

**Minerals Act, B.E. 2510 (1967)**

As Amended until Mineral Act (No.5), B.E. 2545

**Translation**

BHUMIBOL ADULYADEJ, REX.

GIVEN ON THE 26TH DAY OF DECEMBER, B.E. 2510;

BEING THE 22ND YEAR OF THE PRESENT REIGN.

**Section 1**

This Act shall be called the "Minerals Act, B.E. 2510 (1967)".

**Section 2**

This Act shall come into force as from the day following the date of its publication in the Government Gazette.

**Section 3**

The following are hereby repealed:

- (1) Mining Act, B.E. 2461
- (2) Royal Proclamation extending the enforcement of the Mining Act, B.E. 2461 to include precious stones dated 13th September, B.E. 2464
- (3) Mining (Amendment) Act, B.E. 2474
- (4) Mining Act (No. 3), B.E. 2479
- (5) Mining Act (No. 4), B.E. 2479
- (6) Mining Act (No. 5), B.E. 2483
- (7) Mining Act (No. 6), B.E. 2483
- (8) Mining Act (No. 7), B.E. 2484
- (9) Mining Act (No. 8), B.E. 2485
- (10) Act on Procedure for Collecting Mineral Royalties, B.E. 2486
- (11) Mining Act (No. 9), B.E. 2506
- (12) Mining Act (No. 10), B.E. 2509

All other laws, rules and regulations in so far as they are stipulated herein or are contrary to or inconsistent with the provisions hereof shall be superseded by this Act.

**CHAPTER 1****General Provisions****Section 4**

In this Act:

"Minerals" mean resources which are inorganic matters, having permanent or slightly varied chemical components and physical properties, whether or not they require smelting or refining before being put to use, and include coal, oil shale, marble, metals and slags obtained from metallurgical processes, underground brine, rock which is prescribed by a Ministerial Regulation as dimensional stone or industrial rock, and clay or sand which is prescribed by a Ministerial Regulation as industrial clay or industrial sand, but does not include water, salt efflorescence, lateritic soil, rock, clay or sand;

*(As amended by Section 3 of the Minerals Act (No.4), B.E. 2534)*

“Underground Brine” means salt solution that occurs naturally underground and contains salt concentration with the content higher than the amount prescribed in a Ministerial Regulation;

*(As amended by Section 4 of the Minerals Act (No.4), B.E. 2534)*

“Prospecting” means drilling or pitting or any distinct method or combined methods to appraise the quantity, if any, of minerals within an area;

“Mining” means the operation undertaken on land or underwater to obtain minerals from an area by any other method or combined methods, but does not include underground brine drilling in accordance with Chapter 5 bis, and artisanal mining or ore panning for minerals as prescribed by a Ministerial Regulation;

*(As amended by Section 4 of the Minerals Act (No.4), B.E. 2534)*

“Underground Mining” means the mining operation undertaken by shaft sinking or tunneling to the depth below ground surface to obtain minerals from underground;

*(As amended by Section 3. of the Minerals Act (No.5), B.E. 2545)*

“Drilling for Underground Brine” means the operation undertaken on land or underwater to obtain underground brine from an area, but does not include mining of rock salt by means of solution method;

*(As amended by Section 4. of the Minerals Act (No.4), B.E. 2534)*

“Artisanal Mining” means the operation undertaken on land or underwater to obtain minerals from an area by using individual laborer, in accordance with the kind of minerals within the area and by means of digging methods prescribed by a Ministerial Regulation;

*(As amended by Section 4 of the Minerals Act (No.4), B.E. 2534)*

“Ore Panning” means the operation undertaken on land or underwater to obtain minerals from an area by using individual laborer, in accordance with the kind of mineral, within the area, and by means of panning methods prescribed by a Ministerial Regulation;

“Mineral Processing” means any operation to upgrade a mineral or to separate from each other two or more minerals in mixed ore, which includes crushing, comminuting, and sizing of minerals;

“Purchase Minerals” means to accept the transfer of minerals by any means from another person except by way of legal succession;

“Sell Minerals” means to transfer minerals by any means to another person; “Possession of Minerals” means any purchase, ownership, hold, or receipt of minerals by any means, whether or not for himself or others;

*(Added by Section 3 of the Emergency Decree amending the Minerals Act, B.E. 2528)*

“Mining Boat” means a boat or raft equipped with equipment, tools, or appliances for mining or mineral processing, to be used in that boat or raft;

*(Added by Section 3 of the Emergency Decree amending the Minerals Act, B.E. 2528)*

“Mineral Restricted Area” means the area where the Minister announced that it is a Mineral Restricted Area;

*(Added by Section 3 of the Emergency Decree amending the Minerals Act, B.E. 2528)*

“Director” means the director of a Mineral Restricted Area;

*(Added by Section 3 of the Emergency Decree amending the Minerals Act, B.E. 2528)*

“Metallurgy” means smelting or extracting metals from minerals by any method and includes purification of metals, alloying of metals, and manufacturing of finished or semi-finished metallic products of various kinds by melting, casting, rolling or any other processes;

"Mining Area" means the area specified in a Provisional Prathanabat or Prathanabat;

"Mineral Processing Area" means the area specified in a Mineral Processing License;

"Metallurgy Area" means the area specified in a Metallurgical Processing License;

"Mineral Store" means the place specified in a Mineral Storage License;

"Mineral Depository" means the place prescribed by the Minister to be a Mineral Depository in accordance with Section 103 ter;

*(Added by Section 3 of the Emergency Decree amending the Minerals Act, B.E. 2526)*

"Mineral Transit Store" means the place specified in a Mineral Transport License where minerals may be stored in transit;

"Prospecting Atchayabat" means a permit issued for prospecting within the locality specified therein;

"Exclusive Prospecting Atchayabat" means a permit issued for exclusive prospecting and exploration within the area specified therein;

"Special Atchayabat" means a permit issued in a special case for exclusive prospecting and exploration within the area specified therein;

"Provisional Prathanabat" means a license issued for mining before receiving Prathanabat within the area specified therein;

"Prathanabat" means a license issued for mining within the area specified therein;

"Vacant Land" means a land that is not thus far owned or possessed by any person under the Land Code, is not public domain for the common use of the people or land in the legally protected or reserved area;

"Tailings" includes overburden, sand, gravel or rocks derived from mining operations;

"Slag" means any compound or by-product derived from metallurgical processing;

"Local Mineral Industry Official" means an Amphur Mineral Industry Official or Provincial Mineral Industry Official, as the case may be, and in the absence of Provincial Mineral Industry official in any province, means the Director-General or the person entrusted by him;

"Competent Official" means a Local Mineral Industry Official and an official appointed by the Minister for the execution of this Act;

"Director-General" means the Director-General of the Department of Primary Industries and Mines;

"Minister" means the Minister taking charge and control of the execution of this Act.

## **Section 5**

The establishment of Provincial Mineral Resources Offices or Amphur Mineral Resources Offices to exercise jurisdiction over any area shall be prescribed in a Ministerial Regulation.

In defining the authority of a Provincial Mineral Resources Office over an area, any Tambon or Amphur may be included in such an area regardless whether the said Tambon or Amphur is in the same Province or not.

Each Provincial Mineral Resources Office in any area shall be under control of a Provincial Mineral Resources Official.

In the event that a Provincial Mineral Resources Office has the authority over an area including another Province, the Mineral Resources Official in charge of the said office shall also be regarded as an official attached to that Provincial Administrative Board.

In defining the authority of an Amphur Mineral Resources Office over an area, the territories of one or more Amphurs or of any Tambon in another Amphur may be included under authority of the Amphur Mineral Resources Office aforementioned.

The Amphur Mineral Resources Office in any area shall be under control of one Amphur Mineral Resources Official. Such an official shall be under the authority of the relevant Provincial Mineral Resources Official or may be directly responsible to the Director-General.

*(Now the Mineral Resources Office becomes a part of the Industry Office, and the Mineral Resources Official is changed to the Mineral Industry Official.)*

## **Section 6**

Applications under this Act shall be in the printed forms provided by the Department of Primary Industries and Mines.

The qualifications of applicants, rules, procedures and conditions in the applications for an Exclusive Prospecting Atchayabat, Special Atchayabat, Provisional Prathanabat, Prathanabat, and licenses including the applications for renewal of a Special Atchayabat, Prathanabat, Mineral Processing License and Metallurgical Processing License under this Act, shall be as prescribed in a Ministerial Regulation.

An applicant must pay application fees and deposit fees in advance along with the application and must also pay for expenses or deposit in advance for processing and issuance or renewal of an Atchayabat, Provisional Prathanabat, Prathanabat or licenses, as the case may be, to the Local Mineral Industry Official. If the application is rejected or the Atchayabat, Provisional Prathanabat, Prathanabat or license is not received for any reason, the expenses not yet incurred for processing shall be reimbursed to the applicant; if the processing has been made in part, then only the expenses not incurred shall be reimbursed.

As for the fees deposited in advance by the applicant, if the application has been rejected or withdrawn, the applicant must pay the fees which are not yet due at the rate of one quarter of the deposit unless the application is rejected without the fault of the applicant or the applicant dies.

*(As amended by Section 4 of the Minerals Act (No.2), B.E. 2516)*

## **Section 6 bis**

For the purpose of prospecting, testing, studying or researching in connection with minerals, the Minister of Natural Resources and Environment shall, with the approval of the cabinet, have the power to issue a notification in the Government Gazette specifying any area to be the area for prospecting, testing, studying or researching in connection with minerals.

Within the area specified under paragraph one, a person may not apply for an Atchayabat or a Prathanabat unless there is no further requirement to use such an area and the Minister of Natural Resources and Environment repeals the aforesaid notification in the Government Gazette.

*(As amended by Section 3 of the Minerals Act (No.3), B.E. 2522)*

## **Section 6 ter**

This Act shall not apply to the Department of Mineral Fuels, Department of Mineral Resources, and Department of Primary Industries and Mines in its works for the purpose of prospecting, testing and studying or researching in connection with minerals.

## **Section 6 quarter**

For the benefit of the national economy, the Minister of Natural Resources and Environment, with the approval of the cabinet, shall have the power to establish, by notification in the Government Gazette, any area which is neither a water-head nor a swampy forest by which is known to have a mineral deposit of high economic value, to be a mineral area for the purpose of issuing of Provisional Prathanabat or Prathanabat at the first priority to any reservation, restriction or utilization for other purposes, provided due consideration is given to its effect on the environmental quality.

*(As amended by Section 4 of the Minerals Act (No.3), B.E. 2522)*

## **Section 7**

If an Atchayabat, Provisional Prathanabat, Prathanabat or license is lost or destroyed, the holder of the Atchayabat, Provisional Prathanabat, Prathanabat or license shall submit an application for a substitute to the Local Mineral Industry Official within fifteen days from the date of realizing the loss or destruction.

*(As amended by Section 6 of the Minerals Act (No.2), B.E. 2516)*

## **Section 8**

If the holder of an Atchayabat, a Provisional Prathanabat, Prathanabat or license wishes to appoint a person to communicate with the competent official on his behalf, he must execute a power of attorney and have it registered with the competent official.

The execution of attorney and the registration thereof shall be in accordance with the forms and procedures prescribed by the Director-General.

*(As amended by Section 6 of the Minerals Act (No.2), B.E. 2516)*

## **Section 9**

The competent official may send communications or instructions for the execution in accordance with this Act to a person directly or to:

- (1) the appointed person under Section 8;
- (2) a *sui juris* person who lives at the domicile, residence or office of the person;
- (3) that person by registered mail to the address where he has domicile, residence or office, which has been officially recorded with the governmental office.

After the communications or instructions have been sent according to (1) or (2) or by means of (3), the person is deemed to have received the communications or instructions.

*(Added by Section 4 of the Emergency Decree amending the Minerals Act, B.E. 2526)*

## **Section 9 bis**

If it appears later that an Atchayabat, Provisional Prathanabat, Prathanabat, or license is issued to any person as a result of a mistake or misunderstanding of material facts, the Local Mineral Industry Official, Director-General or Minister who issues the Atchayabat, Provisional Prathanabat, Prathanabat or license, as the case may be, shall have the power to recall the said Atchayabat, Provisional Prathanabat, Prathanabat or license for correction or revoke the Atchayabat, Provisional Prathanabat, Prathanabat or license.

In case the Atchayabat, Provisional Prathanabat, Prathanabat or license has been corrected or revoked under paragraph one, the holder of the Atchayabat, Provisional Prathanabat, Prathanabat or license may not claim any damage arising from the correction or revocation of the Atchayabat, Provisional Prathanabat, Prathanabat or license.

*(As amended by Section 7 of the Minerals Act (No.2), B.E. 2516)*

## **Section 9 ter**

In the event that the use of land in any area under an Atchayabat, Provisional Prathanabat or Prathanabat shall be used for the benefit of public utilities, national defence or any other purpose for the general benefit of the State, the Minister, with the approval of the Council of Ministers, shall be empowered to recall the aforesaid Atchayabat, Provisional Prathanabat or Prathanabat for the alteration in its area.

In case an alteration in the area under an Atchayabat, Provisional Prathanabat or Prathanabat has been made under paragraph one, the holder of the said Atchayabat, Provisional Prathanabat or Prathanabat may not claim any damage arising from such an alteration.

*(As amended by Section 5 of the Minerals Act (No.3), B.E. 2522)*

### **Section 9 quarter**

In the event that necessity should arise for the control of mining, mineral processing, purchase of minerals, sale of minerals, or possession of minerals for the purposes of the prevention and suppression of illegal mining or illegal export of minerals out of the Kingdom, or for the benefit of economic stability, the Minister, with the approval of the cabinet, shall have the power to publish in the Government Gazette a demarcation of a certain area as well as a part of Thai waters as a Mineral Restricted Area for the purpose of restriction on one or more types of minerals.

When the necessity to demarcate the Mineral Restricted Area in accordance with the first paragraph has ceased, the Minister shall publish its revocation in the Government Gazette.

*(Added by Section 4 of the Emergency Decree amending the Minerals Act, B.E. 2528)*

### **Section 9 quinque**

In each Mineral Restricted Area, there shall be a committee called the Mineral Restricted Area Committee comprising of the Director as the chairman of the committee; the provincial governor having the authority over the Mineral Restricted Area, a representative from the National Police Bureau, a representative from the Customs Department, a representative from the Office of the Attorney General, a representative from the Army, and a representative from the Navy as committee members; a representative from the Department of Primary Industries and Mines as a committee member and secretary; and the Local Mineral Industry Official from the area where the office of the Mineral Restricted Area is located as a committee member and assistant secretary.

In case the Mineral Restricted Area spans into more than one province, each governmental office in the first paragraph shall appoint no more than two representatives and the committee shall appoint one of the representatives from the Department of Primary Industries and Mines, who is an appointed committee member, as a secretary.

For the appointment of the representatives in accordance with the first and second paragraph, the duties and responsibilities of the appointees in the area demarcated as the Mineral Restricted Area shall be primarily taken into account.

Quorum and the meeting regulations of the Mineral Restricted Area Committee shall be determined by the Mineral Restricted Area Committee with the approval of the Minister.

