

# **MINING REGULATIONS**



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# MINING REGULATIONS 2019

## CHAPTER 1: GENERAL PROVISIONS

### Article 1: Basis

These Regulations have been enacted pursuant to Article 76 of the *Minerals Law* (2018).

### Article 2: Objectives

The objectives of these Regulations are to regulate Mineral Activities in respect of Minerals in Afghanistan in a manner which:

- (1) promotes transparency in the mining industry in Afghanistan and ensures protection against revenue loss, corruption and conflict;
- (2) ensures adequate protection of the health and safety of all persons engaged in Mineral Activities;
- (3) ensures Mineral Activities are conducted sustainably; and
- (4) effectively regulates existing illegal and unlicensed mining activities in Afghanistan.

### Article 3: Terminologies

- (1) Terms defined in Article 4 of the *Minerals Law* have the same meaning in these Regulations.
- (2) For the purposes of these Regulations the following terms have the meanings set forth below:
  1. "**Annual Plan**" means the annual plan for implementation and execution of the Law to be prepared by the Ministry under Article 5(2)2 of the Law;
  2. "**Authorised Directorate**" means:
    - 1) in respect of an Exploration Licence or an Exploitation Licence, a Large-scale Authorised Directorate;
    - 2) in respect of a Small-scale Mining Licence, a Small-scale Authorised Directorate; and
    - 3) in respect of an administrative action or decision to be taken by a government body or department other than the Ministry, an office or directorate authorised by the relevant law for that purpose;
  3. "**Cadastral Survey Map**" means the topographical map of Afghanistan to be maintained by the Ministry under Article 22(1) of the Law which illustrates all Licence Areas;
  4. "**Code of Practice**" means a standard procedure or set of procedures for the safe conduct of work in conditions of known risk;
  5. "**Decline**" means an inclined shaft of shallow dip not exceeding fifteen degrees in which persons, rock and material may be moved by means of vehicles or conveyors;
  6. "**Domestic Security Plan**" means a plan complies with the requirements prescribed in these Regulations and any requirements of the Ministry as advised to the

Concession Holder following a security risk assessment as referred to in Article 84:(1) of these Regulations for maintaining security within the area of a Concession Holder's Mineral Activities ensuring the protection of all personnel employed or otherwise engaged by or on behalf of a Concession Holder;

7. **"Eligibility and Compliance Declaration"** means the declaration prepared by the Ministry in accordance with Schedule 3 of these Regulations;
8. **"Hazardous Substance"** means any material, whether solid, liquid or gaseous, which by virtue of being intrinsically explosive, flammable, poisonous, corrosive, irritating, oxidizing or otherwise having potential to cause immediate or delayed harm to the health or safety of persons and animals;
9. **"Health and Safety Committee"** means the health and safety committee established pursuant to Article 68: of these Regulations;
10. **"High Fire Risk Area"** means any place of work, either on the surface or underground, where the nature of work carried out, or the presence of machinery or equipment, or the use or transfer of energy, may lead to a heightened risk of unplanned fires and includes, but is not limited to, electrical equipment installations, transformer sub-stations, belt conveyors, workshops and places where diesel, petrol or paraffin are stored or issued;
11. **"Incident"** means any accident resulting in actual or potential injury to persons, damage to health of persons or to the environment, human fatality, damage to property or loss of production or of property;
12. **"Independent Expert"** means a person with qualifications and experience in mineral commodities and metallurgy and who has no current association with the relevant Licence Holder or with the Ministry (save for any concurrent engagement under Schedule 5);
13. **"Independent Parties"** means parties who:
  - 1) have entered into a transaction on an arms-length basis;
  - 2) neither of which is a Direct Relative, Majority Owner or Substantial Owner of the other;
14. **"Large-scale Authorised Directorate"** means Directorates of Mines and Petroleum Ministry which have their department in provinces as stated in Schedule 8 of these regulations;
15. **"Small-scale Authorised Directorate"** means Directorates of Mines and Petroleum Ministry which have their department in provinces as stated in Schedule 8 of these regulations;
16. **"Mine Manager"** means a manager appointed by a Licence Holder to perform the responsibilities set out in Article 64: of these Regulations;
17. **"Mine Official"** means the Mine Manager and any competent person appointed by the Mine Manager to assist the Mine Manager in the duties of the Mine Manager;
18. **"Pre-Qualification Questionnaire"** means the questionnaire prepared by the Ministry in accordance with Article 10:(2) of these Regulations;
19. **"Registrar"** means a mining registrar appointed by the Ministry in accordance with Article 52:(1) of these Regulations;



20. **"Register"** means the register to be maintained by the Ministry under Article 22(1) of the Law;
21. **"Safety Officer"** means a person appointed as the safety officer in accordance with Article 69(2) of the Law;
22. **"Source of Ignition"** means any open flame, smoking, cutting or welding operations or temperatures likely to result in ignition of any substance;
23. **"Stope"** means an underground excavation created by the bulk extraction of minerals which have been accessed by tunnels;
24. **Trading Arrangements** means forward sale and/or purchase contracts, spot-deferred contracts, futures trading, commodity option contracts or other price hedging and price protections arrangements and mechanisms and speculative purchases and sales of forward, futures and option contracts, both on and off commodity exchanges but does not include physical sales of Products with delivery.

#### **Article 4: Annual Plan & Designation of Areas**

- (1) An Annual Plan shall, in addition to the content specified in Article 5(3) of the Law, include:
  1. assessments of the scale of illegal mining throughout Afghanistan and plans to reduce illegal mining;
  2. estimates of loss of revenue for the State and the sources of those losses, and plans to reduce them;
  3. a review of the involvement of illegal armed groups in mining, and plans to reduce this involvement;
  4. a review of conflict threats around mines, and plans to reduce them;
  5. a review of artisanal mining and plans to address any issues identified;
  6. identification of any failures in the transparency measures included in the Law and measures to correct such failures.
- (2) The Annual Plan shall be published on the Ministry's website.
- (3) The Ministry must consult with the relevant provincial directorate of the Ministry in relation to any proposal to the Mining Technical Committee to declare land as a Large-scale Mining Area, Small-scale Mining Area or Prohibited Area under Article 19 of the Law.
- (4) The Ministry must ensure that a declaration of a Large-scale Mining Area, Small-scale Mining Area or Prohibited Area under Article 19 of the Law is published on the Ministry website within 15 days.
- (5) A declaration of a Large-scale Mining Area, Small-scale Mining Area or Prohibited Area under Article 19 of the Law takes effect upon publication under Article 4:(4) of these Regulations.

#### **Article 5: Guidelines on content of Plans and Programs**

- (1) The Ministry shall prepare procedures which specify the purpose, content and format of each of the following documents required to be lodged with an application for a Small-scale Mining Licence:

1. Small-scale Work Program; and
  2. Environmental Management Plan.
- (2) The Ministry shall prepare procedures which specify the purpose, content and format of each of the following documents required to be lodged with a tender proposal for the grant of a Mining Concession which provides for the grant of an Exploration Licence and a right of priority for the grant of an Exploitation Licence:
1. Exploration Program;
  2. Local Content Plan;
  3. Environmental Management Plan;
  4. Health and Safety Plan; and
  5. Domestic Security Plan.
- (3) The Ministry shall prepare procedures which specify the purpose, content and format of each of the following documents required to be lodged with a tender proposal for the grant of a Mining Concession which provides for the grant of an Exploitation Licence:
1. Mining Proposal;
  2. Community Development Plan;
  3. Local Content Plan;
  4. Environmental Management Plan;
  5. Health and Safety Plan; and
  6. Domestic Security Plan.

#### **Article 6: Licencing Documents**

- (1) Subject to Article 24., the minimum required content of the following licencing documents required to be lodged under these Regulations is as set out in Schedule 3:
1. Eligibility and Compliance Declaration;
  2. Capability Statement;
  3. Small-scale Work Program;
  4. Exploration Program;
  5. Feasibility Study;
  6. Mining Proposal;
  7. Exploration Report; and
  8. Technical Report.

## **Article 7: Restricted Minerals Program**

- (1) A Restricted Minerals Program may:
  1. prescribe additional Minerals to those identified in Article 4.72 of the Law as Restricted Minerals;
  2. impose restrictions on the eligibility of Persons to participate in a bidding process under Article 41 of the Law, to enter into Mining Concessions or to hold Licences in respect of a Restricted Mineral, in addition to the limitations in Article 17(1) of the Law including restrictions as to nationality;
  3. impose additional regulatory requirements in relation to the Mining, Processing, transportation and storage of a Restricted Mineral including requirements in connection with:
    - 1) environmental protection to be addressed in an Environmental Management Plan under Article 64 of the Law; and
    - 2) health and safety to be addressed in a Health & Safety Plan under Article 70 of the Law; and
    - 3) public security to be addressed in the public security plan required under the Mining Concession in accordance with Article 40(2)6 of the Law;
  4. include an export policy in respect of the Restricted Mineral in accordance with Article 36 of the Law.
- (2) In connection with the preparation of a Restricted Minerals Program, the Ministry shall consult with:
  1. NEPA in relation to any regulatory requirements in connection with environmental protection; and
  2. the National Security Council in relation to matters of national interest and security associated with Restricted Minerals.

## **Article 8: Mining Areas**

- (1) The Ministry shall publish the following on their website on a monthly basis:
  1. all information contained in any declaration made under Article 19(2) of the Law, including in respect of all Small-Scale Mining Areas:
    - 1) the Small-scale Minerals for which Small-scale Mining Licences in the Small-scale Mining Area may be granted;
    - 2) the maximum area of Small-scale Mining Licences in the Small-scale Mining Area; and
    - 3) the maximum depth of Small-scale Mining Licences in the Small-scale Mining Area; and
  2. the location of all Large-scale Mining Areas, Small-scale Mining Areas and Prohibited Areas.
- (2) The information to be published in accordance with Article 8:(1) of these Regulation shall also be published on the website of the Ministry of Industry and Commerce.

## **CHAPTER 2: BIDDING PROCESS IN RESPECT OF EXPLORATION LICENCES AND EXPLOITATION LICENCES**

### **Article 9: Language**

- (1) the Ministry shall publish tender notices initiating a bidding process under Article 41(2) of the Law in Dari or Pashto as well as English;
- (2) the Ministry may require documents lodged in a bidding process to be in Dari or Pashto as well as English; and
- (3) the Ministry shall publish Mining Concessions under Article 25 of the Law in Dari or Pashto as well as English and the Ministry may prepare the Mining Concession in dual languages to facilitate that.
- (4) The ministry shall regulate the letters and communications with bidders in English, the minutes of the letters shall be preserved in Pashto or Dari in ministry.

### **Article 10: Tender Notices**

- (1) In addition to the information required under Article 41(2) of the Law, a tender notice initiating a bidding process shall include:
  1. details of how the Pre-Qualification Questionnaire may be obtained by interested bidders;
  2. details of the bid document fee, as prescribed by Schedule 2 of these Regulations, that shall accompany the Pre-Qualification Questionnaire; and
  3. details of the directorate of the Ministry responsible for the conduct of the bidding process; and
  4. details of the project included in the tender notice.
- (2) The Pre-Qualification Questionnaire shall require interested bidders to provide:
  1. details of the Beneficial Ownership of the bidder;
  2. confirmation that the bidder is eligible to participate in the bidding process under Article 17(1) of the Law and any applicable Restricted Minerals Program;
  3. confirmation that the bidder has financial capacity to meet any minimum expenditure commitment specified in the tender notice;
  4. a summary of:
    - 1) the technical expertise of the bidder and key personnel associated with the bidder;
    - 2) the financial capacity of the bidder;
    - 3) the experience of the bidder and key personnel associated with the bidder;
  5. information in relation to any other pre-qualification criteria disclosed in the tender notice such as an undertaking that the bidder will incur expenditure in excess of any minimum expenditure commitment specified in the tender notice; and
  6. a signed declaration that the information provided is true and correct.

## **Article 11: Pre-qualification**

- (1) Bidders shall, by the deadline specified in the tender notice complete the Pre-Qualification Questionnaire in accordance with the instructions contained therein and lodge the Pre-qualification Questionnaire in accordance with the tender notice.
- (2) The Ministry shall assess the Pre-qualification Questionnaires lodged by bidders who complied with Article 11:(1) of these Regulations and are eligible and evaluate which bidders are sufficiently qualified to participate in the bidding process having regard to the following pre-qualification criteria:
  1. in the case of a bidding process for the grant of a Mining Concession which provides for the grant of an Exploration Licence and a right of priority for the grant of an Exploitation Licence, the technical expertise of the bidder and key personnel associated with the bidder and the financial capacity of the bidder to conduct Exploration shall be considered;
  2. in the case of a bidding process for the grant of a Mining Concession which provides for the grant of an Exploitation Licence, the technical expertise of the bidder and key personnel associated with the bidder and the financial capacity of the bidder to conduct Exploitation shall be considered;
  3. the experience of the bidder and key personnel associated with the bidder in successful delivery on commitments in relation to community development, local content, environmental management and, health and safety shall be considered.
  4. the qualification of the bidder having regard to any other pre-qualification criteria specified in the tender notice such as any minimum expenditure commitment.
- (3) If the Ministry forms the opinions included in clauses 1, 2 and 3 of this sub-article, then the Ministry shall not issue a request for proposal to a bidder under Article 42(2) of the Law, and inform the bidder in writing that it will not participate in the bidding process:
  1. a bidder did not by the deadline specified in the tender notice:
    - 1) complete the Pre-Qualification Questionnaire in accordance with the instructions contained therein and lodge the Pre-qualification Questionnaire in accordance with the tender notice; or
    - 2) pay the bid document fee in accordance with the tender notice;
  2. the bidder is not eligible to participate in the bidding process under Article 17(1) of the Law or any applicable Restricted Minerals Program;
  3. the bidder is not sufficiently qualified to participate in the bidding process;
- (4) The ministry may terminate the bidding process and re-announce the bidding of a mining area, if less than 2 bidders participate in the mining bidding process.

## **Article 12: Requests for Proposal**

- (1) In addition to the information required under Article 42(2) of the Law, a request for proposal shall also include:
  1. a summary of any geological information that is available, together with any details for access to any such geological information in a data room, including:
    - 1) data generated by Reconnaissance undertaken by Geological Survey; and

- 2) historical exploration data;
  2. details of any Infrastructure that may be available for use by the Concession Holder;
  3. a copy of the Eligibility and Compliance Declaration;
  4. any applicable special conditions of contract applicable under the model form of Mining Concession;
  5. the deadline for lodgement of tender proposals which may constitute an extension of the deadline specified in the tender notice;
  6. in the case of a bidding process for the grant of a Mining Concession which provides for the grant of an Exploration Licence and a right of priority for the grant of an Exploitation Licence, details of the required content of:
    - 1) the Exploration Program;
    - 2) the proposed Local Content Plan;
    - 3) the proposed Environmental Management Plan;
    - 4) the proposed Health & Safety Plan;
    - 5) the Capability Statement;
    - 6) the departure table identifying any proposed variations to the model form of Mining Concession; and
    - 7) a proposed Domestic Security Plan.
  7. in the case of a bidding process for the grant of a Mining Concession which provides for the grant of an Exploitation Licence:
    - 1) the Mining Proposal;
    - 2) the proposed Community Development Plan;
    - 3) the proposed Local Content Plan;
    - 4) the proposed Environmental Management Plan;
    - 5) the proposed Health & Safety Plan; and
    - 6) the Capability Statement;
    - 7) the departure table identifying any proposed variations to the model form of Mining Concession; and
    - 8) a proposed Domestic Security Plan.
  8. any requirements as to the manner by which information shall be presented in a tender proposal.
- (2) A request for proposal may invite bidders to seek written clarification in relation the request for proposal in which case the Ministry shall disclose to all participating bidders:
1. any requests for clarification received; and
  2. and response to those requests.
- (3) The bidder shall pay the bidding fee while receiving request for proposal.

- (4) Notwithstanding the tender deadline specified in the notice of tender or the request for proposal, the Ministry may at any time prior to the tender deadline specified in the notice of tender or the request for proposal, extend the deadline for lodgement of tender proposals by notice to all participating bidders.

### **Article 13: Tender Proposals**

- (1) In order to participate in the bidding process, a bidder shall, by the tender deadline:
1. lodge its tender proposal:
    - 1) in accordance with the request for proposal; and
    - 2) in one original and three copies in separate sealed envelopes; and
  2. provide a bid bond in accordance with the request for proposal.
- (2) In addition to the information required under Article 43(2) of the Law, a tender proposal shall also include:
1. contact details for an authorised representative to represent the bidder during the bidding process together with an original authorisation letter from the bidder appointing the authorised representative;
  2. the completed Eligibility and Compliance Declaration; and
  3. the Capability Statement.
- (3) In the event of a change of circumstance which affects that accuracy of any information contained in a tender proposal, the bidder shall immediately notify the Ministry of the change of circumstance and the information that is inaccurate.

### **Article 14: Receipt of tender proposals**

1. The Ministry shall arrange an opening ceremony which shall be conducted immediately following the expiry of the tender deadline and be attended by:
  - 1) a representative of the directorate of the Ministry responsible for the bidding process;
  - 2) a representative of the National Procurement Authority;
  - 3) the authorised representative of any bidder who wishes to attend;
  - 4) any other representatives that the Minister or Deputy Minister for Mines and Petroleum authorises to participate.
- (2) During the opening ceremony:
  1. one copy of each tender proposal shall be opened and initialled by the attending participants;
  2. the expenditure commitment for each tender proposal shall be recorded which shall comprise (as applicable) the three-year expenditure commitment contained in the Exploration Program and the capital expenditure estimate contained in the Mining Proposal together with the social expenditure commitment contained in the proposed Community Development Plan; and

3. one copy of each tender proposal shall be provided to the representative of the National Procurement Authority for safe keeping.
- (3) If the Ministry forms the opinion, at any time having consulted with the National Procurement Authority, that:
1. a bidder did not, by the tender deadline:
    - 1) lodge a tender proposal in accordance with the request for proposal; **or**
    - 2) provide a bid bond in accordance with the request for proposal;
  2. the bidder is not eligible to participate in the bidding process under Article 17(1) of the Law or any applicable Restricted Minerals Program; **or**
  3. the bidder has contravened Article 13(2) of the Law or Article 18: of these Regulations,
- then the Ministry may reject the tender proposal in which case the Ministry shall advise the bidder that it will not participate in the bidding process.
- (4) The Ministry may take steps to independently verify information contained in a completed Eligibility and Compliance Declaration or a Capability Statement. If the Ministry identifies any adverse information in respect of the bidder which is to be taken into account in the evaluation of the tender proposal, the Ministry must notify the relevant bidder and give the bidder the opportunity to respond in respect of the adverse information.
- (5) The Ministry shall ensure that all tender proposals are kept confidential subject only to disclosure reasonably necessary for the conduct of the bidding process, and the publication of information under Article 21 and 25 of the Law following execution of a Mining Concession.

#### **Article 15: Tender evaluation**

- (1) The Ministry shall collate tender proposals for evaluation by the Mining Technical Committee and may in discharge of its responsibilities under Article 5(1)1 of the Law prepare comparative summaries of tender proposals.
- (2) The Mining Technical Committee shall evaluate tender proposals having regard to the following evaluation criteria:
  1. in the case of a bidding process for the grant of a Mining Concession which provides for the grant of an Exploration Licence and a right of priority for the grant of an Exploitation Licence, the value of the commitments and the bidders capacity to perform the commitments in respect of each of:
    - 1) exploration;
    - 2) local content;
    - 3) environmental management;
    - 4) health and safety;
    - 5) domestic security;
  2. in the case of a bidding process for the grant of a Mining Concession which provides for the grant of an Exploitation Licence the value of the commitments and the bidders capacity to perform the commitments in respect of each of:
    - 1) exploitation;



- 2) community development;
  - 3) local content;
  - 4) environmental management;
  - 5) health and safety;
  - 6) domestic security;
3. the extent to which variations to the model form of Mining Concession are proposed in the departures table; and
  4. any other tender evaluation criteria specified in the request for proposal.
- (3) The criteria to assess the capacity of the bidder in regards to execution of promises, is as follows:
    1. technical capacity;
    2. financial capacity; and
    3. experience in Afghanistan or any other similar jurisdiction.
  - (4) The weight to be given to the tender evaluation criteria shall be specified in the request for proposal.
  - (5) The Mining Technical Committee shall develop a tender evaluation procedure which the Mining Technical Committee must follow in respect of the evaluation of all tender proposals lodged in the bidding process.

