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Review of KP Mineral Sector Legislation



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ABSTRACT

1. The study relates to the review of
 - (a) KP Mineral Policy, 2014,
 - (b) KP Mineral Sector Governance Act, 2017 and recent proposed amendments in the Act.
 - (c) Proposed Mine Safety Inspection and Regulation Act, 2019
2. These Acts have been reviewed in the light of the relevant provisions of the Mineral Policy, 2014 and good practices at international level, particularly the ILO conventions on mines labour welfare. The defects and defeciciencies have been highlighted for further necessary action by the Department.

EXECUTIVE SUMMARY

1. The study relates to the review of KP Mineral Policy, the KP Mineral Sector Governance Act, 2017 and Mine Safety, Inspection and Regulation Act, 2019
2. The Mineral Policy is quite comprehensive and caters for all aspects of a modern administration of the mineral sector of KPK.
3. The KP Mineral Sector Governance Act, 2017 has many good features but is somewhat out of tune with the Mineral Policy. The Department has proposed various amendments in this Act, but these amendments have a negative effect on the the legal framework viz a viz the KP Mineral Policy, 2014. The defects and deficiencies were highlighted for the information and further necessary action by the Minerals Development Department and during further consultation the Department agreed to make further changes to remove or reduce the negative effects of the legal framework.
4. The KP Mine Safety, Inspection and Regulation Act, 2019 is a good ppiece of legislation. The Act in fact amalgamates and reforms two colonial and out dated enactments, the Mines Act 1923 and Mine Maternity Act 1941. The new draft law contains many improvements in the labour welfare provisions, particularly in the light of the ILO conventions on labour welfare, prohibition of child labour, working hours, training institute, occupational diseases, etc.

ACRONYMS

ADR	Alternative Dispute Resolution
CSR	Corporate Social Responsibility
KP	Khyber PakhtunKwa
USAID	United States Agency for International Development

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1. INTRODUCTION

1.1. Chemonics International is implementing Pakistan Small and Medium Enterprise Activity (SMEA), which is a 5-year, \$35 million project that is aimed at improvement of financial and operating performance of small and medium enterprises (SMEs) in Pakistan in selected high performing industrial, manufacturing and services sectors.

1.2. Creating an enabling business environment is one of the core work streams of this project. As such, the Project engaged with the Government of Khyber Pakhtunkhwa to identify key areas of collaboration. The Provincial Government has announced its Minerals Policy last year and developed the institutional and regulatory frameworks required to implement the policy.

1.3. OBJECTIVE OF THE CONSULTANCY:

To undertake a regulatory and legal review of the KP Minerals Sector Governance Act, 2017 and the draft Mines Safety, Inspection and Regulation Act, 2019 and to make recommendations for improvement in the policy, regulatory and institutional frameworks governing the sector, with a special focus on SMEs.

1.4. PRINCIPAL DUTIES & RESPONSIBILITIES:

- Review all the relevant literature listed in Annex B of this scope
- Review the above mentioned legislation,
- Meet through the Department, with key stakeholders, including private and public sector players, of the mines and minerals sector to complete the scope of the activity.
- Work in close coordination with the Minerals Development Department KP

1.5. SPECIFIC TASKS OF THE CONSULTANTS:

The specific tasks under this consultancy include;

- Undertake a comprehensive review and assessment of the minerals sector in KP. In particular, review the following documents shared by the Directorate of Minerals;
 - (a) KP Mineral Policy, 2014,
 - (b) KP Mineral Sector Governance Act, 2017, and
 - (c) KP Mine Safety, Inspection and Regulation Act, 2019 combining together the Mines Act, 1923 and Mines Maternity Act, 1941.
- An objective evaluation and advisory review of the regulatory framework for minerals sector in KP
- Draft a Review Report that documents the findings and make recommendations that will inform the Government for further revision and action. \

2.BACKGROUND

Pakistan's mining industry is dominated by the public sector and there has been little or no modern exploration with the benefit of large-scale private sector investment and foreign investors with modern management, capital and technical know-how.

Proper mine/quarry management and investment is constrained across much of the country due to ineffective mining concessions, resulting in weak regulation and enforcement of mining lease agreements. As a consequence of the above, industry best practices have not been introduced and meaningful investment in technology and expertise has not been made.

3.THE PROGRAM

In order to capitalize on the natural mineral endowments of Khyber Pakhtunkhwa (KPK) keeping in line with the updated provincial policy framework, a review of the provincial mining regime will be undertaken. The recommendations will support and be informed by KP's objectives and priorities, as specified in the KP Integrated Growth Strategy 2014-2018. This review and analysis based on KP's strengths and constraints will be complementary to National Minerals Policy.

4.THE STUDY

The study predominantly relates to review of the Mineral Sector Governance Act, 2017 including the recently proposed amendments in the Act and recently proposed Mines Safety, Inspection and Regulation Act along with this review a broader review of KP Mineral Policy and regulatory regime will also be undertaken during this study.

4.1. PURPOSE OF THE STUDY

The main purpose of the study is to suggest improvements and modifications in the Mineral Sector Governance Act 2017 and Mines Safety, Inspection and Regulation Act, 2019 and suggest improvements in the legal framework so as to fully implement the KP Mineral Policy and also to identify good practices for better implementation of the Policy and legal framework.

4.2. OBJECTIVES

The main objective of the study is to provide business enabling environment for the growth and development of the mineral sector, by undertaking a wholistic view of the mineral sector and making recommendations for improvements in the overall working of the mining sector in KPK.

4.3. SCOPE OF THE STUDY

The scope of the study is focused on the Mineral Policy, the Mineral Sector Governance Act 2017, along with the proposed amendments in this Act and the Mines Safety, Inspection and Regulation Act, 2019, with a view to suggest improvements in the working of mines and minerals.

The study will be carried out by analyzing the provisions of the Mineral Sector Governance Act 2017 and Mines Safety, Inspection and Regulation Act, 2019 on the touch stone of the KP Mineral Policy, 2014 and identify the defects and deficiencies in the Act for the consideration of the Mines and Mineral Development Department.

4.4. STUDY INSTRUMENTS

The main instruments are the analysis of the relevant Acts and Policy so as to make them wholistically compatible with one another and the consultations with the Department.

4.5. QUALITY CONTROL

The client's usual quality control system will keep the ship on even keel.

4.6. LIMITATIONS OF THE STUDY

The study is limited to Mineral Sector of KP Province, in the present context of the existing Mineral Policy 2014, the Mineral Sector governance Act, 2017 along with the recently propose amendments in it and the proposed Mines Safety, Inspection and Regulation Act, 2019 drafted by the KP Minerals Development Department.

5. STUDY FINDINGS

5.1. SALIENT FEATURES OF KP MINERALS POLICY, 2014:

The Policy is quite comprehensive and covering almost all matters relating to mineral sector, which are more or less in line with the good practices at the international leve. However, the Policy has not been fully implemented by legislation. There are many commendable / positive provisions of the Policy; the major aspects highlighted as under-

- a. Scientific mining operations;
- b. Prohibition of child labour;
- c. Protection of safety, health and welfare of labour;
- d. Protection of environment;
- e. Provision for Corporate Social Responsibility (CSR);
- f. Broad based stakeholders' participation;
- g. Collaboration with academia;
- h. Integrated approach;
- i. Strong regulatory regime through stringent laws;
- j. Dispute resolution through ADR;
- k. Emphasis on training and capacity building of institution;
- l. Good institutional frame (strong institutions);
- m. Independent working group; and,
- n. Creating public awareness.

5.2 ANALYSIS OF KP MINERAL SECTOR GOVERNANCE ACT/ KP MINERALS REGULATION ACT, 2017 (AS MODIFIED BY PROPOSED AMENDMENTS IN 2019)

POSITIVE ASPECTS

1. Tribal districts special provisions for 10 years for gradual integration in the system ((Sec 1)
2. MIFA four mandatory meetings, one in each quarter and one annual, MIFA
3. One meeting every month and invitation of application every month. (Sec8)
4. Mineral Titles: Exploration license period increased from five to eight years (Sec 9)
5. Priority of internal requirements of Pakistan (S.16)
6. Provision for principle of Force Majeure (Sec.19-A)
7. Mining rights subject to profit sharing with government (Sec 10)
8. Mining lease duration modified from 30 years to varying period for
9. Idle Mineral Title: Cancellation of mineral title if title remains idle for one year or more, subject to 30 days' notice. The title may be canceled only if there is no sufficient reason for idleness. (Sec20-B)
10. Limit of maximum area 1500 SKM for licenses and 150 SKM for leases [S.23(2-A)]
11. Assignment of title except Reconnaissance License subject to some conditions.
12. Multiple titles over same area (Sec 27).
13. Reciprocity with other countries (Sec 28).
14. No foreign incorporated company to be granted mineral title unless the applicant is registered as a company in Pakistan (Sec 29).
15. Responsibility of applicant to submit development scheme, to be approved by Licensing Authority or its delegate. (Sec 30).
16. Prohibition of buildings upon public areas (Sec 34).
17. No working near railway line, reservoir, canal, etc. without permission of Licensing Authority (Sec 35).
18. Land rent to be paid by title holder (Sec 38).

19. Environmental protection (Sec 39).
20. Submission of production and periodical returns time limit increased from 7 to 14 days (Sec 43).
21. Preference for internal requirements of Pakistan; need for mineral, employment and training of Pakistani nationals, but conditions regarding associating Pakistani capital removed (Sec 52)
22. Exclusion of area for public purpose and taking possession during emergency subject to fair compensation. Assessment of compensation devolved to Licensing Authority. (Sec 53).
23. Subletting not allowed (Sec 54).
24. Holder of mineral title ceasing to remain a citizen of Pakistan or a company ceasing to be incorporated in Pakistan, the title may be assigned to another with permission of Licensing Authority
25. Action in case of unauthorized mining etc. (Sec.56)
26. Offences relating to unauthorized mining operation and obstruction to lawful mining operations made cognizable and non-bail able [sec 56(9)]
27. Comprehensive provision for blacklisting of a title holder and consequential matter (Sec.59) 28. Leasing by open auction (Sec.62)
28. Competitive bidding (Sec 62-A).
29. Grant of lease for minor minerals through auction,
30. Earnest money of two highest bidders may be kept till the grant of lease [Sec 80 (7)].
31. Leased area may be withdrawn by Government for public purpose [Sec 80(17)].
32. Punishment: increased for Part I of schedule V offences from 3 years to 5 years and in case of persistent violation after the direction of Licensing Authority fine increased from one lac to five lacs per day. Offences cognizable and non bailable [Sec.86(2)(a)&(3)]
33. General powers of Licensing Authority in addition to fine and prosecution necessary for stopping the violation for interim period. (Sec.89)
34. Liability for pollution: the title holder's responsibility to take care of pollution, etc. in case of his failure the licensing authority may take or cause to be taken such steps as may be necessary and recover cost. (Sec 98)
35. Forfeiture of mineral by order of the court in addition to fine and punishment (Sec 101)
36. Rules subject to prior publication under General Clauses Act, 1956. (Sec.103)
37. MIFA is empowered to regulate its own business (Sec 5)
38. Determination of security amount devolved on Licensing Authority.

39. Joint venture ex post facto (S.20-A). In case of dispute (unresolved) cancellation of title, discouraging JV and encouraging litigation.

40. Exception to limit of maximum number of 3 mineral titles in case of cement manufacturer, large scale mining title holders or multi-mineral based industry; it is likely to create monopolies by large scale investors unless adequate safeguards are provided. (Sec 23)

41. Compensation to Government for payment of compensation to third party for damage by title holder (Sec 37).

42. Comprehensive provision for cancellation and surrender of mineral titles (Sec.63)

43. Comprehensive provision of royalty, rent refer (Sec. 65 - 77)

NEGATIVE ASPECTS

44. Period of lease reduced from three to one year over an area of not more than thirty two hundred acres. (Sec 78).

45. Delegation of power by Licensing Authority should be subject the approval of MIFA (Sec 92)

46. Submission of disputes to MIFA (disputes between holder of mineral title and licensing authority (Sec 94) Addition of negotiation / mediation at MIFA level.

47. Appeal to Secretary (Sec 102) (preferably a committee/tribunal headed by a retired judge of High Court /Sessions court with Secretary Mines and

48. Mineral Department and Law Department as members. The tribunal shall have the powers of decide the appeal; this will reduce litigation.

49. MIFA: Addition of two more official numbers (9/17) (Sec 3)

50. Ownership of mines and minerals in the Province vested in KP Government.(Sec 2-A)

51. Mineral Titles Committee; delegation of functions too wide:

52. Exemption too wide: It nullifies the whole Act relating to limit on period, area, terms and conditions. It was abolished in 1688 in UK by Bill of Rights 1688/89. (Sec 10)

53. Disclosure of information removed from Schedule V, inconsistent with (Sec 21)

54. Operation in reserved and protected forests with approval of 3 members committee comprising Chief Secretary, a representative of Mines and Minerals & Environment Department (Sec 40). This provision will be in conflict with Sec 2 (19) (b) (iv) of KP Forest Ordinance 2002, which provides that mineral are forest produce and to be dealt with under that ordinance and include peat, surface soil, water, sand, stones, rocks and minerals, including minerals oil, limestone, laterite, marble and all products of mines and quarries;

55. Minor mineral mining in reserve and protected forests subject to relevant laws as determined by licensing authority (Sec 84). The provision is inconsistent with Section 40 relating to a 3 member committee.

56. Punishment for Part I of Schedule V (serial no1) offences needs to be correlated with Sec 56 (5)

57. Amendment of Schedule by Government (Sec 103-A)

58. Amending the Schedule has serious implications, because,

59. The Schedule is as voluminous as the main Act,

60. Matters relating to punishment cannot be amended by executive order and there are 48 offences placed in Schedule V

61. The matters relating to area and types of minerals are important issues to be settled by the legislature.

62. However, with respect to fine this process may be used because due to inflation, the deterrence of fine is reduced with passage of time.

63. Even in cases of fine, the increase in fine shall be commensurate with inflation as determined by the Finance Department of the Government

64. Removal of difficulties for unlimited period (Sec.104) too wide discretion, may be limited to 3-5 years and subject to following conditions

65. If the difficulty is procedural, it shall be dealt with under rule making provision of Act, if possible;

66. Order shall not be inconsistent with the express or implied provisions of the Act.

5.3 ANALYSIS OF MINES SAFETY, INSPECTION AND REGULATION ACT, 2019.

POSITIVE ASPECTS

1. The Mines Safety, Inspection and Regulation Act, 2019 is amalgamation of the Mines Act, 1923 and Mines Maternity Act, 1941. Moreover the Act brings various reforms in the legal framework of safety, health, welfare and regulation of mines.
2. Child labor has been prohibited (Minimum age increased to 18 years { Sec 2(i)}, which is fully according to the ILO Convention

3. Employee definition more comprehensive, which enhances clarity. { Sec 2(p)}
4. Provision of Health Inspectors made mandatory and their functions elaborately defined.
5. Addition of definition of Mining Operations, which will enhance clarity in the working of the law {Sec 2(z)}
6. The definition of mine has been broadened which enhances clarity in the working of the law. {Sec 2(aa)}
7. The occupational diseases have been identified with scope of further expansion bringing clarity regarding specified diseases (Sec 35)
8. The definition of owner has been elaborated, which will enhance clarity in the working of the law. {Sec 2(ff)}
9. Powers of Chief Inspector more specifically spelled out increasing clarity.
10. Appointment of surveyor made mandatory and his functions clearly enumerated.
11. The Mining Board has been provided for whole of the Province, instead of provision of having a Board for a group of minerals; it will bring uniformity in the application of law. (Sec 4)
12. The constitution of Mining Board has been modified and instead of leaving the appointment of its Chairman to the discretion of the Government, an officer of the Department has been specified; it will reduce political influence in working of the Board. (Sec 12)
13. The Commissioner of Mines Labor Welfare has been added as member of the Board.(Sec 12)
14. The functions of the Mining Board have been elaborated, adding clarity.(Sec 13)
15. Board of Examiners has added in the institutional framework of the Department, which will perform the functions relating to grant for certificates. (Sec 14)
16. Appointment of competent persons has been made mandatory in the mining operations, which will enhance the safety of persons engaged in mining operations. (Sec 22)
17. The provision of Mine Office has been made mandatory, which will enhance the efficiency of mining operations. (Sec 26)
18. Provision of an exclusive First Aid Room mandatory. (Sec 27)
19. Responsibility of owner, manager, etc. in case of imminent danger to life and health of workers has been elaborated (Sec.29)

20. The Chief Inspector of Mines has been empowered to order closure of mine in case of imminent danger to life and health of workers on the failure of mine management to comply with the notice of CIM.(sec 30)
21. Types of accidents elaborated in relation to reporting of accidents by the mine management to the Department. (Sec 28)
22. The occupational diseases have been identified with further scope of expanding their scope (Sec 35)
23. Medical certificate of fitness mandatory for the mine workers. (Sec 36)
24. Weekly rest day as per relevant ILO Convention. (Sec 40)
25. Maximum working hours fixed at 48 as per relevant ILO Convention. (Sec 41)
26. Women working prohibited during 7 pm --- 6 am as per relevant ILO Convention. (Sec 46)
27. Mining persons have more beneficial terms and conditions of service as compared to non-mining staff; 19 types of non-mining staff have been identified, to ensure clarity. (Sec 47)
28. More comprehensive record keeping is required adding transparency in the mining industry(s.48)
29. Along with prohibition of children in mine, their presence in mine area has also been prohibited; presence of any child in mine area will be presumed to be employed in mine (Sec. 50)
30. Prohibition of working of persons above the age of 60 years (Sec 51)
31. Casual leave increased from 10 days to --- 25 days per annum (s.56)
32. Mode of recovery of unpaid wages to be made under the KP Payment of Wages Act, 2013, in order to facilitate the workers. (Sec 59)
33. Establishment of Technical Training Institute to facilitate the training of persons working in the mining sector; it will enable the capacity building of persons working in the mining sector and improve safety of workers. (Sec 61)
34. Establishment of Survey Institute; it will enable the capacity building of persons working in the mining sector and improve safety of workers. (Sec 62)
35. Absence of women during maternity period considered as authorized absence.
36. Penalty provision for women omitted (Sec 12 of 1941 Act)
37. Delegation of powers by Chief Inspector of Mines to Inspectors, resulting in decentralization when necessary. (Sec 94)

38. Exemption power of Government omitted; this will reduce favoritism and political influence to influential people and will also close the doors of corruption. (Sec 17 of 1941 Act)
39. Reference by court, in lieu of prosecution, to the Mining Board constituted under Sec 12 or Committee constituted under Sec 18- a sort of ADR, which is in line with similar provision in KP Police Order, 2001 under which the Police can refer a case to ADR Committee, constituted under the Order. (Sec 98)
40. The person ultimately in control of mining is liable for wrongful acts of his employees (Sec 103)
41. Registration of mines has been made mandatory, which will bring transparency in the working mining industry. (Sec 109)
42. Nomenclature of subordinate legislation changed from Regulations to Rules; it will bring subordinate legislation in line with pattern being followed in Pakistan and India, as opposed to USA, UK, Australia, New Zealand and Canada (Sec 99)

NEGATIVE ASPECTS

43. The provisions relating to Bye laws have been deleted. (Sec 32 of 1941 Act)
44. The maximum number of leaves limited to three times in a year, which may create problems for mine workers in case any emergency in the family. (Sec 54)
45. Powers to rescind or modify an order (Sec 106); somewhat unnecessary in view of the provisions of West Pakistan General Clauses Act, 1956. 46. The provisions relating maternity bonus omitted (s.6 of 1941 Act)
46. Removal of difficulties clause is too broad and not in consonance with case law on the subject of delegated legislation. (Sec 111)

5.4 RECOMMENDATIONS

1. The proposed modifications in both the Acts be reviewed at appropriate level after consultation with the stakeholders
2. The final draft prepared after the consultation be submitted to the Provincial Assembly

5.5. CONCLUSION

1. After final review meeting of the Consultant and the senior officers of the Department understood the concerns shown by the Consultant and agreed to remove the main defects or reduce their negative effects.
2. The Consultant agreed with some concerns of the Department regarding the recommendations made by him in the Draft Report.
3. The modifications suggested by the Consultant and accepted by the Department will bring the legal framework closer to Mineral Policy.

ANNEX-A: PROPOSED KP MINERAL REGULATION ACT 2019

AN ACT

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

WHEREAS it is expedient to provide for effective regulation of minerals, mines and mining in the Province of Khyber Pakhtunkhwa, through development of the sector by establishment of transparent administrative, management, legal and fiscal frameworks and to cater

for internationally competitive, stable, conducive and enabling business environment for investments in the minerals sector thereof;

It is here by enacted as follows:

PART-I
PRELIMINARY

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

(2) It shall extend to whole of the Province of the Khyber Pakhtunkhwa,

“Provided that the mineral resources of merged tribal districts and tribal sub-divisions shall be regulated in light of the special provisions as per

Schedule-IX of the Act.”.

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

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

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

- (a) **“Appellate Authority”** means the Secretary to Government, Minerals Development Department, to hear appeals against the orders of Licensing Authority in relation to Small Scale, large Scale Mining and Minor Minerals;
- (b) **“Authority”** means the Khyber Pakhtunkhwa Minerals Investment Facilitation Authority constituted under section 3 of this Act;
- (c) **“Company”** means a Company as defined in the Companies Act, 1984 (Act No. XLVII of 1984), or a body incorporated in Pakistan under any law for the time being in force;
- (d) **“Department”** means the Mineral Development Department of Government;
- (e) **“Director General”** means the Director General Mines and Minerals, Khyber Pakhtunkhwa;
- (f) **“Director Licensing”** means the Director Licensing in the Directorate General Mines and Minerals, Khyber Pakhtunkhwa;
- (g) **“drilling”** means the perforation of the earth’s surface for collection of core samples otherwise than by pitting, trenching or sinking a shaft, whether the hole is vertical, inclined or horizontal, and includes all operations for preventing the collapse of the sides of the hole or for preventing the hole from becoming filled with extraneous matter, including water;
- (h) **“exploration”** means search for minerals, and includes the determination of their extent and economic value and evaluation;
- (i) **“exploration area”** means the area of land, including its lateral limits, to which an exploration license relates;
- (j) **“exploration operation”** or **“prospecting operation”**, as the case may be, means and includes any operation for exploration and prospecting purposes for access to the

licensed areas, geological mapping and the collection of surface and sub-surface mineral samples for the purpose of mineralogical examination, assaying and the test work but such work in relation to exploration operation shall not include commercial mineral extraction or marketing;

- (k) **“government”** means the government of the Khyber Pakhtunkhwa;
- (l) **“group of minerals”** means a group of minerals as specified in **Schedule IV**;
- (m) **“human dwelling”** means a cluster of at least fifty houses;
- (n) **“land”** includes surface bearing any mineral, land beneath water and the subsoil of land;
- (o) **“large scale mining”** means a process of mining requiring reconnaissance license over an area up to 1000 square kilometers or exploration license over an area up to 500 square kilometers or both as a pre requisite to a mining lease or mineral deposit retention license over an exploration area or mining lease up to 50 square kilometers;
- (p) **“lateral limits”** in relation to an area of land pertaining to a mining lease or a prospecting license means the vertical lines towards the earth passing through the sides by which that area is bounded;
- (q) **“lease”** means a mining lease granted under this Act;
- (r) **“lessee”** means a person to whom a mining lease is granted under this Act and includes their successors-in-interest;
- (s) **“license”** means a prospecting license, a reconnaissance license, an exploration license or as the case may be, a mineral deposit retention license granted under this Act.
- (t) **“Licensee”** means a person to whom a license is granted under this Act and includes his successors-in-interest

- (u) **“Licensing Authority”** means,-
- (i) in relation to large scale mining and small scale mining, the Committee constituted under section 6 of this Act; and
 - (ii) in relation to minor minerals, the Director General Mines and Minerals;
- (u-i) **Merged Tribal districts”** means the administrative Tribal districts of Khyber Pakhtunkhwa including;
- Bajur Tribal district, Khyber Tribal district, Kurram Tribal district, Mohmand Tribal district, North Waziristan Tribal district, Orakzai Tribal district and South Waziristan Tribal district
- (u-ii) **“Merged Tribal Sub division”** means Tribal sub division Peshawar, Tribal sub division Kohat, Tribal sub division Bannu, Tribal sub division Lakki, Tribal sub division Tank and Tribal sub division D.I.Khan” and
- (v) **“mine”** means any surface or underground excavation horizontal, inclined or vertical where any operation for the purpose of searching for or obtaining a mineral has been or is being carried out, and includes all works, machinery, tramway, ropeway and siding, whether above or below ground, in or adjacent or belonging to or appurtenant to a mine but does not include the manufacturing or processing plant;
- (w) **“mineral”** for the purpose of this Act, means all surface and sub-surface natural deposits of ores and metals and other metallic and non-metallic substances including naturally occurring aqueous solutions containing more than one per cent mineral salt but does not include radioactive materials, mineral oil and natural gas;
- (x) **“mineral operation”** means geological and geochemical exploration operations or mining operations or both;

- (y) **“mineral title”** means a license or lease for large scale mining, small scale mining or minor minerals, as provided in Part-II of the Act;
- (z) **“mining area”** means an area of land, including its lateral limits within the mining lease limits;
- (aa) **“mining operation”** means any operation carried out in connection with the development of a mine, or the production of minerals from the mine, or both;
- (bb) **“minor minerals”** means *bajri, shingle*, ordinary sand, gravel, and ordinary stones or any other mineral notified by the Government as minor mineral.
- (cc) **“Mineral Titles Committee”** means the Mineral Titles Committee, constituted under section 6 of this Act;
- (dd)) **“Person”** means,-
 - i. in relation to large scale mining a company ii. in relation to small scale mining, an individual, a firm or a company iii. in relation to minor minerals, registered Minor Mineral contractor with the Director General; and
 - iv. in relation to royalty contract, an individual, a firm or a company who/ which is registered with the Director General.
- (ee) **“prescribed”** means prescribed by rules made under this Act;
- (ff) **“Province”** means the province of the Khyber Pakhtunkhwa;
- (a) (ff-1) **“Public organization”** means such organization which independently, or if it is a consortium, the majority shareholders therein is an entity, Department, agency, corporation, company or other body or institution

established by or under a Federal law or a Provincial law or an entity, agency, corporation, company or other body or institution in which more than fifty percent (50%) shares are owned or controlled by the Federal Government or a Provincial Government and also includes state owned enterprise, entity, agency, corporation or a company, in which more than fifty percent (50%) shares are owned or controlled, either directly or indirectly, by a foreign State.”.