*(Added by Section 4 of the Emergency Decree amending the Minerals Act, B.E. 2528)*

### **Section 9 sext**

The Mineral Restricted Area Committee shall have the power to approve the operation in compliance with the powers and duties of the Director under Section 9 octo, including rendering consultations and recommendations to the Director for the other duties in the Mineral Restricted Area.

The Mineral Restricted Area Committee may appoint a subcommittee to give opinions or perform an operation entrusted by the Mineral Restricted Area Committee.

Quorum and the meeting regulations of the subcommittee shall be determined by the subcommittee with the approval of the Mineral Restricted Area Committee.

*(Added by Section 4 of the Emergency Decree amending the Minerals Act, B.E. 2528)*

### **Section 9 septem**

In each Mineral Restricted Area, the Minister shall establish an Office of Mineral Restricted Area and publish it in the Government Gazette.

Additionally, the Minister, with the approval of the cabinet, shall appoint a Director vested with the powers and duties in accordance with Section 9 octo and Section 9 novem to control and take responsibility of the operation of the office of Mineral Restricted Area. In this case, one or more vice directors or assistant directors may be appointed by the

Minister in consultation with the Mineral Restricted Area Committee to assist in giving order and performing the operation entrusted by the Director.

In the absence of the Director or his inability to perform his duties, the most senior vice director shall act in place of, and assume the same powers and duties as, the Director.

The Director, vice director, and assistant director under the first paragraph shall be appointed from the officials of the relevant governmental offices and the appointments shall be published in the Government Gazette.

*(Added by Section 4 of the Emergency Decree amending the Minerals Act, B.E. 2528)*

### **Section 9 octo**

In a Mineral Restricted Area, the Director, with the approval of the Mineral Restricted Area Committee, shall have the power to prescribe the following measures:

#### (1) Mining/Suction Boats

- (a) to demarcate an area where the making or building of mining boats, or assembling or fabricating any part of mining boats, are prohibited;
- (b) to demarcate an area where mining boats are not to be brought into, unless a permission is given by the Director or the competent official entrusted by the Director;
- (c) to demarcate an area where adjustment, modification, or repair of mining boats is prohibited, unless it is in compliance with (f) and the adjustment, modification, or repair is considered negligible according to the kinds and methods prescribed by the Director;
- (d) to prescribe features, types, and sizes of the tools, appliances, machinery, or equipment for use in mining or mineral processing permitted to be used or installed in the mining boats;
- (e) to prescribe characteristics and qualities including the maximum amount of minerals in storage or possession in a mining boat. They may be prescribed differently depending upon the size and quality of the boats and other conditions as deemed appropriate;
- (f) to prescribe that the types, sizes, and capability of mining boats shall be registered with the competent official, as well as the prescription that the owner or possessor of the boats shall put marks indicating the types of boats, which shall be visible from the outside, in accordance with the procedures and rules prescribed by the Director;
- (g) to designate navigating routes, boating docks, and piers for the mining boats.

#### (2) Mining Area and Mineral Processing Area

- (a) to prescribe types and conditions of the tools, appliances, machinery, or equipment for mining or mineral processing, which will be used in the mining area or the mineral processing area;
- (b) to prescribe conditions and characteristics including a maximum amount of minerals allowed to be stored or possessed in the mining area or mineral processing area;
- (c) to prescribe the locations or conditions of the buildings or places for mineral storage, mineral processing, or possession of minerals.

#### (3) Other measures

- (a) to prescribe the conditions and methods in the transportation or removal of minerals, whether or not by land or by water; and designate the routes of the carriers for transportation or removal of minerals, parking places and

stations, including the time and period of time allowed for the transportation or removal of minerals;

- (b) to prescribe the conditions and qualities of minerals including the maximum amount of minerals, which the holder of an Atchayabat, Prathanabat, license, or permit may store or possess including the conditions on which, or period of time for which, the aforesaid person may store or possess the minerals;
- (c) to prescribe that the holder of an Atchayabat, Prathanabat, license, or permit shall keep an account and provide a report relating to the amount of minerals stored or possessed in accordance with the rules, procedures, and period of time as specified by the Director;
- (d) to designate the location or conditions of the buildings or places used for mineral storage, mineral transit, or possession of minerals, belonging to the holder of a Mineral Storage License, Mineral Purchase License, or Mineral Possession License;
- (e) to prescribe that the owner or person, who is in possession of the carriers used for the transportation or removal of minerals, shall put the marks as specified by the Director on the carriers to show that the carriers are being used for transportation or removal of minerals in accordance with the rules and procedures stipulated by the Director.

The execution of the power under this section may be prescribed with any condition as deemed appropriate.

In case there is an execution of power under this section, the conditions of any License permitted by the competent official in accordance with this Act or other laws shall still be in effect only if they are not contrary to the provisions under this section, or unless the Director, with the approval of the Mineral Restricted Area Committee, prescribes otherwise.

The announcements of the provisions under this section shall be made and posted at the Provincial Office, Amphur Office, and Local Industry Office in every Mineral Restricted Area at least 3 days before the date they are in force, and if the Mineral Restricted Area Committee deems them appropriate, they shall be published in a local newspaper, which is sold in the area, for an appropriate period of time, unless it is an emergency, therefore the Director, with the approval of the Mineral Restricted Area Committee, may specify that they are in effect immediately at the time of announcement.

*(Added by Section 4 of the Emergency Decree amending the Minerals Act, B.E. 2528)*

### **Section 9 novem**

In a Mineral Restricted Area, the Director and competent official entrusted by the Director shall have the powers as follows:

- (1) to enter any place in a mining boat or vehicle within the Mineral Restricted Area, or one that will enter into a Mineral Restricted Area, in order to search at any time when it is suspected, under valid circumstances, that an offence under this Act is committed or will be committed;
- (2) to order the owner or controller of a mining boat or vehicle, who is suspected of committing an offence under this Act, under valid circumstances, to stop or bring the mining boat or vehicle to a certain place for a search or bring it out of the Mineral Restricted Area;
- (3) to issue a communication requesting any person to testify, or to order in writing that the businessman, who is suspected of being involved in an illegal mineral business, submits his accounts, documents, or other evidence for the benefit of an execution in accordance with this Act;
- (4) to order in writing that the owner or controller of a mining boat or a violator of the provisions under Section 9 octo complies with the law or provisions, within



the period of time prescribed by the Director or the competent official entrusted by the Director.

If the owner or controller of the mining boat or violator under Section 9 octo does not comply with the order under (2) (3) or (4) without a proper reason, or the aforesaid person commits the offence again within the period of time, which is prescribed by the Director with the approval of the Mineral Restricted Area Committee, the Director or competent official, shall immediately seize or impound the mining boat, any part of the mining boat, tools, appliances, machinery, equipment, or minerals that are illegally used, stored, or possessed; or seize or impound the buildings, places, or vehicles facilitating or causing such an offence, unless the Director, with the approval of the Mineral Restricted Area Committee, considers that there is a reason to order otherwise.

*(Added by Section 4 of the Emergency Decree amending the Minerals Act, B.E. 2528)*

### **Section 10**

In case an offence under this Act is committed by an agent or employee acting as agent or employee or acting for the benefit of the holder of an Atchayabat, Provisional Prathanabat, Prathanabat or license, regardless of such agent or employee being constituted as an agent by a power of attorney registered with the competent official, it shall be considered that the holder of the Atchayabat, Provisional Prathanabat, Prathanabat, or license is the principal in the commission of such offence.

*(As amended by Section 8 of the Minerals Act (No.2), B.E. 2516)*

### **Section 11**

While prospecting or mining, if there is a discovery of ancient objects, fossils, or minerals of special value to the study of geology, apart from complying with the laws pertaining to discovery of such materials, the holder of an Atchayabat, Provisional Prathanabat, or Prathanabat must immediately report such discovery to the Local Mineral Industry Official.

*(As amended by Section 8 of the Minerals Act (No.2), B.E. 2516)*

### **Section 12**

In an Exclusive Prospecting Atchayabat area, Special Atchayabat area, mining area, area licensed for retaining slime or tailings or area already demarcated by the competent official for the aforesaid purpose, no person other than the holder of the Atchayabat, Provisional Prathanabat, Prathanabat or license shall enter to take over, occupy, destroy or deteriorate the land or resources therein unless such person has the rights to do so lawfully.

*(As amended by Section 6 of the Minerals Act (No.3), B.E. 2522)*

### **Section 13**

Violation of Section 12, apart from being an offence under this Act or under other laws, shall also be deemed a violation of the rights of the holder of an Atchayabat, Provisional Prathanabat, Prathanabat, or license, as the case may be.

*(As amended by Section 8 of the Minerals Act (No.2), B.E. 2516)*

### **Section 14**

After the competent official has located boundary demarcation posts of a mining area or established map posts under this Act at any place, no one shall destroy, alter, move, take out or loosen such posts or benchmarks except with the permission of the Local Mineral Industry Official.

### **Section 15**

The competent official under this Act shall be the person designated under the Criminal Code and, in functioning under this Act in connection with the criminal offences, be regarded as an administrative official or policeman under the Criminal Procedure Code.

### **Section 15 bis**

The competent official is empowered to seize or impound minerals used in an offence and any tool, appliance, beast of burden, carrier, vehicle, or machinery, which a person acquired or used in an offence, or suspected under valid circumstances of being used in an offence, or used as an accessory to derive results from the commission of an offence under this Act, as evidence for legal proceedings until the final non-prosecution decision is reached or until the case is extinguished, regardless of whether they belong to the offender or to a person suspected under valid circumstances of being an offender. In case a suit is filed, the provisions under Section 154, paragraph two and three, shall apply.

In the event that a final decision is reached, should the owner or possessor make no claim for the recovery of their properties within six months from the date he knows or is deemed to know of the final order against prosecution, the property seized or impounded under paragraph one shall come under the ownership of the state, unless the Director-General uses his power to announce a search for the owner or possessor in accordance with Section 15 quinqué.

*(Added by Section 5 of the Emergency Decree amending the Minerals Act, B.E. 2528)*

### **Section 15 ter**

In the event that the property seized under Section 15 bis does not belong to the offender or a person suspected under valid circumstances of being an offender, the competent official is required, with the approval of the Minister, to return them or the financial proceeds, as the case may be, to their owner before the period defined under Section 15 bis, paragraph one, in the following cases:

- (1) The said property is not required as evidence in the trial of the case bringing about its seizure, or
- (2) The offender or the person suspected under valid circumstances of being an offender has acquired the said property from its original owner through the commission of a criminal offence.

*(As amended by Section 8 of the Minerals Act (No.3), B.E. 2522)*

### **Section 15 quater**

In the event that the seized or impounded property in accordance with Section 15 bis or Section 15 quinqué should present a risk of damage or incur a higher cost of custody than its intrinsic value, the Minister may proceed as follows:

- (1) sell or dispose of the property or exhibit before the end of the period of time under Section 15 bis, paragraph two, or Section 15 quinqué, paragraph two, as the case may be;
- (2) in the event that the property or exhibit may be beneficial to the mitigation of the damage or expense of the cost of custody, the property or exhibit shall be used for the benefit of the State in accordance with the rules prescribed by the Director-General.

Before the order under the first paragraph is made, the Director-General, or the person entrusted by him, shall publish it in a local newspaper at least two consecutive days in order that the owner or possessor is acknowledged. The owner or possessor is entitled to petition for a recovery of the property or exhibit to take in his own custody within the period of time, specified by the competent official, which shall be no less than 15 days from the first date of publication in the newspaper. After the owner or possessor makes a contract with the Department of Primary Industries and Mines that he will take the property or exhibit into his custody in compliance with the rules and procedures, and provides insurance or guarantee for the State in accordance with the conditions prescribed in a Ministerial Regulation, the Director-General shall transfer the property or exhibit to the owner or possessor to take into his custody. However, the owner or possessor is prohibited to use or seek to benefit from the property or exhibit by any means.

In the event that there appears no owner or possessor applying for the recovery of the property or exhibit to take into his custody, or there is the aforesaid person, but he does not comply with the contract in accordance with the conditions prescribed in a Ministerial Regulation, or in case there is such a contract, but the owner or possessor breaches the contract or does not comply with the conditions stipulated in the contract, the Director-General shall reclaim the property or exhibit from the owner or possessor and have the power to order an enforcement of the insurance contract and proceeds in accordance with paragraph one.

The rules and procedures under paragraph one (1) and (2) shall be prescribed in a Ministerial Regulation, and, in this case, the owner or possessor shall be prohibited from filing for any compensation or remuneration from the State resulting from the execution or seizure or impoundment of the property or exhibit.

*(Added by Section 6 of the Emergency Decree amending the Minerals Act, B.E. 2528)*

### **Section 15 quinque**

In the event of a seizure of an exhibit suspected in the commission of an offence without the appearance of the owner or possessor thereof, the competent official, who seizes the exhibit, shall deliver the exhibit to the Local Mineral Industry Official or official as specified by the Director-General for custody, and the Director-General or the person entrusted by him is empowered to issue a notification in search of the owner or the possessor thereof so as to enable the aforesaid person to produce evidence for the recovery of the exhibit.

The notification under the first paragraph shall be posted at the Office of Local Mineral Industry where the seizure of the exhibit occurred and published in a local daily newspaper for at least two consecutive days. The owner or possessor thereof is entitled to petition, in person with the Local Mineral Industry Official or official as the Director-General specified in the notification, for the recovery of the exhibit within thirty days from the first date of publication in the newspaper.

In the event that there is no person claiming, in person, to be the owner or possessor thereof so as to apply for the recovery of the exhibit within the period as specified in the second paragraph, the exhibit shall become the property of the State; nevertheless, if there is any person claiming to be the owner or possessor thereof and applying for the recovery of the exhibit within the specified period, the Director-General or person entrusted by him shall proceed according to the law.

In the event that the person claiming in person to be the owner or possessor thereof under the first paragraph is the person whom the prosecutor has reached the final non-prosecution decision on, or the person as evidence during an investigation that he is not an accomplice in the offence or the owner or possessor thereof, the Director-General shall notify in writing the aforesaid person to exercise his rights to file a lawsuit to the court for the recovery of the exhibit within thirty days from the date of receipt of such a written notification from the Director-General. If the rights to file a lawsuit are not exercised within the specified period, it shall be deemed that the aforesaid person is not the owner or possessor of such property.

*(Added by Section 6 of the Emergency Decree amending the Minerals Act, B.E. 2528)*

### **Section 16**

Each competent official shall have an identity card in the form prescribed in a Ministerial Regulation; and in the execution of this Act, the identity card must be produced when requested by those concerned.

### **Section 17**

The Minister of Industry shall take charge and control of the execution of this Act and have the power to appoint competent officials and issue Ministerial Regulations:

- (1) prescribing fees not exceeding the rates in the schedule annexed hereto;
- (2) prescribing forms of Atchayabat, Provisional Prathanabat, Prathanabat and licenses;

- (3) prescribing rules and procedures concerning prospecting under Atchayabat, mineral conservation and mining;
- (3 bis) prescribing rules and procedures concerning the issuance of a license to sublease the mining rights and cancellation thereof; *(As amended by Section 9 of the Minerals Act (No.3), B.E. 2522)*
- (3 ter) prescribing rules, procedures, and conditions in obtaining underground brine by drilling, including production of salt from underground brine; *(As amended by Section 5 of the Minerals Act (No.4), B.E. 2534)*
- (4) prescribing rules and procedures concerning purchase, sale, storage, possession and transport of minerals;
- (5) prescribing rules and procedures concerning mineral processing, metallurgy, import and export of minerals;
- (6) prescribing protective measures for workers and safety measures for third persons;
- (7) prescribing other matters for the execution of this act.