#### **Article 16: Negotiation of Mining Concession**

- (1) In conjunction with the evaluation of a tender proposal negotiations may be conducted with the bidder in relation to any variations to the model form of Mining Concession proposed in the departures table with a view to obtaining confirmation from the bidder that it would enter in a Mining Concession on proposed terms in the event it is awarded to the bidder.
- (2) Any variations to the model form of Mining Concession which are proposed as a result of the negotiations will be taken into account by the Mining Technical Committee in the evaluation of the tender proposal.
- (3) Following the approval of the award of the mining concession by the High Economic Council, variations to the model form of Mining Concession shall not be agreed by the Ministry in executing the Mining Concession under Article 46(1) of the Law unless:
  1. the bidder proposed the variations in the departures table contained in the tender proposal;
  2. the bidder provided written confirmation that it would enter into the Mining Concession on the proposed terms prior to its selection as preferred or reserve bidder as a result of negotiations conducted under Article 16:(1) of these Regulations;
  3. the variations were required by the High Economic Council under Article 45(1) or 45(5) of the Law; or
  4. the variations are not fundamental.
- (4) Upon the execution of the Mining Concession, the Ministry must notify the unsuccessful bidders of the award and offer to conduct a tender debrief.
- (5) If a bidding process is initiated prior to the commencement of this Law but not completed prior to the commencement of this Law, the contract entered into under Article 74(10) of the Law may, if the Ministry and preferred bidder agree, be based on the model form of Mining Concession.

### **Article 17: Bid bonds**

- (1) A bid bond shall be in the amount required by the request for proposal.
- (2) A bid bond must be in the form required by the tender notice and procedure prepared in accordance to Article 17(6).
- (3) The Ministry Shall be entitled not to return the bid bond under the following circumstances:
  1. the bidder has contravened Article 13(2) of the Law or commits an offence under Article 18: of these Regulations;
  2. the bidder withdraws its tender proposal.
- (4) A bid bond shall be returned to the appropriate bidder, within 10 working days of any of the following circumstances occurring:
  1. execution of the Mining Concession by that bidder;
  2. execution of a Mining Concession by another bidder, where the appropriate bidder's bid bond has not previously been returned under Article 17:(3) of these Regulations;
  3. the Ministry terminates the bidding process without awarding a Mining Concession.
- (5) The Mining Technical Committee shall decide upon selection of preferred or reserve bidder.
- (6) The Ministry may develop and publish procedures in relation to the form and requirements of bid bonds.

### **Article 18: Offences**

- (1) It shall be an offence for a bidder to:
  1. knowingly provide false or misleading information in a Pre-Qualification Questionnaire, Eligibility and Compliance Declaration or Capability Statement;
  2. fail to notify a change in circumstance in accordance with Article 13:(3) of these Regulations;
  3. engage in collusion with another bidder; or
  4. breach any applicable laws relating to bribery and corruption including the provisions of Article 13 of the Law.

## **CHAPTER 3: SMALL-SCALE MINING LICENCE**

### **Article 19: Small-scale Mining Licence applications**

- (1) An application for a Small-scale Mining Licence shall comprise:
  1. an application form which shall include:
    - 1) the name and address of the applicant;
    - 2) a description and plan of the Licence Area;
    - 3) if the applicant or a Majority Owner of the applicant holds or is a Majority Owner of Legal Entities that hold Small-scale Mining Licences, details of those Small-scale Mining Licences and the aggregate area of any adjacent Small-scale Mining Licences; and
  2. annexures comprising:

- 1) a Small-scale Work Program;
  - 2) a completed Eligibility and Compliance Declaration;
  - 3) a Capability Statement; and
  - 4) a proposed Environmental Management Plan;
- (2) The completed application for a Small-scale Mining Licence shall be lodged:
1. in hard copy (one original and one copy), in a sealed and signed envelope, to a Small-scale Authorised Directorate; or
  2. online via the required method as stipulated on the Ministry's website which method shall record the exact date and time of receipt of the application and generate and issue a confirmation receipt to the applicant.
- (3) On receipt of the application for a Small-scale Mining Licence lodged in hard copy in accordance with Article 19:(2)1 of these Regulations, a representative of the relevant Small-scale Authorised Directorate shall sign the application and record the date and time of receipt, in the presence of the applicant or authorised representative of the applicant who must counter-sign the application and verify the date and time of receipt.
- (4) The Fee in respect of an application for a Small-scale Mining Licence shall be paid by the applicant within 5 days of the date of lodgement of the application, to the Small-scale Authorised Directorate to which the application was lodged or by online payment in accordance with a fee payment letter issued by the Ministry, otherwise the application will be rejected.
- (5) If the Fee in respect of an application for a Small-scale Mining Licence is not paid by the applicant within 5 days of lodgement of the application, the application shall be deemed as rejected.
- (6) If, following approvals being obtained in accordance with Article 29(6) of the Law, the Ministry grants the application for a Small-scale Mining Licence, the Ministry shall upon such grant:
1. issue the Licence to the Licence Holder at the relevant Small-scale Authorised Directorate;
  2. record the Licence in the Register; and
  3. publish the Licence in accordance with Article 25 of the Law.
- (7) If the Ministry rejects the application for a Small-scale Mining Licence, the Ministry shall notify the applicant in writing of such rejection.

**Article 20: Small-scale Infrastructure**

- (1) In addition to the infrastructure prescribed by the definition of Small-scale Infrastructure in the Law, Small-scale Infrastructure may include such other Infrastructure as is approved by the Ministry following a recommendation of the Mining Technical Committee, in respect of a Small-scale Mining Area.
- (2) The total capital cost or value of Small-scale Infrastructure or Equipment for the purposes of Article 26(3)6 and Article 35(4)9 of the Law shall be 10 million (10,000,000) Afghani unless the Ministry, following a recommendation of the Mining Technical Committee, prescribes a higher amount.

## **CHAPTER 4: LICENCE CONDITIONS AND ADMINISTRATION**

### **Article 21: Time frames for administrative decisions**

- (1) The Ministry shall, prepare for approval by the High Economic Council, guidelines which specify target time-frames for administrative decisions to be made pursuant to the Law and these Regulations, including target time-frames in respect of recommendations to be made by the committees of the Ministry established under Chapter 12 of these Regulations, except for administrative decisions covered by the procedures and guidelines of Articles 28(12) and Article 47(3) of the Law.
- (2) The Ministry shall endeavour to discharge its responsibilities within the target time-frames specified in the guidelines.
- (3) If the Ministry receives an application or request for approval and the Ministry cannot discharge its responsibilities within the target time-frames specified in the guidelines, the Ministry shall notify the relevant Licence Holder and specify a time-frame in which the Ministry may discharge the relevant responsibility.
- (4) The Ministry shall, on an annual basis, provide a report to the High Economic Council, which details the Ministry's performance within the target time-frames specified in the guidelines.

### **Article 22: Lodgement of applications**

- (1) Unless otherwise specified in these Regulations, the applications shall be lodged to the Ministry pursuant to the provisions of Chapter 4 as follows:
  1. in hard copy (one original and one copy), in a sealed and signed envelope, to an Authorised Directorate; or
  2. online via the required method as stipulated on the Ministry's website.
- (2) All applications shall be accompanied by the relevant Fee.
- (3) On receipt of the application, the Ministry shall ensure that:
  1. the date and time of receipt is recorded; and
  2. a receipt which records the date and time of receipt is generated and issued to the applicant.
- (4) The Ministry may request such further information from the Licence Holder as is required to properly assess the application.
- (5) The Ministry shall:
  1. consider the application;
  2. notify the Licence Holder of its decision in writing;
  3. if applicable issue the relevant Licence or permit; and
  4. record the decision in the Register.

- (6) The Ministry, or NEPA (as applicable), shall assess any amended plans lodged by the Licence Holder and notify the Licence Holder of its decision in respect of those plans in accordance with Article 67:, Article 81:, Article 86:, Article 89: and Article 91: of these Regulations as applicable.

### **Article 23: Small-scale Mining Licence conditions**

- (1) Small-scale Mining Licences shall be subject to any recommended conditions contained in the report prepared by the Mining Technical Committee under Article 29(5) of the Law in addition to those set out in Article 35(4) of the Law.
- (2) Small-scale Mining Licences may also be subject to the following conditions:
1. the issue of an Environmental Bond pursuant to Article 54 of the Law;
  2. any other conditions the Ministry considers appropriate.

### **Article 24: Reduced requirements for Small-scale Mining Areas**

- (1) In order to facilitate and efficiently administer the Exploration and Exploitation of Small-scale Minerals, the Ministry may, following the recommendation of the Mining Technical Committee and upon the declaration of the Small-scale Mining Area, issue an exemption to apply to all Small-scale Mining Licences that are issued in respect of that Small-scale Mining Area in respect of:
1. some or all of the required contents of:
    - 1) a Small-scale Work Program;
    - 2) an Environmental Management Plan;
    - 3) a Technical Report;
    - 4) an Environmental Report; or
    - 5) an Exploration Report;
  2. the requirement to appoint a Mine Manager under Article 64: of these Regulations; and
  3. certain requirements in Chapter 7 of these Regulations which would otherwise apply to Small-scale Mining Licences, provided the Directorate of Inspection is satisfied that those requirements are not deemed to pose a risk to the health and safety of persons on land the subject of Small-scale Mining Licences in respect of that Small-scale Mining Area.
- (2) An exemption under Article 24:(1) shall only be issued where Mineral Activities to be undertaken in respect of the Small-scale Mining Area are artisanal activities involving only the use of manual tools and non-mechanised operations.

### **Article 25: Exploration Licence conditions**

- (1) Exploration Licences shall be subject to the following standard conditions in addition to those set out in Article 35 of the Law and the relevant Mining Concession
1. the maximum amount of Mineral sample which may be removed for the purposes of Article 34(1)(3) of the Law is a total of 10 metric tonnes over the Licence Area;

2. a Licence Holder of an Exploration Licence must retain Mineral samples and drill core in accordance with Article 24(3) of the Law as follows:
  - 1) core must be arranged, in the precise order in which it was cut, in a core tray;
  - 2) each section of core must be labelled clearly, with indelible ink or core blocks, to indicate depths and to show the upper and the lower ends of the core;
  - 3) each tray must be labelled clearly on the outside of the tray to show:
    1. the depth of the upper and lower ends of the core;
    2. the name and number of the drill hole the core was obtained from;
    3. the name of the Licence Holder;
    4. the Licence to which the drill hole relates;
    5. the coordinates for the drill hole;
  - 4) if more than 1 core tray is required, trays must be numbered consecutively;
  - 5) the samples must be in durable rot-proof bags or containers, arranged in consecutive order, and stored in a suitable box;
  - 6) each sample must indicate clearly the depth and location from which it was obtained;
  - 7) each sample box must be clearly labelled, in indelible ink, on the outside to show:
    1. the sample designation and number;
    2. the name of the survey and number of samples collected;
    3. the name of the Licence Holder;
    4. the Licence to which the samples relate;
  - 8) if more than 1 box is required, the boxes must be numbered consecutively;
3. any other conditions the Ministry considers appropriate, including any other Mineral Activities the Ministry regards as necessary to completion of the Exploration Program.

**Article 26: Temporary exemption from Licence conditions**

- (1) A Licence Holder may only obtain a temporary exemption from compliance with the undertakings contained in:
  1. a Small-scale Work Program pursuant to Article 35(4)2 of the Law;
  2. an Exploration Program pursuant to Article 35(2)4 of the Law; or
  3. a Mining Proposal pursuant to Article 35(3)3 of the Law;
- (2) The exemptions under Article 26(1) shall be granted under following terms:
  1. in case the ground included in the Licence is for any sufficient reason unworkable, excluding as a result of the usual long winter weather conditions occurring in the region of the Licence Area;

2. the Licence Holder is prevented from compliance with the undertakings due to war, insurrection, riot, civil disturbance or acts of terrorism directly affecting the Licence Area;
  3. the discovery of cultural or historical artefacts have resulted in the Licence Holder having to cease conducting Mineral Activities in accordance with Article 73 of the Law;
  4. in the case of an Exploration Program or a Mining Proposal, the relevant undertakings are the subject of a force majeure event under the relevant Mining Concession; or
  5. in the case of a Mining Proposal, the Exploitation Licence hosts a resource that is currently uneconomic but is reasonably likely to become economic.
- (3) A Licence Holder who wants to request a temporary exemption from compliance with the relevant undertakings referred to in Article 26:(1) of these Regulations shall lodge the following information with the Ministry for approval:
1. a statement setting out the grounds for requesting the temporary exemption which must be in accordance with Article 26:(1) of these Regulations;
  2. the duration of the temporary exemption requested which must be for no longer than 12 months; and
  3. any Mineral Activities that will be carried out during the period of the temporary exemption.
- (4) The Ministry shall:
1. in the case of a request for a temporary exemption on the grounds set out in Article 26:(2)2, verify the existence of the grounds for exemption with the Ministry of Interior; or
  2. in the case of a request for a temporary exemption on any other grounds set out in Article 26:(1), verify the existence of the grounds for exemption with the local provincial government and relevant government entities in Kabul; and
- (5) The Ministry may grant the request for a temporary exemption from compliance with the relevant undertakings if the Ministry is satisfied that:
- 1) the reasons on which the temporary exemption is requested are in accordance with Article 26:(1) of these Regulations; and
  - 2) the Licence Holder is in compliance with all other conditions of the Licence and in respect of an Exploration Licence or an Exploitation Licence, with Mining Concession.

#### **Article 27: Application for Exploitation Licence**

- (1) A Mining Concession Holder who has a right of priority for the grant of an Exploitation Licence and who seeks the grant of an Exploitation Licence in accordance with a Mining Concession shall, in addition to the documents required by Article 28(5) of the Law, lodge with the Ministry:
1. a completed Eligibility and Compliance Declaration; and
  2. a Capability Statement.

- (2) For the purposes of Article 28(10) of the Law, an Exploration Licence which is due to expire will continue in force in so far as it relates to the area the subject of the Mining Proposal, until that Mining Proposal is approved or refused.

**Article 28: Variation of a Licence to include additional Minerals**

- (1) A Licence Holder may lodge an application to vary a Licence to include additional types of Minerals to those specified in the Licence.
- (2) The application shall contain the following:
  1. the results of Exploration on the Licence which have identified Minerals other than the type of Mineral for which the Licence was granted (supported by information contained in Technical Reports lodged by the Licence Holder);
  2. the types of Minerals the Licence Holder requests be included in the Licence based upon such results;
  3. a statement setting out the technical feasibility of further Exploration or Exploitation of the additional types of Mineral in conjunction with the types of Mineral currently specified in the Licence;
  4. in respect of a Small-scale Mining Licence, the proposed amended:
    - 1) Small-scale Work Program; and
    - 2) Environmental Management Plan;
  5. in respect of an Exploration Licence, the proposed amended:
    - 1) Exploration Program;
    - 2) Health and Safety Plan;
    - 3) Environmental Management Plan;
    - 4) Domestic Security Plan; and
    - 5) Local Content Plan;
  6. in respect of an Exploitation Licence, the proposed amended:
    - 1) Mining Proposal
    - 2) Health and Safety Plan;
    - 3) Environmental Management Plan;
    - 4) Domestic Security Plan;
    - 5) Local Content Plan; and
    - 6) Community Development Plan.
- (3) The Ministry shall grant the application for a variation to the Licence if:
  1. the proposed amended Exploration Program, Mining Proposal or Small-scale Work Program is granted in accordance with Article 33 of the Law; and
  2. in respect of a Small-scale Mining Licence, the requirements of Article 28:(4) of these Regulations are fulfilled.
- (4) A Small-scale Mining Licence may only be varied to include other Small-scale Minerals.



- (5) If Minerals other than Small-scale Minerals are discovered on a Small-scale Mining Licence, then the Small-scale Mining Licence will remain valid for its current term but upon expiry of the term of the Small-scale Mining Licence, an extension of the term of the Small-scale Mining Licence cannot be granted
- (6) the Ministry may cancel the declaration of the relevant land mentioned in article 28(5) as a Small-scale Mining Area in accordance with Article 19(4) of the Law.

#### **Article 29: Variation of a Mining Concession**

- (1) Any variation of a Mining Concession shall not be effective unless it is approved by the High Economic Council following a recommendation of the Mining Technical Committee.
- (2) The Ministry shall publish a copy of any variation of a Mining Concession on its website in accordance with Article 25 of the Law.

#### **Article 30: Extension of the term of a Licence**

- (1) An application for an extension of the term of a Licence made pursuant to Article 31(4) of the Law shall contain the following:
  1. information in support of the proposed grounds for an extension of term;
  2. a summary of the work already carried and expenditure incurred under the Licence by reference to Technical Reports lodged by the Licence Holder over the current term of the Licence
- (2) in the case of a Small-scale Mining Licence, in addition to terms included in article 30(1), it shall include following points:
  - 1) a Small-scale Work Program for the extended term; and
  - 2) a proposed Environmental Management Plan for the extended term;
- (3) in the case of an Exploration Licence:
  - 1) the Exploration Program to be carried out during the extended term of the Licence;
  - 2) the area of the Exploration Licence to be relinquished in accordance with Article 30(2) of the Law;
  - 3) any proposed variations to the following plans for the extended term of the Exploration Licence:
    1. Health and Safety Plan;
    2. Environmental Management Plan;
    3. Domestic Security Plan; and
    4. Local Content Plan;
- (4) in the case of an Exploitation Licence:
  - 1) an explanation as to why the Mineral deposit cannot be economically depleted before the current Exploitation Licence expires;

- 2) estimates of the remaining mineable Mineral resource which may include inferred, indicated, or measured estimates of the mineable resource and probable and proved estimates of the reserves;
  - 3) any proposed variations to the following plans for the extended term of the Exploitation Licence:
    1. Mining Proposal;
    2. Health and Safety Plan;
    3. Environmental Management Plan;
    4. Domestic Security Plan;
    5. Local Content Plan; and
    6. Community Development Plan;
- (5) If a Licence Holder was granted a temporary exemption on the grounds specified in Article 26:(2)4 of these Regulations during the current term of the Licence, this will only be considered as grounds for an extension of term where the temporary exemption was for a period of 3 months or more during the current term of the Licence.
- (6) The Ministry shall unless Article 28:(5) of these Regulations applies in respect of a Small-scale Mining Licence, grant the application for an extension of the term of the Licence if:
1. the variation to the Exploration Program, Mining Proposal or Small-scale Work Program is approved in accordance with Article 33 of the Law;
  2. in the case of an Exploration Licence, the maximum term under Article 31(1) of the Law will not be exceeded by the extension of term; and
  3. the requirements of Article 31(5) of the Law are satisfied.
- (7) The grant of the application may be subject to the Licence Holder complying with conditions imposed by the Ministry.
- (8) If the Ministry grants the application for an extension of term of the Licence, the Ministry shall upon such grant:
1. issue the Licence to the Licence Holder;
  2. record the Licence in the Register; and
  3. publish the Licence and approved Exploration Program, Mining Proposal or Small-scale Work Program in accordance with Article 25 of the Law.

### **Article 31: Relinquishment of Licence**

- (1) An application for the relinquishment of a Licence or part of a Licence made pursuant to Article 32(1) of the Law shall contain the following:
1. information in support of the proposed grounds for relinquishment;
  2. the co-ordinates of the boundaries of the area of the Licence being relinquished which must be made up of whole quadrangles and in respect of a partial relinquishment must result in the part of the Licence remaining after relinquishment constituting a singular area comprising of adjacent cadastral blocks;

3. information demonstrating the Licence Holder's compliance in all material respects with the provisions of the Law and its commitments under the Environmental Management Plan in respect of the land being relinquished.
- (2) The Ministry shall grant the application for relinquishment of a Licence or part of a Licence if the requirements of Article 32(2) of the Law are satisfied.

