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THE MYANMAR MINES LAW

**The State Law and Order Restoration Council
The Myanmar Mines Law**

(The State Law and Order Restoration Council Law No. 8/94)

**The 2nd Waxing of Tawthalin, 1356 M.E.
(6th September, 1994)**

The State Law and Order Restoration Council hereby enacts the following Law : -

**CHAPTER I
Title and Definition**

1. This Law shall be called the Myanmar Mines Law.
2. The following expressions contained in this Law shall have the meanings given hereunder -
 - (a) **Mine** means place, excavation or worksite where mining is carried on or various operations, building land, machinery and equipment connected with mining or mineral processing at any place contiguous to such place of mining excavation or worksite. The said expression also includes quarries where industrial mineral and stone are mined.

- (b) **Mineral** means gemstone, metallic mineral industrial mineral and stone obtained from the earth by mining or by any other operation.
- (c) **Gemstone** means ruby, sapphire, jade diamond, spinel, peridot, chrysoberyl, tourmaline, danburite, aquamarine, zircon, topaz, phenakite, garnet, moonstone, iolite, apatite, epidote, lapis-lazuli, diopside, amber, flurospar, nephrite, or stones of gems quality of the quartz group, which has not been processed. The said expression also includes substances which may be declared by the Ministry by notification with the approval of the Government from time to time to be gemstone;
- (d) **Metallic Mineral** means golds, silver, platinum, iridium, osmium, palladium, ruthenium, rhodium, tantalum, columbium, niobium, uranium, thorim, iron, zinc, copper, lead, tin, tungsten, nickel, antimony aluminium, arsenic, bismuth, cadmium, chromium, cobalt, or manganese. The said expression also includes substances which may be declared by the Ministry by notification with the approval of the Government from time to time to be metallic mineral:

- (e) **Industrial Mineral** means coal, limestone, gypsum, baryte, graphite, manganese dioxide, dolomite, fluorite, fire clay, ball clay, industrial clay, feldspar, magnesite, red ochre, yellow ochre, soap stone, bentonite, asbestos, zinc carbonate, muscovite or biotite. The said expression also includes substances which may be declared by the Ministry by notification with the approval of the Government from time to time to be an industrial mineral;
- (f) **Stone** means limestone, quartz, granite, marble, pegmatite, or gneiss that are of the quality to produce decorative stone. The said expression also includes substances which may be declared by the Ministry by notification with the approval of the Government from time to time to be stone of decorative stone quality, but does not include Stones which are not of the decorative stone quality and are usually used for road making;
- (g) **Permit** means a permit issued under this Law for the purpose of mineral prospecting, exploration or production issued separately or as an integrated permit;
- (h) **Mineral Prospecting** means searching for minerals and mineral deposits. The said expression also includes the process of testing mineral bearing qualities of the land;

- (i) **Mineral Exploration** means defining and gaining knowledge of the size, shape, location, quality and quantity of a mineral deposit;
- (j) **Mineral Production** means all stages of operation for obtaining minerals. The said expression also includes any or all stages of mining and mineral processing activity;
- (k) **Large Scale Production** means commercial production of mineral which requires substantial investment and expenditure or special technical know-how and methods;
- (l) **Small Scale Production** means commercial production of mineral which does not require substantial investment and expenditure or special technical know-how and methods;
- (m) **Subsistence Production** means production of mineral using ordinary hand tools;

- (n) **Mineral Processing** means the beneficiation of ore or mineral to improve their grade or their value. The said expression includes operation of mineral dressing, concentration, smelting, refining to obtain mineral concentrates and refined metals and cutting, polishing of raw gemstones to obtain finished products, but does not include cutting, polishing of raw gemstones on a small scale prescribed by the Ministry by notification with the approval of the government from time to time;
- (o) **Ministry** means the Ministry of Mines;
- (p) **Department** means the Planning and Work Inspection Department of the Ministry of Mines;
- (q) **Director General** means the Director General of the Planning and Work Inspection Department of the Ministry of Mines.

