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Minerals (Other than Atomic and Hydro Carbons Energy Mineral) Concession (Fourth Amendment) Rules, 2021

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MINISTRY OF MINES**NOTIFICATION**

New Delhi, the 2nd November, 2021

G.S.R. 775(E).—In exercise of the powers conferred by section 13 of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), the Central Government hereby makes the following rules further to amend the Minerals (Other than Atomic and Hydro Carbons Energy Mineral) Concession Rules, 2016, namely:—

1. (1) These rules may be called the Minerals (Other than Atomic and Hydro Carbons Energy Mineral) Concession (Fourth Amendment) Rules, 2021.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Minerals (Other than Atomic and Hydro Carbons Energy Mineral) Concession Rules, 2016 (hereinafter referred to as the said rules), for the words “prospecting licence-cum-mining lease”, wherever they occur, the words “composite licence” shall be substituted.

3. In the said rules, in rule 2, in sub-rule (1),—

(i) clause (b) and (d) shall be omitted;

(ii) in clause (j), the following provisos shall be inserted, namely:—

“Provided that if for any mineral or mineral grade, the average sale price in respect of the relevant State for any month is not published by the Indian Bureau of Mines, the average sale price for the latest month published for such mineral or mineral grade shall be deemed to be the average sale price for the said month for which average sale price is not published:

Provided further that if for any mineral or mineral grade, the average sale price in respect of the relevant State is not published for the entire period of the preceding twelve months, then the all India average sale price published for such mineral or mineral grade for the said twelve months shall be used:

Provided also that in case of auction of mineral block for composite licence for minerals and corresponding deposits as specified in Schedule II of the Minerals (Evidence of Mineral Contents) Rules, 2015, the ‘estimated quantity of mineral resources’ shall be arrived in the following manner, namely:—

- (A) the estimated quantity of mineral resources as assessed under G4 level of exploration for the mineralised area in the block shall considered the ‘estimated quantity of mineral resources’ of the block;
- (B) in case the ‘estimated quantity of mineral resources’ is not possible to be assessed under clause (A), then the same shall be arrived at by multiplying,—
 - (i) the average of the estimated quantity of mineral resource per hectare for the same mineral available in the mineralised area of nearby mining leases or mineral blocks having similar geological features and explored upto G3 level in accordance with the said rules; and
 - (ii) the mineralised area of the mineral block which is to be auctioned for composite licence.

Explanation.—For the purposes of this clause ‘nearby mining leases or mineral blocks’ shall mean mining leases or mineral blocks located in the same district or in any adjacent district.”

4. In the said rules, rule 5, 7 and 8 shall be omitted.

5. In the said rules, in rule 9A,—

(i) in sub-rule (1), for “in respect of leases expiring under the provisions of sub-sections (5) and (6) of section 8A of the Act, within one week from the date of the notification of the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession (Amendment) Rules, 2020” the words, figure and letter, “for the purpose of issuing vesting order for transfer and vesting of all valid rights, approvals, clearances, licences and the like in accordance with sub section (1) of section 8B” shall be substituted,

(ii) for sub-rule (4), the following sub-rule shall be substituted, namely:—

“(4) In case the new lessee proposes any change in the conditions attached to the approvals, clearances, licences, permits, and the like, transferred under the vesting order, the lessee will obtain the approval of the same, under the laws for the time being in force.”;

(iii) in sub-rule (5), for the words and letter, “for a period of two years as provided in section 8B of the Act”, the words “till expiry or termination of mining lease granted” shall be substituted;

(iv) sub-rules (6), (7) and (8) shall be omitted.

6. In the said rules, in rule 12,—

(i) in sub-rule (1), in clause (k),—

(a) after the words “in respect of any mineral”, the words and figure “having a grade equal to or above the threshold value of such mineral, as notified by the Indian Bureau of Mines under the Mineral Conservation and Development Rules, 2017,” shall be inserted;

(b) after the first proviso, the following proviso shall be inserted, namely:—

“Provided further that in case of overburden or the waste rock or the mineral below the threshold value, which is generated during the course of mining or beneficiation of the mineral; or any minor mineral extracted alongwith the mineral for which lease is granted, the State Government in consultation with the Indian Bureau of Mines may, by order permit the lessee to dispose of such material in such quantity and in such manner as may be specified therein, on such payment as may be decided by the State Government;”;

(ii) for sub-rule (5) and (5A) the following sub-rule shall be substituted, namely:—

