

## **REGULATION ON EXTRACTION OF MINERALS FROM SMALL-SCALE MINES**

### **One. General provision**

1.1. The purpose of this Regulation is to regulate relations with respect to the extraction of minerals from small-scale mines.

1.2. The Regulation shall be applicable for small-scale mining of all types of minerals except water, ore bearing radioactive elements, petroleum, and natural gas.

### **Two. Responsibility of soum/district Citizens' Representative Khurals for small-scale mining**

Soum/district Citizens' Representative Khurals shall have the following responsibilities:

2.1. Shall receive applications from partnerships on the extraction of minerals from small-scale mines, select the land to be taken for local special purposes with the purposes stated in Article 16.1.11 of the Law on Land, and determine their coordinates.

2.2. Shall make decisions on permission to submit a request on selected land and its coordinates for local special purposes with the purpose of small-scale mining to the State administrative organisation in charge of geological and mining issues in order to receive the assessment stated in Article 11.1.23 of the Law on Minerals.

2.3. Shall make decisions within 10 working days on the inapplicability of the land selected for small-scale mining in the territory of the given soum and district in cases where the State administrative organisation in charge of geological and mining issues assesses that the selected land is not applicable for small-scale mining.

2.4. The soum/district Citizens' Representative Khural shall inform the public of their decisions made and control over implementation.

### **Three. Responsibility of soum/district governors for small-scale mining**

Soum/district governors shall have the following responsibilities:

3.1. Shall give legal assistance, support and advice free of charge to individuals engaged in the extraction of minerals from small-scale mines and who wish to be organised into unregistered partnerships on the decision of the soum/district Citizens' Representative Khural.

3.2. Submit the soum/district Citizens' Representative Khural request on the assessment of selected land and its coordinates for small-scale mining purposes stated in 2.2 of this Regulation to the State administrative organisation in charge of geological and mining issues for a decision.

3.3. When the State administrative organisation in charge of geological and mining issues assesses that the elected land is applicable for small scale mining, the governor shall make a contract with the applicant partnership on the exploitation/extraction of minerals from the small-scale mine for the duration of one year. If the partnership requests it, the contract may be extended for subsequent periods on a yearly basis.

3.4. Maintain a cartographic registry of land issued for the purpose of small-scale mining and exploitation data within the soum/district territory.

3.5. Take measures to provide health care and social welfare services for small-scale miners, and access to schools and kindergartens for their children.

3.6. Provide guidance and coordination on the measurement to apply tax and insurance policies to small-scale miners.

3.7. Inspect the submitted report on environmental restoration measures undertaken by the partnership on the site, and annually submit a report to the aimag or city inspection agency on the restoration activities conducted in accordance with the guidelines approved by the State administrative organisation in charge of geology and mining issues.

3.8. Calculate the costs of technical and biological rehabilitation in areas mined by partnerships and take measures on retaining the required fund in environmental community funds managed by the soum/district authority and the partnerships.

3.9. Ensure adequate enforcement of the Mongolian Law on Labour Safety and Health and the small-scale mining occupational safety rule approved by the State administrative organisation in charge of geological and mining issues.

3.10. Submit reports on small-scale miners and their operations to the State administrative organisation in charge of geological and mining issues by the 15<sup>th</sup> of February each year according to the approved template by the State administrative organisation in charge of geological and mining issues.

3.11. There is no new contract concluded with partnership and its members that failed to carry out rehabilitation work as stated in Article 10.2 of this Regulation.

3.12. Terminate a contract on the extraction of minerals when a professional organisation finds a partnership's operations are having a negative impact on the environment.

3.13. Provide general supervision for activities on protecting the environment, waste management, and defining residential areas for miners and their families on mining sites.

#### **Four. Responsibility of the State administrative organisation in charge of geology and mining issues for small-scale mining**

The State administrative organisation in charge of geology and mining issues shall have the following responsibilities:

4.1. Conduct and deliver an assessment, based on data from the cadastral cartographic registry, on the land selected for the extraction of minerals from small-scale mining to the soum/district governor within 14-21 working days in accordance with the requests stated in 11.1.23 of the Law on Minerals and 3.2 of this Regulation.

