in this Law and the Mining Regulations.

(2) The Mining Regulations shall establish the requirements and procedures for the applications for Exploration Licenses, including the time limits for processing such applications, establishment of the applicant's financial capability [and the requirement of] a three-yea

(2) In no event may the Exploration work become Exploitation work unless the Holder of the Mineral Exploration License has obtained an Exploitation License in accordance with the provisions of this Law.

(3) As long as an Exploration License is effective, no other application for Mineral Rights for all or part of the Perimeter may be accepted in the mentioned period, except when: 1- the application for an Exploitation License from the Holder of the said Exploration License is presented; or 2- the Holder is eligible pursuant to Article 20 of this law.

(4) The Exploration License also entitles its Holde





areas by the Ministry of Mines and Industries), oth

(2) In addition, the Holder as provided for in paragraph one may also carry out the following:



The inter-ministerial committee shall have the authority to grant up to three consecutive or non-consecutive exemptions, each for a period of not more than one (1) year in duration

(Unfavorable economic conditions, no market for the products)

If after a total of three (3) years of exemption, the Holder fails to pay the Surface Rights Fees, the Ministry of Mines and Industries shall withdraw the Exploitation License in accordance with Article 25 of this law.

(4) The Holder of an Exploitation License shall exploit the Deposits within the Perimeter in accordance with the feasibility study, the development plan, and the Environmental Management Plan. Any deviation of the work from such studies and plans shall require the approval of the Ministry of Mines and Industry, in accordance with the Mining Regulations. The Holder of an Exploitation License must comply with all applicable laws and regulations regarding health, safety of work, human rights, use of water, protection of the environment and protection of affected communities.

(5) The Holder of an Exploitation License shall be required to maintain written records of its documents and activities, and to, not less than annually, submit periodic progress reports to the Ministry of Mines and Industries, including a description of its activities, investments, production, sales, revenue, estimated reserves data and such other information as may be required in the Mining Regulations.

### ***Article thirty nine: Small-Scale Mining Deposit***

(1) If the technical conditions characterizing certain Deposits of Mineral Substances do not allow for large-scale Exploitation, the Ministry of Mines and Industries may, on the basis of semi-industrial procedures, designate such Deposits as Small-Scale Mining Deposits and economically exploit them on the basis of Small-scale Exploitation Licenses.

(2) The conditions for defining Small-scale Mining Deposits shall be established in the Mining Regulations, based upon one or more factors including the method of exploitation, volume of reserves, level of investment, production capacity, the number of employees, the value-added and the degree of mechanization.

(3) The procedural requirements of applications for Small-scale Exploitation Licenses, including the time limits for processing such applications, and the rights and obligations of the Holders of such Licenses, shall be established in the Mining Regulations.





an Authorization for Quarry Exploitation in accordance with the provisions of this Law.

(3) As long as a Perimeter is subject to a Authorization for Quarry Exploration, no other application for Quarry Authorizations for all or part of this Perimeter may be processed, except: 1- When the application for an Authorization for Quarry Exploitation is submitted by the Holder of the said Authorization for Quarry Exploration; 2- In circumstances contemplated by Article 20 of this Law.

(4) The Authorization for Quarry Exploration entitles its Holder the right to obtain an l



description of said samples, indicating the number, volume and weight, to the Geological Survey.

### ***Article forty five: Use of Products***

The Holder of an Authorization for Quarry Exploration has the right to use products extracted at the time of Exploration, provided that such use is necessary for Exploration and does not constitute Exploitation and subject to declaration of the extraction of such products with the Mining Inspectorate,.

### ***Article forty six: Authorizations for Quarry Exploitation***

(1) An Authorization for Quarry Exploitation (whether temporary or permanent) shall be granted by Order of the Ministry of Mines and Industries to the Holder of an Authorization for Quarry Exploration for the same Perimeter, provided that the Holder of the Authorization for Quarry Exploration has satisfied the following conditions:

- 1- Complying with the obligations of the relevant Authorization for Quarry Exploration
- 2- Satisfying the requirements for the issuance of an Authorization for Quarry Exploitation set forth in this Law and the Mining Regulations at least three months prior to the expiration of validity of the relevant Authorization for Quarry Exploration.