- (gg) “**reconnaissance operation**” means any operation carried out for a general search of any mineral by means of aerial photographs and remote sensing techniques through satellite imageries and air borne geophysical surveys, for geological mapping and other reconnaissance stage exploration techniques;
- (hh) “**rent**” means a rent prescribed under this Act for an area granted and demarcated for a mineral title;
- (ii) “**retention area**” means the area of land, including its lateral limits, to which a mineral deposit retention licenses relates;
- (jj) “**rules**” means rules made under this Act; and
- (kk) “**small scale mining**” means a process of mining other than the large scale mining and minor minerals.

PART-II

2A. Ownership of minerals.--- Notwithstanding anything to the contrary in any other law, or in any order or decree of Court or other authority, or in any rule of custom or usage, or in any contract, instrument, deed or other document, all mines and

minerals shall be and shall always be deemed to have been the property of Government, and Government shall have all powers necessary for the proper enjoyment of its right thereto.”.

MINERALS INVESTMENT FACILITATION AUTHORITY AND MINERAL

TITLES COMMITTEE

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

(2)The Authority shall consist of-

- (i) Minister for Minerals Development to Chairperson Government;
- (ii) Chairperson, Standing Committee on Minerals Member Development in the Khyber Pakhtunkhwa Provincial Assembly;
- (iii) one member of the Khyber Pakhtunkhwa Member Provincial Assembly nominated by the Leader of the House;
- (iv) one member of the Khyber Pakhtunkhwa Member Provincial Assembly nominated by the Leader of Opposition;
- (v) Secretary to Government, Minerals Development Member Department;

- (vi) Secretary to Government, Finance Department or Member
his nominee not below the rank of an Additional Secretary;
- (vii) Secretary to Government, Environment, Forestry Member and Wildlife Department or his nominee not below the rank of an Additional Secretary;
- (viii) Secretary to Government, Law, Parliamentary Member Affairs and Human Rights Department or his nominee not below the rank of an Additional Secretary;
- (ix) Vice-Chairman, Khyber Pakhtunkhwa Board of Member
Investment and Trade;
- (x) Director, National Center of Excellence in Member
Geology, University of Peshawar;
- (xi) Chairperson, Department of Mining Engineering, Member
University of Engineering and Technology, Peshawar;
- (xii) President, Khyber Pakhtunkhwa Chamber of Member
Commerce and Industries;
- (xiii) President, Khyber Pakhtunkhwa Women Member
Chamber of Commerce and Industries;
- (xiv) President, Mines Owners Association, Khyber Member Pakhtunkhwa;
- (xv) President, Mines Workers Association, Khyber Member Pakhtunkhwa;

- (xvi) Commissioner Mines-----Member”,
and
- (xvii) Director General.-----Member cum
Secretary”; and

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

- (a) provide strategic leadership and guidance to Minerals Development Department;
- (b) lay down policy for investment and programme for development of mineral sector;
- (c) facilitate and encourage investment in minerals sector;
- (d) review and recommend to the Government, for approval, annual rents, royalties and excise duty, payable by the holders of mineral titles, on minerals produced and carried away;
- (e) review and evaluate the performance of the mines and minerals sector in the province;
- (f) publish annual report on the state of mines and minerals in the Province;
- (g) undertake policy research and advisory services in matters connected with or ancillary to mines and minerals sector; and
- (h) perform any other function that it deems appropriate to be undertaken for the purposes of this Act.

(2)The Authority may delegate any of its powers to the committee of members.

(3)Directorate General Mines and Minerals, Khyber Pakhtunkhwa shall provide secretariat support to the Authority.

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

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

(3)In its quarterly meetings the Authority shall consider and decide schedule of activities for various wings in the Minerals Development Department.

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

- (a) review annual rent of area and royalties on minerals, propose changes and make recommendations for approval of the government;
- (b) review report of the mineral sector for the preceding year;
- (c) review implementation status of its decisions; and
- (d) consider revision of targets and proposals for course correction.

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

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

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

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

(2) The Committee shall consist of-

- | | | | |
|-----------|-----------|---|-------------|
| 7. | (i) | Director General, Mines and Minerals; | Chairperson |
| | (IA) | A. Additional Director General, Mines and Minerals; | Member |
| | (ii) | Deputy Secretary to Government, Law, Parliamentary Affairs and Human Rights Department; | Member |
| | (iii) | Deputy Secretary to Government, Forestry, Environment and Wildlife Department; | Member |
| | (iv) | Chief Inspector of Mines of Khyber Pakhtunkhwa or his subordinate officer ; | Member |
| | (v) | Commissioner Mines Khyber Pakhtunkhwa or his authorized officer; | Member |
| | (v-A) (v) | A. Director Exploration; | Member |
| | (vi) | Director Licensing, Directorate General Mines and Minerals to be nominated by the Secretary”
Department. | Member-cum- |

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

- (a) grant, convert, assign, amend, surrender, cancel the mineral titles and renew mining leases for the purpose of clause (d) of sub-section (1) of section 9 and for clause (b) of sub-section (2) of section 9;
- (b) lay down process and procedure for award of licenses and mining leases;
- (c) supervise and regulate mining operations in the province through specific or general written instruments authorizing officers to perform

- functions and exercise powers on behalf of the Licensing Authority;
- (d) oversee enforcement of laws, rules and regulations relating to mines and minerals in the province;
 - (e) exercise supervision and oversight over mining activities in the province;
 - (f) review and determine the rates of fee for application;
 - (g) publish periodical mineral enforcement gazette; and
 - (h) assist the Authority in performance of its functions under this Act.

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

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

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

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

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

PART-III

MINERAL TITLES, MINERAL AGREEMENTS, RIGHTS AND OBLIGATIONS

OF MINERAL TITLE HOLDERS

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

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

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

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

(3) For the purposes of minor minerals, mining lease for a period up to three years may be granted.

10. Exemption.--- Notwithstanding, anything contained in this Act, the Mineral Title Committee with the approval of the Authority, may grant license and mining lease for any such period, for any un-

granted area, under any terms and conditions, to such public or private organization, as deemed appropriate in public interest:

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

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

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

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

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

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

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

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

- (a) carry out reconnaissance operation in relation to the reconnaissance area in question in respect of any mineral or group of minerals to which the license relates; and
- (b) the erection or construction of ancillary works, in the reconnaissance area as may be reasonably necessary for, or in connection with, any reconnaissance operation, unless expressly prohibited under the terms of the license.
- (c) exploration license if he has applied in the prescribed form at least three months before expiry of the reconnaissance license.

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

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

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

- (g) In case of failure to apply in the prescribed time frame as provided in sub section f, a fine of rupees thirty thousands for each month shall be realized from the applicant other than prescribed fee but not later than one year. **15. Rights of holder of mineral deposit retention license.**--- A mineral deposit retention license shall authorize the holder of the license-
- (a) to retain the retention area, to which the license relates for further mining operations for two years;
- (b) to carry out a programme of operations including evaluation of the mineral deposit concerned, as may be specified in the license;
- (c) to remove from the retention area required quantity of mineral or group of minerals or sample thereof, for the purpose of respective testing, assaying or pilot plant studies, from any place where it was found or incidentally won in the course of carrying out such programme of operations to any other place whether within or outside the Province, subject to prior written permission of the Licensing Authority and such other permission as may be required under any law for the time being in force, outside Pakistan;
- (d) to do all other things, including the carrying out of investigations and operations and the erection or construction of ancillary works, in the retention area, as may be reasonably necessary for, or in connection with, any operation unless expressly prohibited under the terms of the license.
- (e) the right to a mining lease over the area of mineral deposit retention license if he has applied in the prescribed form at least six months before expiry of the mineral deposit retention license.
- (f) In case of failure to apply in the prescribed time frame as provided in sub section e, a fine of rupees thirty thousands for each month shall be realized from the applicant other than prescribed fee but not later than one year.

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

- (a) an exclusive right to carry out prospecting operations in respect of the area and any mineral to which the license relates;
- (b) the right to enter and occupy the land which comprises the prospecting area for the purpose of carrying out prospecting operations, subject to the rights of surface holder;
- (c) the right to take and divert water on or flowing through such land and use it for any purpose necessary for prospecting operations subject to and in accordance with the provisions of law for the time being in force;
- (d) the right to remove from the prospecting area, any mineral to which the license relates, from any place where it was found or mined in the course of prospecting operations, to any other place within or outside the Province or, subject to such other permissions as may be required under any relevant law, to any place outside Pakistan;
- (e) the right to erect or construct of ancillary works, in the prospecting area, as may be reasonably necessary for, or in connection with, any prospecting operation unless expressly prohibited under the terms of the license;
- (f) the holder of a prospecting license shall have a right to a mining lease, if he has—
 - i. successfully carried out geological prospecting operations and won the mineral for which license was granted;
 - ii. been paying all the Government dues regularly and has paid such compensation, if any, as is provided in this Act;

- iii. applied in the prescribed form for the grant of a mining lease at least three months before the expiry of the prospecting license; and
 - iv. In case of failure to apply in the prescribed time frame as provided in clause iii, a fine of rupees twenty thousands for each month shall be realized from the applicant other than prescribed fee but not later than one year.
- (g) in case the holder of a prospecting license fails to apply for a mining lease even after the prescribed time frame as described in section 16 (f) (iv), no application for conversion for the same shall be entertained; and
- (h) the right to sell or otherwise dispose of the mineral to which the license relates, found or excavated in the course of prospecting operations subject to any condition of the prospecting license or mineral agreement relating to the satisfaction of the internal requirements of Pakistan.”.

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

- (a) the exclusive right to carry out mining operations in the mining area and in respect of any mineral or group of minerals to which the lease relates;
- (b) the right to enter and occupy the land which comprises the mining area for the purpose of carrying out mining operations, exploration operations and prospecting operations in respect of any mineral or group of minerals to which the lease relates;
- (c) the right to carry out prospecting and exploration operations in the mining area in conjunction with mining operations in relation to any such mineral or group of minerals to which the lease relates;

- (d) the right to remove from the mining area, any mineral or group of minerals to which the lease relates, from any place where it was found or mined in the course of mining operations, to any other place within or outside the Province or, subject to such other permissions as may be required under any relevant law, to any place outside Pakistan;
- (e) the right to take and divert surface and ground water on or flowing through such land and use it for any purpose necessary for mining operations subject to and in accordance with the provisions of the relevant laws;
- (f) the right to sell or otherwise dispose of any such mineral or group of minerals subject to any condition of the mining lease or mineral agreement relating to the satisfaction of the internal requirements of Pakistan; and
- (g) the right of erection or construction of ancillary works, as may be reasonably necessary for, or in connection with, the mining, exploration or prospecting operations, removal, selling or disposal of mineral or group of minerals to which the lease relates.
- (h) the right to renewal of the mining lease if he has applied in the prescribed form at least six months before expiry of the mining lease.
- (i) In case of failure to apply in the prescribed time frame as provided in sub section h, a fine of rupees thirty thousands and twenty thousands in case of large and small scale mining respectively for each month shall be realized from the applicant other than prescribed fee but not later than one year.

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

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

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

holder of a mineral deposit retention license, the holder of a prospecting license or, as the case may be, the holder of a mining lease.

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

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

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

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

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

20. Obligations of the holder of prospecting license to submit prospecting scheme.-- (1) It shall be the duty of the holder of a prospecting license to prepare and submit, within two months of the

grant of the license, a scheme of prospecting, in respect of the area covered by the license, for approval of the Licensing Authority and shall not commence operations unless the scheme has been approved.

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

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

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

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

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

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

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

(3) In case of differences between the Mineral Title Holder and joint venture partner due to violation of terms and conditions of the joint venture by them, they shall try to resolve the same through mutual negotiation within a period of 30 days. In case they failed to resolve the differences within the aforesaid period, the Mineral Title shall be liable for cancellation under this Act.

20B. Idle Mineral Title---(1) In case, the area under a mineral title has been kept idle for more than one year period, the mineral title shall be cancelled by the Licensing Authority subject to thirty days' notice.”.

PART-IV GRANT AND MANAGEMENT OF MINERAL TITLES

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

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

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

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

(5) The information contained in the application or furnished to the Licensing Authority in pursuance of an application for

a mineral title, other than that incorporated in the register of applications shall be treated as confidential by the Licensing Authority.

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

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

23. Availability of area, priority and refusal.--- (1) On receipt of the application, the Licensing Authority shall, before granting any mineral title, ascertain that the area applied for does not overlap with an area already covered by a license or a lease.

(2) No lessee or licensee except cement manufactures, large scale minerals titles holders, subject to the provisions of sub-section (2A) or multi mineral based industries shall hold more than three (03) licenses or leases; provided that if a person has more than three (03) licenses or leases before the commencement of this Act, he may only retain those three (03) licenses or leases which he deems appropriate and shall, unless otherwise allowed by the Department to assign those to any other person or company on the grounds of having invested substantial amount thereon, return other to Government for further grants in accordance with this Act.

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

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

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

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

24. Assignment.--- A holder of a mineral title except reconnaissance license is allowed to assign the area under the mineral title thereof;

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

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

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

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

(2) In case of no response or refusal of the licensee or lessee for the grant of second mineral located apart separately, the Licensing Authority may delete any viable portion of the area containing the other

mineral for grant to the other person, or grant a mineral title over the same area for the other mineral or mines in favor in any other person.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33. Demarcation of area and erection of boundary marks.--- (1) A mineral title holder shall, within thirty days of the issue of the

license or a lease, get the granted area demarcated officially, after paying such fee as notified by the Licensing Authority.

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

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

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

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

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

35. Working near railway line, etc.--- (1) A holder of a mineral title shall not carry out or permit to be carried out any prospecting, exploration or mining operation, surface or underground, at or up to any point within a distance of one hundred meters in from any railway line, public road, reservoir, canal, high transmission power line, gas pipeline or other public works, or building or place of archaeological importance, human dwelling except with the previous permission of the Licensing Authority and in accordance with such conditions as may be imposed in the permission. No such permission shall be granted in cases of quarries where stone power crushers can be installed.

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

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

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

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

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

(2) If the land belongs to a private person, a holder of the mineral title shall pay compensation to the owner of the land for the area actually used or occupied superficially and in such manner as may be mutually agreed upon between the land owner and the holder of the mineral title and in case of disagreement between them, at such rate and in such manner as may be determined by the Licensing Authority through district surface rent assessment committee appointed by the Authority.

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

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

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

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

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

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

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

40. Operation in the reserved and protected forests.--- (1) Every application for the grant of prospecting license, exploration license or a mining lease in a reserved or protected forest shall be referred to a Technical Committee constituted by the Chief Secretary Khyber Pakhtunkhwa, having members one each from Directorate General of Mines & Minerals and Environment

Department. The decision of the Technical Committee on the application shall be final. In case of any disagreement between the members of the Technical Committee, the matter shall be referred to the Authority for a appropriate decision..

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

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

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

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

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

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

(3) Any vehicle or carrier found carrying mineral without dispatch slip as explained in sub-Section (1) and (2) shall be considered as un-authorized excavated mineral. The vehicle and loaded mineral shall be impounded and the persons involved in un-authorized mining

or transportation shall be dealt as per provisions of Section (56) of this Act.

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

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

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

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

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

Authority shall afford a fair opportunity of hearing to the holder of the title.

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) meet the internal requirements of Pakistan to the satisfaction of the Government before exporting any mineral or its products to other countries;
- (b) employ nationals of Pakistan in his organization in all grades and in all branches including technical and administrative personnel; and
- (c) arrange for the training in Pakistan or abroad or the nationals of Pakistan to fill up these appointments, in case

of Large Scale Mining or investment or any other circumstances to be specified by the Authority.

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

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

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

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

54. Sub-letting.--- (1) No holder of a mineral title shall transfer the liberties, powers, privileges and obligations in the form of sub-letting under the license or lease, as the case may be, to a third party in respect of the area demised under the mineral title.

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

55. Holder of a mineral title ceasing to be national of Pakistan.--
- (1) If a holder of a mineral title ceases to be a national of Pakistan or if a Company ceases to be incorporated in Pakistan, it shall within a period of one month inform the Licensing

Authority and apply to it, for consent to assignment of the rights granted by the mineral title under this Act.

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

56. Unauthorized mining.--- (1) If any person, directly or indirectly, starts prospecting, exploring or mining any mineral outside the area granted to him under a mineral title or in any area for which he has not obtained a mineral title or unauthorized transportation of minerals or if any person obstructs free access of a holder of a mineral title to the licensed or leased area or directly or indirectly tries to interfere with the prospecting or mining operations by a holder of a mineral title, he shall be punishable with imprisonment for a term of minimum six months which may extend up to five years and with a fine of minimum five hundred thousand which may extend up to two million: Provided that owner of a land may level the land or make excavation of mineral for agricultural or building purposes other than commercial mineral extraction or marketing subject to prior approval of the Director General .

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

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

(4) Notwithstanding anything contained in sub-section (1), the Licensing Authority shall have the power to stop unauthorized work in such manner as it may deem fit and recover in addition to the penalty,

the pit-mouth value of the mineral so excavated from the person responsible for such un-authorized work.

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

57. Persistent violations and default in payment of dues.--- (1) If a holder of a mineral title persists in violating any of the terms and conditions of the mineral title or the provisions of this Act and fails to rectify the violation within such period as may be fixed by the Licensing Authority, the mineral title shall, subject to notice, be cancelled.

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

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

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

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

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

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

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

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

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

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

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

- (a) a reconnaissance license which gives the holder an exclusive right such as is referred to in clause (c) of section 13;
- (b) an exploration license, a mining lease or a mineral deposit retention license or a prospecting license or a mining lease for mineral under small scale mining; and may, in accordance with this Act, issue appropriate mineral title to the successful bidder.”.

PART-V

CANCELLATION AND SURRENDER OF MINERAL TITLES.

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

- (a) fails to use the land subject to the title for the purpose for which the title was granted; or
- (b) uses that land for any purpose other than the purpose for which the title was granted; or
- (c) fails to comply with any requirement of this Act or rules which the holder is bound to comply; or
- (d) fails to comply with a condition of the title; or

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

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

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

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

(3) The Licensing Authority shall not issue a certificate of surrender to an applicant who is in default, or to an applicant who fails to comply with any reasonable requirement of the Licensing Authority, or if it is not satisfied that the applicant will surrender the area on which

reconnaissance, exploration, prospecting or mining operations have been conducted in a safe and good condition.

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

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

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

PART-VI FINANCIAL MATTERS

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

(2) Any mineral or group of minerals shall be deemed to have been disposed of, if it is-

- (a) sold, donated or bartered;
- (b) appropriated to treatment or other processing; or
- (c) exported from the Province without having been dealt with as provided in sub section (1) prior to export.

(3) The holder of an exploration license or prospecting license or, as the case may be, minerals deposit retention license shall pay to the Government, in respect of any such mineral or group of minerals removed from the exploration or prospecting or, as the case may be, retention area for the purpose of testing, assaying or pilot plant studies and royalty as determined under this Act.

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

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

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

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

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

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

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

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

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

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

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

- (a) the removal of any mineral or group of minerals from the exploration area, mining area, retention area, the land subject to the mining lease or, in the case of the holder of prospecting license, from the place where the mineral or group of minerals is found, won or mined; or
- (b) any dealing in connection with any mineral or group of minerals found, won or mined from any such area, land or place, until such time as the royalty has been paid.

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

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

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

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

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

73. Performance guarantees.--- (1) A person shall, at the time of the grant of a mineral title, deposit with the Licensing Authority a Performance Guarantee from a scheduled Bank for compliance of obligations as holder of the title and terms and conditions of the agreement.

(2) The amount of the Performance Guarantee shall be determined, by the Licensing Authority, after taking into consideration the requirements of the title, the magnitude of operations, dues payable to the government and safety and security of the people involved in the operations.

- 74. Mode of payments.**--- All amounts payable under this Act shall be deposited into Government treasury or into any bank authorized by the Government for the purpose, under the specified Head of Account and the receipt shall, in original, be provided to the Licensing Authority.
- 75. Submission of balance sheets.**--- Every holder of a mineral title except a title in minor mineral shall submit to the licensing Authority, at the end of every year, balance sheet account audited by a qualified and registered auditor.
- 76. Verification of the value of precious stones, etc.**---The Licensing Authority may from time to time ascertain and verify in such manner as it may deem fit, the value of all precious stones and other minerals, ore and metals dressed or extracted by a licensee or a lessee for the purpose of ascertaining the royalty payable under this Act.
- 77. Outstanding dues payable even after expiry of a license or lease.**--- On the surrender, expiry or determination of a mineral title, the licensee or the lessee, as the case may be, shall be responsible for payment of all outstanding dues and other charges which, in the event of non-payment, shall be recoverable as arrears of land revenue.

PART-VII SPECIAL PROVISIONS REGARDING MINOR MINERALS

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

Provided that owner of a land may level the land or make excavation of mineral for agricultural or building purposes other than commercial mineral extraction or marketing subject to prior approval of the Director General

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

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

(4) Each minor mineral block shall, as far as practicable, be in a compact shape and shall be identified by well marked permanent physical boundaries or by straight lines not exceeding thirty two hundred acres.

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

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

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

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

where the auction is to take place and the terms and conditions of the auction.

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

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

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

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

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

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

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

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

(11) On receipt of approval of the Licensing Authority, secretary of the district auction committee shall issue an allotment letter whereupon the lease shall stand granted to the highest bidder and the unforfeited earnest money shall be refunded to the relevant bidder.

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

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

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

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

(17) A lessee shall neither transfer any right or interest under the lease, nor part with the possession of the area or any part thereof.

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

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

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

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

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

(2) If the land belongs to a private person, a lessee shall pay surface rent to the owner of the land actually used or occupied superficially at such rate and in such manner as may be mutually agreed upon between the lessee and the land owner and in case of disagreement between them, at such rate and in such manner as may be determined by the District Surface Rent Committee.

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

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

83. Compensation.--- A lessee shall pay such compensation as may be assessed by the Licensing Authority in accordance with any law for the time being in force for such loss, which may be caused as a result of the operations carried out by him under the lease

and shall indemnify the Licensing Authority or any officer working on its behalf against all claims which may be made by third parties in respect of any such damage, injury or disturbance.

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

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

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

PART-VIII RESPONSIBILITY OF LICENSING AUTHORITY FOR REGULATION AND ENFORCEMENT

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

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

- (a) Part-I of the **Schedule-V** shall be punishable with imprisonment for a term of minimum six months which may extend up to five years and with a fine of minimum five hundred thousand which may extend up to two million and, where an accused was directed by the Licensing Authority or an officer authorized by it for immediate discontinuance of the offence, the court shall impose a further fine of five thousand rupees for every day for the period the accused has persisted in the offence from the date of its commission; and

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

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

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

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

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

87. Imposition of fine through Challan.--- (1) Where any person, in the opinion of the Licensing Authority or an officer authorized by it is contravening any provision of the law relating to the

offences specified in **Schedule-VI**, he shall charge the accused by issuing a Challan in the form specified in **Schedule-VII** for payment of fine, if such offence has been committed for the first time in two months.

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

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

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

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

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

(4) Upon failure of the accused to appear before the court in response to the summons, the court shall forthwith issue warrants for arrest of the accused and upon issuance of such warrants the accused will be liable to punishment under clause (a) of subsection (2) of section 86.

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

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

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

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

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

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

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

91. Requisition of police support.--- The Licensing Authority may requisition a police contingent on deputation or payment of charges in accordance with the provisions of Khyber Pakhtunkhwa Police Act, 2017 for assistance in enforcement activities.

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

PART-IX MISCELLANEOUS PROVISIONS

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

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

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

(2) The holder of a mineral title shall have the right to make use of the data referred to in sub-section (1) pertaining to his respective mineral title, free of cost, for the purpose of exploration, prospecting or

mining operations and to retain copies or samples of material or information constituting the data.

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

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

- (a) which the holder is prohibited from doing under any law for the time being in force; or
- (b) otherwise than in accordance with any such law regulating the doing of that thing, and for that purpose obtaining any approval, permission or other document required under any such law.