Such Ministerial Regulations shall come into force after their publication in the Government Gazette.

*(As amended by Section 9 of the Minerals Act (No.2), B.E. 2516)*

## **CHAPTER 2**

### **Committee**

#### **Section 18**

There shall be a committee consisting of the Permanent Secretary to the Ministry of Industry as the chairman; Director-General of the Royal Irrigation Department, Director-General of the Department of Mineral Resources, Director-General of the Land Department, Director-General of the Royal Forest Department, Director-General of the Department of Primary Industries and Mines, or representatives appointed by the aforesaid Director-Generals, and other persons not exceeding three in number whom the Minister may appoint as members; and the Director of the Bureau of Mines and Concession of the Department of Primary Industries and Mines shall be a member as well as the secretary to the Committee.

*(As amended by Section 10 of the Minerals Act (No.2), B.E. 2516)*

#### **Section 19**

The committee shall have a duty to render consultation, advice and opinion to the Minister in the matters concerning:

- (1) Issuance of an Exclusive Prospecting Atchayabat, Special Atchayabat, Provisional Prathanabat and Prathanabat in the national reserved forest or officially declared restricted areas.
- (2) Renewal of a Special Atchayabat and Prathanabat
- (3) Approval on a transfer of Prathanabat.
- (4) Revocation of an Atchayabat and Prathanabat.
- (4/1) Imposition of conditions on the Prathanabat for individual underground mining under Section 88/7. *(As amended by Section 4 of the Minerals Act (No.5), B.E. 2545)*
- (5) Other matters entrusted by the Minister.
- (6) Other matters specified under this Act *(As amended by Section 5 of the Minerals Act (No.5), B.E. 2545)*

*(As amended by Section 10 of the Minerals Act (No.3), B.E. 2522)*

## **Section 20**

Committee members duly appointed by the Minister shall hold office for a term of two years. A committee member who has served his term of office may be re-appointed.

## **Section 21**

A committee member appointed by the Minister shall vacate his office before the end of his term upon:

- (1) death,
- (2) resignation,
- (3) being dismissed by the Minister,
- (4) being adjudged incompetent or quasi-incompetent,
- (5) being sentenced by final judgment to imprisonment except for a petty offence or offence committed by negligence.

Whenever a committee member vacates his office before the expiry of his term of office, the Minister may appoint any other person to fill the vacancy.

The member appointed under paragraph two hereof shall hold office for the remaining term of the committee member he replaces.

*(As amended by Section 11 of the Minerals Act (No.2), B.E. 2516)*

## **Section 22**

At any meeting of the Committee, attendance of not less than one half of the total membership shall be required to constitute a quorum.

In the event that the Chairman of the Committee is absent from the meeting, the members shall select one among themselves to be the Chairman of the meeting.

## **Section 23**

Any decision of the meeting shall be reached by a majority of votes.

Each member shall cast one vote. In the event of a tie in voting, the Chairman shall cast one extra vote to reach a decision.

## **Section 24**

In the execution of its duties, the Committee is empowered to appoint a subcommittee for any purpose as designated, or invite any person for his presence to furnish information, explanations, recommendation or opinions.

The provisions of Section 22 and Section 23 shall apply to a meeting of the subcommittee *mutatis mutandis*.

## **CHAPTER 3**

### **Prospecting and Exclusive Prospecting**

## **Section 25**

No person shall undertake prospecting in any area, regardless of any person's rights over the area to be prospected, unless he has been vested a Prospecting Atchayabat, an Exclusive Prospecting Atchayabat, or a Special Atchayabat.

*(As amended by Section 12 of the Minerals Act (No.2), B.E. 2516)*

## **Section 26**

Apart from paying fees for the issue of an Exclusive Prospecting Atchayabat or a Special Atchayabat, the holder of such an Atchayabat must also pay in advance the mining area rental fees for the area granted.

The payment in advance of the mining area rental fees may be allowed to be made by installments with surety or securities in accordance with the rules and procedures prescribed by a Ministerial Regulation.

*(As amended by Section 12 of the Minerals Act (No.2), B.E. 2516)*

### **Section 27**

A Prospecting Atchayabat, an Exclusive Prospecting Atchayabat or a Special Atchayabat shall be exclusively valid to the holder of such an Atchayabat including his employees.

*(As amended by Section 12 of the Minerals Act (No.2), B.E. 2516)*

### **Section 28**

A person wishing to apply for a Prospecting Atchayabat shall submit an application to the Local Mineral Industry Official.

A Prospecting Atchayabat is issued by the Local Mineral Industry Official.

A Prospecting Atchayabat shall be valid for one year from the date of issue.

The holder of the Prospecting Atchayabat must comply with the conditions specified in the Prospecting Atchayabat.

*(As amended by Section 12. of the Minerals Act (No.2), B.E. 2516)*

### **Section 29**

A person who wishes to apply for an Exclusive Prospecting Atchayabat shall submit an application to the Local Mineral Industry Official.

An application for an Exclusive Prospecting Atchayabat is limited to an area not exceeding two thousand five hundred rai, except an application for an Exclusive Prospecting Atchayabat to prospect in the offshore.

An Exclusive Prospecting Atchayabat is issued by the Minister or the person entrusted by him.

An Exclusive Prospecting Atchayabat shall be valid for one year from the date of issue.

The holder of an Exclusive Prospecting Atchayabat must comply with the conditions specified in the Exclusive Prospecting Atchayabat.

*(As amended by Section 12 of the Minerals Act (No.2), B.E. 2516)*

### **Section 30**

In issuing an Exclusive Prospecting Atchayabat to prospect offshore, the Minister or the person entrusted by him has the power to grant each applicant an area not exceeding five hundred thousand rai and specify the validity of the Atchayabat not exceeding two years from the date of issue.

*(As amended by Section 12 of the Minerals Act (No.2), B.E. 2516)*

### **Section 31**

The holder of an Exclusive Prospecting Atchayabat must commence prospecting within sixty days from the date of receiving the Exclusive Prospecting Atchayabat and report the results of operations and prospecting works undertaken within one hundred and eighty days from the date of receiving the Exclusive Prospecting Atchayabat, in the forms prescribed by the Department of Primary Industries and Mines, to the Local Mineral Industry Official within thirty days from the end of the said period, and must report the results of operations and prospecting works undertaken thereafter within thirty days before the expiration of the Exclusive Prospecting Atchayabat.

The Minister, or the person entrusted by him, has the power to revoke an Exclusive Prospecting Atchayabat when the holder of an Exclusive Prospecting Atchayabat fails to comply with the conditions specified therein.

*(As amended by Section 12 of the Minerals Act (No.2), B.E. 2516)*

*(1 rai = 1,600 sq. meters or 1914 sq. yards. Or 1 acre = 2.5 rai (approx.))*

### **Section 32**

An Exclusive Prospecting Atchayabat shall expire before the date specified therein in the following circumstances:

- (1) when the holder of the Exclusive Prospecting Atchayabat who is a natural person dies;
- (2) when the holder of the Exclusive Prospecting Atchayabat who is a juristic person ceases to be juristic person;
- (3) when the holder of the Exclusive Prospecting Atchayabat lacks any qualification specified in a Ministerial Regulation issued under Section 6 paragraph two;
- (4) when the holder of the Exclusive Prospecting Atchayabat fails to report the results of operations and prospecting works undertaken within one hundred and eighty days from the date of receiving the Exclusive Prospecting Atchayabat, within thirty days from the expiration date of the period;
- (5) when the Minister or the person entrusted by him revokes the Exclusive Prospecting Atchayabat, from the date of receiving the revocation order.

*(As amended by Section 12 of the Minerals Act (No.2), B.E. 2516)*

### **Section 33**

Any person who wishes to apply for a Special Atchayabat shall submit an application to the Local Mineral Industry Official.

The applicant for a Special Atchayabat shall specify his prospecting obligations by stating the amount of each year's prospecting expenditure throughout the duration of the Special Atchayabat and offer special benefits to the interest of the state in accordance with the rules prescribed by the Minister. The aforesaid offer of special benefit shall further bind the holder of the Special Atchayabat in the event that he receives any Provisional Prathanabat or Prathanabat for mining in the area for which the Special Atchayabat has been granted.

Each application for a Special Atchayabat shall be made for an area not exceeding the area in which the prospecting can be completed within five years, according to the rules laid down by the Committee, but not exceeding ten thousand rai.

A Special Atchayabat is issued by the Minister.

A Special Atchayabat shall be valid for five years from the date of issue.

The holder of a Special Atchayabat must comply with the conditions and prospecting obligations in each year as specified therein.

If the holder of the Special Atchayabat has already complied with the conditions and prospecting obligations under the sixth paragraph in each year, and the prospecting outcome in the previous year indicates that the minerals for which he wishes to mine in the area applied for the Special Atchayabat are commercially insufficient to mine entirely or partly, the holder of the Special Atchayabat may surrender the Special Atchayabat or parts of the area thereof by submitting a petition to the Local Mineral Industry Official. The Special Atchayabat shall expire, or the surrender of parts of the area shall be effective on the submission date of the petition, and the obligations for the remaining years or the surrendered parts of the area shall be terminated, as the case may be.

*(As amended by Section 6 of the Minerals Act (No.5), B.E. 2545)*

### **Section 34**

Upon receipt of an application for an Exclusive Prospecting Atchayabat or an application for a Special Atchayabat, the competent official shall demarcate the area for the Exclusive Prospecting Atchayabat or Special Atchayabat.

The demarcation of said area may be made by surveying or other method in accordance with the rules and procedures prescribed by a Ministerial Regulation.

In case the demarcation of an area is made by surveying, the applicant or his appointee shall accompany government surveyors to make a survey on such a date and at such a time and place as to be specified in writing by the competent official.

The Director-General has the power to reject an application for an Exclusive Prospecting Atchayabat or a Special Atchayabat when the applicant:

- (1) neglects to accompany the official surveyors to make a survey under paragraph two without justification;
- (2) ignores the instructions of the competent official in the process of issuing the Exclusive Prospecting Atchayabat or Special Atchayabat; or
- (3) violates or fails to comply with any provisions of Chapter 3 or Chapter 4 or is involved in the commission of such act.

*(As amended by Section 12 of the Minerals Act (No.2), B.E. 2516)*

### **Section 35**

A Special Atchayabat shall not be issued to include the area already covered by any other Exclusive Prospecting Atchayabat, Special Atchayabat, Provisional Prathanabat or Prathanabat.

If parts of the area applied for cover the area of any existing Exclusive Prospecting Atchayabat, Special Atchayabat, Provisional Prathanabat or Prathanabat, the issue of the Special Atchayabat shall be made only by excluding such an area.

*(As amended by Section 12 of the Minerals Act (No.2), B.E. 2516)*

### **Section 36**

If, at the end of each obligation year, the holder of a Special Atchayabat has not yet fully complied with the prospecting obligation under Section 33, he must pay a sum of money equal to the amount of prospecting expenses not yet incurred in such an obligation year to the Department of Primary Industries and Mines within thirty days after the expiration date of the said obligation year.

If the holder of a Special Atchayabat has made prospecting expenses in any obligation year in excess of the amount proposed for such an obligation year, he shall be entitled to have the excess deducted from the prospecting obligations of the subsequent obligation year.

*(As amended by Section 12 of the Minerals Act (No.2), B.E. 2516)*

### **Section 37**

*(Repealed by Section 7 of the Minerals Act (No. 5) B.E. 2545)*

### **Section 38**

*(Repealed by Section 13 of the Minerals Act (No. 2) B.E. 2516)*

### **Section 39**

*(Repealed by Section 13 of the Minerals Act (No. 2) B.E. 2516)*

### **Section 40**

The holder of a Special Atchayabat must commence prospecting within ninety days from the date of receiving the Special Atchayabat and must report the results of the operations and prospecting works to the Department of Primary Industries and Mines every one hundred and twenty days from the date of receiving the Special Atchayabat.

*(As amended by Section 14 of the Minerals Act (No.2), B.E. 2516)*

### **Section 41**

The Minister has the power to revoke a Special Atchayabat when the holder of the Special Atchayabat fails to comply with Section 33 paragraph six or Section 40.

*(As amended by Section 14. of the Minerals Act (No.2), B.E. 2516)*

### **Section 42**

*(Repealed by Section 15 of the Minerals Act (No. 2) B.E. 2516)*



## CHAPTER 4

### Mining

#### Section 43

No person shall mine in any area regardless of any person's rights over that area unless he has received a Provisional Prathanabat or Prathanabat.

*(As amended by Section 16 of the Minerals Act (No.2), B.E. 2516)*

#### Section 44

A person who wishes to apply for a Prathanabat shall submit an application to the Local Mineral Industry Official together with reliable evidence to prove the discovery or existence of the mineral for which he wishes to mine in the area applied for, and may also offer special benefits to the interest of the state in the event of his receipt of the Prathanabat in accordance with the rules laid down by the Minister.

*(As amended by Section 12 of the Minerals Act (No.3), B.E. 2522)*

An application for a Prathanabat shall be for an area not exceeding three hundred rai, unless it is an application of a Prathanabat for offshore mining and an application of a Prathanabat for underground mining.

*(As amended by Section 8 of the Minerals Act (No.5), B.E. 2545)*

#### Section 45

For each applicant for a Prathanabat, the Minister is empowered to designate an area for underground mining to an extent not exceeding ten thousand rai, and for offshore mining to an extent not exceeding fifty thousand rai.

For the interest of the state, the Minister, with the approval of the cabinet, may designate the mining area for an applicant for the underground mining Prathanabat or for offshore mining in excess of the extent specified under the first paragraph.

The designation of the mining area under the first and second paragraph shall be subject to the conditions as follows:

- (1) If an application for the Prathanabat is a result of prospecting according to the Special Atchayabat under which the applicant for the Prathanabat has Minerals Act B.E.2510 prospected according to the conditions on the aforesaid Special Atchayabat until he discovers a mineral deposit within the prospecting area, the Minister shall designate the mining area according to the mineral deposit and the amount of the area where the applicant specified in the application for the Prathanabat.
- (2) If an application for a Prathanabat is not the case under (1), the Minister shall designate the mining area according to the recommendation of the Committee.

For the issuance of a Prathanabat under the first and second paragraph, the Minister may, as he deems expedient, impose any special condition for the holder of the Prathanabat to perform.

*(As amended by Section 9 of the Minerals Act (No.5), B.E. 2545)*

#### Section 46

In the area covered by an Exclusive Prospecting Atchayabat or Special Atchayabat of any person, no other person shall apply for a Prathanabat unless such person has the ownership or possession in such area under the Land Code.

*(As amended by Section 17 of the Minerals Act (No.2), B.E. 2516)*

#### Section 46/1

For the purpose of safety, the issuance of the Prathanabat for mining or Prathanabat for underground mining that causes the mining area to entirely or partly overlap in the different depths shall be prohibited.

