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Uttar Pradesh District Mineral Foundation Trust Rules, 2017

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Uttar Pradesh Shashan
Bhootatva Evam Khanikarm Anubhag

In pursuance of the provisions of clause (3) of Article 348 of the Constitution, the Governor is pleased to order the publication of the following English translation of Notification no 866 /86-2017-132/2016, dated 03 May 2017

NOTIFICATION

No. 866/86- 2017-132/2016

Lucknow , Dated - /5 May, 2017

In exercise of the powers conferred by sub-section (3) of sections 9-B, 15 and 15A of the Mines and Minerals (Regulation and Development) Act, 1957 (Act no 67 of 1957), the Governor is pleased to make the following rules with a view to regulating the composition and functions of the District Mineral Foundation Trusts established in Government notification no.489/86-2017-132/2016 dated 25.04.2017 and prescribing the manner for carrying development activities in the affected areas of mining activities.

Short title,
extent and
commencement

The Uttar Pradesh District Mineral Foundation Trust Rules, 2017

1. (1) These rules may be called the District Mineral Foundation Trust Rules, 2017.
- (2) They shall apply to all minerals except mineral oil.
- (3) They shall be deemed to have come into force on the 12th day of January, 2015.

Definitions

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

- (a) 'Act' means the Mines and Minerals (Development and Regulation) Act, 1957, as amended from time to time;
- (b) 'affected area' means any area where mining operation is being done or going on;

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- (c) 'affected person' means a person who sustain injury in person or sustain damage of his property by mining related activity;
- (d) 'Fund' means the Fund of a Trust;
- (e) 'Government' means the State Government of Uttar Pradesh;
- (f) 'holders of concessions' means any holder of mining lease, prospecting licence or mining permit granted under the provisions of the Act and the rules made thereunder;
- (g) 'Minerals' and 'Minor minerals' means such minerals as defined in section 3 of the Act;
- (h) 'Rules 1963' means the Uttar Pradesh Minor Minerals (Concession) Rules, 1963;
- (i) 'Schedule' means a Schedule to the Act;
- (j) 'Trust' means 'District Mineral Foundation' Trust notified in Government notification no. 489/86-2017-132/2016 dated 25.04.2017
- (k) 'Trust Deed' means the deed executed by the State Government in favour of the Trustees;
- (l) 'Trustee/Trustees' means the person/persons appointed by the State Government for the purpose of governing the Trust;
- (2) Word and expressions not defined in these rules shall have the same meaning as assigned to them under the Act and Rules 1963.

Objectives of
the trust

3. The objectives of the trust will be :-

- (i) to work for the interest and benefit of persons and areas affected by mining operations or other related activities and transportation of minerals;

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(ii) to utilize the funds collected in the District Mineral Foundation for the benefit of affected person or areas;

(iii) to utilize the funds on the advice of concern Gram Panchayat to develop the village road, watering place and other general facilities.

*Composition and
management of
the Trust*

4. The Composition and management of the Trust shall be:-

(1) The trust shall consist of a Governing Council and a Managing Committee.

(2) The authority to manage the trust shall vest in the Governing Council.

(3) The governing Council shall consist of -

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|---|------------------|
| (a) District Officer / Collector | Chairman |
| (b) Divisional Forest Officer | Member |
| (c) Chief Medical Officer | Member |
| (d) Executive Engineer, Public Work Department | Member |
| (e) District Basic Education Officer | Member |
| (f) District Panchayati raj officer | Member |
| (g) District Mines Officer | Member Secretary |
| (h) Two Mining Lease Holder as nominated by District Officer | Member |
| (i) One representative of the institution using the mineral, if any | Member |
| (j) Representatives of the directly affected areas as nominated by District Officer | Member |

(4) The tenure of a non official member shall be for three years.

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(5) The tenure of an official member shall cease to hold office when he/she ceases to hold the Government post.

(6) The day to day functioning of the Trust shall vest in the Managing Committee.

(7) (a) The Managing Committee shall consists of -

- | | |
|---|------------------|
| (i) District Officer / Collector | Chairman |
| (ii) Additional District Officer
(Finance and Revenue) | Member |
| (iii) One of the Sub Divisional
Magistrate as nominated by
District Officer | Member |
| (iv) District Mines Officer | Member Secretary |

(b) The tenure of an official member of the Managing Committee shall cease to hold office of member when he/she cease to hold Government post.

Functions of the Trust

5. (1) Periodic meetings of the Trust in the presence of more than 50 % member as mentioned in rule 4 will be held under the chairmanship of the District Officer and as far as possible, such meeting will be organized monthly.