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

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

- (a) report such spilling, pollution, loss or damage to the Licensing Authority; and

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

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

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

- (a) may enter any area, structure, vehicle, vessel, aircraft or building that, in his opinion, has been, is being or is to be used in connection with reconnaissance, prospecting or mining operations;
- (b) may inspect and test any machinery or equipment that, in his opinion, has been, is being or is to be used in connection with any of the operations referred to in clause (a);
- (c) may take or remove for the purpose of analysis or testing, or for use in evidence in connection with an offence against this Act, samples of minerals or other substances from a mine or any area where any of the operations referred to in clause (a) is being carried out;
- (d) may inspect, take extracts from, and make copies of, any data, relating to any of the operations referred to in clause (a);

- (e) may make such examinations and inquiries as are necessary to ensure that the provisions of this Act, and any directions issued, conditions imposed or orders made under this Act, are being complied with; or
- (f) may, for reason to be recorded in writing, order-
 - (i) the cessation of operations on or in, and the withdrawal of all persons from, any structure or building that is being used in connection with any of the operations referred to in clause (a); or
 - (ii) the discontinuance of the use of any machinery or equipment, which he considers unsafe, unless and until such action as is necessary for safety and specified in the order is taken and completed.

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

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

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

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

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

- (a) mineral title was issued or transferred to a person so specified;
- (b) any interest in such title or license has been granted, ceded or assigned to a person so specified;
- (c) any person has been joined as a joint holder of a mineral title so specified;
- (d) any condition so specified is or was a condition of the mineral title;
- (e) a person mentioned in the certificate is or was the holder of a title; or
- (f) a mineral title has been issued in respect of an area of land so specified, shall, unless the contrary is proved, be received in evidence as conclusive proof of the fact so certified.

(2) The production in any civil or criminal proceedings in any court, an extract of an entry in the title register, certified by an authorized officer to be a true and correct extract of such an entry shall, unless the contrary is proved, be taken as conclusive proof of the entry.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Notwithstanding the aforesaid repeal, anything done, action taken, rules made, and notification or order issued under the aforesaid Act, shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done, taken, made or issued, under this Act, and shall have effect accordingly.

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

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

(5) Any application for the grant, conversion, assignment, amendment, surrender, renewal or cancellation of license or lease, as the case may be, pending before Licensing Authority, under the repealed Act or rules in this behalf, shall be considered by the Licensing Authority in accordance with the provisions of this Act. Further the licenses granted under the repealed Khyber Pakhtunkhwa Mining Concession Rules 2005 shall be considered to have been granted for such period as determined under this Act from the date of issuance of allotment letter.

(6) No suit, prosecution or other legal proceedings whatever shall lie against any officer or official for anything which is done or intended to be done in good faith under this Act.

Schedule-I

(see section 2(l), 9(2)(a)(b))

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

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

SCHEDULE-II

(see section 12, 21, 23 and 30)

MANDATORY PROVISIONS IN MINERAL AGREEMENTS

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

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

- (xi) settlement of any dispute which may arise in the interpretation or application of any provision of a mineral agreement by the Authority;
- (xii) co-ordination of exploration or mining operation to be carried out by the person concerned under an exploration license or a mining lease with any such operation carried out by the holder of an exploration license or a mining lease in any neighboring exploration area or mining area; and
- (xiii) Foreign Investment and technical capabilities:
 - (a) the likely scale of the capital investment to be made;
 - (b) the expenditure and work programme proposed by the applicant;
 - (c) the likely scale of operation and required infrastructure in the event of a commercial discovery;
 - (d) the mineral or group of minerals to which the mining title, if granted, would relate and the potential export of that mineral or group of minerals;
 - (e) the techniques to be used for the recovery of that mineral or group of minerals;
 - (f) the technical and financial capabilities of the applicant for a mineral title; and
 - (g) any other relevant factor.
- (xiv) General conditions of mineral titles.---The holder of a mineral title shall-
 - (a) exercise any right granted to the holder reasonably and in such manner that the rights and interests of the occupier of the land to which the title relates

are not adversely affected except to the extent that the occupier is compensated;

- (b) give preference to citizens of Pakistan for employment of persons, who possess appropriate qualifications, expertise and experience for the purposes of the operations to be carried on under the mineral title;
- (c) carry out training programmes in order to encourage and promote the development of citizens of Pakistan employed by the holder of the mineral title;
- (d) ensure technical and economic efficiency and make use of the products or equipments locally manufactured or produced, and the services locally available;
- (e) co-operate with the persons involved in the mining industry to enable citizens of Pakistan to develop skills and technology and to render services in the interest of that industry;
- (f) take measures to prevent damage to the environment, and where some adverse impact on the environment is unavoidable, take measures to minimize such impact;
- (g) make good any damage caused to the environment, as far as possible, during the course of exploration or mining operations and on the cessation of such operations due to expiry or cancellation of the mineral title or otherwise;
- (h) give to the Licensing Authority, if the holder is a Company, notice of any change in its name, registered address, directors or share capital, within thirty days as from the date of the change, or give to the Licensing Authority any change of his address, if it is a case of an individual, within thirty days of the change;

- (i) make such contributions to the Government as may be provided for in the title or the mineral agreement to be utilized for the benefit of the local population in such manner as may be prescribed.

APPLICATIONS AND PROCESSING OF APPLICATIONS FOR MINERAL TITLES

GENERAL

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

POWER OF LICENSING AUTHORITY IN RESPECT OF APPLICATIONS:

- (1) The Licensing Authority may accede to, on such conditions as may be determined in writing by it, or refuse to accede to any application and communicate reasons for refusal to the applicant.
- (2) While considering any application the Licensing Authority may cause such investigations to be made or undertaken as it may, in its discretion, deem necessary.
- (3) The Licensing Authority shall take into account the need to conserve and protect the natural resources in, on or

under the land to which the application relates including adjoining or neighboring land.

- (4) Where the Licensing Authority is prepared to grant an application subject to certain conditions, the Licensing Authority shall communicate the conditions to the applicant.
- (5) If the applicant fails to accept the conditions conveyed to him in writing by the Licensing Authority or authorized officer in this behalf within a period of one month, the right of applicant to have a mineral title shall lapse.

GENERAL CONDITIONS OF MINERAL TITLES:

- (1) It shall be a condition of a mineral title that the holder thereof shall-
 - (a) exercise any right granted to him reasonably and in such manner that the rights and interests of the occupier of the land to which the title relates are not adversely affected except to the extent that the occupier is compensated;
 - (b) give preference to citizens of Pakistan for employment of persons, who possess appropriate qualifications, expertise and experience for the purposes of the operations to be carried on under the mineral title;
 - (c) carry out training programmes in order to encourage and promote the development of citizens of Pakistan employed by the holder of the mineral title;
 - (d) ensure technical and economic efficiency and make use of the products or equipments locally manufactured or produced, and the services locally available;

- (e) co-operate with the persons involved in the mining industry to enable citizens of Pakistan to develop skills and technology and to render services in the interest of that industry;
 - (f) take measures to prevent damage to the environment, and where some adverse impact on the environment is unavoidable, take measures to minimize such impact;
 - (g) make good any damage caused to the environment, as far as possible, during the course of exploration or mining operations and on the cessation of such operations due to expiry or cancellation of the mineral title or otherwise; and
 - (h) make prescribed contributions to Government for the benefits of the local population.
- (2) Every mineral title shall provide for the pre-emption of minerals by Government.

RESTRICTIONS ON EXERCISE OF RIGHTS BY HOLDER OF MINERAL TITLE:

The holder of a mineral title shall not-

- (a) carry on prospecting, exploration or mining operations at or upon any point within a distance of twenty meters from the boundary of the exploration area or, as the case may be, the mining area;
- (b) carry on prospecting or exploration or mining operations at or upon any point within a distance of one hundred meters from any railway line, reservoir, canal or other public works, or buildings;
- (c) erect any building or carry on any surface operations upon any public play ground, crematory or graveyard, or place held sacred by any class of

persons, or any house or village site, or public road or on any other place;

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

ENVIRONMENTAL PROTECTION:

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

PAYMENT OF COMPENSATION AND INDEMNIFICATION:

The holder of a mineral title shall make and pay such compensation as may be assessed by a lawful authority in

accordance with the law in vogue, for all damages, injuries or disturbances caused by him during the currency of any activity under the mineral title. The Licensing Authority or his authorized officer which has granted the mineral title in exercise of powers conferred upon him under this Act is given indemnity against all such claims which are made by third party in respect of such damages, injuries or disturbances.

DIRECTIONS TO HOLDER OF MINERAL TITLE:

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

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

- (g) submission of reports, returns and other information;
- (h) taking of logs or directional surveys or the making of other investigations; and
- (i) creation of safety zones in relation to structures erected on land to which the mineral title relates.

FAILURE OF THE TITLE HOLDER TO COMPLY WITH DIRECTIONS:

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

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

APPLICATION FOR RECONNAISSANCE LICENSE

GENERAL

An application for the grant of a reconnaissance license shall-

- (a) give complete profile of the applicant;
- (b) be made in respect of an area of land not exceeding one thousand square kilometers;
- (c) identify the mineral or group of minerals in respect of which a license is sought;
- (d) provide detailed topographical and geological description of the boundaries of the area of land to which the application relates, and a plan drawn to its location with reference to the coordinates of the

bench mark on topographic sheets and the extent of the area and the boundaries by reference to identifiable physical features and coordinate reference points;

- (e) contain particulars of the programme of reconnaissance operations proposed to be carried out, the estimated expenditure in respect thereof and the period within which the operations shall be completed;
- (f) provide necessary particulars to determine the applicant's technical and financial resources or, where applicable, those of any person contractually engaged to provide such resources, and copies of relevant contractual agreements; and
- (g) furnish particulars of all other mineral titles held or mines operated in or outside the province by the applicant, whether alone or jointly, currently or during ten years immediately preceding the date of the application.

**RESTRICTIONS ON GRANT OF APPLICATION FOR
RECONNAISSANCE LICENSE:**

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

- (2) The Licensing Authority shall not grant an application for a reconnaissance license if the applicant is, at the time of the application, in default.

GRANT AND CONTENTS OF RECONNAISSANCE LICENSE:

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

RECONNAISSANCE OPERATIONS AND EXPENDITURE:

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

- (2) The Licensing Authority may, on application made to it by the holder of a reconnaissance license by notice in writing to the holder, amend any work programme or expenditure in accordance with the proposals contained in the application or to such extent as **to** the Licensing Authority may deem expedient;

**MAINTENANCE OF RECORDS BY THE HOLDER OF
RECONNAISSANCE LICENSE:**

- (1) The holder of a reconnaissance license shall keep at an address in the province proper record of the:
 - (a) location and nature of all geological, geochemical, photo-geological studies, imaging and geophysical and other surveys carried out in the course of reconnaissance operations in the reconnaissance area to which the reconnaissance license relates, and the results, compilations, interpretations and assessments of such studies and surveys;
 - (b) persons employed for the purposes of reconnaissance operations including the names, addresses, nationalities and ages of such persons;
 - (c) expenditures incurred in the course of reconnaissance operations; and
 - (d) such other information as may be specified by the Licensing Authority by notice in writing and shall retain such records for a period of not less than three years from the date of expiry of the license.
- (2) The holder of a reconnaissance license shall prepare and maintain at all times plans and maps in respect of the reconnaissance area and a statement of income and expenditure in connection with the reconnaissance operations.
- (3) The holder of a reconnaissance license shall submit to the Licensing Authority, within thirty days after the end of the currency of the reconnaissance license in respect of the

whole of the reconnaissance area a report in duplicate setting out in relation to the reconnaissance period:

- (a) an evaluation of the prospects of the discovery of any mineral or group of minerals in the reconnaissance area;
 - (b) all information, including photographs, tabulations, tapes and discs; and
 - (c) the statement of income and expenditure and financial statements.
- (4) In the event of cancellation or surrender of a reconnaissance license, or expiry of the license, the holder of such license immediately before the cancellation, surrender or expiry shall, within thirty days after the date of the cancellation, surrender or expiry, deliver to the Licensing Authority all records, maps, plans, reports, photographs, tabulations, tapes and discs prepared in the course of reconnaissance operations.

APPLICATION FOR EXPLORATION LICENSE

GENERAL

An application for the grant of an exploration license shall-

- (a) give complete profile of the company;
- (b) be made in respect of an area of land not exceeding five hundred square kilometers;
- (c) furnish a comprehensive geological description of the area of land over which the license is sought, identify the potential for, or the nature of, mineralization contained therein;
- (d) identify the mineral or group of minerals in respect of which a license is sought;

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

RESTRICTIONS ON GRANT OF APPLICATION FOR EXPLORATION LICENSE:

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

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

GRANT AND CONTENTS OF EXPLORATION LICENSE:

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

- (e) detailed conditions subject to which the license is issued;
- (f) the mineral or group of minerals in respect of which the license is issued;
- (g) the approved programme of exploration operations and related expenditures; and
- (h) such other particulars as the Licensing Authority may determine.

AMENDMENT OF EXPLORATION LICENSE:

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

WORK PROGRAMME OF EXPLORATION OPERATIONS:

- (1) Where the holder of an exploration license is, by virtue of the conditions of the license, required to carry out or to make within a particular period, in accordance with a work programme, certain minimum exploration operations and expenditure, he shall furnish the Licensing

Authority, on such date or dates as may be specified in the license, with particulars of such exploration operations carried out and the expenditure made.

- (2) The Licensing Authority may, on application made to it by the holder of a exploration license by notice in writing to the holder, amend any work programme or expenditure in accordance with the proposals contained in the application or to such extent as the Licensing Authority may deem expedient.

MAINTENANCE OF RECORDS BY THE HOLDER OF EXPLORATION LICENSE:

- (1) The holder of an exploration license shall keep at an address in the province a proper record of the:
 - (a) location and results of all photo geological studies, imaging, geological mapping, geochemical sampling, geophysical surveying, drilling, pitting and trenching, sampling and bulk sampling and other activities undertaken in the course of the exploration operations carried out by the holder, in or in connection with the exploration area to which the exploration license relates;
 - (b) results of all analytical, metallurgical and mineralogical work incidental to such exploration operations;
 - (c) interpretation and assessment of the studies, surveys and work referred to in sub-clauses (a) and (b);
 - (d) persons employed for the purpose of such exploration operations, including the names, address, nationality and ages of such persons;
 - (e) the expenditures incurred by the holder in the course of such exploration operations; and

- (f) such other information as may be determined in writing by the Licensing Authority and specified by notice in writing given to such holder.
- (2) The holder of an exploration license shall prepare or cause to be prepared and maintained at all times plans and maps in respect of the exploration area.
- (3) The holder of an exploration license shall prepare in respect of the period of the currency of the exploration license a statement of income and expenditure derived or incurred in connection with the explorations in the exploration area and such other financial statement as the Licensing Authority may require.
- (4) The holder of an exploration license shall submit within seven days after the end of each quarter during the currency of such exploration license to the Licensing Authority such other particulars as the Licensing Authority may require in relation to the exploration operations.
- (5) The holder of an exploration license shall submit, within thirty days after the expiry of the exploration license, to the Licensing Authority, reports relating to:
 - (a) an estimate of the mineral reserved in the exploration area properly illustrated by way of plans and maps according to an appropriate scale;
 - (b) an evaluation of the prospects of the discovery of any mineral or group of minerals; and
 - (c) particulars of the exploration operations carried during the currency of the exploration license.

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

In the event of the cancellation or surrender of an exploration license, the holder of such license shall, within thirty days after

the date of such cancellation or surrender, deliver to the Licensing Authority:

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

APPLICATION FOR MINERAL DEPOSIT RETENTION LICENSE

GENERAL

- (1) An application for a mineral deposit retention license shall be made not later than one hundred and eighty days before the expiry of the exploration license.
- (2) An application for the grant of a mineral deposit retention license shall:
 - (a) give complete profile of the applicant;
 - (b) furnish particulars of the exploration license held by the applicant;
 - (c) identify the area of land not greater than the exploration area concerned, over which the license is sought;
 - (d) identify the mineral or group of minerals to which the application relates and furnish full details of the proven, estimated or inferred mineral reserves contained therein, and of the mining conditions pertaining thereto;

- (e) provide particulars of the proposals for the carrying out of work in the exploration area, expenditures during the period of the retention license and the period within which the operations shall be completed;
- (f) state reasons if no further work could be usefully carried out in the exploration area;
- (g) highlight the state of the environment in the area and anticipated adverse effect which the proposed operations may have on environment and measures to be taken to prevent, mitigate, or minimize any such effects;
- (h) provide necessary particulars to determine the applicant's technical and financial resources or, where applicable, those of any person contractually engaged to provide such resources, and copies of relevant contractual agreements;
- (i) state the period, not exceeding two years, for which the license is required;
- (j) furnish particulars of all other mineral titles held or mines operated in or outside the province by the applicant, whether alone or jointly, currently or during ten years immediately preceding the date of the application; and
- (k) contain any other information with regard to any other matter which the applicant considers relevant to the application;
- (l) give reasons in support of the claim that the mineral deposit discovered in the area of land to which the application relates could not then be mined on a profitable basis and a forecast of the circumstances in which, and the earliest date on which, the mineral or group of minerals discovered might be so mined; and

- (m) be accompanied by relevant data, studies, analysis and documents.

**PRE-REQUISITE FOR GRANT OF MINERAL DEPOSIT
RETENTION LICENSE:**

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

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

**RESTRICTIONS ON GRANT OF APPLICATION FOR MINERAL
DEPOSIT RETENTION LICENSE:**

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

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

GRANT OF MINERAL DEPOSIT RETENTION LICENSE:

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

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

AMENDMENT OF MINERAL DEPOSIT RETENTION LICENSE:

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

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

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

- (a) afford the holder of the mineral deposit retention license an opportunity to apply for a mining lease, within thirty days from the date of notice, over the land constituting the retention area, in respect of the mineral or group of minerals to which the retention license is applied;
- (b) if the holder of a mineral deposit retention license fails to apply for the mining lease, the Licensing Authority may cancel the mineral deposit retention license on the expiration of that period; and

- (c) where a mineral deposit retention license is deemed to have been cancelled, the Licensing Authority may by an open tender invite bids for a mining lease subject to sound proposals for the development of mining area acceptable to the Licensing Authority.

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

1. The holder of a mineral deposit retention license shall keep at an address in the province proper record of the:
 - (a) investigations and operations, including the erection or construction of ancillary works, carried out by the holder for, or in connection with, future mining operations;
 - (b) location and results of all photo geological studies, imaging, geological mapping, geochemical sampling, geophysical surveying, drilling, pitting and trenching, sampling and bulk sampling and all other activities undertaken by the holder in the course of the exploration operations, in connection with the retention area to which the license relates;
 - (c) results of all analytical, metallurgical and mineralogical work incidental to such exploration operations;
 - (d) interpretation and assessment of studies, surveys and work referred to in sub-clauses (b) and (c);
 - (e) the persons employed by the holder for purposes of such investigations and operations, including the name, address, nationality and age of each such persons; and
 - (f) the expenditures incurred by the holder in the course of such exploration operations.

2. The holder of a mineral deposit retention license shall prepare and maintain at all times plans and maps in respect of the retention area.
3. The holder of a mineral deposit retention license shall prepare in respect of the period of the currency of the license a statement of income and expenditure derived or incurred in connection with the explorations in the retention area.
4. The holder of a mineral deposit retention license shall submit, within thirty days after the expiry of the license, to the Licensing Authority, reports relating to:
 - (a) an evaluation of the prospects of future mining operations in such retention area;
 - (b) all information, including photographs, tabulations, tapes and discs about the record of the retention area; and
 - (c) such other details as the Licensing Authority may require in relation to the operations carried out by the holder of the license in the retention area.

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

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

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

APPLICATION FOR MINING LEASE

GENERAL:

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

- (a) complete profile of the applicant;
- (b) technological report on mining and treatment possibilities and intention of the applicant in relation thereto;
- (c) relevant feasibility studies, detailed plans for development and operation of the mine and the programme of proposed mining operations, including a forecast of the:
 - (i) date by which the applicant intends to work for profit;
 - (ii) capacity of production and scale of operations;
 - (iii) anticipated overall recovery of ore and mineral products; and
 - (iv) nature of the products.
- (d) an environmental impact assessment in terms of the Khyber Pakhtunkhwa Environmental Protection Act, 2014 (Khyber Pakhtunkhwa Act No. XXXVIII of 2014), identifying the extent of any adverse effects which the plan for development and operation of the mine and the carrying out of the programme of mining operations would be likely to have on the environment and on any monument or relic in the area over which the lease is required, and proposals for eliminating or controlling that effects;

- (e) proposals for prevention of pollution, treatment and disposal of wastes, safeguarding, reclamation and rehabilitation of land disturbed by mining operations, protection of rivers and other sources of water and for monitoring and managing of any adverse effects of mining operations on the environment;
- (f) information on any particular risks involved in mining the mineral or group of minerals which it is proposed to mine, and proposals for their control or elimination;
- (g) forecast of capital investment, operating costs, revenues and anticipated type and source of financing;
- (h) details of infrastructure requirements;
- (i) statement on the period for which the lease is required; and
- (j) any other information which the applicant considers relevant.

RESTRICTIONS ON GRANT OF APPLICATION FOR MINING LEASE:

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

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

4. An application for the grant of a mining lease shall not be granted if the applicant is, at the time of the application, in default.

AMENDMENT OF MINING LEASE:

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

CESSATION OF MINING OPERATIONS AND REDUCTION OF PRODUCTION:

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

MAINTENANCE OF RECORD BY THE HOLDER OF MINING LEASE:

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

(a) MINING OPERATIONS:

- (i) the nature, appraisal and results of all mining operations carried out, or in connection with, the mining area to which such mining lease relates;
- (ii) the nature and mass or volume of any mineral or group of minerals won or mined in such mining area and treated or stockpiled in such mining area or elsewhere;
- (iii) the nature, mass or volume and value of any mineral or group of minerals so won or mined, sold or otherwise disposed of and the full names and addresses of persons to whom such mineral or group of minerals was sold or otherwise disposed of
- (iv) the nature and mass or volume of any waste removed from such mining area and the manner in which it was disposed of;
- (v) the persons employed for mining operations, including the names, addresses, nationalities and ages of such persons; and
- (vi) expenditures incurred in the course of mining operations.

(b) EXPLORATION OPERATIONS:

- (i) the nature, location and results of all photo geological studies, imaging, geological mapping, geochemical sampling,

geophysical surveying, drilling, pitting and trenching, sampling and bulk sampling, and all other activities undertaken by such holder in the course of such exploration operations;

- (ii) the results of all analytical, metallurgical and mineralogical work incidental to such exploration operations;
- (iii) the interpretation and assessment of the studies, surveys and works;
- (iv) the nature and mass or volume of any mineral or group of minerals found or incidentally won in the course of such exploration operations; and
- (v) the persons employed for such exploration operations, including the names, addresses, nationalities and ages of such persons;

(c) OTHER RECORDS AND REPORTS:

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

SURRENDER OF RECORD:

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

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

APPLICATION FOR SMALL SCALE MINING

LIMITATION OF AREA FOR SMALL SCALE MINING:

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

DOCUMENTS TO BE ANNEXED WITH APPLICATIONS FOR SMALL SCALE MINING:

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

- (a) Detailed profile of the applicant;
- (b) the original copy of the Treasury Receipt indicating deposit of application fee;
- (c) an authenticated copy of the partnership deed duly registered with the Registrar of Firms concerned in case the application is submitted by firm;
- (d) a verified copy of each of the Memorandum and Articles of Association and Certificate of Incorporation in case the application is submitted by a limited company;

- (e) fifteen copies of the map, prepared from the Survey of Pakistan Maps of Scale 1: 50,000 or nearest scale available, duly signed by the applicant, showing the boundaries of the area in respect of which the license or lease is applied for; and
- (f) evidence of financial status of the applicant.

APPLICATION FOR PROSPECTING LICENSES

AREA AND DURATION OF PROSPECTING LICENSE:

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

RIGHTS OF THE HOLDER OF PROSPECTING LICENSE:

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

PAYMENT OF ANNUAL FEE:

- (1) The holder of the license shall pay such annual fee as is notified by the Government for the area covered by the license.

- (2) The fee shall be annually enhanced by twenty-five per cent.
- (3) The annual fee shall be payable for each mineral separately even if the area under license for different minerals is the same.

APPLICATION FOR MINING LEASE IN SMALL SCALE MINING

APPLICATION FOR MINING LEASE AND DEVELOPMENT SCHEME:

- (1) The holder of a prospecting license shall apply, for the grant of a mining lease at least three months before the expiry of his prospecting license.
- (2) An applicant for grant of a mining lease shall submit, along with the application, a development scheme, prepared, compiled and authenticated by a qualified mining engineer and exploration economic geologist, for approval of the Licensing Authority.
- (3) The development scheme shall, inter alia, include:
 - (a) detailed account of the work done during the prospecting period;
 - (b) location, geological description and evaluation of the major deposits;
 - (c) detailed geological survey report and plan of the area on a scale 1:50,000;
 - (d) detailed plan of the area on a scale of 1:50,000 showing its location, outcrop, topography, existing mines, proposed mines and other infrastructure provisions;
 - (e) proved and probable mineral reserves;
 - (f) planned minimum rate of production;
 - (g) method of mining, including machinery and equipment to be used;

- (h) technical manpower to be employed at various stages of the development;
- (i) details of roads and other surface as well as underground construction including stores and lamps rooms, workshops, beneficiation and mineral dressing plants, office and residential accommodation and facilities to be provided for staff and labour;
- (j) time schedule for all the works; and
- (k) estimates and phases of expenditure on the scheme with detailed break up of costs.