**Article 32: Transfer of Licence or Licence Interest**

- (1) An application for the transfer of a Licence or a Licence Interest made pursuant to Article 39(1) of the Law shall contain the following:
  1. full details of the proposed transferee of the Licence or the Licence Interest;
  2. a completed Eligibility and Compliance Declaration of the proposed transferee;
  3. a Capability Statement of the proposed transferee;
- (2) The Ministry shall grant the application for transfer of a Licence or a Licence Interest if the requirements of Article 39(2) of the Law are satisfied.
- (3) In the case of an application for approval to the transfer of a Licence Interest, which shall include the creation of a Licence Interest, for the purposes of granting a mortgage or security interest to a Person in order to secure funds for the conduct of Mineral Activities on the Licence, the Ministry shall approve the application if:
  1. the requirements of Article 39(2)1 and 2 of the Law are satisfied; and
  2. a copy of the relevant binding finance agreement is provided by the Licence Holder.
- (4) Grant of approval under Article 32:(3) of these Regulations shall be deemed to also constitute a further approval to a transfer of the Licence Interest in respect of the exercise of rights under the relevant mortgage or security interest. The approval is applicable in accordance with written notice issued by the Ministry regarding the relevant security document.
- (5) The licence holder cannot transfer the relevant licence or licence interest to another person.

**Article 33: Change of Control of Licence Holders**

- (1) An application for approval to any Change in Control of a Licence Holder made pursuant to Article 38(1) of the Law shall contain the following:
  1. a completed Eligibility and Compliance Declaration in respect of the Licence Holder following the Change in Control; and
  2. a Capability Statement in respect of the Licence Holder following the Change in Control.
- (2) The Ministry shall grant the approval to a Change of Control if the requirements of Article 38(3) of the Law are satisfied.
- (3) If the Ministry has not notified the Licence Holder of its decision in accordance with this Article 33: of these Regulations within 45 days of the date, the application for approval to a Change of Control is received by the Ministry, the Ministry will be deemed to have granted the approval to the Change in Control.

### **Article 34: Notification of change in Beneficial Ownership**

- (1) Any change of Beneficial Ownership required to be notified by a Licence Holder under Article 35(2)3, 35(3)2 or 35(4)2 of the Law shall be notified by the Licence Holder to the Ministry in writing as soon as practicable following and in any event within 5 days of that change in Beneficial Ownership.

### **Article 35: Export of Product**

- (1) A Person must not export any Product from Afghanistan without obtaining an export permit in accordance with this Article 35: of these Regulations.
- (2) A Person intending to export any Product shall apply for an export permit by lodging an application with the Department of Cadastre of the Ministry, containing:
  1. the legal name and registered address of the applicant;
  2. details of the Licence Holder and the Licence under which the Minerals from which the Product is derived were extracted;
  3. details of the Product to be exported and the quantity of Product for which the export permit is sought.
- (3) The Department of Cadastre of the Ministry shall grant the export permit if this is consistent with any applicable export policy issued pursuant to Article 36 of the Law and the Ministry is reasonably satisfied that the Minerals from which the Product is derived were extracted pursuant to a Licence granted under the Law; or
- (4) Where the Department of Cadastre of the Ministry is not reasonably satisfied that the Minerals from which the Product is derived were extracted pursuant to a Licence granted under the Law, may take one of the following decisions:
  - 1) reject the application for an export permit; or
  - 2) grant the application for an export permit subject to a condition that a royalty in an amount that is twice the applicable Royalty of the specified Product to be exported is to be paid.
  - 3) Grant the application for an export permit if the application is prepared based on export policy developed in accordance with provisions of article 36 of the law.
- (5) A royalty imposed under Article 35(4)2, will be payable in accordance with Article 51 of the Law except that references to the Licence Holder in Article 51 of the Law will be deemed to be references to the Person granted the export permit.
- (6) The Ministry shall include details of Product exported pursuant to export permits granted in the revenue collection report to be published pursuant to Article 25(3) of the Law.

### **Article 36: Use of existing Infrastructure**

- (1) An application for approval for the use of existing Infrastructure made pursuant to Article 37(1) of the Law shall contain the following:
  1. details of the existing Infrastructure planned to be used by the Licence Holder;

2. evidence of agreement reached with the owner or co-owners of that Infrastructure in respect of the use of that Infrastructure in connection with the Mineral Activities of the Licence Holder; and
  3. where the approval is sought in connection with an Exploitation Licence, a copy of the Mining Proposal.
- (2) The Ministry shall, upon receipt of the application for approval for the use of existing Infrastructure, grant or reject the application based on the recommendation of the Mining Technical Committee. The grant of the application may be subject to the Licence Holder complying with conditions imposed by the Ministry.
  - (3) Prior to expiry of the period under Article 37(3) of the Law, the Ministry may grant an extension of time to remove any infrastructure constructed on the licence area, if satisfied that more time is reasonably required to remove the infrastructure in an orderly manner.

**Article 37: Permit authorising the construction of Infrastructure**

- (1) An application for a permit for the construction of Infrastructure made pursuant to Article 37(2) of the Law shall contain the following:
  1. the area of land over which the permit for construction of Infrastructure is sought;
  2. details of whether the Licence Holder has acquired or taken a lease over the relevant land on which the Infrastructure is to be constructed in connection with Ancillary Activities;
  3. details of the Infrastructure to be constructed;
  4. the proposed manner of construction of the Infrastructure;
  5. the operations to be carried out on the land the subject of the permit;
  6. where the permit is sought in connection with an Exploitation Licence, a copy of the Mining Proposal.
- (2) The Ministry shall, upon receipt of the application for a permit for the construction of Infrastructure, grant or reject the application after review of the information provided. The grant of the application may be subject to the Licence Holder complying with conditions imposed by the Ministry.

**Article 38: Processing Permit**

- (1) If a Person wishes to conduct Processing other than the Licenced Area, that Person shall lodge an application for a Processing Permit pursuant to Article 72 of the Law containing the following points:
  1. the area of land over which the Processing Permit is sought and details of whether the Person has acquired or taken a lease over the relevant land;
  2. Details of all Licence Areas and associated Licences from which Minerals will be supplied to the processing plant the subject of the proposed Processing Permit;
  3. a Health and Safety Plan, which shall include a risk assessment and measures to safeguard the storage of hazardous substances; and

4. an Environmental Management Plan;
- (2) The Ministry shall, upon receipt of the application for a Processing Permit, grant or reject the application after review of the information provided. The grant of the application may be subject to the relevant Person complying with conditions imposed by the Ministry.

### **Article 39: Artisanal and Illegal Mining**

- (1) An application for a Small-scale Mining Licence lodged pursuant to Article 75(1) of the Law shall be accompanied by a declaration substantiating the undertaking of Mineral Activities without a Transitional Licence prior to the commencement of the Law.
- (2) Where a Small-scale Mining Licence is granted pursuant to Article 75 of the Law, Minerals extracted by the Licence Holder from the Licence Area prior to the date of grant will be deemed to have been extracted under the Small-scale Mining Licence in accordance with the conditions of the Licence for the purposes of Article 15(2) of the Law.
- (3) The mining protection committee, in order to prevent illegal mining activities, shall be constituted as follow:
  1. Deputy Minister
  2. Representative from Ministry of Interior
  3. Representative from Ministry of Defence
  4. Representative from Ministry of National Security Council.
  5. Representative from National Directorate of Security
  6. Representative from IDLG
  7. Representative from Chamber of Mines and Industries.
- (4) The Mining Protection Committee may as required, invite representatives from state-entities, private sector and civil society.
- (5) The Ministry shall refer the illegal mining cases to Mining Protection Committee.
- (6) The Mining Protection Committee shall take one the following decisions regarding to illegal mining areas:
  1. The Ministry may take one of the following decisions in accordance with the relevant procedure:
    - 1) The designation of the land as a large-scale mining area or small-scale mining area;
    - 2) The imposition of penalty under article 58 of the law;
    - 3) Prosecution under article 61 of the law;
    - 4) The seizure of extracted minerals.
  2. A security response by the appropriate government body; or
  3. Engagement with the local community
- (7) The government is entitled to seize and sell or transfer any Minerals extracted in contravention of article 16(2) of the law.
- (8) The Ministry shall consult with the Ministry of Interior in relation to a proposed seizure of Minerals and the Ministry of Finance in relation to a proposed sale or disposal of Minerals.
- (9) Any proceeds from the sale or disposal of Minerals shall be deemed as government revenue under the Law for the purposes of Article 49 of the Law.

## CHAPTER 5: FISCAL TERMS

### Article 40: Royalty Report

- (1) A Royalty Report shall, in addition to the requirements of Article 4(76) of the Law, contain the following information:
1. name and description of the mine;
  2. name and registered address of the Licence Holder;
  3. tax identification number of the Licence Holder;
  4. names of the processing plants to which Minerals have been shipped from the mine for processing;
  5. a written commitment by the Licence Holder or, if the Licence Holder is a corporation, by an authorized staff of the corporation, that the assertions made in the Royalty Report, and documents disclosed supporting the Royalty Report are correct and complete;
  6. documentary evidence supporting the weight of the extracted Minerals from the Area during the Quarter;
  7. the quantity of the Product sold between Independent Parties;
  8. the quantity of the Product sold other than between Independent Parties;
  9. documentary evidence supporting the grade of the Product as sold;
  10. the grade of Product sold or otherwise disposed of;
  11. documentation supporting the calculation of the Market Value, including extracts from the sources used to obtain the Reference Price, and calculation of the Market Price with any applicable adjustments.
- (2) At the end of the second Quarter after the end of each Reporting Year, the Licence Holder shall provide a reconciliation of the Royalty Reports lodged for each Quarter of the previous year with the annual financial statements of the mine or, if the mine has no financial statements, the financial statements of the Licence Holder.

### Article 41: Market Value

- (1) For the purposes of Article 51(3) of the Law, Gross Revenue shall be considered to be materially less than the Market Value if the Gross Revenue is less than 90 per cent of the Market Value.
- (2) Market Value shall be determined:
1. by reference to the quantity of the Product sold or otherwise disposed of;
  2. using the following reference prices for the Products:
    - 1) available data from one of the following independently published and internationally recognised sources:
      1. The London Metals Exchange;
      2. Metal Bulletin;

3. S&P Global Platts Metals Daily;
  4. Bloomberg Commodities Market (Metals);
  5. London Bullion Market Association; or
  6. any other publically available, reliable and independently published publications or data concerning prices for the Product;
- 2) available data from transactions between Independent Parties in Afghanistan including data collated by the Ministry under Article 41:(3) of these Regulations;
  - 3) available data from transactions between Independent Parties in the international market;
3. if necessary, by deriving the reference price in respect of a Primary Product, Secondary Product or Tertiary Product from a reference price for a different form of Product;
  4. if necessary, by adjusting the reference price to reflect:
    - 1) the date of sale or disposal as evidenced by bills of lading or equivalent documents;
    - 2) the location of the point of sale including to take into account transportation cost for Primary Product and Secondary Product; and
    - 3) the grade and quality of the Product.
  5. disregarding profits or losses associated with Trading Arrangements entered into by a Licence Holder.
- (3) The Ministry shall maintain a publicly available data base of reference price data:
1. in respect of transactions between Independent Parties in Afghanistan, it includes:
    - 1) data compiled from Royalty Reports; and
    - 2) data compiled from royalty audit reports under Article 52(5) of the Law including any expert assessments as to Market Value under this Article 41: of these Regulations; and
  2. which includes details (to the extent available) of transactions and describes:
    - 1) the nature and classification of the Product;
    - 2) the quantity of Product sold or otherwise disposed of;
    - 3) the reference price for the Product; and
    - 4) any adjustments to reflect the date of sale or disposal, the location of the point of sale and grade and quality of the Product.
- (4) If, on the basis of a submission from the Licence Holder under Article 52(4) of the Law, there is a difference of opinion between the Licence Holder and the Ministry in relation to Market Value which cannot be resolved by conferral, the Ministry may, prior to providing a report of the royalty audit to the Mining Technical Committee under Article 52(5) of the Law, refer the matter to an Independent Expert for a determination of the Market Value.
- (5) An Independent Expert shall be engaged on the terms set out in Schedule 5 and on the following basis:
1. the Independent Expert must act as an expert not an arbitrator;



2. the Independent Expert must determine the issue and provide a copy of his determination to Ministry and another copy to the Licence Holder within 42 days or as soon as reasonably practicable thereafter;
  3. the Independent Expert must observe the rules of procedural fairness but is not bound by the rules of evidence; and
  4. the Independent Expert may otherwise proceed in any manner he considers appropriate including any written request or any other type of assistance from ministry and licence holder.
- (6) The Mining Technical Committee must take into account the Independent Expert's decision in making a determination under Article 52(6) of the Law, except in the case of manifest error in the Independent Expert's decision.
- (7) The Licence Holder shall be liable to pay the fees and costs of the Independent Expert.
- (8) Details of determinations of Market Value by an Independent Expert shall be included in any royalty audit report provided to the Mining Technical Committee under Article 52(5) of the Law.

#### **Article 42: Product**

- (1) For the purpose of determining the applicable royalty rate under Article 51(2)2 of the Law, Product will be classified as Primary Product, Secondary Product or Tertiary Product:
1. in accordance with the applicable classification in Schedule 6 or by analogy to a mineral Product in Schedule 6;
  2. having regard to the relative concentration of Mineral in the Product and the Processing cost to produce that concentration;
  3. having regard to any guidelines under Article 42:(4); and
  4. on the basis that a precipitate is a metallurgical product.
- (2) For the purpose of the definition of Processing in the Law, cutting and polishing are not classified as Processing and a Primary Product which has been cut and polished but has not undergone any other Processing stages shall remain as a Primary Product.
- (3) To assist in the conduct of royalty audits under Article 52 of the Law, the Ministry shall maintain a publicly available data base of the classification of Product compiled from:
1. Royalty Reports; and
  2. royalty audit reports under Article 52(5) of the Law.
- (4) The Ministry may develop and publish procedures or guidelines to assist in the classification of Product under this Article 42:.

#### **Article 43: Royalty rates for Construction Materials**

- (1) Considering the definition of Construction Materials in the Law, the following industrial Minerals will also be prescribed as Construction Materials:
1. clay;
  2. dolomite;
  3. gypsum; and
  4. sand silica

- (2) The Royalty payable in respect of Construction Materials is payable by reference to the fixed sum per unit volume of the specified Mineral extracted from the Licence Area as set out in Schedule 7.
- (3) The use of Construction Materials by the Licence Holder, including the use of Construction Materials in the production of Cement, shall be deemed as Construction Materials.

#### **Article 44: Audited Accounts**

- (1) Audited Accounts of the Gross Revenue received from the sale or other disposal of Product by the Licence Holder of an Exploitation Licence during the Reporting Year are required to be independently audited.
- (2) The Licence Holder of an Exploitation Licence is required to lodge an independent auditor's report, prepared in accordance with international financial reporting standards.
- (3) For the avoidance of doubt, the auditor's report must be prepared by an independent chartered accountant in accordance with IFRS principles.

#### **Article 45: Royalty Audit**

- (1) The conduct of a royalty audit under Article 52 of the Law may include:
  1. the determination of the Market Value in accordance with Article 41 of these Regulations; and
  2. the determination of the classification of the Product in accordance with Article 42 of these Regulations.
- (2) For the purposes of Article 52(3) of the Law, the information or documents requested by the Ministry may include records of tonnage of Product, volume of Product, analyses of Product including weight, moisture and assays and other records and supporting information.

#### **Article 46: Surface Rent**

- (1) The amount of Surface Rent payable annually by a Licence Holder is the sum specified in Schedule 1.
- (2) Where a portion of the Surface Rent is payable to the owner or occupant of a Licence Area in respect of private land, the Surface Rent must be collected by the Ministry from the Licence Holder and the Ministry will be responsible for remitting the relevant amount to the owner or occupant of the Licence Area.
- (3) The Ministry may withhold funds which are to be remitted to the owner or occupier under Article 46:(2) if the owner or occupier obstructs or interferes with the conduct of Mineral Activities on:
  1. land which is within 250 meters of an Improvement and in respect of which the owner or occupier has provided consent in accordance with Article 71(1)1 of the Law; and
  2. land which is not within 250 meters of an Improvement.

#### **Article 47: Fees**

Where these Regulations provide for the payment of a Fee, the Fee shall be the applicable sum specified in Schedule 2.

#### **Article 48: Payments**

- (1) Any payment due under the Law or these Regulations must be paid in Afghan Currency and must be paid by direct deposit into the general revenue account of the State, the details of which must be made available by the Ministry to Licence Holders.

#### **Article 49: Revenue Report**

If requested to do so by the Ministry as part of the Ministry's EITI reporting obligations, a Concession Holder shall lodge a summary report with the Ministry of all taxes, duties and imposts paid to the State within 30 days of the date of the Concession Holder's tax assessment notice for a year.

#### **Article 50: Penalties**

A failure by a Licence Holder to make payment of a Royalty, Surface Rent or Fee on the due date under the Law or these Regulations shall attract the penalty specified in Schedule 9.

### **CHAPTER 6: MINING REGISTER AND TRANSPARENCY**

#### **Article 51: The Mining Register**

- (1) The Register shall be kept in the form of a digital register which shall be publically accessible by any person following registration of personal details with the Ministry.
- (2) The Register shall contain such particulars as are prescribed in Article 54: of these Regulations.

#### **Article 52: The Registrar**

- (1) The Ministry shall appoint a Registrar in accordance with the provisions of the Law and these Regulations. The Director of the Department of Cadastre shall be responsible for registration, until the Ministry designates another person as the Registrar.
- (2) The Registrar shall have the following responsibilities and powers under these Regulations:
  1. maintaining the Register including by amending the Register under Article 56: of these Regulations;
  2. taking possession and control of all documents, samples, exploration data, Mineral samples and drill core under the Law;
  3. compelling production of any document or identification to establish the truth of any fact, matter or dealing; and
  4. issuing certified copies of extracts of the Register, documents or dealings under Article 58:(2) of these Regulations.

#### **Article 53: Lodgement of documents with the Registrar**

- (1) All documents and dealings required to be lodged under the Law or these Regulations shall be lodged with the Registrar unless otherwise specified.
- (2) All documents and dealings lodged with the Registrar shall be lodged:

1. at an Authorised Directorate;
  2. in the prescribed form; and
  3. accompanied by the Fee where applicable.
- (3) The Registrar may refuse to accept for registration any document or dealing that does not include all relevant details specified in Article 54:(1) of these Regulations.
- (4) Copies of all documents or dealings lodged with the Ministry shall be provided by the Ministry to the Registrar as soon as reasonably practicable.
- (5) The Registrar shall record the details of all documents and dealings in the Register as soon as reasonably practicable following lodgement or receipt.
- (6) The date and time of any application, Licence, Mining Concession or dealing shall be recorded on the Register as the date and time of lodgement.
- (7) Following the recording of the details of all documents and dealings in the Register the Registrar shall:
1. provide a copy of any document to Geological Survey to assist in the compilation and maintenance of the public database of geological information about Afghanistan;
  2. retain all documents in accordance with Article 24(1) of the Law and Article 61:(1) of these Regulations; and
  3. return a certified copy of any document or dealing to the applicant or Licence Holder.

