

Document prepared by the MLMUPC Cambodia,
supported by ADB TA 3577 and LMAP TA GTZ.

Preah Reach Kram NS/RKM/0701/09

Enacted July 13, 2001

LAW ON MINERAL RESOURCE MANAGEMENT AND EXPLOITATION

CHAPTER I: General Provisions

Article 1:

The purpose of this law is to determine the management and exploitation of mineral resources, the manipulation of mines and all activities relating to the mining operation in the Kingdom of Cambodia save for the mining operation of petroleum and gas which shall be under a separate law.

Article 2:

Ownership of all mineral resources in, on or underneath the land, mountains, plateaus, territorial water and sea islands, and in or on seabed within the territorial integrity of the Kingdom of Cambodia, shall be included in the property of the State.

Article 3:

Mineral resources include any substance, whether in solid, liquid or gaseous form, naturally originated by a geological process or as a result of mining in or on the land, or in or on the sea or seabed, including gemstones, coals, metal and non-metal mines, mineral water, rock, gravels, sand, clay, petroleum and gas.

The mining operation includes the prospecting, exploring and exploiting of mineral resources.

Prospecting is the preliminary exploration of the land surface by using simple instruments, involving only minor ground disturbance, in order to determine the presence of mineral of possible commercial value which may be subjected to an application for the mineral resources exploration and exploitation license.

Exploration is an investigation for the purpose of discovering and testing mineral indexes by prospecting, geological, geophysical and geochemical surveying, excavations, drilling, removal and analysis of soils, silts, water, rock and mineral samples, to determine the potential, extent, quality, quantity and economic and exploitation feasibility.

Exploitation of mineral resources is the mining operation whereby minerals are extracted from any mineral deposit processed, transported, sold or exported for commercial ends. Sale, exportation and importation of valuable metals and gemstones in raw state and after transformation shall be governed by the provisions of laws in force of the Kingdom of Cambodia.

CHAPTER II: Mineral Resource License

Article 4:

Mineral resource license is a permit granted by a competent institution to the holder the right to conduct the activities of mining operations.

Article 5:

No legal entity or natural person shall conduct mineral resource exploration or exploitation without a mineral resource license issued by a competent institution except for any owner or lawful occupant of private land who may use gravels, sand,

rock or clay without the license, but is not allowed to transport out of the owned land boundaries for exploitation.

Any person of Khmer nationality may prospect for minerals on the State land which is not held under such license issued by the State to another person.

Article 6:

A natural person or legal entity may only be issued a mineral resource license based on thorough considerations for technical and financial capability and commercial registration.

Article 7:

Before entering any privately owned land for the purpose of conducting exploration or mining, the holder of a license shall obtain the written agreement of the private land owner with respect to non-interference with and non-infringement upon the property and work, and compensation for inconvenience and any damage to the surface of the land as a result of activities of mineral operation.

Before entering certain State owned lands designated as a protected, reserved or restricted areas for the purpose of conducting exploration or mining, the holder of a license shall obtain the written permission of the competent institution or the inter-ministerial institution responsible for the management of such areas.

Article 8:

It shall be prohibited from conducting the prospecting, exploration and mining on those State owned lands designated as national cultural, historical and heritage sites.

Article 9:

No other mineral resource license shall be issued over an area already under license to another holder, without the written permission of the existing license holder or the written approval of the Minister in charge of mineral resource section stating that the exclusive rights of the existing holder are in inadequate satisfaction of legal requirements.

Article 10:

The Minister in charge of mineral resource sector manages and inspects all mineral resource operations to efficiently and effectively implement the provisions and procedures of Law on Mineral Resource Management and Exploitation.

The Minister in charge of mineral resource sector keeps and records in a register of every mineral resource license issued and of any dealings with a mineral license.

CHAPTER III: Mineral Resource License Categories

Article 11:

Six categories of license shall be made available to applicants in order to facilitate the management of the exploration and exploitation of mineral resources within the Kingdom of Cambodia.

