



International Environmental
Law Research Centre

Maharashtra District Mineral Foundation (Trust) Rules, 2016

This document is available at ielrc.org/content/e1623.pdf

Note: This document is put online by the International Environmental Law Research Centre (IELRC) for information purposes. This document is not an official version of the text and as such is only provided as a source of information for interested readers. IELRC makes no claim as to the accuracy of the text reproduced which should under no circumstances be deemed to constitute the official version of the document.

NOTIFICATION

MDF-0615/C.R.34/Ind-9
Industries, Energy and Labour
Department,
Mantralaya, Madam Cama Marg,
Hutatma Rajguru Chowk,
Mumbai 400 005.
Dated the 1 September, 2016.

Mines and
Minerals
(Development
and
Regulation)
Act, 1957.

No. MDF-0615/C.R.34/Ind-9.- In exercise of the powers conferred by sub-sections (2), (3), (4), (5) and (6) of section 9B, sub-section (4) of section 15 and section 15A of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), in its application to the State of Maharashtra, and in pursuance of the directions issued by the Government of India under section 20A of the said Act to incorporate the provisions of the Pradhan Mantri Khanij Kshetra Yojana (PMKKKY), the Government of Maharashtra, hereby, makes the following rules for regulating manner of working of District Mineral Foundation, composition and functions of District Mineral Foundation and the payment of amount into the District Mineral Foundation, namely:-

CHAPTER I

PRELIMINARY

Short title
and
Commence-
ment

1. (1) These rules may be called the Maharashtra District Mineral Foundation (Trust) Rules, 2016.

(2) It shall come into force from dated 16/9/2015

2. Definitions.- (1) In these rules, unless the context otherwise requires,-

(a) “Act” means the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957);

(b) “Affected Areas” means areas affected by mining or mining related operations from a mine or cluster of mines within the District as may be specified by the Collector including the areas beyond the District as may be specified by the State Government from time to time, and also includes the directly affected areas and indirectly affected areas covered under the Pradhan Mantri Khanij Kshetra Kalyan Yojana (PMKKKY);

(c) “Affected People” means people covered under the Pradhan Mantri Khanij Kshetra Kalyan Yojana (PMKKKY);

(d) “Auditor” means the Auditor or Chartered Accountant appointed by the Governing Council, and include the Accountant General of the State or other Auditors nominated by the State Government;

- (e) "Central Scheme (PMKKKY)" means the Pradhan Mantri Khanij Kshetra Kalyan Yojana (PMKKKY);
- (f) "Collector" shall have the same meaning assigned to it under the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966);
- (g) "Contribution" means contribution to be collected in the Trust,-
- (i) from the holders of a mining lease or a composite license (prospecting license-cum-mining lease) in case of major minerals at such percentage of the royalty to be paid in terms of the Second Schedule of the Act as may be prescribed by the Central Government from time to time, under sub-sections (5) and (6) of section 9B of the said Act;
- (ii) from the holders of a mining lease or a quarry lease or a quarry permit in the case of minor minerals in the District at such percentage of royalty to be paid in the case of minor minerals as may be prescribed by the State Government from time to time under section 15A of the said Act;
- (h) "Governing Council" means the Governing Council of the Trust consisting of all the trustees of the District Mineral Foundation;
- (i) "Government" or "State Government" means the Government of Maharashtra;
- (j) "*Gram Sabha*" means the *Gram Sabha* as defined under the Maharashtra Village Panchayats Act (III of 1959);
- (k) "Lease Area" means area granted for the purpose of undertaking prospecting or for mining operations of any mineral or minor minerals;
- (l) "Mining" means operations undertaken for the purpose of winning any mineral or minor minerals;
- (m) "Managing Committee" means the Committee formed by the State Government for the purpose of day to day management of the affairs of Trust;
- (n) "*Panchayat*" means the *panchayat* as defined under the Maharashtra Village Panchayats Act (III of 1959);
- (o) "Trust" means the District Mineral Foundation Trust established by the Government under sub-section (1) of section 9B of the Act;
- (p) "Trust Fund" means the Trust Fund constituted under rule 13;
- (q) "Trustees" means the persons appointed by the State Government for the purpose of governing the Trust ;

- (r) "Year" means a financial year beginning from April 1st and ending on the March 31st of the following year or part period thereof;
- (s) "Zilla Parishad" means the Zilla Parishad as defined under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Mah. V of 1962).
- (2) Words and expressions used in these rules but not defined shall have the same meaning as assigned to them in the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957).

