

**THE KHYBER PAKHTUNKHWA ¹[MINES AND MINERALS]
ACT, 2017.**

(KHYBER PAKHTUNKHWA ACT NO. XXXVI OF 2017)

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THE KHYBER PAKHTUNKHWA ¹[MINES AND MINERALS GOVERNANCE] ACT, 2017

(KHYBER PAKHTUNKHWA ACT NO. XXXVI OF 2017)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 15th November, 2017).

**AN
ACT**

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

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

It is here by enacted as follows:

**PART-I
PRELIMINARY**

1. Short title, extent and commencement.--- (1) This Act may be called the Khyber Pakhtunkhwa ²[Mines and Minerals] Act, 2017.

(2) It shall extend to whole of the Province of the Khyber Pakhtunkhwa ³[, except merged districts and sub-divisions where mineral resources shall be regulated in accordance with the special provisions contained in **Schedule-VIII** of this Act for a maximum period of ten years.

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

¹Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019.

²Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019.

³Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019.

(3) It shall come into force with effect from 3rd January, 2017.

Provided that all orders made, proceedings taken, acts and action done, rules made or Notifications issued by the Authority, ¹[Appellate Tribunal], Licensing Authority or its authorized officers, which were made, taken or done by the Authority, ²[Appellate Tribunal], Licensing Authority or its authorized officers in exercise of the powers derived or conferred from or under the Khyber Pakhtunkhwa Minerals Sector Governance Act, 2016 (Khyber Pakhtunkhwa, Act 1 of 2017), Khyber Pakhtunkhwa Minerals Titles (large and small scale mining) Governance Rules 2017, Khyber Pakhtunkhwa Minerals Auction Rules 2017, Khyber Pakhtunkhwa Minor Minerals Permit Rules 2017, Khyber Pakhtunkhwa Royalty Auction Rules 2017 and Khyber Pakhtunkhwa Enforcement Rules 2017 shall continue to remain enforced under this Act and shall have effect accordingly.

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

³[(a) “**Appellate Tribunal**” means the Appellate Tribunal established under section 102-A of the Act, to hear appeals against the orders of Licensing Authority in relation to small scale mining, large scale mining and minor minerals;]

⁴[(a-i) “**Additional Director General**” means the Additional Director General Mines and Minerals in the Directorate General;”]

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

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

(d) “**Department**” means the Mineral Development Department of Government;

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

¹ Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

² Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

³ Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

⁴ Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

- (f) **“Director Licensing”** means the Director Licensing in the Directorate General Mines and Minerals, Khyber Pakhtunkhwa;
- (g) **“drilling”** means the perforation of the earth’s surface for collection of core samples otherwise than by pitting, trenching or sinking a shaft, whether the hole is vertical, inclined or horizontal, and includes all operations for preventing the collapse of the sides of the hole or for preventing the hole from becoming filled with extraneous matter, including water;
- (h) **“exploration”** means search for minerals, and includes the determination of their extent and economic value and evaluation;
- (i) **“exploration area”** means the area of land, including its lateral limits, to which an exploration license relates;
- (j) **“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 work¹ [in relation to exploration operation] shall not include commercial mineral extraction or marketing;
- (k) **“government”** means the government of the Khyber Pakhtunkhwa;
- (l) **“group of minerals”** means a group of minerals as specified in **Schedule-IV**;
- (m) **“human dwelling”** means a cluster of at least fifty houses;
- (n) **“land”** includes surface bearing any mineral, land beneath water and the sub-soil of land;
- (o) **“large scale mining”** means a process of mining requiring reconnaissance license over an area up to 1000 square kilometers or exploration license over an area up to 500 square kilometers or both as a pre requisite to a mining lease or mineral deposit retention license over an exploration area or mining lease up to 50 square kilometers;

¹ Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

- (p) **“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;
- (q) **“lease”** means a mining lease granted under this Act;
- (r) **“lessee”** means a person to whom a mining lease is granted under this Act and includes their successors-in-interest;
- (s) **“license”** means a prospecting license, a reconnaissance license, an exploration license or as the case may be, a mineral deposit retention license granted under this Act;
- (t) **“Licensee”** means a person to whom a license is granted under this Act¹[and includes his successors-in-interest;]
- (u) **“Licensing Authority”** means,-
- (i) in relation to large scale mining and small scale mining, the Committee constituted under section 6 of this Act; and
- (ii) in relation to minor minerals, the²[Additional Director General] Mines and Minerals;
- ³[(u-i) **“Merged districts and sub-divisions”** means the areas merged with the Province of Khyber Pakhtunkhwa and duly notified by Government after the Constitution (Twenty-fifth Amendment) Act, 2018 (Act No. XXXVII of 2018);]
- (v) **“mine”** means any surface or underground excavation horizontal, inclined or vertical where any operation for the purpose of searching for or obtaining a mineral has been or is being carried out, and includes all works, machinery, tramway, ropeway and siding, whether above or below ground, in or adjacent or belonging to or appurtenant to a mine but does not include the manufacturing or processing plant;
- (w) **“mineral”** for the purpose of this Act, means all surface and sub-surface natural deposits of ores and metals and other metallic and non-metallic substances including naturally occurring aqueous solutions

¹Added vide Khyber Pakhtunkhwa Act No. XLVI of 2019

²Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

³Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

containing more than one per cent mineral salt but does not include radioactive materials, mineral oil and natural gas;

- (x) “**mineral operation**” means geological and geochemical exploration operations or mining operations or both;
- (y) “**mineral title**” means a license or lease for large scale mining, small scale mining or minor minerals, as provided in Part-II of the Act;
- (z) “**mining area**” means an area of land, including its lateral limits within the mining lease limits;
- (aa) “**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;
- (bb) “**minor minerals**” means *bajri, shingle*, ordinary sand, gravel, and ordinary stones or any other mineral notified by the Government as minor mineral.
- (cc) “**Mineral Titles Committee**” means the Mineral Titles Committee, constituted under section 6 of this Act;
- (dd) “**Person**” means,-
 - i. in relation to large scale mining a company
 - ii. in relation to small scale mining, an individual, a firm or a company
 - iii. in relation to minor minerals, registered Minor Mineral contractor with the Director General; and
 - iv. in relation to royalty contract, an individual, a firm or a company who/ which is registered with the Director General.
- (ee) “**prescribed**” means prescribed by rules made under this Act;
- (ff) “**Province**” means the province of the Khyber Pakhtunkhwa;

¹[(ff-i) “**public organization**” means such organization which independently, or if it is a consortium, the majority shareholders therein is an entity, Department, agency, corporation, company or other body or institution established by or under a Federal law or a Provincial law or an entity, agency, corporation, company or other body or institution in which more than fifty percent (50%) shares are owned or controlled by the Federal Government or a Provincial Government and also includes state owned enterprise, entity, agency, corporation or a company, in which more than fifty percent (50%) shares are owned or controlled, either directly or indirectly, by a foreign State;”.]

(gg) “**reconnaissance operation**” means any operation carried out for a general search of any mineral by means of aerial photographs and remote sensing techniques through satellite imageries and air borne geophysical surveys, for geological mapping and other reconnaissance stage exploration techniques;

(hh) “**rent**” means a rent prescribed under this Act for an area granted and demarcated for a mineral title;

(ii) “**retention area**” means the area of land, including its lateral limits, to which a mineral deposit retention licenses relates;

(jj) “**rules**” means rules made under this Act; and

(kk) “**small scale mining**” means a process of mining other than the large scale mining and minor minerals.

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

PART-II
MINERALS INVESTMENT FACILITATION AUTHORITY AND MINERAL
TITLES COMMITTEE

¹Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

²Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

3. Establishment and constitution of the Authority.---(1) Soon after the commencement of this Act, Government shall, by notification in the official Gazette, establish an Authority to be known as the Khyber Pakhtunkhwa Mineral Investment Facilitation Authority.

¹[(2) The Authority shall consist of-

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

(3) ²[*****]

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

- (a) provide strategic leadership and guidance to Minerals Development Department;

¹ Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

² Deleted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

- (b) lay down policy for investment and programme for development of mineral sector;
 - (c) facilitate and encourage investment in minerals sector;
 - (d) review and recommend to the Government, for approval, annual rents, royalties and excise duty, payable by the holders of mineral titles, on minerals produced and carried away;
 - ¹[(e) “recommend to the relevant authorities for financial and tax incentives, including minimum price supports and subsidized rates for import and purchase of machinery, for mineral title holders, in order to encourage mechanized mining method; and]
 - (f) review and evaluate the performance of the mines and minerals sector in the province;
 - (g) publish annual report on the state of mines and minerals in the Province;
 - ²[(g-i) recommend policies to Government or other relevant authorities for promotion and facilitation of export of minerals and provide incentives to mineral title holders, to encourage export of minerals and finished products;
 - g-ii) promote sustainable mining practices, to ensure that mining of mineral resources is undertaken after taking into consideration present requirements and balancing them against the requirements of further generations;]
 - (h) undertake policy research and advisory services in matters connected with or ancillary to mines and minerals sector; and
 - (i) perform any other function that it deems appropriate to be undertaken for the purposes of this Act.
- (2) The Authority may delegate any of its powers to the committee of members.

¹Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

²Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

(3) ¹ [Directorate General] shall provide secretariat support to the Authority.

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

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

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

(a) ²[****]

(b) [****]

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

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

(a) review annual rent of area, royalties and excise duty on minerals, propose changes and make recommendations for approval of the government;

(b) review report of the mineral sector for the preceding year;

(c) review implementation status of its decisions; and

(d) consider revision of targets and proposals for course correction.

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

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

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

¹Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

²Deleted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

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

(2) The Committee shall consist of-

- | | |
|--|-----------------------|
| (i) Director General, Mines and Minerals; | Chairperson |
| ¹ [(i-a) Additional Director General, Mines and Minerals; | Member] |
| (ii) Deputy Secretary to Government, Law, Parliamentary Affairs and Human Rights Department; | Member |
| (iii) Deputy Secretary to Government, Forestry, Environment and Wildlife Department; | Member |
| (iv) Chief Inspector of Mines of Khyber Pakhtunkhwa or his subordinate officer ; | Member |
| (v) Commissioner Mines Khyber Pakhtunkhwa or his authorized officer; | Member |
| ² [(v-a) Director Exploration; and | Member”.] |
| (vi) Director Licensing, Directorate General Mines and Minerals to be nominated by the Department. | Member-cum-Secretary” |

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

- (a) grant, convert, assign, amend, surrender, cancel the mineral titles and renew mining leases for the purpose of clause (d) of sub-section (1) of section 9 and for clause (b) of sub-section (2) of section 9;

¹Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

²Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

- (b) lay down process and procedure for award of licenses and mining leases;
- (c) supervise and regulate mining operations in the province through specific or general written instruments authorizing officers to perform functions and exercise powers on behalf of the Licensing Authority;
- (d) oversee enforcement of laws, rules and regulations relating to mines and minerals in the province;
- (e) exercise supervision and oversight over mining activities in the province;
- (f) review and determine the rates of fee for application ¹[****];
- (g) publish periodical mineral enforcement gazette; and
- (h) assist the Authority in performance of its functions under this Act.

(2) ²[****]

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

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

(5) ³[****]

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

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

¹Deleted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

²Deleted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

³Deleted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

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

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

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

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

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

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

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

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

- (a) resolve surface rent disputes amongst mineral titles holders and landowners on such rates and such manner as may be determined by it;
- (b) resolve land compensation disputes amongst mineral title holders and landowners;

¹Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

- (c) resolve boundary disputes arising amongst the mineral title holders;
- (d) make efforts to control un-authorized mining;
- (e) recover Government dues from the defaulters through District Administration; and
- (f) remove hindrances that arise in the operations of mineral title and ensuring un-obstructed access of the mineral title holders to the area granted under the mineral title.

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

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

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

- (a) reconnaissance license for a period of one year over an area up to 1000 square kilometers;
- (b) exploration license for a period of ¹[eight] years over an area up to 500 square kilometers;
- (c) mineral deposit retention license for a period of two years over the area of exploration license; and
- (d) mining lease over an area up to 50 square kilometers.

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

¹Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

- (a) prospecting license for a period of five years subject to area limitation as indicated in **Schedule-I**;
 - (b) mining lease subject to area limitation as indicated in **Schedule-I**; and
 - (c) the Licensing Authority may increase or reduce acreage of the areas reserved for auction irrespective of the area limitations as provided in **Schedule-I** of this Act in the larger public interest.
- (3) For the purposes of minor minerals, mining lease for a period up to three years may be granted.

10. Exemption.--- Notwithstanding, anything contained in this Act, the Mineral Title Committee with the approval of the Authority, may grant license and mining lease for any such period, for any ¹[un-granted] area under any terms and conditions, to such public ²[or private] organization, as deemed appropriate in public interest ³[:

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

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

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

¹ Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

² Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

³ Substituted and added vide Khyber Pakhtunkhwa Act No. XLVI of 2019

¹**[10A. Special provision for projects of national importance.**---The Licensing Authority may grant temporary permission, in special circumstances, to contractors of public project of national importance having project cost to be determined by the Department for utilization of minerals or minor minerals from un-granted area for a specific period for undertaking that particular project under such terms and conditions, which shall include the cost of material and duration as determined by the Department through notification.]

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

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

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

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

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

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

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

¹Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

²Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

- (c) exploration license if he has applied in the prescribed form at least three months before expiry of the reconnaissance license.
- (d) In case of failure to apply in the prescribed time frame as provided in sub-section c, a fine of rupees thirty thousands for each month shall be realized from the applicant other than prescribed fee but not later than one year.

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

- (a) an exclusive right to carry out exploration operation in respect of the area and any mineral or group of minerals to which the license relates;
- (b) the right to enter and occupy the land which comprises the exploration area for the purpose of carrying out exploration operations, subject to the rights of surface holder;
- (c) the right to take and divert water on or flowing through such land and use it for any purpose necessary for exploration operations subject to and in accordance with the provisions of law for the time being in force;
- (d) to remove from the exploration area, required quantity of mineral or group of minerals or sample thereof, for the purpose of respective testing, assaying or pilot plant studies, from any place where it was found or incidentally won in the course of such exploration operations to any other place whether within or outside the Province subject to prior written permission of the Licensing Authority and such other permission as may be required under law for the time being in force, outside Pakistan; and
- (e) the erection or construction of ancillary works, in the exploration area, as may be reasonably necessary for, or in connection with, any exploration operations unless expressly prohibited under the terms of the license.
- (f) the right to a mining lease or mineral deposit retention license ¹[over the area of exploration license] if he has applied in the prescribed form at least six months before expiry of the exploration license.

¹Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

- (g) In case of failure to apply in the prescribed time frame as provided in sub section f, a fine of rupees thirty thousands for each month shall be realized from the applicant other than prescribed fee but not later than one year.

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

- (a) to retain the retention area, to which the license relates for further mining operations for two years;
- (b) to carry out a programme of operations including evaluation of the mineral deposit concerned, as may be specified in the license;
- (c) to remove from the retention area required quantity of mineral or group of minerals or sample thereof, for the purpose of respective testing, assaying or pilot plant studies, from any place where it was found or incidentally won in the course of carrying out such programme of operations to any other place whether within or outside the Province, subject to prior written permission of the Licensing Authority and such other permission as may be required under any law for the time being in force, outside Pakistan;
- (d) to do all other things, including the carrying out of investigations and operations and the erection or construction of ancillary works, in the retention area, as may be reasonably necessary for, or in connection with, any operation unless expressly prohibited under the terms of the license.
- (e) the right to a mining lease ¹[over the area of mineral deposit retention license] if he has applied in the prescribed form at least six months before expiry of the mineral deposit retention license.
- (f) In case of failure to apply in the prescribed time frame as provided in sub section e, a fine of rupees thirty thousand for each month shall be realized from the applicant other than prescribed fee but not later than one year.