#### **Article 54: Content of Register**

- (1) In addition to the information required under Article 21(1) of the Law, the Register shall record the following details:
1. in respect of Article 21(1)1 to Article 21(1)3 of the Law:
    - 1) all information contained in any declaration made under Article 19(1)1 of the Law, including in respect of all Small-Scale Mining Areas:
      1. the Small-scale Minerals for which Small-scale Mining Licences in the Small-scale Mining Area may be granted;
      2. the maximum area of Small-scale Mining Licences in the Small-scale Mining Area; and
      3. the maximum depth of Small-scale Mining Licences in the Small-scale Mining Area; and
    - 2) the location of all Large-scale Mining Areas, Small-scale Mining Areas and Prohibited Areas;
  2. in respect of Article 21(1)4, Article 21(1)10, Article 21(1)14 and Article 21(1)16 of the Law:
    - 1) the name and address of the applicant, Licence Holder, bidder or Concession Holder;
    - 2) in respect of an applicant, Licence Holder, bidder or Concession Holder who is a Legal Entity, the Legal Entity's registration identification number, and

the Beneficial Ownership of the applicant, Licence Holder, bidder of Concession Holder.

3. in respect of Article 21(1)5 of the Law:
  - 1) all details required to be contained in applications for all Small-Scale Mining Licences under Article 29(1) of the Law and Article 19: of these Regulations;
  - 2) any withdrawal of an application for a Small-Scale Mining Licence;
4. in respect of Article 21(1)6 of the Law:
  - 1) the Licence Holder;
  - 2) the date of award and publication of the Licence; and
  - 3) all specifications required to be included in a Licence issued under Article 27(2) of the Law;
5. in respect of the documents referred to in Article 21(1)7 to Article 21(1)9 of the Law:
  - 1) the title of the document;
  - 2) the date and time of lodgement of the document;
  - 3) the identity of the applicant or Licence Holder responsible for lodgement of the document; and
  - 4) the application, Licence or Mining Concession to which the document relates;
6. in respect of Article 21(1)11 to Article 21(1)13 of the Law:
  - 1) the date and time of receipt of any application;
  - 2) the date and time of receipt of any further information lodged in support of any application;
  - 3) any decisions in respect of any application;
  - 4) the Licence or Mining Concession to which the application or decision relates;
  - 5) in respect of application for an extension of the term of a Licence made pursuant to Article 31(4) of the Law, the information lodged by the Licence Holder under Article 30: of these Regulations;
  - 6) in respect of an application for the relinquishment of a Licence or part of a Licence made pursuant to Article 32(1) of the Law, the information lodged by the Licence Holder under Article 31: of these Regulations;
  - 7) in respect of an application for approval to any Change of Control of a Licence Holder made pursuant to Article 38(1) of the Law, the information lodged by the Licence Holder under Article 33: of these Regulations;
  - 8) in respect of an application for the transfer of a Licence or a Licence Interest made pursuant to Article 39(1) of the Law, the information lodged by the Licence Holder under Article 32: of these Regulations;
7. in respect of Article 21(1)15 of the Law:
  - 1) the Concession Holder;
  - 2) the date of award and publication of the Mining Concession; and
  - 3) a copy of the Mining Concession;

8. in respect of Article 21(1)17 and Article 21(1)18 of the Law:
    - 1) the date and time of issue of any compliance notice;
    - 2) the alleged non-compliance and proposed enforcement action;
    - 3) the closing date for submissions by the Licence Holder or Person in response to any compliance notice;
    - 4) the date and time of receipt of any submissions by the Licence Holder or Person in response to any compliance notice; and
    - 5) the determination of any enforcement action taken by the Ministry; and
  9. in respect of Article 21(1)19 of the Law:
    - 1) the name or number of the licences or contracts;
    - 2) the date of award and publication of the licences and contracts;
    - 3) the name and address of the licence holder or contracting party; and
    - 4) such other details as the Registrar is able to obtain in relation to the licences and contracts.
- (2) For the purposes of Article 21(1)10 and 21(1)15 of the Law, the Register shall also record the details specified in Article 54:(1)2 and Article 54:(1)7 of these Regulations in respect any holder of a Transitional Licence following a notification under Article 17(4) or Article 17(5) of the Law.

**Article 55: Effect of Registration of the Licence**

- (1) A Licence Holder shall obtain no interest in a Licence until the Licence is recorded on the Register.
- (2) Any document or dealing purporting to affect an interest in a Licence shall have no effect until that document or dealing is recorded on the Register.

**Article 56: Amendment of the Register**

- (1) The Registrar may amend the Register to ensure the Register accurately reflects the content of any document or dealing lodged with the Ministry.
- (2) The Registrar may make an amendment to the Register on the Registrar's own initiative or upon the application of any Person.
- (3) The Registrar cannot amend the Register to amend the content of any document or dealing recorded on the Register.
- (4) As soon as reasonably practicable following amendment of the Register under this Article 56;, the Registrar shall issue a notice to the Licence Holder of the amendment.

**Article 57: Cadastral Survey Map**

- (1) The Cadastral Survey Map shall be in the form of a digital map which shall be publically accessible by any person following registration of personal details with the Ministry.
- (2) The Cadastral Survey Map shall contain the following details:
  1. the boundaries of:

- 1) all applications for Licences;
  - 2) all granted Licences;
  - 3) all Large-scale Mining Areas;
  - 4) all Small-scale Mining Areas; and
  - 5) all Prohibited Areas.
  - 6) all districts/municipalities of Afghanistan;
2. the location of all known archaeological or cultural sites;
  3. the map projection and datum.

**Article 58: Public access to Register and Cadastral Survey Map**

- (1) Any Person shall be entitled to inspect the Register and the Cadastral Survey Map at an Authorized Office during business hours.
- (2) Any Person shall be entitled to obtain:
  1. a certified extract of the Register in respect of any Licence or Mining Concession; or
  2. a certified copy of any document or dealing recorded in the Register; or
  3. a certified extract of the Cadastral Survey Map,
 on payment of the Fee following written request to an Authorised Directorate.
- (3) The Registrar may determine the form of an extract of the Register however such extract must include all relevant details specified in Article 54:(1) of these Regulations that relate to the Licence or Mining Concession.
- (4) There shall be no Fee payable by any directorate of the Ministry, and students of universities and Higher Education Institutes relevant fields for obtaining a certified extract of the Register or Cadastral Survey Map or a certified copy of any document or dealing recorded in the Register.

**Article 59: Certification**

- (1) A certified extract of the Register or Cadastral Survey Map or a certified copy of any document or dealing recorded in the Register issued under Article 58:(2) of these Regulations shall be admissible in evidence in any proceedings and in absence of any evidence to the contrary is proof of the matters stated.

**Article 60: Publication of Documents**

- (1) All documents required to be published by the Ministry in accordance with Article 25 of the Law and in accordance with these Regulations shall be published in accordance with this Article 60: of these Regulations in the relevant website as soon as reasonably practicable, unless otherwise prescribed by the law or these Regulations.
- (2) All documents published in Dari or Pashto shall be published in English as soon as reasonably practicable thereafter.

- (3) All documents required to be published by the Ministry in accordance with Article 25(6) of the Law shall be made available to any Person on payment of the Fee following a written request to the Registrar.

#### **Article 61: Retention of Records**

- (1) All documents required to be retained by the Ministry in accordance with Article 24(1) of the Law shall be retained at the relevant Authorised Directorate at which the documents were lodged.
- (2) All exploration data provided to Geological Survey in accordance with Article 24(3) of the Law shall be processed by Geological Survey for inclusion the public database of geological information about Afghanistan.
- (3) Mineral samples and drill core provided to Geological Survey in accordance with Article 24(3) of the Law shall be retained at a core library to be established by the Ministry, in accordance with procedures developed pursuant to Article 61:(4) of these Regulations.
- (4) The Ministry shall prepare procedures which specify the process for:
  1. archiving and cataloguing all Mineral samples and drill core by Geological Survey;
  2. handling and viewing Mineral samples and drill core; and
  3. retention criteria for Mineral samples and drill core based upon whether samples and drill core are considered valuable to future mineral activities in the State.
- (5) A Licence Holder who is required to provide Mineral samples and drill core to Geological Survey in accordance with Article 24(3) of the Law shall do so at its own cost and in accordance with the guidelines.
- (6) Geological Survey shall be responsible for cataloguing all mineral samples and drill core and in accordance with the guidelines.
- (7) Any Person shall be entitled to inspect the core library during business hours following written application to Geological Survey.

#### **Article 62: Offences**

- (1) It shall be an offence to knowingly provide any false or misleading declaration or information lodged in any document or dealing:

### **CHAPTER 7: HEALTH AND SAFETY**

#### **Article 63: Responsibilities of Licence Holders and Mine Managers**

- (1) A Licence Holder shall ensure that any mine on its Licence is:
  1. designed, constructed and equipped to provide conditions for safe operation and a healthy working environment;
  2. that the mine is commissioned, operated, maintained and decommissioned in such a way that risks to personnel are reduced to as low as reasonably practicable having regard to;



- 1) the severity of potential injury or harm to health that may be involved and the degree of risk of such injury or harm to health occurring;
  - 2) the state of knowledge about the injury or harm to health, the risk of that injury or harm to health occurring and the means of removing or mitigating the potential injury or harm to health; and
  - 3) the availability, suitability and cost of the means of removing or mitigating the potential injury or harm to health;
3. The mine is under the control of the Mine Manager, appointed by the License Holder in accordance with Article 64: of these Regulations.
- (2) On daily basis, a Mine Manager is responsible for the control and supervision of Mineral Activities in the Licence Area in accordance with these Regulations and specifically for:
1. identifying the potential hazards to health and safety to which personnel may be exposed in conducting Mineral Activities;
  2. assessing the health and safety risks to which personnel may be exposed whilst they are on the Licence;
  3. recording the significant hazards identified and the risks assessed; and
  4. complying with and executing the requirements of this Chapter 7 and any legal instructions given to the Mine Manager by a Compliance Officer;

**Article 64:Appointment of Mine Manager**

- (1) A Licence Holder shall appoint a fit and proper person having necessary experience in the mining sector as a Mine Manager before commencing Mineral Activities (Ground disturbing works or mining) mentioned on the Licence. A Licence Holder shall ensure that a Mine Manager is appointed on a permanent basis for Mineral Activities on the relevant Licence.
- (2) A Licence Holder shall notify the Directorate of Inspection of the name, address and qualifications of the Mine Manager within 7 days of the Mine Manager being appointed by providing a certificate of appointment to the Directorate of Inspection.
- (3) The certificate of appointment referred to in Article 64:(1) of these Regulations shall be counter signed by the person appointed as Mine Manager signifying acceptance of the appointment.
- (4) The Mine Manager may appoint competent persons to assist in specific functions during the Mineral Activities. These appointments do not relieve the Mine Manager of the obligations under these Regulations.
- (5) If the Mine Manager is absent from the Mineral Activities site on a regular scheduled basis or is expected to be absent from the site of the Mineral Activities for more than one day, the Licence Holder shall appoint a fit and proper person as an alternate Mine Manager to assume the duties of the Mine Manager during such absences.
- (6) The Licence Holder shall notify the Directorate of Inspection of the name, address and qualifications of the alternate Mine Manager within 7 days of the alternate Mine Manager being appointed by providing a certificate of appointment to the Directorate of Inspection.

- (7) The certificate of appointment referred to in Article 64:(5) of these Regulations shall be counter signed by the person appointed as alternate Mine Manager signifying acceptance of the appointment.
- (8) A Licence Holder who contravenes Article 64:(1), (2), (3), (5) or (7) of these Regulations commits an offence.

#### **Article 65: Appointment of Safety Officer**

- (1) A Licence Holder of an Exploration Licence or Exploitation Licence shall notify the Directorate of Inspection of the name and address of a Safety Officer appointed by the Licence Holder.
- (2) The Safety Officer may appoint competent persons to assist in specific functions of the Mineral Activities. These appointments do not relieve the Safety Officer of the obligations under the Law.
- (3) Pursuant to Article 69(2) of the Law, the Safety Officer will be responsible for advising the Licence Holder and the Mine Manager in respect of safety matters under Article 69 of the Law.

#### **Article 66: Health and Safety Plan**

- (1) A proposed Health and Safety Plan lodged as part of a bidding process in accordance with Article 12: of these Regulations may be relodged by a Licence Holder for approval by the Directorate of Inspection following the inclusion of any requirements notified by the Directorate of Inspection.
- (2) A Licence Holder of an Exploration Licence or an Exploitation Licence shall lodge a Health and Safety Plan to a Large-scale Authorised Directorate and shall obtain the approval of the Directorate of Inspection to the proposed Health and Safety Plan prior to commencement of any ground disturbing activities.
- (3) The Health and Safety Plan shall be signed by the Mine Manager as acceptance of its contents.
- (4) The Health and Safety Plan shall include the following:
  1. an identification of the significant hazards and an assessment of the significant risks associated with the Mineral Activities and a summary of the strategies proposed to manage those hazards and risks to as low as reasonably practicable, having regard to:
    - 1) the severity of potential injury or harm to health that may be involved and the degree of risk of such injury or harm to health occurring;
    - 2) awareness about the risk and its due harms to health, and means of removing, preventing or mitigating the potential injury or harm to health; and
    - 3) the availability, suitability and cost of the means of removing or mitigating the potential injury or harm to health;
  2. emergency response plans specifically applicable to the Mineral Activities on the Exploration Licence or Exploitation Licence;
  3. strategies to manage each of the following:
    - 1) Health and Safety of workplace;
    - 2) hazardous substances;

- 3) use of explosives;
  - 4) electrical safety and isolation;
  - 5) physical hazards;
  - 6) ionizing radiation;
  - 7) fitness for work;
  - 8) travel and remote site health;
  - 9) thermal stress;
  - 10) noise and vibration;
  - 11) specific hazards in underground mining (fires, explosions, confined spaces and oxygen deficient atmospheres), where applicable.
4. a summary of the Licence Holder's policies and procedures for:
    - 1) the protection of employee's health and safety at work;
    - 2) the protection of personnel who are not considered employees;
    - 3) review of relevant established policies and procedures on a regular basis;
    - 4) ensuring accessibility of the Health and Safety Plan to all personnel at the mine
  5. the arrangements for the periodic review of the Health and Safety Plan to ensure the Health and Safety Plan is an accurate reflection of all significant hazards and an assessment of the significant risks and the strategies to manage those hazards and risks over time;
  6. any other content required by procedures or guidelines issued by the Directorate of Inspection from time to time.
- (5) The Health and Safety Plan shall be kept in a readily accessible place at the mining area.

**Article 67: Review and Variation of Health and Safety Plan**

- (1) A Licence Holder of an Exploration Licence or an Exploitation Licence shall review the Health and Safety Plan as follow:
  1. periodically, at least every three years; and
  2. promptly upon the occurrence of any Incident of the type referred to in Article 71:(2) of these Regulations or any other fundamental event or change of circumstance affecting the matters addressed in the approved Health and Safety Plan
- (2) If a review referred to in Article 67:(1) of these Regulations indicates that the Health and Safety Plan no longer contains an accurate reflection of all significant hazards and an assessment of the significant risks and strategies to manage those hazards over time, then the Licence Holder shall immediately update the Health and Safety Plan and lodge a proposed amended Health and Safety Plan with the Ministry to reflect that update.
- (3) A Licence Holder of an Exploration Licence or an Exploitation Licence may apply for variation of an approved Health and Safety Plan (whether that variation is required by Article 67:(2) of these Regulations or otherwise) by lodging a proposed amended Health and Safety Plan with the Ministry.

- (4) If a Licence Holder of an Exploration Licence or an Exploitation Licence lodges a proposed amended Health and Safety Plan with the Ministry, the Ministry shall assess the amended Health and Safety Plan and may:
1. approve the amended Health and Safety Plan;
  2. require further amendments to the Health and Safety Plan; or
  3. impose conditions on the approval of the amended Health and Safety Plan.

#### **Article 68: Health and Safety Committee**

- (1) The Mine Manager may establish a health and safety committee in a mining area to provide consultations in performing the following functions:
1. to assist in facilitating consultation and cooperation between the Mine Manager and personnel at the mining area in initiating, developing and implementing measures designed to ensure the safety and health of employees at the mine;
  2. to make recommendations to the Mine Manager, on rules and procedures at the mine relating to the safety and health of personnel;
  3. to recommend to the Mine Manager the implementation of programs, measures and procedures at the mine related to the safety and health of personnel including the design of safe systems of work necessary to:
    - 1) eliminate any recorded risk;
    - 2) control the risk at source;
    - 3) minimise the risk;
    - 4) in case the risks remains, provide for personal protective equipment, and institute a program to monitor the risk to which the personnel may be exposed;
    - 5) periodically review the hazards identified and risks assessed, to determine whether further elimination, control and minimisation of risk is possible;
  4. to consider any changes or intended changes to or at the mine that may reasonably be expected to affect the safety or health of personnel at the mine and make recommendations as the health and safety committee considers appropriate to the Mine Manager or any employer of personnel at the mine in respect of those changes or intended changes; and
  5. to assess any matters referred to the health and safety committee on behalf of personnel at the mining area.
- (2) The Mine Manager shall ensure Safety Officer is a member of the health and safety committee.

#### **Article 69: Codes of Practice**

- (1) The Mine Manager shall prepare and implement Codes of Practice on all matters affecting the health and safety of persons who may be directly affected by activities at the mine. Codes of Practice must be appropriate for the type and size of Mineral Activities at the mine.
- (2) Codes of Practice in respect of all significant hazards and risks shall adequately describe the nature of the risk or hazard, and clearly outline work procedures in sufficient detail to enable

work to be carried out in such a manner as to eliminate, control or minimise the risk associated with such work.

- (3) Codes of Practice shall include operating procedures, appropriate equipment and materials, the use of safety devices and personal protective equipment, any required special authorisations and any relevant emergency procedures.
- (4) For Mineral Activities on an Exploration Licence or an Exploitation Licence, the Mine Manager shall consult with the Safety Officer on the preparation and implementation or any revision of any Code of Practice.
- (5) Every Code of Practice shall be open to examination by a Compliance Officer, who may require additions or amendments to be made.
- (6) The Mine Manager shall provide all relevant personnel at the mine with all information, instruction, training and supervision that is necessary to enable them to perform their work in accordance with the Codes of Practice in force at the mine, and shall ensure that all relevant personnel are familiar with the Codes of Practice relevant to their work, before work commences or before any material changes are made to the nature of that person's occupation or work.
- (7) Codes of Practice shall be periodically reviewed at appropriate intervals, or when any significant changes to procedures, methods, equipment or materials are contemplated or implemented.

#### **Article 70: Incident investigation**

- (1) The Mine Manager shall conduct Incident investigation.
- (2) Wherever practicable, a representative from the health and safety committee established under Article 68: of these Regulations will participate in the investigation.
- (3) On completion of each investigation, a report shall be prepared which shall be approved by the Mine Manager. The report shall:
  1. whenever possible, identify the underlying causes of the Incident;
  2. identify any unsafe conditions, acts, or procedures that contributed in any manner to the Incident; and
  3. make recommendations to prevent any similar Incident.

#### **Article 71: Incident reporting**

- (1) The Mine Manager shall report any Incident to which this Article 71: of these Regulations applies to the Compliance Officer immediately following any initial emergency response. The report shall be provided by the quickest possible means available and shall be confirmed by a written report as soon as practicable after the Mine Manager has ascertained the facts and circumstances of the Incident.
- (2) Incidents to which this Article 71: of these Regulations applies are as follows:
  1. the death of any person;
  2. any injury to any person which may potentially be fatal;

3. unconsciousness, incapacitation from heat stroke or heat exhaustion, oxygen deficiency, the inhalation of fumes or poisonous gas, electric shock or electric burn of or by any person;
  4. any injury which either incapacitates the injured person from performing that person's normal or similar duties for a period of 14 days or more, or which causes the injured person to suffer the loss of an organ, or part of an organ, or to sustain a permanent disability;
  5. an occurrence of the following incidents:
    - 1) the running out of control of any winder or conveyance; any breaking, disconnection or distortion of any winder components, sheaves or headgear, winding rope, attachments or conveyance; any failure of winder safety devices; any over-wind of a conveyance causing damage to equipment or danger to persons; any derailment of a conveyance in shaft;
    - 2) any Incident involving explosives including accidental detonation or ignition of explosives;
    - 3) the breakdown of any main fan; any detection of any flammable gas in any mine not already classified as a coal or fiery mine;
    - 4) any extensive surface subsidence or collapse of underground workings causing or likely to cause damage to mine workings or a danger to persons; any significant flooding of a shaft or of a considerable portion of the workings of a mine, or failure of any impoundment.
- (3) In respect of any Incident referred to in Article 71:(2)1,(2)2 or (2)5, of these Regulations the scene of the Incident must not be disturbed without the permission of the Compliance Officer, except as far as is necessary to prevent danger to persons.