CHAPTER II

DISTRICT MINERAL FOUNDATION

3. Object of District Mineral Foundation Trust.- (i) The object of the District Mineral Foundation is to work for the interests, benefits and sustainable development of persons and areas affected by mining or mining related operations in the district; and

(ii) to utilise the funds accumulated in the District Mineral Foundation in an effective, transparent and accountable manner.

4. Composition of District Mineral Foundation.- (1) Every District Mineral Foundation Trust established under sub-section (1) of section 9B of the Act shall consist of the Governing Council, the Managing Committee and the State Level Monitoring Committee. (2) Office of the Foundation Trust shall be situated at Head Quarter of the every District or as may be determined by the Governing Council.

CHAPTER III

GOVERNING COUNCIL

5. Governing Council.- The management of the Foundation Trust shall vest in the Governing Council, which shall consist of all the Trustees of the Trust appointed by the State Government. (1) The Governing Council shall consist of *Ex-Officio* Members, nominated Members and Member-Secretary.

(2) *Ex-Officio* Members of the Governing Council and Three representatives of the member of legislative assembly / member of legislative council from the district shall be the Trustees of the District Mineral Foundation Trust.

(3) Three representatives of the member of legislative assembly / member of legislative council from the district preferably among the mine directly affected area shall be recommended by Guardian Minister and will finally nominated by the State Government for a period not exceeding three years.

(4) Two representatives of the NGO's (Non-Government Organisations) shall be recommended by Guardian Minister and will finally nominated by the State Government for a period not exceeding three years.

(5) Three representatives shall be recommended by Guardian Minister and will finally nominated by the State Government amongst the mineral concession holders for a period not exceeding three years.

(6) Nominated Members shall be appointed for a period not exceeding three years and shall not be eligible for re-appointment for more than two terms:

6. Powers and functions of Governing Council.- The Governing Council, consisting of all the Trustees, shall be responsible for,-

(1) laying down the broad policy frame work and approving the procedure for functioning of the Trust and review the working of the trust from time to time;

(2) approving Annual Action Plan and the Annual Budget for the Trust which is put up for approval by the Management Committee. The Annual Action plan shall be prepared by the Management Council and approved by the Governing Council at least one month before commencement of the year. The Annual Action Plan shall contain the list of schemes and projects with the tentative provisions thereof:

Provided that, while preparing the Annual Plan for the next financial year, the sum total of the past commitment and liabilities spilling over shall be assessed. To maintain financial discipline and timely completion of project, the sum total of the past liabilities and commitments and the new schemes being proposed shall not in any case exceed two times the expected inflows in the Trust Fund for the next financial year;

(3) conducting social audits of the developmental schemes and works executed from the Trust Fund in the *Gram Sabha*;

(4) approving such other expenditure, in furtherance of the objects of the Trust from the available Trust Fund in such manner provided by the State Government;

(5) approving the recommendations of the Managing Committee;

(6) approving the Annual Reports and Audited Accounts of the Trust within a period of sixty days of the closure of the previous year;

(7) ratifying the appointments of the officers on deputation, contract or outsourcing basis as decided by the State Government to run the Trust;

(8) Constituting sub-committees for assisting in preparation of Annual Plans of the trust and for smooth functioning of the trust;

(9) undertaking any such other activities in furtherance of the objectives of the Trust.

7. Meetings of Governing Council.- (1) The Governing Council shall meet as often as necessary but at least once in every quarter.

(2) The meeting of Governing Council shall be convened as desired by the Chairperson by giving two weeks notice to the Members of the Governing Council.

(3) The quorum for such meeting shall be one-third of the total members of the Governing Council. If quorum for meeting is not fulfilled, then meeting shall be postponed for half an hour and shall be re-convened at same place on same day for which condition of quorum shall not be applicable.

CHAPTER IV MANAGING COMMITTEE

8. *Managing Committee.*-(1) The day to day affairs of the Trust shall be managed by the Managing Committee.

(2) Only *Ex-Officio* Members shall have right to vote.

(3) Nominated Members shall not have any voting rights.

(4) The representatives of mine operating agency or mine lessee in the District and NGO's shall be appointed by the Managing Committee from amongst the representatives of these categories nominated on the Governing Council.

9. *Powers and functions of Managing Committee.*— The following are the powers and functions of the Managing Committee namely:-

(1) to exercise due diligence in carrying out its duties for protecting the interests of the Trust;

(2) to ensure timely collection of contribution from the concerned lease holders in accordance with the provisions of the Act and in the manner provided by the State Government.