(2) Proposals for the benefit of the persons and area affected by mining operations shall be prepared and be submitted by concern Mining Officer / Mining Inspector in consultation with concerned department.

(3) The proposal may be of following nature :-

(a) Basic infrastructure of the area e.g. construction and maintenance of approaching road, electricity, sanitation, drinking water facility, hand pump and other public utility work;

(b) Common plantation in / around area affected by mining operations ;

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(c) any other activities approved by the Trust in the interest of Mineral Development;

(4) In the meeting of the Trust proposal submitted by the Mining Officer/Mining Inspector shall be examined. The Trust may approve, modify or reject the proposal.

(5) In Schedule Areas and Tribal Areas, recommendation of Gram panchayat shall be obtained before implementation of the approved proposal by the Trust.

*Powers &
functions of the
Governing
Council*

6. The Governing Council shall be responsible for, -

(i) laying down the broad policy framework for the functioning of the Trust and review its working from time to time;

(ii) drawing up and approving of Annual Action Plan and the Annual Budget of the Trust. The Annual Action Plan must be prepared and approved by the Governing Council at least one month before the commencement of the financial year. The Annual Action Plan shall contain the list of schemes and projects with the tentative provisions thereof;

Provided that if for any reason whatsoever, the Governing Council could not prepare and accord approval to the Annual Plan and the Budget within the specified time, the Chairman shall have power to prepare the Annual Action Plan and the Budget of the Trust and to approve the same recording the reasons therefore. The Budget so prepared shall be deemed to have been duly prepared and approved by the Governing Council;

Provided further 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 should not in any case exceed the Three times the expected inflows in the Trust fund for the next financial year.

(iii) approving such other expenditure, in furtherance of the objects of the Trust from the available Trust Fund in such manner as may be prescribed by the State Government.

(iv) approving the recommendations of the Managing Committee.

(v) approving the annual reports and audited accounts of the Trust within 60 days of the closure of the previous year.

*Meeting of the
Governing
Council*

7. (i) The Governing Council shall meet as often as necessary but at least once every quarter.
- (ii) The Meeting of Governing Council shall be convened as directed by the Chairman.
- (iii) The Quorum for such meeting shall be one third of the total members of the Governing council.

*Meeting of the
Managing
Committee*

8. The meeting of the Managing Committee shall be held at least six times in a financial year and it shall be convened as decided by the Chairman of the Managing Committee.

*Powers and
Functions of the
Managing
committee*

9. The Managing Committee shall;-
- (i) exercise due diligence in carrying out its duties for protecting the interests of the Trust;
- (ii) ensure timely collection of Contribution Fund from the concerned Mining Lease Holders in accordance with the provisions of the Act, Rules made thereunder and the guidelines of the Central Government and State Government issued from time to time;

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(iii) prepare the Master Plan / Vision Document for the activities of the Trust;

(iv) assist in the preparation of the Annual Plan and the Annual Budget of the Trust along with the proposed Schemes and Projects;

(v) supervise and ensure the execution of the Annual Plan and the approved Schemes and Projects;

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

(vii) operate the Trust Fund and to invest the same in a diligent manner and to open Bank Accounts in the name of the Trust and operate such Accounts and investments;

(viii) monitor the progress of the utilization of Trust Fund;

(ix) place the audited accounts along with an Annual Report before the Governing Council for its approval within 60 days of close of financial year;

(x) do all other things which are necessary for smooth functioning and management of the Trust;

(xi) regulate the procedures for the functioning of the Trust;

*Contribution to
the Trust Fund.*

10. (1) In case of major minerals :-

(a) the holder of a mining lease granted before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, shall in addition to the royalty, pay to the Trust of the district in which the mining operations are carried on, an amount not exceeding the royalty paid in terms of the Second Schedule in such manner and subject to the categorization of mining leases and the amounts payable by the various categories of lease holders, as may be prescribed by the Central Government.



(b) the holder of a mining lease or a prospecting licence cum mining lease granted on or after the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 shall in addition to the royalty, pay to the Trust of the district in which the mining operations are carried on, an amount which is equivalent to such percentage of the royalty paid in terms of the Second Schedule, not exceeding one - third of such royalty, as may be prescribed by the Central Government.

(2) In case of minor minerals :-

The holder of every mineral concession / permit shall in addition to the royalty, pay to the Trust of the district in which the mining operations are carried on, an amount which is equivalent to 10% of royalty or as may be prescribed by the State Government from time to time.