CHAPTER II

Objectives

3. The objectives of this Law are as follows: -
 - (a) to implement the Mineral Resources Policy of the Government;
 - (b) to fulfil the domestic requirements and to increase export by
 - (c) producing more mineral products;
 - (d) to promote development of local and foreign investment in respect of mineral resources;
 - (e) to supervise, scrutinize and approve applications submitted by person or organization desirous of conducting mineral prospecting, exploration or production;
 - (f) to carry out for the development of , conservation, utilization and research works of mineral resources;
 - (g) to protect the environmental conservation works that may have detrimental effects due to mining operation.

CHAPTER III

Application and Granting of Permit

4. A person or organization, desirous of carrying out any of the following operations shall apply to the Ministry in accordance with the stipulations for obtaining a permit : -

- (a) prospecting, exploration, large scale production or small scale production of gemstone;
- (b) prospecting, exploration, large scale production or small scale production or metallic mineral;
- (c) large scale production of industrial minerals;
- (d) large scale production of stones.

5. A person or organization, desirous of carrying out any of the following operations shall apply to the Department in accordance with the stipulations for a permit: -

- (a) prospecting, exploration or small scale production of industrial mineral;
- (b) prospecting, exploration or small scale production of stone.

6. A person or organization, desirous of carrying out subsistence production of gemstone, metallic mineral, industrial mineral or stone, prescribed in the notification by the Ministry shall apply to the respective Mining Enterprise or to the officer authorized by the Ministry in accordance with the stipulations for obtaining a permit.

7. The Ministry may, with the approval of the Government grant permit for any of the following operations: -

- (a) prospecting, exploration, large scale production or small scale production of gemstone, metallic mineral, industrial mineral or stone involving foreign investment;
- (b) prospecting, exploration, large scale production of gemstone with local investment;
- (c) prospecting, exploration, large scale production or small scale production of metallic mineral with local investment.

8. The Ministry may grant permit for the following operations:-

- (a) large scale production of industrial mineral or stone with local investment;
- (b) integrated prospecting, exploration, large scale production or small scale production of industrial mineral or stone with local investment.

9. The Department may, with the approval of the Ministry, grant permit, for any of the following operation: -

- (a) prospecting, exploration or small scale production of industrial mineral with local investment.
- (b) prospecting, exploration or small scale production of stone with local investment.

10. The respective Mining Enterprise or the officer authorized by the Ministry may issue permit in respect of subsistence production, of gemstone, metallic mineral industrial mineral or stone, specified in the notification by the Ministry.

11. The Ministry shall determine the classification of large scale production, small scale production or subsistence production as defined in sub-section (k), (l), (m) of section 2.

CHAPTER IV
Duties of the Holder of Permit

12. The holder of permit shall: -

- (a) abide by the provisions of this Law, rulers, orders and directives made thereunder.
- (b) abide by the conditions contained in the permit;
- (c) pay rent for the land related to the permit calculated in accordance with the rates prescribed by the rules made under this Law;
- (d) pay rent for the land for each permit separately;
- (e) pay security deposit or advance payment or both security deposit and advance payment;
- (f) pay prescribed royalty and other fees payable under this Law either in Myanmar currency of foreign currency, or both Myanmar and foreign currencies.

13. The holder of permit shall comply with the rules prescribed under this Law in respect of the following matters: -

- (a) appointment of mine personnel and workers, assignment of work, prescribing of age, wages, salaries and other fees;

- (b) fixing of working days and working hours for the above and under ground workers in a mine;
- (c) making provisions for safety and the prevention of accidents in a mine and their implementation;
- (d) making and implementation of plans relating to the welfare, health, sanitation and discipline of personnel and workers in a mine;
- (e) making provisions for the environmental conservation works that may have detrimental effects due to mining operation;
- (f) reporting of accidents, loss of life and bodily injury received due to such accidents in the mine;
- (g) submission to the inspection of the Chief inspector and inspectors.

CHAPTER V

Right of Utilization of Land and Water for Mineral Production

14. The holder of permit for mineral production within an area under the Ministry's administrative control or which does not lie within the Mineral Reserve Area or Gemstone Tract, shall carry out such production only after co-ordinating and receiving agreement from the individual or organization having the right of cultivation, right of possession, right of use and occupancy, beneficial enjoyment, right of succession or transfer of the said land.