#### **Article 72:Responsibilities of individuals**

- (1) Every person at a mine shall:
  1. take reasonable care to protect that his own health and safety and that of other persons who may be affected by act or omission of that person;
  2. use and take proper care of protective clothing, and other health and safety facilities and equipment provided for the protection, health or safety of the person and other persons;
  3. report promptly to that person's immediate supervisor any situation which the person believes presents a risk to the health or safety of the person or any other person, and with which the person cannot properly deal;
  4. co-operate with any person to permit compliance with the duties and responsibilities placed on that person under these Regulations; and
  5. comply with all prescribed health and safety measures at the mine and in the Codes of Practice.
- (2) A person has the right to leave any working place whenever circumstances arise at that working place which, with justification, appear to that person to pose a serious danger to the health or safety of that person.

### **Article 73: Emergency response procedures**

- (1) The Mine Manager shall establish health and safety emergency response procedures appropriate to the type and size of Mineral Activities at the mine.
- (2) The Mine Manager shall ensure that a competent person reports at appropriate intervals to the Mine Manager, on the adequacy of escape and rescue procedures at the mine relating to explosions, fire and flooding.
- (3) Emergency response procedures shall include, but not be limited to:
  1. evacuation procedures, including underground mine evacuation procedures where applicable, for all persons whose health or safety is put at risk by an Incident, emergency or threat;
  2. life support and maintenance procedures and facilities for persons unable to evacuate an underground mine and who become trapped underground.
  3. procedures for communication between officials, mine rescue personnel, and other relevant persons concerning any emergency, implementation and progress of emergency response procedures;
  4. emergency first-aid procedures including provision of adequate first-aid and trauma kits maintained in strategic locations;
  5. appropriate training of persons in emergency procedures and first-aid
- (4) Having regard to the location of the mine, relevant potential hazards, and the number of personnel employed underground at any one time, a Compliance Officer may require the provision of refuge chambers containing breathable air, supplies of fresh water and food, communication equipment, first aid supplies and latrine facilities.
- (5) The Mine Manager of every underground mine shall establish adequate systems for personnel on the surface to be able to determine at all times the total number and identities of all persons underground.
- (6) A Compliance Officer may conduct audits of a mine's emergency response systems, procedures, equipment and training and may direct the Mine Manager to rectify any deficiencies.
- (7) The Directorate of Inspection may require the Mine Manager to establish, train and equip one or more mine rescue teams capable of implementing effective mine rescue operations, including, at the discretion of the Directorate of Inspection, rescue work in irrespirable atmospheres.

### **Article 74: Protection of personnel**

- (1) No person may enter a mine area without due authorisation from the Mine Manager.
- (2) The Mine Manager shall ensure that all personnel under the Mine Manager's control are informed, instructed and trained by a competent person regarding any hazard and the relevant Codes of Practice before any work commences and at appropriate intervals as may be determined by Codes of Practice.
- (3) Appropriate, risk-determined, personal protective equipment shall be issued to every person at a mine by the Mine Manager upon the commencement of employment or of a visit, as appropriate. All such personal protective equipment shall be issued free of charge to employees and visitors, who may be required to return such equipment on completion of their employment or visit. All personal protective equipment issued shall be in workable condition and capable of performing its intended use and shall be of a design and construction approved

by a Compliance Officer. The Mine Manager shall ensure that training on the use and care of personal protective equipment is provided for each person who will use the equipment at the mine.

- (4) Personal protective equipment includes, but is not limited to, hard hats, suitable footwear, gloves, overalls or protective suits, hearing protection, dust masks or respirators, hearing protection, eye protection and safety harnesses designed to arrest the accidental fall of any person. A Compliance Officer may require the use of reflective materials on personal protective equipment. All personal protective equipment issued to persons must be maintained in good order by that person.
- (5) No person at a mine must fail to use, wear or care for personal protective clothing or equipment provided for such person's use, as directed by Codes of Practice or notices posted in work places at the mine for use in specified areas, conditions or activities.
- (6) No person is permitted to be in any mine work place where there is danger from falling objects unless the person is wearing an approved hard hat.
- (7) Safety harnesses shall be worn by all persons working in places where there is a potential risk of falling two metres or more.
- (8) Each and every person proceeding underground shall have in their immediate possession and lighted at all times, a lamp of approved design. When not in use, lamps must be stored and maintained in good working order, in a designated lamp room under the charge of a duly appointed competent person.
- (9) Entry to work in confined spaces will only be done with written permission of a Mine Official.
- (10) Approved respiratory protection equipment will be issued and used based on the risk associated with gases, vapours, dust, mist or oxygen deficiency.
- (11) Persons working on or near a live electrical circuit shall use appropriate insulation equipment including rubber gloves, rubber mats, and other suitable means of insulation.

#### **Article 75: Fire safety**

- (1) The Codes of Practice shall include fire prevention and response procedures appropriate to the type and size of Mineral Activities at the mine. Fire prevention and response procedures shall be included in the basic training program for every person and shall be visibly posted for reference at appropriate places.
- (2) A fire alarm system shall be properly installed, regularly tested and maintained in good working order so that persons may be promptly warned of any fire that requires response actions. The fire alarm system and protection procedures shall be tested at least once every six (6) months. The fire alarm signal shall be audible over a large area and distinguishable from other warning signals. Fire alarm test records shall be maintained by the Mine Manager and made available to a Compliance Officer upon request.
- (3) Appropriate firefighting equipment to extinguish any type of fire shall be provided at High Fire Risk Areas and underground mine access points; in underground refuge chambers where provided, and at other appropriate locations. Firefighting equipment shall be inspected monthly by a competent person and inspection reports shall be maintained at the mine site and made available to a Compliance Officer upon request. Firefighting equipment shall be highly visible with appropriate signage used to indicate the location of the equipment.
- (4) The Mine Manager shall maintain a properly trained and proficient firefighting crew drawn from among employees. All members of the firefighting crew shall undergo regular training and an annual proficiency test, and a record of proficiency test results shall be maintained and made available to a Compliance Officer upon request.



- (5) Fire plans showing positions of the different firefighting equipment shall be conspicuously posted at strategic locations.
- (6) Firefighting equipment shall be easily accessible in the event of an emergency.
- (7) The Codes of Practice shall include procedures for the storage, handling and usage of flammable materials used in the conduct of the Mineral Activities. Personnel shall strictly adhere to these procedures.
- (8) Any flammable material, other than explosives, that is kept, stored or handled at the mine shall be kept in a suitable container with regard to the nature of the substance; have clear labels on the container identifying the substance and warning of associated risks; and be kept separate from any Source of Ignition.
- (9) A process that is likely to produce a flammable gas or vapours shall be isolated from other operations, have a system of ventilation which removes the gas or vapour and have no potential sources of ignition.
- (10) Waste, timber or other combustible matter must not be piled up and permitted to decay but shall be removed as soon as practicable.
- (11) High Fire Risk Areas shall be identified by suitable warning signs and no sources of ignition must be allowed in such areas without written permission of a Mine Official.

## **Article 76: Hazardous Substances**

### **Management of Hazardous Substances**

- (1) A Licence Holder shall maintain list of all Hazardous Substances used or produced at the mine, and shall require the preparation of a Code of Practice for the safe handling, storage and disposal of all Hazardous Substances, and appropriate action in the event of accidental exposure.
- (2) Material Safety Data Sheets (**MSDS**) or equivalent information shall be available for each Hazardous Substance used or produced at the mine.
- (3) All personnel who are potentially exposed to risks from any Hazardous Substance shall undergo adequate training in the relevant Code of Practice and MSDS.
- (4) All Hazardous Substances shall be placed in clearly and accurately labelled containers and stored in accordance with manufacturer's recommendations and in such a manner as to adequately protect against damage, deterioration, loss, leakage, theft, and misuse.
- (5) When disposal of Hazardous Substances is required because the Hazardous Substance has exceeded its useful life, deteriorated or become contaminated such that it not fit for its intended use or is no longer in use at the mine, proper disposal shall be conducted in accordance with the applicable MSDS and manufacturer's recommendations.
- (6) The manner of proper disposal must not create unacceptable levels of risk of harm for operations, personnel or the environment.
- (7) At every mine where cyanide is used, there shall be kept in a conspicuous and convenient place a sufficient supply of effective antidote for cyanide poisoning, in a clearly labelled box with directions for use prominently displayed.
- (8) A Code of Practice shall be prepared for protecting persons and animals from risk of poisoning by cyanide, including marking of cyanide circuits and prevention of leakage, unauthorised access and exposure to fumes.
- (9) At every mine where arsenical ores, lead bearing ores or other ores poses a material risk to health are mined or treated, or where any noxious fumes are produced in the processing of

ores, a Code of Practice shall be prepared for the prevention of danger to persons or animals from such substances.

#### **Article 77: Sanitation and Hygiene**

- (1) The Mine Manager shall ensure provision of adequate, clean and gender-specific sanitation and hygiene facilities within reasonable access of all work places for all employees, both on the surface and underground (where applicable), including appropriate washing facilities. Effective cleaning and maintenance arrangements shall be in place for all such facilities.

#### **Article 78: Safety in mine workings**

- (1) Appropriate protective structures, including fences, walls or other suitable means acceptable to a Compliance Officer, shall be erected and maintained in a state of effective working condition, to prevent persons and animals from falling into or trespassing in mining excavations such as shafts, adits, Declines, pits, quarries, trenches or subsidence areas.
- (2) Excavated materials shall be placed at an appropriate distance from the edge of any excavation to prevent such material from falling into the excavation.
- (3) A Compliance Officer may specify protective works to be erected to prevent excavated materials or other objects from falling into excavations.
- (4) Every entrance to a vertical or steeply inclined shaft, sump, rock pass or other dangerous excavation shall be secured with a barricade, door, gate or fence of adequate design to prevent persons from slipping, falling or otherwise unintentionally entering such excavations.
- (5) Barricades may be opened during tipping operations and for other necessary working purposes but must not create room for persons to accidentally enter the tipping area.
- (6) No person may open or cross a barricade or enter a barricaded area unless that person is a competent person or has received definite instructions to do so from the competent person in charge.
- (7) Where it is necessary to enter any abandoned or discontinued workings, no person may enter until an examination has been carried out by a competent person who shall follow a written procedure approved by a Mine Official, to ensure protection against danger from gas, water, falls of ground or other hazards.
- (8) All current workings, shafts, tunnels, ramps, Stopes and other workings of any kind which are in use for travel or work in a mine shall be visually inspected daily on each shift and made or kept safe for persons in the mine, and no person may travel or work unless the workings have been made safe, or in the course of making safe. A thorough and detailed examination of all travelling ways shall be done at least once a month and the results of this examination must be recorded in an accessible log book.
- (9) Every mine shall include sufficient ladderways, maintained in a safe condition, to allow all persons to leave every part of the mine without delay.
- (10) Every ladder shall be designed for safe use and securely constructed and installed, without overhang, with platforms or resting places at intervals not exceeding ten metres.
- (11) Every fixed ladder shall project at least one metre above the platform or landing place and shall be positioned to cover the manhole of the platform on which it rests.
- (12) Every platform shall be of adequate design and construction to carry the load for which the platform is intended, and where the removal of any part is necessary for purposes of use or repair, adequate precautions shall be taken for the protection of persons working in the immediate area.

- (13) Every sinking shaft shall be protected by a securely constructed platform, and a Compliance Officer may require the construction of additional platforms.
- (14) Every sinking shaft shall be equipped with a safe ladder leading to the surface or to the level above, unless a Compliance Officer has granted a written exemption.
- (15) Every underground mine exceeding thirty metres in depth shall have at least two shafts or outlets to the surface, at least ten metres apart on the surface, to allow every person two separate means of escape.
- (16) The requirements of Article 78:(15) of these Regulations do not apply in the case of a sinking shaft or any development to connect workings, or in any case where a Compliance Officer has issued a written exemption, specifying the extent and duration of such exemption.

#### **Article 79: Stability of excavations**

- (1) In the workings of any mine or part of a mine where, in the opinion of a Compliance Officer, the roof or side walls are of a nature requiring systematic support, the Compliance Officer may give written notice to that effect to the Mine Manager.
- (2) The Mine Manager may, or shall upon receipt of notice from a Compliance Officer, in consultation with the Compliance Officer, prepare a Code of Practice specifying the support to be provided and the system according to which it will be placed.
- (3) The Mine Manager shall ensure that all personnel concerned are made aware of and receive appropriate training in the relevant Code of Practice and that support is maintained in accordance with the standard specified.
- (4) If, in the opinion of a Compliance Officer, the method of support in any mine is unsafe for any reason, the Compliance Officer may by notice in writing require the Mine Manager to modify the method.
- (5) In assessing stability of mining excavations and selecting appropriate support measures, the factors to be considered shall include local structural geological data; size and configuration of mine openings; the existence of previously excavated workings; water inflow, drainage patterns, and their influence on rock stability over time; climatic conditions; the site condition, including stability of the area; the size and weight of equipment used; and the quality control of rock support.
- (6) Support methods may include, but are not limited to, props, headboards, roof bolts and concrete.
- (7) A Compliance Officer may specify the extent and location of safety pillars to be left in any mining operations for the protection of the mine or adjacent mines. Such pillars or any portions of them may not be removed except with the written permission of the Directorate of Inspection.
- (8) In addition to the requirements of Article 79:(7) above, inside the boundaries of every mine, continuous pillars must be left standing, the width of which shall be not less than fifteen metres in the case of coal mines and not less than six metres in the case of other mines. No person may remove any part of a boundary pillar except with the written permission of the Directorate of Inspection.
- (9) All underground mines should have safe shelters that must be build in accordance with mining proposal and mining program.
- (10) Where underground workings are approaching each other, and the distance apart has decreased to ten metres, all work on one face shall cease during blasting operations on the other, and when the distance decreases to five metres, all work on one face shall cease permanently.

- (11) When work on any face ceases, the face shall be examined and made safe by the holder of a blasting license, and the results recorded in an accessible log book.
- (12) In any opencast working, pit, trench or quarry, no person may undercut or permit the undercutting of any face or sidewall, or permit any face or sidewall to have a vertical height of more than 1.5 metres unless such face or sidewall is adequately supported or terraced or sloped at an angle sufficient to ensure stability under all conditions.
- (13) A Compliance Officer may, by written notice to the Mine Manager, specify a limit on the height of any face or sidewall, or permit the creation of vertical sidewalls exceeding 1.5 metres, where mechanical equipment is in use which does not expose the operator to danger from such face or sidewall.
- (14) All waste and loose materials and stones shall be kept cleared to a distance of at least two metres from the edges of excavations.

## **CHAPTER 8: ENVIRONMENT**

### **Article 80: Environmental Management Plan**

- (1) A proposed Environmental Management Plan lodged as part of a bidding process in accordance with Article 12: of these Regulations or with an application for a Small-scale Mining Licence in accordance with Article 19: of these Regulations may be re-lodged by a Licence Holder to the Ministry following:
  1. the inclusion of any requirements notified by the Ministry or NEPA; and
  2. a further assessment of the natural and human environment to be affected by the proposed Mineral Activities.
- (2) Prior to commencement of any ground disturbing activities, a Licence Holder shall lodge with the Ministry and obtain approval to an Environmental Management Plan. Where an environmental and social impact assessment report is required under the Environment Regulations, the Environmental Management Plan will be included as an annexure to that report.
- (3) An Environmental Management Plan shall include:
  1. a description of the natural and human environment to be affected by the proposed Mineral Activities;
  2. an identification and analysis of the type, duration, and intensity of potential environmental impacts, including any cumulative impacts of other Mineral Activities in the vicinity of the proposed Mineral Activities;
  3. an identification of appropriate mitigation measures to address the identified impacts of the proposed Mineral Activities, including through the implementation of appropriate and coordinated environmental management mechanisms;
  4. any specific measures to address identified environmental, human health and social impacts of the Mineral Activities identified as part of any required environmental impact assessment under the Environment Regulations including measures to avoid or minimise impacts associated with construction and operation of Mineral Activities;
  5. a description of how the Licence Holder will make proper and effective use of natural procedures for protection of air, water and soil quality and water consumption;
  6. in respect of any Exploration Activities, a rehabilitation plan following completion of Exploration Activities;

7. in respect of any Exploitation Activities, a mine closure plan;
  8. a description of the Licence Holder's monitoring program to ensure implementation of and compliance with the Environmental Management Plan and the Environment Regulations;
  9. an assessment of:
    - 1) the cost to rehabilitate areas disturbed by Mineral Activities and any environmental impacts of the Mineral Activities; and
    - 2) the cost of implementing all mitigation and rehabilitation requirements and commitments in the Environmental Management Plan
  10. any other information required pursuant to the Environmental Law and Environment Regulations.
- (4) The Ministry shall promptly provide a proposed Environmental Management Plan lodged pursuant to Article 80:(2) of these Regulations to NEPA for assessment.

#### **Article 81: Review and Variation of Environmental Management Plan**

- (1) A Licence Holder shall review the Environmental Management Plan as follow:
1. periodically, at least every three years;
  2. promptly upon the occurrence of:
    - 1) any Incident related to the environment;
    - 2) an approved variation to the Small-scale Work Program, Exploration Program or Mining Proposal (as applicable); or
    - 3) any other material event or change of circumstance affecting the matters addressed in the approved Environmental Management Plan.
- (2) If a review referred to in Article 81:(1) of these Regulations indicates that the Environmental Management Plan no longer discharges the Licence Holder's obligations under Article 63(2) of the Law or the requirements prescribed in Article 80: of these Regulations, then the Licence Holder shall immediately update the Environmental Management Plan and lodge a proposed amended Environmental Management Plan with the Ministry to reflect that update.
- (3) A Licence Holder may apply for variation of an approved Environmental Management Plan (whether that variation is required by Article 81:(2) of these Regulations or otherwise) by lodging a proposed amended Environmental Management Plan with the Ministry.
- (4) If a Licence Holder lodges a proposed amended Environmental Management Plan with the Ministry, NEPA shall assess the amended Environmental Management Plan and may take on of the following actions:
1. approve the amended Environmental Management Plan;
  2. require further amendments to the Environmental Management Plan; or
  3. impose conditions on the approval of the amended Environmental Management Plan.

#### **Article 82: Environmental Reports**

- (1) An Environmental Report shall be lodged with the Ministry and shall include the following information:

1. a description of how the Environmental Management Plan has been implemented during the relevant period including a summary of any audits undertaken to monitor compliance with the Environmental Management Plan;
  2. details of any environmental incidents during the relevant period, including any non-compliances with the Environmental Management Plan and a description of corrective actions taken and mitigation measures adopted;
  3. any other information required by Environment legislative documents.
- (2) The Ministry shall promptly provide a copy of the Environmental Report lodged pursuant to Article 82:(1) of these Regulations to NEPA.

**Article 83: Access to licence area following revocation, relinquishment or expiration of Licence**

- (1) Where a Licence expires or is revoked or relinquished, the Person who was the Licence Holder immediately before its expiration, revocation or relinquishment may enter and re-enter the land that was the subject of the Licence with such agents, employees, vehicles, machinery and equipment as may be necessary or expedient for the purpose of carrying out remedial and rehabilitation work on the land in accordance with the Environmental Management Plan.