(3) Concern Mining Officer/ Mining Inspector shall be responsible for collection of Trust Fund and shall deposit the same in Trust account opened in any scheduled bank as decided by the Trust.

*Expenditure
from the Trust
Fund*

11. The funds available with the Trust Fund can be used for all or any of the following purposes :-

- (i) expenditure on the approved proposal ;
- (ii) upto 5 % on the Administrative expenditure of the Trust ;

*Accounts and
Audit of the
Trust*

12. (1) The accounts of the Trust shall be audited by the Director of Geology and Mining Uttar Pradesh through a qualified auditor.

(2) The Trust shall submit an annual report and compliance of the audit report to the Director, Directorate of Geology and Mining Uttar Pradesh.

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Management of
the trust

13. The management of the trust shall vest in a Governing Council, which shall consist of all the members of the Trust. However, the day to day management of the Trust shall be managed by a Managing Committee, as defined in sub rule (7) of rule (4) above. The State Government may however decide to alter the composition of the Managing Committee at any time.

Decisions of the
Trustees

14. (1) All decisions shall be taken by the Trustees in the meeting of the Governing Council and every meeting of the Governing Council shall be deemed to be a meeting of the Trust.

(2) All decisions of the Governing Council shall be taken by the majority of the members present and voting. In case of tie the Chairman of the meeting shall have a casting vote.

(3) Unless agreed by the State Government the Trustees shall not amend any part of the Trust Deed.

(4) Trustees, Governing Council and the Managing Committee shall act in accordance with the directions, guidelines etc. issued by the State Government from time to time.

Operation of
the Trust
Fund

15. The Trust fund shall be kept in any scheduled Commercial Nationalized Bank only in the name of the Trust. The bank account shall be opened with the prior approval of State Government and the account thereof shall be operated under the joint signatures of the Member – Secretary and a member of the Managing Committee authorized by the Managing Committee. The Trust shall maintain the books of account of this Fund.

Scope of the
Trust.

16. (1) The Pradhan Mantri Khanij Kshetra Yojana (PMKKKY) and other welfare schemes of the State and Central Government shall be implemented by the Trust of the respective districts using the funds accruing to the Trust. The overall objective of the

said yojana and other welfare schemes of the State and Central Government shall be,-

- (a) to implement various developmental and welfare projects /programs in mining affected areas, and such projects/programs will be complement to the existing ongoing schemes/projects of the State and the Central Government;
- (b) to minimize/mitigate the adverse impacts, during and after mining, on the environment, health and socio-economics of people in mining districts; and
- (c) to ensure long-term sustainable livelihoods for the affected people in mining areas;

*Expenditure from
the Trust Fund.*

17. The funds available with the Trust shall be utilized for:-

(A) High priority areas – at least 60% fund shall be utilized under following heads:-

- (a) Drinking water supply-** Centralized purification systems, water treatment plants, permanent/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, measures 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 .

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(c) **Health care-** The focus must be on creation of primary/secondary/tertiary 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 providing necessary staff, 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 of the local bodies, State and Central Government. 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 illness and diseases. Group Insurance Scheme for health care may be implemented for mining affected persons.

(d) **Education-** Construction of school buildings, additional class rooms, Laboratories, Libraries, arts and crafts room, toilet blocks, drinking water provisions, residential hostels for students/teachers in remote areas, sports infrastructure, vocational training facility, engagement of teachers/other supporting staff, e-learning setup, other arrangement of transport facilities (bus/van/cycles/rickshaws/etc) and nutrition related programs.

(e) **Welfare of women and children** - Special programs for addressing problems of maternal and child health, malnutrition, adolescence, infectious disease, etc. can be taken up under the Trust.

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

(g) **Skill development** - Skill development for livelihood support, income generation and economic activities for local eligible persons. The projects/ schemes may include training, development of vocational/ skill development center, self employment schemes,

support to Self Help Groups and provision of forward and backward linkages for such self-employment economic activities .

(h) Sanitation - Collection, transportation and disposal of waste, cleaning of public places, provision of proper drainage and sewage treatment plant, provision for disposal of fecal sludge, provision of toilets and other related activities.

(B) Other priority areas - Up to 40% Fund shall be utilized under the following heads -

(a) Physical infrastructure- Providing required physical infrastructure and its maintenance - roads, bridges, railways and waterways projects .

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

(c) Energy and Watershed development - Development of alternate source of energy and rainwater harvesting system . Development of orchards, integrated farming and economic and restoration of catchments.

(d) Any other measures for enhancing environmental quality in mines bearing district.