(2) An Authorization for Quarry Exploitation (whether temporary or permanent) shall be granted by the Ministry of Mines and Industries to any Person who has presented an application for such an Authorization and who is eligible pursuant to this law and the Mining Regulations.

(3) A landowner or occupant of land shall be required to obtain an Authorization for Quarry Exploitation if it wishes to exploit a Quarry on its land for commercial use. Exploitation of Quarry for its personal [domestic] needs shall be an exception to this rule. In such cases, the user shall be subject to all applicable laws and regulations regarding the protection of the environment and health and safety of work.

(4) The procedures and requirements of the application for an Authorization



can be processed, except in the circumstances contemplated by Articles 20 of this Law.

***Article forty eight: Duration of the Authorization for Quarry Exploitation***

(1) The term of the validity of the Authorization for Permanent Quarry Exploitation is ten years from the date of registra

***Article fifty: Obligations of Holders of Authorizat***





(6) The term of validity of the Authorizations for Artisanal Exploitation is two years, renewable indefinitely for successive two year periods, subject to the timely payment of applicable annual fees and Mineral Royalties, permission of





Chapter five  
Other Mineral Activities

*Article fifty eight: Authorization for construction of*



1- Such Person obtains the consent of landowners or occupants if the Prospecting requires the Person to enter their land;

2- Such a person makes a declaration of the Prospecting activity to the Ministry of Mines and Industries, and registers its name, address and a description and location of the area for Prospecting in the Mining Inspectorate in accordance with the Mining Regulations;

(2) Any Person engaged in operations of the purchase, sale, Processing, Transformation, use, transport, storage, packaging, keeping, export or import of Mineral Substances or any other operation relating to concentration of Mineral Substances that does not [otherwise] hold a Mineral Right shall make a declaration of such activity to the Ministry of Mines and Industries, and shall register such a declaration in the Mining Inspectorate in accordance with the Mining Regulations.

### ***Article sixty three: Maintaining of Capacity for Mining Industry***

A Holder of a Mineral Right shall have the capacity and adequate experience and shall conduct its Mineral Activities in accordance with the provisions of this Law, the Mining Regulations and all other applicable laws.

### ***Article sixty four: Payment of Surface Rights Fees***

(1) The Holder of a Mineral Right shall be required to pay Surface Rights Fees with respect to the relevant surface area. The conditions, amounts and the times of the fees shall be established in the Mining Regulations according to the type of Mineral Substances and Mineral Rights in question.

(2) Surface Rights Fees referenced in paragraph (1) of this article shall be collected by the Mining Cadastre and deposited to the State Revenue Account in

### ***Article sixty six: Inspections***

Holders of Mineral Rights are required to cooperate and comply with the inspections carried out by authorized officers and representatives of the Ministry of Mines and Industries.

### ***Article sixty seven: Occupation of Land***

(1) A Mineral Right authorizes its Holder to occupy land within its Perimeter to the extent required to conduct the Mineral Activities according to the conditions established in the Mining Regulations.

(2) At the request of a landowner, occupant of land or the Holder of a Mineral Right, or in the public interest, the Ministry of Mines and Industries may intervene in cases of disputes, in accordance with the provisions of this law. .

