

## **Mining Lease (Modification Of Terms) Rules, 1956**

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### **SCHEDULE 1 :- SCHEDULE**

#### **Mining Lease (Modification Of Terms) Rules, 1956**

S.R.O. 2062. dated the 4th September, 1956.1-In exercise of the powers conferred by Sec. 7 of the Mines and Minerals (Regulation and Development) Act, 1948 (LIII of 1948), the Central Government hereby makes the following rules, namely:

#### **1. Short title and commencement :-**

These rules may be called the Mining Lease (Modification of Terms) Rules. 1956,

#### **2. Definitions :-**

In these rules unless the context otherwise requires,-

- (a) "Act" means the Mines and Minerals (Regulation and

Development) Act, 1957 (67 of 1957):]

(b) "Controller" means a Controller of Mining Leases appointed under rule 3:

**1**[(c) "Existing mining lease" means a mining leases granted before the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972 and subsisting at such commencement, but does not include any such lease in respect of- (i) natural gas: (ii) petroleum: (iii) coal; or (iv) any minor mineral within the meaning of Cl. (c) of Section 3of the Act;]

(d) "lessee" means the lessee of an existing mining lease and includes sub- lessee or the successor-in-interest, of the lessee or sub-lessee, but does not include a contractor engaged by the lessee or sub-lessee for the purpose of working the mine or any part thereof, and the expressions "lessor" shall be construed accordingly:

**2**[(e) "Mineral Concession Rules" means the Mineral Concession Rules, 1960. made under Section 13 of the Act .)

**3**[(f) "Mineral Conservation and Development Rules" means the Minerals Conservation and Development Rules. 1958 made under Section 18 of the Act:]

**4** [(g) \* \*]

1. Subs. by G.S.R. 437. dated IstJune, 1958.

2. Subs. by G.S.R. 1 196. dated 17th October, 1973 (w.e.f. 3rd November, 1973).

3. Subs. by G.S.R. 874. dated 26th June.1972 (w.e.f. 29th July, 1972).

4. Omitted by G.S.R. 437. dated IstJune. 1958.

### **3. Controller of Mining Leases :-**

The Central Government may, by notification in the Official Gazette, appoint one or more Controllers of Mining Leases for the purposes of these rules and any such Controller may be appointed for any specified area or in respect of any specified class of mining leases.

### **4. Existing leases to be brought into conformity with the Mineral Concession Rules. 1949 :-**

(1) As soon as may be after the commencement of these rules, the Controller shall by notice served in the manner specified in rule 15 call upon every lessor to show cause why the terms and conditions of the existing mining lease should not be brought into conformity with the Mineral Concession Rules.

(2) Where the parties or any of them appear before the Controller in pursuance of a notice issued under sub-rule (1), the Controller, after giving the parties or party, as the case may be, a reasonable opportunity of being heard shall issue an order making such modifications and alterations in the terms and conditions of the existing mining lease as may be necessary for the purpose of bringing it into conformity with the Mineral Concession Rules.

(3) Where none of the parties appears before the Controller in pursuance of a notice issued under sub-rule (1), the existing mining lease shall be deemed to have <sup>1</sup> [Mineral Conservation and Development Rules].

1. Subs. by S.R.O. 1243. dated 6th April. 1957.

### **5. Lessees to submit returns :-**

(1) Every lessee shall submit to the Controller within sixty days of the <sup>1</sup>[date of a notification published by the Controller in the Gazette of India, in this behalf] a return in the form specified In

the Schedule : <sup>2</sup> [Provided that the Controller may in any particular case extend the said period of sixty days by such period or periods, as he deems fit if he is satisfied that the lessee was prevented by sufficient cause from submitting the return in time. Provided further that the Central Government may In special circumstances further extend the said period by such period as it deems fit.]

(2) Every such return shall be accompanied by a true copy of the existing mining lease of which the return relates.

1. Subs. by S.R.O. 196. dated 14th January. 1957.

2. Subs. by G.S.R. 510. dated 20th June. 1958.

#### **6. Modification of the terms of existing mining leases :-**

The Controller shall in respect of every existing mining lease prepare a statement and conditions of the lease so as to bring the lease into conformity with <sup>1</sup>[the Act and] the Mineral Concession Rules.