APPROVAL OF DEVELOPMENT SCHEME AND COMMENCEMENT OF OPERATIONS:

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

REJECTION OF DEVELOPMENT SCHEME AND CANCELLATION OF LEASE

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

- (3) In case of rejection of the development scheme and cancellation of lease, the right of the applicant for the grant of lease shall lapse.

SCHEDULE-III

(see section 22)

Register of Application for mineral titles

S#	Token No	Date and Time of the receipt of application	Particulars of the applicant	Mineral for which a license or a lease is required	Period for which a license or lease is required	Full particulars of the area applied for.	Application fee paid	Final orders regarding disposal of the application	Remarks, if any

SCHEDULE-IV

(see section 66 (a) (b))

A. CONSTRUCTION AND INDUSTRIAL MINERALS GROUP

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

B. PRECIOUS GEMSTONES GROUP

Diamonds, Emeralds, rubies and sapphires.

C. PRECIOUS METALS GROUP

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

D. SEMI-PRECIOUS GEMSTONES GROUP

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

E. BASE METALS GROUP

Aluminum, antimony, arsenic, beryllium, bismuth, cadmium, caesium, chromium, cobalt, copper, gallium, germanium,

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

NOTE:-

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

SCHEDULE-V

(see section 86)

LIST OF MINERAL OFFENCES REQUIRING COURT TRIAL

PART-I

<i>S#</i>	<i>Offence</i>
<i>1</i>	Prospecting, exploring or mining any mineral outside the area granted under a mineral title or in any area for which no title has been obtained or unauthorized transportation of minerals or Minor Minerals or obstructing free access of a title holder to the licensed or leased area or directly or indirectly trying to interfere with the prospecting, exploration or mining operations by a title holder.
<i>4</i>	Non-compliance with any requirement laid down by law for applying and obtaining any mineral title, approval, permission or other document required by any law for the time being in force
<i>5</i>	Violation of any of the general or specific conditions of the mineral title or mineral agreement
<i>6</i>	Unauthorized exploration, prospecting or mining operations at or upon any point within a distance of twenty meters from the boundary of the exploration area, prospecting area or, as the case may be, the mining area.
<i>7</i>	Unauthorized exploration, prospecting or mining operations at or upon any point within a distance of five hundred meters in urban areas and three hundred meters in rural areas from any railway line, public road, reservoir, canal or other public works, and human dwellings.
<i>8</i>	Erection of any building or carrying out any surface operations upon any public playground, crematory or graveyard, or place held sacred by any class of persons, or any house or human dwellings,

or public road or on any other place excluded from such operations.

- 9** Violation of conditions, imposed by the Environment Department by a general or special order, for surface operations within a reserved or protected forest.
- 10** Failure to indemnify the Licensing Authority and the government against any claim made by third party in respect of any such damage, injury or disturbance caused during the currency and execution of a mineral title.
- 11** Unauthorized removal from exploration area a mineral or group of minerals or samples, thereof, from any place where it was found or incidentally won in the course of exploration operations to any other

	place whether within or outside the province or subject to such other permission as may be required under any law, outside Pakistan.
12	Sale of any mineral or group of minerals, found or incidentally won, or of other material excavated or samples thereof, in the course of exploration operations.
13	Failure of the holder of an exploration license to take all reasonable steps necessary to secure the safety, welfare and health of persons employed in the exploration area and for the protection of environment
14	Failure of the holder of an exploration license to give to the Licensing Authority notice, within ten days, of the discovery of a deposit of any mineral or group of minerals to which the license relates.
15	Failure of the holder of an exploration license to give to the Licensing Authority notice, within ten days, of the discovery of a deposit of any mineral or group of minerals including radioactive minerals necessary for the generation of nuclear energy, mineral oil and natural gas, other than a mineral or group of minerals to which his license relates.

16	<p>licensing ent of cancellation, surrender or expiry of an exploration cancellati ilure of the holder of the exploration license to deliver to the the: on a date not later than one month after the on, surrender or such license, all record relating to</p> <ul style="list-style-type: none"> i) geological studies, imaging, geological mapping, geochemical sampling, geophysical surveying, drilling, pitting and trenching, sampling and bulk sampling; and other activities undertaken in the course of the exploration operations, results of all analytical, metallurgical and mineralogical work incidental to such exploration operations and the interpretation and assessment of these studies, surveys and works; ii) all reports, photographs, tabulations, tapes and discs prepared during such exploration operations; iii) expenditure incurred in the course of exploration operations; and iv) all maps and plans of the exploration area.
17	<p>In the event of cancellation, surrender or expiry of mineral deposit retention license, failure of the holder of the license to deliver to the licensing authority, on a date not later than sixty days after the cancellation, surrender or expiry of such license, all record relating to the :</p> <ul style="list-style-type: none"> i) geological studies, imaging, geological mapping, geochemical sampling, geophysical surveying, drilling,

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

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

30	Failure of a prospecting or exploration license holder to securely plug all mines and fill up or fence any holes or excavations made in the area to such extent as the Licensing Authority may require and shall, to the like extent restore the surface of the land and all building thereon damaged in the course of prospecting or exploration within one month after the determination of the license or the abandonment of the under-taking.
31	Under-reporting of mineral production.
32	Failure to hand over control of works, plant and premises in the event of a state of war or national emergency and contravening any directions of the Licensing Authority or the government in this behalf.

SCHEDULE-V
(see section 86)

LIST OF MINERAL OFFENCES REQUIRING COURT TRIAL

PART-II

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

11	Contravention of directions for strengthening and supporting whole or any part of the mine needed for conservation of the mineral and safety of personnel or any railway, reservoir, canal or any other public work or any building, affected by such operations.
<i>S#</i>	<i>Offence</i>
12	Working in a manner contrary to the conservation of mineral property and failure to remove the defects or amend the method of prospecting, exploration or mining in compliance with directives of the licensing authority.
13	Refusal to allow mineral title holders of any area which is comprised in or adjoins or is reached by the land held by the title all reasonable facilities of surface or underground access thereto, on the terms and conditions determined by the Licensing Authority.
14	Failure to report damage to mineral property or loss of human life.
15	Subletting of mineral title without permission of the Licensing Authority.
16	Failure to deliver to the Licensing Authority the demised premises and all mines, if any, in a proper and workable on the expiry, surrender or determination of a mineral title.

Schedule-VI

(see section 86, 87, 88 and 89)

LIST OF MINERAL OFFENCES WHERE CHALLAN CAN BE ISSUED

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

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

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

	(iii) take reasonable steps to warn persons who may, from time to time, be in the vicinity of any such	
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<i>S#</i>	<i>Offence</i>	<i>Amount of Challan (In Rs)</i>
	structures, equipments or other goods of the possible hazards resulting there from	
11	<p>Failure of the holder of an exploration license to keep proper record of the:</p> <p>(i) the location and results of all photo geological studies, imaging, geological mapping, geochemical sampling, geophysical surveying, drilling, pitting and trenching, sampling and bulk sampling and other activities undertaken in the course of the exploration operations, results of all analytical, metallurgical and mineralogical work incidental to such exploration operations and the interpretation and assessment of these studies, surveys and works;</p> <p>(ii) persons employed for the exploration operations;</p> <p>(iii) expenditure incurred in the course of exploration operations.</p>	Rs.30000/-
12	Failure of the holder of an exploration license to prepare and maintain plans and maps in respect of the exploration area prepare in respect of the period of exploration license a statement of income derived and expenditure incurred in connection with exploration operations.	Rs.30000/-

13	Failure of the holder of an exploration license to submit, to the licensing authority, quarterly statement of exploration operations and activities connected there with or ancillary there to.	Rs.25000/-
14	Failure of the holder of an exploration license to submit, within sixty days after the expiry of the exploration license, to the licensing authority, an: (a) estimate of the mineral reserves in the exploration area properly illustrated by way of plans and maps; and (b) evaluation of the prospects of the discovery of any mineral or group of minerals in the exploration area.	Rs.100000/-

<i>S#</i>	<i>Offence</i>	<i>Amount of Challan (In Rs)</i>
15	Failure of the holder of a mineral deposit retention license to carry out any programme of operations, including evaluation, from time to time, of the mineral deposit concerned, as specified in the license.	Rs.30000/-

16	<p>Failure of a holder of mineral deposit retention license to keep proper record of the:</p> <ul style="list-style-type: none"> (i) investigations and operations, including the erection or construction of reasonably necessary ancillary works in retention area, carried out for, or in connection with future mining operations; (ii) location and results of all photo geological studies, imaging, geological mapping, geochemical sampling, geophysical surveying, drilling, pitting and trenching, sampling and bulk sampling and all other activities carried out in connection with the retention area, the results of all analytical, metallurgical and mineralogical work incidental to exploration operations and the interpretation and assessment of the studies, surveys and works referred; (iii) persons employed for purposes of investigations and operations; and (iv) expenditures incurred in the course of such exploration operations. 	Rs.30000/-
17	Failure of a holder of mineral deposit retention license to prepare and maintain plans, maps in respect of the retention area.	Rs.25000/-
18	Failure of a holder of mineral deposit retention license to submit to the licensing authority, within sixty days after the expiry of the license separate reports in relation an evaluation of the prospects of future mining operations in such retention area and all information, including photographs, tabulations, tapes and discs in relation to photo geological studies, imaging, geological mapping, geochemical sampling, geophysical surveying, drilling, pitting and trenching, sampling and bulk sampling and all other activities carried out in connection with the retention area, the	Rs.30000/-

<i>S#</i>	<i>Offence</i>	<i>Amount of Challan (In Rs)</i>
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	results of all analytical, metallurgical and mineralogical work incidental to exploration operations and the interpretation and assessment of the studies, surveys and works referred	
19	Failure of a lease holder to commence mining operations within six months of the grant of the lease	Rs.50000/-
20	Violations, by the lease holder, of plan approved for development and operation of the mine.	Rs.100000/-
21	Failure of the lease holder to notify temporary cessation of mining operations, or to reducing normal rate of production	Rs.5000/-
22	Failure of a lease holder to keep proper record of the persons employed for mining operations and expenditures incurred in the course of mining operations.	Rs.20000/-
23	Failure of a lease holder to keep proper record of any exploration operations regarding the nature, location and results of all photo geological studies, imaging, geological mapping, geochemical sampling, geophysical surveying, drilling, pitting and trenching, sampling and bulk sampling, and all other activities undertaken in the course of such exploration operations, the results of all analytical, metallurgical and mineralogical work incidental to such exploration operations and the interpretation and assessment of the studies, surveys and works.	Rs.20000/-
24	Failure of a lease holder to keep proper record of the nature and mass or volume of any mineral or group of minerals found or incidentally won in the course of such exploration operations.	Rs.50000/-
25	Failure of a lease holder to submit within seven days after the end of each quarter the returns in relation to such quarter containing summary of the particulars and information contained in the records maintained by the lease holder.	Rs.5000/-

<i>S#</i>	<i>Offence</i>	<i>Amount of Challan (In Rs)</i>
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26	Failure of a lease holder to submit, within thirty days after 31 st December of each year, to the Licensing Authority, returns or reports containing in relation to such year a summary of the particulars and information contained in the records maintained by the lease holder.	Rs.5000/-
27	Failure of a lease holder to keep proper record the persons employed for mining or exploration operations and the expenditures incurred in the course of such operations	Rs.20000/-
28	Failure of a lease holder to prepare and maintain plans and maps in respect of the mining area.	Rs.10000/-
29	Failure of a lease holder to prepare and submit to the licensing authority quarterly statement of income derived and expenditure incurred in connection with mining operations.	Rs.5000/-
30	Failure of a lease holder to submit, within thirty days after 31 st December of each year, to the Licensing Authority the: (a) returns or reports containing in relation to such year a summary of the particulars and information contained in the records maintained by the lease holder; (b) statement of income and expenditure and financial statements for the preceding year; (c) estimate of remaining mineral reserves properly illustrated by way of plans and maps; and (d) particulars of any mining and exploration operations proposed during the succeeding year with a forecast of delineated mineral reserves.	Rs.10000/-
31	Failure to submit, to the licensing authority, monthly returns showing the amount of royalty paid in respect of any mineral or group of minerals disposed of in the month.	Rs.3000/- per month
32	Failure of a lease holder to provide in the lease area a properly constructed and correct weighing machine or other suitable means for determining the weight of any	Rs.10000/- in case of first occurrence

<i>S#</i>	<i>Offence</i>	<i>Amount of Challan (In Rs)</i>
	mineral or group of minerals won or mined in the lease area.	
33	Failure or refusal to furnish information, required by the licensing authority, relating to reconnaissance, prospecting, exploration or mining operations, or to minerals won, mined, found or sold or otherwise disposed of, or the value thereof.	Rs.25000/-
34	Failure to appear before the licensing authority or a person identified by it and to answer questions relating to relating to reconnaissance, prospecting, exploration or mining operations, or to minerals won, mined, found or sold or otherwise disposed of, or the value thereof.	Rs.20000/-
35	Knowingly or recklessly furnishing information or making any statement or furnishing any data which are false or misleading in a material particular.	Rs.25000/-
36	Failure of a mineral title holder to report the spilling over of any mineral on land, or in any water on or under the surface of any land, or any land or any such water is otherwise polluted or damaged, or any plant or animal life, whether in water or on, in or under land, is endangered or destroyed, or any damage or loss is caused to any person, including the government, by such spilling, pollution or damage.	Rs.10000/-
37	Failure of the lease holder to keep a copy of the approved development scheme and latest working plans at the site.	Rs.5000/-
38	Failure of lease holder to commence operations within specified time frame.	Rs.20000/-
39	Failure of lease holder to carry out operations in a skilful and workmanlike manner and in accordance with approved development scheme.	Rs.20000/-
40	Failure of a mineral title holder to get demarcated the area of his title and submit a boundary demarcation certificate within specified time frame.	Rs.10000/-
41	Failure of a mineral title holder to erect and maintain boundary marks and pillars.	Rs.10000/-

42	Causing damage to the mineral property due to unscientific working, lack of supervision, negligence or	Rs.50000/-
S#	Offence	Amount of Challan (In Rs)
	any other omission or commission on the part of a title holder.	
43	Failure to inform the licensing authority, with in a period of one month, and apply for its consent to assignment of the mineral title in case the holder of the title ceases to be a national of Pakistan or if a Company ceases to be incorporated in Pakistan.	Rs.20000/-
44	Non-erection of boundary pillars	Rs.50000/-

SCHEDULE-VII

(see section 86 and 87)

FORM OF CHALLAN

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

.....
.....

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

.....
.....

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

.....
.....

Amount _____ of _____ Challan _____ Rs

.....

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

.....
.....

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

.....
.....

SCHEDULE-VIII

(See section 11)

The initial period of mining lease shall be as follows:

S. No.	Category	Period of Lease
1.	Large Scale Minerals Titles holders or cement manufactures.	Thirty years renewable for further terms of thirty years each.
2.	Areas granted under Small Scale Mining, through normal procedure or open auction, for mineral or group of minerals other than those mentioned in serial No. (3) and (4).	Ten years renewable for further terms of ten years each.
3.	Phosphate granted through open auction.	Ten years with no further renewal.
4.	Areas containing placer gold granted through open auction.	Five years with no further renewal.

5.	Precious or semi-precious gemstones, granted through open auction.	Five years with no further renewal.
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SCHEDULE-IX

(See section 1)

SPECIAL PROVISIONS PERTAINING TO REGULATION OF MINERAL RESOURCES IN THE MERGED TRIBAL DISTRICTS AND TRIBAL SUBDIVISIONS

1. These special provisions shall be valid for a maximum period of ten years except the provision at S.No.14 that shall only be valid for five years.
2. The Government will bring necessary provisions/amendments commensurating with the local customs/traditions which may include land settlement or any administrative dispensation for the identification of land ownership.
3. Priority for the grant of mineral titles shall rest with the local community who owns and possesses the land having mineral resources.
4. With the consent of the local community, through Jalsa-e-Aam, any person belonging to that community may obtain mineral title for the area being owned by the local community.
5. The due shares of the local community in the mineral bearing area, as per their prevailing customs, shall be identified by the district administration through Jalsae-Aam followed by registration of the deed with the concerned sub-registrar or where

the post of sub-registrar is not available in the district the same shall be registered in the divisional headquarter.

6. Cases, for grant of mineral titles, from the merged areas already processed after proper Jalsa-e-Aam and have not been disputed by the respective Tribes, Sections, Sub-sections or Clans, will get the same priority as was assigned to them by the Mineral Directorate of erstwhile FATA Development Authority.
7. All granted leases and licenses shall be reduced to the maximum area limitation as per Schedule-I of the Act. The concerned lessee or licensee shall assign the remaining granted area to the local community after payment of the amount incurred on the development of the area duly assessed by a committee nominated by the Licensing Authority. In case of failure to assign the lease or license, to the local community, within six months after payment of the assessed amount, the lease or license shall be cancelled.
8. In case any dispute arises between the stakeholders of mineral bearing area after the grant of mineral title, the matter shall be referred to a Dispute Resolution Committee for submission of its recommendations to the Mineral Titles Committee for consideration. Composition of the Committee shall be as follows:
 - i. Concerned Deputy Commissioner -----
 - Chairman ii. Representative of the local mining association-----Member iii. Prominent elder of the locality ----- Member

iv. Assistant Director Mineral concerned-----

Member-cum-Secretary

9. The Dispute Resolution Committee shall also recommend resolution of inter-tribal land disputes, facilitate demarcation and division of land between the sub-sections and clans as per their traditional Rewaj and settled principles of due shares. The matter may be deliberated upon by two such committees if the dispute arises between two tribal districts. The Committee or Committees may seek help of the Revenue, Engineering, Police or Surveying Departments or any other relevant department, in exercise of their duties.
10. Any lease granted to any Public organization, before the merger of erstwhile FATA with Khyber Pakhtunkhwa, shall continue to be operated as per the terms and conditions of the agreement signed with the Mineral Directorate of erstwhile FATA Development Authority.
11. Applications for the grant of mineral title in the merged tribal districts and tribal sub-divisions, received to the Mineral Directorate of erstwhile FATA Development Authority before its merger with this Department, vide notification dated 16-11-2018, shall be processed for Jalsa-e-Aam as per their priority.
12. Any online or manual application received for the grant of a mineral title in the merged tribal districts and tribal sub-divisions, during the period 16-11-2018 till the promulgation of instant amendments in the Act, shall be rejected.

13. The areas already reserved for auction under section 62 of this Act and any area having mineral reserves, proved as a result of studies carried out at the public expense, shall be leased out, under any terms and conditions, as deemed appropriate by the Licensing Authority.
14. The provisions of Part-VII of the Act shall not be applicable in respect of minor minerals.
15. The provisions of section 102 of this Act shall apply mutatis mutandis in relation to this Schedule.
16. All other issues regarding mineral titles, not specifically mentioned in this Schedule, shall be governed by rest of the Act.

ANNEX B: Proposed KP Mines Safety, Inspection and Regulation Bill, 2019

Bill

to consolidate and amend the law relating to the safety of mines and mining operations; and the inspection and regulation of mines, mining operations and materials used therein; to promote and improve the safety and health of persons working in mines; to enhance the welfare of mine workers and for connected purposes.

WHEREAS it is expedient to consolidate and amend the law relating to the safety of mines and mining operations and the inspection and regulation of mines, mining operation and materials used therein; to promote and improve the safety and health of persons working in mines ; *to enhance the welfare of mine workers* and for purposes connected therewith and ancillary thereto.

It is hereby enacted as follows:

CHAPTER-I PRELIMINARY

1. Short title, extent and commencement.--- (1)

This Act may be called the Khyber Pakhtunkhwa Mines Safety, Inspection and Regulation Act, 2019.

(2) It shall extend to the whole of the Province of Khyber Pakhtunkhwa.

(3) It shall come into force at once.

2. Definitions.---In this Act, unless there is anything repugnant in the subject or context-

(a) **“accident“** means an accident occurring during the course of employment and

resulting in a personal injury, illness or death of an employee;

- (b) **“adit”** means a horizontal or nearly horizontal opening which is open at one end;
- (c) **“agent”** when used in relation to a mine, means any person appointed or acting as the representative of the owner in respect of the management of the mine or of any part thereof and as such superior to a mine manager under this Act and shall possess such qualification and experience as may be prescribed;
- (d) **“apprentice”** means a person who is working as a trainer in mine;
- (e) **“Board of examiners”** means the Board of examiners constituted under section 14;
- (f) **“Certificate of Competency”** means a Certificate of Competency issued by the Board of examiners;
- (g) **“certificate of fitness”** means a Certificate of fitness issued to a person under this Act pursuant to medical examination;
- (h) **“Chief Inspector”** means the Chief Inspector of mines Khyber Pakhtunkhwa appointed under section 3;
- (i) **“child”** in case of mining means a person who has not completed his eighteen years of age; and for the purpose of Chapter IX, Child also includes a still born child.
- (j) **“competent person”** in relation to any mine, or any machinery or equipment means a

person who has been duly appointed or designated in writing by the mine manager to perform that work which the person is qualified to perform by knowledge, training and experience and includes foremen, mine sirdars, shot firers, mine supervisors, winding enginemen, electricians, mechanics, magazine in-charges, blaster, compressor drivers, locomotive drivers, haulage drivers, etc. as required under the law;

- (k) **“danger”** means anything which may cause injury or damage to persons or property;
- (l) **“day”** means a period of twenty-four hours beginning at midnight;
- (m) **“Department”** means the Minerals Development Department, Government of Khyber Pakhtunkhwa;
- (n) **“development”** in relation to a mining operations includes all kinds of works undertaken to open up a mine by driving development openings or pre-stripping of an open-cut body of rock or ore;
- (o) **“duly qualified person”** means a person who possess the prescribed qualification and experience;
- (p) **“employee”** means a person who is employed as a worker or who works under appointment by or with the knowledge of the owner, agent or mine manager, whether for wages or not-
 - (i) in any mining operation including the concomitant operations of handling and

transport of mineral up to the point of dispatch;

- (ii) in operations or services relating to development of the mine including construction of plant, buildings, roads, foot path, wells and any building work connected with existing or future mining operations;
 - (iii) in operating, servicing, maintenance or repairing any part of any machinery used in or about the mine or in any office of the mine;
 - (iv) in loading operations for dispatch of minerals within the premises of the mine;
 - (v) in any health, sanitary or conservancy services required to be provided under this Act, or watch and ward, within the premises of mine, and
 - (vi) in any kind of work whatsoever which is preparatory or incidental to, or connected with mining operations.
- (q) **“Explosive Act”** means the Khyber Pakhtunkhwa Explosive Act, 2013;
- (r) **“Government”** means the Government of Khyber Pakhtunkhwa;
- (s) **“Health Inspector”** means a person appointed as Health Inspector under section 3;

- (t) **“health and safety standard”** means any standard in accordance with the criteria set by the World Health Organization for mines and mining operations;
- (u) **“incline”** means an opening driven inclined into the ground and used for transportation of men and material in or out of the mine;
- (v) **“Inspector”** means the Deputy Chief Inspector of mines, the Seniors Inspectors, the Inspectors and Junior Inspector of mines appointed under section 3;
- (w) **“magazine”** means a building of special design approved by the Chief Inspector of explosives and Chief Inspector of mines;
- (x) **“maternity benefit”** means the payments made under chapterIX of this Act;
- (y) **“Mining Board”** means the Mining Board constituted under section 12;
- (z) **“mining operation”** means any method of working by which the earth or any rock structure, coal seam, stone, mineral bearing substance is disturbed, dealt with for the purpose of obtaining any minerals or rock from it for commercial purposes or for subsequent use in industry, and includes-
 - (i) exploration operation, development and construction work associated with opening up or operating a mine, the removal and disposal of overburden or waste or residues by mechanical or other means;

- (ii) the operation of any support facilities on the mine site, include mining administration offices, workshop and service buildings, operations by means of which any mineral is recovered from the rivers or a natural water supply;
 - (iii) operations of residential facilities and recreational facilities and the ground use for that purpose, where such facilities are located on mining tenement and are used only in connection with mining operations; and
 - (iv) operations under taken for the environmental rehabilitation of the mine site during production operations and after their completion and operations for the care, security and maintenance of a mine and plant at the mine under taken during any period when production or development operations are suspended and operations under taken to leave a mine safe to be abandoned;
- (aa) **“mine”** means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, whether above or below ground, and includes:
- (i) all shafts, in or adjacent to and belonging to a mine, whether in the course of being sunk or not;
 - (ii) all conveyors or tram ways provided for bringing into or removal from a

mine of minerals or other articles or for removal of refuse therefrom;

- (iii) all adits, levels, raise, winze, inclined planes, machinery, works, railways, tram ways and sidings in or adjacent to and belonging to a mine;
- (iv) all protective works being carried out in or adjacent to a mine;
- (v) all workshops and stores situated within the precincts of mine under the same management;
- (vi) all power station, transformer stations, conveyor stations, rectifier stations and accumulator storage stations for supply of electricity solely for the purpose of working in the mine; and
- (vii) any premises in or adjacent to and belonging to a mine on which any process ancillary to the getting dressing or preparation for sale of minerals or of coke is being carried on;
- (bb) **“mine guard”** means a mine guard appointed under sub-section (2) of section 3;
- (cc) **“mine manager”** in relation to a mine, means a person possessing the prescribed qualification and experience and duly appointed by the owner or agent of a mine to be in charge of a mine under this Act;
- (dd) **“major accident”** means an occurrence of catastrophic proportion involving loss of human lives and destruction of property

resulting from methane gas or coal dust explosion, collapse of mine, land subsidence, inundation or flooding of mine, toxic gases etc;

- (ee) **“occupational disease”** means a disease resulting from conditions of employment usually from long exposure to environment or substance injurious to physical or mental health or from continuous repetition of certain acts;
- (ff) **“Owner”** when used in relation to a mine, means any person who is the licensee or lessee of the mine but does not include a person who is merely the owner of the soil, and includes-
 - (i) a mortgagee in possession of such mine or part thereof
;
 - (ii) in case of a mine, the business whereof is being carried on by a liquidator or receiver, such liquidator or receiver;
 - (iii) in case of a firm or other association of a person, all the individual partners or members thereof;
 - (iv) in case of a foreign company, all or any of its principal officers, by whatever name called, including its director or secretary;
 - (v) in case of local authority or body, the person having the ultimate control over such authority or body; and

- (vi) a company incorporated in the country, the managing director, all or any of the directors thereof;

Provided that in case of a body corporate without the managing director, or in the case of a firm or other association of the persons, where a specific nomination has been made in favor of a whole time director, managing partner or member, as the case may be, such whole-time director, managing partner and member shall be the owner:

- (gg) **“plant and machinery”** means any mining machinery and include fixture, fitting, equipment, tools and appliances and anything which is used for any purpose in the mine;
- (hh) **“prescribed”** means prescribed by rules;
- (ii) **“Province”** means the Province of Khyber Pakhtunkhwa;
- (jj) **“qualified medical practitioner”** means any person possessing the prescribed qualification and experience and registered with Pakistan Medical and Dental Council or any person notified by Government to be a qualified medical practitioner for the purposes of this Act;
- (kk) **“quarry or open cut or open pit”** means a surface mining operation in which minerals or rocks is extracted from the earth by excavating into a natural surface gradient and

includes, strip mining, excavation of sand, clay and gravel, hydraulic mining;

- (ll) **“quarry manager”** in relation to a quarry, means a qualified person appointed by an owner or agent of a quarry possessing a manager permit appointed by the owner or agent of a quarry responsible for control and direction of quarry operations;
- (mm) **“raise”** means an opening driven from a lower level to an upper level inside a mine to connect both;
- (nn) **“relay”** means the sets or group of employees which carry out the same kind of work during different period of the day;
- (oo) **“reportable injury”** means any injury other than serious bodily injury which involves or in all probability will involve the enforced absence of the injured person from work for a period of at least two days;
- (pp) **“risky work”** means an environment in which any kinds of mining operations may probably cause occupational disease or injury or damages;
- (qq) **“Secretary”** means the Secretary Minerals Development Department, Government of Khyber Pakhtunkhwa;
- (rr) **“section”** means section of this Act;
- (ss) **“serious bodily injury”** means any injury which involves, or in all probability will involve, the permanent loss of the use of, or

permanent injury to any part of the body, or permanent loss of or injury to the sight or hearing, or the fracture of any part of the body, or the enforced absence of the injured person from work for a period exceeding twenty days;

- (tt) **“shaft”** means an opening driven vertical or near to vertical into the ground used for raising and lowering men or material in or out of the mine;
- (uu) **“shift”** means a period of eight hours including rest interval;
- (vv) **“shot firer or Blaster”** means a person who possess a blaster/shot firer certificate and is appointed by the manager in writing to perform the duty of a blaster or shot firer in any mine;
- (ww) **“Surveyor”** means the Surveyor appointed under sub-section (2) of section 3;
- (xx) **“under manager”** means a person who possesses the prescribed qualification and experience and appointed in writing by the owner, agent or manager to be incharge of the whole of the underground or surface workings or a specified portion thereof under the direction of the manager and is thus superior to a mine foreman, supervisors and a mining mate;
- (yy) **“week”** means the period of seven days between midnight on the Saturday night and midnight on the succeeding Saturday night;

- (zz) “**winze**” means an opening driven from upper level to a lower level inside a mine to connect both; and
- (aa-i) “**workplace**” means any premises or place where a person performs work in the course of his employment.