(3) to receive proposals or projects from the *Village Panchayats*, *Zilla Parishad*, and the Urban Local Bodies in the District, Government Departments, Boards, Corporations and State or Central Public Sector Undertakings. However in the Scheduled areas the Managing Committee can receive proposals or projects from the *Gram Sabhas* of the affected areas;

(4) to co-ordinate, consolidate and develop the Annual Plan of the Trust and the Annual Budget of the Trust along with the proposed Schemes and Projects;

(5) to supervise and ensure the execution of the Annual Plan and the Approved Schemes and Projects;

(6) to accord sanction and issue sanction orders to the projects, release and disburse the Trust Fund for the purpose;

(7) to operate the Trust Fund and to invest the same in a diligent manner and to open Bank Accounts in Scheduled, Commercial or Nationalised Banks approved by the Reserve Bank of India in the Name of the Trust, and to operate such accounts and investments;

- (8) to monitor the progress of the utilization of Trust funds;
- (9) to place the audited accounts along with an Annual Report before the Governing Council for its approval within a period of sixty days of the closure of financial year;
- (10) to lay down and approve procedures for the functioning of the Trust;
- (11) to appoint employees and auditors as per the directions of the State Government, however, these appointments shall require ratification by the Governing Council;
- (12) to prepare and maintain a website on which, *inter-alia*, the following information shall be hosted and kept updated,-

- (a) details of composition of the Trust and bodies of Trust;
- (b) list of areas and people affected by mining;
- (c) quarterly details of all contributions received from lessees and others;
- (d) all meeting agenda, minutes and action taken reports of the Trust;
- (e) Annual Plans, budget, work orders and Annual Report;
- (f) online status of ongoing works, implementation status or progress of all the projects or programs being undertaken shall be made available on the website, including description of work, details of beneficiaries, estimated cost, name of implementing agencies, expected date of commencement and completion of work, financial and physical progress up to last quarter, etc;
- (g) list of beneficiaries under various welfare programs;
- (h) voluntary disclosures under Right to Information Act, 2005 (22 of 2005); and

(13) to do all other things that are necessary for smooth functioning and management of the Trust.

10. Meetings of Managing Committee.- (1) The meeting of the Managing Committee shall be held at least four times in a financial year and it shall be convened as decided by the Chairperson.

(2) The quorum for such meeting shall be one-third of the total members of the Managing Committee. If quorum for meeting is not fulfilled, then meeting shall be postponed for half an hour and shall be convened at same place on same day for which condition of quorum shall not be applicable.

(3) Meeting of the Managing Committee shall be presided over by the Chairman, in his absence the *Ex-Officio* Members may elect officiating Chairman from amongst themselves for that meeting.

CHAPTER V

MANAGEMENT OF TRUST FUND

11. Constitution of a fund under Trust.- (1) The Governing Council of every District Mineral Foundation Trust shall set up a fund under the Trust to be called as the District Mineral Foundation Trust Fund to be managed by the Managing Committee of the Trust.

(2) The Trust Fund of the District Mineral Foundation Trust shall receive the following amounts:-

- (i) the initial settlement made by the State Government;
- (ii) any grant, contribution or other capital assistance received from the State Government as may be decided by the State Government from time to time or from any other agency, institution or person;
- (iii) the contribution as defined in clause (g) of sub-rule (1) of rule 2.
- (iv) investments and other deposits and the interest accrued thereon and any other income derived therefrom;
- (v) all other properties of the Trust and the income derived therefrom or appreciation thereof; and
- (vi) funds received from the Contribution Fund of other Districts as decided by the State Level Monitoring Committee.

12 Operation of Trust Fund.- The Trust Fund shall be kept in one or more Scheduled, Commercial or Nationalised Banks approved by the Reserve Bank of India for keeping such public funds only in the name of the Trust and all accounts shall be operated under the joint signatures of the Chairperson of the Managing Committee and the Member-Secretary of the Managing Committee. The Managing Committee of the Trust shall maintain the books of accounts of this Fund. This account shall be maintained separately from the Contribution Fund.

13. Expenditure from Trust Fund.- The Funds available with the Trust shall be used as per the directions issued by the Government of India to carry out the following purposes mentioned in the Pradhan Mantri Khanij Kshetra Kalyan Yojna (PMKKKY):-

(1) The overall development of the area affected by mining or mining related operations in accordance with the Annual Action Plan prepared by the Managing Committee and approved by the Governing Council of the Trust for the purpose;

- (2) At least $\frac{2}{3}$ amount shall be utilized in the directly affected areas and rest maximum $\frac{1}{3}$ amount shall be utilized indirectly affected areas. (Directly affected mine area shall be an area within 20 k.m radius from mine / dump)
- (3) At least sixty percent of the funds available with the Trust shall be utilized for High Priority areas like:-

(a) *Drinking Water Supply*:- Centralised purification system, water treatment plants, permanent or temporary water distribution network including stand alone facilities for drinking water, laying of piped water supply system.