*(As amended by Section 10 of the Minerals Act (No.5), B.E. 2545)*

## **Section 47**

Upon receipt of an application for a Prathanabat, the competent official shall demarcate the area of the Prathanabat. The demarcation of the said area may be made by surveying or other methods in accordance with the rules and procedures prescribed in a Ministerial Regulation.

In case the demarcation of the area is made by surveying, the applicant or his appointee shall accompany the Government surveyors to make a survey on such a date and at such a time and place to be specified in writing by the competent official.

The Director-General has the power to reject the application when the applicant:

- (1) neglects to accompany the official surveyors to make a survey under paragraph two without justification;
- (2) ignores the instructions of the competent official in the process of issuing the Prathanabat;
- (3) violates or fails to comply with any provisions of Chapter 3 or Chapter 4 or is involved in the commission of such act; or
- (4) when it appears that the minerals for which he wishes to mine in the area applied for is insufficient for mining.

*(As amended by Section 17 of the Minerals Act (No.2), B.E. 2516)*

## **Section 48**

For the purpose of undertaking a survey, the competent official and his workers are empowered to enter, during the daytime, on land which a person has rights or possession. But he must notify the landowner or the occupier before hand, and the landowner or the occupier shall render reasonable assistance as the case may require.

When there is a need to erect map posts on the land of any person, the competent official and his workers have the power to erect the map posts as it is necessary.

In case of necessity, the competent official or his workers shall have the power to dig, cut down trees or branches, or dispose of anything that obstructs the work of surveying as it is necessary, however, these actions must cause the least damage to the landowner.

### **Section 48/1**

In case of an application for the Prathanabat for underground mining, the competent official shall, with the expenses paid by the applicant for the Prathanabat, erect map posts or demarcation posts with mine numbers clearly visible on the surface of the land.

*(As amended by Section 11 of the Minerals Act (No.5), B.E. 2545)*

## **Section 49**

After having demarcated the area, the Local Mineral Industry Official shall make an announcement of the application for a Prathanabat by posting a copy thereof at a conspicuous place at the Local Industry Office, Amphur or King-Amphur Office and local Kamnan Office in the locality where the Prathanabat is applied for. If no objection is raised within twenty days from the date of posting the announcement, the Local Mineral Industry Official shall proceed with the application further.

*(As amended by Section 18 of the Minerals Act (No.2), B.E. 2516)*

## **Section 50**

If the area for which a Prathanabat is applied for is not entirely vacant land, the applicant must produce evidence to the competent official that the applicant is entitled to mine in such an area.

*(As amended by Section 12 of the Minerals Act (No.5), B.E. 2545)*

## **Section 51**

After the area has been demarcated, the applicant for a Prathanabat who wishes to commence mining before the Prathanabat is granted shall submit an application for a Provisional Prathanabat to the Local Mineral Industry Official.

A Provisional Prathanabat is issued by the Minister or the person entrusted by him.

A Provisional Prathanabat shall be valid for one year from the date of issue. In case the application for a Prathanabat is rejected under Section 47 paragraph three, the Provisional Prathanabat shall expire on the date of rejection thereof.

The holder of a Provisional Prathanabat has the same rights, duties and liabilities under this Act as the holder of a Prathanabat.

A Provisional Prathanabat may not be transferred. In case the holder of a Provisional Prathanabat dies or is adjudged incompetent, his heir or guardian, as the case may be, shall become the holder of the Provisional Prathanabat, and Section 81 shall apply *mutatis mutandis*. When the Prathanabat is to be issued, it shall be issued to the heir or guardian for and on behalf of the applicant.

*(As amended by Section 19 of the Minerals Act (No.2), B.E. 2516)*

## **Section 52**

If any demarcation post or map post established by the competent official in the demarcation survey of the mining area is lost, the holder of the Prathanabat is liable to pay all expenses for re-surveying to establish a new demarcation post or a map post.

## **Section 53**

The Minister or the person entrusted by him has the power to revoke a Provisional Prathanabat upon the occurrence of any cause for revoking a Prathanabat under this Act.

When the Minister or the person entrusted by him revokes any Provisional Prathanabat, the application for the Prathanabat shall be automatically rejected.

*(As amended by Section 20 of the Minerals Act (No.2), B.E. 2516)*

## **Section 54**

A Prathanabat is issued by the Minister.

A Prathanabat shall be valid for not in excess of twenty five years from the date of issue and in the case where the applicant for a Prathanabat has received a Provisional Prathanabat, the validity of the Prathanabat shall begin from the date of issue of the first Provisional Prathanabat.

In the case where the combined validity of the Provisional Prathanabat is more than the validity of a Prathanabat to be issued, the Prathanabat shall not be issued.

When a Prathanabat provides for a validity period of less than twenty five years and the holder thereof applies for an extension to the Local Mineral Industry Official at the time not less than one hundred and eighty days before the expiry of the Prathanabat, the Minister may extend the validity period of the Prathanabat, provided that the total period of the validity does not exceed twenty five years.

When the holder of a Prathanabat has applied for extension under paragraph four, he may, notwithstanding that the Prathanabat term has expired, continue to mine as though he were the holder of the Prathanabat, but for no more than one hundred and eighty days after the expiry of the Prathanabat; provided, however, that the Local Mineral Industry Official has in the meantime and by written document informed him of the Minister's refusal of extension of the Prathanabat, his rights to mine shall cease on the date he was thus informed.

*(As amended by Section 21 of the Minerals Act (No.2), B.E. 2516)*

## **Section 55**

In addition to the fee for the issuance of a Provisional Prathanabat or Prathanabat, the holder thereof is required to pay in advance on a yearly basis a mining area rental fee for mining to the amount of the entire mining area, and to pay a special subscription at a rate not exceeding ten percent of the royalty paid for minerals produced from the area under the Provisional Prathanabat or Prathanabat. This special subscription shall be kept by the Department of Primary Industries and Mines as expenses for restoration of the mined area, prevention and suppression of offences prohibited under this Act, and for local development funds in the province where the mining area is located.

The rate of payment of the special subscription, rules, procedures and conditions for its collection, including the budget allocation thereof, shall be prescribed by a Ministerial Regulation.

*(As amended by Section 14 of the Minerals Act (No.3), B.E. 2522)*

#### **Section 56**

The rights in the Prathanabat are not subject to the execution of judgment.

#### **Section 57**

The holder of a Prathanabat must conduct his mining operations in accordance with the mining methods, plans, operating schemes and conditions prescribed in the issue of the Prathanabat; for any addition to the kinds of minerals which are to be mined or any change in mining methods, project plans, and conditions aforesaid, the holder of a Prathanabat must first obtain a written permission from the Director-General.

#### **Section 58**

The mining development such as construction of buildings, water ways, dams or any operation carried out in the mining area for the purpose of mining including construction or installation of labor-saving machines shall be treated as mining operations.

*(As amended by Section 23 of the Minerals Act (No.2), B.E. 2516)*

#### **Section 59**

The construction of buildings used for mining operation, the establishment of mineral processing plant, slime retainment or tailings dams cannot be made outside the mining area, unless a license is obtained from the Local Mineral Industry Official and the conditions prescribed in the license are complied with.

The licensee under the first paragraph must pay a mining area rental fee as though he were using the land for mining.

#### **Section 60**

The holder of a Prathanabat must conduct his mining operations by employing laborers and scheduling the working time as follows:

- (1) There must be laborers working in every twelve month period with a monthly average of not less than one laborer for an area of two rai, fraction thereof being counted as two rai; but in the event that laborsaving machines are used, the power of such labor-saving machines will be calculated in place of laborers per area at the rate of one brake horsepower to eight laborers;
- (2) There must be a total working time of not less than one hundred and twenty days in every twelve month period.

In the event that a holder holds several Prathanabat, contiguous Prathanabat shall be deemed as the same mine for the purpose of calculating laborers and working time provided above.

Holders of several Prathanabats covering contiguous mining areas may coordinate mining projects into a single mine by submitting an application to, and obtaining a license from the Local Mineral Industry Official and for this purpose the provisions regarding laborers and working time shall apply to a single mine as stated.

The provisions of paragraph one shall not apply to the holder of a Prathanabat in the first year from the date of receiving the Prathanabat unless he is exempted under the rules, procedures and conditions prescribed in a Ministerial Regulation.

*(As amended by Section 24 of the Minerals Act (No.2), B.E. 2516)*

#### **Section 61**

If the holder of a Prathanabat cannot conduct mining operations as prescribed in Section 60 as a result of a Ministerial Regulation, he shall apply for a *License for Suspension of Mining Operation* in the whole mining area or a part thereof with the Local Mineral Industry Official. The Local Mineral Industry Official may issue a license to suspend mining operations to him for each period not exceeding one year.

*(As amended by Section 25 of the Minerals Act (No.2), B.E. 2516)*

### **Section 62**

The holder of a Prathanabat shall not mine within fifty meters of a highway or public waterway, unless the Prathanabat allows him to do so or he has obtained a license from the Local Mineral Industry Official, however, he must comply with the conditions prescribed in such a license.

### **Section 63**

The holder of a Prathanabat shall not obstruct, destroy or undertake any work which may be detrimental to the use of highways or public waterways, unless he has obtained a license from the Local Mineral Industry Official and he must comply with the conditions prescribed in such a license.

### **Section 64**

The holder of a Prathanabat shall not dam up or draw water from a public waterway, regardless of whether such a waterway is within or outside of the mining area, unless he has obtained a license from the Local Mineral Industry Official and he complies with the conditions prescribed in such a license.

An application for a license to dam up or draw water from a public waterway must be submitted with a map and detailed explanations regarding the procedure for damming up or drawing water.

### **Section 65**

The Local Mineral Industry Official is empowered to issue a license allowing the holder of a Prathanabat in one mining area to construct roads, whether over land or water, or water-channel for the purpose of discharging slime or tailings through the mining area of another Prathanabat, provided that the aforesaid operations result in any damage, the holder of the Prathanabat who possesses such a license shall be liable to pay for the compensation.

### **Section 66**

In case of necessity, the Minister is empowered to issue a license allowing a holder of a Prathanabat in one mining area to discharge slime or tailings for retainment in the mining area of another Prathanabat, which has already been mined out or does not contain sufficient amount of minerals for mining, provided that any damage does occur, the holder of the Prathanabat who possesses such a license shall be liable to pay for the compensation.

The person who possesses a license under the first paragraph shall pay the mining area rental fee for using the land to retain slime or tailings in place of the Prathanabat holder whose land is used.

### **Section 67**

The holder of a Prathanabat shall not discharge outside his mining area any slime or tailings resulting from his mining operation unless such water does not contain solid matter in excess of the amount prescribed in a Ministerial Regulation.

When it is necessary, the Minister is empowered to issue a license to omit the enforcement of the first paragraph and he may prescribe any condition as he deems appropriate.

### **Section 68**

In discharging slime or tailings outside his mining area, the holder of a Prathanabat, even though complying with Section 67, must take measures to prevent the slime or tailings from causing public waterways to become shallow or from being detrimental to the use of such waterways.

In case of necessity the Minister is empowered to designate certain public waterways as allowable for one or more Prathanabat holders to discharge slime or tailings and demand the holders of Prathanabats to make payment in compensation for maintenance and damage and may prescribe conditions as he deems appropriate.

### **Section 69**

In undertaking mining or mineral processing operations, the holder of a Prathanabat shall not perform, or fail to perform, any act that is likely to render toxic minerals or other poisonous materials harmful to persons, animals, vegetation, or properties.

### **Section 70**

The competent officials are empowered to enter into a mining area for inspection of the mining operations at any time while the possessor of the mining area shall offer facilities as may be appropriate under such circumstances; and the competent officials are empowered to give orders in writing to the holder of the Prathanabat to undertake any action to prevent any harm resulting from the mining or mineral processing operations.

### **Section 71**

When the mining or mineral processing operation is considered to be harmful to persons, animals, vegetation or properties, the Local Mineral Industry Official is empowered to give an order in writing to the holder of a Prathanabat to alter or modify the mining or mineral processing procedure as he may consider necessary for the prevention of such harm, and he is also empowered to give an order in writing to totally or partially suspend the mining or mineral processing operation as he may deem appropriate.

### **Section 72**

Any sump, pit, or shaft which is no longer used in the mining operation shall be filled up or the land restored to its original condition by the holder of a Prathanabat regardless of whether the Prathanabat has expired or not; unless the Prathanabat provides otherwise or unless the Local Mineral Industry Official, with an approval of the Director-General, has ordered otherwise in a written communication.

In the event that the holder of a Prathanabat fails to comply with the first paragraph hereof, the Local Mineral Industry Official is empowered to give an order in writing to the holder of a Prathanabat to fill up or restore the land to its original condition, and the holder of the Prathanabat must fulfill the requirements in such an order within ninety days after receiving the said order.

### **Section 73**

The holder of a Prathanabat has the rights within the mining area:

- (1) To mine and sell minerals as specified in the Prathanabat. Other minerals which are by-products of the mining operation may be sold by the holder of the Prathanabat only upon receiving a license from the Director-General.
- (2) To construct buildings or undertake other works in connection with the mining operation including mineral processing or retaining slime or tailings.
- (3) To use the land which has been mined out or which does not contain minerals at the amount sufficient for mining, for agricultural purposes during the term of the Prathanabat provided that upon the expiry of the Prathanabat this shall not be construed as the acquisition of rights to possession.
- (4) To take legal action to the court in the event of a dispute or obstruction of the rights to mine.

The provisions in (2) and (3) shall not apply to the holder of a Prathanabat for underground mining with the exception that it has been conducted within the area of which he has the ownership or possession.

*(As amended by Section 13 of the Minerals Act (No.5), B.E. 2545)*

### **Section 74**

The holder of a Prathanabat shall not remove or allow any other person to remove tailings or mine waste out of the mining area unless a license is obtained from the Local Mineral Industry Official, and the conditions prescribed in such a license are complied with.

## **Section 75**

A Prathanabat shall be valid only to the holder of the Prathanabat and shall cover his employees.

*(As amended by Section 26 of the Minerals Act (No.2), B.E. 2516)*

## **Section 76**

The holder of a Prathanabat shall not sublease to another person the mining operation within any part or the whole of the mining area unless a license is obtained from the Minister or the person entrusted by him.

The rules, procedures and conditions for the issuance of a Mining Sublease License and the cancellation thereof shall be prescribed by a Ministerial Regulation.

*(As amended by Section 15 of the Minerals Act (No.3), B.E. 2522)*

## **Section 77**

When the holder of a Prathanabat wishes to sublease the mining operation to another person, he shall submit an application to the Local Mineral Industry Official, specifying the person to whom the mining operation shall be subleased, for any single period within the term of the Prathanabat, and the portion of the mining area to be subleased.

A Mining Sublease License is issued by the Minister or the person entrusted by him as may be deemed proper and for this purpose any condition may be prescribed in such a License. The holder of a Prathanabat who subleases the mining operation under the first paragraph hereof shall still remain bound and liable by law and the sub-lessee shall have the rights, duties and liabilities under the law as though he were also the holder of a Prathanabat.