1. An Artisan Mining License may be issued only to persons of Khmer nationality for the purpose of conducting the exploration and exploitation of mineral resources by using locally available common instruments and their own labor or with the help of family with no more than 7 (seven) persons.

Mining crafts may explore and exploit mineral resources found only in loose state in silts, gravel, sand and rock, and within a demarcated area no larger than 1 (one) hectare, and to a maximum depth of 5 (five) meters.

2. A Pits and Quarries Mining License may be issued to qualified physical persons or legal entities for the purpose of conducting the exploration and exploitation of any

construction and industrial minerals used for constructions, chemical and secondary industry, and mined from pits and quarries.

The construction and industrial minerals include sand, gravel, crushed stone, laterite, clay, cement clay, coral, fossil, phosphorite, limestone, dolomite, marble, kaolin, pagodite, salt, potash, gypsum, peat, coal, titanium sand, silica sand or any other mineral compounds used for such purposes.

3. A Gem-Stone Mining License may be issued to qualified and competent physical persons or legal entities for the purpose of conducting the exploration and mining of precious and semi-precious stones, and ornament stones.
Precious stones include diamonds, rubies, sapphires, smaragdites, and all other similar gem-stone quality minerals. Semi-precious stones include zircon, amethysts, topazs, and all other similar gem-stone quality minerals.
Ornament stones are low crystal clear or non-transparent stone used for ornaments such as chalcedonies, **ashlaring**, normal opals, agates, jades, malachites, stone wood, black basalt, and all other similar quality stones.
4. A Mineral Transforming License may be issued to qualified physical persons or legal entities for the purpose of transforming precious or semi-precious stones or ornament stones.
5. An Exploration License may be issued to qualified and competent physical persons or legal entities for the purpose of conducting exploration of minerals and studying its potential.
6. An Industrial Mining License shall be issued only to the holder of an exploration license for the purpose of conducting exploration and mining of economically viable mineral deposit established within the boundaries of the exploration license. The holder of the exploration license shall submit technical, financial, environmental, social and economic analysis to determine the socio-economic feasibility of proceeding with a mining operation to ask for approval from the Minister in charge of minerals.
A sub-decree will prescribed form and content of such a final feasibility study report and required accompanying documents, and the terms and conditions upon which an industrial mining license shall be issued.

Article 12:

Where the Minister in charge of mineral resource determines that an exploration or mining license application to indicates a large scale project of special national significance, he shall enter into negotiations with the applicant reach a supplementary Mineral Investment Agreement to be appended to the license.

Article 13:

For certain unlicensed areas of known mineral potential, the Minister in charge of mineral resource may, by public notice, declare as an area reserved for bidding by preparing a formal negotiation and evaluation to issue an appropriate mineral license and, where required, negotiation of a supplementary mineral investment agreement as described in Article 12.

CHAPTER IV: MINERAL RESOURCE LICENSE PROCEDURES

Article 14:

Khmer citizen may submit in person the application for an artisan mining license to the specialized office of the Ministry in charge of minerals, located in provinces/ municipalities in where the artisan mining license area is situated.

Article 15:

Natural persons or legal entities shall submit applications for all other licenses issued under the authority of this law to the Minister in charge of mineral resources.

Article 16:

The Minister in charge of mineral resources sector shall provide a response as to his approval or rejection of an application within forty five (45) days at the latest following the date of receiving a complete and technical compliance application.

Article 17:

Except for the artisan mining license, the holder of all other licenses issued under the authority of this law may request to renew, modify, return, mortgage, assign or inherit it with a written approval from the Minister in charge of minerals.

Article 18:

A license issued under the authority of this law may be suspended or cancelled for any holder who breaches this law.

Procedures of suspension or revocation of a license shall be determined by sub-decree.

Article 19:

The holder of a license issued under the authority of the law shall submit to the Minister in charge of mineral resources the application forms, reports, plans and notices at the prescribed date and maintain records and documents.

