

Bill No. 65 of 2021

THE MINES AND MINERALS (DEVELOPMENT AND REGULATION)
AMENDMENT BILL, 2021

A

BILL

further to amend the Mines and Minerals (Development and Regulation) Act, 1957.

BE it enacted by Parliament in the Seventy-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Mines and Minerals (Development and Regulation) Amendment Act, 2021. Short title and commencement.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

67 of 1957. **2.** Throughout the Mines and Minerals (Development and Regulation) Act, 1957 Substitution of references to certain expressions by certain other expressions.
10 (hereinafter referred to as the principal Act),—

(i) for the words “reconnaissance permit, prospecting license or mining lease” wherever they occur, the words “mineral concession” shall be substituted;

(ii) for the words “prospecting licence-cum-mining lease”, wherever they occur [other than in clause (a) of section 3], the words “composite licence” shall be substituted.

Amendment
of section 3.

3. In section 3 of the principal Act,—

(i) for clauses (a) and (aa), the following clauses shall be substituted, namely:—

‘(a) “composite licence” means the prospecting licence-cum-mining lease which is a two stage concession granted for the purpose of undertaking prospecting operations followed by mining operations in a seamless manner;

(aa) “dispatch” means the removal of minerals or mineral products from the leased area and includes the consumption of minerals and mineral products within such leased area;

(ab) “Government company” shall have the same meaning as assigned to it in clause (45) of section 2 of the Companies Act, 2013;

(ac) “leased area” means the area specified in the mining lease within which the mining operations can be undertaken and includes the non-mineralised area required and approved for the activities falling under the definition of “mine” as referred to in clause (i);

(ad) “minerals” includes all minerals except mineral oils;

(ae) “mineral concession” means either a reconnaissance permit, prospecting licence, mining lease, composite licence or a combination of any of these and the expression “concession” shall be construed accordingly;’;

(ii) after clause (f), the following clause shall be inserted, namely:—

‘(fa) “production” or any derivative of the word “production” means the winning or raising of mineral within the leased area for the purpose of processing or dispatch;’;

(iii) after clause (hb), the following clause shall be inserted, namely:—

‘(hba) “Schedule” means the Schedules appended to the Act;’;

(iv) in clause (i),—

(i) for the words and figures, “the Mines Act, 1952”, the words and figures “the Occupational Safety, Health and Working Conditions Code, 2020” shall be substituted;

(ii) the following *Explanation* shall be inserted, namely:—

“*Explanation.*—For the purposes of this clause,—

(i) a mine continues to be a mine till exhaustion of its mineable mineral reserve and a mine may have different owners during different times from the grant of first mining lease till exhaustion of such mineable mineral reserve;

(ii) the expression “mineral reserve” means the economically mineable part of a measured and indicated mineral resource.”.

Amendment
of section 4.

4. In section 4 of the principal Act, in sub-section (1), in the second proviso, for the words “such entity that may be notified for this purpose by the Central Government”, the words “other entities including private entities that may be notified for this purpose, subject to such conditions as may be specified by the Central Government” shall be substituted.

Amendment
of section 4A.

5. In section 4A of the principal Act, in sub-section (4),—

(i) for the words “mining operations” wherever they occur, the words “production and dispatch” shall be substituted;

(ii) for the first, second, third and fourth provisos, the following provisos shall be substituted, namely:—

5 “Provided that the State Government may, on an application made by the holder of such lease before it lapses and on being satisfied that it shall not be possible for the holder of the lease to undertake production and dispatch or to continue such production and dispatch for reasons beyond his control, make an order, within a period of three months from the date of receipt of such application, to extend the period of two years by a further period not exceeding one year and such extension shall not be granted for more than once during the entire period of lease:

10 Provided further that such lease shall lapse on failure to undertake production and dispatch or having commenced the production and dispatch fails to continue the same before the end of such extended period.”.

15 **6.** In section 5 of the principal Act, in sub-section (1), after the second proviso, the following proviso shall be inserted, namely:— Amendment of section 5.

20 “Provided also that the composite licence or mining lease shall not be granted for an area to any person other than the Government, Government company or corporation, in respect of any minerals specified in Part B of the First Schedule where the grade of such mineral in such area is equal to or above such threshold value as may be notified by the Central Government.”.

7. In section 8 of the principal Act, after sub-section (3), the following sub-sections shall be inserted, namely:— Amendment of section 8.

25 “(4) Notwithstanding anything contained in this section, in case of Government companies or corporations, the period of mining leases including the existing mining leases, shall be such as may be prescribed by the Central Government:

Provided that the period of mining leases, other than the mining leases granted through auction, shall be extended on payment of such additional amount as specified in the Fifth Schedule:

30 Provided further that the Central Government may, by notification in the Official Gazette and for reasons to be recorded in writing, amend the Fifth Schedule so as to modify the entries mentioned therein in the said Schedule with effect from such date as may be specified in the said notification.

35 (5) Any lessee may, where coal or lignite is used for captive purpose, sell such coal or lignite up to fifty per cent. of the total coal or lignite produced in a year after meeting the requirement of the end use plant linked with the mine in such manner as may be prescribed by the Central Government and on payment of such additional amount as specified in the Sixth Schedule:

40 Provided that the Central Government may, by notification in the Official Gazette and for the reasons to be recorded in writing, increase the said percentage of coal or lignite that may be sold by a Government company or corporation:

Provided further that the sale of coal shall not be allowed from the coal mines allotted to a company or corporation that has been awarded a power project on the basis of competitive bid for tariff (including Ultra Mega Power Projects):

45 Provided also that the Central Government may, by notification in the Official Gazette and for reasons to be recorded in writing, amend the Sixth Schedule so as to modify the entries mentioned therein with effect from such date as may be specified in the said notification.”.