## **Section 78**

When any holder of a Prathanabat wishes to transfer his Prathanabat to another person, the holder of the Prathanabat and the prospective transferee shall submit an application to the Local Mineral Industry Official for successive submission to the Minister. After the Minister has ordered approval and the holder of the Prathanabat has discharged all debts obligated under this Act to the Local Mineral Industry Official, the Prathanabat may then be transferred.

## **Section 79**

In transferring a Prathanabat, the holder of the Prathanabat and the prospective transferee or authorized agent shall, upon producing the Prathanabat and documents related to mining, register such a transfer with the Local Mineral Industry Official.

## **Section 80**

In transferring a Prathanabat, apart from the application fee and the transferring fee, the transferor must also pay a mining rights transferring fee for the amount which he shall receive from transferring the mining rights.

The mining rights transferring fee shall be collected only on the part of the amount received for transferring the mining rights, excluding parts of the amount received from transferring other properties.

In the event that the holder of a Prathanabat declares no disbursement on the mining rights transfer, or in the event that the Local Mineral Industry Official considers the declared amount to be unreasonably low, the Local Mineral Industry Official shall, according to the principles prescribed by the Director-General, assess the amount of the mining rights to be transferred and the amount assessed shall be used for calculating the mining rights transferring fee.

No mining rights transferring fee is to be paid for a transfer of a Prathanabat as a personal gift to the transferor's own father, mother, husband, wife or descendants.

## **Section 81**

In the event that the holder of a Prathanabat dies, his heir shall submit an application to the Local Mineral Industry Official for a transfer of the Prathanabat by way of succession

within ninety days from the death of the holder of the Prathanabat, otherwise it shall be deemed that the Prathanabat shall expire upon termination of the ninety day period.

No mining rights transferring fee is to be paid for a transfer of a Prathanabat by way of succession.

When the heir of the holder of a Prathanabat applies for a transfer of the Prathanabat by way of succession within the period aforesaid in the first paragraph, the heir may continue mining as though he held the Prathanabat, but if the Minister considers that the heir should not receive the transfer of the Prathanabat, the Minister may order refusal of the transfer and in this event it shall be deemed that the Prathanabat expires on the day such order is received from the Local Mineral Industry Official.

In the event that the holder of a Prathanabat is adjudged incompetent, the provisions in the three preceding paragraphs shall apply to the guardian *mutatis mutandis*.

#### **Section 82**

In the event that the holder of a Prathanabat who is an ordinary person is adjudged bankrupt, the Prathanabat shall expire.

#### **Section 83**

In the event that the holder of a Prathanabat is a juristic person and this juristic status terminates, the Prathanabat shall expire.

#### **Section 84**

The holder of a Prathanabat may surrender the Prathanabat by submitting an application and delivering the Prathanabat to the Local Mineral Industry Official, in which case the Prathanabat shall expire upon completion of one hundred and eighty days from the date the Local Mineral Industry Official receives the application, unless the holder of the Prathanabat and the Local Mineral Industry Official agree to an expiration within a lesser period of time.

#### **Section 85**

In the event that the holder of a Prathanabat departs from the place of domicile or address and the Local Mineral Industry Official is unable to communicate with him, the Minister is empowered to revoke that Prathanabat.

#### **Section 86**

If any holder of a Prathanabat does not discharge all debts obligated under this Act within ninety days after receiving a written notice of payment from the Local Mineral Industry Official, the Minister is empowered to revoke that Prathanabat.

#### **Section 87**

In the event that the Minister has ordered a revocation of any Prathanabat, the Prathanabat shall expire on the date the order is received from the Local Mineral Industry Official.

#### **Section 88**

An expiry of any Prathanabat shall be published in the Government Gazette except when the holder of the Prathanabat has applied for an extension and the Minister has not refused it in accordance with Section 54.

### **CHAPTER 4/1**

### **Underground Mining<sup>4</sup>**

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#### **Part I**

#### **General Provisions**



### **Section 88/1**

The provisions in other Chapters under this Act shall be applicable to underground mining to the extent that they are not contradictory to the provisions under this Chapter.

### **Section 88/2**

Underground mining shall be conducted at the safe depth level in consideration of the geological structure and mining procedures in accordance with the principles of mining engineering in each area for the safety of living things.

### **Section 88/3**

In case the underground mining passes beneath the land, which is not vacant land, and the mining depth level is not over 100 meters below the surface of the land, the applicant for a Prathanabat must produce evidence to the competent official that he is entitled to mine in that area.

### **Section 88/4**

The mining area under a Prathanabat for underground mining shall not encroach upon a national park or an animal reserve.

In the event that the underground mining in any area has been found to cause a significant impact on the quality of the environment, which cannot be remedied or rehabilitated, the Minister shall impose a condition on the Prathanabat prohibiting underground mining in that area.

*(As added by Section 14 of the Minerals Act (No.5), B.E. 2545)*

### **Section 88/5**

The issuance of a Prathanabat for underground mining shall be subject to the following conditions:

- (1) The applicant for the Prathanabat submits an application in compliance with the conditions under Section 88/6.
- (2) The Minister has correctly carried out the hearing of the opinions under Section 88/7 paragraph one.
- (3) The Minister has correctly imposed the conditions on the Prathanabat under Section 88/7.

## **Part II**

### **Imposition of Conditions on the Prathanabat for Underground Mining**

### **Section 88/6**

An application for a Prathanabat for underground mining shall consist of the details of mining, plans, and a complete project in compliance with the rules prescribed by the Minister in a Ministerial Regulation, which shall at least comprise of the following information:

- (1) the preliminary information indicating depths and technical measures under Section 88/2;
- (2) the maps concisely indicating the mining area together with the environmental impact assessment data in different areas for consideration under Section 88/4;
- (3) the concise technical information on mining method and mineral processing procedure, including alternatives commonly available in mining engineering, and the alternatives to be used by the applicant for the Prathanabat as he deems expedient, with the reasons for choosing such alternatives;

- (4) the concise information, plans, process, mining method, mineral processing procedure, and rehabilitation of the areas after the underground mining indicating the measures to reduce the impact or preserve the quality of the relevant environments, which may affect the existence of the nature and community;
- (5) the proposal for the participation of stakeholders in the inspection of underground mining in accordance with Section 88/9 (2), which stipulates the amount of supporting funds and rules of mining inspection that the applicant shall propose to the persons entitled to inspect mining under Section 88/11;
- (6) the routes of transportation and sources of water to be used in the project whether they are already in existence or will be developed together with the details of their uses throughout the period of the project, which is adequate for the assessment that the underground mining in the project shall not affect the existence of the community and nature;
- (7) the proposal to insure against liability under Section 88/13 specifying the covered insurance amount and insured period.

### **Section 88/7**

When the environmental impact assessment report of the applicant for the Prathanabat for underground mining has been approved according to the law on promotion and preservation of the environmental quality, the Minister shall compile the following information and bring it into the process of hearing of opinions of the stakeholders in accordance with the rules prescribed in the laws or relevant governmental regulations, as the case may be, for the assistance of the impositions of necessary conditions in the Prathanabat.

- (1) The project information submitted with the application for a Prathanabat under Section 88/6.
- (2) The environmental impact assessment report accompanied with the opinions of the report evaluators.

Once the process of the hearing of opinions ends and upon his receipt of the report from the note-taking committee, the Minister shall study the report and pass judgment on the imposition of the conditions in the Prathanabat according to the following rules:

- (1) the conditions on the Prathanabat shall cover the project at least in every item as prescribed in a Ministerial Regulation issued under Section 88/6;
- (2) in case a discrepancy appears about the information or opinions in the hearing of opinions carried out under the first paragraph, the Minister shall make a final conclusion; nevertheless, in case the report or information on certain problems is not adequate for making a decision or the hearing of opinions is not correctly carried out or is significantly wrong, the Minister shall issue a remedial order as the case may be, so as to finalize the conclusion;
- (3) in addition to the conclusion of the Minister under (2), the conditions in the Prathanabat shall cover the entire details of the project presented by the applicant in the environmental impact assessment report, the report accompanying the application under Section 88/6, and the additional conditions or measures in the environmental impact assessment report as well.

### **Section 88/8**

In case of the amendment of the conditions in the Prathanabat for underground mining stipulated under Section 88/7, the provisions in this part shall be applied *mutatis mutandis*. It shall be deemed that the hearing of opinions of the persons entitled to inspect mining under Section 88/11 is the hearing of the stakeholders in general as specified in Section 88/7, paragraph one.

**Part III**  
**Rights to Participate of Stakeholders**

**Section 88/9**

In the case where any person wishing to apply for the Prathanabat for underground mining deems expedient to have a preliminary consultation with the stakeholders so as to develop his underground mining, he shall submit an application to the Director-General for an appointment of a committee for organizing consultation meetings according to the procedures prescribed in a Ministerial Regulation at his own expense.

The notification in a Ministerial Regulation under the first paragraph shall prescribe the following rules and procedures:

- (1) The completion of a preliminary report, which will be brought into a consultation, shall clearly consist of necessary information and problematic issues.
- (2) The criteria to support groups or organizations resulting from the association of stakeholders and the participation of delegates in the consultation, including the groups of Kamnans and village headpersons, administrative groups and members of the parliament of local administrative organizations, and groups of people who have the rights to the land or reside in that mining area.
- (3) The composition of the committee for organizing consultation meetings shall comprise of representatives from the relevant regional governmental offices and the State's institutes of higher education.
- (4) The procedures of the consultation meetings shall include a public announcement of an invitation to stakeholders so that they may send their representatives to participate in the meetings, a registration of meeting participation, and an appropriate period of time for the stakeholders under Section 88/9 (2) to study the information thereof in advance.

**Section 88/10**

Whenever the necessity to organize the hearing of opinions under Section 88/7, paragraph one, should arise, the Director-General shall establish a supporting fund for the research project of the stakeholders of the underground mining project under Section 88/9 (2), which shall be funded by:

- (1) The expenses collected from the applicants for Prathanabats in accordance with the rates prescribed in a Ministerial Regulation.
- (2) The supporting funds from various public and private funds.

The rates of expenses under (1), rules, procedures, and conditions for the proposal and support of the project, and regulations of the acceptance and remittance of the supporting funds shall be in compliance with the notifications in Ministerial Regulations.

**Section 88/11**

Within sixty days from the date of issuance of a Prathanabat for underground mining, the Director-General shall call for a meeting of the representatives of the stakeholders under Section 88/9 (2) in order to make an agreement on specifying the persons entitled to inspect mining in accordance with the rules provided in the conditions of the Prathanabat.

Within thirty days from the date of acquiring the persons entitled to inspect mining, the holder of the Prathanabat shall allocate financial funds for hiring specialists to assist the persons entitled to inspect mining at the wage rates specified in the conditions of the Prathanabat.

After being informed about the contracts and details on employment of the specialists from the persons entitled to inspect mining, the Director-General shall pay the wages for the specialists when receiving job acceptance from the persons entitled to inspect mining.

The working term of the persons entitled to inspect mining; conditions and procedure for dismissal of the person entitled to inspect mining, who misconducts his authority, by the decision of the meeting of the stakeholders under Section 88/9 (2); safekeeping of supporting funds; standard qualifications of specialists; contract features for employment of specialists; and rules for withdrawal or payment shall be prescribed in a Ministerial Regulation.

## **Part IV**

### **Protection of Rights in Immovable Properties**

#### **Section 88/12**

Underground mining in any area within the mining area with the following characteristics shall be deemed to cause damage to the rights in immovable properties in that area. Additionally the injured party shall be entitled to demand that the holder of the Prathanabat for underground mining suspend his activities and provide necessary remedies for the protection of the danger, which may occur.

- (1) The underground mining at the depth level below the surface of the land lesser than the level specified in the conditions of the Prathanabat, and no deeper than 100 meters.
- (2) The underground mining at any depth level, of which the mining method according to the principles of mining engineering to stabilize the ground layers is not in compliance with the conditions in the Prathanabat for underground mining.

#### **Section 88/13**

In the event that any ground layer in a mining area of the Prathanabat for underground mining has collapsed causing all kinds of damage to persons, properties, or environment, the following principles of legal liabilities shall be applied to the damage:

- (1) It shall be initially presumed that the collapse of the ground was caused by the underground mining.
- (2) If it is finally concluded that the underground mining is the cause of the collapse of the ground, the holder of the Prathanabat for underground mining and the relevant government offices, which are responsible for the mining inspection, shall be jointly liable to the injured party in all cases, and after the aforesaid governmental offices have already paid the compensation to the injured party, they are entitled to exercise the rights of subrogation against the holder of the Prathanabat for underground mining.

## **CHAPTER 5**

### **Artisanal Mining and Ore Panning**

#### **Section 89**

No one shall undertake any artisanal mining or ore panning unless he has obtained an Artisanal Mining License or an Ore Panning License.

#### **Section 90**

Any person who wishes to obtain an Artisanal Mining License or Ore Panning License shall submit an application to the local Nai Amphur, and the local Nai Amphur shall forward the matter to the Local Mineral Industry Official or the Person appointed by the Director-General to consider the issuance of such a License.

An Artisanal Mining License or Ore Panning License is issued by the Local Mineral Industry Official or the person appointed by the Director-General and any conditions may be prescribed in the License.

An Artisanal Mining License or Ore Panning License is valid only until 31<sup>st</sup> December of the year of issue.

### **Section 91**

The rules and procedures concerning the issue of an Artisanal Mining License or Ore Panning License and the suspension and revocation of such a License shall be prescribed by a Ministerial Regulation.

## **CHAPTER 5 bis**

### **Drilling for Underground Brine**

*(As added by Section 6. of the Minerals Act (No.4), B.E. 2534)*

### **Section 91 bis**

No one shall undertake any underground brine drilling in excess of the depth level as notified by the Minister in the Government Gazette unless he has obtained an *Underground Brine Drilling License*.

For the interest of the people's personal use in a specific area, the Minister shall have the power to prescribe the depth level of the underground brine drilling in excess of the specified depth level under the first paragraph with a clear stipulation of the area and the depth level, which shall be published in the Government Gazette.

Subject to Section 91 ter, any person who wishes to obtain an *Underground Brine Drilling License* under the first paragraph shall submit an application to the Local Mineral Industry Official or the person appointed by the Director-General. The aforesaid officials are empowered to issue an *Underground Brine Drilling License*, which is valid for no more than three years from the date of issue, and specify any condition in the License therein.

### **Section 91 ter**

For the purpose of the protection of the ground collapse and environmental impacts caused by the underground brine drilling, the Minister shall have the power to demarcate a specific area as an *Underground Brine Drilling Restricted Area*, and also prescribe the minimum depth level, allowed for the underground brine drilling in the aforesaid restricted area, other than the depth level as prescribed in Section 91 bis.

The demarcation, cancellation, or alteration of any underground brine drilling restricted area and the prescription or alteration of the minimum dept level under the first paragraph shall be notified in the Government Gazette.

Any person who wishes to obtain an *Underground Brine Drilling License* as prescribed in the first paragraph shall submit an application to the Director-General or the person entrusted by him. The Director-General, or the person appointed by him, is empowered to issue *the Underground Brine Drilling License* for the aforesaid restricted area, which is valid for no more than five years from the date of issue, and he may specify any condition therein.