CHAPTER II

I N S P E C T O R S

3. **Chief Inspector and Inspectors.**---(1) Government may, by notification in the Official Gazette, appoint a duly qualified person to be the Chief Inspector of mines for the whole of the Province and such other duly qualified persons to be the Inspectors and Health Inspectors who shall be subordinate to the Chief Inspector.
- (2) Government may appoint a duly qualified person to be the Surveyor and such number of mine guards to perform such duties as assigned to them by the Chief Inspector under this Act.
- (3) No person shall be appointed as Chief Inspector or Inspector or having been appointed shall continue to hold such office, who is or becomes directly or indirectly interested in any mine or mining rights in the Province.

4. Powers and functions of Chief Inspector and Inspectors.---(1) The

Chief Inspector and Inspectors authorized by the Chief Inspector may-

- (a) with such assistance as he thinks fit, enter, inspect and examine any mine or any part thereof and make inquiry respecting the state and condition relating to the safety, the health of persons employed as such in the mine;
- (b) to ensure that the provisions of this Act, and rules made there under are complied with;
- (c) bring into use at any mine or at any other place, vehicles, equipment and materials to perform functions under this Act and of the rules and of any order made there under;
- (d) enter and inspect any substance and test mine equipment and machinery so as to ensure their safety and compliance to environment;
- (e) investigate and inquire into mines accidents for identification of cause of the accident and its future prevention;
- (f) examine into and make inquiry respecting the state and condition of any mine or any part thereof, the adequacy of ventilation of the mine, presence of toxic gases, underground lighting, underground timbering and support system and all matters and things

connected with or relating to the safety and health of persons employed in the mine;

- (g) direct any employer or employee to appear before him at such time and place as stated in the notice in writing and investigate or inquire such employer or employee either alone or in the presence of any other person or take, whether on the precincts of the mine or elsewhere, statement of any person which he may consider necessary for carrying out the purposes of this Act:

Provided that no one shall be required under this clause to answer or give any evidence tending to criminate himself;

- (h) require the production of any book, register or other document, the keeping of which is prescribed, in order to see that they are in conformity with the provisions of this Act, rules made thereunder and take into his custody or make copy of or seize any book, record, register or other document or any such article or substance which may in his opinion serve as evidence at the trial of any person charged with an offence under this Act;
- (i) examine the mine officials for the purpose to produce relevant certificate of competency required for mine managers, certificate of medical fitness for persons employed in the mine and other certificates required for

supervising staff as mentioned under section 47;

- (j) after informing the owner, agent or manager or his representative, take or remove for the purpose of analysis, samples of mineral, materials and substances used or handled in the mine;
- (k) suspend or halt the operations or performance of any act or practice at the mine or a part thereof which may endanger or affect safety, health, comfort or performance of any person working in a mine;
- (l) make sure that all the responsibilities and duties imposed upon the owner, agent or manager under this Act or the rules made thereunder or any other Law for provisions for surveyors the time being in force are complied with by such owner, agent or manager;
- (m) order the compliance with any or all of the provisions or conditions specified in the notice and extend period specified in the order or notice, if deemed necessary, by the Chief Inspector on the request of owner, agent or manager in writing;
- (n) conduct training and education program relating to mining, occupational safety and health and mine rescue techniques and demonstrate the use of safety equipment; and

- (o) issue certificate of proficiency to a qualified person to perform specific job or duty for which he proves himself to be competent.

(2) The Chief Inspector shall, when so requested by any person producing prima facie evidence of an offence or receive any information from any source, direct an Inspector to conduct an inquiry into an accident which has occurred at or in the mine or originated from machinery, plant, at or in the mine which has resulted or in the opinion of the Chief Inspector could have resulted in the injury, illness or death of any person working in the mine.

5. Power of the Chief Inspector to declare the local area or group of mines with respect to which an Inspector may exercise powers.---(1) The Chief Inspector may, by order in writing prohibit or restrict the exercise, by any Inspector named, or any class of Inspectors specified in the order, of any power conferred on such Inspectors by this Act, and declare the area or areas within which, or the group or class of mines with respect to which the Inspectors shall exercise their respective powers.

(2) The Inspector shall give information to the owner, agent or mine manager situated within the local area or areas or belonging to the group or class of mines, in respect of which he exercises powers under subsection (1) as to all rules which concern them respectively and as to the places where copies of such rules may be obtained.

6. Powers and functions of Health Inspector.---The Health Inspector authorized by the Chief Inspector may-

- (a) enter upon any mine or place in a mine where a person who works or has worked or intends to work is to be medically examined or where

any person who works or has worked at mine is being nursed or medically treated;

- (b) with such assistance, if any, as he think fit enter, inspect and examine any mine or any part thereof and make enquiry respecting the state and condition relating to safety and health of the persons employed in the mine;
- (c) attend any medical examination of such person and with his consent examine him or to be medically examined by any other medical specialist;
- (d) inspect first aid facilities, dispensary services provided at the mine by the owner or Government, test or view any instrument, appliances which is being or has been used in connection with any medical treatment of the employees or person injured during working in the mine and demand for any documents in which any information relating to the treatment has been recorded and make copies of or extracts from it;
- (e) enter upon any place where persons who work or have worked or intend to work at a mine or to be radiologically examined, and at a place carry out such tests, measurements and observations as may be required;
- (f) demand and examine any laboratory test or radiological photograph of the employee taken during medical examination and treatment;
- (g) by order in writing to the owner, agent, or mine manager, require any person employed in the mine to appear before him at any time

and place specified in the notice to be medically examined or to produce any book, register, record and medical prescriptions required by him;

- (h) direct the owner, agent or mine manager to make such arrangement as he deems necessary or desirable for the proper investigation and medical treatment of any disease which has affected or which tend to affect the health of persons employed in or at the mine from any Government hospital;
- (i) develop and maintain medical monitoring program for employees, investigate health related complaints and order compliance with the health provisions;
- (j) collect samples of dust, gases, vapors and other potentially toxic material for analysis;
- (k) grant fitness certificate in the prescribed form if he is of the opinion that such person is fit for employment in the mine and may refuse to issue such certificate to any person if his health is in the opinion of the Health Inspector in a condition that he can endanger his own life or safety or health of other persons employed in the mine and inform the owner, agent or mine manager of the reason for the refusal; and
- (l) perform any other function assigned to him by the Chief Inspector or the Inspector concerned from time to time.

7. Powers of special officer to enter, measure, etc.--

-Any person in the service of the Province duly authorized by a special order in writing by the Chief

Inspector or by an Inspector in this behalf may, for the purpose of inquiry, inspection, surveying, leveling or measuring in any mine, after giving not less than three days' notice to the owner, agent or mine manager of such mine, enter the mine and may survey, level or measure the mine or any part thereof at any reasonable time by day or night, but not so as unreasonably to impede or obstruct the working of the mine:

Provided that no such notice need to be given if, for reasons to be recorded in writing, the Chief Inspector or an Inspector is of the opinion that there is an emergency.

8. Functions of Surveyor.---(1) The Surveyor may, with prior permission of the Chief Inspector or an Inspector, frequently inspect the mines to-

- (a) examine and evaluate the mine development plan and work carried out by the mine owner, agent or mine manager to ascertain whether it is prepared and maintained in accordance with the provisions of this Act, and rules or any order made thereunder;
- (b) assistance to an owner, agent or mine manager in the implementation of present or proposed mine developmental plan on scientific lines as directed by the Chief Inspector or the Inspector concerned;
- (c) ensure compliance of the order issued by the Chief Inspector or an Inspector in connection with restoration of proper underground mine ventilation and

provisions for the development of clear outlets by the mine owner;

- (d) surveying, leveling and measuring in any underground and surface mine or conduct underground ventilation survey and record quality and quantity of circulating air to ascertain whether it is in conformity with the prescribed standard or not;
- (e) collect and properly maintain data pertaining to all kinds of mineral titles, mines, quarries, employees, underground and surface plans;
- (f) keep the Chief Inspector and Inspector concerned informed in writing of the activities carried out by him in the field and shall make recommendations in writing to the Chief Inspector or an Inspector; and
- (g) perform any other function assigned to him by the Chief Inspector or Inspector.

(2) The Surveyor may, after giving not less than three days' notice to the owner, agent or mine manager, enter the mine and may survey, level or measure the mine or any part thereof at any reasonable time in such a way not to impede or obstruct the workings of the mine:

Provided that no such notice needs to be given if, for reasons to be recorded in writing, the Chief Inspector or the Inspector is of the opinion that there is an emergency.

9. Facilities to be afforded to Chief Inspector or Inspectors.---(1) Every owner, agent or mine manager shall afford the Chief Inspector, and every Inspector, Surveyor and every person authorized under section 7 all reasonable facilities for making entry, inspection, examination, survey, measurement, inquiry or imparting training at mining site to persons employed in the mine under this Act.

(2) The owner, agent or mine manager of every mine shall furnish to the Chief Inspector or an Inspector concern all maps, drawings and plans of the mine, together with the plans of all contemplated changes in the manner of working in the mine or any part thereof, and appliances to make a proper inspection and all other facilities required for such entry, examination and inspection.

10. Confidentiality of information obtained.---All copies and extracts from registers or other records pertaining to any mine, and all other information acquired by the Chief Inspector or any Inspector or by any one assisting him in the course of an inspection or survey of any mine under this Act or acquired by any person authorized under section 7 in the exercise of his duties shall be disclosed to any person on his demand if required for use in the public interest or required by order of a competent court or for implementation of this Act or a Committee constituted under section 18 or inquiry committee constituted under section 38 or a Deputy Commissioner or a Judicial Magistrate or a Workmen's Commissioner appointed under the Khyber Pakhtunkhwa Workmen's Compensation Act, 2013 or an official superior to the owner, agent or mine manager concerned or any registered trade union unless the Chief Inspector, an Inspector or the Health Inspector considers that its disclosure is

detrimental to the public interest, the life, health and safety of any person employed in or at the mine.

- 11. Secrecy of the source of complaint.**---The Chief Inspector shall treat as absolutely confidential, the source of any complaint bringing to his notice a defect or breach or any provision of this Act or any rules made thereunder and shall not give any intimation to the owner, agent or mine manager that inspection was made in consequence of the receipt of such a complaint.

CHAPTER-III MINING BOARDS AND COMMITTEES

- 12. Constitution of Mining Board.**---(1) Soon after the commencement of this Act, the Secretary shall by notification in the official Gazette constitute for the Province a Mining Board, which shall consist of-

(a)	Additional Secretary Mineral Development Department;	Chairman
(b)	Chief Inspector;	Member
(c)	Commissioner Mines Labor Welfare;	Member
(d)	two persons to represent the interest of employers nominated by the Mine Owners Association Khyber Pakhtunkhwa;	Member

(e)	Two persons to represent the interest of employees nominated by the registered trade union: Provided that if there is no such union then shall be nominated and notified by the Secretary; and	Member
(f)	the Senior Inspector of Mines.	Member/Secretary

(2) The members at clause (d) and clause (e) of subsection (1) shall be appointed for a period of three years:

Provided that on expiry of the term for which he is appointed, any member shall be eligible for reappointment.

(3) Appointment, removal, resignation, and qualification of the members at clause (d) and clause (e) shall be regulated in the manner as may be prescribed.

(4) The members at clause (d) and clause (e) of subsection (1) shall be allowed travelling and daily allowance for attending the meetings of the Mining Board at the rate admissible to the BPS-18 officers of Government.

(5) The Mining Board shall conduct its business in such a manner as may be prescribed:

Provided that in the absence of prescribed procedure, the Board may conduct its business

13. Powers and functions of Mining Board.---(1)

The Mining Board may exercise all the powers and functions for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the forgoing provisions the Mining Board shall-

- (a) Recommend any amendment in this Act or the rules made there under as and when required;
- (b) To develop policies, provide mechanism for inspection, mine management, training of mine owner and workers and other related issues.
- (c) Give policy guide lines with respect to mine regulations in the Province or any legal issue connected therewith; and
- (d) Any other function which may be assigned to it in the prescribed manner.

(3) The Mining Board constituted under section 12 and the Committee constituted under section 18, shall have the powers of the Civil Court under the Civil Procedure Code, 1908 (Act No. V of 1908) for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects and every person required by the Mining Board or Committee to furnish information before it shall be deemed to be legally bound to do so within the meaning of section 176 of the Pakistan Penal Code 1860, (Act No. XLV of 1860).

14. Constitution of Board of Examiners.---Within three months of the commencement of this Act, the Secretary shall, by notification, constitute a Board of Examiners which shall consist of the Chief Inspector of Mines, who shall be the Chairman of the Board, and three members possessing relevant technical qualification who shall be appointed by the Secretary for a term of three years:

Provided that on the expiry of the term for which he has been appointed, any member shall be eligible for re-appointment.

15. Powers and functions of Board of Examiners.--

-(1)The Board of Examiners may grant the following competency certificates, namely:

- (a) First and Second Class Certificate of competency to manage the mines;
- (b) Certificate of Competency to surveyors to survey the working of mines;
- (c) Sirdar's Certificate to make the inspections of mines;
- (d) Blaster/Shot firer's Certificate to conduct blasting operations in mines; and
- (e) any other certificate of competency as may be prescribed.

(2) For the purpose of sub-section (1) the Board of Examiners shall conduct examinations and prescribe the course for each certificate in the manner as may be prescribed.

16. Powers of the Board of Examiners to cancel certificates, etc.--

Where it appears to the Board of examiners that any person holding any certificate, has been guilty of misconduct or incompetency in the discharge of his duties or has been convicted of any offence made punishable by this Act with fine or imprisonment, the Board shall cancel or suspend the certificate granted by it to such person.

17. Recovery of expenses.---The Secretary may direct that the expenses of any enquiry conducted by the Mining Board or by a Committee constituted under section 18, shall be borne in whole or in part by the owner or agent or mine manager concerned and the amount so directed to be paid may, on application by the Chief Inspector or an Inspector to a Deputy Commissioner having jurisdiction at the place where the mine is situated or where such owner or agent or mine manager is for the time being residing, be recovered by the distress and sale of any movable property within the limits of such Deputy Commissioner's jurisdiction belonging to such owner or agent or mine manager.

18. Committees.---(1) There shall be a Committee to be notified by the Secretary to which any question relating to a mine under this Act may be referred by the Secretary.

(2) The Committee constituted under sub-section (1) shall consist of-

- (a) a Chairman nominated by the Secretary;
 - (b) a duly qualified person nominated by the Secretary to dispose of the question referred to the Committee; and
 - (c) two persons of whom one shall be nominated by owner, agent or mine manager concerned and the other shall be nominated by the Secretary to represent the interest of the persons employed in the mine.
- (3) No Inspector or person employed in or in the management of any mine concerned shall serve as

Chairman or member of a Committee appointed under this section.

(4) The Committee shall-

- (a) proceed to inquire into the questions or matter referred to it;
or
it
- (b) hear and record such information as the Chief Inspector, an Inspector, owner, agent or mine manager concerned, may place before it; and
- (c) Intimate its findings and recommendation to the Secretary for implementation orders.

(5) On receiving such report, the Secretary shall pass orders in conformity therewith unless the Chief Inspector or the owner, agent or mine manager has lodged an objection to the findings and recommendations of the Committee, in which case the Secretary may proceed to examine such findings and recommendations and pass such order and in such a manner as he may think fit. If an objection is lodged by the Chief Inspector or Inspector, notice of the same shall forthwith be given to the owner, agent or mine manager.

(6) Secretary may give directions as to the remuneration, if any, to be paid to the members of the Committee or any of them, and as to the payment of expenses of the inquiry including such remuneration to be paid by the owner, agent or manger of the mine.

CHAPTER-IV MINING OPERATIONS AND MANAGEMENT OF MINES

19. Notice to be given before commencement of mining operations.--(1) The owner, agent or mine manager shall one month before the commencement of any mining operations, give to the Chief Inspector and to the Deputy Commissioner of the District in which the mine is situated, notice in writing in such form and containing such particulars relating to the mine as may be prescribed.

(2) If the proposed operations in respect of which notice is given under sub-section (1) are not commenced within sixty days from the date on which the notice was given, the said notice shall be deemed to have expired and no mining operations shall commence unless a second notice has been given in accordance with sub-section (1).

20. Mine Manager.---(1) Every mine shall be under one mine manager, who shall have the prescribed qualifications and experience and shall be responsible for the control, management and direction of the mine and the owner or agent of every mine shall appoint himself or some other person, having such qualification and experience to be a Mine Manager.

(2) No mining operation shall be allowed to be conducted without the supervision of a Mine Manager as required under sub-section (1).

(3) If any mine is worked without there being a mine manager as required by sub-section (1), the owner and agent shall each be deemed to have contravened the provisions of this section.

21. Mine Surveyor.---(1) The owner, agent or mine manager of every underground mine shall appoint a duly qualified surveyor, who shall be responsible for the accurate underground and surface plan of the mine drawn

and updated in the prescribed form and shall also be responsible for necessary measurements, calculations, assessment and shall assist the mine manager, mining engineer and mine supervisors in the development of the mines.

(2) In case of surface mining if, it appears to the Inspector that the appointment of Surveyor by the owner is reasonably necessary, the Chief Inspector on request of the Inspector may direct the owner, agent or mine manager in writing to appoint a Surveyor within such time as specified in the order.

(3) If any dispute arises between the Inspector and the mine owner, agent or mine manager on the issue of appointment of a Mine Surveyor, the same shall be referred to the Chief Inspector and the decision of the Chief Inspector in the dispute shall be final.

(4) If any mine is worked without a Mine Surveyor as required by sub-section (1) or sub-section (2), the owner, agent, or mine manager shall each be deemed to have contravened the provisions of this section.

22. Duties and responsibilities of owner, agent and mine manager.--(1) The owner, agent and mine manager of every mine shall be responsible that all operations carried on in connection therewith a mine are conducted in accordance with the provisions of this Act and rules and of any order made thereunder.

(2) Without prejudice to any of the provision of this Act or any other law for the time being in force, the owner of every mine shall appoint-

- (a) sufficient number of competent persons, having the requisite qualification and experience for the effective supervision of all mining operations, equipments, installations at

the mine or part thereof, in such manner and capacity as may be prescribed to ensure compliance with the provisions of this Act and the rules or any order made thereunder; and

- (b) such number of competent persons as may be required for carrying out mining operations in an effective and safe manner and specify the functions, duties and responsibilities in respect of each such competent person.

(3) The owner, agent or mine manager shall, in respect of each employee referred to above forthwith send letter of appointment of such employees to the Chief Inspector and Inspector in writing specifying their names, address, qualification, duties and responsibilities for which they have been appointed.

(4) In the event of any contravention of any of the provisions of sub-section (1), (2) and (3), the owner, agent, or mine manager shall each be deemed guilty of such contravention unless he proves that he had taken all reasonable means and to the best of his knowledge enforcing these provisions to prevent such contravention.

CHAPTER-V

PROVISIONS TO HEALTH AND SAFETY

23. Conservancy.---There shall be provided and maintained for every mine latrine and urinal accommodation of such kind, on such scale and such supply of water fit for drinking by the owner, as may be prescribed.

24. Canteens.---At every mine wherein more than hundred persons are ordinarily employed, a canteen of such standard, as may be prescribed, shall be provided for the use of persons employed therein by the owner.

25. Shelters.---There shall be provided and maintained for use of persons working above ground in a mine, during intervals of rest, shelters of such standard and on such scale by the owner as may be prescribed.

26. Mine office.---There shall be provided and maintained an office at or near the mine for the Mine Manager and concerned staff of such standard and scale as may be prescribed.

27. Medical appliances.---(1) In every mine there shall be provided and maintained so as to be readily accessible during all working hours, such numbers of first aid boxes or cupboards or rooms equipped with such contents by the owner as may be prescribed.

(2) Nothing except the prescribed contents shall be kept in a firstaid box or cupboard or room.

(3) Every first-aid box or cupboard or room shall be kept in the charge of a responsible person who is trained in such first-aid treatment, as may be prescribed, and who shall always be readily available during the working hours of the mine.

(4) In every mine there shall be made such arrangements, as may be prescribed, for the conveyance to hospitals or dispensaries of persons who, while employed in the mine, suffers bodily injury or becomes ill.

(5) The first-aid room shall be of such size, with such equipment and in charge of such medical and nursing staff as may be prescribed.

28. Powers of Inspectors when causes of danger not expressly provided in this Act.---

(1) If in respect of any matter for which no express provision is made by or under this Act, it appears to the Chief Inspector or the Inspector that any mine, or any part thereof or any matter, thing or practice in or connected with the mine, or with the control, supervision, management or direction thereof, is posing risk, dangerous to human life, health, safety, or defective so to threaten, or tend to the bodily injury of any person, he shall give or send notice in writing thereof to the owner, agent or mine manager of the mine and shall state in the notice the particulars which he considers the mine or part thereof or the matter, thing or practice to be dangerous or defective and require the same to be remedied within such time and in such manner as may be specified in the notice.

(2) Where the owner, agent or mine manager fails to comply with the notice given under sub-section (1) within the period specified therein, the Chief Inspector or the Inspector authorized by the Chief Inspector may, by order in writing, prohibit the employment or mining operation in or about the mine or any part thereof of any person whose employment is not in his opinion reasonably necessary for securing compliance with the terms of the notice till the removal of danger.

(3) Without prejudice to the generality of the provisions contained in sub-section (1), the Chief Inspector or the Inspector may, in any area to which Government may by notification declares that this sub-section applies to all mines in the Province, other than mines of nuclear substances, order in writing addressed to the owner, agent or mine manager to prohibit the extraction or reduction of pillars in any part of the mine if, in his opinion, such operation is likely to cause the crushing of pillars or the premature collapse of any part of the workings or otherwise endanger the mine or the life, health or safety of persons

employed therein, or if, in his opinion, adequate provision against the outbreak of fire or flooding has not been made by providing for the sealing off and isolation of the part of the mine in which such operation is contemplated and for restricting the area that might be affected by a fire or flooding.