4.2. Register data on the land permitted for the extraction of minerals from small-scale mining into the consolidated cartographic registry.

4.3. Approve the following rules, guidelines, instructions and template:

4.3.1. Sample application form on the extraction of minerals by partnerships to be submitted to soum/district governor.

4.3.2. Template for a contract on the extraction of minerals from small-scale mines between the partnership and the soum/district governor.

4.3.3. Template for a tripartite contract between the license-holder, the soum/district governor and the partnership for the extraction of minerals from small-scale mines, which shall clearly reflect the following issues:

- 4.3.3.1. Extraction and commercialisation of minerals;
- 4.3.3.2. Environmental protection and rehabilitation;
- 4.3.3.3. Occupational safety and health;
- 4.3.3.4. Area to be used under the contract.

4.3.4. Small-scale mining environmental rehabilitation guidelines.

4.3.5. Occupational safety rule.

4.3.6. Information template for small-scale mining operations.

4.4. Shall provide partnership members with technical training and support in building capacity on environmental and safety matters.

#### **Five. Mining area for the extraction of minerals from small-scale mines**

5.1 An area to be used by partnerships for small-scale mining purposes within the soum/district territory shall not exceed 5 hectares.

5.2. The number of areas selected for the extraction of minerals through small-scale mining within the territory of one soum/district shall not exceed 10.

5.3. An area from a license-holder's mining area may be used by a partnership for small-scale mining purposes based on a tripartite contract between the soum/district governor, the license-holder and the partnership.

5.4. In the event of a tripartite contract to mine on a license-holders mining area, the number of areas for the extraction of minerals through small-scale mining within the territory of one soum/district may exceed 10.

5.5. An underground mine in licensed area may be used by a partnership based on a tripartite contract between the soum/district governor, the license-holder and the partnership.

5.6. The use of area on a licensed area by a partnership as stated in 5.3, 5.5 of this Regulation does not free the license-holder from environmental obligations as stated in Article 39 of the Law on Minerals.

#### **Six. Organisation of individuals engaged in the extraction of minerals**

6.1. For the purpose of the extraction of minerals from small-scale mines, individuals shall be organised based on a written contract as stated in Article 476 and in the form of unregistered partnerships as stated in Article 481.1 of the Civil Code.

6.2. Partnership operations shall be regulated in accordance with Articles 477-482 of the Civil Code and partnership rules.

6.3. A partnership shall have its own proper name. The partnership name or title shall not duplicate the name of other partnerships that operate within the same soum/district territory.

6.4. A partnership shall have a minimum of five members.

6.5. A member of a partnership shall not be allowed to be a member of another partnership.

### **Seven. Applications for the conclusion of contracts on the extraction of minerals**

7.1. A partnership shall submit its application for the conclusion of a contract on the extraction of minerals from small-scale mining to soum/district governors using the application form mentioned in 4.3.1 of this Regulation.

7.2. The application must contain the following information:

7.2.1. Name/title of the partnership and names and addresses of the partnership leader or other authorised representatives and its members;

7.2.2. Location of area;

7.2.3. Types of minerals to be extracted.

7.3. The following documents shall be attached to the application:

7.3.1. Copies of the identification cards of partnership members;

7.3.2. Copies of written cooperation contracts of partnership members;

7.3.3. Location map of the areas for mineral extraction;

7.3.4. Copies of partnership members' taxpayers' books and certificates;

7.3.5. Copies of partnership members' health and social insurance books.;

7.4. Requirements for partnership members are:

7.4.1. Be a citizen of Mongolia;

7.4.2. Have reached the age of 18;

7.4.3. Be registered as a resident of the respective soum/district.

7.5. Applications/requests that do not meet the requirements in 7.1-7.4 of this Regulation shall not be accepted.

7.6. Upon relinquishing the area used for mineral extraction in accordance with 10.2 of this Regulation, the partnership may apply for another area for the conclusion of a contract on the extraction of minerals to the soum/district governor.

