

Ordinance Summary

The Mineral Laws (Amendment) Ordinance, 2020

- The Mineral Laws (Amendment) Ordinance, 2020 was promulgated on January 10, 2020. The Ordinance amends the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act) and the Coal Mines (Special Provisions) Act, 2015 (CMSP Act). The CMSP Act provides for the auction and allocation of mines whose allocation was cancelled by the Supreme Court in 2014. Schedule I of the Act provides a list of all such mines; Schedule II and III are sub-classes of the mines listed in the Schedule I. Schedule II mines are those where production had already started then, and Schedule III mines are ones that had been earmarked for a specified end-use.
- **Removal of restriction on end-use of coal:** Currently, companies acquiring Schedule II and Schedule III coal mines through auctions can use the coal produced only for specified end-uses such as power generation and steel production. The Ordinance removes this restriction on the use of coal mined by such companies. Companies will be allowed to carry on coal mining operation for own consumption, sale or for any other purposes, as may be specified by the central government. They may also utilise such coal in their subsidiaries' plants.
- **Eligibility for auction of coal and lignite blocks:** The Ordinance clarifies that the companies need not possess any prior coal mining experience in India in order to participate in the auction of coal and lignite blocks. Further, the competitive bidding process for auction of coal and lignite blocks will not apply to mines considered for allotment to: (i) a government company or its joint venture for own consumption, sale or any other specified purpose; and (ii) a company that has been awarded a power project on the basis of a competitive bid for tariff.
- **Composite license for prospecting and mining:** Currently, separate licenses are provided for prospecting and mining of coal and lignite, called prospecting license, and mining lease, respectively. Prospecting includes exploring, locating, or finding mineral deposit. The Ordinance adds a new type of license, called prospecting license-cum-mining lease. This will be a composite license providing for both prospecting and mining activities.
- **Non-exclusive reconnaissance permit holders to get other licenses:** Currently, the holders of non-exclusive reconnaissance permit for exploration of certain specified minerals are not entitled to obtain a prospecting license or mining lease. Reconnaissance operations means preliminary prospecting of a mineral through certain surveys. The Ordinance provides that the holders of such permits may apply for a prospecting license-cum-mining lease or mining lease. This provision will apply to certain licensees as prescribed in the Ordinance.
- **Transfer of statutory clearances to new bidders:** Currently, mining leases for specified minerals (minerals other than coal, lignite, and atomic minerals) can be transferred to new persons through auction upon expiry. Such new persons are required to obtain statutory clearances before starting mining operations. The Ordinance provides that the various approvals, licenses, and clearances given to the previous lessee will be extended to the successful bidder for a period of two years. During this period, the new lessee will be allowed to continue mining operations. However, the new lessee must obtain all the required clearances within this two-year period.
- **Reallocation after termination of the allocations:** The CMSP Act provides for termination of allotment orders of coal mines in certain cases. The Ordinance adds that such mines may be reallocated through auction or allotment as may be determined by the central government. The central government will appoint a designated custodian to manage these mines until they are reallocated.
- **Prior approval from the central government:** Under the MMDR Act, state governments require prior approval of the central government for granting reconnaissance permit, prospecting license, or mining lease for coal and lignite. The Ordinance provides that prior approval of the central government will not be required in granting these licenses for coal and lignite, in certain cases. These include cases where: (i) the allocation has been done by the central government, and (ii) the mining block has been reserved by the central or state governments to conserve a mineral.
- **Advance action for auction:** Under the MMDR Act, mining leases for specified minerals (minerals other than coal, lignite, and atomic minerals) are auctioned on the expiry of the lease period. The Ordinance provides that state governments can take advance action for auction of a mining lease before its expiry.

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