INDUSTRIES DEPARTMENT
NOTIFICATION

Shimla-2, the 6th April, 2018

No. Ind-II(F)6-14/2014-Vol-I.—In exercise of the power conferred by Section 15 read with Section 23 C of the Mines and Minerals (Development and Regulation) Act, 1957, the Governor, Himachal Pradesh is pleased to make the following rules further to amend the Himachal Pradesh Minor Minerals (Concession) and Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2015 notified vide this department’s notification No. Ind-II(F)6-14/2014 dated 13.03.2015 and published in the Rajpatra, Himachal Pradesh dated 21-03-2015, namely:

1. Short title and commencement.—(1) These rules may be called the Himachal Pradesh Minor Minerals (Concession) and Minerals (Prevention of Illegal Mining, Transportation and Storage) Second Amendment Rules, 2018.

(2) These rules shall come into force from the date of their publication in the Rajpatra, Himachal Pradesh.

2. Substitution of rule 5.—For the rule 5 of the Himachal Pradesh Minor Minerals (Concession) and Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2015 (hereinafter referred to as the ‘said rules’) the following shall be substituted, namely:

“5. Eligibility for Mineral Concession.— (1) Any person who is an Indian citizen shall, on payment of an application fee as specified in First Schedule and after completion of required codal formalities as prescribed in these rules may obtain mineral concession like mining lease or contract or tender etc., as the case may be, from the Competent Authority.

(2) The Competent Authority may, with the previous approval of the Government, grant a mineral concession to any person who is not an Indian National after completion of codal formalities as prescribed in these rules.

Explanation.—For purpose of sub-rule (1), a lessee shall be deemed to be an Indian National,

(a) in case of a public company as defined in the Companies Act, 2013 (Act No. 18 of 2013), only if majority of the Directors of the Company are citizens of India and not less than fifty-one percent of the share capital thereof is held by persons who are either citizens of India or companies as defined in the said Act;

(b) in case of a private company as defined in the said Act, only if all the members of the company are citizens of India;

(c) in case of a firm or other association of individuals, only if all the partners of the firm or members of the association are citizens of India; and

(d) in case of an individual, only if he is a citizen of India; and if any question arises as to whether a person is an Indian national or not, it shall be referred to the Central Government whose decision thereon shall be final.”
3. Amendment of rule 6.—In rule 6 of the said rules, the sub rule (4) shall be omitted.

4. Amendment of rule 7.—In rule 7 of the said rules, for clause (h) the following shall be substituted,

“(h) non-refundable fee as specified in the FIRST SCHEDULE”.

5. Amendment of rule 10.—In rule 10 of the said rules, for the proviso of sub rule (2), the following proviso shall be substituted.

“Provided that in case of excavation of brick earth and ordinary earth/clay in private lands having an area less than 5-00 Hectares, the Mining Officer concerned shall inspect the area/site and send its observation and recommendations to the State Geologist”.

6. Amendment of rule 12.—In rule 12 of the said rules, in sub rule (3) for the words “five square kilometers” the words “one hundred hectares” shall be substituted.

7. Amendment of rule 16.—In rule 16 of the said rules,

(a) For the second proviso of clause (c) of sub-rule (1), the following shall be substituted, namely:

“Provided further that the working in the leased area after the expiry of every five years after the grant of mining lease may further be allowed by the State Geologist on the basis of review and recommendations made by Geologist/Assistant Geologist after inspection of the area by him for the purpose and after being satisfied that the leased area has been developed by the lessee in a scientific manner and is paying all Government dues on regular basis. The lease holder shall submit an application for review of working in the lease area before six months of expiry of every five years. On review, if it is found that lessee has not developed the leased area in a systematic and scientific manner as per the provisions of Mining Plan and he is in arrears of Government dues, the lease shall be liable to be terminated prematurely after affording an opportunity of being heard”.

(b) For the sub rule (2), the following shall be substituted, namely:

“(2) The renewal of mining lease shall be granted at Directorate level by the Competent authority. The procedure to be followed for renewal of mining lease shall be similar to the procedure as laid down for fresh grant of mining lease, except consultation with concerned Gram Panchayat and approval from the Government. However, the application for renewal of mining lease shall be made in Form ‘C’ containing requisite documents before one year of the expiry of the lease and upon payment of a non-refundable fee as specified in the First Schedule. This renewal shall be subject to the condition that the mine has been developed by the lessee in accordance to the terms and conditions of the lease deed and that the substantial investments in machinery, equipments have been made by him and that the mine has been worked and developed in a scientific manner and that the lessee has been paying the Government dues regularly under the rules”.

(c) For the sub rule (5), the following sub rule shall be substituted, namely:

“(5) The mining leases granted under these rules may be renewed for one or more years but not exceeding the original period of lease, subject to maximum period of ten years:  

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8. Amendment of rule 21.—In rule 21 of the said rules,—

(a) for sub rule (1), the following shall be substituted, namely:

“(1) The lessee may, with the previous approval of the sanctioning authority assign, sublet or transfer his lease or any right, title or interest therein to any person or body directly undertaking mining operation, holding a valid Certificate of No Mining Dues from concerned Mining Officer on payment of a sum as specified in the FIRST SCHEDULE”.