7.7. Upon receiving an application, the soum/district governor shall examine and identify within 10 working days whether the following requirements are met:

7.7.1. Whether the requirements in 7.4 of this Regulation have been met;

7.7.2. Whether the document stated in 7.3 of this Regulation is complete;

7.7.3. Whether the land applied for is a part of the land stated in 5.1 of this Regulation;

7.7.4. Whether the partnership has conducted complete technical and biological restoration of the area according to 10.2 of this Regulation.

7.8. In the event that an application and the attached documents fulfill the requirements stated in 7.7 of this Regulation, contracts with partnerships shall be concluded according to the order of application registration.

### **Eight. Conclusion of the contract on the extraction of minerals**

8.1. A partnership proposing to extract minerals on land stated in 5.1 of this Regulation shall conclude a contract with the respective soum/district governor.

8.2. The contract shall contain the following:

- 8.2.1. The rights, obligations and responsibilities of the parties involved;
- 8.2.2. The location and size of the area;
- 8.2.3. The effective duration of the contract and terms for extensions;
- 8.2.4. The conditions for the use of land stated in 5.1 of this Regulation;
- 8.2.5. The planned activities for environmental rehabilitation, budget and financial guarantee;
- 8.2.6. The types of minerals to be extracted;
- 8.2.7. The procedures and conditions for the enforcement of small-scale mining occupational safety rules and instructions, health norms and standards;
- 8.2.8. The conditions for the social and health insurance coverage of partnership members;
- 8.2.9. Compulsory obligations to not use chemicals and dangerous substances;
- 8.2.10. Compulsory obligations to not use explosives unless it is conducted by a special license-holder;
- 8.2.11. Justifications for contract termination and abrogation;
- 8.2.12. The accountabilities for compliance and the penalties for non-compliance with occupational safety rules and instructions;
- 8.2.13. Obligations to protect the environment and properly manage waste to provide partnership members and their families with a safe and healthy environment and to live in defined residential areas on mining sites;
- 8.2.14. Others.

**Nine. Commercialisation of mineral resources extracted by partnerships**

9.1. Partnerships shall sell extracted minerals to a person legally authorised to buy and sell through applicable legislation .

**Ten. Relinquishing the area**

10.1. A partnership shall return an area based on the following conditions:

- 10.1.1. When it considers that the mineral resources are no longer economically viable;
- 10.1.2. When a State inspector assesses that further extraction is not allowed due to inadequate occupational health and safety conditions;
- 10.1.3. When the partnership submits a request/application to relinquish the area;
- 10.1.4. When a contract with a partnership is terminated;
- 10.1.5. Termination of a contract made with a partnership does not mean that the partnership is free of its environmental and technical rehabilitation obligations on areas it has mined.

10.2. Prior to returning the area, the partnership shall carry out technical and biological rehabilitation in accordance with established guidelines, have the area assessed by an environmental inspector, and then hand over the area to the authority appointed by the soum/district governor. Rehabilitation must be conducted in accordance with rehabilitation guidelines on areas mined by partnerships and may exclude those areas previously exploited by license-holders where no rehabilitation was conducted.

10.3. For the purpose stated in 10.2 of the regulation, the local administrative organisation and the partnership shall jointly manage the community fund to cover expenses arising from rehabilitation.

**Eleven. Prohibited activities for the extraction of minerals from small-scale mines**

11.1. The following activities shall be prohibited for mineral extraction by partnerships:

- 11.1.1. Employing individuals under the age of 18 years;
- 11.1.2. Infringement of or non-compliance with occupational health and safety rules;
- 11.1.3. Washing and processing minerals outside of the area defined in the contract;
- 11.1.4. Tax evasion;
- 11.1.5. Mineral extraction by non-partnership members;
- 11.1.6. The use of chemicals and dangerous substances;
- 11.1.7. The use of explosives and explosive substances unless these activities are conducted by a special license-holder;
- 11.1.8. Non-purpose usage of the area, transfer of the area to others, use of the area as a pledge, and the sale of the area contractually allocated to a partnership;
- 11.1.9. Activities that have serious negative impacts on the environment;
- 11.1.10 The use of machinery with an engine capacity exceeding 500cm<sup>3</sup> for the extraction of minerals.
- 11.1.11. The use of a license-holder's area by a partnership that has not entered into a tripartite contract as stated in 5.3 of this Regulation;
- 11.1.12. Underground mining operations by partnerships who have not entered into tripartite contracts as stated in 5.5 of this Regulation.

