

Mining Act of I.r.Iran

chapter 1- definitions & general provisions

Article 1:

the definition of terms used in this code is as follows:

- a.** mineral substance: any natural substance or compound in form of solid gas, liquid or solution in water formed due to geological processes.
- b.** ore: mineral substances of minerals existing in the deposits, bearing economic value.
- c.** mineral deposit: natural accumulation or concentration of one or more mineral substances occurring below or on the surface or in solution form.
- d.** mine: mineral deposit excavations from which is being economical.
- e.** prospecting: voluntary search with the aim of finding mineral deposits. it includes such works as the following:
 - 1.** tracing, sampling, qualitative and quantitative analysis.
 - 2.** geological, geophysical and geochemical studies and the like, as well as any activities necessary for such studies.
 - 3.** surface and underground excavations.
 - 4.** determination of the shape, quality and quantity of the mineral deposit and preparation of related maps.
- f.** prospecting license. permit issued by the ministry of mines and metals for undertaking mineral substance prospecting works within a specific area.
- g.** exploration certificate: following completion of prospecting work and exploration of ore, it is a confirmation letter issued by the ministry of mines and metals under the name of the holder of the prospecting license.
- h.** exploitation: the series of activities undertaken for the purpose of extracting, dressing and hence providing salable mineral substances
- i.** mining lease holder: natural or juridical person , including governmental, cooperative and private, holding prospecting license from the ministry of mines and metals.
- j.** extraction: the series of activities undertaken for the purpose of separation of ore from the deposit and transferring it to the mineral depot.
- k.** short-term exploitation permit: is a permit issued by the ministry of mines and metals for the supply of construction materials, required for construction purposes, short - term exploitation of colluvium , limited and minimal deposits and laboratory processes.
- l.** government duties: government revenue coming from the imposition of taxes of any exploration or exploitation mining unit.
- m.** ore dressing: all physical, chemical or physico-chemical processes undertaken with the aim of purification or modification of the extracted ore.
- n.** processing: includes secondary and final stages of alterations or modifications carried out, in order to render the extracted minerals, suitable raw materials for industry.
- o.** depot: area outside extraction workshops, tunnels and pits where in extracted minerals are collected.
- p.** tailings: undesired materials separated from ore as a result of extraction or dressing.
- q.** ordinary sands: sands not containing valuable minerals or the dressing of which is not economical and which are mainly used in construction industry or as aggregate in concrete, etc.
- r.** ordinary clay: soil used for making ordinary (non-refractory) bricks and mud bricks. it can also as well as well as for agricultural purposes be used in construction and road making.
- s.** industrial soil: soil with various industrial uses due to specific physical or chemical properties.
- t.** crushed & construction stone: various stones existing in nature which do not contain ores separable under the present conditions, the processing of which is not common or economical, is not considered as decorative stone by the ministry of mines and metals and is generally used in building foundations, stone walls, road construction, parapets and the likes thereof.
- u.** decorative stone: crystalline and non-crystalline sedimentary, igneous and metamorphic rocks, not containing ores separable under the present conditions and the processing of which, such as section and burnish, is not common and economical, such as marble, marmor, travertine, granite and the likes thereof.
- v.** exploitation license: permit issued by the ministry of mines and metals for mine exploitation within specific boundaries.
- w.** exploitation proposal: proposal wherein details of executive plans for mine exploitation, schedule of works and other data, on the basis of the mine identification card, are stated by mining lease holders, on the special forms issued by the ministry of mines and metals.
- x.** unclaimed mines: mines without mining lease holders, the assignment of which is permissible by virtue of this code.

Article 2:

according to articles 44 and 45 of the constitution, the responsibility to assume the right of eminent domain of the state over the mines of the country and protection of mineral reserves as well as issuance of permit for mining activities in this code, supervision of the aforesaid affairs and provision of means for development of mining activities, facilitating the achievement of added value of mineral raw materials, development of exports of minerals with added value, creation of employment opportunities in this sector and causing the enhancement of the share of the mining sector in the economic and social development of the country is vested upon the ministry of mines and metals. exercise of the aforesaid eminent domain may not prevent exercise of ownership of natural and juridical persons within the framework of the regulations.