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

¹Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

- (a) an exclusive right to carry out prospecting operations in respect of the area and any mineral to which the license relates;
- (b) the right to enter and occupy the land which comprises the prospecting area for the purpose of carrying out prospecting operations, subject to the rights of surface holder;
- (c) the right to take and divert water on or flowing through such land and use it for any purpose necessary for prospecting operations subject to and in accordance with the provisions of law for the time being in force;
- (d) the right to remove from the prospecting area, any mineral to which the license relates, from any place where it was found or mined in the course of prospecting operations, to any other place within or outside the Province or, subject to such other permissions as may be required under any relevant law, to any place outside Pakistan;
- (e) the right to erect or construct of ancillary works, in the prospecting area, as may be reasonably necessary for, or in connection with, any prospecting operation unless expressly prohibited under the terms of the license;
- (f) the holder of a prospecting license shall have a right to a mining lease, if he has-
 - i. successfully carried out geological prospecting operations and won the mineral for which license was granted;
 - ii. been paying all the Government dues regularly and has paid such compensation, if any, as is provided in this Act;
 - iii. applied in the prescribed form for the grant of a mining lease at least three months before the expiry of the prospecting license; and
 - iv. In case of failure to apply in the prescribed time frame as provided in clause iii, a fine of rupees twenty thousands for each month shall be realized from the applicant other than prescribed fee but not later than one year.
- (g) in case the holder of a prospecting license fails to apply for a mining lease even after the prescribed time frame as described in section 16 (f)

(iv), no application for conversion for the same shall be entertained ¹];
and

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

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

- (a) the exclusive right to carry out mining operations in the mining area and in respect of any mineral or group of minerals to which the lease relates;
- (b) the right to enter and occupy the land which comprises the mining area for the purpose of carrying out mining operations, exploration operations and prospecting operations in respect of any mineral or group of minerals to which the lease relates;
- (c) the right to carry out prospecting and exploration operations in the mining area in conjunction with mining operations in relation to any such mineral or group of minerals to which the lease relates;
- (d) the right to remove from the mining area, any mineral or group of minerals to which the lease relates, from any place where it was found or mined in the course of mining operations, to any other place within or outside the Province or, subject to such other permissions as may be required under any relevant law, to any place outside Pakistan;
- (e) the right to take and divert surface and ground water on or flowing through such land and use it for any purpose necessary for mining operations subject to and in accordance with the provisions of the relevant laws;
- (f) the right to sell or otherwise dispose of any such mineral or group of minerals subject to any condition of the mining lease or mineral agreement relating to the satisfaction of the internal requirements of Pakistan; and

¹ Replaced and inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

- (g) the right of erection or construction of ancillary works, as may be reasonably necessary for, or in connection with, the mining, exploration or prospecting operations, removal, selling or disposal of mineral or group of minerals to which the lease relates.
- (h) the right to renewal of the mining lease if he has applied in the prescribed form at least six months before expiry of the mining lease.
- (i) In case of failure to apply in the prescribed time frame as provided in sub section h, a fine of rupees thirty thousands and twenty thousands in case of large and small scale mining respectively for each month shall be realized from the applicant other than prescribed fee but not later than one year.

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

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

- (h) give to the Licensing Authority notice of the discovery of a deposit of any mineral or group of minerals including radioactive minerals necessary for the generation of nuclear energy, mineral oil and natural gas, other than a mineral or group of minerals to which his license relates, within two weeks after making the discovery.

19. Obligations of holder of mineral deposit retention license, prospecting license and mining lease.--- The provisions of section 18 shall apply *mutatis mutandis* in relation to a mineral deposit retention license, a prospecting license and a mining lease as they apply in relation to an exploration license, and for that purpose, the reference to the holder of an exploration license shall be deemed to be a reference to the holder of a mineral deposit retention license, the holder of a prospecting license or, as the case may be, the holder of a mining lease.

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

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

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

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

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

¹Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

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

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

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

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

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

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

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

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

(3) In case of differences between the Mineral Title Holder and joint venture partner due to violation of any of the terms and conditions of the joint venture by any of them, they shall try to resolve the same through mutual negotiation with in a period of thirty days. In case they failed to resolve the differences within the

¹Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

aforesaid period, the Mineral Title shall be liable for cancellation by the Licensing Authority under this Act.

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

PART-IV **GRANT AND MANAGEMENT OF MINERAL TITLES**

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

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

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

(4) Every applicant shall deposit, in respect of the mineral title applied for, a security at the rate and in the form notified by ¹[Licensing Authority], provided that, if a license is converted into a lease, the security so deposited shall be adjusted towards security for the lease.

(5) The information contained in the application or furnished to the Licensing Authority in pursuance of an application for a mineral title, other than that incorporated in the register of applications shall be treated as confidential by the Licensing Authority.

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

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

23. Availability of area, priority and refusal.--- (1) On receipt of the application, the Licensing Authority shall, before granting any mineral title, ascertain

¹Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

that the area applied for does not overlap with an area already covered by a license or a lease.

(2) No lessee or licensee except cement manufactures ¹ [“large scale mineral titles holder, subject to the provisions of sub-section (2A)”] or multi mineral based industries shall hold more than ² [five (05)] licenses or leases; provided that if a person has more than ³ [five (05)] licenses or leases before the commencement of this Act, he may only retain those ⁴ [five (05)] licenses or leases which he deems appropriate and shall, unless otherwise allowed by the Department to assign those to any other person or company on the grounds of having invested substantial amount thereon, return other to Government for further grants in accordance with this Act ⁵ [“Provided that public organization shall be exempted from the bar on number of mineral titles.”];

⁶[(2A) In large scale mining, the cumulative area of all licenses granted to a person shall not exceed fifteen hundred (1500) square kilometers while that of leases shall not exceed one hundred and fifty (150) square kilometers.]

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

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

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

24. Assignment.--- A holder of a mineral title except reconnaissance license is allowed to assign ⁷ [the area under the mineral title] or any part thereof;

- i. with the approval of the Licensing Authority;

¹ Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

² Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

³ Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

⁴ Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

⁵ Added vide Khyber Pakhtunkhwa Act No. XLVI of 2019

⁶ Added vide Khyber Pakhtunkhwa Act No. XLVI of 2019

⁷ Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

- ii. if prospecting exploration or mining operations in the area have been carried out successfully; and
- iii. if the area is clear of all encumbrances.

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

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

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

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

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

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

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

¹Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

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

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

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

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

(3) The Licensing Authority or an authorized officer in this behalf shall approve the development and exploitation scheme within a period of two months from the date of submission of the scheme.

(4) If the development scheme is rejected, the Licensing Authority or officer authorized in this behalf shall communicate to the applicant the reasons for such rejection.

(5) The applicant shall within one month of the receipt of such communication, submit a revised scheme to the Licensing Authority, failing which a fine amounting to Rupees ten thousands for each additional month but not later than three months shall be imposed.

(6) In case of failure to submit the revised development scheme as provided in sub-section 5, the right of the applicant for the grant of lease shall lapse.

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

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

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

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

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

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

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

(4) The holder of a mineral title shall, at his own expense, erect and at all times maintain boundary marks and pillars standing not less than one meter above the surface of the ground and being not less than one meter square in diameter at the base at every angle or corner of boundary lines to be fixed according to the demarcation.

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

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

35. Working near railway line, etc.--- (1) A holder of a mineral title shall not carry out or permit to be carried out any prospecting, exploration or mining operation, surface or underground, at or up to any point within a distance of five hundred meters in urban areas and three hundred meters in rural area from any railway line, public road, reservoir, canal,¹[high transmission power line of 132 KV and above], gas pipeline or other public works, or building or place of archaeological importance, human dwelling except with the previous permission of the Licensing Authority and in accordance with such conditions as may be imposed in the

¹Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

permission. No such permission shall be granted in cases of quarries where stone power crushers can be installed.

(2) The Government may by notification prohibit all types of mining operations in areas having special considerations of ecological and touristic importance.

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

- i. with permission of the Licensing Authority; or
- ii. same mineral title holder having adjacent areas.

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

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

(2) If the land belongs to a private person, a holder of the mineral title shall pay compensation to the owner of the land for the area actually used or occupied superficially and in such manner as may be mutually agreed upon between the land owner and the holder of the mineral title and in case of disagreement between them, at such rate and in such manner as may be determined by the ¹[District Mining Liaison Committee]

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

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

¹Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

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

(6) In case of persistent interference and obstruction in the exploration, prospecting, or mining operations by the land owner in any manner after settlement or fixation of land compensation by the ¹[District Mining Liaison Committee] under sub-section (2), the ²[District Mining Liaison Committee] may on the request of the holder of a mineral title holder proceed to acquire the land under the Land Acquisition Act, 1894 (Act No. 1 of 1894), required for the said operations or any other ancillary matter.

(7) If in the opinion of the ³[District Mining Liaison Committee], it is necessary to acquire land to provide access to the licensed or leased area or if such a request is made by a holder of the mineral title, the ⁴[District Mining Liaison Committee] may proceed to acquire the requisite land under the Land Acquisition Act, 1894 (Act No. 1 of 1894); provided that before proceeding with the acquisition, the Licensing Authority shall give the parties reasonable opportunity of being heard.

(8) The cost of land acquired under this section shall be borne by the holder of the mineral title ⁵[and ownership of the acquired land shall rest with the Director General.]

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

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

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

¹Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

²Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

³Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

⁴Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

⁵Added vide Khyber Pakhtunkhwa Act No. XLVI of 2019

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

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

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

42. Dispatch of minerals.---(1) The minerals excavated from any licensed or leased area shall be dispatched from the area on prescribed dispatch slips duly authenticated by the Licensing Authority or its authorized officer;

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

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

43. Submission of production and periodical returns.--- (1) A holder of a mineral title except reconnaissance license shall send monthly production returns and dispatch of mineral to the Licensing Authority in the prescribed form on or before the ²[fourteenth] day of each succeeding month. The monthly production returns shall be accompanied with a challan indicating payment and clearance of royalty ³[****] and other dues thereof.

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

¹Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

²Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

³Deleted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

44. Inspection.--- A holder of a mineral title shall provide the Licensing Authority, or an officer authorized in this behalf, all reasonable facilities to enter upon the mine premises including underground workings for purposes of inspection of mines and shall also make available all records at the mines and elsewhere for carrying out survey, measurement, examination and matters ancillary or incidental thereto.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

¹Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

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

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

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

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

- (a) meet the internal requirements of Pakistan to the satisfaction of the Government before exporting any mineral or its products to other countries;
- (b) ¹[****]
- (c) employ nationals of Pakistan in his organization in all grades and in all branches including technical and administrative personnel; and
- (d) arrange for the training in Pakistan or abroad or the nationals of Pakistan to fill up these appointments, in case of Large Scale Mining or investment or any other circumstances to be specified by the Authority.

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

¹Deleted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

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

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

(4) The holder of the mineral title shall be paid a fair compensation of the investment made in the said area or part thereof to be assessed by the ¹[Licensing Authority].

54. Sub-letting.--- ²[(1) No holder of a mineral title shall transfer the liberties, powers, rights, titles interests, privileges and obligations under the license or lease, as the case may be, in the form of sub-letting, sub-contracting or by any other means, to a third party in respect of the area demised under the mineral title.”;]

The mineral title shall be cancelled by the Licensing Authority, if the provisions of sub-section (1) are violated ³[Provided that before doing so, the Licensing Authority shall afford a fair opportunity of hearing to the holder of mineral title.]

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

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

56. Unauthorized mining.--- (1) If any person, directly or indirectly, starts prospecting, exploring or mining any mineral outside the area granted to him under a mineral title or in any area for which he has not obtained a mineral title or unauthorized transportation of minerals or if any person obstructs free access of a holder of a mineral title to the licensed or leased area or directly or indirectly tries to interfere with the prospecting or mining operations by a holder of a mineral title, he shall be punishable with imprisonment for a term of minimum six months which may

¹Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

²Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

³Added vide Khyber Pakhtunkhwa Act No. XLVI of 2019

extend up to ¹[five years and with a fine] of minimum five hundred thousand which may extend up to two million ²[*****] ³[:Provided that owner of a land may level the land or make excavation of mineral for agriculture or building purposes other than commercial mineral extraction or marketing subject to prior approval of the Director General.”;]

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

(3) In the event of any unauthorized mining, obstruction, hindrance or interference in the prospecting, exploration or mining operations, the ⁴[District Administration], on request of the Licensing Authority, shall take all necessary steps to stop the illegal acts to ensure smooth operations of the holder of the mineral title.

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

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

⁶ [56A. Access to other licensee or lessee areas both on surface and underground.---(1) A licensee or lessee shall allow the existing and future license or lease holders of any area which is comprised in or adjoins or is reached by the land held by the licensee or the lessee, all reasonable facilities of surface or underground access thereto, on the terms and conditions as may be determined by the Licensing Authority.]

57. Persistent violations and default in payment of dues.--- (1) If a holder of a mineral title persists in violating any of the terms and conditions of the mineral title or the provisions of this Act and fails to rectify the violation within such period as

¹Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

²Deleted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

³Added vide Khyber Pakhtunkhwa Act No. XLVI of 2019

⁴Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

⁵Added vide Khyber Pakhtunkhwa Act No. XLVI of 2019

⁶Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

may be fixed by the Licensing Authority, the mineral title shall , subject to notice, be cancelled.

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

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

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

59. Black listing.--- (1) A person may be black listed by the Licensing Authority on account of serious ¹[****] violations of this ²[which shall also include non-compliance of the offer letter by the successful bidder].

(2) The mineral title ³[or any registration] held by such person shall stand terminated and such person shall be debarred from obtaining any mineral title ⁴[or any registration].

(3) In case such person or any partner of such firm or a director of such company forms a new firm or becomes a director of another company it shall render such other firm or company ineligible for the grant of mineral title ⁵[any registration]. registration].

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

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

¹Deleted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

²Added vide Khyber Pakhtunkhwa Act No. XLVI of 2019

³Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

⁴Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

⁵Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

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

62. Auction of area with proven mineral reserves.--- The cancelled areas containing proven mineral reserves, and the areas having economic mineral reserves proved as a result of studies carried out at the public expense or areas the Licensing Authority may consider appropriate for auction, may lease out such areas through open auctions on prescribed terms and conditions; and in case of non-auction in ¹[three] consecutive efforts or not fetching reasonable bids in ²[three] consecutive auctions ³[“the reserve price shall be reduced and the process of auction shall be repeated on the reduced rate. In case of no success, the area shall be granted through negotiation on the terms and conditions as deemed appropriate by the Licensing Authority”].

⁴[“Provided that the areas for minerals as specified in serial number (2) of schedule IX of this Act shall be re-auctioned after expiry of lease period on the condition that the person holding the area under mineral title before auction shall have the first right of refusal in accordance with the bid amount offered by the highest bidder through issuance of offer letter on the prescribed terms and conditions. In case of failure to comply with the terms and conditions of offer letter the same shall be withdrawn and the highest bidder shall be issued offer letter on prescribed terms and conditions.”.]

⁵[**62A. Competitive bidding.**---The Licensing Authority may invite competitive bids for the issue of an exploration license or a mining lease in respect of any area of land which is not subject to-

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

¹Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

²Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

³Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

⁴Added vide Khyber Pakhtunkhwa Act No. XLVI of 2019

⁵Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

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

PART-V
CANCELLATION AND SURRENDER OF MINERAL TITLES.

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

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

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

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

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

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

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

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

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

PART-VI **FINANCIAL MATTERS**

65. Royalty payable on minerals.---(1) The holder of a mineral title, other than the holder of a lease for minor mineral and reconnaissance license, who has won or mined any mineral or group of minerals in the course of any exploration or mining operations carried out by him shall pay to the Government, in respect of any such mineral or group of minerals disposed of by him, royalty as determined under this Act.

(2) Any mineral or group of minerals 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 from the Province without having been dealt with as provided in sub section (1) 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 the 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 determined under this Act.