### **Section 91 quarter**

The competent official is empowered to enter, at any time, into the area in which the underground brine drilling is granted for an inspection of the operations in order to ensure the conformity of the conditions as specified in the License, and the Licensee or the possessor of the area in which the underground brine drilling is granted shall offer facilities as appropriate under the circumstances. In this case, the competent official is empowered

to give orders in writing to the Licensee or the possessor of the area to undertake any action to prevent damage, which may occur.

#### **Section 91 quinque**

In case the Local Mineral Industry Official considers that the operation of the Licensee may cause harm to persons, animals, vegetation, or properties, he is empowered to give orders in writing to the Licensee to alter, modify, or suspend that operation as he deems necessary to prevent or extinguish such harm.

#### **Section 91 sext**

The provisions in Chapter 1, General Provisions, and Chapter 2, Committee, shall apply to the underground brine drilling in this chapter by regarding an Underground Brine Drilling License as a Prathanabat.

The provisions in Chapter 3 to Chapter 11 shall not apply to the underground brine drilling, brine, and salt derived from the underground brine according to this chapter.

#### **Section 91 septem**

The qualifications of applicants, amount of land per application, rules, procedures, and conditions concerning the application for an Underground Brine Drilling License, issuance, transfer, extension, suspension, and revocation of an Underground Brine Drilling License shall be in accordance with the provisions in Ministerial Regulations.

#### **Section 91 octo**

The holder of an Underground Brine Drilling License shall pay the royalties in accordance with the law on mineral royalty rates before the removal of underground brine, or salt derived from the underground brine, from the area in which underground brine drilling is granted as specified in the License, unless it is transported to the places as specified in the License or the places as later granted by the Local Mineral Industry Official. The aforesaid holder shall provide a cash deposit or a bank guarantee to the Local Mineral Industry Official as an insurance for the royalty payment, in accordance with the rules and conditions prescribed by the Director-General or the person appointed by the Director-General.

In the case where the purchase and sale of underground brine or salt derived from the underground brine forfeited by the State, for which royalties have remained unpaid, the purchaser shall pay the royalties for the aforesaid underground brine and salt derived from the underground brine by the time of purchasing.

## **CHAPTER 6**

### **Purchase, Sale, and Storage of Minerals**

#### **Section 92**

No person shall purchase minerals for business purposes unless he has received a Mineral Purchase License from the Local Mineral Industry Official.

The provision of paragraph one shall not apply to:

- (1) the purchase of minerals from an Artisanal Mining Licensee;
- (2) the purchase of metal derived from metallurgy;
- (3) the purchase of minerals in accordance with the kind and conditions of minerals which have been altered so that they can be mixed with other materials or made into finished products, as to be prescribed by the Director-General and notified in the Government Gazette.

*(As amended by Section 27 of the Minerals Act (No.2), B.E. 2516)*

### **Section 93**

Any person who wishes to obtain a Mineral Purchase License shall submit an application to the Local Mineral Industry Official in the locality where the applicant is to establish his place of business for purchasing minerals.

The Local Mineral Industry Official is empowered to issue a Mineral Purchase License, specify the place of purchase, and may prescribe any conditions in the Mineral Purchase License.

A Mineral Purchase License is valid only until 31st December of the year of issue.

### **Section 94**

The holder of a Mineral Purchase License shall not purchase minerals at any place other than the place of purchase specified in the Mineral Purchase License unless he has obtained from the Local Mineral Industry Official a License for Mineral Purchasing outside the Designated Place to purchase minerals outside his place of purchase.

If the holder of a License for Mineral Purchasing outside the Designated Place wishes to have another person purchase minerals outside his place of purchase on his behalf, he must also specify the name of such person in applying for such a License.

As for the application and issuance of a License for Mineral Purchasing outside the Designated Place, the provisions of Section 93 shall apply *mutatis mutandis*.

A License for Mineral Purchasing outside the Designated Place shall expire at the same time as the Mineral Purchase License.

### **Section 95**

The holder of a Mineral Purchase License shall display the License at the conspicuous place specified in the License. In the event that he also holds a License for Mineral Purchasing outside the Designated Place he shall display the names of purchasing agents, if any, at the same place.

Purchasing agents so named must carry the License for Mineral Purchasing outside the Designated Place with them while purchasing minerals.

### **Section 96**

A Mineral Purchase License is not transferable.

### **Section 97**

Upon the death of the holder of a Mineral Purchase License, if his heir or the administrator of his estate wishes to continue purchasing minerals under the License, he shall submit an application to purchase minerals under the deceased's License within thirty days from the death of the License holder and at the same time produce evidence of succession or appointment as administrator of the estate. The Local Mineral Industry Official is empowered to allow the applicant to continue purchasing minerals under such a License.

In the event that the heir or administrator of the estate has applied for purchasing minerals under the deceased's License within the period aforesaid in the first paragraph, the heir or administrator of the estate may continue to purchase minerals until the Local Mineral Industry Official orders interdiction. If the heir or administrator of the estate does not apply to purchase minerals under the deceased's License within the period aforesaid in the first paragraph, the Mineral Purchase License shall expire upon completion of thirty days from the death of the Licensee.

In the event that the holder of a Mineral Purchase License is adjudged incompetent, the provisions in the two preceding paragraphs shall apply to the guardian *mutatis mutandis*.

In the event that the holder of a Mineral Purchase License, who is an ordinary person, is adjudged bankrupt, the Mineral Purchase License shall expire.

In the event that the holder of a Mineral Purchase License is a juristic person and this juristic status terminates, the Mineral Purchase License shall expire.

## **Section 98**

No holder of a Mineral Purchase License or a License for Mineral Purchasing outside the Designated Place shall purchase minerals unless the seller has:

- (1) delivered documents in the form issued by the Department of Primary Industries and Mines to show that the minerals were acquired under a Provisional Prathanabat or a Prathanabat, by stating its number and bearing the signature of the holder of the Provisional Prathanabat or Prathanabat or his agent who is duly registered with the Local Mineral Industry Official;
- (2) delivered documents in the form issued by the Department of Primary Industries and Mines to show that the minerals belong to the seller who holds a Mineral Purchase License, stating its number and bearing the signature of the purchase Licensee or his agent who is duly registered with the Local Mineral Industry Official;
- (3) delivered documents showing that the person has obtained from the Director-General a special permission for this particular sale; or
- (4) produced an Ore Panning License and proved that the minerals were acquired in the quantity not exceeding the limit specified in the License.

The documents delivered by the seller of minerals under (1), (2) or (3) must be retained by the purchase Licensee for inspection by the competent official at any time during a period of five years from the purchase of the minerals.

When the seller produces documents under (4) the Mineral Purchase Licensee must record the purchase on the selling list in the Ore Panning License and then return the License to the holder thereof immediately.

## **Section 99**

No one shall sell minerals unless he is:

- (1) the holder of a Provisional Prathanabat or Prathanabat, or his agent duly registered with the Local Mineral Industry Official, who sells minerals acquired from the mining operations under the Provisional Prathanabat or Prathanabat;  
*(As amended by Section 29 of the Minerals Act (No.2), B.E. 2516)*
- (2) the holder of a Mineral Purchase License or his agent who is duly registered with the Local Mineral Industry Official;
- (3) the holder of an Artisanal Mining License or the owner of minerals obtained from a holder of an Artisanal Mining License;
- (4) the holder of an Ore Panning License;
- (5) the person who has obtained a special permission from the Director-General for the particular sale; or
- (6) the person who sells metals obtained from metallurgical processes.

## **Section 100**

The person who is entitled to sell minerals under Section 99 shall not sell minerals to any person except the holder of a Mineral Purchase License or the holder of a License for Mineral Purchasing Outside the Designated Place; unless the minerals are acquired from Artisanal mining, or the metals are obtained from metallurgical processes, or the minerals are for direct export out of the Kingdom.

## **Section 101**

No person shall store minerals for business purposes at any place, except at the place where the person has obtained a Mineral Storage License from the Local Mineral Industry Official or unless the minerals are retained in possession under Section 105.



## **Section 102**

Any person who wishes to obtain a Mineral Storage License shall submit an application to the Local Mineral Industry Official.

A Mineral Storage License is issued by the Local Mineral Industry Official who may prescribe any condition in the License.

A Mineral Storage License is valid only until 31st December of the year of issue.

## **Section 103**

The Director-General is empowered to revoke any License issued under the provisions in this chapter when it appears that there have been violations of the provisions hereof or violations of the conditions prescribed in the License or there have been the occurrence of causes which affect public safety or welfare.

The order revoking a License shall be delivered to the Licensee, and such a License shall be deemed to expire on the date that order is received.

The holder of a License which is revoked is entitled to appeal the order to the Minister by submitting such appeal to the Local Mineral Industry Official within fifteen days after receiving the order. The Minister's decision shall be final.

The holder of a License which has been revoked shall not apply for a new License until two years have lapsed since the revocation of the previous License.

## **Section 103 bis**

When it is deemed expedient, the Minister may, by issuing the notification in the Government Gazette, determine any kind of mineral and its quantity from which the person who purchases, sells or stores that mineral be exempted from the necessity to comply with the provisions of this chapter, provided royalty for such mineral has been duly paid in full as required by Section 104.

*(As amended by Section 16 of the Minerals Act (No.3), B.E. 2522)*

## **Section 103 ter**

For the economic interest in the promotion of mining and the storage control of the mineral surplus, which is produced in excess of the quantity permitted by the State for exportation outside of the Kingdom at a certain time, upon the case where the Mineral Storage Licensee, the Mineral Processing Licensee, or the Metallurgical Processing Licensee submits a request in writing that his mineral store, mineral processing area, or metallurgy area, as the case may be, shall be established as a mineral depository, the Minister is empowered to designate the place or area belonging to such a Licensee to be a mineral depository by consideration of the necessity and quantity of minerals in each locality, the condition and appropriateness of the place, and may also appoint an official to work regularly at the mineral depository, or stipulate any condition for the Mineral Storage Licensee, Mineral Processing Licensee, or Metallurgical Processing Licensee, whose mineral store, mineral processing area, or metallurgical proceeding area is also a mineral depository, as the case may be, to perform.

The term of the mineral depository that is established according to the first paragraph shall not exceed one year.

The holder of a Provisional Prathanabat, Prathanabat, or Mineral Purchase License who purchases minerals from the Ore Panning Licensee may deposit the mineral surplus, acquired from the mining in his possession with the quantity exceeding that permitted by the State for exportation outside of the Kingdom at a certain time, to the mineral depository according to the rules, procedures, and conditions as specified by the Director-General.

*(Added by Section 5 of the Emergency Decree amending the Minerals Act, B.E. 2526)*

## CHAPTER 7

### Payment of Royalty, Possession, and Transport of Minerals

#### Section 104

The holders of a Provisional Prathanabat, Prathanabat, Mineral Purchase License, the possessor of other minerals derived from mineral processing and the holder of a Metallurgical Processing License shall pay the royalties under the law on mineral royalty rates as follows:

- (1) Royalties for the minerals designated in the Prathanabat, including other minerals which are mined as by-products, shall be paid in full and in accordance with their quantities before their removal from the mining area.
- (2) The holder of a Mineral Purchase License who purchases minerals from an Ore Panning Licensee shall pay royalties for the minerals purchased in the previous month by the fifth day of the following month.
- (3) In case the holder of a Provisional Prathanabat, Prathanabat, or the holder of a Mineral Purchase License, who purchased minerals from an Ore Panning Licensee, transports the minerals to his own mineral processing or metallurgical area, or that of others, with prior approval from the Director-General, the said person may ask for a deferment of the royalty payment until the completion of mineral processing or metallurgical processing, provided he furnishes to the Local Mineral Industry Official, as may be designated by the Local Mineral Industry Official, a cash deposit or a bank guarantee, issued by a bank approved by the Director-General, as an insurance against the royalty payment.
- (4) In case the mineral processing recovers other kinds of minerals, mineral royalties must be paid for the recovered minerals together with the application for the possession thereof as required by Section 105.
- (5) In case the slag contains other minerals at a quantity exceeding that is designated by the Director-General and for which royalties have not yet been paid, the metallurgical processor shall pay in full royalties for the admixed minerals according to the assessed quantity before removing the slag from the metallurgical processing area.

In case the purchase and sale of minerals forfeited by the State, and for which royalties have remained unpaid, the purchaser shall pay the royalties under the law on mineral royalty rates together with the application for possession of the said minerals as required by Section 105.

*(As amended by Section 17 of the Minerals Act (No.3), B.E. 2522)*

#### Section 104 bis

The person who deposits the minerals at the mineral depository under Section 103 ter may ask for a deferment of the royalty payment in accordance with the term, rules, procedures, and conditions specified a Ministerial Regulation.

*(Added by Section 6 of the Emergency Decree amending the Minerals Act, B.E. 2526)*

#### Section 105

No person shall be allowed to have in his possession an excess of two kilograms of each kind of minerals, unless it is:

- (1) the mineral for which a Mineral Possession License has been issued or for which exemption has been given under Section 103 bis;
- (2) the mineral acquired from prospecting for use in analysis or research at a quantity not exceeding that specified in the Atchayabat;

- (3) the mineral acquired from mining in the mining area where it is kept;
- (4) the mineral for which a Mineral Transport License has been issued for its removal to the place designated under the Mineral Storage License;
- (5) the mineral which is in the course of transportation under a Mineral Transport License or which is kept in a transit store specified in the said Mineral Transport License;
- (6) the mineral in the mineral purchasing place, which is acquired under a document provided under Section 98;
- (7) the mineral transported under a Mineral Transport License to the mineral processing or metallurgical processing area for processing;
- (8) the mineral acquired under an Artisanal Mining License or Ore Panning License or under paragraph two (3) of Section 92;
- (9) the mineral kept under possession for the purpose of study or research by a private research institute that has received a written permission from the Director-General, government agencies, government organizations or education institutes;
- (10) the mineral which has been allowed by written permission from the Director-General to be kept under possession for a special and individual case;
- (11) the mineral in the form of finished products which are utensils, decorative articles, sculptures, or products from metallurgical or industrial processes.

*(As amended by Section 18 of the Minerals Act (No.3), B.E. 2522)*

- (12) the mineral for which a Mineral Transport License has been issued for its removal to a mineral depository under Section 103 ter. *(Added by Section 7. of the Emergency Decree amending the Minerals Act, B.E. 2526)*

### **Section 106**

Any person who wishes to obtain a Mineral Possession License shall submit an application to the Local Mineral Industry Official.

A Mineral Possession License is issued by the Local Mineral Industry Official who shall specify the place where the minerals are to be retained and may prescribe any conditions in such License.

The holder of a Mineral Possession License may retain minerals in possession only in the place specified in the License. In this case, the Licensee does not need to hold a Mineral Storage License, but shall obtain a Mineral Transport License before transporting the minerals out of such a place.

A Mineral Possession License is valid only until 31st December of the year of issue.

### **Section 107**

Upon the death of the holder of a Mineral Possession License, it shall be deemed that the possessor of the minerals is the holder of the Mineral Possession License until the expiry of the License.