Amendment
of section 8A.

8. In section 8A of the principal Act,—

(a) after sub-section (7), the following sub-section shall be inserted, namely:—

“(7A) Any lessee may, where mineral is used for captive purpose, sell mineral up to fifty per cent. of the total mineral produced in a year after meeting the requirement of the end use plant linked with the mine in such manner as may be prescribed by the Central Government and on payment of such additional amount as specified in the Sixth Schedule: 5

Provided that the Central Government may, by notification in the Official Gazette and for the reasons to be recorded in writing, increase the said percentage of mineral that may be sold by a Government company or corporation: 10

Provided further that the Central Government may, by notification in the Official Gazette and for reasons to be recorded in writing, amend the Sixth Schedule so as to modify the entries mentioned therein with effect from such date as may be specified in the said notification.”; 15

(b) in sub-section (8), the following provisos shall be inserted, namely:— 15

“Provided that the period of mining leases, other than the mining leases granted through auction, shall be extended on payment of such additional amount as specified in the Fifth Schedule: 20

Provided further that the Central Government may, by notification in the Official Gazette and for reasons to be recorded in writing, amend the Fifth Schedule so as to modify the entries mentioned therein with effect from such date as may be specified in the said notification. 25

Explanation.—For the removal of doubts, it is hereby clarified that all such Government companies or corporations whose mining lease has been extended after the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, shall also pay such additional amount as specified in the Fifth Schedule for the mineral produced after the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2021.”. 10 of 2015.

Substitution of
new section for
section 8B.

9. For section 8B of the principal Act, the following section shall be substituted, namely:— 30

Provisions for
period and
transfer of
statutory
clearances.

“8B. (1) Notwithstanding anything contained in this Act or any other law for the time being in force, all valid rights, approvals, clearances, licences and the like granted to a lessee in respect of a mine (other than those granted under the provisions of the Atomic Energy Act, 1962 and the rules made thereunder) shall continue to be valid even after expiry or termination of lease and such rights, approvals, clearances, licences and the like shall be transferred to, and vested; subject to the conditions provided under such laws; in the successful bidder of the mining lease selected through auction under this Act: 35 33 of 1962.

Provided that where on the expiry of such lease period, mining lease has not been executed pursuant to an auction under provisions of sub-section (4) of section 8A, or lease executed pursuant to such auction has been terminated within a period of one year from such auction, the State Government may, with the previous approval of the Central Government, grant lease to a Government company or corporation for a period not exceeding ten years or till selection of new lessee through auction, whichever is earlier and such Government company or corporation shall be deemed to have acquired all valid rights, approvals, clearances, licences and the like vested with the previous lessee: 40 45

Provided further that the provisions of sub-section (1) of section 6 shall not apply where such mining lease is granted to a Government company or corporation under the first proviso:

5 Provided also that in case of atomic minerals having grade equal to or above the threshold value, all valid rights, approvals, clearances, licences and the like in respect of expired or terminated mining leases shall be deemed to have been transferred to, and vested in the Government company or corporation that has been subsequently granted the mining lease for the said mine.

10 (2) Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the new lessee to continue mining operations on the land till expiry or termination of mining lease granted to it, in which mining operations were being carried out by the previous lessee.”.

10. In section 9B of the principal Act,—

Amendment
of section 9B.

(i) after sub-section (3), the following proviso shall be inserted, namely:—

15 “Provided that the Central Government may give directions regarding composition and utilisation of fund by the District Mineral Foundation.”;

(ii) in sub-section (5), after the words and figures, “Amendment Act, 2015”, the words, brackets, figures and letter “, other than those covered under the provisions of sub-section (2) of section 10A” shall be inserted;

20 (iii) in sub-section (6), after the words and figures, “Amendment Act, 2015”, the words, brackets, figures and letter “and those covered under the provisions of sub-section (2) of section 10A” shall be inserted.

11. In section 9C of the principal Act,—

Amendment
of section 9C.

25 (i) in sub-section (1), for the words “non-profit body”, the words “non-profit autonomous body” shall be substituted;

(ii) after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) The entities specified and notified under sub-section (1) of section 4 shall be eligible for funding under the National Mineral Exploration Trust.”.

30 12. In section 10 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

Amendment
of section 10.

“(4) Notwithstanding anything contained in this section, no person shall be eligible to make an application under this section unless—

(a) he has been selected in accordance with the procedure specified under sections 10B, 11, 11A or the rules made under section 11B;

35 (b) he has been selected under the Coal Mines (Special) Provisions Act, 2015; or

(c) an area has been reserved in his favour under section 17A.”.

13. In section 10A of the principal Act, in sub-section (2),—

Amendment of
section 10A.

(i) in clause (b), the following provisos shall be inserted, namely:—

40 “Provided that for the cases covered under this clause including the pending cases, the right to obtain a prospecting licence followed by a mining lease or a mining lease, as the case may be, shall lapse on the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2021:

45 Provided further that the holder of a reconnaissance permit or prospecting licence whose rights lapsed under the first proviso, shall be reimbursed the

expenditure incurred towards reconnaissance or prospecting operations in such manner as may be prescribed by the Central Government.”;

(ii) after clause (c), the following clause shall be inserted, namely:—

“(d) in cases where right to obtain licence or lease has lapsed under, clauses (b) and (c), such areas shall be put up for auction as per the provisions of this Act: 5

Provided that in respect of the minerals specified in Part B of the First Schedule where the grade of atomic mineral is equal to or greater than the threshold value, the mineral concession for such areas shall be granted in accordance with the rules made under section 11B.”. 10

Amendment of section 10B.