Article 3:

mineral substances are categorized as follows

- a.** first category mineral substances consist of: limestone, gypsum, ordinary sand and gravel, ordinary clay, marine shells, mineral pozzolan, acqua and rock salt, marl, crushed construction stone, and the likes thereof.
 - b.** second category mineral substances consist of:
 - 1.** iron, gold, chromium, tin, mercury, lead, zinc, copper, titanium, antimony, molybdenum, cobalt, tungsten, cadmium and other metals.
 - 2.** nitrates, phosphates, borates, alkaline salts, sulfates, carbonates, chlorides (except those named in the first category), and the likes thereof.
 - 3.** mica, graphite, talc, kaolin, fire clays, feldspar, siliceous rock and sand, perlite, diatomite, zeolite, bauxite, red oxide, yellow earth, industrial soils, and the likes thereof.
 - 4.** precious and semi - precious stones, such as diamond, emerald, ruby, jade, turquoise, various types of agate, and the likes thereof.
 - 5.** various decorative and facade stones.
 - 6.** various coals and non - oil shales.
 - 7.** mineral substances extractable from waters as well as mineral gases, except hydrocarbon gases.
 - c.** third category mineral substances of: all hydrocarbons except coal, such as crude oil, natural gas, bitumen, oil shales, natural asphalt rock, oil coated sands, and the likes thereof. bitumen, oil shales and natural asphalt rock shall be considered part of second category mines if not being exploited by the ministry of oil or any of their associate or subsidiary companies.
 - d.** fourth category mineral substances consist of: all actinogenous substances, including primary and secondary.
- note:** the category of such group mineral substances within the first and second categories that are not specified in the above categorization or which may be doubtful as well as the category of substances comprising of different minerals that belong to different categories shall be determined by the ministry of mines and metals, on the basis of type, importance and the economic value of such mineral substances.

Article 4:

all matters related to the first and second category mineral substances, except ordinary sands and ordinary clay, shall be within the jurisdiction of

an mineral deposit to the first and second category mineral substances, except ordinary sands and ordinary clays, shall be within the jurisdiction of the ministry of mines and metals within the framework of the provisions of this code. note: establishment at the ordinary nature of sands and clays shall be at the discretion of the ministry of mines and metals.

chapter 2- exploration

Article 5:

exploration of mineral deposits may be undertaken by the public, cooperative or private sectors, including natural and juridical persons. the ministry of mines and metals is also obliged to explore the mineral deposits of the country, either directly or through subsidiary organizations, companies and units, or by employing competent and qualified natural and juridical persons.

Article 6:

exploration of mineral deposits shall be undertaken after the exploration license is issued by the ministry of mines and metals. the procedures of obtaining such license, exploration criteria, period of validity of the license, assignment of the appendant rights of such license, and any other appropriate issues shall be stipulated in the executive by-laws in accordance with the provisions of this act.

note: exploration during exploitation shall not require issuance of exploration license, however, in case of exploration of new material deposit or mineral substance, the discovery certificate of the holder of exploitation license shall be amended accordingly with regard to the provisions of this act, or a new certificate is issued.

Article 7:

the ministry of mines and metals is obliged to issue the discovery certificate in the name of the exploration license holder following investigation and confirmation of exploration works. the type or types of mineral substances explored, the quality, quantity, limits, area and cost of exploration activities must be stated in the discovery certificate. this certificate shall be assignable to third parties within one-year period as of the date of issue, subjected to the approval of the ministry of mines and metals.

note 1: the exact procedure for implementation of the above article, particularly in the case of non-approval of exploration works, shall be stipulated in the executive by-laws of this act.

note 2: in cases no valuable mineral is found following exploration works, no rights shall be created for the holder of the exploration license.

Article 8:

holders of discovery certificate may apply for the exploitation license of the reserves they explored, to the ministry of mines and metals within one year following issuance of the discovery certificate.

non-submission of the said application within the respite provided, shall result in the lapse of the said right of priority.

note: in case of non-submission of the aforesaid application within the respite provided, the exploration costs stated in the discovery certificate, shall be paid by the holder of exploitation license of the mineral deposit explored, to the holder of the discovery certificate, in the manner which shall be stipulated in executive by-laws of this act.

chapter 3- exploitation

Article 9:

exploitation of mineral deposits shall require obtaining exploitation license from the ministry of mines and metals. the said license shall be issued on the basis of the mine identification documents and the exploitation plan, duly approved by the said ministry.