(b) *Environment preservation and pollution control measures*:-Effluent treatment plants, prevention of pollution of streams, lakes, ponds, ground water, other water sources in the region, measure for controlling air and dust pollution caused by mining operations and dumps, mine drainage system, mine pollution prevention technologies, and measures for working or abandoned mines and other air, water and surface pollution control mechanisms required for environment-friendly and sustainable mine development.

(c) *Health care*:- The focus must be on creation of primary or secondary health care facilities in the affected areas. The emphasis should not be only on the creation of the health care infrastructure, but also on provision of necessary staffing, equipment and supplies required for making such facilities effective. To that extent, the effort should be to supplement and work in convergence with the existing health care infrastructure, the expertise available with the National Institute of Miners' Health may also be drawn upon to design special infrastructure needed to take care of mining related illnesses and diseases. Group Insurance Scheme for health care may be implemented for mining affected persons.

(d) *Education*:- Construction of educational institutes and vocational training centres, additional class rooms, laboratories, libraries, Art and crafts room, toilet blocks, drinking water provisions, Residential Hostels for students or teachers in remote areas, sports infrastructure, engagement of teachers or other supporting staff, e-learning setup, other arrangement of transport facilities for students (bus, van, cycles, rickshaws, etc.) and nutrition related programs.

(e) Agriculture and allied activities.- Development of activities related to agriculture and allied activities and agro forestry. Assistance to farmers through provision of seed mini kits, financial assistance for agricultural implements and micro irrigation facilities including drip irrigation, financial assistance for bore wells and pump energisation. Assistance to farmers for allied activities of agriculture such as dairy, poultry, fisheries agro forestry etc. Forest right holders under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (No. 2 of 2007) shall also be eligible for these assistance.

(f) Welfare of Women and Children.- Special programmes for addressing problems of maternal and child health, malnutrition, infectious diseases, etc.

(g) Welfare of aged and disabled people.- Special program for welfare of aged and disabled people.

(h) Skill development and Employment.- Skill development for livelihood support, income generation and economic activities for local eligible persons. The projects I schemes may include training, development of skill development centre, self-employment schemes, support to Self Help Groups and provision of forward and backward linkages for such self-employment economic activities, promotion of innovation, entrepreneurship and assistance to incubation centre.

(i) Sanitation.- Collection, transportation and disposal of waste, cleaning of public places, provision of proper drainage and Sewage Treatment Plant, provision for disposal of faecal sludge, provision of toilets and other related activities.

(3) Upto forty percent of the Trust funds shall be spent on other priority areas like:-

(a) Physical infrastructure.- Providing required physical infrastructure such as roads, bridges, railways, waterways, airports, industrial parks or clusters and other industrial infrastructure etc.

(b) Irrigation.- developing of alternate sources of irrigation, adoption of suitable and advanced irrigation techniques.

(c) Energy and Watershed Development.- electrification of households from conventional electricity and renewable sources of energy and

strengthening of electricity infrastructure. Development of alternate source of energy (including micro-hydel) and rainwater harvesting system. Development of orchards, integrated farming and economic forestry and restoration of catchments. Any other infrastructure work that the State Government may direct from time to time.

(d) Any other measures for enhancing environmental qualities.

(4) Various development and infrastructure related projects of Government Departments, Corporations and Boards through direct funding method, Public Private Partnership mode.

(5) Matching gap filling of arrangement for qualified human resources like doctors, paramedics and teachers etc.

(6) Supplementing Government schemes or programmes related to areas mentioned in sub-rule (2) and (3).

(7) Training and capacity building of *Gram Sabhas* for planning and monitoring of various developmental schemes executed under the Trust Funds.

(8) An amount not exceeding five percent (minimum Rs.25 lakhs to maximum Rs.2 crores) of the Trust Fund actually received by the Trust in the financial year in a District may be spent by the Trust for meeting its administrative or establishment expenses in that financial Year:

Provided that, the upper limit for meeting its administrative or establishment expenses may be increased from time to time by the State Government.

(9) A reasonable sum of annual receipt shall be kept as endowment.

(10) To take up any other functions as per the general guidelines issued under the Pradhan Mantri Khanij Kshetra Yojana (PMKKKY).