((2)to(9) \* \* \* \*]

<sup>2</sup>[1(9A) \* \* \* \*]

(10) Where the Controller proposes a reduction in the area covered by an existing mining lease, the Controller shall observe the following principles :

(a) in any case where there is an area which is not being worked and which is not contiguous to any area which is being worked, the Controller shall exclude that area;

(b) in any other case. the Controller, shall exclude such area as he may determine having regard to the following matters, namely :

(i) the compactness of the remaining area and configuration appropriate for working the mine in a workmanlike manner :

(ii) the conservation of minerals.

(11) The Controller shall give notice of the proposed modifications or alteration to the lessee and the lessor and shall call upon them to show cause why such modifications and alterations should not be made.

(12) Where the party or any of them appear before the Controller in pursuance of notice issued under sub-rule (1), the Controller, after giving the parties or party, as the case may be. an opportunity of being heard and after making such further enquiry as he may deem fit, <sup>3</sup>[and In any case to which sub-rule (10) applies after consulting the State Government, may] make an order that the existing mining lease shall stand modified in the manner specified in the order.

"<sup>4</sup>[(13) If any lessee fails to furnish a return within the time or extended time under sub-rule (1) of rule 5. or fails to appear on the date fixed for hearing or to supply such information as may be required by the Controller under these rules, the Controller may proceed ex parte against him and on the basis of informations available with him proceed to modify the terms and conditions of the mining lease so as to bring it into conformity with the Mineral Concession Rules in accordance with the provisions of these rules, and the lease shall stand modified in accordance with the order passed by him.]

"<sup>5</sup> [(14) \* \* \* \*]

1. Ins. by G.S.R. 437, daled 1st June. 19.58.

2. Omitted by G.S.R. 437, daled 1st June. 19.58.

3. Omitted by G.S.R. 1 196, dated 17th October. 1973 (w.e.f. 3rd November. 1973).

4. Subs. by S.R.O. 3882. dated 26th November. 1957.

5. Subs. by G.S.R. 51 1 . dated 20th June. 1957.

## **7. Power of revision of the Central Government :-**

(1) The Central rule 4 or sub-rule (12) or sub-rule (13) of rule 6<sup>1</sup> [or in which the tribunal has passed by order Cl. (b) of sub-rule (1) of rule 10) for the purpose of satisfying itself as to the legality or propriety of any such order and may pass such order in relation thereto as it thinks fit.

(2) Every application under this rule for the revisions of any such order of Controller shall be made within sixty days of the date of the order sought to be revised: Provided that the Central Government may entertain any such application after the expiry of the said period of sixty days If it is satisfied that the applicant was prevented by sufficient cause from filing the application In time.

(3) The Central Government, may, pending its final decision in the matter under this rule, suspend the operation of any order passed, by the Controller under sub-rule (2) of rule 4 or sub-rule (12) or sub-rule (13) of rule 6.

1. Ins.by C.,S.R.371.dated 25th March, 1960.

## **8. Furnishing of copies of final order and publication in Gazette :-**

A copy of every order made under these rules modifying or altering the terms and conditions of an existing mining lease shall be furnished free of cost to the lessee and lessor and to any other interested person, and shall also be published In the Official Gazette of the State in which the mine to which such lease relates is situated.

## **9. Payment of compensation in certain cases :-**

<sup>1</sup> [Where the area of an existing mining lease is reduced, there shall be paid to the lessee] compensation, the amount of which

shall be determined In the manner and in accordance with the principles set out in rule 10 : Provided that no such compensation shall be payable unless the Controller is satisfied that the transaction relating to the existing mining lease was a bond fide one and was entered into the ordinary course of business.

1. Subs. by G.S.R. 437, dated 1st June, 1958.

**10. Principles and manner of determining compensation :-**

(1) The amount of compensation payable under rule 9 shall be determined in the following manner:

(a) by agreement between the parties ;

**1**[(b)

(i) if there is no such agreement, the amount of compensation shall be determined by the Controller holding such inquiry as he may deem fit:

(ii) if the amount so determined by the Controller is not acceptable to the person to whom the compensation is payable, the question shall on an application made within sixty days from the date of the Controllers order, be referred for decision to a Tribunal constituted by the Central Government shall consist of a single member who is, or has been, or Is qualified for appointment as a Judge of a High Court and the decision of the Tribunal shall be final subject to the provisions of Section 3 of the Act.]