**CHAPTER 9: DOMESTIC SECURITY**

**Article 84: Domestic Security Plan**

- (1) A proposed Domestic Security Plan lodged as part of a bidding process in accordance with Article 12: of these Regulations shall be relodged by a Concession Holder for approval by the Ministry, considering the following points:
1. a security risk assessment of the Licence Area;
  2. the inclusion of any requirements notified by the Ministry.
- (2) A Licence Holder of an Exploration Licence or an Exploitation Licence shall obtain the approval of the Ministry to the proposed Domestic Security Plan prior to commencement of any ground excavation activities.
- (3) A proposed Domestic Security Plan shall include:
1. details of the Concession Holder's security risk assessment taking into account security risks, potential for violence, human rights, rule of law, conflict analysis and equipment transfers;
  2. details of the Concession Holder's proposed security arrangements including:
    - 1) the type, number and identity of public and private security personnel proposed to be engaged;
    - 2) the equipment proposed to be utilised by security personnel; and
    - 3) the cost of implementing the proposed security arrangements;
  3. commitments on behalf of the Concession Holder to:
    - 1) ensure all security personnel engaged by the Concession Holder have not been implicated in unlawful or abusive acts;
    - 2) regularly consult with the Afghan government and local communities in a transparent manner in relation to impacts of security arrangements;

- 3) provide adequate training for all security personnel in the use of force and appropriate conduct towards local communities;
  - 4) report all incidents in which security personnel are required to use force to public authorities and ensure medical aid is provided to all injured persons including offenders; and
4. appropriate policies to ensure the Concession Holder:
- 1) monitors use of all protective equipment provided to security personnel;
  - 2) investigates all allegations of unlawful or abusive acts of security personnel;
  - 3) ensures all information obtained in investigations is credible and reliable;
  - 4) reports unlawful and abusive acts of security personnel to public authorities; and
  - 5) takes appropriate action to prevent recurrence of unlawful or abusive acts of security personnel.

#### **Article 85: Approval of the Domestic Security Plan**

- (1) The Ministry shall assess the proposed Domestic Security Plan and may:
  1. approve the Domestic Security Plan;
  2. require amendments to the Domestic Security Plan; or
  3. impose conditions on the approval of the Domestic Security Plan.
- (2) The committee established under **Error! Reference source not found.** of these Regulations shall review the proposed Domestic Security Plan and provide recommendations to the Ministry to assist in the Ministry's assessment of the proposed Domestic Security Plan.
- (3) The Ministry shall also consult with the National Security Council in assessing the proposed Domestic Security Plan but the National Security Council is not required to approve a proposed Domestic Security Plan.

#### **Article 86: Review and Variation of the Domestic Security Plan**

- (1) A Concession Holder shall review the Domestic Security Plan:
  1. periodically, at least every three years;
  2. promptly upon the occurrence of any security incident or any other material event or change of circumstance affecting the matters addressed in the approved Domestic Security Plan.
- (2) If a review referred to in Article 86:(1) of these Regulations indicates that the Domestic Security Plan no longer appropriately addresses the security risks in respect of the Licence Area, then the Concession Holder shall immediately update the Domestic Security Plan and lodge a proposed amended Domestic Security Plan with the Ministry to reflect that update.
- (3) A Concession Holder may apply for variation of an approved Domestic Security Plan (whether that variation is required by Article 86:(2) of these Regulations or otherwise) by lodging a proposed amended Domestic Security Plan with the Ministry.
- (4) If a Concession Holder lodges a proposed amended Domestic Security Plan with the Ministry, the Ministry shall assess the amended Domestic Security Plan and may:
  1. approve the amended Domestic Security Plan;

2. require further amendments to the Domestic Security Plan; or
  3. impose conditions on the approval of the amended Domestic Security Plan.
- (5) The Ministry shall consult with the National Security Council in assessing the proposed amended Domestic Security Plan.

## **CHAPTER 10: COMMUNITY PARTICIPATION**

### **Article 87: Community Consultation**

- (1) Any consultation with the local community undertaken by a Licence Holder must:
  1. be conducted on an open, inclusive and non-coercive basis;
  2. be conducted in the native language of the participants;
  3. be socially and culturally appropriate and readily accessible to all segments of the local community; and
  4. be conducted at no cost to the local community.
- (2) Whenever feasible, consultation will be undertaken with Community Development Councils pursuant to the Citizens' Charter National Priority Programme (or any substitute or replacement programme established by the State) who shall represent the local community.
  1. If it is not feasible for a community to be represented by a Community Development Council, the Licence Holder shall consult with an alternate community leadership groups and shall ensure that the alternate community leadership groups adequately represent the community, including women, the elderly, youth, and any other distinct community groups.
- (3) A Licence Holder shall keep records of all community consultation undertaken which shall wherever possible be agreed with the relevant Community Development Council or alternate community leadership group who took part in the consultation.

### **Article 88: Local Content Plan**

- (1) A proposed Local Content Plan lodged as part of a bidding process in accordance with Article 12: of these Regulations may be re-lodged by a Licence Holder for approval by the Ministry following:
  1. the inclusion of any requirements notified by the Ministry; and
  2. consultation with the local community.
- (2) The Licence Holder of an Exploration Licence or an Exploitation Licence shall obtain the approval of the Ministry to a proposed Local Content Plan prior to commencement of any ground disturbing activities.
- (3) A Local Content Plan shall include:
  1. the plan for discharging each of the Licence Holder's obligations under Article 65(1) of the Law which shall specify:
    - 1) anticipated local employment opportunities by job category, and number of jobs within each category;
    - 2) anticipated local procurement opportunities by type and amount of goods or services;



- 3) mechanisms aimed at ensuring gender equality and opportunities for marginalized groups in relation to local employment and local procurement;
  - 4) proposed training programs and other initiatives by type and target participation groups, and an assessment of the likely impact of those initiatives;
  - 5) a proposed plan for communicating employment, procurement, training and other opportunities to the local community;
2. a description of the community consultation undertaken and any other assessment conducted of the local community.

**Article 89: Variation of the Local Content Plan**

- (1) A Licence Holder of an Exploration Licence or an Exploitation Licence shall review the Local Content Plan:
  1. periodically, at least every three years;
  2. promptly upon the occurrence of incidents or any event affecting Local Content Plan.
- (2) If a review referred to in Article 89:(1) of these Regulations indicates that the Local Content Plan no longer discharges the Licence Holder's obligations under Article 65(1) of the Law or the requirements prescribed in Article 87: of these Regulations, then the Licence Holder shall immediately update the Local Content Plan and lodge a proposed amended Local Content Plan with the Ministry to reflect that update.
- (3) A Licence Holder of an Exploration Licence or an Exploitation Licence may apply for variation of an approved Local Content Plan by lodging a proposed amended Local Content Plan with the Ministry.
- (4) If a Licence Holder of an Exploration Licence or an Exploitation Licence lodges a proposed amended Local Content Plan with the Ministry, the Ministry shall assess the amended Local Content Plan and may:
  1. approve the amended Local Content Plan;
  2. require further amendments to the Local Content Plan; or
  3. impose conditions on the approval of the amended Local Content Plan.

**Article 90: Community Development Plan**

- (1) A proposed Community Development Plan lodged as part of a bidding process in accordance with Article 12: of these Regulations may be re-lodged by a Licence Holder for approval by the Ministry following:
  1. the inclusion of any requirements notified by the Ministry; and
  2. consultation with the local community.
- (2) The Licence Holder of an Exploitation Licence shall obtain the approval of the Ministry to the proposed Community Development Plan prior to commencement of any ground disturbing activities.
- (3) For the purposes of Article 66(2) of the Law, where a Licence Holder has entered into a Mining Concession which provides for the grant of an Exploration Licence and a right of priority for the grant of an Exploitation Licence, the Concession Holder shall carry out the

required consultation prior to the lodgement of the proposed Community Development Plan under Article 28(5) of the Law.

(4) A Community Development Plan shall:

1. set out the plan for discharging each of the Licence Holder's obligations under Article 66(1) of the Law taking into account the unique needs and circumstances of the local communities affected by the Mineral Activities including:
  - 1) infrastructure and essential services such as sanitation, power, water supply, housing, roads and transportation, and recreational facilities;
  - 2) education, educational facilities, scholarships, vocational training, apprenticeships and internships, and employment opportunities;
  - 3) religious facilities;
  - 4) economic development, support of local businesses, creation of small businesses, microfinance, and development of women-owned businesses;
  - 5) programs that benefit women, the elderly, youth or other minority or marginalized groups;
  - 6) public health initiatives and medical facilities;
  - 7) protection of the environment and natural resources;
  - 8) support for cultural heritage and sports;
  - 9) agricultural product marketing; and
  - 10) any other matters of concern to the local communities;
2. a description of the community consultation undertaken and feedback received from the communities consulted, including the degree of support for the Community Development Plan;
3. a list of communities that are anticipated to be affected by the Mineral Activities and, which are therefore covered by the Community Development Plan;
4. a local area profile that identifies
  - 1) the existing socio-economic conditions of the communities at the time of commencement of Mining;
  - 2) the anticipated impact of the Mineral Activities on women, the elderly, and other vulnerable groups;
  - 3) the key stakeholders; and
  - 4) the leadership group of each community;
5. a detailed plan that contains
  - 1) objectives;
  - 2) mechanisms aimed at ensuring gender equality and opportunities for marginalized groups;
  - 3) milestones;
  - 4) an implementation timetable;
  - 5) a schedule of anticipated expenditures;
  - 6) if the Community Development Plan calls for direct payments to the community, the mechanism for payment; and
  - 7) metrics by which progress may be measured; and

6. the forecast expenditure in implementing the Community Development Plan.
- (5) A Licence Holder shall endeavour to ensure that a Community Development Plan fosters sustainable development in local communities covered by the Community Development Plan and does not create a dependency on the Licence Holder or the Mineral Activities undertaken by the Licence Holder.

#### **Article 91: Variations to Community Development Plan**

- (1) A Licence Holder shall review the Community Development Plan:
  1. periodically, at least every three years;
  2. promptly upon the occurrence of any important event or change of circumstance affecting the matters addressed in the approved Community Development Plan.
- (2) If a review referred to in Article 91:(1) of these Regulations indicates that the Community Development Plan no longer discharges the Licence Holder's obligations under Article 66(1) of the Law, then the Licence Holder shall immediately update the Community Development Plan and lodge a proposed amended Community Development Plan with the Ministry to reflect that update.
- (3) A Licence Holder of an Exploitation Licence may apply for variation of an approved Community Development Plan (whether that variation is required by Article 91:(2) of these Regulations or otherwise) by lodging a proposed amended Community Development Plan with the Ministry.
- (4) If a Licence Holder of an Exploitation Licence lodges a proposed amended Community Development Plan with the Ministry, the Ministry shall assess the amended Community Development Plan and may:
  1. approve the amended Community Development Plan;
  2. require further amendments to the Community Development Plan; or
  3. impose conditions on the approval of the amended Community Development Plan.

#### **Article 92: Provincial Development Fund**

- (1) Prior to investing revenue received into the Provincial Development Fund in accordance with Article 50(3)1 of the Law or transferring revenue to the Municipal Incentive Fund in accordance with Article 50(3)2 of the Law, the Independent Directorate of Local Governance shall:
  1. have regard to the Citizens' Charter National Priority Programme or any replacement programme and consult with the relevant Community Development Councils to determine the initiatives to be invested in pursuant to Article 50(3)1 of the Law; and
  2. to the extent the revenue is not allocated under Article 92:(1)1 of these Regulations, ensure that all remaining revenue but in any case a minimum of 20% of the revenue appropriated into the Provincial Development Fund is transferred to the Municipal Incentive Fund and invested in initiatives for the benefit of Municipalities in accordance with the Municipal Law; and
- (2) The Independent Directorate of Local Governance shall maintain accurate records of the utilisation of funds from the Provincial Development Fund for the purpose of assisting the Ministry in the preparation of the report required by Article 25(4) of the Law.

### **Article 93: Procedure for Compensation to Land Owner or Occupier**

- (1) The Ministry shall make every effort to avoid the relocation of land owners or land users as a result of a mining project. The Ministry shall consider alternatives to relocation as far as is feasible, and shall minimize the number of community members who are required to relocate.
- (2) To the extent that relocation is required in order to reasonably fulfil the terms of the Licence, the Ministry shall prepare a Resettlement Action Plan that sets for the Ministry's justification for the relocation.
- (3) The Resettlement Action Plan shall fulfil the requirements of Articles 7-8 of the Expropriation Law. If resettlement and acquisition of private property is deemed necessary, the acquisition of property, valuation of land, and payment of compensation shall take place according to the provisions of the Expropriation Law.

### **Article 94: Ombudsman**

1. the Ombudsman is appointed based on the provision of Article 62(1) of the law with approval of the president of the Islamic Republic of Afghanistan following the recommendation of a selection committee comprising from representatives of: the Ministry (Minister as a chairperson);
2. the authorized representative of the Administrative Office of the President as member;
3. the authorized representative of the Independent Administrative Reform and Civil Service Commission;
4. authorized representative of the Afghanistan Chamber of Commerce & Investment as member; and
5. appointed member of civil society as member
- (2) The committee of Article 94(1) of these Regulations make their decisions based on the majority of the votes of the members present. In the event of a tie, the opinion of the party to which the chairman of the committee has voted, shall be recognized as majority.
- (3) In order to be eligible to be appointed as an Ombudsman, a person shall:
  1. be a citizen of Afghanistan (except where a citizen of Afghanistan with the required expertise cannot be identified, in which case citizens of other countries may be appointed);
  2. have a bachelor's degree in law, public administration, psychology or any other related field, with preference given to candidates with higher degrees;
  3. have a minimum of 5 years of relevant work experience;
  4. be of good reputation and have strong interpersonal skills;
  5. be not less than 30 years of age;
  6. have no convictions by a court for crimes against humanity, felony or deprivation of civil rights; and
  7. have not previously served a term as an appointed Ombudsman.
- (4) The Ombudsman shall serve for a term of three (3) years with no possibility of renewal/extension.
- (5) The Ombudsman shall act independently and not be directed by the Minister and all other government and non-government entities.

- (6) The Ombudsman shall report all activities related to the discharge of Ombudsman's responsibilities to the Minister and High Economic Council in accordance with the relevant procedure.
- (7) The Ombudsman salary shall be the equivalent of grade (20 of the Civil Servants.
- (8) The Ombudsman shall be accessible to local community through an official email address, contact number and/or an online portal. Contact details for the Ombudsman will also be available on the Ministry's website.
- (9) The Ombudsman shall:
  1. receive, record and assess complaints related to mineral activities. This provision does not cover the complaints of the holder of a mining concession;
  2. request information from person and relevant entities
  3. acknowledge all submissions received from the local community in writing within 7 days of receipt;
  4. consider all submissions received from the local community and determine whether:
    - 1) the submission warrants further investigation by the Ombudsman before making any recommendations;
    - 2) the matters in the submission should be determined by a court or other body;
    - 3) the matters in the submission should be referred to the relevant Compliance Officer under the provisions of the Law or these Regulations.
- (10) The Ombudsman may report any information regarding illegal mining activities to the Ministry in order to be referred to the Mines Protection Committee in accordance with Article 39(4) of the law.
- (11) If the Ombudsman determines that the submission warrants further investigation the Ombudsman may seek further information from the local community, the relevant Licence Holder(s) or the Ministry.
- (12) Following a review of a submission from the local community and any further investigation undertaken, the Ombudsman may recommend that the Ministry take action to remedy a situation, which may include enforcement action.
- (13) The Ministry shall ensure to Ombudsman of the receipt of the recommendation of Article 94(12) of these Regulations.
- (14) The Ministry shall ensure the Ombudsman of its proposed actions regarding the recommendations of Ombudsman within (20) days.
- (15) The Ombudsman must notify the person making the submission of then outcome of the Ombudsman's review in writing, including any action proposed to be taken by the Ministry.
- (16) .
- (17) If the Ministry does not take decision during the time specified in Article 94(14) of these Regulations, the Ombudsman may refer his/her recommendations to the High Economic Council in accordance with the relevant procedure.
- (18) The Ombudsman shall be supported by a separate directorate of the Ministry which shall provide all necessary administrative, logistical and operational support.
- (19) The Ministry shall publish the reports of the Ombudsman in its website in accordance with the provisions of the law, and Law on Access to Information.

## CHAPTER 11: ENFORCEMENT

### Article 95: Performance Bonds

Unless the Cabinet of the Islamic Republic of Afghanistan decides otherwise, the quantum of the Performance Bond provided in the request for proposal pursuant to article 42(2) of the Law and provided for in the Mining Concession or imposed upon the grant of an Exploitation License shall be determined as follows:

1. in respect of an Exploration Licence, 15% of the total expenditure committed to in the Exploration Program for the initial term of the Exploration Licence; and
  2. in respect of an Exploitation Licence, 5% of the estimated capital cost of implementing the Mining Proposal.
- (2) Unless a different form is provided for in the Mining Concession executed under Article 46 of the Law or recommended by the High Economic Council under Article 28(8) of Law, the form of the Performance Bond shall be one or more of the following methods:
1. a trust fund in a format approved by the Ministry;
  2. an irrevocable letter of credit or financial guarantee from an Afghanistan registered bank or any other bank or financial institution approved by the Ministry;
  3. insurance in a format and in an amount approved by the Ministry;
  4. a performance bond in a format and in an amount approved by the Ministry.

### Article 96: Environmental Bonds

- (1) The amount of an Environmental Bond must be reasonably sufficient to cover all of the following potential costs in respect of the relevant Licence:
1. the cost to rehabilitate areas disturbed by Mineral Activities and any environmental impacts of the Mineral Activities; and
  2. the cost of implementing all mitigation and rehabilitation requirements and commitments in the Environmental Management Plan.
- (2) Environmental Bonds shall be provided for by one or more of the following methods:
1. a trust fund in a format approved by the Ministry;
  2. an irrevocable letter of credit or financial guarantee from an Afghanistan registered bank or any other bank or financial institution approved by the Ministry;
  3. insurance in a format and in an amount approved by the Ministry;
  4. a performance bond in a format and in an amount approved by the Ministry;
- (3) A Licence Holder shall review the amount of the Environmental Bond annually and report the results of that review to the Ministry.
- (4) The Ministry shall review the report provided by the Licence Holder under Article 96:(3) of these Regulations to determine whether the Ministry considers the amount of the Environmental Bond is reasonably sufficient to cover the potential costs referred to in Article 96:(1) of these Regulations in respect of the relevant Licence.
- (5) The Ministry shall notify the Licence Holder if the Ministry is of the opinion that the amount of the Environmental Bond is either:
1. insufficient to cover the potential costs referred to in Article 96:(1) of these Regulations in respect of the relevant Licence; or

2. in excess of the potential costs referred to in Article 96:(1) of these Regulations in respect of the relevant Licence.
- (6) A Licence Holder shall provide a revised Environmental Bond in a sufficient amount to cover the potential costs referred to in Article 96:(1) of these Regulations in respect of the relevant Licence within 30 days of the notification from the Ministry under Article 96:(5)1 of these Regulations.
  - (7) If the Ministry provides a notification under Article 96:(5)2 of these Regulations, a Licence Holder may either:
    1. provide a revised Environmental Bond in a sufficient amount to cover the potential costs referred to in Article 96:(1) of these Regulations in respect of the relevant Licence within 30 days of a notification from the Ministry; or
    2. choose to leave the current Environmental Bond in place.
  - (8) Immediately upon the provision of a revised Environmental Bond under Article 96:(6) or Article 96:(7) of these Regulations, the Ministry shall authorise the release of the previous Environmental Bond.

#### **Article 97: Compliance Notices and Enforcement Actions**

Every compliance notice, shall in addition to the requirements of Article 57(1) of the Law, include:

- (1) the date of the compliance notice;
- (2) the precise violation of the Law or the conditions of a Licence alleged by the Ministry;
- (3) the corrective action that the Ministry requires the Licence Holder or Person to take;
- (4) the date by which the Licence Holder or Person must take the corrective action; and
- (5) the enforcement action that may be taken if the Licence Holder fails to take the corrective action.