14. In section 10B of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The provisions of this section shall not apply to the,—

(a) cases falling under section 17A;

(b) minerals specified in Part A of the First Schedule; 15

(c) minerals specified in Part B of the First Schedule where the grade of atomic mineral is equal to or greater than such threshold value as may be notified by the Central Government from time to time; or

(d) land in respect of which the minerals do not vest in the Government.”; 20

(ii) in sub-section (3), the following proviso shall be inserted, namely:—

“Provided that where the State Government has not notified such area for grant of mining lease after establishment of existence of mineral contents of any mineral (whether notified mineral or otherwise), the Central Government may require the State Government to notify such area within a period to be fixed in consultation with the State Government and in cases where the notification is not issued within such period, the Central Government may notify such area for grant of mining lease after the expiry of the period so specified.”; 25

(iii) in sub-section (4), the following provisos shall be inserted, namely:—

“Provided that— 30

(a) where the State Government has not successfully completed auction for the purpose of granting a mining lease in respect of any mineral (whether notified mineral or otherwise) in such notified area; or

(b) upon completion of such auction, the mining lease or letter of intent for grant of mining lease has been terminated or lapsed for any reason whatsoever, 35

the Central Government may require the State Government to conduct and complete the auction or re-auction process, as the case may be, within a period to be fixed in consultation with the State Government and in cases where such auction or re-auction process is not completed within such period, the Central Government may conduct auction for grant of mining lease for such area after the expiry of the period so specified: 40

Provided further that upon successful completion of the auction, the Central Government shall intimate the details of the preferred bidder in the auction to the State Government and the State Government shall grant mining lease for such area to such preferred bidder in such manner as may be prescribed by the Central Government.”; 45

(iv) in sub-section (6), for the proviso, the following proviso shall be substituted, namely:—

“Provided that no mine shall be reserved for captive purpose in the auction.”.

5 **15.** Section 10C of the principal Act shall be omitted.

Omission of section 10C.

16. In section 11 of the principal Act,—

Amendment of section 11.

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The provisions of this section shall not apply to the,—

(a) cases falling under section 17A;

10 (b) minerals specified in Part A of the First Schedule;

(c) minerals specified in Part B of the First Schedule where the grade of atomic mineral is equal to or greater than such threshold value as may be notified by the Central Government from time to time; or

15 (d) land in respect of which the minerals do not vest in the Government.”;

(ii) in sub-section (4), the following proviso shall be inserted, namely:—

20 “Provided that where the State Government has not notified such area for grant of composite licence of any mineral (whether notified mineral or otherwise), the Central Government may require the State Government to notify such area within a period to be fixed in consultation with the State Government and in cases where the notification is not issued within such period, the Central Government may notify such area for grant of composite licence after the expiry of the period so specified.”;

(iii) in sub-section (5), the following provisos shall be inserted, namely:—

25 “Provided that—

(a) where the State Government has not successfully completed auction for the purpose of granting a composite licence in respect of any mineral (whether notified mineral or otherwise) in such notified area; or

30 (b) upon completion of such auction, the composite licence or letter of intent for grant of composite licence has been terminated or lapsed for any reason whatsoever,

35 the Central Government may require the State Government to conduct and complete the auction or re-auction process, as the case may be, within a period to be fixed in consultation with the State Government and in cases where such auction or re-auction process is not completed within such period, the Central Government may conduct auction for grant of composite licences for such area after the expiry of the period so specified:

40 Provided further that upon successful completion of the auction, the Central Government shall intimate the details of the preferred bidder in the auction to the State Government and the State Government shall grant composite licence for such area to such preferred bidder in such manner as may be prescribed by the Central Government.”;

(iv) for sub-section (10), the following sub-section shall be substituted, namely:—

45 “(10) On completion of the prospecting operations, the holder of the composite licence shall submit the result of the prospecting operations in the form of a geological report to the State Government specifying the area required

for mining lease and the State Government shall grant mining lease for such area, to the holder of the composite licence in such manner as may be prescribed by the Central Government.”.

Amendment
of section
12A.

17. In section 12A of the principal Act,—

(i) in sub-section (2),—

(a) for the words, figures and letter, “section 10B or section 11”, the words, “this Act” shall be substituted;

(b) the following proviso shall be inserted, namely:—

“Provided that the transferee of mining lease shall not be required to pay the amount or transfer charges referred to in sub-section (6), as it stood prior to the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2021, after such commencement but no refund shall be made of the charges already paid.”;

(iii) sub-section (6) shall be omitted.

Amendment
of section 13.

18. In section 13 of the principal Act,—

(a) in sub-section (1), for the words “reconnaissance permits, prospecting licences and mining leases”, the words “mineral concession” shall be substituted;

(b) in sub-section (2),—

(i) the clauses (*qqh*) and (*qqk*) shall be omitted;

(ii) for clause (*r*), the following clauses shall be substituted, namely:—

“(r) the period of mining lease under sub-section (4) of section 8;

(s) the manner of sale of mineral by the holder of a mining lease under sub-section (5) of section 8;

(t) the manner of sale of mineral under sub-section (7A) of section 8A;

(u) the manner for reimbursement of expenditure towards reconnaissance permits or prospecting operations under second proviso to clause (b) of sub-section (2) of section 10A;

(v) the manner of granting mining lease to the preferred bidder under the second proviso to sub-section (4) of section 10B;

(w) the manner of granting composite licence to the preferred bidder under the second proviso to sub-section (5) of section 11;

(x) the manner of granting mining lease by the State Government to the holder of the composite licence under sub-section (10) of section 11;

(y) any other matter which is to be, or may be prescribed, under this Act.”.