15. If, in the interest of the State, it is necessary to acquire the land where mineral production could be under taken on commercial scale, the Ministry shall co-ordinate with the relevant Ministry of the acquisition of such land in accordance with the existing Law.

16. If the holder of mineral production permit requires the use of public water for mineral production he shall first and foremost inform the Department of such requirement in accordance with the prescribed manner.

17. If the Department, after scrutinizing the requirement submitted under section 16 finds that the use of public water is really necessary for the holder of mineral production permit, it shall co-ordinate with the relevant government department and organization for obtaining permission to use water in accordance with the existing Law.

CHAPTER VI

Royalty

18. The holder of mineral production permit shall pay royalty, on the value of the mineral sold when the sale is affected on the mineral produced by him within the rates mentioned below as determined by the Ministry: -

- (a) for gemstone at the rate of 5 % to 7.5 % .
- (b) for gold, silver, platinum, iridium, osmium, palladium ruthenium, rhodium, tantalum, columbium, niobium, uranium, thorium and other precious metallic minerals that the Ministry may, with the approval of the Government prescribe and publish by notification from time to time at the rate of 4% to 5%;

- (c) for iron, zinc, copper, lead, tin, tungsten, nickel, antimony, aluminium, arsenic, bismuth, cadmium, chromium, cobalt, manganese and other metallic mineral that the Ministry may with the approval of the Government prescribe and publish by notification from time to time at the rate of 3% to 4%.
- (d) for industrial mineral or stone at the rate of 1 % to 3 %.

19. When calculating the value of mineral sold under section 18, the Department shall calculate in the prescribed manner based upon the prevailing international price of that mineral at the time of the sale.

20. The Ministry may: -

- (a) prescribe by notification from time to time, royalty to be paid for the mineral obtained from mineral prospecting or mineral exploration;
- (b) exempt in whole or in part, any royalty payable on any mineral by the holder of a permit for such period as may be determined with a view to promoting production of mineral;
- (a) exempt payment of royalty, on mineral samples obtained by the government department concerned or government organization for the purpose of assay analysis or other examinations;

- (d) defer payment of royalty due for such period it may determine;
- (e) assess provisional royalty during the period where for any reason it is impracticable to assess the exact amount of the royalty due.

CHAPTER VII

Designation of Mineral Reserve Area and Gemstone Tract

21. The Ministry: -
- (a) may designate an area where mineral can be produced on commercial scale as Mineral Reserve Area by notification with the approval of the Government;
 - (b) shall, before designating any area as Mineral Reserve Area, declare in the manner prescribed, which area is intended to be declared as such;
 - (c) shall, in designating the Mineral Reserve Area, form and assign duties to a committee consisting of skilled personnel with the Director General as the head of the Committee to inquire into the affected rights of the public in the relevant area and to enable them to receive reasonable rights and benefits and to carry out the demarcation of the Mineral Reserve Area;

- (d) if desirous of designating land under the administration of any government department or any organization, as the Mineral Reserve Area under sub-section (a), shall do so after co-ordination with the relevant government department of organization;
- (e) if desirous of designating Area under sub-section (a) any land in which an individual or an organization had the right or cultivation, right or possession, right of use and occupancy, beneficial enjoyment, right of succession or transfer as the Mineral Reserve shall do so after co-ordination with the relevant Ministry for acquiring land in accordance with the existing Law.

22. The Ministry: -

- (a) may, when information is received of the existence of gemstone for production on a commercial scale or the area where such gemstone is discovered, designate such area as Gemstone Tract by notification with the approval of the Government;
- (b) shall form and assign duties to a committee consisting of skilled personnel with the Director General as the head of the committee to inquire into the affected rights of the public in the area already designated as Gemstone Tract and to enable them to received reasonable rights and benefits and to carry out the demarcation of the Gemstone Tract.

23. The Ministry may, with the approval of the Government, cause the whole or a portion of the Mineral Reserve Area or Gemstone Tract, for the revision of the demarcation or cessation thereof.