## **Twelve. Special conditions**

12.1. The location of areas for concentration and processing plants of ore extracted from partnerships' hard-rock gold mines shall be determined by the aimag/soum/district Citizens' Representative Khural, the State administrative organisation in charge of geology and mining, and a specialised inspection organisation.

12.2. Technical specifications for processing plants shall be developed by the State administrative organisation in charge of geology.

12.3. The economic entity or entities to establish processing plants shall be put to tender by the aimag Citizens' Representative Khural.

12.4. Processing plants shall be commissioned for utilisation by a working group comprised of representatives from the State administrative organisation in charge of geology and mining and a State specialised inspection organisation.

12.5. The economic entity or entities that win the tender bid to establish and operate a processing plant shall have a detailed environmental impact assessment on the proposed area conducted by a permitted entity in accordance with Article 9 of the Law on Environmental Impact Assessment.

## **Thirteen. Miscellaneous third**

13.1. Central and local specialised inspection regulatory agencies, local administrative and self-governing organisations, police organisations, local officers in charge of environmental issues and local officers in charge of small-scale mining issues shall oversee the implementation of this Regulation.

13.2. If not subject to Criminal Law, the penalties imposed on violators of this Regulation shall be in accordance with Article 66.1.9 of the Law on Minerals.

## **ORDER BY THE CHAIRMAN OF THE MINERAL RESOURCES AUTHORITY**

Date: 21 April, 2011

No. 153

Ulaanbaatar

### **Approval of samples or rules, instructions, forms and agreement templates**

Based on the provisions of Clause 8.4 of Article 8 of the Mongolian Law on Legal Status of Governmental Agencies and Clause 4.3 of Article 4 of the Regulation on Extraction of Minerals from Small-Scale Mines approved by Mongolian Government Resolution No. 308 in 2010, it is resolved that:

1. We approve the sample Application Form for the Conclusion of Agreement on the Extraction of Minerals as provided in Annex 1, the sample or model Agreement of Extraction of Minerals as provided in Annex 2, the sample or model Tripartite Agreement on Extraction of Minerals by Small-Scale Mining from licensed mine sites as provided in Annex 3, the sample or model Rehabilitation in Small-Scale Mining Sites as provided in Annex 4, the sample or model Small-Scale Mining Occupational Safety Rule as provided in Annex 5, the sample or model Data Collection and Record Keeping on Small-Scale Miners' Operations and Performances as provided in Annex 6, and the sample or model of the Action Plan and Report on Environmental Protection, Restoration and Occupational Safety Framework as provided in Annex 7 attached to this Order.

2. We invalidate former Orders Nos. 149 and 253 (2008) by the Chairman of the Mineral Resources and Petroleum Authority of Mongolia in connection with this Order being issued.

3. We assign the Mining and Research division (Ts. Davaatseren) to provide the necessary professional guidance and methodological assistance to aimag, soum and district governors, their departments, Citizens' Representative Khurals, and artisanal and small-scale miners for understanding, use and observance of the agreements, charter, instructions and forms approved by this Order in small-scale mining practices.

4. We assign the Mining and Research division (Ts. Davaatseren) to develop a proposal on the improved enforcement of the Regulation on Extraction of Minerals from Small-Scale Mines and compliance with the sample or model charter, instructions, forms and agreements approved by this Order through a comprehensive study of practices, and to present the proposal for consideration by 1 December, 2011.

5. We assign the Administration and Management division (B. Tuvshinjargal) to make decisions and handle all expenses related to monitoring compliance and execution of the Order.

**CHAIRMAN**

**D. BATKHUYAG**