#### **Article 98: Penalties**

- (1) The Ministry may impose the financial penalties determined in accordance with Schedule 9 of these Regulations, if a Person fails to comply with the provisions of the Law or these Regulations.
- (2) The Ministry shall impose the penalties mentioned in Schedule 9 of these Regulations, taking into consideration the followings:
  1. the response of the Licence Holder or Person to the compliance notice, where applicable;
  2. whether the non-compliance was intentional;
  3. whether the non-compliance has caused injury or damage to any person, property or the environment;
  4. whether the non-compliance has the potential to cause injury or damage to people, property or the environment;
  5. the length of time during which the non-compliance has been continuing;
  6. whether the Licence Holder or Person has violated the Law or conditions of the Licence previously;
  7. the amount of penalty necessary to deter future non-compliance;

8. whether the non-compliance constitutes a corrupt practice under Article 13 of the Law or illegal mining under Article 16 of the Law; and
  9. any other factor that the Ministry deems relevant.
- (3) Any penalty issued under this Article 98: shall be in addition to any penalty or other punishment issued to the License Holder or Person as the result of any criminal prosecution.

#### **Article 99: Prosecution**

- (1) The Ministry, including the Directorate of Inspection, may refer any offences which may be subject to prosecution as listed in Schedule 9 to the Justice and Judicial Authorities.

#### **Article 100: Suspension and Revocation**

- (1) In determining whether to suspend a Licence pursuant to Article 59 of the Law, the Ministry shall consider:
1. whether the non-compliance was intentional;
  2. whether the non-compliance has caused injury or damage to any person, property or the environment;
  3. whether the non-compliance has the potential to cause injury or damage to people, property or the environment;
  4. the length of time during which the non-compliance has been continuing;
  5. whether the Licence Holder has violated the Law or conditions of the Licence previously;
  6. whether the non-compliance constitutes a corrupt practice under Article 13 of the Law or illegal mining under Article 16 of the Law; and
  7. any other factor that the Ministry deems relevant.
- (2) Every suspension notice issued pursuant to Article 59 of the Law shall include:
1. the date of the suspension notice;
  2. the precise violation of the Law or the conditions of the Licence alleged by the Ministry;
  3. the corrective action that the Ministry requires the Licence Holder to take in order for the suspension to be lifted; and
  4. a statement that if corrective action is not taken within 12 months, the Ministry has the right to revoke the Licence pursuant to Article 59(4) of the Law.
- (3) In determining whether to revoke a Licence pursuant to Article 60(1)1 of the Law, the Ministry shall consider:
1. whether the non-compliance was intentional;
  2. whether the non-compliance has caused injury or damage to any person, property or the environment;
  3. whether the non-compliance has the potential to cause injury or damage to people, property or the environment;
  4. the length of time during which the non-compliance has been continuing;
  5. whether the Licence Holder has violated the Law or conditions of the Licence previously;



6. whether the non-compliance constitutes a corrupt practice under Article 13 of the Law or illegal mining under Article 16 of the Law;
7. whether the Licence Holder has engaged in any Mineral Activities in contravention of a suspension notice; and
8. any other factor that the Ministry deems relevant.

**Article 101: Compliance Officer**

- (1) The directorate of mines inspection may appoint suitable persons as Compliance Officers.
- (2) There must be at least one Compliance Officer appointed in respect of each following:
  1. Exploration Licence
  2. Exploitation Licence; and
  3. Small-scale Mining Area.
- (3) The Compliance Officer grade shall be 3 and his/her salary shall be paid in accordance with the Civil Servants Law.
- (4) A Compliance Officer may for the purposes of the Law and these Regulations:
  1. enter, inspect and examine any Licence Area (including any mine) and examine any plant, substance or other thing on the Licence Area (but must do so in such a manner as not to unnecessarily impede or obstruct the Mineral Activities on the Licence Area;
  2. enquire into all matters affecting the health and safety of persons at a mine;
  3. remove any substance or item relevant to an investigation from the Licence Area for examination or testing, or for use as evidence;
  4. take photographs and measurements, make sketches and recordings and take copies of documents;
  5. require that any part of a mine be left undisturbed where the Compliance Officer considers that further investigation is required;
  6. conduct audits in relation to a Licence Holder or a Licence Area to ascertain whether the provisions of the Law and these Regulations have been and are being complied with;
  7. require any Person or the Licence Holder to lodge documents, including written statements, or provide any information that the Compliance Officer deems necessary to ascertain whether the provisions of the Law and these Regulations have been and are being complied with;
  8. require any Person or the Licence Holder to attend to be examined in relation to any matter that the Compliance Officer deems necessary to ascertain whether the provisions of the Law and these Regulations have been and are being complied with;
  9. report the non-cooperation or hindering of any person to the relevant authority;
  10. issue notices, approvals or exemptions as provided for in these Regulations;
  11. where there is cause to believe that the safety of persons or property is at undue risk, to instruct a Mine Manager in writing to correct the unsafe condition within a specified period, or order the activities or processes creating such risk to be stopped;
  12. require cameras to be installed in key areas on a Licence Area to monitor Mineral Activities and to facilitate monitoring and compliance under the Law and these Regulations;

13. exercise any other powers as may be necessary for:
  - 1) the performance of the Compliance Officer's functions under the Law and these Regulations; and
  - 2) the discharge of the duties if the Directorate of mines Inspection under the Law and these Regulations.
- (5) A failure by a Person to comply with a direction of a Compliance Officer issued in the exercise of the Compliance Officer's powers under the Law or these Regulations shall be an offence.
- (6) Within 60 days after the expiry of each Quarter, a Compliance Officer shall provide the Directorate of Mines Inspection with a report for each Exploration Licence, Exploitation Licence and Small-scale Mining Area which the Compliance Officer is appointed in respect of which summarises any material issues relevant to compliance by a Licence Holder with the Law or these Regulations in respect of the previous Quarter.

**Article 102: Immunity**

- (1) A Compliance Officer or other official of the State shall incur no civil or criminal liability arising from the exercise, or non-exercise, of his or her duties, in good faith, under the Law or these Regulations.

**CHAPTER 12 – ESTABLISHMENT OF COMMITTEES**

**Article 103: Tender Committee**

- (1) An internal standing committee of the Ministry shall be established to be known as the Tender Committee which shall comprise:
  1. the Deputy Minister of Technical affairs;
  2. the General Director of Cadastre;
  3. the General Director of Large-scale Mines;
  4. the Director of Legal services.
- (2) The Tender Committee shall assess Pre-qualification Questionnaires in accordance with Article 11:(2) of these Regulations and shall make required recommendations to the Minister who shall make the final determination.
- (3) Decisions of the Tender Committee shall require a quorum of the majority of members of the Tender Committee and shall be made by simple majority vote.
- (4) Minutes shall be kept of meetings of the Tender Committee.
- (5) Meetings of the Tender Committee shall be conducted in accordance with procedures approved by the Mining Technical Committee.

**Article 104: Large-scale Mining Committee**

- (1) An internal standing committee of the Ministry shall be established to be known as the Large-scale Mining Committee which shall comprise:
  1. the Deputy Minister of Technical Affairs;
  2. the Deputy Minister for Geological Survey or their representative;
  3. the General Director of Large-scale Mines;

4. the General Director of Legal Services;
  5. the General Director of Cadastre;
- (2) The Large-scale Mining Committee shall also seek information from the representative of the Ministry responsible for the administration of the relevant Mining Concession and the relevant Compliance Officer in respect of the matters that shall be considered for decision making.
- (3) Subject to any requirements specified in the Law, the following matters shall be referred to the Large-scale Mining Committee for consideration which shall make written recommendations to the Minister who shall make the final determination:
1. any application lodged pursuant to the provisions of Chapter 4 of these Regulations in respect of an Exploration Licence or an Exploitation Licence;
  2. negotiation of a Mining Concession pursuant to Article 16: of these Regulations or the variation of a Mining Concession pursuant to Article 29: of these Regulations;
  3. approval of a Health and Safety Plan pursuant to Article 66: of these Regulations and assessment of a proposed amended Health and Safety Plan lodged pursuant to Article 67: of these Regulations;
  4. approval of a Domestic Security Plan pursuant to Article 84: of these Regulations and assessment of a proposed amended Domestic Security Plan lodged pursuant to Article 86: of these Regulations;
  5. approval of a Local Content Plan pursuant to Article 88: of these Regulations and assessment of a proposed amended Local Content Plan lodged pursuant to Article 89: of these Regulations;
  6. approval of a Community Development Plan pursuant to Article 90: of these Regulations and assessment of a proposed amended Community Development Plan lodged pursuant to Article 91: of these Regulations;
  7. any dispute arising between the Concession Holder and the Ministry under the terms of a Mining Concession;
  8. a determination whether to impose a financial penalty pursuant to Article 98: of these Regulations or not; and
  9. a determination whether to suspend or revoke an Exploration Licence or an Exploitation Licence pursuant to Article 100: of these Regulations.
- (4) Decisions of the Large-scale Mining Committee shall require a quorum of the majority of the voting members of the Large-scale Mining Committee and shall be made by a simple majority vote of the voting members.
- (5) Minutes shall be kept of meetings of the Large-scale Mining Committee.
- (6) Meetings of the Large-scale Mining Committee shall be conducted in accordance with procedures approved by the Mining Technical Committee.

#### **Article 105: Small-scale Mining Committee**

- (1) An internal standing committee of the Ministry shall be established to be known as the Small-scale Mining Committee which shall comprise:
1. the Deputy Minister of Technical Affairs;
  2. the Deputy Minister for Geological Survey or their representative
  3. the General Director of Legal Services;

4. the General Director of Cadastre;
- (2) The Small-scale Mining Committee shall also seek information from a representative of the relevant Small-scale Authorised Directorate responsible for the administration of the relevant Small-scale Mining Licence and the relevant Compliance Officer in respect of the matters to be considered by the Small-scale Mining Committee.
- (3) Subject to any requirements specified in the Law, the following matters shall be referred to the Small-scale Mining Committee for consideration which shall make written recommendations to the Minister who shall make the final determination:
  1. an exemption pursuant to Article 24: of these Regulations;
  2. any application lodged pursuant to the provisions of Chapter 4 of these Regulations in respect of a Small-scale Mining Licence;
  3. a determination whether to impose a financial penalty pursuant to Article 98: of these Regulations; and
  4. a determination whether to suspend or revoke a Small-scale Mining Licence pursuant to Article 100: of these Regulations.
- (4) Decisions of the Small-scale Mining Committee shall require a quorum of the majority of the voting members of the Small-scale Mining Committee and shall be made by a simple majority vote of the voting members.
- (5) Minutes shall be kept of meetings of the Small-scale Mining Committee.
- (6) Meetings of the Small-scale Mining Committee shall be conducted in accordance with procedures approved by the Mining Technical Committee.

**Article 106: Pricing Committee**

- (1) An internal standing committee of the Ministry shall be established to be known as the Pricing Committee which shall comprise:
  1. the Deputy Minister of Technical Affairs or their representative.
  2. the Deputy Minister for Geological Survey or their representative;
  3. the General Director of Cadastre.
- (2) The Pricing Committee shall be responsible for conducting royalty audits under Article 52 of the Law including:
  1. determining the Market Value in accordance with Article 41:(2) of these Regulations;
  2. any referral to an Independent Expert under Article 41:(4) of these Regulations
  3. determining the classification of the Product in accordance with Article 42:(1) of these Regulations; and
  4. preparation of royalty audit reports in accordance with Article 52(2) of the Law.
- (3) Decisions of the Pricing Committee shall require a quorum of the majority of the voting members of the Pricing Committee and shall be made by a simple majority vote of the voting members.
- (4) Minutes of the Pricing Committee meetings shall be kept.
- (5) Meetings of the Pricing Committee shall be conducted in accordance with procedures approved by the Mining Technical Committee.

## **Chapter 13 – Final Provisions**

### **Article 107: Licence Documents**

Within 30 days of commencement of these Regulations, the General Directorate of Cadastre of the Ministry shall, in consultation with the National Procurement Authority prepare following documents:

1. a standard application form for a Small-scale Mining Licence;
2. a standard form of Licence;
3. a standard form of Capability Statement; and
4. a standard form of Eligibility and Compliance Declaration.

### **Article 108: Impose of further procedures and guidelines**

(1) In addition to procedures or guidelines expressly referenced in the Law or these Regulations, the Ministry may, from time to time, develop and implement procedures or guidelines which are not against provisions of law and these regulations in relation to:

1. the content of reports to be prepared by Licence Holders;
2. the use of mercury and mercury compounds in, and emissions and releases to the environment of mercury from, Mineral Activities in accordance with the Minamata Convention on Mercury;
3. the licencing of previously illegal mining operations pursuant to Article 75 of the Law;
4. the application process under Article 29 of the Law for Small-scale mining;
5. the bidding process for the award of Concessions under Chapter 8 of the Law;
6. the application process for conversion of an Exploration Licence to an Exploitation Licence under Article 28(5) of the Law; and
7. any other matters required to assist with the implementation of the Law and these Regulations, if necessary.

(2) The Bidders and licence holders shall observe the provisions of procedures and guidelines.

### **Article 109:Effective Date**

These Regulations shall take effect after enactment and publishment in official gazette, and with its effect, the mining regulation No (1007) published in official gazette on 2009 shall be abolished.

SCHEDULE 1: SURFACE RENT

Type of Licence	Annual amount of Surface Rent
Small-scale Mining Licence	<p>For the initial term: 375 Afghan Afghani per hectare</p> <p>For the first additional term: 750 Afghan Afghani per hectare</p> <p>For each subsequent additional term: 1,125 Afghan Afghani per hectare</p>
Exploration Licence	<p>For the initial term: 375 Afghan Afghani per hectare</p> <p>For the first additional term: 750 Afghan Afghani per hectare</p> <p>For the second additional term: 1,125 Afghan Afghani per hectare</p>
Exploitation Licence	<p>For metallic and non-metallic Minerals: 1,875 Afghan Afghani per hectare</p> <p>For Construction Materials: 1,875 Afghan Afghani per hectare</p> <p>For gemstones: 2,625 Afghan Afghani per hectare</p>

**SCHEDULE 2: FEES**

<b>Regulation</b>	<b>Type of application/approval</b>	<b>Fee</b>
Article 11:	Bid document fee	300,000 Afghan Afghani
Article 19:	Application for a Small-scale Mining Licence	15,000 Afghan Afghani for a Small-scale Mining Licence for Construction Materials 37,500 Afghan Afghani for a Small-scale Mining Licence for other Minerals
Article 28:	Application to vary a Licence	7,500 Afghan Afghani for a Small-scale Mining Licence 24,750 Afghan Afghani for an Exploration Licence or Exploitation Licence
Article 30:	Application for extension of term of a Licence	7,500 Afghan Afghani for a Small-scale Mining Licence 24,750 Afghan Afghani for an Exploration Licence or Exploitation Licence
Article 32:	Application for the transfer of a Licence or a Licence Interest	7,500 Afghan Afghani for a Small-scale Mining Licence 24,750 Afghan Afghani for an Exploration Licence or Exploitation Licence
Article 33:	Application for approval to a Change of Control of a Licence Holder	7,500 Afghan Afghani for a Small-scale Mining Licence 24,750 Afghan Afghani for an Exploration Licence or Exploitation Licence
Article 38:	Application for a Processing Permit	50,000 Afghan Afghani
Article 35:	Application for export permit	10,000 Afghan Afghani
Article 36:	Application for approval for use of existing Infrastructure	10,000 Afghan Afghani
Article 37:	Application for a permit authorising construction of Infrastructure	10,000 Afghan Afghani
Article 58:	Public access to the register and cadastral survey map	5,000 Afghan Afghani

### SCHEDULE 3 - LICENCING DOCUMENTS

- (1) An **Eligibility and Compliance Declaration** required to be lodged:
1. with a tender proposal under Article 13: of these Regulations; or
  2. an application under Article 19:(1), Article 32: or Article 33: of these Regulations;
- shall require a bidder or Licence Holder to provide:
3. details of the Beneficial Ownership of the bidder or Licence Holder;
  4. confirmation that the bidder or Licence Holder is eligible under Article 17(1) of the Law and any applicable Restricted Minerals Program;
  5. confirmation that the funds specified in the Capability Statement will be available;
  6. in the case of a bidder lodging a tender proposal under Article 13:(2) of these Regulations, confirmation that the bidder:
    - 1) has kept the content of its tender proposal confidential;
    - 2) has not engaged in collusion with another bidder; and
    - 3) has not contravened Article 13(2) of the Law; and
  7. in the case of a Licence Holder of an Exploration Licence seeking the grant of an Exploitation Licence:
    - 1) confirmation that the Licence Holder has complied with:
      1. the Mining Concession; and
      2. the Law, these Regulations and the conditions of the Exploration Licence in connection with the conduct of Exploration on the Licence Area; or
    - 2) details of any non-compliance;
  8. in the case of a Licence Holder making an application under Article 32: or Article 33: of these Regulations:
    - 1) confirmation that the Licence Holder has complied with:
      1. in respect of an Exploration Licence or an Exploitation Licence, the Mining Concession; and
      2. the Law, these Regulations and the conditions of the Licence; or
    - 2) details of any non-compliance.
- (2) A **Capability Statement** shall include:
1. in respect of a tender proposal referred to in Article 43(3) or Article 43(4) of the Law or an application under Article 32: or Article 33: of these Regulations in respect of an Exploration Licence or an Exploitation Licence:
    - 1) a summary of the technical capacity of the bidder or Licence Holder to implement the Exploration Program or Mining Proposal (as applicable) and discharge the commitments contained in the proposed Environmental



Management Plan, Local Content Plan, Community Development Plan (if applicable) and Health and Safety Plan which:

1. specifies the qualifications and technical expertise of the key personnel of the bidder or Licence Holder;
  2. specifies the technical expertise of any consultants or contractors engaged by the bidder or Licence Holder; and
  3. specifies the experience of the bidder or Licence Holder, its key personnel and any consultants or contractors in Afghanistan or similar jurisdictions; and
- 2) a summary of the financial capacity of the bidder or Licence Holder to implement the Exploration Program or Mining Proposal (as applicable) and discharge the commitments contained in the proposed Environmental Management Plan, Local Content Plan, Community Development Plan (if applicable) and Health and Safety Plan which:
1. specifies the funds currently available to the bidder or Licence Holder and the source of those funds;
  2. substantiates the availability of those funds by annexing evidence such as bank statements, audited accounts or agreements for the provision of funds; and
  3. specifies any further funds that need to be raised to implement the Exploration Program or Mining Proposal (as applicable) and demonstrates that the bidder or Licence Holder has the capacity to raise those funds; and
- 3) in respect of a tender proposal referred to in Article 43(4) of the Law:
1. a summary of identified markets for the proposed Product;
  2. a summary of the technical and financial feasibility of implementing the Mining Proposal including an analysis of risk factors;
  3. an estimate of the capital cost and operating cost of implementing the Mining Proposal; and
  4. forecast revenue, profit and royalties over the life of the mine; or
2. in respect of an application for a Small-scale Mining Licence or an application under Article 32: or Article 33: of these Regulations in respect of a Small-scale Mining Licence:
- 1) a summary of the technical capacity of the applicant to implement the Small-scale Work Program and discharge the commitments contained in the proposed Environmental Management Plan which:
    1. specifies the qualifications and technical expertise of the key personnel of the applicant;
    2. specifies the technical expertise of any consultants or contractors engaged by the applicant; and
    3. specifies the experience of the applicant, its key personnel and any consultants or contractors in Afghanistan or similar jurisdictions; and
  - 2) a summary of the financial capacity of the applicant to implement the Small-scale Work Program and discharge the commitments contained in the proposed Environmental Management Plan which;

1. specifies the funds currently available to the applicant and the source of those funds;
  2. substantiates the availability of those funds by annexing evidence such as bank statements, audited accounts or agreements for the provision of funds; and
  3. specifies any further funds that need to be raised to implement the Small-scale Work Program and demonstrates that the applicant has the capacity to raise those funds; and
3. details of any conviction or contravention of a law in any jurisdiction other than Afghanistan resulting in a cancellation of a licence; and
  4. details of any conviction for an offence in relation to bribery or corruption within the previous 10 years in any jurisdiction other than Afghanistan.