66. Rate of royalty.--- (1) Royalty shall be charged on the following basis:

- (a) in case of the Construction and Industrial minerals group as specified in **Schedule-IV**, and also in the case of coal, at such rates as may be notified by Government from time to time, on the recommendation of the Authority; and
- (b) in case of any other mineral as specified in **Schedule-IV**, to the extent of specific percentage, notified by the Government from time to time on the recommendation of the Authority, on the fair market value of the mineral or group of minerals as provided in this Act.

(2) For the purposes of sub-section (1), the fair market value of a mineral or group of minerals is-

- (a) where the mineral or group of minerals is disposed of in a sale at arm's length, the sale price;
- (b) where the mineral or group of minerals is not so disposed of, the value established, in relation to the kind of disposal concerned, by reference to criteria for the determination of that value, in the mineral agreement or mineral title or under which or pursuant to which the mineral or group of minerals was won or mined; or
- (c) where the mineral or group of minerals is not disposed of as provided in clause (a) and there is no such criteria as provided in clause (b), the amount determined by the Licensing Authority, on the date of the disposal, which would, in the opinion of the Licensing Authority, be paid on international markets or, as the case may be, domestic markets for such minerals in a sale at arm's length by a willing seller to a willing buyer.

EXPLANATION-1: A sale is a sale at arm's length if the contract price is the sole consideration for the sale and the terms of the sale are not affected by any commercial relationship other than that is created by the contract of sale between the seller or any other person associated with the seller and the buyer or any other person associated with the buyer.

EXPLANATION-2: For the purposes of this section, the fair market value, in respect of any mineral or group of minerals, which has been disposed of, shall be determined by reference to the first point at which it was disposed of, without allowing for any deductions from the gross amount so determined.

67. Enhanced royalty.--- Where a mineral agreement makes provision for the payment of royalty by the holder of the mineral title, at an enhanced rate or rates in respect of any mineral or group of minerals won, mined or found, the enhanced rate of royalty shall be determined and payable in accordance with the terms of the agreement.

68. Payment of royalty.--- (1) Royalty in respect of any mineral or group of minerals won, mined or found and disposed of shall be payable not later than ¹[fourteen] days after the end of the calendar month in which the mineral or group of minerals is disposed of.

(2) Where any person has failed to pay any amount of royalty as required under sub-Section (1), a fine calculated at the rate of one per centum per month on the amount or any part thereof from time to time remaining unpaid, shall be payable from the due date of payment until all outstanding amount is paid.

(3) The holder of a mineral title shall submit, in respect of each month and in such form and detail as the Licensing Authority may determine, a return showing the amount of royalty to be paid in respect of any mineral or group of minerals disposed of in the month.

69. Powers of Licensing Authority in case of failure to pay royalty.--- If the holder of mineral title fails to pay any royalty payable by him, the Licensing Authority may, by notice in writing given to the holder, prohibit-

- (a) the removal of any mineral or group of minerals from the exploration area, mining area, retention area, the land subject to the mining lease or, in the case of the holder of prospecting license, from the place where the mineral or group of minerals is found, won or mined; or

¹Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

- (b) any dealing in connection with any mineral or group of minerals found, won or mined from any such area, land or place, until such time as the royalty has been paid.

70. Proof of amounts payable.--- In any proceedings to recover any amount payable under this Act, a certificate of the Licensing Authority showing that the specified amount of money is payable under this Act by any holder named therein, shall be received in evidence as a *prima facie* proof of the facts stated in the certificate.

71. Annual Rent.--- (1) Annual rent in respect of a mining lease shall be paid by a lessee in accordance with the rates annually approved by the government on recommendations of the Authority.

(2) Payment of the annual rent pursuant to sub-section (1) in respect of a mining lease shall be made within thirty days after the date of the grant of the mining lease and thereafter shall be made on the same date of each year.

(3) Where, any lessee has failed to pay any amount of annual rent, a fine amounting to rupees ten thousand per month shall be imposed for non-payment of outstanding amount or any part thereof, until all outstanding amount is paid.

72. Annual fee.--- (1) Every licensee shall pay such annual fee as is notified by Government on the recommendations of the Authority from time to time for the area covered by the license. The fee shall be payable for each mineral separately even if the area under license for different minerals is the same.

73. ¹[*****]

74. Mode of payments.--- All amounts payable under this Act shall be deposited into Government treasury or into any bank authorized by the Government for the purpose, under the specified Head of Account and the receipt shall, in original, be provided to the Licensing Authority.

75. Submission of balance sheets.--- Every holder of a mineral title except a title in minor mineral shall submit to the licensing Authority, at the end of every year, balance sheet account audited by a qualified and registered auditor.

76. Verification of the value of precious stones, etc.---The Licensing Authority may from time to time ascertain and verify in such manner as it may deem fit, the value of all precious stones and other minerals, ore and metals dressed or extracted

¹ Deleted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

by a licensee or a lessee for the purpose of ascertaining the royalty payable under this Act.

77. Outstanding dues payable even after expiry of a license or lease.--- On the surrender, expiry or determination of a mineral title, the licensee or the lessee, as the case may be, shall be responsible for payment of all outstanding dues and other charges which, in the event of non-payment, shall be recoverable as arrears of land revenue.

PART-VII **SPECIAL PROVISIONS REGARDING MINOR MINERALS**

78. Mining of minor minerals, shape and size of the area, period of lease and mode of grant.--- (1) There shall be no mining of minor minerals except under lease ¹[****] granted in accordance with this Act or the rules made thereunder:

²["Provided that owner of a land may level the land or make excavation of mineral for agriculture or building purposes other than commercial mineral extraction or marketing subject to prior approval of the Director General.".]

(2) The period of a lease shall be up to ³[one year] granted on "as is, where is" basis through open auction ⁴[or sealed tenders or e-bidding] conducted by District Auction Committee.

⁵[(3) A lease shall be granted in respect of all minor mineral blocks in a district duly approved by the District Auction Committee. However, in case of non-auction of the whole district, the District Auction Committee on the approval of Licensing Authority, may auction minor mineral blocks of the district independently. The lease shall consist of those minor mineral blocks in the district that are approved by the Licensing Authority.";and]

(4) Each area in respect of which a lease is granted ⁶[minor mineral block] shall, as far as practicable, be in a compact shape and shall be identified by well marked permanent physical boundaries or by straight lines ⁷[not exceeding thirty two hundred acres.]

¹Deleted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

²Added vide Khyber Pakhtunkhwa Act No. XLVI of 2019

³Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

⁴Added vide Khyber Pakhtunkhwa Act No. XLVI of 2019

⁵Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

⁶Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

⁷Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

(5) Area granted under a mining lease shall not be altered or changed in any case.

79. Constitution and composition of District Auction Committee.--- Government may, by notification, constitute a District Auction Committee in each district for conducting auction of leases for minor minerals consisting of such number of members as deemed appropriate.

80. Procedure for auction.--- (1) The district auction committee shall, for the purposes of general information, prepare and maintain a schedule, along with necessary plans based on Survey of Pakistan maps of the area in a district where minor minerals are situated and shall also formulate and maintain a tentative programme for auction.

(2) For general information of the public, the district auction committee shall, through public notice, advertise in newspapers at least fifteen days prior to the date of auction the location of the area in respect of which the lease is to be granted, the dates, time and place where the auction is to take place and the terms and conditions of the auction.

(3) A registered minor minerals contractor desirous of taking part in an auction shall submit, to secretary of the district auction committee, an application of his intention to take part in the auction, at least three days prior to the auction.

(4) Every application under sub-section (3) shall be accompanied by the application fee and earnest money equal to ¹[twenty five] percent of the reserve price fixed by the district auction committee, a copy of the ²[computerized] National Identity Card of the applicant, income tax registration certificate, duly registered partnership deed where the applicant is a partnership firm and the Articles and Memorandum of Association, if the applicant is a Company.

(5) If an application is not submitted in accordance with the provisions of sub-section (3) and (4), it shall be rejected and the applicant shall not be eligible to take part in the auction.

(6) Secretary of the district auction committee shall record the date and time of its receipt on the application and deliver to the applicant a registration slip stating the date and time of the auction.

¹Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

²Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

(7) ¹[On conclusion of the auction proceedings, the committee shall issue demand notice to the highest bidder for deposition of one fourth of the bid money within three days. On payment of this amount, the District Auction Committee shall forward its recommendation to the Licensing Authority for approval. If the highest bidder fails to deposit one fourth of the bid money within three days after the issuance of demand notice, his earnest money shall be forfeited in favor of Government and the bid of second highest bidder shall be considered as highest bid, subject to the condition that the difference between the first and second highest bids is not more than ten percent of the highest bid.”;]

(8) The Licensing Authority shall have the discretion to accept or reject the highest bid received in an auction for reasons to be recorded in writing.

(9) ²[The earnest money deposited by the applicants shall be refunded immediately after conclusion of the auction proceedings, except to the first highest bidder. Earnest money of the second highest bidder shall also be retained if the difference between the first and second highest bids is not more than ten percent of the highest bid.”;]

(10) ³[*****]

(11) On approval of the bid, twenty-five per cent of the bid money deposited by the highest bidder shall be treated as a security deposit.

(12) On receipt of approval of the Licensing Authority, secretary of the district auction committee shall issue an allotment letter whereupon the lease shall stand granted to the highest bidder ⁴[and the un-forfeited earnest money shall be refunded to the relevant bidder].

(13) The allotment letter shall state the terms and conditions of the lease and indicate the dates on which the lessee would be required to pay the installments, if any.

(14) The lessee at his own expense shall, within fifteen days of issue of allotment letter, cause the granted area demarcated on ground according to the survey data and erect and maintain at all times correct and permanent boundary marks and pillars standing not less than one meter above the surface of the ground and being not less than half meter square or in diameter at the base at every angle or corner of boundary line.

¹Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

²Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

³Deleted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

⁴Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

(15) A lessee shall provide the Licensing Authority or an officer authorized by it in this behalf, all reasonable facilities to enter upon the leased area for the purpose of inspection, survey, measurement or inquiry about any matter relating to the lease and shall make available all records pertaining thereto for examination.

(16) If an area or a portion thereof held under a lease is required at any time by the Government for any public purpose, the Licensing Authority shall have the powers to withdraw such area without notice and the bid money shall be reduced proportionately.

(17) A lessee shall neither transfer any right or interest under the lease, nor part with the possession of the area or any part thereof: ¹[“ Provided that in case of death of the lessee, the lease may be transferred for the remaining validity period to the legal heirs or successor upon his request subject to payment of all government dues and completion of requisite codal formalities.”;]

(18) On the expiry or termination of the lease, as the case may be, the security deposit shall be refunded to the lessee after making such deductions on account of outstanding dues, compensation for surface damage and penalty if any as the Licensing Authority may order.

(19) In case the lessee fails to pay any installment by the due date, the Licensing Authority may cancel the lease subject to fifteen days notice and take possession of the area through authorized officer in this behalf. The security shall be forfeited and adjusted towards the Government dues. The remaining outstanding dues, if any, shall be recovered as arrears of land revenue.

(20) The process of re-auctioning shall start three months before expiry of the lease.

(21) The provisions of section 56 of this Act shall apply mutatis mutandis in relation to minor minerals.

(22) ²[*****]

81. Surface rent and land acquisition.--- (1) A lessee shall pay, for all Government land which he may use or occupy superficially for the purpose of the operations conducted under the lease, a surface rent assessed by the District Surface Rent Committee.

¹ Added vide Khyber Pakhtunkhwa Act No. XLVI of 2019

² Deleted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

(2) If the land belongs to a private person, a lessee 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 and the land owner and in case of disagreement between them, at such rate and in such manner as may be determined by the District Surface Rent Committee.

(3) If, in the opinion of the District Surface Rent Committee, it is necessary to acquire land to provide access to the leased area, it may acquire it under the Land Acquisition Act, 1894 (Act No. 1 of 1894).

82. Black listing.--- The provisions of section 59 of this Act shall apply mutatis mutandis in relation to minor minerals.

83. Compensation.--- A lessee shall pay such compensation as may be assessed by the Licensing Authority in accordance with any law for the time being in force for such loss, which may be caused as a result of the operations carried out by him under the lease and shall indemnify the Licensing Authority or any officer working on its behalf against all claims which may be made by third parties in respect of any such damage, injury or disturbance.

84. Operation in the reserved and protected forests.--- (1) All operations within a reserved or protected forest shall be subject to relevant forest laws as the Licensing Authority may by a general or a special order, prescribe.

(2) It shall be a condition of every lease that before commencement of mining operations within a reserved or protected forest, a notice shall be given to the Forest Officer concerned of the intention to commence operations.

85. Working near railway line, etc.--- The provisions of section 35 of this Act shall apply mutatis mutandis in relation to minor minerals.

PART-VIII
RESPONSIBILITY OF LICENSING AUTHORITY FOR REGULATION
AND ENFORCEMENT

86. Offences, punishments and cognizance.--- (1) The offences specified in **Schedule-V** and **Schedule-VI** shall be liable to punishment by way of imprisonment, fine, seizure, forfeiture, confiscation, impounding and such other penalties as are provided in this Act.

(2) Whoever commits any of the offences specified in-

- (a) Part-I of the **Schedule-V** shall be punishable with imprisonment for a term of minimum six months which may extend up to ¹[five years and with a fine] of minimum five hundred thousand which may extend up to two million, ²[****] and, where an accused was directed by the Licensing Authority or an officer authorized by it for immediate discontinuance of the offence, the court may impose a further fine ³[of five thousand] rupees for every day for the period the accused has persisted in the offence from the date of its commission; and
- (b) Part-II of **Schedule-V** shall be punishable with imprisonment ⁴[for a term of minimum one month] which may extend to six months or fine ⁵[of minimum rupees twenty thousand] which may extend to one hundred thousand rupees, or with both and, where an accused was directed by the Licensing Authority or an officer authorized by it for immediate discontinuance of the offence, the court may impose a further fine which may extend to five hundred rupees for every day for the period the accused has persisted in the offence from the date of its commission; and
- (c) **Schedule-VI** shall in the first instance, be liable to fine by issuing a Challan specified in the **Schedule-VII** and, where an accused repeats the offence within a period of two months for which he was fined, he shall be liable to the same punishment as provided in clause (b).

(3) The offences specified in clause (a) of sub-section (2) shall be cognizable and non-bailable and information in this regard shall be reported to the respective police station, by the Licensing Authority or an officer authorized by it in this behalf, for registration of a case against the accused.

(4) A court shall take cognizance of the offences specified in clause (b) of sub-section (2) on a complaint made in writing by Licensing Authority or an officer authorized by it in this behalf.

¹Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

²Deleted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

³Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

⁴Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

⁵Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

(5) The offences specified in Part II of the **Schedule-V** and **Schedule-VI** shall be tried in a summary manner in accordance with the provisions of section 260 to 265 (both inclusive) of the Code of Criminal Procedure, 1898 (V of 1898), but the limit of punishment mentioned in sub-section (2) of section 262 thereof shall not be applicable.

(6) Unless any specific provision is provided in this Act, the provision of Criminal Procedure Code, 1898 (V of 1898) shall apply to all the proceedings under this Act.

87. Imposition of fine through Challan.--- (1) Where any person, in the opinion of the Licensing Authority or an officer authorized by it is contravening any provision of the law relating to the offences specified in **Schedule-VI**, he shall charge the accused by issuing a Challan in the form specified in **Schedule-VII** for payment of fine, if such offence has been committed for the first time in two months.

(2) The Challan shall be issued in quadruplicate by delivering three copies to the accused after obtaining his signatures or thumb impression on the fourth copy to be retained by the Licensing Authority or the officer authorized by it for record.

(4) The person to whom a Challan has been issued under this section may either contest the imposition of fine in the court within ten days from the date of the issuance of the ticket or deposit the fine within that period and provide a copy of paid Challan to the Licensing Authority or, as the case may be, the officer authorized by it.