(2) In determining the compensation payable under this rule, the Controller and the Tribunal shall have regard to the following matters, namely :

(i) any reasonable and bonafide expenditure incurred by the lessee on any area excluded under rule 6; that is to say-

(a) the proportionate cost of obtaining the lease attributable to that area;

(b) the expenditure or proportionate expenditure, if any, incurred in undertaking any prospecting operations In the area (i) for the

(c) the expenditure or proportionate expenditure, if any, incurred In constructing roads or other essential works in the area, where such roads or works are in existence in usable condition:

(d) the expenditure or proportionate expenditure on any other operation carried out in that area and necessary for prospecting :

(ii) no compensation shall be payable in respect of the reduction of the

<sup>2</sup> [period) of the lease or any modification in the amount of royalty.

(3) In addition to the amount of expenditure referred to in sub-clause (i) of sub-rule (2). there shall in every case be paid In respect of the first five years since the expenditure was incurred, a sum equivalent to five per cent. of such expenditure in respect of each such year plus a sum equivalent to four per cent of such expenditure in respect of each additional year after the said period of five years: Provided that in no case shall the total sum payable under this sub-rule exceed 50 per cent. of the total amount of such expenditure. Explanation.-In computing the number of years for the purpose of this sub- rule, any part of a year less than six months shall be ignored and any part of a year exceeding six months shall be reckoned as one year.

(4) The compensation determined with reference to Cl. (b) of sub-rules (2) (i) shall not be paid unless the party to whom the compensation is payable has delivered to the party by whom the compensation is payable all maps. charts and other document referred to in that clause.



(5) Where there is any dispute as to the person or persons who are entitled to the compensation, the Controller or the Tribunal as the case may be, shall decide the dispute, and if it is found that more than one person are entitled to compensation the amount of the compensation shall be apportioned among such persons.

1. Subs. by G.S.R. 371, dated 25th March. 1960.

2. Subs. by G.S.R. 2507, dated 23rd ,July. 1957.

**11. Interest on compensation :-**

Any compensation payable under these rules shall be due as from the date of the final order made under rule 10 and shall carry interest at the rate of 2 per cent. per annum from the date of such order.

**12. Tribunal and Controllers to have certain powers of Civil Court :-**

The tribunal constituted under rule 10<sup>1</sup> [and the Controllers of Mining leases appointed under rule 31 shall for the purpose of determining compensation under these rules have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 ] in respect of the matters namely :-

(a) summoning and enforcing the attendance of any person and examining him on oath :

(b) requiring the discovery and production of any documents,

(c) requiring of evidence on affidavit :

(d) requisitioning any public record from any court or office :

(e) issuing commission for examination of witnesses.

1. Subs. by S.R.O. 2984, dated 11th September. 1957.

**12A. Power to rectify apparent mistakes :-**

Any clerical or arithmetical mistake in any order passed by the Controller under these rules and errors arising therein from accidental slip or omission may, within two months from the date of the order, be corrected by the Controller : Provided that no order prejudicial to any person shall be made under this rule unless such person has been given a reasonable opportunity of stating his case.]

**13. Power of Controller to obtain Information :-**

The Controller may for the purpose of exercising the powers, conferred upon him by these rules, by order require a lessee or lessor-

(a) to produce before him any book of account or other documents which may be in his possession or power relating to an existing mining lease];

(b) to furnish to him such maps and charts relating to an existing mining lease as may be specified In the order : and

(c) to give any information In his possession relating to an existing mining lease.