Amendment of
section 17A.

19. In section 17A of the principal Act,—

(a) for sub-section (2A), the following shall be substituted, namely:—

“(2A) Where in exercise of the powers conferred by sub-section (1A) or sub-section (2), the Central Government or the State Government, as the case may be, reserves any area for undertaking prospecting or mining operations or prospecting operations followed by mining operations, the State Government shall grant prospecting licence, mining lease or composite licence, as the case may be, in respect of such area to such Government company or corporation within the period specified in this section:

Provided that in respect of any mineral specified in Part B of the First Schedule, the State Government shall grant the prospecting licence, mining lease or composite licence, as the case may be, only after obtaining the previous approval of the Central Government.”;

5 (b) in sub-section (2C),—

(i) for the words, “may be prescribed by the Central Government.”, the words “specified in the Fifth Schedule” shall be substituted;

(ii) the following shall be inserted, namely:—

10 “Provided that the Central Government may, by notification in the Official Gazette and for reasons to be recorded in writing, amend the Fifth Schedule so as to modify the entries mentioned therein in the said Schedule with effect from such date as may be specified in the said notification.

15 *Explanation.*—For the removal of doubts, it is hereby clarified that all such Government companies or corporations whose mining lease has been extended after the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, shall also pay such additional amount as specified in the Fifth Schedule for the mineral produced after the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2021.”

10 of 2015.

20 (c) after sub-section (3), the following sub-sections shall be inserted, namely:—

“(4) The reservation made under this section shall lapse in case no mining lease is granted within a period of five years from the date of such reservation:

25 Provided that where the period of five years from the date of reservation has expired before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2021 or expires within a period of one year from the date of commencement of the said Act, the reservation shall lapse in case no mining lease is granted within a period of one year from the date of commencement of the said Act:

30 Provided further that the State Government may, on application made by such Government company or corporation or on its own motion, and on being satisfied that it shall not be possible to grant the mining lease within the said period, make an order with reasons in writing, within a period of three months from the date of receipt of such application, to relax such period by a further period not exceeding one year:

35 Provided also that where the Government company or corporation in whose favour an area has been reserved under this section before the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, has commenced production from the reserved area without execution of mining lease, such Government company or corporation shall be deemed to have become lessee of the State Government from the date of commencement of mining operations and such deemed lease shall lapse upon execution of the mining lease in accordance with this sub-section or expiry of period of one year from the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2021, whichever is earlier.

10 of 2015.

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45 (5) The termination or lapse of mining lease shall result in the lapse of the reservation under this section.”.

Amendment
of section 21.

20. In section 21 of the principal Act, after sub-section (6), the following *Explanation* shall be inserted, namely:—

“*Explanation.*—On and from the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2021, the expression “raising, transporting or causing to raise or transport any mineral without any lawful authority” 5 occurring in this section, shall mean raising, transporting or causing to raise or transport any mineral by a person without prospecting licence, mining lease or composite licence or in contravention of the rules made under section 23C.”.

Amendment
of Schedules.

21. After the Fourth Schedule to the principal Act, the following Schedules shall be inserted, namely:— 10

“THE FIFTH SCHEDULE

[See sections 8(4), 8A(8) and 17A(2C)]

S.No.	Mineral	Additional amount on grant or extension of mining lease	
1.	Iron ore and chromite	Equivalent to one hundred and fifty per cent. of the royalty payable	15
2.	Copper	Equivalent to fifty per cent. of the royalty payable	
3.	Coal and lignite	Equivalent to the royalty payable	
4.	Other minerals (other than coal and lignite)	Equivalent to the royalty payable	

Explanation.—For the purposes of this Schedule, the additional amount shall be in addition to royalty or payment to the District Mineral Foundation and National Mineral Exploration Trust or any other statutory payment. 20

THE SIXTH SCHEDULE

[See sections 8(5) and 8A(7A)]

(i) For non-auctioned captive mines (other than coal and lignite): 25

S.No.	Mineral	Additional Amount	
1.	Bauxite		
	(i) Metallurgical Grade	Equivalent to one hundred and fifty per cent. of the royalty payable	
	(ii) Non Metallurgical Grade	Equivalent to the royalty payable	30
2.	Chromite		
	(i) Up to forty per cent. of Cr ₂ O ₃	Equivalent to the royalty payable	
	(ii) forty per cent. and more of Cr ₂ O ₃ and concentrates	Equivalent to two hundred per cent. of the royalty payable	
3.	Iron ore		35
	(i) Lumps, ROM and concentrates	Equivalent to two hundred and fifty per cent. of the royalty payable	
	(ii) Fines	Equivalent to one hundred and fifty per cent. of the royalty payable	
4.	Limestone		40
	(i) L.D. Grade (less than 1.5 per cent. silica content)	Equivalent to two hundred per cent. of the royalty payable	
	(ii) Other grades	Equivalent to the royalty payable	