(i) The overall development of the area affected by mining related operations in the District in accordance with the Annual Action Plan prepared by the trustees of the Foundation for the purpose;

(ii) Creation of the local infrastructure for socio-economic purposes;

(iii) Providing, maintaining or upgrading of community assets and services for local population in the area affected by mining related operations;

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(iv) Organizing or conducting training programs for skill development and capacity building for creating employment and self-employment capabilities.

Provided that a sum not exceeding 5% of the total funds received by the Trust in the year may be spent by the Trust for meeting its administrative or establishment expenses.

Provided further that the trust fund or any part thereof shall not be used for advancement of any loan or grants in cash to any of the beneficiaries.

*Accounts and
Audit*

18. (1) (i) The Managing committee shall maintain and /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.

(ii) The accounts of the Trust shall be audited at least on completion of one year by a qualified auditor.

(iii) The auditors of the trust shall be appointed by the Trustees from the list of approved auditors notified by the Accountant General of the State in the meeting of the Governing Council, on such terms and conditions as may be decided by the Trustees.

(iv) The auditors may be replaced by the Trustees.

(2) Notwithstanding anything to the contrary in sub-rule (1) the State Government may appoint an auditor or auditors or may request the A.G. for audit of a particular year or period on such terms as may be decided by the State Government.

(3) The Trust shall forward the approved Budget and Annual Plan along with Schemes and Projects for the next financial year, to the District Panchayat, District Administration and the State Government for publication on their respective website.

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(4) The Trust shall prepare a quarterly progress report in physical and financial terms in respect of the approved Schemes and Projects within 45 days of the close of the quarter and forward it to the District Panchayat and District Administration , immediately thereafter for publication on their respective website.

(5) The Trust shall forward the approved Annual action plan report and the approved Audit Report immediately after their approval by the Governing Council within 60 days of close of Financial Year to the District Panchayat, District Administration, and to the State Government along with Audit Report for publication on their respective websites.

*Monitoring of the
amount payable to
the Trust*

19. (1) Every lessee shall remit the amount payable to the District Mineral Foundation Trust into the credit of such Bank account as the Foundation may specify, under intimation to the officer to whom the royalty is payable.

(2) Every officer who is authorized to collect royalty shall maintain a register of the amount payable and paid by each lessee and furnish the monthly consolidated statement thereof to the Member Secretary of the Committee at the end of every month.

(3) To ensure a better coordination synergy among the schemes, the platform constituted under District Development Cordination and Monitoring Committee initiative of Ministry of Rural Development Government of India will monitor the schemes under PMKKKY at the district level in accordance with guidelines of the said committee.

*Administrative
Arrangements*

20. (1) The State Governments shall provide services of the personnel under their control including employees working in the District Panchayat for

in

management of the Trust and for execution of the Annual Plan as may be required for the purpose.

(2) The Trust may request the State Government to provide required number of core personnel from its departments or from regular employees of the Zila Parishad or such other cadre, for providing administrative and technical assistance to the Trust. Services of such personnel shall continue to remain in their own respective cadres. The Trust may bear expenditure up to 3% of its accrued funds for this purpose.

(3) The Trust may also ask service providers to provide such services as may be needed for smooth functioning of the Trust and may provide for incurring contingent expenditure for its functioning.

*Liability of
Trustees*

21. (1) The Trustees shall not be liable on account of anything done in good faith, bonafide with due diligence. The Trustees shall also not be liable or responsible for any banker, broker, custodian or other person in whose hands the same may, in good faith, be deposited or placed nor for the deficiency or insufficiency in the value of any investments of the Trust Fund nor otherwise for any involuntary loss.

(2) The Trustees and every attorney or, agent appointed by the Trustees shall be entitled to be indemnified out of the Trust Fund in respect of all liabilities, losses and expenses incurred in execution of the Trust or any of the powers, authorities, and discretions vested in or delegated to them other than those arising out of gross negligence and / or willful misconduct, provided however that, such indemnity shall not in any event exceed the total of the Contributions.

Remuneration

22. The Trustees shall not be entitled to any remuneration for their services.


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*The Seal of
the Trust*

23. The Trustees, in a meeting of the Governing Council may decide to provide a Seal for the purpose of the Trust and shall have power from time to time to destroy the same and substitute a new seal in lieu thereof. The Seal of the Trust shall remain in the custody of the Chairman of the Executive Committee and the Chairman shall have the authority to use the same for and on behalf of the Trust.

Revocability

24. This Trust is revocable at the discretion of the State Government. 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 the liabilities of the Trust shall be transferred to the State Government.


(RAJ PRATAP SINGH)
Additional Chief Secretary