88. Procedure for default in deposit of fine.--- (1) The Licensing Authority or authorized officer in this behalf shall, on monthly basis, provide a scroll of all unpaid challans to the court having jurisdiction in the cases.

(2) The court receiving the scroll shall issue summons to the accused forthwith stating date of hearing for trial as enumerated in section 86.

(3) Where on the first date of hearing, the accused appears before the court and produces proof of deposit of fine, or unconditionally admitting his failure, deposits the fine forthwith along with the penalty which shall not be less than ten percent and not more than twenty five percent of the amount of fine as determined by the court in accordance with the procedure provided in sub-section (2) of section 388 of the Code of Criminal Procedure, 1898 (Act V of 1898), further proceedings against the accused may be dispensed with and no conviction shall be recorded against him.

(4) Upon failure of the accused to appear before the court in response to the summons, the court shall forthwith issue warrants for arrest of the accused and

upon issuance of such warrants the accused will be liable to punishment under clause (a) of sub-section (2) of section 86.

(5) The fines imposed by a court for an offence specified in **Schedule-V** and **Schedule-VI** shall on collection be deposited in the Treasury under relevant Head of Receipts.

89. General powers of Licensing Authority.--- (1) In case of any serious violation of the terms of mineral title, threat to the public health, safety or welfare or danger to life and property, or where violation of any rule is being committed, the Licensing Authority or, an officer authorized by it specifically in this behalf, may, in addition to imposition of fine or initiating prosecution under this Act-

- (a) suspend any work;
- (b) seal the premises;
- (c) seize and impound implements, equipment and machinery;
- (d) demolish or remove any work;
- (e) dismantle or remove any machinery; or
- (f) issue directions for taking corrective measures within a specified time.

(2) The Licensing Authority, or an officer authorized by it in this behalf may, in relation to the offences specified in **Schedule-V** and **Schedule-VI**.

- (a) issue notices in writing;
- (b) initiate legal proceedings in court; and
- (c) assist in defending legal proceedings against the Government.

90. Registers, reports and enforcement gazette.--- (1) The Licensing Authority shall specify registers for maintaining record of cases and forms for monthly reports regarding enforcement activities.

(4) The Licensing Authority shall periodically review enforcement effort, compile reports and publish quarterly Mineral Enforcement Gazette.

91. Requisition of police support.--- The Licensing Authority may requisition a police contingent on deputation or payment of charges in accordance with the

provisions of Khyber Pakhtunkhwa Police Act, 2017 for assistance in enforcement activities.

92. Delegation of Powers.--- The Licensing Authority may by instrument in writing delegate all or any of its powers under this chapter to any officer by designation.

PART-IX **MISCELLANEOUS PROVISIONS**

93. Joint liability.--- Where a mineral title is held by more than one holder, the liability of any holder in respect of any breach thereof, shall be joint and several, but without prejudice to any right of contribution which a particular holder may have against any other holder in respect of any liability incurred by the particular holder in respect of breach.

94. Submission of disputes for decision of the Authority.--- Any dispute, other than a criminal offence by the holder of the mineral title, arising between the holder of a mineral title and the Licensing Authority out of or in connection with a mineral title shall, if it cannot be settled amicably within a period of ninety days, be submitted to the Authority for a final decision.

95. Rights over data.--- (1) Government shall have exclusive right to have and use all data including geological, geophysical, geochemical, petrochemical, engineering, pit logs, maps, magnetic tapes, cores and production data, as well as all interpretative and derivative data including reports, studies, analyses, interpretations, bulk sampling results, assaying results, evaluations and other information in respect of exploration or mining operations.

(2) The holder of a mineral title shall have the right to make use of the data referred to in sub-section (1) pertaining to his respective mineral title, free of cost, for the purpose of exploration, prospecting or mining operations and to retain copies or samples of material or information constituting the data.

(3) Data permitted to be used or retained as provided in sub-section (2), which is not in the public domain, shall not be disclosed to any person without prior written permission of the Licensing Authority, except as may be necessary for the purpose of, or in connection with prospecting, exploration and mining operations by the holder of the mineral title.

96. Compliance with other laws.--- Nothing in this Act shall be construed as authorizing the holder of a mineral title to do anything-

- (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 approval, permission or other document required under any such law.

97. Weighing of minerals.--- The holder of an exploration license, or a prospecting license or a mineral deposit retention license, or a mining lease shall provide in the exploration area, prospecting area, retention area or, as the case may be, the lease area a properly constructed and correct weighing machine or other suitable means for determining the weight of any mineral or group of minerals won or mined in the exercise of the rights under the mineral title.

98. Liability for pollution.--- (1) Where in the course of reconnaissance, exploration, prospecting or mining operations carried on under a mineral title, any mineral is spilled on land, or in any water on or under the surface of any land, or any land or any such water is otherwise polluted or damaged, or any plant or animal life, whether in water or on, in or under land, is endangered or destroyed, or any damage or loss is caused to any person, including the Government, by such spilling, pollution or damage, the holder of the mineral title shall forthwith-

- (a) report such spilling, pollution, loss or damage to the Licensing Authority; and
- (b) take at his own cost all such steps as may be necessary in accordance with good reconnaissance, prospecting, exploration or mining practices or otherwise as may be necessary to rectify the spilling, pollution, loss or damage.

(2) If the holder of mineral title referred to in sub-section (1) fails to comply with the provisions of clause (b) of that sub-section within such period as the Licensing Authority may deem in the circumstances to be reasonable, the Licensing Authority may order the holder, by notice in writing, to take, within such period as may be specified in such notice, such steps as may be specified to rectify the spilling, pollution, damage or loss and the Licensing Authority may, if the holder fails to comply with the order within the period specified in the notice, cause such steps to be taken as may be necessary to rectify the spilling, pollution, damage or loss and recover the costs incurred thereby from such holder.

99. Powers of authorized officer.--- (1) An authorized officer, at all reasonable times,-

- (a) may enter any area, structure, vehicle, vessel, aircraft or building that, in his opinion, has been, is being or is to be used in connection with reconnaissance, prospecting or mining operations;
- (b) may inspect and test any machinery or equipment that, in his opinion, has been, is being or is to be used in connection with any of the operations referred to in clause (a);
- (c) may take or remove for the purpose of analysis or testing, or for use in evidence in connection with an offence against this Act, samples of minerals or other substances from a mine or any area where any of the operations referred to in clause (a) is being carried out;
- (d) may inspect, take extracts from, and make copies of, any data, relating to any of the operations referred to in clause (a);
- (e) may make such examinations and inquiries as are necessary to ensure that the provisions of this Act, and any directions issued, conditions imposed or orders made under this Act, are being complied with; or
- (f) may, for reason to be recorded in writing, order-
 - (i) the cessation of operations on or in, and the withdrawal of all persons from, any structure or building that is being used in connection with any of the operations referred to in clause (a); or
 - (ii) the discontinuance of the use of any machinery or equipment, which he considers unsafe, unless and until such action as is necessary for safety and specified in the order is taken and completed.

(2) Before exercising any of his powers under sub-section (1), if there is any person who is or appears to be in-charge of the area, structure, vehicle, vessel, aircraft, building, machinery, equipment or matter or any other thing in respect of which the power is about to be exercised, the authorized officer shall show identification to that person and to any person to whom he is about to give an order or a direction.

(3) Any person who is aggrieved by a decision, direction or order of an authorized officer made under this section may appeal in writing to the Licensing Authority which shall, within fifteen days, hear and dispose of the appeal.

(4) On an appeal under sub-section (3), the Licensing Authority may rescind or affirm the decision, direction or order appealed against or may make a fresh decision, direction or order.

(5) A person who is a title holder in relation to any matter referred in sub-section (1) shall provide an authorized officer all reasonable facilities and assistance, for the effective exercise of the authorized officer's powers under this section.

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

- (a) mineral title was issued or transferred to a person so specified;
- (b) any interest in such title or license has been granted, ceded or assigned to a person so specified;
- (c) any person has been joined as a joint holder of a mineral title so specified;
- (d) any condition so specified is or was a condition of the mineral title;
- (e) a person mentioned in the certificate is or was the holder of a title; or
- (f) a mineral title has been issued 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.

101. Forfeiture order.--- Where a person is convicted of an offence under this Act, the court before which he is convicted may, in addition to any penalty imposed or other forfeiture ordered, order that any mineral or group of minerals won, mined or found in the course of the commission of the offence, be forfeited to the Government or, in the event of any such mineral or group of minerals having been sold or otherwise disposed of, that an amount equal to the proceeds of the sale or the market value of the mineral or group of minerals, as determined by the court, be paid by such person to the Government.

102. Appeal.--- (1) If a person is aggrieved by an order of the Licensing Authority, he may, within thirty (30) days of the communication of the impugned order on payment of prescribed fee, prefer an appeal to the Appellate Authority.

(2) The decision of the Appellate Authority, on such appeal shall be final.

(3) The Appellate Authority, while hearing an appeal under sub-section (1) may, if it so considers necessary in the interest of justice, grant a stay order; provided that no such order shall be passed in respect of the Government dues unless the appellant deposits twenty-five per cent of the disputed amount with the Licensing Authority.

(4) If the appeal in which a stay order has been granted is finally rejected and the Appellate Authority is of the view that the appeal was preferred on frivolous grounds or the stay order was obtained by deceit or fraud on the part of the appellant, it may while deciding the appeal, impose a penalty up to five per cent of the disputed amount.

(5) The amount deposited under sub-section (3) shall first be adjusted towards the penalty imposed under sub-section (4) and the remaining amount, if any, may be adjusted towards the recovery of the Government dues.

(6) Notwithstanding anything provided in any other law for the time being in force, no court shall have jurisdiction to entertain or to adjudicate upon any matter to which the Appellate Authority under this Act is empowered to dispose-off or to determine the validity of anything done or an order passed by it.

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

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

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

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

¹Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

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

103. Rules.--- (1) Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) The rules made under sub-section (1) shall be subject to previous publication in the official Gazette and shall meet the following considerations-

- (a) consistency with the provisions of this Act;
- (b) fairness and clarity;
- (c) facilitation of investment in mining sector; and
- (d) natural justice and due process of law.

¹ [103A.Amendment of Schedules.---Government may from time to time by notification in the official Gazette, amend the Schedules appended to this Act.]

104. Removal of difficulty.--- Government may, by order, provide for the removal of any difficulty which may arise in giving effect to the provisions of this Act.

105. Repeal and saving.--- (1) The Regulation of Mines and Oil field and Mineral Development (Government Control) Act, 1948 (XXIV of 1948) is repealed to the extent of Mines and Mineral Development in the Province of the Khyber Pakhtunkhwa.

(2) Notwithstanding the aforesaid repeal, anything done, action taken, rules made, and notification or order issued under the aforesaid Act, 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.

(3) For removal of doubts, it is hereby provided that all proceedings pending immediately before the commencement of this Act, before any Court shall be examined by the concerned Court in accordance with the provisions of this Act.

(4) Any appeal pending immediately before the commencement of this Act, before the Appellate Authority constituted under the repealed Act or any rules in this behalf, shall be considered in accordance with the provisions of this Act, by the Appellate Authority empowered under this Act.

¹ Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

(5) 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 rules in this behalf, shall be considered by the Licensing Authority in accordance with the provisions of this Act. Further the licenses granted under the repealed Khyber Pakhtunkhwa Mining Concession Rules 2005 shall be considered to have been granted for such period as determined under this Act from the date of issuance of allotment letter.

(6) 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.

SCHEDULE-I
(see section 2(1), 9(2)(a)(b))

**AREA LIMITATIONS FOR PROSPECTING LICENSE AND MINING LEASE
FOR SMALL SCALE MINING**

<i>S#</i>	<i>Name of Mineral Group</i>	<i>Extent of Area</i>
1	Construction Minerals Group (Lime stone, Dolomite Sand stone and alike minerals)	100 Acres
2	(Lime stone, Shale Clay and Slate Stone) Cement Industries	Up to 3,000 Acres
3	Dimension Stone (Granite, Marble and alike minerals)	200 Acres
4	Industrial Minerals Group (Phosphate, Soap Stone, clays, Rock salt, Gypsum, Quartz, Silica Send and alike minerals	200 Acres
5	Metallic Minerals Group (Precious and base metals)	500 Acres
6	Precious and semi-precious gemstone (group)	50 Acres
7	Fuel Minerals (Coal)	¹ [800] Acres

¹Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

SCHEDULE-II

(see section 12, 21, 23 and 30)

MANDATORY PROVISIONS IN MINERAL AGREEMENTS

Every mineral agreement shall, in particular, make provisions with respect to all or any of the following matters:

- (i) the grant, conversion, cancellation of a mineral title and, renewal and transfer in respect of mining lease;
- (ii) exploration operation to be carried on and related expenditures to be incurred for the purposes of those operations;
- (iii) the formation of joint venture;
- (iv) the basis on which fair market value of any mineral or group of minerals may, from time to time, be determined on an arms-length basis;
- (v) the payment of enhanced royalty in specified circumstances;
- (vi) the payment of additional profits and taxes in specified circumstances;
- (vii) the establishment of secondary and tertiary processing facilities;
- (viii) the circumstances in which, and the conditions on which, rights of pre-emption of minerals may be exercised by the Government;
- (ix) guarantees to ensure due and proper performance of the obligations of the holder of the mineral title;
- (x) financial and insurance arrangements;
- (xi) settlement of any dispute which may arise in the interpretation or application of any provision of a mineral agreement by the Authority;
- (xii) co-ordination of exploration or mining operation to be carried out by the person concerned under an exploration license or a mining lease with any such operation carried out by the holder of an exploration

license or a mining lease in any neighboring exploration area or mining area; and

- (xiii) Foreign Investment and technical capabilities:
 - (a) the likely scale of the capital investment to be made;
 - (b) the expenditure and work programme proposed by the applicant;
 - (c) the likely scale of operation and required infrastructure in the event of a commercial discovery;
 - (d) the mineral or group of minerals to which the mining title, if granted, would relate and the potential export of that mineral or group of minerals;
 - (e) the techniques to be used for the recovery of that mineral or group of minerals;
 - (f) the technical and financial capabilities of the applicant for a mineral title; and
 - (g) any other relevant factor.

- (xiv) General conditions of mineral titles.---The holder of a mineral title shall-
 - (a) exercise any right granted to the holder reasonably and in such manner that the rights and interests of the occupier of the land to which the title relates are not adversely affected except to the extent that the occupier is compensated;
 - (b) give preference to citizens of Pakistan for employment of persons, who possess appropriate qualifications, expertise and experience for the purposes of the operations to be carried on under the mineral title;
 - (c) carry out training programmes in order to encourage and promote the development of citizens of Pakistan employed by the holder of the mineral title;

- (d) ensure technical and economic efficiency and make use of the products or equipments locally manufactured or produced, and the services locally available;
- (e) co-operate with the persons involved in the mining industry to enable citizens of Pakistan to develop skills and technology and to render services in the interest of that industry;
- (f) take measures to prevent damage to the environment, and where some adverse impact on the environment is unavoidable, take measures to minimize such impact;
- (g) make good any damage caused to the environment, as far as possible, during the course of exploration or mining operations and on the cessation of such operations due to expiry or cancellation of the mineral title or otherwise;
- (h) give to the Licensing Authority, if the holder is a Company, notice of any change in its name, registered address, directors or share capital, within thirty days as from the date of the change, or give to the Licensing Authority any change of his address, if it is a case of an individual, within thirty days of the change;
- (i) make such contributions to the Government as may be provided for in the title or the mineral agreement to be utilized for the benefit of the local population in such manner as may be prescribed.