Article 20:

The confidentiality of all documents and information as provided in Article 19 of this law shall be maintained until the termination of such license or subsequent to the receipt of an approval from the holder to allow public disclosure of such information:

- Provided that information related to environmental and social issues may be released to the public upon notice to the holder of such action by the Minister in charge of minerals;
And provided that the Ministry in charge of minerals may compile and publish statistics quoted from the holder's documents and information as it relates to national mineral sector analysis.

CHAPTER V: Exploration and Mining Operation

Article 21:

Every license holder or subcontractor shall be responsible for the proper conduct of exploration and mining operations in compliance with the following determinations:

1. Properly conducting operations in technically and financially effective and efficient manner, as detailed in an exploration work program or a mine feasibility study.
2. Protection of environment as detailed in Law on Environment Protection and Natural Resource Management, an environmental impact assessment and study, an environmental management plan, a mine site restoration and rehabilitation and financial guarantees.

3. Ensuring the protection of worker health and safety to be detailed in a mine plan program, and a mine health and safety program containing accident prevention and reporting procedures.
4. Protecting safety of the public in and around mine sites to be detailed in a mine plan.
5. Educating, training and providing jobs to Khmer citizens to be detailed in an education, training and employment program.
6. Utilizing as much as possible goods and services within the Kingdom of Cambodia at appropriate place and time.

The Minister may further determine the necessity for the above work based on the category of license and the magnitude of the operation.

Article 22:

Guidelines on the form, plan expansion and increase and content of all necessary documents and work program, financial guarantee for proper implementation shall be determined by a Prakas of the Minister.

Article 23:

In each necessary case, the Minister shall appoint competent officials to monitor the implementation of this law.

Appointed officials shall:

1. Be responsible to the Minister for methods of administration in accordance with the provisions of the law.
2. Prepare an annual report on regulatory activities of exploration and mining during the preceding year and submit it to the Minister.
3. Collate information and maintain records of operations of explorations, mining, treatments, marketing and exportation of mineral resources and products.
4. Follow up and monitor to ensure that all provisions of this law have been implemented.
5. Make inspection to ensure that all regulations relating to the health and safety of workers and of the general public have been properly applied.
6. Perform other duties as determined by the Minister.

The power and duties of the officials appointed to monitor, inspect and report on all activities relating to the exploration, mining, research and analysis related to the methods of administration under the authority of this law shall be prescribed in Sub-decree.

Article 24:

Based on coordination of the Ministry in charge of minerals, the holder of a license shall ask for advice from relevant Ministries to carry out the exploration and mining operations in localities, provinces, municipalities, districts, and Khans in accordance with the principles of social and economic development of the Royal Government of Cambodia.

CHAPTER VI: License Holder and Land Owner

Article 25:

The holder of a license shall indemnify the land owner both in and out of the license area against damages caused by his/her mining operations regardless of accidental or anticipated damages.

Where the damage is caused by the mining operation of more than two holders of the license, those two holders shall jointly make indemnification against such damage.

The indemnification shall be made as follows:

- Where the mining operation area determined in the license impact the owned land, the land owner shall permit the holder of the license to conduct the mining operation on such land with prior mutual agreement whereby the owner shall receive fair and just compensation.
- Such compensation shall be made in time or finally made in accordance with the agreement between the owner and the holder of the license.
- Where the owner and the holder of the license disagree with the compensation, the Minister shall facilitate and solve it and request, if failed, the Royal Government to create a joint commission to settle this case.
- Where both parties disagree with the settlement of the joint commission, the decision shall be under the jurisdiction of the court.

Article 26:

Where the ownership of the whole or a part of a mining operation area determined in the license has not been granted to any person, a competent authority cannot issue title to the whole or a part of such area to any party unless the Royal Government permits as requested by the Minister.

Where people are living in the license operation area prior to the date of issuing such license, the holder of the license shall make compensation as provided in Article 25.

CHAPTER VII: Financial Provisions

Article 27:

An applicant or holder of a license shall pay the State the fees of registration, application for suspension, renewal, transfer and annual land rental.