“(5) The minimum area for grant of mining lease shall not be less than,—

(a) Two hectares, in respect of beach sands or placers, which are mono or multi mineral concentrations, including the dunes occurring on and off the coastal shore line deposited as a product of the ebb and flow of tides, waves and inshore currents, and at places semi-consolidated to consolidated in nature;

(b) Two hectares, in respect of limestone, bauxite, manganese, kyanite, sillimanite, marl, selenite, siliceous earth, graphite, vermiculite, wollastonite having small deposits, but not fragmented portions of larger ones, shallow in nature with depth of mineralisation upto twenty metres, isolated and not exceeding two hundred metres in strike length, which are small by virtue of either origin or mode of emplacement or dislocation due to geological disturbances; and small deposits shall also include float deposits (transported) formed due to mechanical weathering and deposition, alluvial or eluvial placers (buried or otherwise), which generally have peculiar configurations excepting beach sands or placers;

(c) Four hectares, in respect of all mineral deposits other than those specified under clauses (a) and (b).”.

7. In the said rules, after rule 12A, the following rule shall be inserted, namely:—

“12B. Manner of Sale of mineral from the captive leases.— (1) In any lease, where mineral is required to be used for captive purpose, the lessee may sell mineral in the following manner, namely:—

- (i) lessee may sell up to fifty per cent. of total mineral produced in such captive mine in a financial year while ensuring that not less than fifty per cent. of total mineral produced in such captive mine shall be used during the financial year for meeting the requirement of the end use plant linked with the mine;
- (ii) the requirement of the end use plant linked with the mine for a financial year shall be the actual quantity of mineral consumed in the said plant, in that financial year;
- (iii) lessee shall pay the additional amount as specified in the Sixth Schedule of the Act for the quantity so sold;
- (iv) lessee who has been allowed to sell mineral before the commencement of Mines and Minerals (Development and Regulation) Amendment Act, 2021, shall also pay the additional amount for the quantity so sold, as specified in the Sixth Schedule of the Act, only for the quantity sold after the commencement of said Act;

- (v) lessee will keep a separate record of such sale and shall report such sale in the monthly and annual returns to be submitted under the Mineral Conservation and Development Rules, 2017;
- (vi) at the end of the financial year, the lessee shall carry out the reconciliation of the quantity of mineral produced, the quantity of mineral consumed in the linked end use plant and the quantity of mineral sold in that financial year;
- (vii) in case lessee sells less than fifty per cent. of total mineral produced in a captive mine in a financial year, it shall not carry forward the deficient quantity for sale in the subsequent year.

Explanation.—This rule shall be applicable in all leases where mineral is required to be used for captive consumption, notwithstanding any order or direction to the contrary, passed by any court or authority, prior to the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2021.”.

8. In the said rules, in rule 20,—

- (i) for the words “mining operations” and “such operations” wherever they occur, the words “production and dispatch” shall be substituted;
- (ii) in sub-rule (1), for the words, “Subject to the conditions of this rule where mining operations are”, the words “Where production and dispatch has” shall be substituted;
- (iii) for sub-rule (3), the following shall be substituted, namely: —

“Where a lessee is unable to commence the production and dispatch within a period of two years from the date of execution of mining lease or discontinuation of production and dispatch for reasons beyond its control, he may submit an application to the State Government, explaining the reasons for the same and stating the further time required, at least three months before the expiry of such period of two years:

Provided that where the lessee has failed to make the application within the time stipulated above due to the reasons beyond his control but has made application before the lapse of lease under sub-rule (1), the State Government may condone the delay in making the application and in such case the State Government shall pass an order under sub-section (6) before the lapse of lease:

Provided further that where the lessee has failed to make the application within the time stipulated above or delay in making the application has not been condoned by the State Government, the lease shall lapse in accordance with sub-rule (1).”;

- (iv) in sub-rule (6), —

- (a) for the words “whichever is earlier, either granting or rejecting such request:”, the following shall be substituted, namely:—

“whichever is earlier, either extending the period of two year by a further period not exceeding one year or rejecting such request:”;

- (b) for the proviso, the following proviso shall be substituted, namely: —

“Provided that such mining lease shall lapse on failure to undertake production and dispatch or inability to continue production and dispatch within the extended period:

Provided further that such extension shall not be granted for more than once during the entire period of lease.”;

- (v) for sub-rules (7), (8) and (9) the following sub-rule shall be substituted, namely:—

“(7) Any application for revival of the mining lease submitted under the third proviso to sub-section (4) of section 4A, as it stood prior to commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2021, namely, the 28th March, 2021, which is not disposed of by the State Government prior to the said date, shall lapse on the said date.”;

- (vi) after sub-rule (11) the following sub-rule shall be inserted, namely:—

“(12) The State Government shall intimate the Indian Bureau of Mines in writing about such lapse of a mining lease.”.