Article 10:

holders of mineral deposits exploitation licenses consist of:

a. the following natural and juridical persons under the discretion and direct authorization of the ministry of mines and metals:

1. holders of discovery certificates, within the respite provided in article 8.
2. processing plants producing processed mineral substances with added value up to the stage of producing industrial raw materials, from unclaimed mines, as long as they continue production.
3. industrial units consuming mineral substances from unclaimed mines, as long as they continue production.
4. applicants specialist in mining or geology or there is at least one of the said specialists, of unclaimed mines as long as they fulfill the aforesaid condition.

b. the subsidiaries and affiliated units or companies of ministry of mines and metals, upon expediency. the aforesaid units and companies may undertake exploitation of mineral deposits utilizing the services of qualified natural and juridical persons or in partnership therewith.

c. mining cooperative companies comprising of mine employees.

note: in case there are several exploitation applicants or the applicants are not among those named in the foregoing paragraphs, the provisions pertaining to the government transaction of the public audit law shall be applied.

note 2: the identification document of each mine shall contain specification of the mine, the quantity and quality of the mineral deposit, technical and economical appraisal of the mine, including internal rate of capital return, executive requirements of mining works, optimum extraction of the said deposit, observance of technical protection and safety measures and other necessary issues. the proved reserve stated in the mine identification document shall be guaranteed by the ministry of mines and metals and shall be acceptable as security in raising finance for the proposed project.

note 3: the exploitation license is an official and enforceable document, bearing the period of validity on the basis of the mine identification document and the approved exploitation plan, can be extended, transacted and transferred to third parties entailing usufruct of the mineral deposit by the license holder and also including the obligations thereof in execution of the contents of same. the duration of each period of exploitation shall be determined on the basis of the aforesaid matters and may be up to the maximum of 25 years with priority right of license extension for the license holder with due regard to the foregoing and the existing reserve.

Article 11:

the ministry of mines and metals shall be obligated to grant priority to the families of martyrs, war veterans, cooperative and joint-stock companies and local qualified individuals in issuing mine exploration and exploitation license with due regard to the provisions of this act.

Article 12:

mines shall be designated as large mines according to the amount of the reserve, grade, extraction rate, value of the mineral substance, volume of capital investment, geographic location as well as political, social and economic considerations upon proposal by the ministry of mines and metals and approval of the council of ministers and the manner of exploitation of such deposits shall be determined by the government.

Article 13:

the ministry of mines and metals may issue at its own discretion, limited short- term exploitation permits, for supply of construction materials required for development projects and also short-term exploitation of colluviums and limited discovered deposits, and for laboratory works as well.

Article 14:

a percentage of the pithead value of the mineral substance stated in the exploitation license and at current prices must be paid annually as royalty to the ministry of mines and metals by the holder of the exploitation license. the said ministry may, in case of expediency, collect mineral substances for the equivalent amount of royalty from the holder of exploitation license.

the manner of implementation of this article as well as the criteria for determination of the aforesaid percentage with due regard to the factors affecting same, such as location and situation of the deposit, condition of the mineral deposit, extraction method, obligations and preferential profit of the holder of the exploitation license shall be stipulated in the executive by-laws of this act.

all income generated through implementation of this article shall be deposited to the account of the treasury.

note 1: the basis for base value of mineral substances of mines assigned through exercising of the public audit law shall be the average of the royalty of similar adjacent mines.

note 2: royalty for holders of short-term exploitation permits shall be the average of the royalty of mines adjacent to the locations of short-term exploited mines. laboratory and applicability studies shall be exempted from payment of the said duties up to the amount of one ton.

note 3: the basis of the revenue subject of the latter part of paragraph a of note 66 of the 1363 (1984) annual budget law, shall be the percentage stipulated in the above article.

Article 15:

gangue materials produced as a result of mining activities if not used by the holder of exploitation license or holder of short-term exploitation permit during the validity of the license, shall belong to the government and shall be utilized in the manner deemed appropriate by the ministry of mines and metals.

Article 16:

in order to encourage investment in production of processed mineral substances, the ministry of mines and metals shall be obligated to place these units under its supervisory, protection and guidance, and protect private sector investments in such affairs and to undertake feasibility studies and prepare typical plans in this connection. the manner of implementation of the foregoing shall be stipulated in the executive by-laws.

Article 17:

in order to enhance the processing and to encourage export of mineral substances of greater added value as well as expansion of exploration and exploitation activities, the government shall study proposals of the ministry of mines and metals in connection with related production, commercial, financial and monetary policies and in case of approval, include same in development plans and also make the necessary projections in the annual general budget bills for the realization thereof.

note: the ministry of mines and metals shall be obliged to grant priority to the development of mineral processing and to their export in the executive plans thereof.

chapter 4- general regulation

Article 18:

the ministry of mines and metals shall be obliged to gradually conform the status of the exploitation permits and licenses previously issued by the provisions of this act, prior to expiration of their validity, and to issue new exploitation licenses therefore subject to fulfillment of related obligations. the said actions must not, in any case, vitiate the acquired rights of the said licenses.