5.	Manganese		
	(i) Less than thirty-five per cent. of manganese content	Equivalent to the royalty payable	
5	(ii) Thirty-five per cent. and above of manganese content	Equivalent to five hundred per cent. of the royalty payable	
6.	Other minerals	Equivalent to the royalty payable	
(ii) For auctioned captive mines (other than coal and lignite):			
S.No.	Quantity of sale	Additional Amount	
1.	Sale of mineral up to twenty-five per cent. of annual production	<i>Nil</i>	
10	2.	Sale of mineral more than twenty-five per cent. and up to fifty per cent. of annual production	Equivalent to fifty per cent. of the royalty payable
(iii) For coal and lignite:			
15	S.No.	Type of mine	Additional Amount
	1.	(i) Captive coal and lignite mines, auctioned for power sector through reverse bidding under the Coal Mines (Special Provisions) Act, 2015 (11 of 2015)	Equivalent to two hundred per cent. of the royalty payable
20		(ii) Captive Coal and lignite mines allocated through auction route (other than mines covered under item no. (iv))	Equivalent to the royalty payable
25		(iii) Captive Coal and lignite mines allocated through allotment route (other than mines covered under item nos. (i) and (iv))	Equivalent to the royalty payable
30		(iv) For captive coal and lignite mines that were auctioned and allotted with condition allowing sale of coal up to twenty-five per cent. of annual production—	
35		(a) for sale of coal up to twenty-five per cent. of annual production	Additional amount payable as per the condition mentioned in the tender document or allotment document
40		(b) for sale of coal more than twenty-five per cent. and up to fifty per cent. of annual production	Fifty per cent. of the royalty payable
<p><i>Explanation.</i>—For the purposes of this Schedule, it is hereby clarified that—</p> <p>(i) the additional amount shall be in addition to royalty or payment to the District Mineral Foundation and National Mineral Exploration Trust or any other statutory payment or payment specified in the tender document or the auction premium (wherever applicable).</p> <p>(ii) <i>Ad valorem</i> royalty for the purpose of calculating the additional amount for coal and lignite shall be based on National Coal Index and Representative Price of coal excluding the taxes, levies and other charges.”</p>			
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STATEMENT OF OBJECTS AND REASONS

The Mines and Minerals (Development and Regulation) Act, 1957 (the Act) was enacted with a view to provide for the development and regulation of mines and minerals under the control of Union.

2. The Act was comprehensively amended in 2015 to bring several reforms in the mineral sector, notably, mandating auction of mineral concessions to improve transparency, establishing District Mineral Foundation and National Mineral Exploration Trust and stringent penalty for illegal mining. The Act was further amended in the years 2016 and 2020 to allow transfer of leases for non-auctioned captive mines and to deal with the emergent issue of expiry of leases on 31st March 2020.

3. In order to fully harness the potential of the mineral sector, increase employment and investment in the mining sector including coal, increase the revenue to the States, increase the production and time bound operationalisation of mines, maintain continuity in mining operations after change of lessee, increase the pace of exploration and auction of mineral resources and resolve long pending issues that have slowed the growth of the sector, it is felt necessary to further amend the said Act.

4. The Mines and Minerals (Development and Regulation) Amendment Bill, 2021, *inter alia*, provides for the following, namely:—

(i) to remove the distinction between captive and merchant mines by providing for auction of mines in future without restriction of captive use of minerals and allowing existing captive mines including captive coal mines to sell up to fifty per cent. of the minerals produced after meeting the requirement of linked end use plants to ensure optimal mining of mineral resources and specify the additional amount to be charged on such sale. The sale of minerals by captive plants would facilitate increase in production and supply of minerals, ensure economies of scale in mineral production, stabilize prices of ore in the market and bring additional revenue to the States;

(ii) to provide for payment of additional amount to the State Government on extension and grant of mining lease of Government companies to create level playing field between the auctioned mines and the mines of Government companies;

(iii) to provide that all the valid rights, approvals, clearances, licences and the like granted to a lessee in respect of a mine shall continue to be valid even after expiry or termination of lease and such clearances shall be transferred and vested to the successful bidder of the mining lease. This will ensure continuity in mining operations even with change of lessee, conservation of mineral and avoid repetitive and redundant process of obtaining clearances again for the same mine;

(iv) to grant short term mining lease to Government companies in situations where the auction of mines pursuant to sub-section (4) of section 8A has failed;

(v) to empower the Central Government to issue directions regarding composition and utilisation of Fund by the District Mineral Foundation;

(vi) to close the pending cases of non-auctioned concession holders which have not resulted in grant of mining leases despite passage of a considerable time of more than five years. The existence of these cases is anachronistic and antagonistic to the auction regime. The closure of the pending cases would facilitate the Government to put to auction a large number of mineral blocks in the interest of nation resulting in early operationalisation of such blocks and additional revenue to the State Governments;

(vii) to remove the restrictions on transfer of mineral concessions for non-auctioned mines to attract fresh investment and new technology in the sector;

(viii) to empower the Central Government to notify the area and conduct auction in cases where the State Governments face difficulty in notifying the areas and conducting auction or fails to notify the area or conduct auction in order to ensure auction of more number of mineral blocks on regular basis for continuous supply of minerals in the country;

(ix) to fix a time-frame for grant of leases for the areas reserved for Government companies for expediting grant of leases and production by the Government companies; and

(x) to amend section 21 of the Act so as to clarify the expression "without any lawful authority" in order to limit its scope to the violations of the said Act and the rules made thereunder. The said amendment will bring clarity and certainty to the mining sector.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 10th March, 2021.