9. In the said rules, in rule 21,—

(i) In sub-rule (1),—

- (a) for the words, “the entire area”, the words “the entire or a part area” shall be substituted;
- (b) for the word “twelve”, the word “six” shall be substituted;
- (c) the proviso shall be omitted;

(ii) after sub-rule (3) the following sub-rule shall be inserted, namely:—

“(3A) The State Government may refuse to accept such surrender of the entire or a part area of the mining lease for the reasons to be communicated in writing to the lessee.”.

10. In the said rules, in rule 23,—

(i) in the heading, the words “granted through auction” shall be omitted;

(ii) in sub-rule (1), for the words, “through auction” the words “under the Act” shall be substituted;

(iii) in sub-rule (2), the words, “which has been granted only through auction” shall be omitted;

(iv) in sub-rule (5), after the words, “as the case may be” occurring at the end, the following shall be inserted, namely:—

“and the transfer will not result in change of status of captive mine to merchant mine or *vice versa*:

Provided that any change of status of mine, from captive to merchant or *vice versa* upon any transfer effected prior to the commencement of the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession (Fourth Amendment) Rules, 2021 shall be void and the captive or merchant status of such mine, as the case may be, as it stood prior to such transfer, shall be restored.”;

(v) after sub-rule (11), the following sub-rule shall be inserted, namely:—

“(12) The upfront payment made by any transferee of mining lease under the provisions of the Minerals (Transfer of Mining Lease Granted Otherwise than through Auction for Captive Purpose) Rules, 2016, as it stood prior to its rescission, shall be refunded by the State Government to such transferee after adjustment against the transfer charges payable under the said rules till 27th of March, 2021:

Provided that such refund shall be made within sixty days from the date application by the transferee for such refund.”.

11. After rule 23A, the following rule shall be inserted, namely:—

“23B. Mutation of mining lease or composite licence in favour of legal heirs on death of the lessee or licensee.- (1) In case of death of the holder of a mining lease or composite licence during the currency of the lease or licence period, the legal heirs may apply to the State Government for mutation of their name in the lease or licence in place of the deceased lessee or licensee, as the case may be.

(2) The State Government within a period of ninety days from the date of receiving such application for mutation shall enter the names of such legal heirs in the records in place of the deceased lessee or licensee or reject such mutations for the reasons to be recorded in writing:

Provided further that no such mutation of name in a mining lease or a composite licence shall be made in contravention of any condition subject to which such lease or licence was granted.

(3) The State Government shall intimate the Indian Bureau of Mines in writing about any mutation under this rule.”.

12. In the said rules, rule 24 shall be omitted.

13. In the said rules, in rule 42, in sub-rule (3), after the words “the non-captive mines”, the words “and any merchant sale done by the captive mines” shall be inserted.

14. In the said rules, in rule 49, —

(i) for the words and figures “rate of 24%”, the words “twelve per cent.” shall be substituted;

(ii) for the words “the sixtieth day of” shall be omitted.

15. In the said rules, for the rule 54, the following rule shall be substituted, namely:—

“54. Penalty.— (1) Any contravention of rules 11, 12, 12A, 12B, 13, 15, 17 [sub-rule (1)], 21 [sub-rule 4], 22 [sub-rule (2)], 23, 25, 28 to 33, 40, 50, 51, 52, 60, 61, 64 and 65 shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to rupees five lakhs, or with both, and in the case of a continuing contravention, with additional fine which may extend to rupees fifty thousand for every day during which such contravention continues after conviction for the first such contravention.

(2) Any contravention of sub-rule (2) of rule 17 shall be punishable with fine for an amount as specified in Schedule XII.”.

16. In the said rules, in rule 55, Schedule V, Schedule VII and Schedule IX, for the words, figures, “Concession Rules, 2015” the words and figures, “Concession Rules, 2016” shall be substituted.

17. In the said rules, in rule 60, for heading, the following heading shall be substituted, namely:—

“Supply of certain information to the new concession holder.”.