### **Section 108**

No person shall transport minerals from any place except:

- (1) that such minerals are allowed to be transported under the Mineral Transport License or are exempted under Section 103 bis;
- (2) that such minerals are acquired from prospecting for analysis or research not exceeding the quantity specified in the Atchayabat;

- (3) the transportation of minerals within a mining area, mineral processing area, metallurgy area, mineral purchasing place specified in the Mineral Purchase License, mineral store, or mineral transit store;
- (4) the transportation of minerals by an Artisanal Mining Licensee, Ore Panning Licensee, or holder of a License for Mineral Purchasing Outside the Designated Place;
- (5) that such minerals belong to the owner who acquires them under Section 92, paragraph two (1) or (3);
- (6) that such minerals are not more than two kilograms each kind thereof;
- (7) that such minerals are for education or research by a private research institute authorized in writing by the Director-General, government agencies, government organizations, or educational institutes;
- (8) that such minerals are in the form of finished products which are appliances, decorative materials, statues, or products obtained from industrial processes;
- (9) that such minerals are allowed to be transported as a special case by written permission of the Director-General; or
- (10) that is metal obtained from metallurgy, unless they are transported out of a metallurgy area.

*(As amended by Section 32 of the Minerals Act (No.2), B.E. 2516)*

### **Section 109**

Any person who wishes to obtain a Mineral Transport License shall submit an application to the Local Mineral Industry Official and shall produce evidence that the payment of royalties on the minerals, for which a Mineral Transport License is applied, has been paid in full or a License for Deferment of the Royalty Payment has been issued in advance.

*(Added by Section 8 of the Emergency Decree amending the Minerals Act, B.E. 2526)*

A Mineral Transport License is issued by the Local Mineral Industry Official who may prescribe any condition in such a License.

### **Section 110**

The holder of a Mineral Transport License can, at each time, transport minerals between places for a quantity specified in the License.

The extent and quantity of each kind of mineral that can be transported in excess of the limit provided in the Mineral Transport License shall be prescribed by a Ministerial Regulation.

The mineral transported in excess of the quantity specified in the License under paragraph two shall be regarded as that legally allowed by the License, provided royalty for the excess quantity is duly paid.

The transportation of minerals in excess of the quantity permitted and prescribed by the Ministerial Regulation shall cause the entire lot of minerals to be regarded as being transported without a License.

*(As amended by Section 19 of the Minerals Act (No.3), B.E. 2522)*

### **Section 111**

Subject to Section 112, the holder of a Mineral Transport License may transport minerals only of the same kind and condition as specified in the License.

If other minerals are mixed therein and such minerals are not being found and mixed in natural occurrence, it shall be deemed that the entire lot of minerals is illegally transported.

### **Section 112**

The holder of a Mineral Transport License cannot transport minerals in which other minerals are admixed in natural occurrence and the minerals thus mixed are in the categories and quantities as prescribed by a Ministerial Regulation, except when the License specifies the categories of the admixed minerals and the holder of a Mineral Transport License complies with the conditions prescribed in the Ministerial Regulations.

In the event that minerals are transported with other minerals admixed therewith and the provisions in the first paragraph are violated, it shall be deemed that the entire lot of minerals is transported without a License.

### **Section 113**

In the event that a person holds several Prathanabats with contiguous mining areas, or several persons hold several Prathanabats with contiguous mining areas and have received permission from the Local Mineral Industry Official to coordinate their mining projects into a single mine, it shall be regarded under the purposes of this chapter that such mining areas are combined into one mining area.

### **Section 113 bis**

The Minister shall be empowered to designate, by notification in the Government Gazette, any location or place as a mineral checkpoint area.

*(As amended by Section 20 of the Minerals Act (No.3), B.E. 2522)*

## **CHAPTER 8**

### **Mineral Processing**

### **Section 114**

No one shall undertake mineral processing operations unless he has received a License from the Local Mineral Industry Official or has been a holder of a Provisional Prathanabat or Prathanabat who undertakes mineral processing operations within the mining area.

Section 113 shall apply thereto *mutatis mutandis*.

*(As amended by Section 33 of the Minerals Act (No.2), B.E. 2516)*

### **Section 115**

A person who wishes to apply for a Mineral Processing License shall submit an application to the Local Mineral Industry Official.

A Mineral Processing License is issued by the Local Mineral Industry Official who may specify any condition therein.

A Mineral Processing License shall be valid for a period specified in the License but not exceeding three years from the date of issue and may be renewed for not exceeding three years from the date of each renewal.

A Mineral Processing Licensee must comply with the conditions specified in the Mineral Processing License.

*(As amended by Section 33 of the Minerals Act (No.2), B.E. 2516)*

### **Section 116**

In undertaking a mineral processing operation, the holder of a Mineral Processing License shall not perform any act likely to render, or fail to perform any act the failure of which is likely to render toxic minerals or other poisonous materials harmful to persons, animals, vegetation, or properties.

### **Section 117**

The competent officials are empowered to enter into a mineral processing area for inspection of the mineral processing operation at any time and the possessor of the mineral processing area shall offer such facilities as may be appropriate under the circumstances. The competent officials are also empowered to give orders in writing to the holder of the Mineral Processing License to undertake any action to prevent any harm which may result from the mineral processing operation.

### **Section 118**

When the Local Mineral Industry Official considers that the mineral processing operation will cause harm to persons, animals, vegetation or properties, he is empowered to give an order in writing to alter or modify the mineral processing operation to prevent such harm, and to suspend the mineral processing operation totally or partially as he may deem appropriate.

### **Section 119**

The Director-General is empowered to revoke a Mineral Processing License when it appears that there has been violation of the provisions hereof or of the conditions prescribed in the License, or upon the occurrence of causes affecting public safety or welfare.

The order revoking a License shall be delivered to the Licensee, and the License shall expire on the date that order is received.

The Licensee whose License is revoked is entitled to appeal the order to the Minister by submitting such appeal to the Local Mineral Industry Official within fifteen days after receiving the order. The decision of the Minister shall be final.

The holder of a License which has been revoked shall not apply for a new License until two years have lapsed since the revocation of the previous License.

## **CHAPTER 9**

### **Metallurgical Processing**

#### **Section 120**

Metallurgical processing of any kind of minerals, together with production capacity and processes which are to be restricted by this Act shall be prescribed in a Ministerial Regulation.

#### **Section 121**

No one shall undertake any metallurgical processing restricted by this Act unless he has obtained a Metallurgical Processing License.

The provisions in the first paragraph shall not apply to the metallurgical processes exempted by a Ministerial Regulation.

#### **Section 122**

A person who wishes to obtain a Metallurgical Processing License shall submit an application to the Local Mineral Industry Official.

A Metallurgical Processing License is issued by the Director-General who may prescribe any condition in the License.

A Metallurgical Processing License is valid for the period specified in the License but not exceeding twenty five years from the date of issue and the License may be extended for a specified period of not exceeding twenty five years from the date of extension.

#### **Section 123**

In undertaking metallurgical processing, the holder of a Metallurgical Processing License shall not perform any act likely to render or fail to perform any act the failure of which is

likely to render toxic minerals or other poisonous materials harmful to persons, animals, vegetation or properties.

#### **Section 124**

The competent officials are empowered to enter at any time into a metallurgy area for inspection of the metallurgical processing and the possessor of the metallurgy area shall offer facilities as may be appropriate under the circumstances. The competent officials are also empowered to give orders in writing to the holder of the Metallurgical Processing License to undertake any action to prevent any harm which may result from the metallurgical processing.

#### **Section 125**

When the Local Mineral Industry Official considers that the metallurgical processing will cause harm to persons, animals, vegetation or properties, he is empowered to give an order in writing to the holder of the Metallurgical Processing License to alter or modify the metallurgical processing as he may consider necessary to prevent such harm, and he is empowered to give an order in writing to suspend the metallurgical processing totally or partially as he may deem appropriate.

#### **Section 126**

The Director-General is empowered to revoke a Metallurgical Processing License when it appears that there has been violation of the provisions thereof or of the conditions prescribed in the License, or upon the occurrence of causes affecting public safety or welfare.

The order revoking a Metallurgical Processing License shall be delivered to the Licensee and the License shall expire on the date that order is received.

The Licensee whose License is revoked is entitled to appeal the order to the Minister by submitting such an appeal to the Local Mineral Industry Official within fifteen days after receiving the order. The decision of the Minister shall be final.

In the event that there has been an appeal to the Minister on a revoking order, the appellant may request the Minister's permission to carry on metallurgical processing under the License while awaiting the Minister's decision. In permitting the metallurgical processing to be temporarily carried on, the Minister may prescribe any condition.

### **CHAPTER 10**

#### **Reimbursement of Royalties**

#### **Section 127**

In case any mineral for which the royalties have been duly paid, the Minister shall be empowered to reimburse the royalties to the mineral user if he has proven with sufficient satisfaction to the Minister that the mineral has been used within the country for the industries, which are not those for which the royalties cannot be reimbursed as prescribed by the Minister in the Government Gazette, or that the mineral is consumed as energy matter within the country.

The royalty reimbursement for each type of mineral according to the first paragraph shall be in compliance with the rules, procedures, conditions, and rates prescribed in a Ministerial Regulation.

Any person who wishes to reimburse the royalties shall submit a petition to the Local Mineral Industry Official in the locality where the mineral is consumed.

*(Added by Section 7 of the Emergency Decree amending the Minerals Act, B.E. 2528)*

## **CHAPTER 11**

### **Import and Export of Minerals**

#### **Section 128**

The import or export of minerals of any kind, condition, and quantity, which is to be restricted by this Act, shall be prescribed in a Ministerial Regulation.

#### **Section 129**

No one shall import or export minerals restricted by this Act unless he has obtained a Mineral Import License or a Mineral Export License.

#### **Section 130**

Any person who wishes to import or export minerals restricted by this Act shall submit an application to the Local Mineral Industry Official.

A Mineral Import or a Mineral Export License is issued by the Director-General or his appointee who may prescribe any condition in the License.

The conditions under the second paragraph may be prescribed by including selling and purchasing procedures as well as utilization of minerals to be imported or exported.

#### **Section 131**

Upon the occurrence of causes affecting the security or economy of the country, the Minister is empowered to revoke any Mineral Import or Mineral Export License at any time by publishing such a revocation in the Government Gazette.

## **CHAPTER 11/1**

### **Liabilities**

#### **Section 131/1**

The holder of an Atchayabat, a Prathanabat, or any License under this Act shall be responsible for his actions that cause any damage or nuisance to a person, property, or environment.

In case the damage has occurred within the licensed area, it shall be presumed that the aforesaid damage is caused by the actions of the holder of the Atchayabat, Prathanabat, or License.

## **CHAPTER 12**

### **Punishment**

#### **Section 132**

Whoever violates section 7 shall be liable to a fine not exceeding five hundred Baht.

**Section 132 bis.** Whoever fails to comply with the order of the Director under Section 9 octo shall be punished as follows:

- (1) Violation of Section 9 octo (1) (a) shall be subject to a punishment of imprisonment for the term of one to three years or a fine of fifty thousand to three hundred thousand Baht, or both.
- (2) Violation of Section 9 octo (1) (b) (c) (d) or (g) or Section 9 octo (2) (a) or Section 9 octo (3) (e) shall be subject to a punishment of imprisonment for the term not exceeding two years or a fine of ten thousand to a hundred thousand Baht, or both, and, in the case where the aforesaid violation continues, by a daily fine of two thousand Baht throughout the period of violation.



In case of violation under Section 9 octo (1) (g), if the offender has proved that the violation was necessary and unavoidable for a reason, which was not his fault or was caused by his participation, for the safety of life or property, he shall be exempt from the punishment.

- (3) Violation of Section 9 octo (1) (e) or Section 9 octo (2) (b) or Section 9 octo (3) (b) shall be subject to a punishment of imprisonment for the term not exceeding one year or a fine of two thousand to thirty thousand Baht, or both.
- (4) Violation of Section 9 octo (1) (e) or Section 9 octo (2) (b) or Section 9 octo (3) (a) (c) or (d) shall be subject to a punishment of imprisonment for the term not exceeding one year or a fine of two thousand to thirty thousand Baht, or both and, in the case where the aforesaid violation continues, of a daily fine of five hundred Baht throughout the period of violation.

*(As amended by Section 15 of the Minerals Act No.5 B.E. 2545)*

If the holder of an Exclusive Prospecting Atchayabat, Special Atchayabat, Provisional Prathanabat, Prathanabat, Licensee, or the holder of a permit under this Act committed the offence according to this Section, the Minister shall have the power to revoke the Exclusive Prospecting Atchayabat, Special Atchayabat, Provisional Prathanabat, Prathanabat, License, or permission, as the case may be.

*(Added by Section 8 of the Emergency Decree amending the Minerals Act, B.E. 2528)*

#### **Section 132 ter**

The owner or possessor of any vehicle, which is being used in the transportation or removal of minerals without the sign as specified by the Director under Section 9 octo (3) (e), shall be liable to a fine of five hundred to five thousand Baht.

The transportation or removal of mineral on the public way by the vehicle without the sign under the first paragraph shall be initially presumed to be an illegal transportation or removal of mineral, and the Director or the competent official shall be empowered to issue any order under this Act, unless the owner or possessor of the vehicle can clearly and undoubtedly prove to the competent official who is inspecting it that the official License or permission is truly original. Any person who has no legal rights to transport or remove mineral and uses the sign prescribed by the Director under Section 9 octo (3) (e) shall be liable to a fine of two hundred to two thousand Baht.

*(Added by Section 8 of the Emergency Decree amending the Minerals Act, B.E. 2528)*

#### **Section 132 quarter**

Whoever obstructs or does not offer facilities to the Director or the competent official in the execution of his functions as prescribed in Section 9 novem (1) or (2) or fails to comply with the order of the Director, or the competent official, under Section 9 novem (2) (3) or (4) shall be liable to imprisonment for a term not exceeding one year or a fine not exceeding thirty thousand Baht, or both.

*(Added by Section 8 of the Emergency Decree amending the Minerals Act, B.E. 2528)*

#### **Section 133**

Whoever violates Section 11, Section 12, or Section 14 shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding one thousand Baht, or to both.

#### **Section 133 bis**

Whoever fails to comply with a Ministerial Regulation issued under Section 17 (3 bis) (4) (5) or (6) shall be liable to a fine not exceeding ten thousand Baht.

*(As amended by Section 7 of the Minerals Act (No.4), B.E. 2534)*

#### **Section 133 ter**

Whoever violates Section 25 shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding ten thousand Baht or to both.

*(As amended by Section 34 of the Minerals Act (No.2), B.E. 2516)*

### **Section 134**

Whoever fails to comply with Section 31 paragraph one or Section 40; or fails to comply with the conditions specified in Section 28 paragraph four or Section 33 paragraph six shall be liable to a fine not exceeding two thousand Baht.

*(As amended by Section 35 of the Minerals Act (No.2), B.E. 2516)*

### **Section 135**

Whoever violates Section 43 or Section 91 bis shall be liable to imprisonment for a term not exceeding three years or a fine not exceeding thirty thousand Baht, or both.

In the case where the violation of Section 43 occurred in a mineral restricted area or the violation of Section 91 bis occurred in the underground brine drilling restricted area, the violator shall be liable to imprisonment for a term of two to seven years or a fine of three hundred thousand to five hundred thousand Baht, or both.