Article 19:

anyone undertaking exploration, excavation, extraction or exploitation of mineral subst~c7s without obtaining exploration or exploitation license or short-term exploitation permit, shall be deemed usurper of public and state property and shall be penalized in accordance with related laws and regulations. in such cases, disciplinary officers shall be obliged, upon the request of the ministry of mines and metals, to repress such activities forthwith and to report the accused to juridical authorities for trial.

Article 20:

the ministry of mines and metals shall give notice, providing appropriate respite to those holders of the exploitation license and short-term exploitation permit, who fail, or are unable to fulfill their commitments. in the event the said respite has expired and no action has been taken by the obligor, or the action taken deemed insufficient, the said obligor shall be compelled to payment of damage arising from non fulfillment of related obligations and may be deemed incompetent for continuation of related operations. such action shall not affect the validity of the exploitation license or the rights of third parties.

note: the ministry of mines and metals shall be obligated to state the conditions pertaining to the manner of compensation of damages arising from non-fulfillment of obligations subject of this article in the exploitation license and short-term exploitation permit.

Article 21:

the former holder of exploitation license and holder of short-term exploitation permit shall be obligated to assign to the new holder of exploitation license such property and equipment associated with the mine, the removal of which shall, at the discretion of the ministry of mines and metals, cause loss or damage to the mine, at the current price determined on the basis of valuation by the official experts of the justice administration. in case of non-assignment of the property and equipment related to the mine in accordance with the said conditions, the former holder of exploitation license or holder of short-term exploitation permit, shall bear the responsibility for compensation of the damage caused.

Article 22:

in cases where mining activities are required to be performed within cultivated land or properties with record of cultivation by individuals and there should be a need for possession of same, following confirmation of the minister of mines and metals, the executor of works shall be obligated to pay the rental or the price thereof to the owner of the property, without calculation of the value of the mineral deposits therein and in accordance with the current price valuation by the official experts of the justice administration, and in case of refusal of the property owner from receiving these payments, to deposit same with the fund of the state organization for registration of deeds and properties, and therefore necessary arrangements for execution of mining activities shall be provided by the ministry of mines and metals in coordination with authorities in charge.

cultivation or the existence of record of cultivation of properties and the status of ownership of the owner or owners shall be established by appropriate authorities.

note 1: in cases that execution or continuation of exploration or exploitation activities and extraction of mines situated outside the above said properties, needs excavations into canals or underground drifts, within the customary depth of the said properties, the provisions of the above article shall be applied, otherwise it shall be unrelated to the property. the customary depth criterion of this note shall be established by an expert of the justice administration with due regard to the type of usage of the lands of the mining operation region.

note 2: the owner or owners of the aforesaid properties or the legal representatives thereof, shall have right of priority for obtaining exploration license for deposits of construction stones and decorative and facade stones, located in the customary depth of their cultivated properties or properties with record of cultivation thereof, which shall be determined in the manner provided in the latter part of the above (1 note, subject to submission of application to the ministry of mines and metals prior to issuance of exploration license for other applicants, in which the mineral substances explored up to the customary depth shall belong to the property owned by same, and in addition to exemption from payments of royalty, they shall be treated on the basis of the provisions of article 10 and sub-paragraph 1 of paragraph a of the said articles.

note 3: in the event the property owner, represses execution of mining activities subject of this article, upon the request of the ministry of mines and metals, disciplinary officers shall be obligated to forthwith abate the impedance and hindrance in accordance with regulations.

Article 23:

any action within mineral substance exploitation and short-term exploitation boundaries by executive agencies, including ministries, governmental companies and organizations, non-profit public institution, foundations of the revolution and subsidiary units thereof shall be subjected to obtain permission from the ministry of mines and metals.

Article 24:

to accelerate the exploration and exploitation of the mineral deposits, when contacted, the related executive agencies of the government shall be obligated to announce their opinion within maximum of four months with respect to the inquiry of the ministry of mines and metals in connection with the legal boundaries related thereto and the regions, subject of paragraph a of article 3 of the environment protection and improvements thereof, and observance of the state forest and pasture protection and exploitation law, enacted in 1346 {1967}, and further amendments thereof, as all the law of protection of usage of farmlands and orchards, enacted in 1374 .{1995}. non-announcement of any opinion within the respite provided, shall be taken as the agreement of the agencies with the issuance of exploration and exploitation license.