(4) If the Chief Inspector or the Inspector authorized in this behalf by a general or special order in writing by the Chief Inspector, is of the opinion that there is urgent and imminent danger to the life, health or safety of any person employed in any mine or part thereof, he may, by an order in writing containing a statement of the grounds of his opinion, prohibit, until he is satisfied that the danger has been removed, the employment in or about the mine or part thereof of any person where such employment is not in his opinion reasonably necessary for the purpose of removing the danger.

(5) The period specified in the notice issued under sub-section (1), and order issued under sub-sections (2), (3) or (4), as the case may be required for removal of danger and restoration of safety to the satisfaction and disposal of threat may, on the application of the owner, agent or mine manager be extended by the Chief Inspector but the total period extended on the application shall not exceed ninety days.

(6) Where notice has been given under sub-section (1) or an order has been made under sub-sections (2), (3) or (4) by the Inspector, the owner, agent or mine manager may, within thirty days after the receipt of the order, as the case may be, appeal against the same to the Chief Inspector who may confirm, modify or cancel the notice or order.

(7) The Chief Inspector or the Inspector sending a notice under sub-section (1) or making an order under sub-sections (2), (3) or (4) and the Chief Inspector making an order (other than an order of cancellation) in appeal under

sub-section (5) shall forthwith report the same to the Secretary and shall inform the owner, agent or mine manager that such report has been so made.

(8) If the owner, agent or mine manager objects to a notice sent under sub-section (1) or to an order made under sub-sections (2), (3) or (4) by the Chief Inspector or Inspector or an order made by the Chief Inspector under sub-section (5), he may, within twenty days after the receipt of the notice containing the requisition or of the order or after the date of the decision of the appeal, as the case may be, send his objection in writing, stating the grounds thereof, to the Secretary, who shall, ordinarily within a period of one month from the date of receipt of the objection, refer the same to a Committee.

(9) Every notice containing the requisition made under sub-section (1), or order made under sub-sections (2), (3),(4) or (6) to which reference is made under sub-section (8), shall within one month of the receipt of the reference, make recommendation to the Secretary.

(10) The Secretary shall within fifteen (15) days of the receipt of recommendation under sub-section (9) pass orders based on the recommendations of the Committee:

Provided that where the Secretary issues orders contrary to the recommendation of the Committee, he shall record his reasons in writing.

(11) Nothing in this section shall affect the powers of a Magistrate under section 144 of the Code of Criminal Procedure, 1898 (Act V of 1898).

29. Responsibility of the owner, agent and mine manager to respond to section 28.---(1)Any instruction, notice or order received under subsections (1), (2), (3) and (4) of section 28, the owner, agent or mine manager shall-

- (a) immediately without delay, comply with the instructions, or order communicated through registered notice with in such period as specified in the notice;
- (b) prepare a detail action plan referring to the Inspector various instructions, notice or order and to designate specific persons to perform the necessary functions;
- (c) furnish a copy of such action plan within one month of the receipt of instructions, notice or order to the Chief Inspector for consultation and change if considered necessary by the Chief Inspector; and
- (d) make sure that the action plan is executed under the direct supervision of mine manager or by competent person appointed by mine manager for the purpose. If any difficulties arise out of implementation of the plan, it must be and without delay brought in writing along with practicable proposals in the notice of the Chief Inspector, for further necessary action and implementation.

(2) If the instructions are unfound, the owner, agent or mine managers, as the case may be, approach to the Chief Inspector to grant declaratory order and interdict.

30. Powers of Chief Inspector to issue order of closure of a mine or part thereof.---(1)The Chief Inspector or an Inspector, authorized in writing by the Chief Inspector may issue an order of closure of a mine or part thereof, if he has reasons to believe that-

- (a) an owner, agent or mine manager has failed to comply with the provisions of

section 28 or it clearly appear to the Chief Inspector that the mine or part thereof is detrimental to the public interest or causing severe damages to property, residential or commercial buildings or immediate threat to lives which is unavoidable;

- (b) the mine or part thereof or adit, level, incline, shaft where mining operations are being carried out over and under without leaving natural pillars of adequate size:

Provided that the Chief Inspector has reason to believe that certain circumstance exist there depending upon the condition of supports applied, geological conditions of formation and the size of natural pillar will not affect safety of the mine, the Chief Inspector or Inspector allows mining operations on such terms and conditions as he may deem necessary for safety of the mines and workers;

- (c) the adits being driven parallel less than 60 feet apart from one another; provided that the Chief Inspector has a reason to believe that the rock is composed of competent strata or formation and free from all kinds of geological defects and there is no apparent danger or threat to lives of workers from fall or collapse of mine or part thereof, the Chief Inspector may allow the operations on such terms and conditions as he may consider necessary;

- (d) the mine or part thereof or adit where mining operations above or below ground approaching near or have approached near or tend to approach near causing or have caused or tend to cause damages to built up area, house, general public facilities, public road, water tank, perennial springs, well, water or gas pipe line, public park, graveyard;
- (e) the surface mine or part thereof where mining operations near the buildup area being carried out without any designed pattern and in reckless manner and causing or have caused or tend to cause damages to public or private property (school, office, hospital, house, shop, store, etc.) or have caused or to cause injury, or fatal accident to humans or animals or defective so to threaten;
- (f) the surface mine or part thereof where mining operations have been or is being resulted in severe public complaints against fly rocks, shock waves and ground vibrations resulted from unplanned, uncontrolled quarry blast and causing or have caused injuries, damages to human, animals or property or developed objectionable cracks in residential or commercial buildings or tend to threaten to the nearby surrounding;
- (g) any underground mine, or part thereof or adit where mining operations are carried out under active and destructive

land subsidence resulted from extraction of mineral on large scale through underneath mining and the Chief Inspector or an Inspector has reason to believe that further mining there may result in catastrophe;

- (h) the mine, adit or part thereof where surface of the land above the mine workings has clearly shown fractures, fissures, resulted from underground mining operations and where the underground conditions of the mine seem deteriorated or immediate roof of the mine has fractured as a result of enormous vertical and lateral stresses and safety is highly precarious;
- (i) any mine or quarry where mining operations is or have resulted in dispute between the mine owners or between owner and workers or any other circumstances which may cause danger to lives or interest of owners or workers or both;
- (j) the mine or part thereof where firedamp or coal dust explosion has occurred or a mine where major accident has taken place or a mine or part thereof where spontaneous combustion or fire is active and there is apparent danger to lives and health from solids, noxious, toxic, poisonous and inflammable gases present more than permissible limits in the mine;
- (k) the mine or part thereof contains oxygen, methane

(firedamp) or other solids or gases like carbon monoxide (white damp), carbon dioxide (blackdamp), hydrogen, hydrogen sulphide (stink damp), sulfur dioxide, nitrous fumes or air-borne dust exceed the maximum permissible limits;

- (l) extraction of minerals through single entry (adit) having no second outlet but not include exploratory adit where all precautionary measures for safety of mine and workers have been adopted; and
- (m) any mine or part thereof which is not meeting the requirements of the provisions relating to health, safety and environment laid down under this Act and rules or any order made thereunder but also there is apparent and unavoidable danger to safety, lives and health of persons employed in the mine.

(2) If an owner, agent or mine manager is aggrieved by any order issued by an Inspector under sub-section (1) the owner, agent or mine manager may, within thirty days after the communication of the impugned order, lodge an appeal against such order to the Chief Inspector, and the Chief Inspector shall, after he has considered the ground of the appeal and the Inspector's reasons for the issuance of the order, confirm, set aside, or modify the decision.

(3) If the owner, agent or mine manager is aggrieved by any order issued by the Chief Inspector may, within thirty days after the date of the decision of the appeal, send his objection in writing, stating the grounds thereof to

Secretary. The decision of the Secretary shall be final and binding on all concerned.

(4) If an owner, agent or mine manager is aggrieved by any order issued by the Chief Inspector either under sub-section (1) or sub-section (2) he may, within thirty days after the communication of the impugned order, lodge an appeal against such order to the Secretary, and the Secretary shall, after he has considered the ground of the appeal and the Chief Inspector's reasons for the decisions, confirm, set aside, or modify the decision. The decision of the Secretary shall be final and binding by all concern.

31. Notice to be given of accidents.---(1) Whenever there occurs in or about a mine-

- (a) an accident causing loss of life or serious bodily injury in connection with mining operations;
- (b) an accidental explosion, ignition, spontaneous heating, outbreak of fire or appearance of smoke or eruption or inrush of water or other liquid matter; or
- (c) an influx of inflammable or noxious gases; or
- (d) a breakage of ropes, chains or other gear by which persons or materials are lowered or raised in a shaft or an incline; or
- (e) a bursting of any equipment containing steam, compressed air or other substance at high pressure; or
- (f) breakage, fracture or failure of any essential part of any machine or

apparatus whereby the safety of person may be in danger.

- (g) an over winding of cages or other means of conveyance in any shaft while persons or materials are being lowered or raised; or
- (h) an electric shock or burn caused by contact with a conductor carrying more than 25 volts; or
- (i) subsidence or land sliding in the mining area; or
- (j) premature collapse of any part of the working; or
- (k) a rock-burst in working below ground; or
- (l) an instantaneous failure of a pillar, part of a pillar or several pillars of coal in workings below ground; or (m) any accident due to explosive; and (n) any other accident in mine:

The owner, agent or mine manager shall give notice in writing of the occurrence on the prescribed form to the Chief Inspector and within such time as may be prescribed.

(2) Where a notice given under sub-section (1) relates to an accident causing loss of life, the Inspector shall make, or, where the authority receiving the notice is other than the Inspector, that authority shall cause the Inspector concerned to make, an inquiry into the occurrence within fifteen days of the receipt of such notice or an information received otherwise.

(3) When an accident causing loss of life or serious bodily injury to any person occurs, the place of accident shall not be disturbed or altered for fifteen days from the date of such accident unless the Inspector has earlier

inspected it or given intimation that it is not proposed to make an inquiry:

Provided that the place of accident may be disturbed if it is necessary for securing the safety of the mine or the persons employed therein, subject to the following conditions, namely:

- (a) the decision that it is necessary to disturb the place must be taken by the mine manager;
- (b) the disturbance must not prejudice to subsequent investigation;
- (c) the workers representative must have reasonable opportunity to inspect the place of accident if he wishes;
- (d) an accurate plan has been made and copies thereof made available to the Inspector and the workers representative; and
- (e) everything which is relevant to the accident must be preserved as far as possible, in the condition in which it was at the time of accident.

(4) Wherever there occurs in or about a mine an accident other than those specified in sub-section (1) causing reportable injury to any person, the owner, agent or mine manager shall enter details of such occurrence in the register in the prescribed form and copies of such entries shall be sent by the owner, agent or mine manager within fourteen days after the 30th day of June and the 31st day of December in each year to the Chief Inspector.

32. Notice of occupational diseases.---(1) Where any person employed in a mine contracts or is believed to have contracted any disease, notified by Government in the official Gazette under section 35, as an occupational disease peculiar to any mining operation, the owner, agent or mine manager, as the case may be, shall send notice thereof to the Chief inspector, an Inspector or the Health Inspector having jurisdiction of the area, in such form and within such time as may be prescribed.

(2) The Chief Inspector may direct the Inspector or the health Inspector to investigate into the matter within such time as specified in the order or he may make requisition to the health authorities of the District to provide the services of such medical practitioners and laboratory or X-ray facilities if required on such terms and conditions as he thinks fit to assist the Chief Inspector, an Inspector or the Health Inspector for the purpose of this section within such time as specified in the requisition by the Chief Inspector.

(3) If the Chief Inspector, the Inspector or the Health Inspector has a reason to believe that any employee working in or at the mine has contracted a disease notified under section 35 or a disease contracted as a result of working in or at the mine in risky environment, the Chief Inspector may refer that employee to any Government hospital or to any other reputed medical Centre or medical specialist not in the control of Government, for necessary medical check-up and opinion for further investigation and treatment if deemed necessary.

33. Report by Inspector or Health Inspector.---If a medical specialist or Health Inspector attends a person who is or has been employed in mine and who is or is believed by the medical specialist or Health Inspector to be suffering from any disease notified under section 35, or

disease resulted from working in risky environment or whenever the Inspector suspects that any person medically examined or treated by a medical specialist is suffering from a disease listed under section 35, the Inspector shall without delay forthwith communicate to the Chief Inspector his findings at the examination, and shall on demand by the Chief Inspector furnish such further information at his disposal in regard to the examination or the health of such person as the Chief Inspector may require stating therein-

- (a) the name and address of the patient;
- (b) medical checkup report duly signed and stamped by the physician or Health Inspector who has medically examined the patient;
- (c) the disease from which the patient is or is believed to be suffering; and
- (d) the name and address of the mine, the name and address of the owner, agent or mine manager in which the patient was last employed.

34. Cost of medical examination and treatment.---

(1) Where the report submitted under section 33 is confirmed to the satisfaction of the Chief Inspector through certificate issued by medical specialist or Health Inspector that the employee is suffering from a disease notified under section 35, the Chief Inspector shall forward the case with necessary recommendation to the mine owner or to the Commissioner Mines Labour Welfare as the case may be for payment of all expenses incurred by the patient suffering from occupational disease and the cost to keep the employ under observation if advised by the medical practitioner or Health Inspector

(2) The recommendation made by the Chief Inspector under subsection (1) shall be binding upon the mine owner and the Commissioner Mines Labour Welfare.

(3) The Chief Inspector if so advised by the medical specialist in writing, he may, direct the owner, agent or mine manager to shift for any specified period a person who has contracted an occupational disease or diseases to such working place where there is less or no danger of aggravation of the disease.

35. Occupational diseases notified by Government.-

--Government may by notification declare any disease to be occupational diseases including the following, namely:

- (a) asbestosis.
- (b) carcinoma of the lungs;
- (c) carbon monoxide poisoning;
- (d) dermatitis;
- (e) heatstroke;
- (f) loss of hearing acuity;
- (g) nystagmus;
- (h) pneumoconiosis;
- (i) Silicosis;
- (h) tuberculosis;
- (i) tunnel workers Anemia;
- (j) tetanus; and
- (k) any other disease notified from time to time as occupational disease.

36. Medical certificate of fitness.---The medical practitioner or health Inspector subject to the provisions of this Act and rules made thereunder, shall on application made in the prescribed manner by any employee, owner, agent or mine manager who intends to employ a person to perform risk work in a mine, who is not in possession of a valid certificate of fitness, medically examine that person in a manner as he deems fit and issue to such person a certificate of fitness in the prescribed form. The owner,

agent or mine manager shall provide all kinds of facilities to carry out such medical examination to determine the fitness of the employee on such date, time and place fixed by the Chief Inspector.

37. Renewal of medical certificate of fitness.---(1)

Every person who performs work in or about the mine whether above or below ground shall be medically examined at such intervals as may be determined by the Chief Inspector.

(2) No person shall be allowed to enter into a mine for the purpose of work or employment in a mine unless he is in possession of medical fitness certificate issued by the medical practitioner.

38. Power of Secretary to appoint inquiry committee in cases of accidents.---

(1) When any accidental explosion, ignition, outbreak of fire or irruption of water or any other accident has occurred in or about any mine, the Secretary, if he is of opinion that a formal inquiry into the causes of, and circumstances attending, the accident ought to be held, may appoint inquiry committee to hold an inquiry, consisting of persons possessing experience and special knowledge of the mining law.

(2) The Committee appointed to hold such enquiry shall have all the powers of a Civil Court under the Civil Procedure Code, 1908 (Act No. V of 1908), for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects and every person required by such person as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the Pakistan Penal Code, 1860 (Act No. XL of 1860).

(3) The Committee holding an inquiry under subsection (1) may exercise such of the powers of an Inspector under this Act as it may think fit or expedient to exercise for the purposes of the inquiry.

(4) The Committee holding an inquiry under subsection (1) shall make a report to the Secretary stating the causes of the accident and its circumstances and adding any observation which it may think fit to make.

(5) The Committee shall consist of a member as Inspector of Mines from other than the concerned Inspector where the accident has occurred.

39. Publications of reports.---The Secretary may cause any report submitted by the Committee constituted under section 18 and shall cause every report submitted by the Inquiry Committee constituted under section 38 to be published at such time and in such manner as he may think fit.

CHAPTER-VI HOURS AND LIMITATION OF EMPLOYMENT

40. Weekly day of rest.---No person shall be allowed to work in a mine for more than six days in any one week.

41. Hours of work aboveground.--- (1) A person employed above ground in a mine shall not be allowed to work for more than eight hours in any day including rest interval of one hour.

48 hour week Hours of work (Industry) Convention 1919

(2) The periods of work of any such person shall be so arranged that along with his intervals for rest, they shall not in any day spread over more than ten and half hours inclusive of overtime, and that he shall not work for more

than five hours continuously before he has had an interval for rest of at least half an hour:

Provided that the Chief Inspector, may, for reasons to be recorded in writing and subject to such conditions as he may deem fit to impose, permit the spread-over or extend a period not exceeding twelve hours in any day.

(3) Persons belonging to two or more relays shall not be allowed to do work of the same kind above ground at the same moment:

Provided that for the purposes of this sub-section persons shall not be deemed to belong to separate relays by reason only of the fact that they receive their intervals for rest at different times.

42. Hours of work below ground.---(1) A person employed below ground in a mine shall not be allowed to work for more than eight hours in any day including rest interval for one hour:

Provided that subject to the previous approval of the Chief Inspector, the daily hours specified in this sub-section (1) may be exceeded in order to facilitate the change of relays.

(2) Work of the same kind shall not be carried on below ground in any mine for a period spreading over more than eight hours in any day except by a system of relays so arranged that the periods of work for each relays are not spread over more than eight hours.

(3) No person employed in a mine shall be allowed to be in any part of the mine below ground except during the periods of work shown in respect of him in the register kept under sub-section (1) of section 53.

43. Special provision for night relays.---Where a person employed in a mine works in

a relay which extends beyond mid night-

- (a) for the purpose of section 42, a weekly day of rest shall remain in his case a period of twenty four consecutive hours beginning when his relay ends; and
- (b) the ensuing day for him shall be deemed to be the period of twenty-four consecutive hours beginning at the end of the period of work fixed for the relay, and hours he has worked after midnight shall be counted in the previous day.

44. Prohibition of employment of certain persons.--

-No person shall be required or allowed to work in a mine who has already been working in any other mine within the preceding twelve hours.

45. Notice regarding hours of works.---(1) The owner, agent or mine manager of every mine shall cause to be posted on a notice board outside the office of the mine a notice in the prescribed form stating the time of the commencement and of the end of work at the mine and, if it is proposed to work by a system of relays, the time of the commencement and of the end of work for each relay. The notice shall also state the time of the commencement and of the end of the intervals for rest fixed for persons employed above ground. A copy of each such notice shall be sent to the Chief Inspector, and the Inspector concerned.

(2) Where it is proposed to make any alteration in the time fixed for the commencement or for the end of work in the mine generally or for any relay or in the rest intervals fixed for persons employed above ground, an amended notice in the prescribed form shall be posted on the notice board outside the office of the mine not less than seven days before the change is made and a copy of such notice

shall be sent to the Chief Inspector and the Inspector concerned, not less than seven days before such change.

(3) No person shall be allowed to work in a mine otherwise than in accordance with the notice required by sub-section (1).

46. Employment of women.---(1) No woman shall be employed in any part of a mine which is below ground.

(2) No woman shall be allowed to work in a mine above ground between the hours of 7 P.M. and 6 A.M.

Night work (Women) Convention
(Revised) 1948

(3) The provisions of sub-sections (1) and (2) shall not apply to women who do not perform manual work and are employed in health services:

Provided that such women shall be allowed an interval of not less than eleven hours between the termination of the employment on any one day and the commencement of the next period of employment.

47. Exemption of persons holding supervisory positions from hours and limitation of employment.---

(1) Nothing in sections 41, 42, 44, subsection (3) of section 45 and section 46 shall apply to persons who may by rules be defined to be persons holding responsible position of managerial or technical character or employed in health services or employed in any confidential capacity.

(2) For the purposes of sub-section (1), the following persons are exempted from restriction on weekly or daily working hours either above ground or below ground working in more than one mine within the proceeding twelve hours, etc. as provided by section 41, 42, 44, 45 and 46, namely:

- (i) Assistant;
- (ii) Managers;
- (iii) Under-Managers;
- (iv) Over-Man;
- (v) Mechanical Engineers;
- (vi) Engine Drivers;
- (vii) Electricians;
- (viii) Electrical Engineers;
- (ix) Driller Incharges;
- (x) Blaster;
- (xi) Surveyors;
- (xii) Inspectors of works;
- (xiii) Clerks;
- (xiv) Overseers;
- (xv) Doctors;
- (xvi) Dispensers;
- (xvii) Health Officers; (xviii) Welfare Officers; and (xix) Labour Inspectors.

48. Exemption from provisions regarding employment.---(1) In case of an emergency involving serious risk to the safety of the mine or of persons employed therein or in case of an accident whether actual or apprehended, or in case of any urgent work to be done to machinery, plant, equipment of the mine as a result of breakdown of such machinery, plant or equipment, the mine manager may, subject to the provisions of section 28, permit persons to be employed in contravention of sections 40, 41, 42 and section 44 or sub-section (3) of section 47 on such work as may be necessary to protect the safety of the mine or of the persons employed therein:

Provided that in case of any urgent work to be done to machinery, plant or equipment under this section, the mine manager may take action permitted by this Act, although

the production of mineral would thereby be incidentally affected. Any action so taken shall not exceed the limits necessary for the purpose of availing serious interference with the ordinary working of the mine.

(2) Every action taken by the mine manager under subsection (1) shall immediately be recorded by him together with the circumstances relating thereto and a report thereof shall also be made to the Chief Inspector or the Inspector concerned.

(3) When as a result of grant of an exemption to any mine from the provisions of section 41, any person employed therein is deprived of any of the weekly days of rest, he shall be allowed within two months from the date on which the weekly day of rest was due, compensatory days of rest equal in number to the days of rest of which he has been deprived.

(4) In case of prescribed processes which are required by their nature to be carried on continuously by a succession of shifts, the limit of hours of work provided in section 42 or section 43 may, with the prior approval of the Chief Inspector, be raised to not more than sixty hours in any week or ten and a half hours in any day.

(5) In exceptional cases of pressure of work, the Chief Inspector may grant temporary exemption to a mine from the provisions of sections 42, 43 or 44 for a period not exceeding ninety days in any calendar year, within the maximum limits of-

- (a) ten and a half hours of work on any one day; and
- (b) twelve hours of spread over, inclusive of intervals for rest or meal, in any one day.

(6) Subject to the maximum limits specified in sub-section (4), the Secretary may, by order grant permanent exemption, to such extent and subject to such conditions as may be specified in the order, to a class of workers engaged either on preparatory or complementary work which must necessarily be carried on outside the mines or on work which is essentially intermittent.

49. Extra wages for overtime.---(1) Where in a mine a person works for more than eight hours in any day or works for more than forty-eight hours in any week, whether above ground or below ground, he shall in respect of such overtime work be entitled to wages at the rate of twice his ordinary rate of wages, the period of overtime work being calculated on a daily basis or weekly basis, whichever is more favorable to him.

Explanation.---In this sub-section “ordinary rate of wages” means all remuneration capable of being expressed in terms of money which would, if the terms of contract of employment, express or implied, were fulfilled, be payable to a worker in respect of his employment or of work done in such employment, but does not include-

- (a) the value of any house-accommodation, supply of light, water, medical attendance or other amenity;
- (b) any contribution paid by the owner to any pension fund or provident fund;
- (c) any travelling allowance or the value of travelling concession;
- (d) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or

- (e) any gratuity, bonus, overtime, allowance or share in profits of the mine.

(2) Where any person employed in a mine is paid on a piece-rate basis the Chief Inspector, in consultation with the employer concerned and the representatives of the persons employed in the mine may, for the purposes of this section, fix time rates as early as possible equivalent to the average rate of earnings of the persons so employed, and the rates so fixed shall be deemed to be the ordinary rates of wages of such persons.

(3) The Chief Inspector may prescribe the registers that shall be maintained in a mine for the purpose of securing compliance with the provisions of this section.

50. Prohibition of employment of children.---(1) No child shall be employed in a mine or be allowed to be present in any part of a mine which is above or below ground.

(2) If a child is found in the premises of a mine, he shall until the contrary is proved, be deemed to be working in the mine.

51. Employment of person below eighteen or above sixty years of age.---(1) After commencement of this Act, no person below eighteen or above sixty years of age other than those employed in managerial or supervisory categories shall be allowed to work in any mine or any part thereof either below or above ground, where any operation connected with or incidental to any mining operation is being carried on.

(2) Notwithstanding anything in sub-section (1), apprentices and other trainees who have not completed eighteen years of age may be allowed to work subject to the production of fitness certificate and under proper supervision in a mine or part thereof by mine manager:

Provided that in case of apprentices and trainees, prior approval of the Chief Inspector shall be obtained before they are allowed to work.