*(As amended by Section 8 of the Minerals Act (No.4), B.E. 2534)*

### **Section 136**

Whoever obstructs, or does not offer facilities, or fails to comply with the order of the competent official in the due exercise of his functions under Section 48, Section 70, Section 91 quarter, Section 117, or Section 124, if such action does not amount to an offence as stipulated in the Criminal Code, shall be liable to a fine not exceeding a thousand Baht.

*(As amended by Section 9 of the Minerals Act (No.4), B.E. 2534)*

### **Section 137**

Whoever fails to comply with the order of the Local Mineral Industry Official under Section 71, or Section 91 quinque shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding five thousand Baht and the Minister is empowered to revoke the Prathanabat or the Underground Brine Drilling License.

*(As amended by Section 9 of the Minerals Act (No.4), B.E. 2534)*

### **Section 138**

Whoever violates or fails to comply with Section 57, Section 59, Section 62, Section 63, Section 64, Section 67, Section 68, Section 69, or Section 74 or fails to comply with the conditions specified in Section 59, Section 62, Section 63, Section 64, Section 67, Section 68, or Section 74 shall be liable to a fine not exceeding two thousand Baht and the Minister is empowered to revoke the Prathanabat.

*(As amended by Section 36 of the Minerals Act (No.2), B.E. 2516)*

### **Section 138 bis**

Whoever fails to comply with Section 60 shall be liable to a fine not exceeding ten thousand Baht and the Minister is empowered to revoke the Prathanabat.

*(As amended by Section 37 of the Minerals Act (No.2), B.E. 2516)*

### **Section 139**

Whoever fails to comply with the order of the competent official under Section 72, paragraph two, shall be liable to a fine not exceeding two thousand Baht and shall be liable to compensate for the expense of restoring the land to its original condition.

### **Section 140**

The holder of a Prathanabat who violates section 76 shall be liable to a fine not exceeding ten thousand Baht and the Minister is empowered to revoke the Prathanabat.

### **Section 141**

The holder of a Prathanabat or sub-lessee of mining operations who fails to comply with the conditions prescribed under Section 77 shall be liable to a fine not exceeding two thousand Baht.

### **Section 142**

Whoever violates Section 89 or fails to comply with the conditions prescribed under Section 90 shall be liable to a fine not exceeding one thousand Baht.

### **Section 143**

Whoever violates Section 92, Section 99 or Section 101 shall be liable to imprisonment for a term not exceeding six months or to a fine of not exceeding five thousand Baht, or both.

### **Section 144**

Whoever fails to comply with the conditions prescribed under Section 93 or Section 102 shall be liable to a fine not exceeding two thousand Baht.

### **Section 145**

Whoever violates Section 94 shall be liable to a fine not exceeding two thousand Baht.

### **Section 146**

Whoever violates Section 95 shall be liable to a fine not exceeding five hundred Baht.

### **Section 147**

Whoever violates Section 98 or Section 100 shall be liable to a fine not exceeding two thousand Baht.

### **Section 147 bis**

Any Mineral Storage Licensee, a Mineral Processing Licensee, or a Metallurgical Processing Licensee whose mineral store, mineral processing area, or the metallurgical processing area, as the case may be, is established as a mineral depository, who violates or fails to comply with the conditions as prescribed in the first paragraph of Section 103 ter shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding ten thousand Baht, or both.

*(Added by Section 9 of the Emergency Decree amending the Minerals Act, B.E. 2526)*

### **Section 148**

Whoever violates Section 105 or Section 108 shall be liable to a fine from one to five times the value of minerals based on the price fixed under the law on mineral royalty rates in force on the date of the offence. The Minister has the power to revoke the Provisional Prathanabat, Prathanabat or License in the case of the following:

- (1) illegal possession of minerals from other sources in the mining area, mineral processing area, metallurgical area, storage place or mineral purchasing area, or
- (2) illegal transportation of minerals from the mining area, mineral processing area, metallurgical area, storage place or mineral purchasing area.

*(As amended by Section 21 of the Minerals Act (No. 3), B.E. 2522)*

If the violation of the first paragraph occurred in the mineral restricted area, the violator shall be liable to imprisonment for a term of one to five years or a fine from two to six times the value of minerals based on the price fixed under the law on mineral royalty rates in force on the date of the offence, or both, and, in such case, the Minister is empowered to revoke the Provisional Prathanabat, Prathanabat, or License involved, in the case that (1) or (2) is applied.

*(Added by Section 10 of the Emergency Decree amending the Minerals Act, B.E. 2528)*

### **Section 148 bis**

Whoever violates Section 106 or fails to comply with the conditions prescribed under Section 106 or 109 shall be liable to a fine not exceeding five thousand Baht.

*(As amended by Section 22 of the Minerals Act (No. 3), B.E. 2522)*

### **Section 149**

Whoever violates Section 114 or Section 121 or fails to comply with conditions prescribed under Section 115 or Section 122 shall be liable to a fine not exceeding two thousand Baht.

### **Section 150**

Whoever violates Section 116 or Section 123 shall be liable to a fine not exceeding two thousand Baht.

### **Section 151**

Whoever fails to comply with the orders of the competent official given under Section 118 or Section 125 shall be liable to a fine not exceeding two thousand Baht.

### **Section 152**

Whoever violates Section 129 shall be liable to imprisonment for a term not exceeding ten years or to a fine from five to ten times the value of minerals based on the price fixed under the law on mineral royalty rates in force on the date of the offence, or both.

When it appears that the illegally exported minerals are from any Provisional Prathanabat, Prathanabat, mineral purchasing area, storage place, mineral processing area or metallurgical area, in which the holder of the Provisional Prathanabat, Prathanabat or License, as the case may be, is an offender, abettor, or accomplice in the offence, the Minister shall have the power to revoke the said Provisional Prathanabat, Prathanabat, or License.

Provisions of the customs law and the customs officers' powers invested thereof, especially those concerning inspection, seizure, forfeit, arrest of offenders, false declaration and prosecution, shall also apply to the import and export of minerals subject to the import and export control under Section 129.

*(As amended by Section 23 of the Minerals Act (No. 3), B.E. 2522)*

### **Section 152 bis**

Whoever fails to comply with the conditions prescribed under Section 130 shall be liable to a fine not exceeding ten thousand Baht.

*(As amended by Section 24 of the Minerals Act (No. 3), B.E. 2522)*

### **Section 152 ter**

In the event of a shortage of minerals from the production stock-book kept by the holder of a Provisional Prathanabat, Prathanabat, or from the balance-in-stock book kept by the holder of a Mineral Purchase License, Mineral Storage License, Mineral Possession License, Mineral Processing License, Metallurgical Processing License; or a person whose mineral store, mineral processing area, or metallurgical processing area is also a mineral depository, who cannot prove that the shortage of such minerals is not his fault, the holder of a Provisional Prathanabat, Prathanabat, Mineral Purchase License, Mineral Storage License, Mineral Possession License, Mineral Processing License, Metallurgical Processing License; or a person whose mineral store, mineral processing area, or metallurgical processing area is a mineral depository, as the case may be, shall be liable to a fine from one to three times the value of the missing minerals based on the price fixed by the law on mineral royalty rates in force on the date of the offence, and, in such case, the Minister is empowered to revoke the Provisional Prathanabat, Prathanabat, License, or mineral depository involved.

*(Added by Section 10 of the Emergency Decree amending the Minerals Act, B.E. 2526)*

### **Section 153**

As for the commission of an offence which is liable to imprisonment for a term not exceeding one month or a fine not exceeding ten thousand Baht, the competent official shall have the power to settle it.

### **Section 153 bis**

As for the commission of an offence according to Section 148 paragraph one or Section 152 ter, the Director-General shall have the power to settle it with a fine at the amount of no less than the minimum set by the law. Payment of the fine by the offender shall bring the case to extinction.

*(Added by Section 11 of the Emergency Decree amending the Minerals Act, B.E. 2528)*

### **Section 154**

All minerals, equipment, tools, appliances, beasts of burden, vehicles or machinery, which a person acquires or uses in the commission of an offence, or possesses for use in the commission of an offence or uses as accessory to derive results from the commission of an offence under Section 132 bis, Section 132 ter, Section 132 quarter, Section 133, Section 133 ter, Section 135, Section 138, Section 142, Section 143, Section 145, Section 147, Section 148, Section 148 bis, Section 152 or Section 152 bis, shall be forfeited wholly, regardless of any person being sentenced by a judgment.

A prosecutor shall submit a request to the court to give orders for the forfeiture of the properties according to the first paragraph, and upon such request submitted by the prosecutor, the competent official shall publish the request at least two consecutive days in a local daily newspaper to allow the person who may claim to be the owner to submit a request to enter into the case before the court of first instance pronounces a judgment, whether there appears a person who is deemed to be the owner or not.

In the case where no person claims to be the owner before the court of first instance pronounces a judgment, or the owner cannot prove to the court that he does not know or there is no reason for him to suspect that the commission of such an offence has occurred, granted that he has exercised such care as may be expected to prevent such offence, or cannot prove to the court that he does not know or there is no reason for him to suspect that the properties are used in the commission of such offence according to this Act, the court shall order a forfeiture of such property after thirty days from the date of publication in the local daily newspaper as prescribed in the second paragraph, and, in this case, Section 36 of the Penal Code shall not be applied.

*(Added by Section 12 of the Emergency Decree amending the Minerals Act, B.E. 2528)*

### **Section 155**

In the case of the offence under Section 132 bis, Section 132 ter, Section 133 ter, Section 135, Section 142, Section 143, Section 145, Section 147, Section 148, Section 148 bis, Section 152, Section 152 bis, or Section 152 ter, the Director-General is empowered to order the payment of rewards to the informer who supplies information leading to the arrest and to the person who makes the arrest in accordance with the Ministerial Regulations as published in the Government Gazette at the total rate of no more than fifty five percent of the net sale of the exhibits or fine, as the case may be. In the prescription of the rates of the reward for the informer or the reward for the arresting party, the Minister may prescribe the payment of such rewards in the case where there appears an accused person and/or offender criminally convicted by a final judgment more than the payment of the rewards in the case where there appears no accused person and/or no offender convicted by a final judgment.

The reward for an informer and reward for the arresting party according to the first paragraph shall be paid, by the Director-General, from the sale of the exhibits forfeited by the court, or from the fine paid to the court in the case where the exhibits are not forfeited by the court or are un-salable, or from the settlement fine in the event that the case is extinguished through the settlement of fine or the sale of exhibits, which become the properties of the State under Section 15 quinqué. In the event where the case is concluded by the settlement of fine, the competent official who has the power to settle the case, as appointed by the Director-General, shall order the payment and may stipulate any condition thereof.

*(Added by Section 12 of the Emergency Decree amending the Minerals Act, B.E. 2528)*

## **CHAPTER 13**

### **Transitory Provisions**

#### **Section 156**

The provisions of Section 89 where they relate to artisanal mining, Section 101, Section 105 and Section 114 shall not apply until sixty days after this Act has come into force.

#### **Section 157**

During the period before Ministerial Regulations or Proclamations under this Act are issued, all the Ministerial Regulations and Proclamations under the laws relating to mining which are in force on the day this Act is published in the Government Gazette shall continue to apply in so far as that they are not contrary or contradictory to the provisions of this Act.

#### **Section 158**

During the period before the laws relating to petroleum are promulgated, the provisions of this Act shall temporarily apply to petroleum *mutatis mutandis*.

#### **Section 159**

Whoever wishes to obtain an Exclusive Prospecting Atchayabat to prospect for petroleum shall submit to the Director-General an application together with a map showing the area for which an Exclusive Prospecting Atchayabat to prospect for petroleum is applied.

#### **Section 160**

Whoever wishes to obtain a Prathanabat to mine for petroleum shall submit to the Director-General an application together with a map showing the area for which the Prathanabat is applied.

#### **Section 161**

The Minister is empowered to prescribe, by publication in the Government Gazette, the zonal areas, validity periods, principles, procedures, conditions, and benefits to accrue to the State in issuing an Exclusive Prospecting Atchayabat to prospect for petroleum and in issuing a Prathanabat to mine for petroleum, which may differ from the provisions of this Act.

#### **Section 162**

The holder of an Exclusive Prospecting Atchayabat to prospect for petroleum shall be exempted from the mining area rental fee under Section 26.

The holder of a Provisional Prathanabat to mine for petroleum or the holder of a Prathanabat to mine for petroleum shall be exempted from the mining area rental fee under Section 55.

#### **Section 163**

All Prathanabats, Atchayabats, or Licenses issued under the laws repealed under Section 3 prior to the date this Act comes into force, shall be deemed to be Prathanabats, Atchayabats, or Licenses issued under this Act until their expiry.

*Countersigned by Field Marshal Thanom Kittikachorn as Prime Minister*

*Government Gazettes (special issue) Vol. 84, Part 129, Page 1, Dated 31st. December B.E. 2510.*

**Remark:** The reason to promulgate this Act is due to the fact that at the present time there are many laws concerning minerals which shall be combined into a single code and amended in such a way that the State has the power to manage mineral productions, conservation, purchases, and metallurgical processes, and at the same time shall facilitate the mining entrepreneurs while providing protection to laborers as well as public safety in accordance with the most recent conditions.

## Fees

Serial No.	Particulars	Rates of fees
1	Fee for an application, each	20 baht
2	Fee for a Prospecting Atchayabat, each	100 baht
3	Fee for an Exclusive Prospecting Atchayabat, each	500 baht
4	Fee for a Special Atchayabat or its renewal, each	1000 baht
5	Fee for a Provisional Prathanabat	1000 baht
6	Fee for a Prathanabat or its renewal, each	1000 baht
7	Fee for a licence or its renewal, each	1000 baht
8	Mining area rental fee	
	(a) under an Exclusive Prospecting Atchayabat or a Special Atchayabat, every 1 rai or a fraction thereof, each year	6 baht
	(b) under a Prathanabat or Provisional Prathanabat, every 1 rai or a fraction thereof, each year	20 baht
9	Fee for surveying, every 40 metres of the length of traverse or a fraction thereof	20 baht
10	Fee for map drawing or duplicating, the first 50 square centimeters of area in the map or less, each sheet; for every subsequent 50 square centimeters or a fraction thereof;	20 baht
	but not exceeding per copy	5 baht
11	Examining fee, each case	200 baht
12	Examining fee, each case	100 baht
13	Mining boundary demarcation post, each	100 baht
14	Fee for a transfer of Prathanabat, each	500 baht
15	Fee for a transfer of mining rights	4 per cent
16	Fee for technical examining, testing or analyzing each mineral sample.	1000 baht
17	Copying or photocopying fee, each page	10 baht
18	Documents certifying fee, each document	50 baht
19	Fee for inspecting documentary evidence, each matter	100 baht
20	Fee for filling in an application at the request of the applicant, each application	5 baht
21	Replacement certificate of an Atchayabat, a Provisional Prathanabat, Prathanabat or licence, each	200 baht
22	Fee for registration of power of attorney, each	100 baht
23	Fee for suspension of mining operations, every 1 rai or a fraction thereof, each year.	20 baht
24	Fee for damming up or pumping water, calculated from every cubic metre, or a fraction thereof, of water used per 1 minute.	100 baht

*As amended by the Minerals Act (No. 4), B.E. 2534*

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