(3) Except with the authorization of the Ministry of Mines and Industries, no Person may conduct Mineral Activities on areas:

- 1- Reserved for cemeteries;
- 2- Containing archaeological and cultural remains or a national monument;
- 3- Situated on or less than one hundred (100) meters from a dam or a building belonging to the State;
- 4- Used for national defense or owned by the national defense institutions;
- 5- Within an airport;
- 6- Reserved for railway or pipeline projects;
- 7- Reserved for the planting of young trees or forest plantations;
- 8- Situated less than one hundred (100) meters from the boundary of a village, a town, a municipality or a city;
- 9- On streets, roads, motorways, bridges and other public infrastructure;
- 10- within a national park;
- 11- Designated by the Ministry of Mines and Industries as areas subject to unresolved claims; or





(2) The Ministry of Mines and Industries may arbitrate in any disputes among Holders of Mineral Rights upon their request.  
The Ministry of Mines and Industries may on its own

# Chapter seven

## Infrastructure

(3) In the event of imminent danger, the authorities of the Mining Inspectorate are empowered to immediately take the measures required to remove the danger and may, if needed, draw the attention of the relevant local authorities, the Holders of Mineral Rights and any laborers.

(4) The authorities of the Mining Inspectorate have the authority to investigate any breach of the provisions of this Law, the Mining Regulations and their implementing measures concerning properties.

### ***Article seventy seven: Preparation of Health [and] Safety Plan***

(1) Holders of Mineral Rights must establish a Health and Safety Plan, taking into consideration its activities. The Health and Safety Plan shall be made known to the employees and other individuals who enter the mine site after it is approved by the Mining Inspectorate.

(2) The specific requirements of Health and Safety Plans, as referred to paragraph(1) of this article, shall be established in the Mining Regulations.

### ***Article seventy eight: Use of Explosive Substances***

Holders of Mineral Rights may use explosive substances. The use shall be in accordance with the provisions and conditions established by the relevant legislative documents and the Mining Regulations.

### ***Article seventy nine: Special Regulations***

Mineral Activities shall be conducted in accordance with applicable laws and international norms relating to labor, social protection and human rights. The use of Forced Labor or Harmful Child Labor in connection with Mineral Activities is prohibited.

### ***Article Eighty: Plan for Protection of the Environment during Exploration***

(1) Before commencing work, the Holder of an Exploration License or an Authorization for Quarry Exploration must prepare and obtain approval of its

Mitigation and Rehabilitation Plan (MRP) from the Environmental Protection Department [for the proposed activity].

(2) Performance of the Mitigation and Rehabilitation Plan shall constitute a condition of the Exploration License or the Authorization for Exploration, [as the case may be], which shall be described in the Mining Regulations.

***Article Eighty one: Protection of the Environment During Exploitation***

(1) An applicant for an Exploitation License or an Authorization for Quarry Exploitation must submit an Environmental Impact Statement together with an Environmental Management Plan for the proposed activity, and implement it

***Article eighty two: Financial Security for Environmental***

## Chapter Eight: Protection of the Archeological and Cultural Heritage

### ***Article Eighty five: Declaration of archaeological and cultural indications***

(1) The Holder of a Mineral Right shall immediately inform the Mining Inspectorate and the Department for Archeological and cultural Heritage of the Ministry of Information, Culture and tourism, of the discovery of archaeological and cultural indications or items if the Mineral Activities of the Holder reveal the



- 7- stability of taxes and customs duties and charges in accordance with Article 86 of this law;
- 8- [partial] relief from taxes and customs duties that are inconsistent with those contained in a Mining Contract; [and]
- 9- Partial or complete exemption from business receipts tax payable on Mineral Substances.

***Article ninety: stability term of taxes***

The Ministry of Mines and Industries may with the agreement of the Ministry of Finance propose the following assurances to the inter-ministerial committee or





### ***Article Ninety three: State Guarantees***

Subject to compliance with this Law, the Mining Regulations and other applicable laws and regulations of Afghanistan, the State guarantees to the Holders of Mineral Rights are:

- 1- The right to organize their assets and their businesses as they deem fit;
- 2- The right to employ Sub-contractors and to recruit personnel needed to carry out Mineral Activities, provided that priority shall be given to employing Afghan Persons with equal qualification in terms of education and experience;
- 3- Access to raw materials and water within the limits of the Mineral Rights, subject to compliance with Law;
- 4- Free circulation within the National Territory for their personnel and those of their Sub- contractors, in compliance with law;
- 5- The freedom to import goods and services necessa

Chapter eleven:  
Dispute resolution in connection with Mineral  
Activities

***Article ninety five: Authorities for resolution of disputes***

Disputes arising in connection with Mineral Activities shall be resolved through administrative or arbitration authorities provided in this law or judicial authorities in accordance with the applicable laws of the country. The parties to a dispute, including Persons and the State shall have the right to object [such resolution].

***Article ninety six: submission of disputes to Administrative authorities***

The procedures for administrative appeals and the remedies available through the administrative appeal process shall be established in the Mining Regulations. The Mining Regulations shall specify the procedures by which disputes between landowners and Holders or between Holders of Mineral Rights, may be resolved.

***Article ninety seven: Arbitration***

(1) A dispute that may arise between a Holder of a Mineral Right and the State or between a Holder of a Mineral Right and a third party relating to Mineral Rights shall be resolved in the following manner:

- 1- Any dispute between the parties may be settled by administrative authorities or arbitration, as agreed between the parties;
- 2- If the parties agree, by the application of the laws of a jurisdiction other than Afghanistan
- 3- if the parties agree, it may be resolved outside of Afghanistan, by the International Centre for Settlement of Investment Disputes ("ICSID") or if ICSID rules preclude the parties from arbitrating before ICSID by arbitration in accordance with Arbitration Rules of the United Nations Commission on International Trade Law (the "UNCITRAL Rules").

***Article ninety eight: submission of disputes to Judicial authorities***

If any one of the parties is not consent to the executions of article ninety six and ninety seven of this law, that party may submit their dispute to judicial authorities. The judicial authorities shall take action to resolve it in consideration with the provisions of the civil and penal codes and the applicable laws.

***Article ninety nine: Representation of the State***

Where the State is a party to a proceeding involving Mineral Rights, The Ministry of Mines and Industries is empowered to represent the State, in inps

(3) The Ministry of Mines and Industries shall collect, not less than annually, and publish reports concerning State revenues and other direct or indirect economic benefits received by the State from Mineral Activities in accordance with internationally accepted norms respecting transparency in the extractive industries;

(4) The ministry of Mines and Industries shall be authorized to, for the purposes of preparing such reports, require Holders of Mineral Rights and all State or public agencies and public officers to, not less than annually, submit data, including production, financial data, and other direct or indirect economic benefits received by them and all amounts paid by them in connection with Mineral Activities.

### ***Article one hundred and one: Violations and Penalties***

(1) Without prejudice to the provisions of the civil, commercial and penal laws, Holders of Mineral Rights shall be obliged to compensate damages and pay liquidated penalties as provided for in the Mining Regulations for violations of this Law and the Mining Regulations.

(2) Compensation of damages or payment of liquidated penalties referenced in paragraph (1) of this article, as the case may be, shall be enforced by the Mines Inspectorate which may be applied singly or together.

(3) Criminal penalties may include imprisonment, prohibition from Mineral Activities, withdrawal, rescission or termination of Mineral Rights and the





(3) a Person whose pre-existing claim to conduct Mineral Activities is validated by the Claims Commission shall be entitled to a priority right to apply for a Mineral Right in respect of such claims, provided that such Person shall be required to comply with all other applicable requirements of this Law and the Mining Regulations, and to submit an application for such Mineral Rights in accordance with the provisions of this Law within ninety (90) days from the date its pre-existing claim has been validated by the commission.

If a new Mineral Right issued in accordance with this Law conflicts with a pre-existing claim that has been validated by the commission constituted, then such new Mineral Right shall remain valid and unencumbered by such pre-existing claim, but the Holder of such new Mineral Right shall be required to compensate the holder of such validated pre-existing claim.