PRALHAD JOSHI.

FINANCIAL MEMORANDUM

The Bill seeks to amend the Mines and Minerals (Development and Regulation) Act, 1957 (the Act) to develop the mining sector to its full potential for faster economic growth.

2. Clause 12 of the Bill proposes to insert two provisos in clause (b) of sub-section (2) of section 10A of the said Act. The first proviso provides that upon commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2021, the rights of concession holders under clause (b) of sub-section (2) of section 10A to obtain a prospecting licence followed by a mining lease or a mining lease, as the case may be, shall lapse. The second proviso provides that the holder of a reconnaissance permit or prospecting licence whose right has lapsed under the proposed first proviso shall be reimbursed for expenditure incurred towards reconnaissance permit or prospecting operations in such manner as may be prescribed by the Central Government.

3. The financial implication of this amendment will be to the extent of payment of reimbursement by the Central Government to the holders of a reconnaissance permit or prospecting licence whose rights have lapsed. This expenditure on account of reimbursement may increase in case any foreign investor invokes Bilateral Investment Promotion and Protection Agreements executed between India and other countries. The value of awards, if any, of arbitration bodies under the said Agreement cannot be estimated at this stage.

4. The expenditure is to be incurred from the funds of the National Mineral Exploration Trust established under section 9C of the Act. The said Trust is established for the purpose of funding regional and detailed exploration of minerals. The holder of a mining lease or composite licence is mandated to pay to the Trust, a sum equivalent to two per cent. of royalty paid in terms of the Second Schedule of the Act. At present around six hundred crore rupees accrues annually to the Trust and the Trust has around one thousand seven hundred crore rupees after taking into account the projects sanctioned by the Trust. The accrual to and expenditure from the Trust are done through Consolidated Fund of India.

5. In case the funds accrued to the Trust are not sufficient for reimbursement, the expenditure will be made from the Consolidated Fund of India through budgetary allocation. All the expenditure from the Trust and Consolidated Fund of India would be of non-recurring nature.

6. The amount of reimbursement will be recouped from successful bidders of the mineral concession in that area and will be deposited in the Trust. However, recouping of amount would depend on successful auction of these blocks.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Mines and Minerals (Development and Regulation) Amendment Bill, 2021 seeks to amend sub-section (2) of section 13 of the Mines and Minerals (Development and Regulation) Act, 1957 to make rules for carrying out the provisions of the proposed legislation which are as under:—

(i) the period of mining lease under sub-section (4) of section 8;

(ii) the manner of sale of mineral by the holder of a mining lease under sub-section (5) of section 8;

(iii) the manner of sale of mineral under sub-section (7A) of section 8A;

(iv) the manner for reimbursement of expenditure towards reconnaissance permits or prospecting operations under second proviso to clause (b) of sub-section (2) of section 10A;

(v) the manner of granting mining lease to the preferred bidder under the second proviso to sub-section (4) of section 10B;

(vi) the manner of granting composite licence to the preferred bidder under the second proviso to sub-section (5) of section 11; and

(vii) the manner of granting mining lease by the State Government to the holder of the composite licence under sub-section (10) of section 11.

2. The matters in respect of which rules may be made and notifications issued are matters of procedure and administrative detail and it is not practicable to provide for them in the proposed legislation itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE MINES AND MINERALS (DEVELOPMENT AND REGULATION) ACT, 1957

(67 OF 1957)

* * * * *

Definitions

3. In this Act, unless the context otherwise requires,—

(a) “leased area” means the area specified in the mining lease within which mining operations can be undertaken and includes the non-mineralised area required and approved for the activities falling under the definition of mine as referred to in clause (i);

(aa) “minerals” includes all minerals except mineral oils;

* * * * *

(i) the expressions, “mine” and “owner”, have the meaning assigned to them in the Mines Act, 1952.

35 of 1952.

CHAPTER II

GENERAL RESTRICTIONS ON UNDERTAKING
PROSPECTING AND MINING OPERATIONS

Prospecting or mining operations to be under licence or lease.

4. (1) No person shall undertake any reconnaissance, prospecting or mining operations in any area, except under and in accordance with the terms and conditions of a reconnaissance permit or of a prospecting licence or, as the case may be, of a mining lease, granted under this Act and the rules made thereunder:

Provided that nothing in this sub-section shall affect any prospecting or mining operations undertaken in any area in accordance with terms and conditions of a prospecting licence or mining lease granted before the commencement of this Act which is in force at such commencement:

Provided further that nothing in this sub-section shall apply to any prospecting operations undertaken by the Geological Survey of India, the Indian Bureau of Mines, the Atomic Minerals Directorate for Exploration and Research of the Department of Atomic Energy of the Central Government, the Directorates of Mining and Geology of any State Government (by whatever name called), and the Mineral Exploration Corporation Limited a Government company within the meaning of clause (45) of section 2 of the Companies Act, 2013, and any such entity that may be notified for this purpose by the Central Government:

18 of 2013.

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Termination of prospecting licences or mining leases.