(b) for sub rule (2), the following shall be substituted, namely:

“(2) The applicant may also change the title or name of the already issued ‘Letter of Intent’ or ‘Grant Order’ in favour of any person holding a valid Certificate of No Mining Dues from concerned Mining Officer on the payment of a sum as specified in the FIRST SCHEDULE”.

9. Amendment of rule 33.—In rule 33 of the said rules, in sub rule (1) for the Explanation, the following shall be inserted, namely:

“Provided that in case of material generated from road cutting of National Highway/ Express way/State Highway/ H.P.P.W.D. road/ during execution of approved Hydel Projects the Contractor or concerned Agency shall have liberty to use such material after paying the royalty and after verification of the stock by the concerned Mining Officer along with representative of concerned Agency not below the rank of Assistant Engineer or equivalent.

Explanation.—For the purpose of this rule the developmental activities shall include de-silting of reservoir, development of plots, excavation of fisheries ponds, construction/ development of roads and any kind of other developmental activities”.

10. Amendment of rule 34.—In rule 34 of the said rules, after clause (i), the following provisos shall be inserted, namely:

“Provided that mineral concession in the Government land except in the case, wherein the ‘letter of intent’ has already been issued shall be granted through bidding:

Provided further that in case of construction of hydel projects, road(s) and tunnel(s) etc. mineral concession over the Government land can be granted for captive use, even without bidding”.

11. Amendment of rule 39.—In rule 39 of the said rules, in the Heading, for the word “plant” the word “plan” shall be substituted.

12. Substitution of rule 67.—For rule 67 of the said rules, the following shall be substituted, namely:

“Mining lease mandatory for running a stone crusher.—For running a stone crusher, a mining lease is mandatory to ensure legal and regular supply of minor mineral:
Provided that in the case of construction of Hydel Projects, road(s) and tunnel(s), the stone crusher shall be allowed to be installed, on the basis of material generated during such construction activities even without mining lease and establishment of stone crusher unit for such captive use, compliance of norms and distance parameters shall be ensured by the concerned department before and during execution of the said project:

Provided further that the crushed material shall be utilized for the purposes of construction of such Hydel Project(s), road(s) and tunnel(s)’.

13. Amendment of rule 69.—In rule 69 of the said rules for the words “two years” the words “three years” shall be substituted.

14. Amendment of rule 73.—For the rule 73 of the said rules, the following shall be substituted, namely:

“Penalty provision for illegal mining.—Any contravention of rule 72 shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to 5,00,000/- (Rupees Five lacs) only, or with both; and in case of continuing contravention, with an additional fine which may extend to 50,000/- (fifty thousand only) for every day during which such contravention continues after conviction for the first such contravention:

Provided that the contravention of rule 72 for the first and second time may be compounded by an officer authorized by the Government under section 22 of the Act and the case in relation to the subsequent contravention shall be filed by the officer so authorized in the competent court of law. The manner of compounding of offence shall be as under:

(i) In case of illegal mining carried out manually the amount of compounding fee shall not be less than 10,000/- if the mineral extracted is upto 25 metric tonnes;

(ii) If the quantity of illegal mining carried out exceeds 25 metric tonnes, additional compounding fee @ 500/- per metric tonne shall be charged;

(iii) In case of second contravention a minimum compounding fee of 25,000/- shall be charged;

(iv) In case of illegal mining done mechanically in the river/stream beds, the amount of compounding fee shall not be less than 50,000/-”.

15. Amendment of rule 78.—In rule 78 of the said rules for the words, figures and sign “25,000/- (Rupee twenty five thousand only) the sign, figure and words “50,000/- (Rupees fifty thousand only)” shall be substituted.

16. Amendment of FIRST SCHEDULE.—In FIRST SCHEDULE appended to the said rules,—

(a) the entry at serial I shall be omitted.

(a) In the entry at Serial No. 5, in the third column, for the figures, signs and words “50,000/- (Nonrefundable), the figures, signs and works “2,50,000/- (Non-refundable) upto 5 hectares area and thereafter 50,000/- per hectares for the area more than 5 hectares on pro-rata basis.” Shall be substituted.
(b) In the entry at Serial No. 6, in the third column, for the figures, signs and words, “10,000/- (Non-refundable)” the figures, signs and words, “1,00,000/- (Non-refundable) upto 5 hectares area and thereafter 20,000/- per hectare for the area more than 5 hectares on pro-rata basis.” Shall be substituted.

17. **Substitution of FOURTH SCHEDULE.**—In FOURTH SCHEDULE appended to the said rules the following shall be substituted:—

### FOURTH SCHEDULE

**DELEGATION OF POWERS UNDER VARIOUS PROVISIONS OF THE HIMACHAL PRADESH MINOR MINERALS (CONCESSION) AND MINERALS (PREVENTION OF ILLEGAL MINING, TRANSPORTATION AND STORAGE) RULES, 2015**

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<td>5.</td>
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<td>Throughout State of Himachal Pradesh.</td>
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18. Omission of Form A and Form B.—The Form A and the Form B appended to the said rules, shall be omitted.

Sd/-
(R. D. DHIMAN)
Pr. Secretary (Industries).