18. In the said rules, after rule 70, the following rules and Chapter shall be inserted, namely:—

“71. When day of completion of any requirement is a public holiday.— When the day of completion of any requirement under these rules is falling due on a public holiday, the day of completion shall be deemed to be due on the next working day.

Explanation.—The expression “public holiday” includes Saturday, Sunday and any other day declared to be a public holiday by the Central Government or the State Government, as the case may be.

CHAPTER XVIII

MINING BY GOVERNMENT COMPANIES

72. **Period of mining lease granted to Government companies or corporations before 12th January, 2015.—** (1) All mining leases for minerals granted to a Government company or corporation before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 (10 of 2015), namely, the 12th January, 2015 shall be deemed to have been granted for a period of fifty years.

(2) The State Government, upon an application made to it in this behalf by the Government company or corporation at least three months prior to the expiry of the mining lease, shall, extend the period of the mining lease for further periods of twenty years at a time:

Provided that the State Government may condone the delay in making of such application.

(3) Subject to sub-rule (1), all applications made by a Government company or corporation for renewal of mining leases and which were pending as on the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 (10 of 2015) shall be deemed to be applications for extension of the period of the mining lease and shall be disposed of in accordance with the provisions of sub-rule (2).

(4) If an application for extension of a mining lease made within the time referred to in sub-rule (2), including any application for extension of mining lease submitted before the commencement of the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession (Fourth Amendment) Rules, 2021, is not disposed of by the State Government before the date of expiry of the mining lease which may take place before or after the commencement of the said Rules, the period of that lease shall be deemed to have been extended by a further period till the State Government grants extension of mining lease and the Government company or corporation may continue mining operations, production and dispatch from such mining lease:

Provided that the Government company or corporation shall pay the amounts as specified in rule 74 upon such deemed extension.

73. **Period of mining lease granted to Government companies or corporations on or after 12th January, 2015.—** (1) All mining leases granted to a Government company or corporation for minerals shall be for a period of fifty years.

- (2) A mining lease granted to a Government company or corporation in accordance with the provisions of section 10B and section 11 of the Act shall expire at the end of the period of fifty years and shall not be extended.
- (3) The State Government, upon an application made to it in this behalf by the Government company or corporation granted a mining lease in accordance with the provisions of sub-sections (2A) and (2B) of section 17A of the Act, at least three months prior to the expiry of the mining lease, shall extend the period of the mining lease for further periods of twenty years at a time:

Provided that the State Government may condone the delay in making of such application.

- (4) If an application for extension of a mining lease made within the time referred to in sub-rule (3) is not disposed of by the State Government before the date of expiry of the mining lease, the period of that lease shall be deemed to have been extended by a further period till the State Government grants extension of mining lease and the Government company or corporation may continue mining operations, production and dispatch from such mining lease:

Provided that the Government company or corporation shall pay the amounts as specified in rule 74 upon such deemed extension.

- 74. Payments by a Government company or corporation.**— (1) In case of a mining lease granted or extended to a Government company or corporation or a joint venture, under the provisions of the Act, otherwise than through auction; on or after 12th January 2015, shall pay an amount to the State Government as prescribed under Fifth Schedule of the Act for the mineral produced after the commencement of the Mines and Mineral (Development and Regulation) Amendment Act, 2021.

(2) A Government company or corporation, in addition to payment of additional amount as specified in Fifth Schedule, shall also pay such other amounts as may be required under any law for the time being in force to the concerned authorities, including,-

- (i) royalty or dead rent to the State Government;
- (ii) payment to the National Mineral Exploration Trust; and
- (iii) payment to the District Mineral Foundation.”.

19. In the said rules, after Schedule XI, the following schedule shall be inserted, namely:—

“Schedule XII

[See rule 54(2)]

AMOUNT OF FINE

Rule No.	Marginal Heading of the Rule	Amount for compounding (in Rs.)
Sub-Rule (2) of Rule 17	Modification and review of the Mining Plan	2,000/- per day, subject to maximum 5,00,000/-”.

[F. No. M.VI-1/7/2021-Mines VI]

Dr. VEENA KUMARI DERMAL, Jt. Secy.

Note : The Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016 were published in the Gazette of India, Part II, section 3, sub-section (i) *vide* number G.S.R. 279(E) dated the 4th March, 2016 and lastly amended *vide* number G.S.R. 397(E), dated the 10th June, 2021.