APPLICATIONS AND PROCESSING OF APPLICATIONS FOR MINERAL TITLES

GENERAL

- (1) Every application shall be made to the Licensing Authority, on the prescribed form and after deposit of the prescribed fee.
- (2) Every application shall contain a detailed profile of the applicant and details of the area, the kind of mineral title, and the mineral or group of minerals to which the application relates.
- (3) Where more than one application are made in respect of the same area of land, the applications shall be dealt with in the order in which they are received by the Licensing Authority.

- (4) An applicant may incorporate alternative proposals in addition to the proposals set out in the application to facilitate consideration by the Licensing Authority.

POWER OF LICENSING AUTHORITY IN RESPECT OF APPLICATIONS:

- (1) The Licensing Authority may accede to, on such conditions as may be determined in writing by it, or refuse to accede to any application and communicate reasons for refusal to the applicant.
- (2) While considering any application the Licensing Authority may cause such investigations to be made or undertaken as it may, in its discretion, deem necessary.
- (3) The Licensing Authority shall take into account the need to conserve and protect the natural resources in, on or under the land to which the application relates including adjoining or neighboring land.
- (4) Where the Licensing Authority is prepared to grant an application subject to certain conditions, the Licensing Authority shall communicate the conditions to the applicant.
- (5) If the applicant fails to accept the conditions conveyed to him in writing by the Licensing Authority or authorized officer in this behalf within a period of one month, the right of applicant to have a mineral title shall lapse.

GENERAL CONDITIONS OF MINERAL TITLES:

- (1) It shall be a condition of a mineral title that the holder thereof shall-
 - (a) exercise any right granted to him reasonably and in such manner that the rights and interests of the occupier of the land to which the title relates are not adversely affected except to the extent that the occupier is compensated;
 - (b) give preference to citizens of Pakistan for employment of persons, who possess appropriate qualifications, expertise and experience for the purposes of the operations to be carried on under the mineral title;

- (c) carry out training programmes in order to encourage and promote the development of citizens of Pakistan employed by the holder of the mineral title;
 - (d) ensure technical and economic efficiency and make use of the products or equipments locally manufactured or produced, and the services locally available;
 - (e) co-operate with the persons involved in the mining industry to enable citizens of Pakistan to develop skills and technology and to render services in the interest of that industry;
 - (f) take measures to prevent damage to the environment, and where some adverse impact on the environment is unavoidable, take measures to minimize such impact;
 - (g) make good any damage caused to the environment, as far as possible, during the course of exploration or mining operations and on the cessation of such operations due to expiry or cancellation of the mineral title or otherwise; and
 - (h) make prescribed contributions to Government for the benefits of the local population.
- (2) Every mineral title shall provide for the pre-emption of minerals by Government.

RESTRICTIONS ON EXERCISE OF RIGHTS BY HOLDER OF MINERAL TITLE:

The holder of a mineral title shall not-

- (a) carry on prospecting, exploration or mining operations at or upon any point within a distance of twenty meters from the boundary of the exploration area or, as the case may be, the mining area;
- (b) carry on prospecting or exploration or mining operations at or upon any point within a distance of one hundred meters from any railway line, reservoir, canal or other public works, or buildings;

- (c) erect any building or carry on any surface operations upon any public play ground, crematory or graveyard, or place held sacred by any class of persons, or any house or village site, or public road or on any other place;
- (d) cut or injure any tree on occupied land except with approval of an officer authorized by the Licensing Authority;
- (e) disturb the surface of any public road;
- (f) enter upon any public play ground, crematory or graveyard, or place held sacred by any class of persons; or
- (g) interfere with any right of way, well, tank or cultivated agricultural land.

ENVIRONMENTAL PROTECTION:

- (1) The holder of a mineral title shall notify in writing, thirty days before the commencement of exploration operations within a reserved or protected forest, to the concerned Forest Officer, his intention to commence operations, and that the operations shall be conducted subject to any condition regarding the use of land which may, for the time being, be provided by a notification in the official Gazette.
- (2) All surface operations conducted within a reserved or protected forest shall be subject to such conditions as may, for the time being, be imposed by the Environment Department by a general or special order.
- (3) Before occupying any land for surface operations or clearing any land, the holder of a mineral title shall give to the Licensing Authority one month's prior notice in writing specifying by name or other sufficient designation and quantity the land proposed to be occupied and the purpose for which the same is required.

PAYMENT OF COMPENSATION AND INDEMNIFICATION:

The holder of a mineral title shall make and pay such compensation as may be assessed by a lawful authority in accordance with the law in vogue, for all damages, injuries or disturbances caused by him during the currency of any activity under the mineral title. The Licensing Authority or his authorized officer which has granted the mineral title in exercise of powers conferred

upon him under this Act is given indemnity against all such claims which are made by third party in respect of such damages, injuries or disturbances.

DIRECTIONS TO HOLDER OF MINERAL TITLE:

The Licensing Authority may, by notice in writing, direct the holder of a mineral title regarding the-

- (a) carrying out of reconnaissance operations, prospecting operations exploration operations and mining operations, including any works connected therewith;
- (b) conservation of any natural resources, including mineral resources, and the prevention of the waste of such resources;
- (c) protection and preservation of the surface of mines or works and of buildings, roads, railways and other structures and enclosures on or above the surface of land, and the conditions under which such building, road, railway, structure and enclosure may be undermined;
- (d) construction, erection, maintenance operation, use or removal of structures, equipment and other goods used in connection with the exploration for, or the mining or conveyance of minerals;
- (e) protection of environment including prevention and combating of pollution of the air or land which arises or may arise in the course of the operations involved in exploration or mining of any mineral or after such operations;
- (f) taking, preservation and furnishing to the Licensing Authority of cores, cutting or samples of minerals from mines or excavations;
- (g) submission of reports, returns and other information;
- (h) taking of logs or directional surveys or the making of other investigations; and
- (i) creation of safety zones in relation to structures erected on land to which the mineral title relates.

FAILURE OF THE TITLE HOLDER TO COMPLY WITH DIRECTIONS:

If a title holder fails to comply with the directions, the Licensing Authority may:

- (a) cause such steps to be taken as may be necessary to comply with the direction; and
- (b) recover from the holder the costs incurred in connection with the taking of any such steps, as a debt due to the Government.

APPLICATION FOR RECONNAISSANCE LICENSE

GENERAL

An application for the grant of a reconnaissance license shall-

- (a) give complete profile of the applicant;
- (b) be made in respect of an area of land not exceeding one thousand square kilometers;
- (c) identify the mineral or group of minerals in respect of which a license is sought;
- (d) provide detailed topographical and geological description of the boundaries of the area of land to which the application relates, and a plan drawn to its location with reference to the coordinates of the bench mark on topographic sheets and the extent of the area and the boundaries by reference to identifiable physical features and co-ordinate reference points;
- (e) contain particulars of the programme of reconnaissance operations proposed to be carried out, the estimated expenditure in respect thereof and the period within which the operations shall be completed;
- (f) provide necessary particulars to determine the applicant's technical and financial resources or, where applicable, those of any person contractually engaged to provide such resources, and copies of relevant contractual agreements; and

- (g) furnish particulars of all other mineral titles held or mines operated in or outside the province by the applicant, whether alone or jointly, currently or during ten years immediately preceding the date of the application.

RESTRICTIONS ON GRANT OF APPLICATION FOR RECONNAISSANCE LICENSE:

- (1) The Licensing Authority shall not grant an application for a reconnaissance license unless it is satisfied that the:
 - (a) applicant is a company and otherwise eligible to hold the license;
 - (b) programme of reconnaissance operations to be carried out and the expenditure to be incurred on reconnaissance operations are prudent and viable;
 - (c) applicant has technical resources to carry out the reconnaissance operations; and
 - (d) applicant has the financial resources to make the expenditure required for the operations.
- (2) The Licensing Authority shall not grant an application for a reconnaissance license if the applicant is, at the time of the application, in default.

GRANT AND CONTENTS OF RECONNAISSANCE LICENSE:

- (1) Where the Licensing Authority has no objection to the grant of reconnaissance license, it shall grant a reconnaissance license to the applicant and mention its conditions in the license.
- (2) A reconnaissance license shall state and contain:
 - (a) full names and address of the licensee;
 - (b) date of issue;
 - (c) the extent of area granted;

- (d) proper description and plan including geometrical or numerical depictions, or any combination thereof, in words or symbols of the area;
- (e) detailed conditions subject to which the license is granted;
- (f) the mineral or group of minerals in respect of which the license is granted; and
- (g) the approved programme of reconnaissance operations and related expenditures.

RECONNAISSANCE OPERATIONS AND EXPENDITURE:

- (1) Where the company as holder of a reconnaissance license is, by virtue of the conditions of the license, required to carry out or to make in a particular period, in accordance with a work programme, certain minimum reconnaissance operations and expenditure, it shall furnish to the Licensing Authority, on such date or dates as may be specified in the license, particulars of such reconnaissance operations carried out and the expenditure made.
- (2) The Licensing Authority may, on application made to it by the holder of a reconnaissance license by notice in writing to the holder, amend any work programme or expenditure in accordance with the proposals contained in the application or to such extent as to the Licensing Authority may deem expedient;

MAINTENANCE OF RECORDS BY THE HOLDER OF RECONNAISSANCE LICENSE:

- (1) The holder of a reconnaissance license shall keep at an address in the province proper record of the:
 - (a) location and nature of all geological, geochemical, photo-geological studies, imaging and geophysical and other surveys carried out in the course of reconnaissance operations in the reconnaissance area to which the reconnaissance license relates, and the results, compilations, interpretations and assessments of such studies and surveys;
 - (b) persons employed for the purposes of reconnaissance operations including the names, addresses, nationalities and ages of such persons;

- (c) expenditures incurred in the course of reconnaissance operations; and
 - (d) such other information as may be specified by the Licensing Authority by notice in writing and shall retain such records for a period of not less than three years from the date of expiry of the license.
- (2) The holder of a reconnaissance license shall prepare and maintain at all times plans and maps in respect of the reconnaissance area and a statement of income and expenditure in connection with the reconnaissance operations.
- (3) The holder of a reconnaissance license shall submit to the Licensing Authority, within thirty days after the end of the currency of the reconnaissance license in respect of the whole of the reconnaissance area a report in duplicate setting out in relation to the reconnaissance period:
 - (a) an evaluation of the prospects of the discovery of any mineral or group of minerals in the reconnaissance area;
 - (b) all information, including photographs, tabulations, tapes and discs; and
 - (c) the statement of income and expenditure and financial statements.
- (4) In the event of cancellation or surrender of a reconnaissance license, or expiry of the license, the holder of such license immediately before the cancellation, surrender or expiry shall, within thirty days after the date of the cancellation, surrender or expiry, deliver to the Licensing Authority all records, maps, plans, reports, photographs, tabulations, tapes and discs prepared in the course of reconnaissance operations.

APPLICATION FOR EXPLORATION LICENSE

GENERAL

An application for the grant of an exploration license shall-

- (a) give complete profile of the company;

- (b) be made in respect of an area of land not exceeding five hundred square kilometers;
- (c) furnish a comprehensive geological description of the area of land over which the license is sought, identify the potential for, or the nature of, mineralization contained therein;
- (d) identify the mineral or group of minerals in respect of which a license is sought;
- (e) provide a programme of exploration operations proposed to be carried out, the estimated expenditure in respect thereof and the period within which the operations shall be completed;
- (f) highlight anticipated environmental effect and measures to be taken to prevent or minimize any adverse environmental effects;
- (g) provide necessary particulars to determine technical capacity and financial resources of the applicant or, where applicable, those of any person contractually engaged to provide such resources, and copies of relevant contractual agreements;
- (h) state the period, not exceeding five years, for which the license is required;
- (i) furnish particulars of all other mineral titles held or mines operated in or outside the province by the applicant, whether alone or jointly, currently or during ten years immediately preceding the date of the application; and
- (j) provide any other information which the applicant considers relevant.

RESTRICTIONS ON GRANT OF APPLICATION FOR EXPLORATION LICENSE:

- (1) The Licensing Authority shall not grant an exploration license to any person in relation to any area of land in respect of any mineral or group of minerals if, at the time the application is made,-
 - (a) the area of land constitutes a mining area for large scale mining;

- (b) any mineral deposit retention license is held by any person in relation to the area of land;
 - (c) any reconnaissance license or exploration license conferring an exclusive right to carry on reconnaissance operations or exploration operations, in the area of land in respect of the mineral or group of minerals to which the application relates, is held by any other person; or
 - (d) the applicant is in default.
- (2) The Licensing Authority shall not grant an exploration license to any person in relation to a mineral within an area which already stands granted, under a small scale mining undertaking.
- (3) An application for an exploration license shall not be granted unless the proposed programme of exploration operations and the proposed expenditure to be incurred on exploration operations are found technically sound and the applicant has the technical and financial resources to carry out the exploration operations.

GRANT AND CONTENTS OF EXPLORATION LICENSE:

- (1) Where the Licensing Authority has no objection to the grant of exploration license, it shall issue to the applicant exploration license.
- (2) An exploration license shall state and contain:
- (a) full names and address of the licensee;
 - (b) date of issue and the period of validity;
 - (c) the extent of area granted;
 - (d) proper description and plan including geometrical or numerical depictions, or any combination thereof, in words or symbols of the area;
 - (e) detailed conditions subject to which the license is issued;
 - (f) the mineral or group of minerals in respect of which the license is issued;

- (g) the approved programme of exploration operations and related expenditures; and
- (h) such other particulars as the Licensing Authority may determine.

AMENDMENT OF EXPLORATION LICENSE:

- (1) The holder of an exploration license may apply for the amendment of the license:
 - (a) by extension or reduction, or both, of the exploration area to which the license relates; or by the addition of any mineral or group of minerals, discovered in the exploration area, to which the license does not relate.
- (2) Every application for amendment of an exploration license shall be considered as if it was an application for the grant of an exploration license and shall be treated as such.
- (3) The Licensing Authority may grant or refuse such applications for reasons to be recorded in writing.
- (4) If an application for amendment is granted by the Licensing Authority, it shall amend the exploration license accordingly.

WORK PROGRAMME OF EXPLORATION OPERATIONS:

- (1) Where the holder of an exploration license is, by virtue of the conditions of the license, required to carry out or to make within a particular period, in accordance with a work programme, certain minimum exploration operations and expenditure, he shall furnish the Licensing Authority, on such date or dates as may be specified in the license, with particulars of such exploration operations carried out and the expenditure made.
- (2) The Licensing Authority may, on application made to it by the holder of a exploration license by notice in writing to the holder, amend any work programme or expenditure in accordance with the proposals contained in the application or to such extent as the Licensing Authority may deem expedient.

MAINTENANCE OF RECORDS BY THE HOLDER OF EXPLORATION LICENSE:

- (1) The holder of an exploration license shall keep at an address in the province a proper record of the:
 - (a) location and results of all photo geological studies, imaging, geological mapping, geochemical sampling, geophysical surveying, drilling, pitting and trenching, sampling and bulk sampling and other activities undertaken in the course of the exploration operations carried out by the holder, in or in connection with the exploration area to which the exploration license relates;
 - (b) results of all analytical, metallurgical and mineralogical work incidental to such exploration operations;
 - (c) interpretation and assessment of the studies, surveys and work referred to in sub-clauses (a) and (b);
 - (d) persons employed for the purpose of such exploration operations, including the names, address, nationality and ages of such persons;
 - (e) the expenditures incurred by the holder in the course of such exploration operations; and
 - (f) such other information as may be determined in writing by the Licensing Authority and specified by notice in writing given to such holder.
- (2) The holder of an exploration license shall prepare or cause to be prepared and maintained at all times plans and maps in respect of the exploration area.
- (3) The holder of an exploration license shall prepare in respect of the period of the currency of the exploration license a statement of income and expenditure derived or incurred in connection with the explorations in the exploration area and such other financial statement as the Licensing Authority may require.
- (4) The holder of an exploration license shall submit within seven days after the end of each quarter during the currency of such exploration

license to the Licensing Authority such other particulars as the Licensing Authority may require in relation to the exploration operations.