52. Power to require medical examination.---(1) Where the Chief

Inspector, the Inspector or the Health Inspector, as the case may be, is of the opinion that any person employed in a mine otherwise than an apprentice or other trainee is below eighteen years of age, the Chief Inspector, an Inspector or the Health Inspector, as the case may be, may serve on the owner, agent or mine manager, a notice in writing requiring that such person shall be examined by a qualified medical practitioner or health Inspector and such person shall not, if the Chief Inspector, an Inspector or the Health Inspector so direct, be employed or permitted to work in any mine until he has been so examined and has been certified that he is of eighteen years of age.

(2) Every certificate granted by the qualified medical practitioner on a reference under sub-section (1) shall, for the purpose of this Act, be conclusive evidence of the matters referred therein.

53. Registration of employees.---(1) For every mine whether above or below ground, there shall be kept in the prescribed form and place a register of all persons employed in the mine showing in respect of each such person-

- (a) name, father name and address of the employee;

- (b) date of birth and the nature of his employment;
- (c) the period of work fixed for him;
- (d) the intervals of rest, if any, to which he is entitled;
- (e) the days of rest to which he is entitled; and
- (f) where work is carried on by a system of relays, the relay to which he belongs.

(2) The entries in the register prescribed by sub-section (1) shall be such that employees working in accordance therewith would not be working in contravention of any of the provisions of this Chapter.

(3) No person shall be employed in a mine until the particulars required by sub-section (1) have been recorded in the register in respect of such person and no person shall be employed except during the periods of work shown in respect of him in the register.

(4) The employees whose particulars are entered in the register under sub-section (1) shall be deemed to be registered employees.

CHAPTER-VII LEAVE AND HOLIDAYS WITH WAGES

54. Annual leave with wages.---(1) Every person who has completed one year of continuous service commencing from the first day of January in a mine

shall be allowed during the subsequent period of twelve months leave with wages for a number of days calculated, at the rate of-

- (a) one day for every seventeen days of work performed below ground during the previous period of twelve months; and
- (b) one day for every twenty days of work performed above ground during the previous period of twelve months:

Provided that a period of leave shall be inclusive of any holiday which may occur during such period.

- (2) One year of continuous service referred to in sub-section (1) shall be deemed to have been completed-

- (a) in the case of the person employed below ground in a mine, if he has during the year put in attendance for not less than one hundred and ninety attendance at the mine; and
- (b) in the case of a person employed above ground in a mine, if he has during the year put in attendance for not less than two hundred and forty attendance in the mine.

- (3) A person whose service commences otherwise than on the first day of January shall be entitled to leave with wages in the subsequent year at the rate specified in sub-section (1) if-

- (a) in the case of a person employed below ground in a mine, he has put in

attendance for not less than one half of total number of days during the remainder of the year; and

- (b) in the case of a person employed above ground in a mine, he has put in attendance for not less than two third of the total number of days during the remainder of the year.

- (4) If a person employed in a mine does not, in any such period of twelve months, take the leave to which he is entitled under sub-section (1) either in whole or in part, such leave not taken by him shall be added to the leave to be allowed to him under that sub-section in the succeeding period of twelve months:

Provided that such person shall cease to earn leave under this

section when the leave due to him amounts to twenty days:

Provided further that any leave applied for by a person but

refused by the owner, agent or mine manager for any reason shall be added to the credit of such person beyond the aforesaid limit.

- (5) Where a person employed in a mine is discharged or dismissed from service or quits his employment or is superannuated or dies while in service, he or his heirs or his nominee, as the case may be, shall be entitled to wages in lieu of leave due to him calculated at the rate specified in subsection(1) if-

- (a) in case of a person employed below ground in a mine, he has put in attendance for not less than one half of the total number of days from the date

of his employment to the date of his discharge or dismissal or quitting of an employment or superannuation or death;

- (b) in case of a person employed on surface in a mine, he has put in attendance for not less than two-third of the total number of days from the date of his employment to the date of his discharge or dismissal or quitting of an employment or superannuation or death; and
- (c) payment of such wages shall be made by the owner at the rate specified in section 57, where the person is discharged or dismissed from service or quits employment or superannuated, before the expiry of the second working day after such discharge, dismissal, quitting of an employment or superannuation, as the case may be, and where the person employed dies while in service, within a period of two months of his death.

Explanation.---For the purpose of sub-section (1) and sub-section (5) any fraction of leave of half a day or more shall be treated as one full day and fraction of less than half a day shall be omitted.

- (6) For the purpose of sub-section (1), a person shall be deemed to have completed a period of continuous service in a mine notwithstanding any interruption in service during that period due to-

- (a) any holiday;

- (b) any leave with wages;
 - (c) any leave, with or without wages, due to sickness or accident;
 - (d) any maternity leave not exceeding twelve weeks;
 - (e) any period of lay-off arising due to failure, refusal or inability of any owner on account of shortage of coal, power or raw material or the accumulation of stock or the breakdown of machinery or for any other reason, to give employment to a person whose name is borne in the master rolls of his mine; or
 - (f) a strike which is not illegal or a lockout which is legal.
- (7) Any such person may apply in writing to the manager not less than fifteen days before the day on which he wishes his leave to begin, for all leave or any portion thereof allowable to him under subsections (1), (3) and (4):

Provided that the number of times in which leave may be taken during any one calendar year shall not exceed three.

- (8) An application for such leave made in accordance with subsection (5) shall not be refused unless the authority empowered to grant a leave is of the opinion that owing to the exigencies of the situation the leave may be refused.
- (9) If a person employed in a mine wants to avail himself of the leave with wages due to him to cover a period of illness, he shall be granted such leave even

if the application for leave is not made within the time specified in sub-section (5).

- (10) If the employment of the person employed in a mine is terminated by the owner, agent or manager of a mine before he has taken the entire leave to which he is entitled up to the day of termination of his employment, or if such person having applied for having not been granted such leave, quits his employment before he has taken the leave, the owner or agent or mine manager shall pay him the amount payable under section 57 in respect of the leave not taken, and such payment shall be made, where the employment of the person is terminated by the owner, agent or mine manager, before the expiry of second working day after such termination, and where a person himself quits his employment, on or before next pay day.
- (11) The un-availed leave of a person employed in a mine shall not be taken into consideration in computing the period of any notice required to be given before the termination of his employment.

55. Festival holidays.---Every person employed in a mine shall be allowed, with wages, such festival holidays as are declared by Government to be public holidays.

56. Casual leave and sick leave.---Every person employed in a mine shall be entitled in a year to twenty five days casual leave on full wages and sixteen days sick leave on half average wages:

Provided that casual leave or sick leave admissible under this

section shall not be accumulated and carried forward to the succeeding year.

- 57. Wages during leave or holiday periods.---**For the leave or holidays allowed to a person under the provisions of this Chapter, he shall be paid-
- (a) in case of leave with full wages, at the rate equal to the daily average of his wages for the days on which he actually worked during the preceding three months; and
 - (b) in case of leave with half average wages, at the rate equal to half daily average of his wages as aforesaid.
- 58. Payment in advance in certain cases.---**Any person who has been allowed leave for not less than four days under section 54 shall, before his leave begins, be paid the wages due for the period of the leave allowed.
- 59. Mode of recovery of unpaid wages.---**Any sum required to be paid by the owner, agent or mine manager under this Chapter but not paid by him shall be recoverable as delayed wages under the provisions of the Khyber Pakhtunkhwa payment of wages Act 2013.
- 60. Power of Inspectors to act for employee.---**Any Inspector may institute proceedings on behalf of any person who has been or is employed in a mine to recover any sum required to be, but not paid by an owner, agent or mine manager in accordance with this Chapter.

CHAPTER-VIII ESTABLISHMENT OF TECHNICAL INSTITUTE AND EMPLOYEES TRAINING

- 61. Establishment of school of mine.**---Government shall establish a central school of mine for the Province in a specified area of such size and capacity as may be prescribed to produce diploma holders, technical, managerial and supervise grade persons in different disciplines connected with mining field.
- 62. Establishment of survey institute.**---Government shall establish a central survey institute for the Province in a specified area of such size and capacity as may be prescribed to produce competent surveyors required in different phases of mining.
- 63. Employees training.**---(1) The Secretary may, adopt strategies, arrange program of such form, scale and period as deem necessary to provide initial training on various subjects relating to mine management, mine workings, general safety, occupational safety and health, employment of persons working in the mines.
- (2) Owner, agent or mine manager of every mine shall afford all reasonable facilities to the trainers and trainees at place of training and shall ensure the availability of such number of workers as determined and required to be trained in the proposed training program at sites as well as at rescue station.
- (3) All the trainees (mine workers) may be paid stipend by the Commissioner Mines Labour Welfare at the rate as may be prescribed.
- 64. Training expenses.**---The Finance Department shall, allocate sufficient amount in the annual budget

and the amount so allocated shall be paid as stipend to the trainers and training related activities in manner as may be prescribed.

CHAPTER-IX MINES MATERNITY BENEFITS

65. Prohibition of employment of, and work by women during certain periods.---(1) No owner or mine manager shall knowingly employ a woman or no woman shall engage herself in employment in any mine during six months following the day on which she has delivered of a child.

(2) No owner or mine manager shall employ any woman in a mine-

- (a) if has reason to believe or if she has informed him that she is likely to be delivered of a child within ten weeks;
- (b) if she has to the knowledge of the management been delivered of a child within preceding twenty-six weeks;
- (c) during the period of ten weeks following the twenty-six weeks referred to in clause (b);
- (d) for more than four hours in a day unless a crèche is provided at the mine; and
- (e) in any case, for more than four hours at any one time:

Provided that where the woman informs the management

that the child of which she was delivered has died, the provisions of clause (c) shall not apply after the management has with due diligence verified the correctness of her statement.

- 66. Right to obtain leave of absence in pregnancy and after delivery.--**(1) If any women employed in a mine who is pregnant gives notice either orally or in writing in the prescribed form to the mine manager that she expects to be delivered of a child within one and half month from the date of such notice, the mine manager shall permit her if she desires to absent herself from work to the day of her delivery and such absence shall be treated as a period of authorized absence on leave:

Provided that except in the case of a women employed below ground in the mine, the mine manager may, on undertaking to defray the cost of such examination, require the women to be examined by a qualified medical practitioner and, if the women refuses to submit to such examination or is certified on such examination as not pregnant or not likely to be delivered of a child within one and a half months, he may refuse such permission.

- (2) If any women employed below ground in a mine gives notice either orally or in writing in the prescribed form to the mine manager that she expects to be delivered of a child within ten weeks from the date of such notice, the mine manager may, on undertaking to defray the cost of such examination require the women to be examined within three days by a qualified medical practitioner, shall permit her if she so desires to absent herself from work in any capacity in the mine prior to the said examination, and unless he obtains a certificate that the women is not pregnant or not likely to be

delivered of a child within ten weeks or the women refuses to submit such examination, up to the day of her delivery, such absence shall be treated as a period of authorized absence on leave.

- (3) The examination referred to in the proviso to sub-section (1) or in sub-section (2) shall, if the women so desires, be carried out by a woman.
- (4) The absence of women in the period during which she is entitled to maternity benefit under this Act shall be treated as authorized absence on leave.

67. Right to and liability for payment of maternity benefit.---(1) Every woman, other than a woman to whom the provisions of sub-section (2) of section 66 apply, employed in a mine who has been continuously employed in that mine or in mines belonging to the owner of that mine for a period of not less than six months preceding the date of her delivery shall, if she complies with the conditions imposed by this Act, be entitled to receive and the owner of the mine shall be liable to pay her actual expenses incurred on delivery of child on the production of bill verified by qualified medical female practitioner

Provided that a woman giving notice under section 68 may therein nominate a person for the purpose of sub-section (2) of section 72.

68. Notice of delivery to be given to mine manager.--
-A woman entitled to maternity benefit under this Act unless she has given the notice referred to in sub-section (1) sub-section (2), as the case may be, of section 66, shall on being delivered of a child give notice of her delivery in the prescribed manner to the mine manager before the expiry of seven days from

the date of her delivery, and shall before the expiry of six months from such date furnish proof of the prescribed nature to the mine manager both of her delivery and of the date of her delivery:

Provided that a women giving notice under section 66 may therein nominate a person for the purpose of sub-section (2) of section 70.

- 69. Payment of maternity benefit.---** (1) Where a women entitled to maternity benefit has given the notice referred to in sub-section (1) of section 66 and has obtained permission to absent herself from work up to the date of her delivery, the mine manager shall either at once or within three days' pay to her maternity benefit for six weeks in advance.
- (2) Where a women entitled to maternity benefit has given the notice referred to in sub-section (2) of section 66 , the mine manager shall within three days pay to her maternity benefit for ten weeks in advance, unless, within the said three days as a result of the examination referred to in that sub-section, he obtains a certificate that she is not pregnant or not likely to be delivered of a child within ten weeks or the women refuses to submit to such examination.
- (3) A women entitled to maternity benefit who has been delivered of a child shall, on furnishing the proof referred to in section 68-
- (a) if she has received an advance payment under subsection (1) or sub-section (2) be paid the balance of the maternity

benefit due to her at the end of the sixth week from the date of her delivery or within three days of the furnishing of proof, whichever date is later; and

- (b) if she has received no such advance payment-
 - (i) if the proof is furnished, before the end of the sixth week from the date of delivery, be paid at once or within three days so much of the maternity benefit as is then due to her, and be paid the balance at the end of the said sixth week; and
 - (ii) if the proof is furnished after the end of the sixth week from the date of delivery, be paid at once or within three days the whole amount of the maternity benefit due to her.

70. Disposal of maternity benefit in case of death of women entitled to receive it.--- (1) If a women, entitled to maternity benefit, has received an advance under sub-section (1) of section 69 dies before being delivered of the child, the advance shall not be recoverable.

- (2) If a women entitled to maternity benefit having been delivered of a child dies before payment of the maternity benefit, or, where an advance under sub-section (1) of section 69 has been made, of the balance of the maternity benefit due to her is made, the amount due to her up to the date of her death

shall, on the prescribed proof of the birth of the child and of the death and date of the death of the women being furnished at any time before the expiry of six months from the date of delivery, be paid if the child is living to the person nominated by her under the proviso to section 68 or if she has made no such nomination to the legal representative of the deceased women.

71. Prohibition of dismissal or on account of absence from work owing to confinement.---

- (1) When a women absents herself from work in accordance with sub-section (1) of section 65 or in circumstances under which in accordance with this Act the absence is to be treated as authorized absence on leave, shall be unlawful for the mine manager to dismiss her during or on account of such absence or to give notice of dismissal on such a day the notice shall expire during such absence.
- (2) The dismissal of a women at any time within six months before she is delivered of a child, if the women but for such dismissal would have been entitled to maternity benefit under this Act, shall not have the effect of depriving her of that maternity benefit if the Chief Inspector is satisfied that her dismissal was without sufficient cause.

72. Power of Chief Inspector or Inspector to direct payments to be made.---

- (1) Any women claiming that maternity benefit to which she is entitled under this Act and any person claiming that a payment due under sub-section (2) of section 70 is improperly withheld may make a complaint to the Chief Inspector or any Inspector.
- (2) On receipt of such complaint or on his own motion without any such complaint being made, the Chief

Inspector or Inspector may make inquiry or cause an inquiry to be made, and if satisfied that a payment has been wrongfully withheld may direct the payment to be made in accordance with his order.

CHAPTER-X PENALTIES AND PROCEDURE

73. Obstruction.---(1) Whoever obstructs or hinder, opposes or unduly influence the Chief Inspector, an Inspector or the health Inspector or any person authorized under section 8 in the discharge of his duties under this Act, or refuses or willfully neglects to afford the Chief Inspector, an Inspector or the health Inspector or any person authorized any reasonable facility for making entry, inspection, safety and health examination, measuring, surveying, taking sample, checking instruments, safety appliances, be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred thousand rupees or with both.

(2) Whoever refuses to produce on the demand of the Chief

Inspector, an Inspector or the health Inspector any registers, underground or surface mine plans or other documents kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe to be likely to prevent, any person from appearing before or being examined by an inspecting officer acting in pursuance of his duties under this Act shall be punishable with fine which may extend to three hundred thousand rupees.

74. Falsification of records, etc.---Whoever-

- (a) counterfeits, or knowingly makes a false statement in, any certificates, or any official copy of certificates, granted under this Act; or
- (b) knowingly uses as true any such counterfeit or false certificate; or
- (c) makes or produces or uses any false declaration, statement or evidence knowing the same to be false for the purpose of obtaining for himself or for any other person a certificate, or the renewal of a certificate, under this Act, or any employment in a mine; or
- (d) falsifies any plan or register or record the maintenance of which is required by or under this Act; or
- (e) makes, gives or delivers any plan, return, notice, record or report containing a statement, entry or detail which is not to the best of his knowledge or belief true:

Shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to three hundred thousand rupees or with both.

- 75. Omission to furnish plans, etc.**---If an owner, agent or mine manager, or any person authorized by the owner in writing fails to furnish in the prescribed form or manner or at or within the prescribed time any underground or surface plan, section, return, notice, register, record, registration of mines or report required under this Act to be made or furnished shall be punishable with fine by the Chief

Inspector which may extend to two hundred thousand rupees.

- 76. Contravention of provisions regarding employment of persons.--**Whoever save as permitted by section 48 contravenes any provision of this Act or of any rule or of any order made thereunder prohibiting, restricting or regulating the employment or presence of persons in or about a mine shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five hundred thousand rupee or with both.
- 77. Penalty for employment of persons below eighteen or above sixty years of age.---**If a person above sixty or below eighteen years of age is employed in a mine in contravention of section 51, the owner, agent or mine manager of such mine shall be punishable with fine by the Chief Inspector which may extend to two hundred thousand rupees. In case of persistent violation, the mining operations of the owner shall be suspended by the Chief Inspector or the Inspector authorized in writing by the Chief Inspector till compliance of the order of the Chief Inspector.
- 78. Failure to appoint mine manager.---**Whoever in contravention of the provision of section 20, fails to appoint a mine manager, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five hundred thousand rupees or with both.
- 79. Failure to appoint competent persons.---**Whoever in contravention of the provision of section 22, fails to appoint competent persons shall be punishable with imprisonment for a term which may extend to

six months or with fine which may extend to three hundred thousand rupees or with both. In case of persistent violation, the mining operations of the owner shall be suspended by the Chief Inspector or the Inspector authorized in writing by the Chief Inspector till the appointment of competent person.

- 80. Failure to register mines.---** Whoever in contravention of the provision of sections 109, fails to register mine in a manner as may be prescribed shall be punishable with a fine by the Chief Inspector which may extend to one hundred thousand rupees. In case of persistent violation, mining operations of the owner shall be suspended by the Chief Inspector till registration of the mine.
- 81. Notice of accidents.---**(1) Whoever, in contravention of the provisions of sub-section (1) of section 31, fails to give notice of any accidental occurrence shall, if the occurrence results in serious bodily injury be punishable with fine which may extend to five hundred thousand rupees or if, the occurrence results in loss of life, shall be punishable with fine which may extend to ten hundred thousand rupees.
- (2) Whoever in contravention of a direction made by the Chief Inspector or an Inspector under sub-section (4) of section 31 fails to make entry in the prescribed register shall be punishable with fine which may extend to one hundred thousand rupees.
- 82. Notice of occupational diseases.---** Whoever, in contravention of the provision of section 32 fails to give notice of any occupational disease shall, if the disease results in serious illness of workers be punishable with a fine which may extend to five hundred thousand rupees or if the disease results in

death of the worker, shall be punishable with a fine which may extend ten hundred thousand rupees.

83. Failure to post up extracts from Act, rules etc.---

Whoever in contravention of section 104, fails to post up a copy of the prescribed abstracts of the Act, rules made thereunder or a copy of the prescribed notice, shall be punishable with a fine by the Chief Inspector which may extend to one hundred thousand rupees.

84. Failure to provide personal protective equipments.---

If an owner, agent or mine manager failed to provide personal protective equipments (safety helmets, boots, gloves, goggles, dust masks etc) to the persons engaged in mining operations, he shall be punishable with a fine by the Chief Inspector which may extend to one hundred thousand rupees.

85. Disobedience of orders.---

Whoever contravenes any provision or any order issued under any provisions of this Act or of any rule made thereunder or willfully interferes with or misuses any appliance, convenience or other things to be provided or kept in a mine for the purpose of securing the health and safety of person employed therein or willfully and without reasonable cause do anything likely to endanger himself or others or willfully neglect to make use of any appliance or thing provided in the mine for the purpose of securing of the health or the safety of the person employed therein for the contravention of which no penalty is hereinbefore provided, shall be punishable with fine which may extend to five hundred thousand rupees;

Provided that, in case of a continues contraventions, further fines of one thousand rupees shall be imposed for every day on which the offender is proved to have persisted in the contravention after the date of the first conviction,

and, if such contravention continues beyond a period of one year after the date of conviction or contravention, the offender shall be punishable with imprisonment for a term which may extend one years or with a fine which may extend to ten hundred thousand rupees or with both.

86. Contravention of law with dangerous results.---

(1) Whoever contravenes any provision of this Act or of any rule or of any order made thereunder, shall be punishable-

- (a) if such contravention results in loss of life, with imprisonment which may extend to five years, or with fine which may extend to equal to the amount of Diyat as notified by the Federal Government from time to time.
- (b) if such contravention results in serious bodily injury, with imprisonment which may extend to three years, or with fine which may extend to five hundred thousand rupees or with both; and
- (c) if such contravention otherwise causes injury, or danger to persons employed in a mine or other persons in or about the mine with imprisonment which may extend to one year, or with fine which may extend to three hundred thousand rupees or with both.

(2) Where a person having been convicted under this section, is again convicted thereunder, he shall be punishable with the double punishment provided by sub-section (1).

87. Penalty for contravention of Act by a woman.---

Any women who does any work for which she receives payment in cash after she has been permitted under sub-section (1) of section 66 to absent herself from work, or who engages in employment in any mine in contravention of sub-section (1) of section 65 shall be punishable with fine by the Chief Inspector which may extend to fifty thousand rupees, and if she is entitled to maternity benefit under this Act, shall forfeit her right to any maternity benefit not already paid to her.

88. Penalty for contravention by owner, agent or mine manager.--- (1) Any owner, agent or mine manager, who contravenes section 67, shall be punishable with a fine which may extend to one hundred thousand rupees.

- (2) The court imposing the fine may, if the contravention has resulted in depriving a women of any maternity benefit due to her, order the whole or any part of the fine when paid to be applied in payment of compensation to the women for any loss caused to her by the contravention of the provision on account of which the fine has been imposed, and the appellate court in exercise of its power of revision may also make such order.

89. Imposition of fine through Challan.---(1) Where any person, in the opinion of the Chief Inspector or an Inspector authorized by him in this behalf, is contravening any of the provisions of this Act under which he is empowered to impose fine under section 75, 77, 80, 83, 84 and 87 of this Act, he shall charge the accused by issuing a Challan in the form specified in the **Schedule** for payment of fine.

- (2) The Challan shall be issued in quadruplicate by delivering three copies to the accused after obtaining

his signatures or thumb impression on the fourth copy to be retained by the Chief Inspector or the Inspector, as the case may be, for record.

- (3) The person to whom a Challan has been issued under this section may either contest the imposition of fine in the court within ten days from the date of the issuance of the ticket or deposit the fine within that period and provide the original copy of paid Challan to the Chief Inspector or as the case may be, the Inspector authorized by him as a proof of payment.

90. Procedure for default in deposit of fine.--- (1) If an owner, agent and mine manager remained defaulter in payment of fine imposed by the Chief Inspector or Inspector, authorized in writing by the Chief Inspector, within the specified period, the same shall be referred to the court by the Chief Inspector for recovery.

- (2) The Chief Inspector while sending the Challan to the court for recovery may also by order in writing suspend or close the mining operations of the defaulter till realization of the fine imposed by the Chief Inspector or an Inspector authorized in this behalf.
- (3) The court may, on the application of the accused and for reasons to be recorded in writing, restore the mining operations closed or suspended under sub-section 2.
- (4) The Chief Inspector or an Inspector authorized by him in this behalf shall, on monthly basis, provide a scroll of all unpaid Challans to the court having jurisdiction in the cases.
- (5) The court receiving the scroll shall issue summons to the accused forthwith stating date of appearance.

- (6) Where on the first date of hearing, the accused appears before the court and produces proof of deposit of fine, or unconditionally admitting his failure, deposits the fine forthwith along with the penalty which shall not be less than ten percent and not more than twenty five percent of the amount of fine as determined by the court, further proceedings against the accused may be dispensed with and no conviction shall be recorded against him.
- (7) Upon failure of the accused to appear before the court in response to the summons, the court shall forthwith issue warrants for arrest of the accused.
- (8) The court shall recover the fine under this section in accordance to the procedure as given in the Code of Criminal Procedure, 1898 (Act V of 1898) relating to the procedure for default in payment of fine.
- (9) The fines recovered by the court under this section shall be deposited in the Treasury under relevant Head of Receipts.

91. Special provision regarding fine.---
Notwithstanding anything contained in section 32 of the Code of Criminal Procedure 1898, it shall be lawful for a Magistrate of the First Class to pass sentence of fine exceeding ten thousand, rupees authorized by this Act on any person convicted of the offence thereunder.

92. Prosecution of owner, agent or mine manager.---
No prosecution shall be instituted against any owner, agent or mine manager for any offence committed under this Act except at the instance of the Chief Inspector or of an Inspector authorized in this behalf

by general or special order in writing by the Chief Inspector:

Provided that the Chief Inspector or an Inspector authorized in this behalf by general or special order in writing by the Chief Inspector, shall before instituting such prosecution, satisfy himself that the owner, agent or mine manager had failed to exercise all due diligence to prevent the commission of such offence:

Provided further that in respect of any offence committed in the course of technical direction and management of a mine, no authority or person shall institute prosecution against any owner, agent or mine manager without the previous approval in writing of the Chief Inspector.