4A. (1) * * * * *

(4) Where the holder of a mining lease fails to undertake mining operations for a period of two years after the date of execution of the lease or having commenced mining operations, has discontinued the same for a period of two years, the lease shall lapse on the expiry of the period of two years from the date of execution of the lease or, as the case may be, discontinuance of the mining operations:

Provided that the State Government may, on an application made by the holder of such lease before it lapses and on being satisfied that it will not be possible for the holder of the lease to undertake mining operations or to continue such operations for reasons beyond his control, make an order, within a period of three months from the date of receiving of such application, subject to such conditions as may be prescribed, to the effect that such lease shall not lapse:

Provided further that such lease shall lapse on failure to undertake mining operations or inability to continue the same before the end of a period of six months from the date of the order of the State Government:

Provided also that the State Government may, on an application made by the holder of a lease submitted within a period of six months from the date of its lapse and on being satisfied that such non-commencement or discontinuance was due to reasons beyond the control of the holder of the lease, revive the lease within a period of three months from the date of receiving the application from such prospective or retrospective date as it thinks fit but not earlier than the date of lapse of the lease:

Provided also that no lease shall be revived under the third proviso for more than twice during the entire period of the lease.

* * * * *

5. (1) A State Government shall not grant a reconnaissance permit, prospecting licence or mining lease to any person unless such person—

Restrictions on the grant of prospecting licences or mining leases.

* * * * *

(b) satisfies such conditions as may be prescribed:

Provided that in respect of any mineral specified in Part A and Part B of the First Schedule, no reconnaissance permit, prospecting licence or mining lease shall be granted except with the previous approval of the Central Government:

Provided further that the previous approval of the Central Government shall not be required for grant of reconnaissance permit, prospecting licence or mining lease in respect of the minerals specified in Part A of the First Schedule, where,—

8A. (1) * * * * *

(8) Notwithstanding anything contained in this section, the period of mining leases, including existing mining leases, of Government companies or corporations shall be such as may be prescribed by the Central Government.

Period of grant of a mining lease for minerals other than coal, lignite and atomic minerals.

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8B. (1) The provisions of this section shall apply to minerals, other than the minerals specified in Part A and Part B of the First Schedule.

Provisions for transfer of statutory clearances.

(2) Notwithstanding anything contained in this Act or any other law for the time being in force, the successful bidder of mining leases expiring under the provisions of sub-sections (5) and (6) of section 8A and selected through auction as per the procedure provided under this Act and the rules made thereunder, shall be deemed to have acquired all valid rights, approvals, clearances, licences and the like vested with the previous lessee for a period of two years:

Provided that subject to such conditions as may be prescribed, such new lessee shall apply and obtain all necessary rights, approvals, clearances, licences and the like within a period of two years from the date of grant of new lease.

(3) Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the new lessee to continue mining operations on the land, in which mining operations were being carried out by the previous lessee, for a period of two years from the date of commencement of the new lease.

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9B. (1) * * * * *

District Mineral Foundation.

(3) The composition and functions of the District Mineral Foundation shall be such as may be prescribed by the State Government.

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(5) The holder of a mining lease or a prospecting licence-cum-mining lease granted on or after the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, shall, in addition to the royalty, pay to the District Mineral Foundation of the district in which the mining operations are carried on, an amount which is equivalent to such percentage of the royalty paid in terms of the Second Schedule, not exceeding one-third of such royalty, as may be prescribed by the Central Government. 10 of 2015.

(6) The holder of a mining lease granted before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, shall, in addition to the royalty, pay to the District Mineral Foundation of the district in which the mining operations are carried on, an amount not exceeding the royalty paid in terms of the Second Schedule in such manner and subject to the categorisation of the mining leases and the amounts payable by the various categories of lease holders, as may be prescribed by the Central Government. 10 of 2015.

National Mineral Exploration Trust.

9C. (1) The Central Government shall, by notification, establish a Trust, as a non-profit body, to be called the National Mineral Exploration Trust.

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Rights of existing concession holders and applicants.

10A. (1) * * * * *

(2) Without prejudice to sub-section (1), the following shall remain eligible on and from the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015: — 10 of 2015.

(a) applications received under section 11A of this Act;

(b) where before the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 a reconnaissance permit or prospecting licence has been granted in respect of any land for any mineral, the permit holder or the licensee shall have a right for obtaining a prospecting licence followed by a mining lease, or a mining lease, as the case may be, in respect of that mineral in that land, if the State Government is satisfied that the permit holder or the licensee, as the case may be,— 10 of 2015.

(i) has undertaken reconnaissance operations or prospecting operations, as the case may be, to establish the existence of mineral contents in such land in accordance with such parameters as may be prescribed by the Central Government;

(ii) has not committed any breach of the terms and conditions of the reconnaissance permit or the prospecting licence;

(iii) has not become ineligible under the provisions of this Act; and

(iv) has not failed to apply for grant of prospecting licence or mining lease, as the case may be, within a period of three months after the expiry of reconnaissance permit or prospecting licence, as the case may be, or within such further period not exceeding six months as may be extended by the State Government;

* * * * *

Grant of mining lease in respect of notified minerals through auction.

10B. (1) The provisions of this section shall not be applicable to cases covered by section 10A or section 17A or to minerals specified in Part A or Part B of the First Schedule or to land in respect of which the minerals do not vest in the Government.

* * * * *

(3) In areas where the existence of mineral contents of any notified mineral is established in the manner prescribed by the Central Government, the State Government shall notify such

areas for grant of mining leases for such notified mineral, the terms and conditions subject to which such mining leases shall be granted, and any other relevant conditions, in such manner as may be prescribed by the Central Government.

(4) For the purpose of granting a mining lease in respect of any notified mineral in such notified area, the State Government shall select, through auction by a method of competitive bidding, including e-auction, an applicant who fulfils the eligibility conditions as specified in this Act.