- (5) The holder of an exploration license shall submit, within thirty days after the expiry of the exploration license, to the Licensing Authority, reports relating to:
 - (a) an estimate of the mineral reserved in the exploration area properly illustrated by way of plans and maps according to an appropriate scale;
 - (b) an evaluation of the prospects of the discovery of any mineral or group of minerals; and
 - (c) particulars of the exploration operations carried during the currency of the exploration license.

PROVISION OF RECORD AND REPORTS IN CASE OF CANCELLATION AND SURRENDER:

In the event of the cancellation or surrender of an exploration license, the holder of such license shall, within thirty days after the date of such cancellation or surrender, deliver to the Licensing Authority:

- (a) all records, maps and plans kept and prepared in terms of provisions relating to environmental protection and compensation under this Schedule;
- (b) all reports, photographs, tabulations, tapes and discs prepared by or on behalf of such person in the course of exploration operation; and
- (c) such other books, documents, records and reports as the Licensing Authority may require by notice in writing.

APPLICATION FOR MINERAL DEPOSIT RETENTION LICENSE

GENERAL

- (1) An application for a mineral deposit retention license shall be made not later than one hundred and eighty days before the expiry of the exploration license.
- (2) An application for the grant of a mineral deposit retention license shall:
 - (a) give complete profile of the applicant;
 - (b) furnish particulars of the exploration license held by the applicant;
 - (c) identify the area of land not greater than the exploration area concerned, over which the license is sought;
 - (d) identify the mineral or group of minerals to which the application relates and furnish full details of the proven, estimated or inferred mineral reserves contained therein, and of the mining conditions pertaining thereto;
 - (e) provide particulars of the proposals for the carrying out of work in the exploration area, expenditures during the period of the retention license and the period within which the operations shall be completed;
 - (f) state reasons if no further work could be usefully carried out in the exploration area;
 - (g) highlight the state of the environment in the area and anticipated adverse effect which the proposed operations may have on environment and measures to be taken to prevent, mitigate, or minimize any such effects;
 - (h) provide necessary particulars to determine the applicant's technical and financial resources or, where applicable, those of any person contractually engaged to provide such resources, and copies of relevant contractual agreements;
 - (i) state the period, not exceeding two years, for which the license is required;

- (j) furnish particulars of all other mineral titles held or mines operated in or outside the province by the applicant, whether alone or jointly, currently or during ten years immediately preceding the date of the application; and
- (k) contain any other information with regard to any other matter which the applicant considers relevant to the application;
- (l) give reasons in support of the claim that the mineral deposit discovered in the area of land to which the application relates could not then be mined on a profitable basis and a forecast of the circumstances in which, and the earliest date on which, the mineral or group of minerals discovered might be so mined; and
- (m) be accompanied by relevant data, studies, analysis and documents.

PRE-REQUISITE FOR GRANT OF MINERAL DEPOSIT RETENTION LICENSE:

No license can be granted for retention of mineral deposit, unless:

- (a) the application is made by a holder of an exploration license for an area up to one hundred square kilometers within the exploration area and in relation to the mineral or group of minerals to which the exploration license relates;
- (b) a potentially economic discovery of mineral deposit has been made in the exploration area;
- (c) the applicant has completed full feasibility study to determine whether the mineral discovered can be developed and produced on a profitable basis;
- (d) the applicant wishes to retain the exploration area or a part thereof for future development of the mineral deposit discovered as development could not then be reasonably undertaken on a profitable basis for good economic or technical reasons;
- (e) the exploration operations and relevant studies have been undertaken to the maximum extent feasible in the circumstances; and

- (f) the Licensing Authority is satisfied that it is desirable, having regard to the future utilization of the mineral resources of the province, to grant such license.

RESTRICTIONS ON GRANT OF APPLICATION FOR MINERAL DEPOSIT RETENTION LICENSE:

The Licensing Authority shall not grant an application for mineral deposit retention license in relation to the area of land to which such application relates in respect of any mineral or group of minerals, if at the time of such application:

- (a) such area of land forms part of any exploration area in relation to any mineral or group of minerals, other than the mineral or group of minerals to which the application relates;
- (b) such area of land forms part of any retention area in relation to any mineral or group of minerals, other than the mineral or group of minerals to which the application relates; and
- (c) the Licensing Authority is satisfied that the programme of operations and any other investigations will detrimentally affect the rights of any holder of the mineral deposit retention license in respect of any such area.

GRANT OF MINERAL DEPOSIT RETENTION LICENSE:

Where the Licensing Authority has no objection to the grant of license, it shall grant to the applicant mineral deposit retention license and mention its conditions in the license including the conditions that:

- (a) the Licensing Authority may disclose information with respect to the retention area to a person if it is satisfied that such a disclosure would be in the interest of development of that mineral deposit; and
- (b) the holder of the license shall carry out specific programme of operations and evaluation, from time to time, of the mineral deposit as directed by the Licensing Authority.

AMENDMENT OF MINERAL DEPOSIT RETENTION LICENSE:

1. The holder of a mineral deposit retention license may apply for the amendment of the license:
 - (a) by reduction of the retention area to which the license relates; or
 - (b) by the addition of any mineral or group of minerals, discovered in the retention area, to which the license does not relate.
2. Every application for amendment of a mineral deposit retention license shall be considered as if it was an application for the grant of a mineral deposit retention license and shall be treated accordingly.
3. The Licensing Authority may grant or refuse such applications for reasons to be recorded in writing.
4. If an application for amendment is granted by the Licensing Authority, it shall amend the mineral deposit retention license to that effect.

DEVELOPMENT OF THE MINERAL DEPOSIT DURING THE CURRENCY OF DEPOSIT LICENSE:

If the Licensing Authority wishes to proceed with the development of the mineral deposit during the currency of the mineral deposit retention license, it shall:

- (a) afford the holder of the mineral deposit retention license an opportunity to apply for a mining lease, within thirty days from the date of notice, over the land constituting the retention area, in respect of the mineral or group of minerals to which the retention license is applied;
- (b) if the holder of a mineral deposit retention license fails to apply for the mining lease, the Licensing Authority may cancel the mineral deposit retention license on the expiration of that period; and
- (c) where a mineral deposit retention license is deemed to have been cancelled, the Licensing Authority may by an open tender invite bids for a mining lease subject to sound proposals for the development of mining area acceptable to the Licensing Authority.

MAINTENANCE OF RECORD BY THE HOLDER OF MINERAL DEPOSIT RETENTION LICENSE:

1. The holder of a mineral deposit retention license shall keep at an address in the province proper record of the:
 - (a) investigations and operations, including the erection or construction of ancillary works, carried out by the holder for, or in connection with, future mining operations;
 - (b) location and results of all photo geological studies, imaging, geological mapping, geochemical sampling, geophysical surveying, drilling, pitting and trenching, sampling and bulk sampling and all other activities undertaken by the holder in the course of the exploration operations, in connection with the retention area to which the license relates;
 - (c) results of all analytical, metallurgical and mineralogical work incidental to such exploration operations;
 - (d) interpretation and assessment of studies, surveys and work referred to in sub-clauses (b) and (c);
 - (e) the persons employed by the holder for purposes of such investigations and operations, including the name, address, nationality and age of each such persons; and
 - (f) the expenditures incurred by the holder in the course of such exploration operations.
2. The holder of a mineral deposit retention license shall prepare and maintain at all times plans and maps in respect of the retention area.
3. The holder of a mineral deposit retention license shall prepare in respect of the period of the currency of the license a statement of income and expenditure derived or incurred in connection with the explorations in the retention area.
4. The holder of a mineral deposit retention license shall submit, within thirty days after the expiry of the license, to the Licensing Authority, reports relating to:
 - (a) an evaluation of the prospects of future mining operations in such retention area;

- (b) all information, including photographs, tabulations, tapes and discs about the record of the retention area; and
- (c) such other details as the Licensing Authority may require in relation to the operations carried out by the holder of the license in the retention area.

PROVISION OF RECORD AND REPORTS IN CASE OF CANCELLATION AND SURRENDER:

In the event of the cancellation or surrender of a mineral deposit retention license, the holder of such license shall, within thirty days after the date of such cancellation or surrender, deliver to the Licensing Authority:

- (a) all records, maps and plans kept and prepared in terms determined under this Schedule; and
- (b) such other books, documents, records and reports as the Licensing Authority may require by notice in writing.

APPLICATION FOR MINING LEASE

GENERAL:

An application for the grant of a mining lease may be made, only by a body corporate formed by or under a law for the time being in force in Pakistan, in respect of an area of land not exceeding fifty square kilometers and shall provide:

- (a) complete profile of the applicant;
- (b) technological report on mining and treatment possibilities and intention of the applicant in relation thereto;
- (c) relevant feasibility studies, detailed plans for development and operation of the mine and the programme of proposed mining operations, including a forecast of the:
 - (i) date by which the applicant intends to work for profit;
 - (ii) capacity of production and scale of operations;

- (iii) anticipated overall recovery of ore and mineral products;
and
- (iv) nature of the products.
- (d) an environmental impact assessment in terms of the Khyber Pakhtunkhwa Environmental Protection Act, 2014 (Khyber Pakhtunkhwa Act No. XXXVIII of 2014), identifying the extent of any adverse effects which the plan for development and operation of the mine and the carrying out of the programme of mining operations would be likely to have on the environment and on any monument or relic in the area over which the lease is required, and proposals for eliminating or controlling that effects;
- (e) proposals for prevention of pollution, treatment and disposal of wastes, safeguarding, reclamation and rehabilitation of land disturbed by mining operations, protection of rivers and other sources of water and for monitoring and managing of any adverse effects of mining operations on the environment;
- (f) information on any particular risks involved in mining the mineral or group of minerals which it is proposed to mine, and proposals for their control or elimination;
- (g) forecast of capital investment, operating costs, revenues and anticipated type and source of financing;
- (h) details of infrastructure requirements;
- (i) statement on the period for which the lease is required; and
- (j) any other information which the applicant considers relevant.

RESTRICTIONS ON GRANT OF APPLICATION FOR MINING LEASE:

1. An application for the grant of a mining lease can be granted only if it is made by the holder of an exploration license or a mineral deposit retention license, and the application:
 - (a) relates to an area of land which constitutes the exploration area or, as the case may be, the retention area; and

- (b) is in respect of any mineral or group of minerals to which such exploration license or mineral deposit retention license relates.
- 2. The Licensing Authority shall not grant an application for a mining lease in relation to any area of land in respect of any mineral or group of minerals if, at the time the application is made:
 - (a) any exploration license conferring an exclusive right to carry out exploration operations in that area of land in respect of that mineral or group of minerals; or
 - (b) any mining concession for small scale mining in relation to that area of land in respect of that mineral or group of minerals; or
 - (c) any mineral deposit retention license in relation to that area of land and in respect of that mineral or group of minerals, is held by any person other than the applicant of the mining lease.
- 3. An application for the grant of a mining lease shall not be granted unless the:
 - (a) feasibility study shows that the mine can be profitably developed and operated;
 - (b) proposed plans for development and operation of the mine and the programme of the mining operations of the applicant ensure efficient, beneficial and timely use of the mineral resources;
 - (c) applicant has the technical and financial ability and experience to carry out effective mining operations; and
 - (d) Licensing Authority is satisfied in respect of environmental effect of the project and any condition or limitation prescribed by the Khyber Pakhtunkhwa Environmental Protection Act, 2014 (Khyber Pakhtunkhwa Act No. XXXVIII of 2014), and rules made there under.
- 4. An application for the grant of a mining lease shall not be granted if the applicant is, at the time of the application, in default.

AMENDMENT OF MINING LEASE:

- 1. The holder of a mining lease may apply for amendment of the lease:

- (a) by extension or reduction, or both, of the mining area to which the lease relates; or
 - (b) by the addition of any mineral or group of minerals, discovered in the mining area, to which the license does not relate.
2. Every application for amendment of a mining lease shall be considered as if it was an application for the grant of a fresh mining lease and shall be treated accordingly.
3. The Licensing Authority may grant or refuse such applications for reasons to be recorded in writing.
4. If an application for amendment is granted by the Licensing Authority, it shall amend the mining lease to that effect.

CESSATION OF MINING OPERATIONS AND REDUCTION OF PRODUCTION:

1. If the holder of a mining lease intends to temporarily cease mining operations, or to reduce the normal rate of production, he shall give notice in writing to the Licensing Authority on a date not later than thirty days in the case of such cessation of mining operations or seven days in the case of such reduction of production.
2. On receipt of a notice, the Licensing Authority may investigate the matter and either give its approval on such conditions, as it may determine, to the cessation or reduction or refuse its approval and give such directions to the holder as it deems appropriate.

MAINTENANCE OF RECORD BY THE HOLDER OF MINING LEASE:

The holder of a mining lease shall keep at an address in the province proper record in relation to the following:

- (a) **MINING OPERATIONS:**
 - (i) the nature, appraisal and results of all mining operations carried out, or in connection with, the mining area to which such mining lease relates;

- (ii) the nature and mass or volume of any mineral or group of minerals won or mined in such mining area and treated or stockpiled in such mining area or elsewhere;
 - (iii) the nature, mass or volume and value of any mineral or group of minerals so won or mined, sold or otherwise disposed of and the full names and addresses of persons to whom such mineral or group of minerals was sold or otherwise disposed of
 - (iv) the nature and mass or volume of any waste removed from such mining area and the manner in which it was disposed of;
 - (v) the persons employed for mining operations, including the names, addresses, nationalities and ages of such persons; and
 - (vi) expenditures incurred in the course of mining operations.
- (b) **EXPLORATION OPERATIONS:**
- (i) the nature, location and results of all photo geological studies, imaging, geological mapping, geochemical sampling, geophysical surveying, drilling, pitting and trenching, sampling and bulk sampling, and all other activities undertaken by such holder in the course of such exploration operations;
 - (ii) the results of all analytical, metallurgical and mineralogical work incidental to such exploration operations;
 - (iii) the interpretation and assessment of the studies, surveys and works;
 - (iv) the nature and mass or volume of any mineral or group of minerals found or incidentally won in the course of such exploration operations; and
 - (v) the persons employed for such exploration operations, including the names, addresses, nationalities and ages of such persons;

(c) OTHER RECORDS AND REPORTS:

- (i) Plans and maps in respect of the mining area;
- (ii) Quarterly statements of income and expenditure derived or incurred in connection with mining operations in the mining lease area; and
- (iii) Annual financial statements indicating income and expenditure, an estimate of the remaining mineral reserves in the mining area properly illustrated by way of plans and maps according to an appropriate scale, particulars of any proposed mining operation and exploration operation during the succeeding year, together with a forecast of delineated mineral reserves.

SURRENDER OF RECORD:

In the event of the cancellation or surrender of a mining lease or the expiration of mining lease, the holder of such lease shall, on a date not later than sixty days after the date of such cancellation or surrender or expiration, deliver to the Licensing Authority:

- (a) all records, maps and plans kept in terms of the provisions under this Schedule; and
- (b) all reports, photographs, tabulations, tapes and discs prepared by or on behalf of such person in the course of such exploration operations.

APPLICATION FOR SMALL SCALE MINING**LIMITATION OF AREA FOR SMALL SCALE MINING:**

The grant of prospecting license and mining lease in small scale mining shall be restricted to the ¹[area limitations as per Schedule-I of this Act.]