93. Burdon of proof in certain cases.---Where any person is prosecuted, or proceeded against, for contravening any of the provisions of this Act or of any rule, or any order made thereunder, it shall be for the person who is alleged to have failed to comply with such duty or requirement, to prove that it was not reasonably practicable, or, as the case may be, all practicable measures were taken to satisfy the safety requirements, duty or other requirements, as the case may be.

94. Delegation of powers to Inspectors.--- (1) The powers exercised by the Chief Inspector under sections 75, 77, 80, 83, 84 and 91, may be delegated by him in writing to the Inspectors.

(2) The powers delegated under sub section (1) may be withdrawn by the Chief Inspector at any time.

(3) If any person is aggrieved by an order of an Inspector in exercise of the powers delegated under sub-section (1), he may within fifteen days after the

communication of such order prefer in appeal against such order to the Chief Inspector:

4

- (4) The decision of Chief Inspector in appeal under sub section (3) shall be final.

95. Cognizance of offences.--- No Court inferior to that of Magistrate of the First Class shall take cognizance of any offence under this Act except on a complaint made in writing by the Chief Inspector or an Inspector authorized in behalf by the Chief Inspector.

96. Power of the Court.---(1) Where the owner, agent or mine manager is convicted of an offence punishable under this Act, the Court may, in addition to awarding him any punishment, by order in writing, require him when a period specified in the order which may be extended by the Court from time to time on application made in this behalf subject to the condition that the Chief Inspector or an Inspector, authorized in this behalf, has no objection to the extension of time required to take such measures as may be so specified for remedying the matters in respect of which the offence was committed.

- (2) Where an order is made under sub-section(1), the owner, agent or mine manager, as the case may be, shall not be liable under this Act in respect of the continuance of the offence during the period or extended period, if any, but if on the expiry of such period or extended period the order of the Court has not been fully complied with, the owner, agent or mine manager shall be punishable with imprisonment for a term which may extend to one year , or with fine which may extend to ten thousand

rupees for every day after such expiry on which the order has not been complied with or with both.

- 97. Continuance of liability.**---Nothing contained in this Act shall absolve any person from the liability under this Act, if such person had or has ultimate control over the affairs of the business of the mines.
- 98. Reference to Mining Board or Committee in lieu of prosecution in certain cases.**---(1) If the Court trying any case instituted at the instance of the Chief Inspector, or an Inspector under this Act, is of the opinion that the case is one which should in lieu of a prosecution, be referred to the Mining Board constituted under section 12 or to the Committee constituted under section 18, it may stay the criminal proceedings and report the matter to the Secretary with a view to such reference being made.
- (2) On receipt of a report under sub-section (1), the Secretary may refer the case to the Mining Board or to the Committee, as the case may be, or may request the Court to proceed with the trial.

CHAPTER- XI RULES

- 99. Powers of Government to make rules.**---(1) Government may, by notification in the official Gazette, make rules to carry out the purposes of this consistent with this Act.

(2) In particular, and without prejudice to the generality of sub section (1) the rules may provide for all or any of the following matters purposes, namely-

- (a) for prescribing the duties and powers of the Chief Inspector, Inspectors, Surveyor and mine

Guards with regard to inspection, supervision of mines under this Act;

- b) for prescribing the duties of owners, agents and mine managers and of persons acting under them;
- (c) for prescribing the qualifications of mine managers and of persons acting under them;
- (d) for prescribing the manner of ascertaining by examination or otherwise, the qualifications of mine managers and persons acting under them, and the granting and renewal of the certificates of competency and certificate of medical fitness;
- (e) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates;
- (f) for prescribing the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single mine manager, or for any mine or mines to be under a mine manager not having the prescribed qualifications;
- (g) for providing for the making of inquiries into charges of misconduct or incompetency on the part of mine managers and persons acting under them and for the suspension and cancellation of certificates of competency;
- (h) for providing for the appointment in mines wherein two hundred and fifty or more persons are ordinarily employed of such number of safety officers, as may be

specified, and for prescribing the qualifications and the duties to be performed by such officers;

- (i) for regulating, subject to the provisions of the Explosives Act, 2013 and of any rules made thereunder, the storage, handling and use of explosives in mines;
- (j) for regulating, subject to the provisions to the Electricity Act, 1910 (IX of 1910) and the rules made thereunder, the generation, storage, transformation, transmission and use of electricity in mines and for providing for the care and use of all electrical apparatus and electrical cables in mines;
- (k) for prohibiting, restricting or regulating the employment in mines or in any class of mines of women either below ground or on particular kinds of labour which are attended by danger to the life, safety or health of such women;
- (l) providing for and regulating the training of persons before they are employed in mines and also during the period of employment at such intervals as may be prescribed;
- (m) providing for and regulating the medical examination of the person before they are employed in mines and also during the period of employment at such intervals as may be prescribed;
- (n) for providing for the safety of the persons employed in a mine, their means of entrance there into and exit therefrom, the number of shafts or outlets to be furnished, and the

fencing of shafts or outlets, pathways and subsidence;

- (o) providing for the grant and validity of medical fitness certificate and for fixing the fees, if any, to be paid in respect of medical examination and of the grant and renewal of such fitness certificates;
- (p) prescribing the method of medical examination of person employed in the mine;
- (q) providing for occupational safety and health in underground and surface mines;
- (r) for providing for prohibiting the employment in a mine either as mine manager or in any other specified capacity of any persons except persons paid by the owner of the mine and directly answerable to the owner or mine manager;
- (s) for providing for the safety of the roads and working place in mines, including the sitting and maintenance of pillars and the maintenance of sufficient barriers between mine and mine;
- (t) prescribing the size of travelling roads in a mine, through which load is carried by human agency and limit of load and the distance to which it is carried;
- (u) providing for and regulating the inspection of workings, disused working and sealed off fire areas in mines and for the restriction of working in a mine under or in the vicinity of goaves or the sea or any lake or river or any other body of surface water, whether natural

or artificial, or of any public roads, or buildings;

- v) providing for and regulating the ventilation of mines and the action to be taken in respect of ionizing radiations, radioactive, gases and dust, fire and inflammable and noxious gases;
- (w) providing for the care and use, of all machinery, plant, electricity, equipment and material in mines;
- (x) providing for the safety of persons present on haulage roads in mines and for prohibiting, restricting or regulating the use of certain classes of locomotive underground;
- (y) providing for adequate and suitable lighting in mines and for requiring and regulating the use of safety lamps and for the search of persons entering a mine for the prescribed prohibited articles;
- (z) prescribing personal protective equipments and clothing and breathing apparatus for all persons or classes of persons employed in the mines or classes of mines and requiring and regulating the use of such protective equipments, clothing and apparatus;
- (aa) for providing for against explosions or ignitions or irruptions of or accumulations of water in mines and against danger arising therefrom, and for prohibiting restricting or regulating the extraction of minerals in circumstances likely to result in or to aggravate irruptions of water or ignitions in mines;

- (bb) prescribing the notices of accidents and dangerous occurrences, and the notices, reports and returns of minerals output, persons employed and other matters provided for by rules, to be furnished by owners, agents or mine managers, and for prescribing the forms of such notices returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the time within which they are to be submitted;
- (cc) prescribing the form of, the authorities to whom, and the time within which, the notice required by sub-section (1) of section 32 shall be sent by the owner, agent or mine manager, and the fees to be paid to the medical practitioners under section 34;
- (dd) prescribing the plans to be kept by owners, agents or mine managers and the manner and places in which such plans are to be kept for purposes of record;
- (ee) prescribing the procedure on the occurrence of accidents or accidental explosions or ignitions in or about mines;
- (ff) prescribing the form of and the particulars to be contained in the notice to be given by the owner, agent or mine manager under section 19; and
- (gg) prescribing the notice to be given by the owner, agent or mine manager before mining operations are commenced at or extended to any point within three hundred meters of any railway subject to the provisions of Railways Act, 1890 (IX of 1890) or of any public work

or classes of public works which Government may, by general or special order, specify in this behalf.

- (hh) providing for the appointment of chairman and members of Mining Board, and for regulating the procedure of such Board;
- (ii) prescribing the form of the register referred to in sub-section (4) of section 31;
- (jj) for regulating the procedure and conducting different types of competency examination;
- (kk) prescribing the method of registration of mines and quarries with the registrar;
- (ll) for requiring facilities and security of Service to be provided to mine managers and other persons acting under them for enabling them to efficiently discharge their duties;
- (mm) providing for the appointment of inquiry committee under section 38, for regulating the procedure and powers of such committees, for the payment of travelling allowance to the members and for the recovery of the expenses of such committees from the mine manager, owner or agent of the mine concerned;
- (nn) for requiring the maintenance in mines wherein any women are ordinarily employed of suitable rooms to be reserved for the use of children under the age of six years belonging to such women, and for prescribing, either generally or with particular reference to the number of women ordinarily employed in the mine, the number and standards of such

rooms, and the nature and extent of the supervision to be provided therein;

- (oo) for requiring for the maintenance at or near pit-heads of bathing places equipped with shower baths and of locker-rooms for the use of men employed in mines and of similar, and separate places and rooms for the use of women in mines where women are employed, and for prescribing, either generally or with particular reference to the number of men and women ordinarily employed in a mine, the number and standards of such places and rooms;
- (pp) prescribing the standard in respect of construction, accommodation, furniture and other equipment of the canteens, the food stuffs to be served therein and the charges which may be made therefore and the representation of the persons employed in the mines in the management of such canteens;
- (qq) prescribing the scale of latrine and urinal accommodation to be provided at mines, the provision to be made for the supply of drinking water, the standard of first-aid rooms and shelters, the equipment and furniture therein and the nature and extent of supervision to be provided therefore, the supply and maintenance of medical appliances and comforts, and the training of men in ambulance work;
- (rr) prescribing the forms of notices required under section 45, and for requiring such notices to be posted also in specified vernaculars;

- (ss) for defining the persons who shall, for the purpose of section 47, be deemed to be persons holding positions of supervision or management or employed in confidential capacity;
- (tt) for prohibiting the employment in mines of persons or any class of persons who have not been certified by a qualified medical practitioner to have completed their eighteen years, and for prescribing the manner and the circumstances in which such certificates may be granted and revoked;
- (uu) prescribing the form of registers required by section 53;
- (vv) to fix the time rates for persons employed on piece-rated basis and for requiring the maintenance of payment registers for overtime work and prescribing the form thereof;
- (ww) prescribing the forms in which record of applications for leave, the grant or refusal thereof and the payment of wages during leave and holidays with wages is to be kept;
- (xx) prescribing abstracts of this Act and rules and the vernacular in which the abstracts shall be posted as required by section 104;
- (yy) requiring the fencing of any mine or part of a mine whether the same is being worked or not, where such fencing is necessary for the protection of the public;

- (zz) for the protection from injury, in respect of any mine when the workings are discontinued, of property vested in Government or any local authority of Pakistan Railways as defined in the Railways Act, 1890 (IX of 1890);
- (aaa) for requiring notices, returns and reports in connection with any matters dealt with by rules to be furnished by owners, agents, and mine managers, and for prescribing the forms of such notices, returns and reports; the person and authorities to whom they are to be furnished, the particulars to be contained in them, and the times within which they are to be submitted; and
- (bbb) generally to provide for any matter not provided for by this Act or the rules, provisions for which is required order to give effect to this Act. (a) requires the maintenance of registers and records for the purposes of this Act and prescribe the form thereof;
- (ccc) prescribe the form of the notices referred to in section 66 and section 68 and require the owner, agent or mine manager to supply copies thereof to women workers;
- (ddd) regulate the examination of women referred to in section 66, and the grant of certificates therein referred to;
- (eee) prescribe the nature of the method of furnishing the proof referred to in section 68, section 69 and section 70; and

- (fff) regulate the manner of applying for and paying maternity benefit; and
- (ggg) for prescribing the method of payment of stipend/training expenses.

100. Powers of Government to make rules for establishment of rescue stations.---Government may, by notification in the official Gazette, make rules under this section for the following purposes, namely:

- (a) requiring establishment of central rescue station and substations for groups of specified mines or for all mines in a specified area, and prescribing how and by whom such stations shall be established;
- (b) providing for the management of central rescue station and substations, and regulating the constitution, powers and functions of, and conduct of business by the authorities which shall include representatives of the owners of mines and persons employed in the mines or group of mines concerned;
- (c) prescribing the position, equipment, control, maintenance and functions of central rescue stations or sub-stations;
- (d) providing for the formation, training, composition and duties of rescue crew or brigades; and

- (e) providing generally for to regulate the affair of the rescue station and conduct of rescue work in mines.

101. Powers of Government to make rules for establishment of school of mine and survey institutes.--

-Government may, by notification in the official Gazette, make rules under this section for the following purposes, namely:

- (a) requiring establishment of school of mine and survey institutes and to prescribe that how and by whom such stations shall be established;
- (b) providing for the regulating and management of school of mining and survey institute;
- (c) for prescribing the qualifications and experience of persons for appointment as principal, lecturers, instructors and staff to be employed in the school or institute;
- (d) for requiring facilities and security of service to be provided to the staff of school and institute enabling them to efficiently discharge their duties;
- (e) for prescribing service rules of the employees;
- (f) for development of curriculum, syllabus of different disciplines to be taught in the school and institute;
- (g) prescribing the qualification, age and domicile of the candidate to be admitted;

- (h) for regulating the manner of conducting examination, fees in respect of examination, grant of certificate or diploma etc;
- (i) for fixing the fees, if any, to be paid in respect of admission, tuition and hostel; and
- (j) for determining the duration and mode of theoretical and practical studies in the school or institute.

102. Prior publication of rules.---(1) The power to make rules conferred by sections 99, 100 and 101 is subject to the condition of the rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 22 of the West Pakistan General Clauses Act 1956 (VI of 1956), within which a draft of rules proposed to be made shall be taken under consideration, shall not be less than three months from the date on which the draft of the proposed rules is published for general information.

(3) Before the draft of any rules is published under this section it shall be referred to the Mining Board constituted under section 12 which is in the opinion of the Government concerned with the subject dealt with by the rules and the rules shall not be so published until the Board has had a reasonable opportunity of reporting as to the expediency making the same and as to the suitability of its provisions.

(4) No rule shall be made unless the draft thereof has been referred to the Mining Board constituted under section 12 affected by the rule, and unless the Board has had a reasonable opportunity of operating as to the expediency of making the same and as to the suitability of its provisions.

(5) Rules shall be published in the official Gazette and, on such publication, shall have affect as such.

(6) The provisions of sub-sections (1), (2) and (4) shall not apply to the first occasion on which rules referred to in clause (e) or clause (f) of sub section (2) Of section 99 are made.

103. Power to make rules without previous publication.--Notwithstanding anything contained in sub-sections (1), (2) and (3) of section 102 ,rules under clause (j) and clause (o) to (ff) inclusive of sub section (2) Of section 99 may be made without previous publication and without previous reference to the Mining Board, if Government is satisfied that for the prevention of apprehended danger or the speedy remedy of conditions likely to cause danger it is necessary in making such rules to dispense with the delay that would result from such publication and reference:

Provided that any rules so made shall not remain in force for more than two years from the making thereof.

104. Posting up of extracts from Act, Rules, etc.---There shall be kept posted up or near every mine and quarry in English and in Urdu or in vernaculars language, the prescribed abstracts of the Act and rules in manner the as may be prescribed.

CHAPTER-XII MISCELLANEOUS

105. Decision of question whether a mine is under this Act.---If any question arises as to whether any excavation or working in a mine is within the meaning of this Act, the Mining Board may decide the question and in this regard a certificate signed by the Chairman of the Mining Board shall be conclusive on the point.

Exemptions from operation of Act- Abolished

106. Powers Chief Inspector in certain cases.--(1)

The Chief Inspector may, call for the record of any order passed by an Inspector and after recording the reasons in writing, reverse or modify any order passed an Inspector duly authorized by him under this Act.

(2) The Chief Inspector may for reasons to be recorded in writing review any order passed or purported to have been passes by him under the Act.

(2) No order prejudicial to the owner, agent or mine manager shall be made under this section unless such owner, agent or mine manager has been given a reasonable opportunity of being heard in person or through authorized representative.

107. Application of the Act.---This Act shall apply to all coal and metalliferous mines in the province, whether above or below ground within the leased areas granted under the Minerals Sector Governance Act 2017 as amended from time.

108. Signing of returns, notices etc.---All returns and notices required to be furnished or given by or on behalf of an owner of the mine in connection with the provisions of this Act or any rule or any order made thereunder shall be signed by the owner, agent or mine manager.

109. Registration of Mines.---The owner of every mine shall register his mine(s)with the registrar in the manner as may be prescribed.

110. Indemnity.---No suit, prosecution or other legal proceedings whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act.

111. Removal of difficulties.---If any difficulty arises, in giving effect to any provision of this Act, Government

may, by notification, make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty.

112. Repeal and savings.---(1) The Mines Act, 1923 and the Mines Maternity Benefit Act, 1941 are hereby repealed in their application to the extent of the Province of the Khyber Pakhtunkhwa.

(2) Notwithstanding the aforesaid repeal, anything done, action taken rules, or orders made under the aforesaid Act, shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done, taken, made or issued, under this Act shall have effect accordingly.

(3) Any document referring to the repealed Act shall be construed as referring to the corresponding provisions of this Act.

SCHEDULE-I

(see sub-section (1) of section 89 95)

FORM OF CHALLAN

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

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

Violation of the provision of law.....

ANNEX C: Scope of Work

**Chemonics International Inc.
USAID Small & Medium Enterprise Activity**

Subsidiary Legislation for Minerals Sector, Khyber Pakhtunkhwa

SOW

Scope of Work Summary:

After the devolution of powers under the 18th amendment of the Constitution of Pakistan, the provinces have the authority to develop their own policies and to define their vision and the fundamentals to achieve their development objectives. In that context, one of the key priorities for the Government of Khyber Pakhtunkhwa in promoting economic growth has been the development of the minerals sector. The Government of KP announced its first Minerals Policy in 2014, after which the need for a set of legislative framework, operational rules and institutional frameworks came up to support the implementation of the policy. Based on a legal and regulatory review conducted by SMEA during Year 2 of the project, a follow-on request for technical assistance to this effect has been received from the Minerals Development Department.

Under this consultancy, a legal expert is expected to propose amendments in the Minerals Governance Act, 2017 and Mine Safe and Regulation Act, 2018. These revisions are to be proposed in light of international best practices and in consonance with the minerals policy for the province. The main objective is to assist the Department with the requisite subsidiary legislation, which not only facilitates the implementation of the minerals policy but also succeeds in attracting private investments. The revised Acts need to compare favorably with the frameworks of other successful mining countries, which have reformed their mining sectors recently.

1. Position Title & Department:

Legal Expert (STTA) - Business Enabling Environment Component.

2. General Summary:

Chemonics International is implementing Pakistan Small and Medium Enterprise Activity (SMEA), which is a 5-year, \$35 million project that is aimed at improvement of financial and operating performance of small and medium enterprises (SMEs) in Pakistan in selected high-performing industrial, manufacturing and services sectors.

Creating an enabling business environment is one of the objectives of SMEA. As such, the Project in its first year of implementation, engaged with the Government of Khyber Pakhtunkhwa to identify key areas of collaboration. Upon dialogue with the Government, a request for technical assistance was received to conduct a legal and regulatory review of KP Minerals Governance Act and subsidiary Rules in light of the Minerals Policy, which included, Minerals Auction Rules, Royalty Auction Rules, Regulation & Enforcement Rules, Minor Minerals Permit Rules, and Mineral Titles Management Rules. With successful completion of this review, a follow-on request for technical assistance has been raised by the Minerals Development Department to provide support in subsidiary legislation, to make the rules and regulations progressive, buoyant and responsive to private sector needs, promoting modern mining practices.

Pakistan is endowed with extensive geological potential but unlike other developing countries with such potential, it has not yet been able to promote growth and alleviate poverty by exploiting its natural resources to the maximum extent possible. The country's mining industry is dominated by the public sector and there has been little or no modern exploration with the benefit of large-scale private sector investment and foreign investors with modern management, capital and technical know-how.

The minerals sector contributes about 0.5% in GDP of Pakistan and employs around 45,000 individuals. The industry mostly comprises small enterprises. With around 92 known minerals in Pakistan including chromite, copper, gold, iron ore, lead-zinc, coal, gypsum, gemstones, marble and granite, 52 are commercially being exploited. The annual production of minerals is just about 2-3 percent of total reserves, which shows huge untapped potential of mineral sector. It is estimated by SMEDA (KP Office) that around 5,000 mines have been in operation across Pakistan with 50,000 SMEs engaged in mineral sector providing 0.3 million job.

One of the major constraints faced by the sector is the use of outdated technology and obsolete mining techniques, resulting in high wastage. The majority of SMEs in the mineral sector are family-owned

businesses and the sector is largely unorganized. These businesses lack adequate technical and managerial skills, due to which efficiency and innovation remain low. Lack of capital and financing, in all parts of the sector – including gems, jewelry, and marble – also limits the ability of SMEs to scale up their operations or invest in R&D. Poor availability of information with respect to geo-scientific and technological data has also hindered the growth of the sector. Proper mine/quarry management and investment is constrained across much of the country due to ineffective mining concessions, resulting in weak regulation and enforcement of mining lease agreements. As a consequence of the above, industry best practices have not been introduced and meaningful investment in technology and expertise has not been made.¹ As a matter of Constitutional authority, mining in Pakistan is a topic of provincial authority; each province including Khyber Pakhtunkhwa (KPK) maintains its own set of policies, rules and institutional arrangements that, while similar, distinctly reflect the manner in which provincial sector operations are functioning. Thus, in order to capitalize on the natural mineral endowments of Khyber Pakhtunkhwa (KPK) and building on the joint efforts made by KPK Government and SMEA; the assignment under this scope of work will provide the Government with necessary inclusions and omissions in its subsidiary regulatory framework whereby the overall architecture of minerals sector will transform in coherence with international best practices.

Objective of the Consultancy:

Objective:

Propose amendments in subsidiary legislation for Minerals in KP for; (i) modernization of mineral law and regulations.

(ii) outlining the mandates and functions of minerals institutions and agencies (iii) promoting ease of doing business and encourage private sector investments in minerals sector

(iv) simplifying procedures to ensure transparency, merit and improved governance mechanism in the sector

3. Principal Duties & Responsibilities:

- Review all the relevant literature listed in Annex B of this scope

¹ SMEA, BEE Analysis

- Review and update legislation and rules directly and/or indirectly governing the mineral sector in KP
- Meet with key stakeholders, including private and public sector players, of the mines and minerals sector to complete the scope of the activity.
- Work in close coordination with the Minerals Development Department KP

***Note:** A list of relevant reading material required for the assignment is attached as Annex B.*

4. Specific Tasks of the Consultants:

The specific tasks under this consultancy include;

- Formulate and/or propose amendments and incorporations in the following legal documents shared by the Minerals Development Department to bring these in line with the Mineral policy announced by the Government of KP and international best practices:
 1. Amendments in Minerals Governance Act, 2017
 2. Amendments in Mine Safety and Regulation Act, 2018
- Identify the specific areas in which Rules are required and should be developed by the Department, with some indicative guidelines on what these Rules should be.
- Develop amended Acts (listed above) in the form of a report.

5. Job Qualifications

The consultant should be a lawyer with an experience of at least 15 years, especially pertaining to the analysis and drafting of legislation, regulations, rules and by-laws. The consultant must have prior experience in drafting legislation, rules, and regulations for the mineral sector. Previous experience of working with USAID projects in the area of economic growth will be preferred

6. Duty Station:

The consultant will be based in Peshawar/Islamabad and will be working closely with the BEE team. In case of non-availability of a suitable resource, we could look into the possibility of hiring a consultant based in any other city.

7. Workspace and Use of Personal Laptop and Software(s):

The consultant will be required to use his own personal laptop and must certify that all software used are genuine and licensed; to ensure that the project's IT resources are protected from accidental destruction or

deliberate attempts at sabotage by computer viruses and other hazards.

8. Reporting:

The consultant will be required to report to BEE, Deputy Component Lead and his/her work will be jointly supervised by the Senior Policy Advisor and Deputy Component Lead.

9. Duration of the Assignment:

This job is planned to take place as per a start date of on or around 20/05/19 and end date of on or around 31/07/19 (subject to date of mobilization) hereto for a total of 12 days LOE. The total LOE will be spread over a period of 2 months.

10. Deliverables:

The following are the key deliverables and their associated deadlines. ***The final deliverable of this assignment is the Report on revised edition of subsidiary legislation.*** The timeline for the LOE assigned for each activity as mentioned in the following table will be discussed and agreed with the technical team and the consultant.

No.	Activity	LOE(Days)
1	Interview and meet with the BEE Team to understand the scope of the assignment.	1
2	Meeting and discussion with relevant Government Departments in KP to develop institutional understanding	2
3	Preliminary Findings	4
4	Report on revised edition of subsidiary legislation (2 regulations)	8
	Total	15 days

Note: A final report template outline has been provided as Annex A.

12. M&E only.

This section is to be used by the M&E or other department should there be a need for additional requirements specifically related to activities not covered in the previous sections e.g. baseline surveys and similar assignment, that requires additional sections on the methodology, sampling design, calculation, etc.