Article 25:

should the necessary mining activities for exploitation of a deposit be situated within national and natural resources area, action shall be taken in accordance with note 4 of article 3 of the state forest and pasture protection and exploitation law enacted in 1346 {1967}, and approved amendments thereof, however in substitution of the royalty and land rights provided in the aforesaid note, royalty on the basis of three percent (3%) subject of article 14 of this act and notes 1 and 2 thereof, in addition to the said government duties, shall be collected by the ministry of mine and metals from the holders of exploitation license and holders of short-term exploitation permit, for the purpose of land reclamation of mining areas, and shall be deposited in related account.

Article 26:

areas required for various mining activities such as extraction, accumulation and exploitation of mineral substances or dumping the mine wastes, situated within national resources and the area of which is stated in the license issued, shall be the operational territory of the related mine and shall be at the disposal of the ministry of mines and metals in the form of public property to the end of the life-span of the mine, and any work beyond those stated in the license issued, shall be deemed usurpation of public property.

Article 27:

for the purpose of appropriate utilization of the services offered by the experts in mining, geology and other related mining subjects, the ministry of mines and metals shall be obligated to organize these groups in the framework of technical and engineering offices.

the government shall be obligated to draw-up register of mining and geological experts and to present same to the assembly within six months as of the approval date of this act.

Article 28:

with due regard to the geographical location of mines and the necessity of development of the mining sector, executive agencies shall be obligated to include mine location regions in the development plans and include these projects in their list of priorities and apply preferential rate tariffs to these projects.

Article 29:

in order to maintain stability in economic considerations of projects related to mineral substance production, regulations resulting in imposition of unrelated and burdensome costs for production of the aforesaid substances shall be deemed unacceptable and void, as of the date of confirmation of this act.

Article 30:

all financial claims of the ministry of mines and metals from persons, including natural or juridical, arising from the royalty, the three percent reclamation charge and compensation of damages caused by non-performance of obligations, subject of the provisions of article 14 and notes 1 and 2 thereof and articles 20 and 25 of this act, shall be deemed as claims supported by execution prescribed instruments and on the basis of the provisions of article 48 of the state national audit law, enacted by the islamic consultative assembly on 01.06.1366 {23.08.1987}, shall be collectable in accordance with the executive regulations of the direct taxation act.

losses and damages due to late payment of dues and other claims, should be in accordance with the table which shall be prepared along with the executive regulations by-law of this act by the ministry of mines and metals and approved by the council of ministers.

Article 31:

to achieve sustainable progress in the mining sector, the government shall be obliged to establish investment insurance fund at the ministry of mines and metals, for full or partial provisions of contingent damages arising from non-discovery of valuable minerals and existing investments, in accordance with a charter which shall be approved by the cabinet, and in case of exigency, make proposals in annual budget laws for the allocation of necessary budget for the share of the government, according to their production policy.

Article 32:

in execution of the provisions of paragraph 14 of article 1 of the foundation act of ministry of mines and metals, enacted by the islamic consultative assembly in 1363 {1984}, toward expediting the realization of exploration and identification of mineral deposits and if necessary other mining activities, the said ministry shall be authorized to establish mining companies whose statutes shall be approved by the council of ministers.

Article 33:

official government employees of the ministry of mines and metals and subsidiary organizations and companies may not directly or indirectly participate or be beneficiaries in the transactions and privileges provided in this act, during the course of their employment and up to one year following termination of the employment thereof. in case of violation, the said employees shall be sentenced to permanent discharge from government services and deprivation of 5 to 10 years from conclusion of any type of mining contract and obtaining any type of mining work permit.

Article 34:

the ministry of mines and metals shall be obligated to administer full supervision in accordance with the executive by-laws of this act in all the mines throughout the country toward prevention of destructive practices and wastage of mineral deposits observing the fulfillment of the

obligations by explorers and holders of exploitation license as well as observance of mine workers safety and protective measures.

Article 35:

the executive by-laws of this act shall be prepared by the ministry of mines and metals in coordination with other related ministries and organizations and to be approved by the council of ministers within three months.

Article 36:

as of the date of enactment of this act the former mining act and subsequent amendments thereof as well as other related laws and regulations where contrary to this act, shall be nullified.
this act, comprising thirty-six articles and seventeen notes, was approved by the islamic consultative assembly in the open session of sunday, 27.02.1377 {17.05.1998}, and confirmed with certain amendments by the expediency discretion council of the islamic republic of iran on 23.03.1377 {13.06.1998}.