S#	Mineral Group	Maximum Area
1	Construction Minerals Group (Lime stone, Dolomite Sand stone and alike minerals)	100 Acres

¹Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

2	Lime stone, Shale Clay and Slate Stone for Cement Industries	Up to 3,000 Acres
3	Dimension Stone (Granite, Marble and alike minerals)	200 Acres
4	Industrial Minerals Group (Phosphate, Soap Stone, clays, Rock Salt, Gypsum, Quartz, Silica Sand and alike minerals)	200 Acres
5	Metallic Minerals Group (Precious and base metals)	500 Acres
6	Precious and semi-precious gemstones (group)	50 Acres
7	Fuel Minerals (Coal)	500 Acres

DOCUMENTS TO BE ANNEXED WITH APPLICATIONS FOR SMALL SCALE MINING:

An application for a license or a lease in small scale mining shall be accompanied by:

- (a) Detailed profile of the applicant;
- (b) the original copy of the Treasury Receipt indicating deposit of application fee;
- (c) an authenticated copy of the partnership deed duly registered with the Registrar of Firms concerned in case the application is submitted by firm;
- (d) a verified copy of each of the Memorandum and Articles of Association and Certificate of Incorporation in case the application is submitted by a limited company;
- (e) fifteen copies of the map, prepared from the Survey of Pakistan Maps of Scale 1: 50,000 or nearest scale available, duly signed by the applicant, showing the boundaries of the area in respect of which the license or lease is applied for; and
- (f) evidence of financial status of the applicant.

APPLICATION FOR PROSPECTING LICENSES

AREA AND DURATION OF PROSPECTING LICENSE:

A prospecting license shall not be granted in respect of any area of more than that indicted in **Schedule-I** and for a period more than five years.

RIGHTS OF THE HOLDER OF PROSPECTING LICENSE:

- (1) The Licensing Authority shall incorporate in the allotment letter the rights conferred on the license holder of a prospecting license.
- (2) The holder of a prospecting license shall have right to a mining lease if he has-
 - (a) carried out geological prospecting operations to the satisfaction of the Licensing Authority;
 - (b) furnished evidence of proven mineral reserves;
 - (c) regularly paid all the government dues; and
 - (d) paid compensation, if any.

PAYMENT OF ANNUAL FEE:

- (1) The holder of the license shall pay such annual fee as is notified by the Government for the area covered by the license.
- (2) The fee shall be annually enhanced by twenty-five per cent.
- (3) The annual fee shall be payable for each mineral separately even if the area under license for different minerals is the same.

APPLICATION FOR MINING LEASE IN SMALL SCALE MINING

APPLICATION FOR MINING LEASE AND DEVELOPMENT SCHEME:

- (1) The holder of a prospecting license shall apply, for the grant of a mining lease at least ¹ [three months] before the expiry of his prospecting license.

¹Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

- (2) An applicant for grant of a mining lease shall submit, along with the application, a development scheme, prepared, compiled and authenticated by a qualified mining engineer and exploration economic geologist, for approval of the Licensing Authority.
- (3) The development scheme shall, inter alia, include:
 - (a) detailed account of the work done during the prospecting period;
 - (b) location, geological description and evaluation of the major deposits;
 - (c) detailed geological survey report and plan of the area on a scale 1:50,000;
 - (d) detailed plan of the area on a scale of 1:50,000 showing its location, outcrop, topography, existing mines, proposed mines and other infrastructure provisions;
 - (e) proved and probable mineral reserves;
 - (f) planned minimum rate of production;
 - (g) method of mining, including machinery and equipment to be used;
 - (h) technical manpower to be employed at various stages of the development;
 - (i) details of roads and other surface as well as underground construction including stores and lamps rooms, workshops, beneficiation and mineral dressing plants, office and residential accommodation and facilities to be provided for staff and labour;
 - (j) time schedule for all the works; and
 - (k) estimates and phases of expenditure on the scheme with detailed break up of costs.

APPROVAL OF DEVELOPMENT SCHEME AND COMMENCEMENT OF OPERATIONS:

- (1) The Licensing Authority ¹[or its authorized officer in this behalf] may, subject to such modifications as may be required approve, the development scheme, within a period of ²[two] month from the date of submission of the scheme.
- (2) The lease holder shall commence operations, in accordance with approved development scheme, from the date of the communication of the approval of the development scheme to him and shall at all times keep a copy of the approved development scheme and latest working plans at the site.

REJECTION OF DEVELOPMENT SCHEME AND CANCELLATION OF LEASE

- (1) If the development scheme is rejected, the Licensing Authority shall communicate to the applicant the reasons for such rejection.
- (2) If at any time but not less than six months after the grant of the lease, it is found that the lease holder is not working in accordance with the approved development scheme, the Licensing Authority may cancel the lease.
- (3) In case of rejection of the development scheme and cancellation of lease, the right of the applicant for the grant of lease shall lapse.

¹Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

²Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

SCHEDULE-IV
(see section 66 (a) (b))

A. CONSTRUCTION AND INDUSTRIAL MINERALS GROUP

Alunite, andalusite-sillimanite-kyanite, anhydrite, apatite, asbestos, barite, beryl, boron minerals, calcium carbonate, celestite, clay (including bentonite and Fuller's Earth (Palygorskite and attapulgite), ball clay, halloysite, hectorite, kaolin, refractory clay), corundum diatomite, dolomite, epsomite, feldspar, ¹ [Granite], garnet (for industrial purposes), graphite, gypsum, ² [Quartzite, Laterite, Red oxide, Sandstone, Slate stone] heavy mineral sands, iodine minerals leucosene, ³ [****], limestone and marble, magnesite, mica nepheline syenite, nitrate, olivine, perlite, phosphate, fossil guano, quartz (for "emeralds" ¹ purposes), picture-stone, potash, pumice, pyrophyllite, salt, sepiolite, silica sand, soapstone, soda-ash and other sodium compounds, stratianite, sulphur and pyrite, talc, vermiculite, wollastonite and any other mineral as declared by the Government.

B. PRECIOUS GEMSTONES GROUP

Diamonds, Emeralds, ⁴ [****], rubies and sapphires.

C. PRECIOUS METALS GROUP

Gold, silver, platinum, palladium, osmium, rhodium, iridium and ruthenium.

D. SEMI-PRECIOUS GEMSTONES GROUP

Amozoneite, aventurine, beryl (including aquamarine, heliodor and morganite, but excluding beryl as a source of beryllium metal or as an industrial mineral), chrysoberyl, chrysocolla, cordierite, diopside, dumortierite, garnet, milarite, quartz (including amethyst, citrine, rock crystal, rose and strawberry quartz, agate, carnelian, chalcedony, chrysoprase, jasper, moss agate, hyalite, opal, pietersite and tiger's eye), sodalite, topaz, tourmaline and turquoise.

E. BASE METALS GROUP

Aluminum, antimony, arsenic, beryllium, bismuth, cadmium, caesium, chromium, cobalt, copper, gallium, germanium, hafnium, indium, iron, lead,

¹Substituted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

²Inserted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

³Deleted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

⁴Deleted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

manganese, mercury, molybdenum, nickel, rutherfordium, radium, “Rare Earths” or lanthanides, including the actinides, scandium and yttrium, rhodium, rubidium, selenium, tantalum, tellurium, thallium, tin, tungsten, vanadium, zinc or zirconium, but does not include any such minerals if such mineral is incidentally in group of minerals.

NOTE:-

The Government may include or exclude any mineral or group of minerals in the above said groups through Notification as deemed appropriate.

SCHEDULE-V
(see section 86)

LIST OF MINERAL OFFENCES REQUIRING COURT TRIAL

PART-I

<i>S#</i>	<i>Offence</i>
1	Prospecting, exploring or mining any mineral outside the area granted under a mineral title or in any area for which no title has been obtained or unauthorized transportation of minerals or Minor Minerals or obstructing free access of a title holder to the licensed or leased area or directly or indirectly trying to interfere with the prospecting, exploration or mining operations by a title holder.
2	¹ [*****]
3	² [*****]
4	Non-compliance with any requirement laid down by law for applying and obtaining any mineral title, approval, permission or other document required by any law for the time being in force
5	Violation of any of the general or specific conditions of the mineral title or mineral agreement
6	Unauthorized exploration, prospecting or mining operations at or upon any point within a distance of twenty meters from the boundary of the exploration area, prospecting area or, as the case may be, the mining area.
7	Unauthorized exploration, prospecting or mining operations at or upon any point within a distance of five hundred meters in urban areas and three hundred meters in rural areas from any railway line, public road, reservoir, canal or other public works, and human dwellings.
8	Erection of any building or carrying out any surface operations upon any public playground, crematory or graveyard, or place held sacred by any class of persons, or any house or human dwellings, or public road or on any other place excluded from such operations.
9	Violation of conditions, imposed by the Environment Department by a general or special order, for surface operations within a reserved or protected forest.
10	Failure to indemnify the Licensing Authority and the government against any claim made by third party in respect of any such damage, injury or disturbance caused during the currency and execution of a mineral title.
11	Unauthorized removal from exploration area a mineral or group of

¹ Deleted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

² Deleted vide Khyber Pakhtunkhwa Act No. XLVI of 2019

	minerals or samples, thereof, from any place where it was found or incidentally won in the course of exploration operations to any other place whether within or outside the province or subject to such other permission as may be required under any law, outside Pakistan.
12	Sale of any mineral or group of minerals, found or incidentally won, or of other material excavated or samples thereof, in the course of exploration operations.
13	Failure of the holder of an exploration license to take all reasonable steps necessary to secure the safety, welfare and health of persons employed in the exploration area and for the protection of environment
14	Failure of the holder of an exploration license to give to the Licensing Authority notice, within ten days, of the discovery of a deposit of any mineral or group of minerals to which the license relates.
15	Failure of the holder of an exploration license to give to the Licensing Authority notice, within ten days, of the discovery of a deposit of any mineral or group of minerals including radioactive minerals necessary for the generation of nuclear energy, mineral oil and natural gas, other than a mineral or group of minerals to which his license relates.
16	<p>In the event of cancellation, surrender or expiry of an exploration license, failure of the holder of the exploration license to deliver to the licensing authority, on a date not later than one month after the cancellation, surrender or expiry of such license, all record relating to the:</p> <ul style="list-style-type: none"> i) geological studies, imaging, geological mapping, geochemical sampling, geophysical surveying, drilling, pitting and trenching, sampling and bulk sampling; and other activities undertaken in the course of the exploration operations, results of all analytical, metallurgical and mineralogical work incidental to such exploration operations and the interpretation and assessment of these studies, surveys and works; ii) all reports, photographs, tabulations, tapes and discs prepared during such exploration operations; iii) expenditure incurred in the course of exploration operations; and iv) all maps and plans of the exploration area.
17	In the event of cancellation, surrender or expiry of mineral deposit retention license, failure of the holder of the license to deliver to the licensing authority, on a date not later than sixty days after the

	<p>cancellation, surrender or expiry of such license, all record relating to the :</p> <p>i) geological studies, imaging, geological mapping, geochemical sampling, geophysical surveying, drilling, pitting and trenching, sampling and bulk sampling and other activities undertaken in the course of the exploration operations, results of all analytical, metallurgical and mineralogical work incidental to such exploration operations and the interpretation and assessment of these studies, surveys and works along with all reports, photographs, tabulations, tapes and discs prepared during such exploration operations;</p>
	<p>ii) expenditure incurred in the course of exploration operations; and</p> <p>iii) all maps and plans of the retention area.</p>
18	<p>Failure of a lease holder to keep proper record of the:</p> <p>(i) nature, appraisal and results of all mining operations carried out on or in connection with the mining area;</p> <p>(ii) nature and mass or volume of any mineral or group of minerals won or mined in such mining area and treated or stockpiled in the mining area or elsewhere;</p> <p>(iii) the nature, mass or volume and value of any mineral or group of minerals so won or mined, sold or otherwise disposed of and the full names and addresses of persons to whom such mineral or group of minerals was sold or otherwise disposed of; and</p> <p>(iv) nature and mass or volume of any waste removed from such mining area and the manner in which it was disposed of.</p>
19	<p>Willfully making or causing to be made or concurring in making, a false entry in the registers of mineral titles.</p>
20	<p>In the event of cancellation or surrender or expiry of a mining lease, failure of the lease holder to deliver to the licensing authority, on a date not later than sixty days after the date of such cancellation or surrender or expiration, deliver to the Licensing Authority all records,</p>

	maps and plans, reports, photographs, tabulations, tapes and discs prepared in relation to exploration, prospecting or mining operations relating to the lease.
21	Producing or tendering in evidence a document falsely purporting to be a copy of an extract from an entry in the register of mineral titles.
22	Contravention or failure to comply with an order stopping the removal of any mineral or group of minerals from the exploration area, mining area, retention area or any dealing in connection with any mineral or group of minerals found, won or mined from any such area, land or place for default of payment of royalty.
23	Failure of a mineral title holder to take at his own cost all such steps as may be necessary in accordance with good reconnaissance, prospecting, exploration or mining practices to rectify the pollution, loss or damage caused by the spilling over of any mineral on land, or in any water on or under the surface of any land, or any land or any such water is otherwise polluted or damaged, or any plant or animal life, whether in water or on, in or under land, is endangered or destroyed, or any damage or loss is caused to any person, including the government, by such spilling, pollution or damage caused during operations under his mineral title.
24	Obstructing, molesting or hindering an authorized officer in carrying out his functions.
25	Making or causing to be made false or misleading statement in connection with any application for or in connection with a mineral title.
26	Submitting or causing to be submitted any document, information or particulars which are false or misleading, knowing them to be false or misleading, with any application in connection with any mineral title or any notice, report, return or statement issued or given under the conditions of any mineral title.
27	Fraudulently and intentionally misleading any other person to believe that a mineral or group of minerals exists at any place, places or deposits or causes to be so placed or deposited any mineral or group of minerals in or at any such place.
28	Fraudulently and with intention to deceive mingling or causing to be mingled with any sample of ore any substance which may increase the value or nature of the ore.
29	Providing or depositing defective or false security, application fee or other Government dues in respect of a mineral title.
30	Failure of a prospecting or exploration license holder to securely plug all mines and fill up or fence any holes or excavations made in the area to such extent as the Licensing Authority may require and shall, to the like extent restore the surface of the land and all building

	thereon damaged in the course of prospecting or exploration within one month after the determination of the license or the abandonment of the under-taking.
31	Under-reporting of mineral production.
32	Failure to hand over control of works, plant and premises in the event of a state of war or national emergency and contravening any directions of the Licensing Authority or the government in this behalf.

SCHEDULE-V
(see section 86)

LIST OF MINERAL OFFENCES REQUIRING COURT TRIAL

PART-II

<i>S#</i>	<i>Offence</i>
1	Cutting or injuring any tree on the area included in the mineral title.
2	Disturbing the surface of the road.
3	entering upon any public play ground, crematory or graveyard, or place held sacred by any class of persons for the purpose of exploration, prospecting or mining operations.
4	Interfering with any right of way, well, tank or cultivated agricultural land.
5	Occupying or clearing any land, for surface operations, without requisite notice to the Licensing Authority.
6	Failure to pay annual rent in respect of a mineral title
7	Contravention of directions to demolish any building or structure constructed, or rectify any damage caused by any exploration or mining to the surface of any land and the environment thereof in the event of cancellation, surrender or expiry of any mineral title.
8	Failure of mineral title holder to pay land compensation and other levies for the government land which he may use or occupy superficially for the purposes of the operations conducted under the mineral title.
9	Failure of the mineral title holder to pay land compensation and other levies for the land belonging to a private person for the area actually used or occupied superficially as mutually agreed upon between the mineral title holder lessee and the land owner and in case of disagreement between them, at such rate and in such manner as determined by the Licensing Authority
10	Persistent interference and creation of obstruction or abstraction in the exploration, prospecting, or mining operations of a title holder by a land owner in any manner after settlement or fixation of land compensation by the Licensing Authority
11	Contravention of directions for strengthening and supporting whole or any part of the mine needed for conservation of the mineral and safety of personnel or any railway, reservoir, canal or any other public work or any building, affected by such operations.