14. Charging of expenses.- The Trustees shall be entitled to charge the Trust Fund with the following expenses:-

(1) all expenses properly incurred in the operation or execution of the Trust and for the realization, preservation or benefit of the investments and assets comprising of the Trust Fund and for the protection of the interests of the Trust;

(2) all expenses (including expenses incidental to execution and registration of any agreement or other deeds) incurred by the Trustees for obtaining the Contributions and any other resources, which may accrue;

- (3) all expenses in connection with any legal proceedings by or against the Trustees concerning the affairs of the Trust including professional fees and costs of any legal adviser;
- (4) all legal and statutory expenses incurred in the operation or execution of the Trust including all levies, duties and other charges paid or payable in connection with the affairs of the Trust; and
- (5) all expenses in connection with the holding of its meetings, and other proceedings and expenditure incurred on planning, execution, inspections, reviews and preparation of projects, hiring of consultants, third party inspections, auditors and such other expenses incidental thereof.
- 15. Accounts and Audit.-** (1) The Managing Committee shall maintain or cause to be maintained proper books of accounts, documents and records with respect to the Trust Fund to give a true and fair picture of the affairs of the Trust.
- (2) The accounts of the Trust shall be audited at least on completion of year by a qualified Auditor.
- (3) The Auditors of the Trust shall be appointed by the Governing Council from the List of Chartered Accountants empanelled by Comptroller and Auditor General of India, on such terms and conditions as decided by the Governing Council.
- (4) The Auditors may be removed and replaced by the Governing Council.
- (5) The State Government may appoint an auditor or auditors or may request the Accountant General of the State for audit of a particular year or period on such terms as the State Government may so decide.
- (6) The Trust shall forward the approved Budget and Annual Plan along with approved Schemes and Projects for the next financial year, to the *Zilla Parishad*, District Administration and the State Government for publication on their respective websites.
- (7) The Trust shall prepare a quarterly progress report in physical and financial terms in respect of the approved Schemes and Projects within forty-five days of the close of the quarter and forward it to the *Zilla Parishad* and District Administration, immediately thereafter for publication on their respective websites.
- (8) Every year, within three months from the date of closure of the financial year, the Trust shall cause to prepare an Annual Report on its activities for the respective financial year and place it before the Governing Council.

(9) The Trust shall forward the approved Annual Report and the approved Audit Report immediately after their approval by the Governing Council within three months from the date of closure of the Financial Year to the *Zilla Parishad*, and to the State Government along with Audit Report for publication on their respective websites.

(10) The Annual Report shall be submitted to the Government within one month from the date of its approval by the agencies above and shall also be hosted on the website of the Trust.

(11) Annual Report of each District Mineral Foundation Trust shall be laid before the Governing Council.

CHAPTER VI

MISCELLANEOUS

16. Execution of Works Contracts.- (1) Works or goods may be procured by the Trust after following the due procedure specified by the State Government for such procurement.

(2) As far as possible, the works undertaken by the Trust shall be executed only through Government Departments, agencies and public sector undertakings, normally undertaking such works which will follow the relevant norms applicable to the organization while executing or awarding contracts.

(3) Technical approval and supervision of the work shall be looked after by officers competent to do so under the administrative delegation of powers as applicable to the Department concerned.

(4) In respect of such works which cannot be executed through Government Departments, agencies or public sector undertakings, the Managing Committee may award the work to any other competent and sound agencies following a transparent process, after obtaining prior approval of the Governing Council.

(5) Transfer of fund to all agencies and beneficiaries shall be made into their bank accounts.

17. Special Provisions for Schedule Areas.- (1) Having regard to the provisions contained in Article 244 read with Schedule V and Schedule VI to the Constitution of India relating to administration of the Scheduled Areas and Tribal Areas and the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, in respect of villages affected by

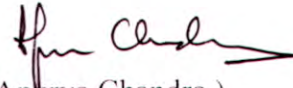
mining and mining related operations situated within the scheduled areas, approval of the *Gram Sabha* shall be required,-

- (a) for all plans, programs and projects to be taken up under the Pradhan Mantri Khanij Kshetra Kalyan Yojana (PMKKKY); and
- (b) identification of beneficiaries under the existing guidelines of the Government.

(2) Report on the works undertaken in the respective village shall be furnished to the *Gram Sabha* after completion of every financial year.

18. Revocation of Trust.- The Trust is revocable at the discretion of the State Government on recommendation of the State Level Monitoring Committee. The Trust shall continue to exist till such time as may be decided by the State Government. At the time of extinguishment of the trust, all the assets and liabilities of the Trust shall be transferred to the State Government.

By order and in the name of the Governor of Maharashtra,


(Apurva Chandra)

Principal Secretary to Government of
Maharashtra