**14. xxx xxx xxx :-**

xxx xxx xxx

**15. Service of notice or order :-**

(i)Every notice or order issued or made under these rules shall-

(a) in the case of any notice or order of a general nature or affecting a class of persons be published in the Gazette of India;

(b) in the case of any notice or order affecting any corporation or firm be served in the manner provided for the service of summons in rule 2 of Or. XXIX or rule 3 of Or. XXX. as the case may be in the First Schedule to the Code of CM] Procedure, 1908 (Act 5 of 1908). ^If it cannot be served in such manner by publication in the Official Gazette, of the State and in at least one newspaper circulated in the district, where the mine, the terms and conditions of lease whereof are proposed to be altered or modified, is situated] : and

(c) in the case of any notice or order affecting an Individual person (not being a corporation or firm) be served on such person,-

d) by delivering or tendering it to that person, or

(ii) if it cannot be so delivered or tendered, by delivering or tendering It to any officer of such person or any adult male member of the family of such person or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain: or

(iii) by registered post :[or]

[(iv) if it cannot be served in the manner laid down in sub-clause (i) or sub-clause (ii) or sub-clause (iii). by publication in the Official Gazette of the State and in at least one newspaper circulating in the district, where the mine, the terms and conditions of the lease where are proposed to be altered or modified, is situated].

## **16. Mode of recovery of compensation :-**

The amount of any compensation payable under these rules may on a certificate issued by the Controller, be recovered in the same manner as an arrear of land revenue : Provided that where any such compensation is payable by the Government, the amount of such compensation may, on application made to the civil court

having Jurisdiction, be recovered as If that court had passed a decree for such amount.

**17. xxx xxx xxx :-**

(1) If any Person-

(a) refuses or fails-

(i) to furnish a return as provided in Rule 5 : or

(ii) to restore possession of any mine in accordance with the terms and conditions of an existing mining lease as modified under these rules: or

**1** [(iii) to produce any books of accounts or other documents or furnish maps and charts or give any information in compliance with an order made under rule 13;] or

(b) obstructs the lawful exercise of any power conferred by these rules, he shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

(2) If any person makes any statement in any return furnished under rule 5. which he either knows, or has reason to believe to be false which he does not believe to be true, he shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with.

1. Sub. by G.S.R. 861, dated 13th July. 1959

**18. xxx xxx xxx :-**

xxx xxx xxx

## **SCHEDULE 1**

### SCHEDULE

(see Rule 5)

To be used in respect of each lessee or sub-lessee

1. Name of lessee or sub-lessee.
2. Address.
3. Status (whether Individual or company or corporation or partnership firm or Hindu Undivided Family or Co-operative Society).
4. Date on which the lease or sub-lease was granted.
5. Location of the area leased (Name of the village district. States)
6. Minerals for which the lease has been granted
7. Area for which the lease or sub-lease has been granted.
8. Period of the lease or sub-lease.
9. Place of registration of the lease or sub-lease.
10. If the lessee/sub-lessee holds in his name other leases in the State (in this lease is located) for the mineral to which this relates or prescribed of associated minerals (please refer to R.69 of the Mineral Concession 1960) the particulars of the same may please be given which group Rules. Sl.No. Location of area leased (Village Distt.) Mineral for which Area for which Date of the sub-lease has the lease/sub- grant of been granted lease has been lease/ granted sub-lease
11. If the lessee/ sub-lessee is an individual if he/she is a shareholder in a company/ corporation or partner in partnership firm or a member of a Co-operative Society or a member of a Hindu undivided family, he/she should give the undermentioned particulars of the leases held by the Company/Corporation or partnership firm or Cooperative Society or Hindu undivided family In the State and for the mineral or prescribed group of associated minerals, to which this return relates, alongwith the percentage of his/her share in the Company/Corporation or partnership firm or Co-operative Society or Hindu undivided family. Sl. Name and add-Location of Mineral Area for Date of Percentage No.ress of the com-the leases for which which Lease/grant of of yourpany, corpor-held by the the lease/ sub-lease Lease/ share Ination, partner-Company, sub-lease has been sub-leasethe com-ship firm , Co-corporation, has been granted pany, cor-operative soci-partnership granted poration, ety. Hindu un-firm, Co-op-partner-divided family. erative soci- ship firm, undivided ety. Hindu Co-opera- family (vil- soci-lage, Distt.) ety. Hindu undivided, family.
12. Please enclose a plan showing the lease-hold, the area worked in the past and the area now being worked. I declare that to the best of my knowledge and belief the Information given In the above statements In this return is correct and complete and the copy of the lease or sub-lease enclosed with this return is a true copy. Signature of the lessee/sub-lessee.