<i>S#</i>	<i>Offence</i>
12	Working in a manner contrary to the conservation of mineral property and failure to remove the defects or amend the method of prospecting, exploration or mining in compliance with directives of the licensing authority.
13	Refusal to allow mineral title holders of any area which is comprised in or adjoins or is reached by the land held by the title all reasonable facilities of surface or underground access thereto, on the terms and conditions determined by the Licensing Authority.
14	Failure to report damage to mineral property or loss of human life.
15	Subletting of mineral title without permission of the Licensing Authority.
16	Failure to deliver to the Licensing Authority the demised premises and all mines, if any, in a proper and workable on the expiry, surrender or determination of a mineral title.

SCHEDULE-VI
(see section 86, 87, 88 and 89)

LIST OF MINERAL OFFENCES WHERE CHALLAN CAN BE ISSUED

<i>S#</i>	<i>Offence</i>	<i>Amount of Challan (In Rs)</i>
1	Failure to pay compensation assessed by a lawful authority in accordance with the law applying to the lands over which a mineral title is granted, for all damage, injury or disturbance which done by the holder of the title in exercise of the powers granted by the title.	10% of the assessed amount of compensation
2	Violation of directions from the Licensing Authority, or any officer authorized by it, with regard to the: <ul style="list-style-type: none"> (i) reconnaissance operations, exploration operations and mining operations, including any works connected therewith; (ii) conservation of any natural resources, including mineral resources, and the prevention of the waste of such resources; (iii) protection and preservation of the surface of mines or works and of buildings, road, railways and other structures and enclosures on or above the surface of land, and the conditions under which such building, road, railway, structure and enclosure may be undermined; (iv) construction, erection, maintenance operation, use or removal of structures, equipment and other goods used in connection with prospecting or exploration for, or the mining or conveyance of minerals; (v) protection of environment including prevention and combating of pollution of the air or land which arises or may arise in the course of the operations involved in prospecting, exploration or mining of any mineral or after such operations; (vi) making safe of undermined ground and of dangerous slimes, tailings, dams, waste dumps, ash dumps, shafts, holes, trenches or excavation of whatever nature made in the course of 	Rs. 20000 for each violation

<i>S#</i>	<i>Offence</i>	<i>Amount of Challan (In Rs)</i>
	(vii) prospecting, exploration or mining operations; safety, welfare and health of persons employed in or in connection with reconnaissance operations, prospecting operations, exploration operations and mining operations and the conveyance of mineral;	
	(viii) taking, preservation and furnishing to the Licensing Authority of cores, cutting or samples of minerals from mines or excavations; (ix) submission of reports, returns and other information to the Licensing Authority or any officer authorized by him to receive such reports, returns and information; (x) taking of logs or directional surveys or the making of other investigations; and (xi) creation of safety zones in relation to structures erected on land to which the mineral title relates.	
3	Failure of the holder of a reconnaissance license to carry out certain minimum reconnaissance operations or make certain minimum expenditure within a particular period, in accordance with the work programme and by virtue of the conditions of the license.	Rs.50000/-
4	Failure of the holder of reconnaissance license to keep proper record in relation to the: (i) location and nature of all geological, geochemical, photo-geological studies, imaging and geophysical and other surveys carried out in the course of reconnaissance operations and the results, compilation, interpretations and assessments of such studies and surveys; (ii) persons employed for reconnaissance operations; (iii) the expenditures incurred in the course of the reconnaissance operations.	Rs.25000/-
5	Failure of the holder of reconnaissance license to prepare and maintain: (i) plans and maps in respect of the reconnaissance area; (ii) prepare in respect of the period of reconnaissance license a statement of income derived and	Rs.20000/-

<i>S#</i>	<i>Offence</i>	<i>Amount of Challan (In Rs)</i>
	expenditure incurred in connection with reconnaissance operations.	
6	Failure of the holder of reconnaissance license to submit on the expiry of the license an evaluation of the prospects of the discovery of any mineral or group of minerals in the area to the Licensing Authority.	Rs.100000/-
7	Failure of the holder of reconnaissance license to submit, on the expiry of the license, to the Licensing Authority, all information, including photographs, tabulations, tapes and discs, regarding geological, geochemical, photo-geological studies, imaging and geophysical and other surveys carried out during reconnaissance operations and the results, compilation, interpretations and assessments of such studies and surveys.	Rs.20000/-
8	Failure of the holder of reconnaissance license to submit, on the cancellation of the license, to the Licensing Authority all records, maps, plans, reports, photographs, tabulations, tapes and discs prepared in the course of the reconnaissance operations along with other reports solicited by the Licensing Authority.	Rs.20000/-
9	Failure of the holder of exploration license to commence operations within three months of the issue of the license and employ good exploration practices.	Rs.50000/-
10	Failure of the holder of exploration license to: <ul style="list-style-type: none"> (i) maintain in good condition and repair all structures, equipments and other goods in the exploration area and used in connection with exploration operations; (ii) remove from the exploration area all structures, equipments and other goods not used or not intended to be used in connection with the exploration operations; (iii) take reasonable steps to warn persons who may, from time to time, be in the vicinity of any such structures, equipments or other goods of the possible hazards resulting there from 	Rs.10000/-
11	Failure of the holder of an exploration license to keep proper record of the:	Rs.30000/-

<i>S#</i>	<i>Offence</i>	<i>Amount of Challan (In Rs)</i>
	(i) the location and results of all photo geological studies, imaging, geological mapping, geochemical sampling, geophysical surveying, drilling, pitting and trenching, sampling and bulk sampling and other activities undertaken in the course of the exploration operations, results of all analytical, metallurgical and mineralogical work incidental to such exploration operations and the interpretation and assessment of these studies, surveys and works; (ii) persons employed for the exploration operations; (iii) expenditure incurred in the course of exploration operations.	
12	Failure of the holder of an exploration license to prepare and maintain plans and maps in respect of the exploration area prepare in respect of the period of exploration license a statement of income derived and expenditure incurred in connection with exploration operations.	Rs.30000/-
13	Failure of the holder of an exploration license to submit, to the licensing authority, quarterly statement of exploration operations and activities connected there with or ancillary there to.	Rs.25000/-
14	Failure of the holder of an exploration license to submit, within sixty days after the expiry of the exploration license, to the licensing authority, an: (a) estimate of the mineral reserves in the exploration area properly illustrated by way of plans and maps; and (b) evaluation of the prospects of the discovery of any mineral or group of minerals in the exploration area.	Rs.100000/-
15	Failure of the holder of a mineral deposit retention license to carry out any programme of operations, including evaluation, from time to time, of the mineral deposit concerned, as specified in the license.	Rs.30000/-
16	Failure of a holder of mineral deposit retention license to keep proper record of the: (i) investigations and operations, including the erection or construction of reasonably necessary ancillary works in retention area, carried out for, or in	Rs.30000/-

<i>S#</i>	<i>Offence</i>	<i>Amount of Challan (In Rs)</i>
	<p>connection with future mining operations;</p> <p>(ii) location and results of all photo geological studies, imaging, geological mapping, geochemical sampling, geophysical surveying, drilling, pitting and trenching, sampling and bulk sampling and all other activities carried out in connection with the retention area, the results of all analytical, metallurgical and mineralogical work incidental to exploration operations and the interpretation and assessment of the studies, surveys and works referred;</p> <p>(iii) persons employed for purposes of investigations and operations; and</p> <p>(iv) expenditures incurred in the course of such exploration operations.</p>	
17	Failure of a holder of mineral deposit retention license to prepare and maintain plans, maps in respect of the retention area.	Rs.25000/-
18	Failure of a holder of mineral deposit retention license to submit to the licensing authority, within sixty days after the expiry of the license separate reports in relation an evaluation of the prospects of future mining operations in such retention area and all information, including photographs, tabulations, tapes and discs in relation to photo geological studies, imaging, geological mapping, geochemical sampling, geophysical surveying, drilling, pitting and trenching, sampling and bulk sampling and all other activities carried out in connection with the retention area, the results of all analytical, metallurgical and mineralogical work incidental to exploration operations and the interpretation and assessment of the studies, surveys and works referred	Rs.30000/-
19	Failure of a lease holder to commence mining operations within six months of the grant of the lease	Rs.50000/-
20	Violations, by the lease holder, of plan approved for development and operation of the mine.	Rs.100000/-
21	Failure of the lease holder to notify temporary cessation of mining operations, or to reducing normal rate of production	Rs.5000/-

<i>S#</i>	<i>Offence</i>	<i>Amount of Challan (In Rs)</i>
22	Failure of a lease holder to keep proper record of the persons employed for mining operations and expenditures incurred in the course of mining operations.	Rs.20000/-
23	Failure of a lease holder to keep proper record of any exploration operations regarding the nature, location and results of all photo geological studies, imaging, geological mapping, geochemical sampling, geophysical surveying, drilling, pitting and trenching, sampling and bulk sampling, and all other activities undertaken in the course of such exploration operations, the results of all analytical, metallurgical and mineralogical work incidental to such exploration operations and the interpretation and assessment of the studies, surveys and works.	Rs.20000/-
24	Failure of a lease holder to keep proper record of the nature and mass or volume of any mineral or group of minerals found or incidentally won in the course of such exploration operations.	Rs.50000/-
25	Failure of a lease holder to submit within seven days after the end of each quarter the returns in relation to such quarter containing summary of the particulars and information contained in the records maintained by the lease holder.	Rs.5000/-
26	Failure of a lease holder to submit, within thirty days after 31 st December of each year, to the Licensing Authority, returns or reports containing in relation to such year a summary of the particulars and information contained in the records maintained by the lease holder.	Rs.5000/-
27	Failure of a lease holder to keep proper record the persons employed for mining or exploration operations and the expenditures incurred in the course of such operations	Rs.20000/-
28	Failure of a lease holder to prepare and maintain plans and maps in respect of the mining area.	Rs.10000/-
29	Failure of a lease holder to prepare and submit to the licensing authority quarterly statement of income derived and expenditure incurred in connection with mining operations.	Rs.5000/-

<i>S#</i>	<i>Offence</i>	<i>Amount of Challan (In Rs)</i>
30	Failure of a lease holder to submit, within thirty days after 31st December of each year, to the Licensing Authority the: (a) returns or reports containing in relation to such year a summary of the particulars and information contained in the records maintained by the lease holder;	Rs.10000/-
	(b) statement of income and expenditure and financial statements for the preceding year; (c) estimate of remaining mineral reserves properly illustrated by way of plans and maps; and (d) particulars of any mining and exploration operations proposed during the succeeding year with a forecast of delineated mineral reserves.	Rs.10000/-
31	Failure to submit, to the licensing authority, monthly returns showing the amount of royalty paid in respect of any mineral or group of minerals disposed of in the month.	Rs.3000/- per month
32	Failure of a lease holder to provide in the lease area a properly constructed and correct weighing machine or other suitable means for determining the weight of any mineral or group of minerals won or mined in the lease area.	Rs.10000/- in case of first occurrence
33	Failure or refusal to furnish information, required by the licensing authority, relating to reconnaissance, prospecting, exploration or mining operations, or to minerals won, mined, found or sold or otherwise disposed of, or the value thereof.	Rs.25000/-
34	Failure to appear before the licensing authority or a person identified by it and to answer questions relating to relating to reconnaissance, prospecting, exploration or mining operations, or to minerals won, mined, found or sold or otherwise disposed of, or the value thereof.	Rs.20000/-
35	Knowingly or recklessly furnishing information or making any statement or furnishing any data which are false or misleading in a material particular.	Rs.25000/-
36	Failure of a mineral title holder to report the spilling over of any mineral on land, or in any water on or under the surface of any land, or any land or any such water is otherwise polluted or damaged, or any plant or animal life, whether in water or on, in or under land, is	Rs.10000/-

<i>S#</i>	<i>Offence</i>	<i>Amount of Challan (In Rs)</i>
	endangered or destroyed, or any damage or loss is caused to any person, including the government, by such spilling, pollution or damage.	
37	Failure of the lease holder to keep a copy of the approved development scheme and latest working plans at the site.	Rs.5000/-
38	Failure of lease holder to commence operations within specified time frame.	Rs.20000/-
39	Failure of lease holder to carry out operations in a skilful and workmanlike manner and in accordance with approved development scheme.	Rs.20000/-
40	Failure of a mineral title holder to get demarcated the area of his title and submit a boundary demarcation certificate within specified time frame.	Rs.10000/-
41	Failure of a mineral title holder to erect and maintain boundary marks and pillars.	Rs.10000/-
42	Causing damage to the mineral property due to unscientific working, lack of supervision, negligence or any other omission or commission on the part of a title holder.	Rs.50000/-
43	Failure to inform the licensing authority, with in a period of one month, and apply for its consent to assignment of the mineral title in case the holder of the title ceases to be a national of Pakistan or if a Company ceases to be incorporated in Pakistan.	Rs.20000/-
44	Non-erection of boundary pillars	Rs.50000/-

SCHEDULE-VII
(see section 86 and 87)

FORM OF CHALLAN

Name & address of the offender.....
.....

Date & details of offence.....
.....

Violation of the provision of law.....
.....

Amount of Challan Rs

Date by which the penalty is to be paid.....
.....

Head of account.....
.....

¹[SCHEDULE-VIII
(See sub-section (2) of section 1)

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

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

¹ Added vide Khyber Pakhtunkhwa Act No. XLVI of 2019

Titles Committee for consideration. The Committee shall consist of the following, namely:

- | | | |
|-----|--|-----------------------|
| (a) | Concerned Deputy Commissioner; | Chairman |
| (b) | a representative of the local mining association nominated by the Licensing Authority; | Member |
| (c) | a prominent elder of the locality nominated by the Licensing Authority; and | Member |
| (d) | Assistant Director Mineral concerned. | Member-cum-Secretary. |
9. The Dispute Resolution Committee shall also recommend resolution of inter-tribal land disputes, facilitate demarcation and division of land between the sub-sections and clans as per their traditional Rewaj and settled principles of due shares. The matter may be deliberated upon by two such committees if the dispute arises between two tribal districts. The Committee or Committees may seek help of any relevant Department of Government exercise of their duties.
 10. Any lease granted to any Public organization, in the merged districts and subdivisions before their merger with Khyber Pakhtunkhwa, shall continue to operate as per the terms and conditions of the agreement signed with the Mineral Directorate of erstwhile Federally Administered Tribal Areas Development Authority.
 11. Applications for the grant of mineral title in the merged districts and subdivisions, received to the Mineral Directorate of erstwhile Federally Administered Tribal Areas Development Authority before its merger with the Department, vide Notification No. SO(E-I)/ E&AD/9-126/2018, dated 15-11-2018, shall be processed for Jalsa-e-Aam as per their priority.
 12. Any online or manual application received for the grant of a mineral title in the merged tribal districts and tribal sub-divisions, during the period from 15-11-2018 till the commencement of the Khyber Pakhtunkhwa Mineral Sector Governance (Amendment) Act, 2019 shall be rejected.
 13. The areas already reserved for auction under section 62 of this Act and any area having mineral reserves, proved as a result of studies carried out at the public expense, shall be leased out, under any terms and conditions, as deemed appropriate by the Licensing Authority.
 14. The provisions of section 102 of this Act shall apply mutatis mutandis in relation to this Schedule.

All other issues regarding mineral titles, not specifically mentioned in this Schedule, shall be governed by the rest of the provisions of this Act.

SCHEDULE-IX

(See section 11)

The initial period of mining lease shall be as follows:

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

BY ORDER OF MR. SPEAKER

Secretary

Provincial Assembly of Khyber Pakhtunkhwa

(NASRULLAH KHAN KHATTAK)

Secretary

Provincial Assembly of Khyber Pakhtunkhwa