Article 28:

With the exception of the holder of an exploration license and mineral transforming license, the holder of all licenses shall pay the State a royalty on the value of minerals extracted.

The holder of a mining license as provided in the above paragraph shall keep books of accounts and furnish to the Minister reports or records regarding such information.

Article 29:

The Minister may deliver a notice to the holder of a mining license to provide further information of sales contracts, inspect and audit books of accounts, and consult with the holder in order to establish the value of the mine output.

Article 30:

It shall be prohibited to dispose of minerals on which the royalty has not been paid or without a written permit from the Minister.

Article 31:

According to the applicable laws, a special tax regime shall be established for application to the output and revenue gained from the 6 (six) categories of the mining licenses as provided in Article 11.

Article 32:

The rate of royalty on the value of mineral resources, methods of royalty payment to the State, and incentives for competent officials as provided in Article 23 shall be determined by Inter-Ministerial Prakas.

Taxes, duties, tax on shares, tax on personal share, provision, method of expenditure, tax payment procedure, accounting and financial principles and practices, definitions of losses, exemption and incentives of investment in mineral sector shall comply with laws in force.

CHAPTER VIII: Penalties

Article 33:

Any person who conducts the operation of the mineral resource exploration without a mineral resource license shall be liable to a fine ranging from 500,000 (Five Hundred Thousand) Riels to 1,000,000 (One Million) Riels.

In case of recalcitrance, the penalty shall be from 1,000,000 (One Million) Riels to 2,000,000 (Two Million) Riels, or such person shall be punished by 1 (one) month to 1 (one) year imprisonment, or both punishments.

Article 34:

Any person who conducts the exploration operation in violation of the second paragraph of Article 7 or of Article 8 of this law shall be liable to a fine ranging from 5,000,000 (Five Million) Riels to 10,000,000 (Ten Million) Riels, or punished by 6 (six) months to 2 (two) years imprisonment or both penalties.

Article 35:

Any person who conducts mining operation without a mining license or in violation of Article 7 and Article 8 of this law shall be liable to a fine of an amount equal to 3 (three) times the assessed value for a period the output of mineral has been extracted based on the size of apparatuses, used production machinery and quantity of minerals within such area, and shall be punished with a fine ranging from 1,000,000 (One Million) Riels to 10,000,000 (Ten Million) Riels per diem starting from the date such person illegally committed to the date the activities of mining operation have been ceased, and by imprisonment ranging from 1 (one) year to 5 (five) year regardless of compensation for damages. And the apparatuses and production machinery shall be confiscated into the State's property.

Article 36:

Any person who conducts the mining operation with an expired mining license shall be punished as provided in Article 35 of this law.

Article 37:

Any holder who violates Article 30 of this law shall be liable to a fine of double the value of the minerals disposed or a revocation of the mining license or both punishments.

Article 38:

Any holder who does not allow the competent inspecting official(s) as provided in Article 23 of this law to enter his/her mining operation site for inspection shall be

punished with a fine ranging from 5,000,000 (Five Million) Riels to 10,000,000 (Ten Million) Riels or with a suspension of the mining license for a period no longer than 6 (six) months.

In case of repeated offense, the mining license shall be finally revoked.

Article 39:

Any person who is not a legal land owner and causes obstruction in the mining operation of the holder who legally possesses the mining license shall be punished with imprisonment ranging from 6 (six) days to 1 (one) month.

Article 40:

Any competent official of the Ministry in charge of minerals who commits conspiracy or offenses against the provisions of this law shall be liable to the administrative punishment regardless of penal offenses.

CHAPTER IX: Transitional Provisions

Article 41:

Any natural person or legal entity who kicked off to explore or exploit the mineral resources with an official permit prior to this law coming into force may carry on its activities but shall submit the application for a new mining license within 90 (Ninety) days at the latest in accordance with the provisions of this law.

CHAPTER X: Final Provision

Article 42:

Any provision contrary to this law shall be abrogated.