* * * * *

(6) Without prejudice to the generality of sub-section (5), the Central Government shall, if it is of the opinion that it is necessary and expedient to do so, prescribe terms and conditions, procedure and bidding parameters in respect of categories of minerals, size and area of mineral deposits and a State or States, subject to which the auction shall be conducted:

Provided that the terms and conditions may include the reservation of any particular mine or mines for a particular end-use and subject to such condition which allow only such eligible end users to participate in the auction.

* * * * *

10C. (1) Non-exclusive reconnaissance permits may be granted in respect of any notified mineral or non-notified mineral or a group of specified minerals, other than minerals specified in Part A or Part B of the First Schedule, subject to such terms and conditions as may be prescribed by the Central Government.

Grant of non-exclusive reconnaissance permits.

(2) The holder of such non-exclusive reconnaissance permit shall not be entitled to make any claim for the grant of any prospecting licence-cum-mining lease or a mining lease:

Provided that the holder of non-exclusive reconnaissance permit who carries out the prescribed level of exploration in respect of deep seated minerals or such minerals as may be notified by the Central Government, may submit an application to the State Government for the grant of any prospecting licence-cum-mining lease as per the procedure laid down under section 11 or a mining lease as per the procedure laid down under section 10B and with a view to increase the reconnaissance and prospecting operations of such minerals, the Central Government shall prescribe such procedure, including the bidding parameters for selection of such holders.

Explanation.—For the purposes of this sub-section, the expression “deep seated minerals” means such minerals which occur at a depth of more than three hundred meters from the surface of land with poor surface manifestations.

11. (1) The provisions of this section shall not be applicable to cases covered by section 10A or section 17A or to minerals specified in Part A or Part B of the First Schedule or to land in respect of which minerals do not vest in the Government.

Grant of prospecting licence-cum-mining lease through auction in respect of minerals other than notified minerals.

* * * * *

(4) The State Government shall notify the areas in which prospecting licence-cum-mining leases shall be granted for any minerals other than notified minerals, the terms and conditions subject to which such prospecting licence-cum-mining leases shall be granted, and any other relevant conditions, in such manner as may be prescribed by the Central Government.

(5) For the purpose of granting prospecting licence-cum-mining leases, the State Government shall select, through auction by method of competitive bidding, including e-auction, an applicant who fulfils the eligibility conditions as specified in this Act.

* * * * *

(10) A holder of a prospecting licence-cum-mining lease, who completes the prospecting operation as laid down in sub-section (9) and establishes the existence of mineral contents in the area in conformity with such parameters as may be prescribed for this purpose by the Central Government, shall be required to apply for a mining lease for such area and shall have the right to get the mining lease and thereafter undertake mining operations in accordance with the provisions of this Act.

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Transfer of mineral concessions.

12A. (1) * * * * *

(2) A holder of a mining lease or a prospecting licence-cum-mining lease granted in accordance with the procedure laid down in section 10B or section 11 may, with the previous approval of the State Government, transfer his mining lease or prospecting licence-cum-mining lease, as the case may be, in such manner as may be prescribed by the Central Government, to any person eligible to hold such mining lease or prospecting licence-cum-mining lease in accordance with the provisions of this Act and the rules made thereunder.

* * * * *

(6) The transfer of mineral concessions shall be allowed only for concessions which are granted through auction:

Provided that where a mining lease has been granted otherwise than through auction and where mineral from such mining lease is being used for captive purpose, such mining lease may be permitted to be transferred subject to compliance of such terms and conditions and payment of such amount or such amount or transfer charges as may be prescribed.

Explanation.—For the purposes of this proviso, the expression “used for captive purpose” shall mean the use of the entire quantity of mineral extracted from the mining lease in a manufacturing unit owned by the lessee.

CHAPTER IV

RULES FOR REGULATING THE GRANT OF PROSPECTING LICENCES AND MINING LEASES

Power of Central Government to make rules in respect of minerals.

13. (1) The Central Government may, by notification in the Official Gazette, make rules for regulating the grant of reconnaissance permits, prospecting licences and mining leases in respect of minerals and for purposes connected therewith.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

* * * * *

(*qqh*) the terms and conditions for grant of non-exclusive reconnaissance permits under sub-section (1) of section 10C;

* * * * *

(*qqk*) the amount to be payable by a Government company or corporation, or a joint venture for grant of mining lease under sub-section (2C) of section 17A; and

(*r*) any other matter which is to be, or may be, prescribed under this Act.

* * * * *

Reservation of areas for purposes of conservation.

17A. (1) * * * * *

(2A) Where in exercise of the powers conferred by sub-section (1A) or sub-section (2), the Central Government or the State Government, as the case may be, reserves any area for undertaking prospecting or mining operations, the State Government shall grant prospecting licence or mining lease, as the case may be, in respect of such area to such Government company or corporation:

Provided that in respect of any mineral specified in Part B of the First Schedule, the State Government shall grant the prospecting licence or mining lease, as the case may be, only after obtaining the previous approval of the Central Government.

* * * * *

(2C) A mining lease granted to a Government company or corporation, or a joint venture, referred to in sub-sections (2A) and (2B), shall be granted on payment of such amount as may be prescribed by the Central Government.

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21. (1) * * * * * Penalties.

2 of 1974.

(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence under sub-section (1) shall be cognizable.

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LOK SABHA

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BILL

further to amend the Mines and Minerals (Development and Regulation) Act, 1957.

(Shri Pralhad Joshi, Minister of Parliamentary Affairs, Coal and Mines)

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