(3) A **Small-scale Work Program** shall include:

1. a summary of geology, potential mineralisation and history of previous Exploration and Exploitation activities conducted on the proposed Licence Area (to the extent available);
2. a statement of the objectives of the proposed Small-scale Work Program which identifies the target Minerals;
3. a program of Exploration and Exploitation activities which the applicant commits to undertake on the Licence Area including a summary of:
  - 1) the nature and scope of the proposed Exploration and Exploitation activities;
  - 2) the timing and duration of the proposed Exploration and Exploitation activities;
  - 3) the expenditure associated with the proposed Exploration activities;
  - 4) the proposed Small-scale Infrastructure required to be constructed; and
4. a written description of the location of the proposed Exploration and Exploitation activities by reference to the boundaries of the Licence Area accompanied by a plan depicting the location by reference to the coordinates of the cadastral blocks in the Cadastral Survey Map.

(4) An **Exploration Program** in respect of an Exploration Licence shall, in addition to the content specified in Article 4.47 of the Law, include:

1. a statement of the objectives of the Exploration;
2. a summary of the geology and potential mineralisation of the Licence Area;
3. a summary of any historical Exploration or Exploitation activities conducted on the Licence Area, together with:
  - 1) copies of any exploration reports or studies commissioned by the Licence Holder; and
  - 2) a bibliography of any third party exploration reports or studies reviewed by the Licence Holder;

4. a detailed plan depicting the proposed location of on-ground activities by reference to the coordinates of the cadastral blocks in the Cadastral Survey Map and the boundaries of the Licence Area; and
  5. a schedule which identifies the timing of proposed activities during each year of the term of the Licence.
- (5) A **Feasibility Study** required to be lodged by a Mining Concession Holder who has a right of priority for the grant of an Exploitation Licence and who seeks the grant of an Exploitation Licence shall, in addition to the content specified in Article 4.50 of the Law, include:
1. a summary of the Exploration and any Exploitation activities previously conducted on the Licence Area together with:
    - 1) copies of any exploration reports or studies commissioned by the Licence Holder; and
    - 2) a bibliography of any third party exploration reports or studies reviewed by the Licence Holder;
  2. an assessment of the technical and financial feasibility of implementing the Mining Proposal including:
    - 1) an analysis of risk factors including operational, metallurgical, geotechnical, economic, legal, environmental, domestic security and social risks; and
    - 2) a summary of any alternative proposals to the Mining Proposal (including in relation to the additional Processing of Product prior to sale) which were considered and why those proposals were rejected;
  3. a summary of identified markets for the proposed Product; and
  4. a detailed financial model in respect of the implementation of the Mining Proposal which includes:
    - 1) an estimate of the capital cost and operating cost of implementing the Mining Proposal; and
    - 2) forecast revenue, profit and royalties over the life of mine.
- (6) A **Mining Proposal** in respect of an Exploitation Licence shall, in addition to the content specified in Article 4.61 of the Law, include:
1. details of the proposed Product including its specifications;
  2. a summary of the Product supply chain including the Processing, storage, transport, export (if applicable) and sale of Product;
  3. a detailed plan depicting the proposed location of the mine and all Infrastructure by reference to the coordinates of the cadastral blocks in the Cadastral Survey Map and the boundaries of the Licence Area;
  4. details of any proposal for the use of existing or shared Infrastructure under Article 37 of the Law;
  5. details of any Mineral Activities that will not be conducted or Infrastructure that will not be constructed on the Licence Area, together with details of whether the Licence Holder has acquired or taken a lease over the relevant land; and

6. a project schedule which identifies milestones in the development of the project and forecast annual production over the life of the project.
- (7) An **Exploration Report** required to be lodged by a Licence Holder of an Exploration Licence or a Small-scale Mining Licence shall, in addition to the content specified in Article 4.48 of the Law, include:
1. a plan depicting the location of any on-ground exploration activities undertaken during the Quarter including the location of drill holes and rock or soil samples by reference to the coordinates of the cadastral blocks in the Cadastral Survey Map and the boundaries of the Licence Area;
  2. specific details of the exploration activities undertaken during the Quarter, including meters drilled, areas covered by geological surveys or geological mapping and numbers of geochemical samples collected; and
  3. an annexure containing any raw Exploration data generated during the Quarter.
- (8) A **Technical Report** required to be lodged by a Licence Holder of an Exploration Licence, Exploitation Licence or a Small-scale Mining Licence shall, in addition to the content specified in Article 4.81 of the Law, include:
1. in respect of any Exploration conducted during the relevant period, a summary of:
    - 1) the Exploration undertaken;
    - 2) the results of the Exploration, including the results of any Exploration which have identified Minerals other than the type of Mineral for which the Licence was granted;
    - 3) the expenditure incurred in respect of the Exploration;
    - 4) any desktop work undertaken including the analysis and interpretation of Exploration data; and
    - 5) any targets generated for further Exploration;
  2. in respect of any Exploitation conducted during the relevant period, a summary of:
    - 1) the Exploitation undertaken including:
      1. any development work;
      2. any Mining; and
      3. any Processing; and
    - 2) the expenditure incurred in respect of Exploitation;
  3. a plan depicting the location of any on-ground activities undertaken during the period by reference to the coordinates of the cadastral blocks in the Cadastral Survey Map and the boundaries of the Licence Area;
  4. a summary of the status of implementation of the Exploration Program, Mining Proposal or Small-Scale Work Program (as applicable) including any proposed activities that have not been undertaken in accordance with the schedule contained therein and details of any temporary exemptions granted in accordance with Article 26: of these Regulations;
  5. a summary of the expenditure incurred during the relevant period in connection with Mineral Activities including details of any proposed expenditure that has not been incurred in accordance with the schedule contained in the Exploration Program, Mining

Proposal or Small-Scale Work Program (as applicable) and details of any temporary exemptions granted in accordance with Article 26:of these Regulations;

6. a summary of any issues or difficulties experienced during the relevant period and action taken to resolve or mitigate the impact of those issues or difficulties;
7. in respect of an Exploitation Licence only, a report on the implementation of the Community Development Plan during the relevant period, including:
  - 1) a summary of the activities conducted over the relevant period;
  - 2) a comparison of those activities to the milestones in the Community Development Plan;
  - 3) a plan for remedying any shortcomings in performance; and
  - 4) a detailed financial report showing all of the Licence Holder's expenditures during the relevant period in implementation of the Community Development Plan in such format as the Ministry may require from time to time to facilitate the reporting requirements of the Ministry under the relevant EITI standard; and
8. a report on the implementation of the Local Content Plan during the relevant period, including:
  - 1) the number of Afghans employed, including the number of Afghan employees from the local community, and their positions;
  - 2) the number of procurements of goods or services from Afghan sources, including the number of procurements from the local community, and the value of those procurements;
  - 3) the number of trainings or other initiatives conducted with specific information regarding the topics, attendees, and outcomes;
  - 4) an analysis of how the information reported in 1- 3 above compares to the anticipated results; and
  - 5) a plan to remedy any shortcomings in the results.

**SCHEDULE 4: DETERMINATION OF REFERENCE PRICE**

As at the date these Regulations come into effect, the following are available reference price sources for individual Minerals for the purposes of Article 41:(2) of the Regulations.

Mineral	PRICING SOURCES					
	London Metals Exchange	Metal Bulletin	S&P Global Platts Metals Daily	Bloomberg Commodities Market	London Bullion Market Association	Market Expert
Aluminium	✓	✓	✓	✓		
Barite						✓
Celestite						✓
Chromite		✓				
Coal						✓
Copper	✓	✓	✓	✓		
Fluorite						✓
Gemstones						✓
Gold	✓		✓	✓	✓	
Graphite						✓
Haolite						✓
Kaolin						✓
Iron Ore	☐	✓				
Lazurite						✓
Lead/ Zinc	✓	✓		✓		
Lithium		✓				
Marble						✓
Mercury	✓	✓	✓			
Potassium salt						✓
Rare-Earth Minerals						✓
Silver	✓	✓	✓	✓	✓	
Sulphur						✓
Talc						✓

	PRICING SOURCES					
Tin	✓	✓		✓		
Tungsten		✓				
Uranium						✓

## **SCHEDULE 5: ENGAGEMENT OF INDEPENDENT EXPERT**

If the Ministry engages an Independent Expert pursuant to Article 41:(3) of the Regulations, the process to be followed for engagement of the Independent Expert is as follows.

- (1) The Independent Expert shall be engaged in accordance with the Procurement Law under a framework contract.
- (2) The Independent Expert will act independently of the State and the Licence Holder.
- (3) The Ministry shall disclose the terms of engagement of the Independent Expert to a Licence Holder on request.
- (4) The Independent Expert may, in addition to any written submissions from the Ministry or the Licence Holder, have reference to the Independent Expert's own expertise and knowledge but shall disclose to the Ministry and the Licence Holder all information which the Independent Expert has taken into account in making a determination.
- (5) The Licence Holder will be responsible for the fees and costs of the Independent Expert in accordance with Article 41:(7) of the Regulations.
- (6) The Ministry may require that either:
  1. the Licence Holder pay the fees and costs of the Independent Expert directly; or
  2. the Ministry pay the fees and costs of the Independent Expert and recover such fees and costs from the Licence Holder by lodging a copy of relevant invoices to the Licence Holder.



**SCHEDULE 6: PRODUCT**

<b>Mineral</b>	<b>Primary Product (7.5%)</b>	<b>Secondary Product (5.0%)</b>	<b>Tertiary Product (2.5%)</b>
Aluminium	Bauxite	Alumina	Metallic aluminium
Barite	Barite	Barite concentrate	-
Celestite	Celestine		Strontium salts (carbonate/ nitrate)
Chromite	Chromite	Concentrate	Ferrochromium
Coal	Crushed or screened coal	Coke	-
Copper	Copper ore	Copper concentrate	Cathode copper
Diamond	Diamond	-	-
Fluorite	Fluorite	Concentrate	Acid-grade fluorspar (acid-spar)
Gemstones and Precious stones	Gemstones and Precious stones	-	-
Gold	Gold-bearing ore	Bullion, Doré (prior to refining)	Refined bullion
Graphite	Ore	Concentrate	Manufactured products
Halite	Ore	-	Salt
Iron ore	Crushed and screened iron ore; direct shipping ore (DSO)	Direct reduced iron "sponge iron"; pellets	Pig iron, steel
Lazurite (lapis lazuli)	Lazurite	-	-
Lead	Ore	Concentrate	Metallic lead
Lithium	Lithium Minerals	Lithium hydroxide / carbonate	Metallic lithium
Marble	Marble	-	-
Mercury	Ore	-	Mercury metal

Potassium salts	Ore	Concentrate	-
Rare-Earth Elements	Ore	Concentrate	-
Silver	Ore	Concentrate	Metallic silver
Sulphur	-	Elemental sulphur	-
Talc	Ore	Concentrate	Manufactured products
Tin	Ore	Concentrate	Metallic tin
Tungsten	Ore	Concentrate	Tungsten carbide
Uranium	Ore	Uranium oxide concentrate	-
Zinc	Ore	Concentrate	Metallic zinc

**SCHEDULE 7: ROYALTY RATES FOR CONSTRUCTION MATERIALS**

<b>Construction Material</b>	<b>Royalty</b>
Aggregate	30 Afghan Afghani per cubic meter
Gravel	30 Afghan Afghani per cubic meter
Limestone	30 Afghan Afghani per cubic meter
Rock	30 Afghan Afghani per cubic meter
Sand	30 Afghan Afghani per cubic meter
Clay	30 Afghan Afghani per cubic meter
Dolomite	30 Afghan Afghani per cubic meter
Silica	30 Afghan Afghani per cubic meter
Gypsum	30 Afghan Afghani per cubic meter

**SCHEDULE 8: AUTHORISED DIRECTORATES & SUB-DIRECTORATES**

<b>Province</b>	<b>Large-scale Directorate</b>	<b>Authorised</b>	<b>Small-scale Directorate</b>	<b>Authorised</b>
Badakhshan				
Badghis				
Baghlan				
Balkh				
Bamyan				
Daykundi				
Farah				
Faryab				
Ghazni				
Ghor				
Helmand				
Herat				
Jowzjan				
Kabul				
Kandahar				
Kapisa				
Khost				
Kunar				
Kunduz				
Laghman				
Logar				
Nangarhar				
Nimruz				
Nuristan				
Paktia				
Paktika				
Panjshir				
Parwan				
Samangan				
Sar-e Pol				
Takhar				
Urozgan				

Wardak		
Zabul		

**SCHEDULE 9 - PENALTIES AND OFFENCES SUBJECT TO PROSECUTION**

<b>ARTICLE</b>	<b>INFRINGEMENT</b>	<b>PENALTY Exploration and Exploitation</b>	<b>PENALTY Small-scale</b>	<b>Offence (criminal prosec.).</b>
Article 16(4) of the Law	Undertaking Mineral Activities without a Licence	AFN 160,000	AFN 80,000	Yes
Article 16(4) of the Law	Undertaking Mineral Activities in breach of the conditions of a Licence (except as otherwise specified in this Schedule 9)	AFN 120,000	AFN 40,000	Yes
Article 50: of these Regulations	Failure to pay Surface Rent, Royalties or other Fees on the due date	AFN 120,000	AFN 40,000	No
Article 16(1) of the Law	Mineral Activities undertaken in contravention of the Law, except as already specified in this Schedule 9.	AFN 120,000	AFN 40,000	
Article 18:(1)1 of these Regulations	Knowingly provide false or misleading information in a Pre-Qualification Questionnaire, Eligibility and Compliance Declaration or Capability Statement	AFN 160,000	AFN 80,000	Yes
Article 18:(1)2 of these Regulations	Failure to notify a change in circumstance in accordance with Article 13:(3).	AFN 120,000	AFN 40,000	No
Article 18:(1)3 of these Regulations	Engagement in collusion with another bidder	AFN 160,000	AFN 80,000	Yes
Article 18:(1)4 of these Regulations	Breach of any applicable laws relating to bribery and corruption including the provisions of Article 13 of the Law.	AFN 160,000	AFN 80,000	Yes
Article 35:(1) of these Regulations	Export of Product without an export permit	AFN 120,000	AFN 40,000	Yes
Article 62:(1)of these Regulations	Knowingly provide any false or misleading declaration or information lodged in any document or dealing.	AFN 160,000	AFN 80,000	Yes
Article 64:(8) of these Regulations	Failure to appoint a Mine Manager in compliance with Article 64:.	AFN 120,000	AFN 40,000	Yes

Article 101:(5) of these Regulations	Failure to comply with a direction of a Compliance Officer issued by the Compliance Officer in the exercise of powers under the Law or these Regulations.	AFN 160,000	AFN 80,000	Yes
Article 73(1) of the Law	Undertaking Mineral Activities in breach of Article 73(1) of the Law (Archaeological and Cultural Relics)	AFN 160,000	AFN 80,000	No
Article 65 of the Regulations.	Failure to appoint a Safety Officer.	AFN 120,000	AFN 40,000	
Article 35(2) of the Law.	Commencing ground disturbing work prior to obtaining approval of a Health and Safety Plan.	AFN 160,000	AFN 80,000	
Article 35(2) of the Law.	Failure to comply with undertakings contained in or conditions imposed by an approved Health and safety Plan.	AFN 120,000	AFN 40,000	
Article 69(1) of the Law.	Failure by Licence Holder to provide a safe working environment for personnel engaged in Mineral Activities on the Licence so that personnel are not exposed to risk of loss of life or harm to health.	AFN 160,000	AFN 80,000	
Article 63(1) of the Regulations	Failure by a Licence Holder to ensure that any mine on its Licence is designed, constructed and equipped to provide conditions for safe operation and a healthy working environment and that the mine is commissioned, operated, maintained and decommissioned in such a way that risks to personnel are reduced to as low as reasonably practicable, including providing: <ul style="list-style-type: none"> <li>• first aid in the mining area;</li> <li>• fireproof balloon;</li> <li>• devices for measurement of harmful gases;</li> <li>• safety instructions for surface and underground mines; and</li> <li>• a safe room in underground mines.</li> </ul>	AFN 160,000	AFN 80,000	
Article 67(1) of the Law.	Failure to provide appropriate training to all personnel engaged in Mineral Activities on the Licence Area.	AFN 120,000	AFN 40,000	

Article 67(1) of the Law.	Failure to provide appropriate safety equipment to all personnel engaged in Minerals Activities on the Licence Area.	AFN 120,000	AFN 40,000	
Article 68(1) of the Law.	<p>Failure by the Licence Holder to report to the Ministry any incident which:</p> <ul style="list-style-type: none"> <li>• cause a loss of life or harm to the health of personnel; or</li> <li>• involves significant risk of loss of life or harm to the health of personnel.</li> </ul> <p>Failure to maintain an incident registration/report as required by Article 24(1) of the Law.</p> <p>Failure by a Mine Manager to conduct an investigation into every incident. (Article 70(1) of the Regulations).</p> <p>Failure by a Mine Manager to report any Incident to the Compliance Officer immediately following any initial emergency response (Article 71(1) of the Regulations).</p>	AFN 120,000	AFN 40,000	
Article 63(2) of the Regulations.	Failure by a Mine Manager to identify potential hazards to health and safety, on a daily basis, to which personnel may be exposed in conducting Mineral Activities.	AFN 120,000	AFN 40,000	
Article 35(2) of the Law.	Commencing ground disturbing work prior to obtaining approval of an Environmental Management Plan.	AFN 160,000	AFN 80,000	
Article 35(2) of the Law.	Failure to comply with undertakings contained in or conditions imposed by an approved Environmental Management Plan.	AFN 120,000	AFN 40,000	
Article 35(2) of the Law.	Failure to obtain an Environmental Permit prior to commencing ground disturbing work.	AFN 160,000	AFN 80,000	
Article 35(2) of the Law.	Failure to comply with conditions imposed by Environmental Permit.	AFN 120,000	AFN 40,000	
Article 35(2) of the Law	Failure to provide the Environmental Bond to the Ministry in accordance with Article 54(1) of the Law, prior to commencing ground disturbing work.	AFN 160,000	AFN 80,000	



Article 63(2) of the Law.	<p>Failure to avoid, minimise, mitigate and remediate, to the extent practicable, impacts to the environment caused by the conduct of Mineral Activities and rehabilitation activities on the Licence Area, including providing:</p> <ul style="list-style-type: none"> <li>• measures for preventing water and soil pollution;</li> <li>• plans for improvement of the environmental situations;</li> <li>• measures for preventing the weather pollution;</li> <li>• measures for maintenance of the wild life, livestock and plants;</li> <li>• an appropriate place for the industrial wastes and store of the mineral'</li> <li>• environmental and safety measures for blocking the mine; and</li> <li>• the report from the results of implementing such plans.</li> </ul>	AFN 120,000	AFN 40,000	
Article 35(2) of the Law.	Commencing ground disturbing work prior to obtaining an approved Local Content Plan.	AFN 160,000	AFN 80,000	
Article 35(2) of the Law.	<p>Failure to comply with any undertakings contained in or conditions imposed by a Local Content Plan, including:</p> <ul style="list-style-type: none"> <li>• regarding priority of engagement of local and Afghan personnel;</li> <li>• priority to the procurement of Afghan goods and services; and</li> <li>• support for local initiatives.</li> </ul>	AFN 120,000	AFN 40,000	
Article 35(3) of the Law.	Commencing ground disturbing work prior to the approval of a Community Development Plan.	AFN 160,000	AFN 80,000	
Article 35(3) of the Law.	Failure to comply with any undertaking contained in or condition imposed by ta Community Development Plan, including:	AFN 120,000	AFN 40,000	

	<ul style="list-style-type: none"><li>• contributing to the provision of infrastructure;</li><li>• contributing to the provision of education, training and the health sector; and</li><li>• support for community initiatives.</li></ul>			
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