24. All naturally occurring minerals found either on or under the soil of any land, in which an individual or an organization had the right of cultivation, right of possession, right of use and occupancy, beneficial enjoyment, right of succession or transfer or all naturally occurring minerals found in the Continental Shelf shall under the existing law be deemed to be owned by the State.

CHAPTER VIII

Duties of the Chief Inspector

25. The Director General shall be the Chief Inspector for the purpose of this Law.

26. The duties of the Chief Inspector are as follows: -

- (a) inspecting in order to ascertain as to whether or not the provisions of this Law and the rules, orders and directives made thereunder are observed and conditions contained in the licence are complied with by the holders of licence.

- (b) inspecting the health, sanitation, safety, prevention of accident, welfare, disciplinary measures of the personnel and workers in the mine;
- (c) determining the duties of the inspectors and supervising the same;
- (d) carrying out the duties as may be assigned from time to time by the Ministry.

27. The Chief Inspector may:-

- (a) assign any suitable officer from the Department as an inspector for the purpose of this Law;
- (b) delegate his powers to the inspectors.

CHAPTER IX

Taking of Action by Administrative Means

28. If the holder of permit or a person managing on his behalf or any of the worker fails to comply with any of the orders or directives made under this Law, or contravenes any of the term of the permit, the person issuing the permit may pass any of the following administrative orders: -

- (a) suspending all or portion of the operations carried out under the permit;
- (b) allowing continuation of the operation, after causing the payment of fine;

- (c) canceling the permit;
- (d) canceling the permit and confiscating the security deposit and the advance, payment and also causing the payment of fine in addition, if deemed necessary.

CHAPTER X
Issue of Prohibition

29. The Ministry may with the approval of the Government issue prohibitions in respect of purchasing obtaining, storing, Possessing, transporting, selling, transferring of any mineral obtained from mineral production.

CHAPTER XI
Offences and Penalties

30. Whoever carries out any of the following operations without the permit issued under this Law shall, on conviction by punished with imprisonment for a term which may extend to 7 years or with fine which may extend to Kyats 50,000 or with both; -

- (a) prospecting exploration or production of gemstone;
- (b) prospecting exploration or production of metallic mineral;

- (c) prospecting exploration or production on industrial mineral;
- (d) prospecting exploration or production of stone.

31. Whoever violates any of the prohibitions prescribed under section 29 shall, on conviction be punished with imprisonment for a term which may extend to 3 years or with fine may extend to Kyats 20,000 or with both.

32. The holder of a permit who violates any of the rules relating to section 13 shall, on conviction be punished with imprisonment for a term which may extend to 1 year or with fine which may extend to Kyats 10,000 or with both.

33. Whoever trespasses the Mineral Reserve Area or Gemstone Tract demarcated under this Law without permission shall on conviction be punished with imprisonment for a term which may extend to 6 months or with fine which may extend to Kyats 5,000 or with both.

34. The Court shall in respect of any legal proceeding instituted under section 30 or section 31, if found guilty, enforce punishment for the relevant offence, and in addition:-

- (a) shall pass an order for confiscation of the mineral involved in the offence;
- (b) may pass an order for confiscation of the vehicle, animal and other machinery, tools and implements used in commission of the offence.

CHAPTER XII

Miscellaneous

35. The license or permit granted under any of the existing laws before the enactment of this Law, for prospecting, exploration or production of minerals shall be valid until the date of expiry.

36. The existing Gemstone Tracts designated by notification before the promulgation of this Law shall be deemed to be Gemstone Tract designated by this Law.

37. An exhibit relating to any legal proceeding instituted under this Law cannot be produced easily before the court, such exhibit need not be produced before the court, but the report or other relevant documentary evidence as to the manner of custody of the same may be submitted. Such submission shall be deemed as if it were submission of the exhibit before the court and the relevant court may dispose of the same in accordance with the law.

38. The rules, regulations, orders and directives issued under the laws repealed by this Law may continue to be complied so far as they are not inconsistent with the provisions of this Law.

39. For the purpose of carry out the provisions of this Law: -
- (a) the Ministry may with the approval of the Government issue such rules and procedures as may be necessary;
 - (b) the Ministry or the Department may issue such orders and directives as may be necessary.
40. The following laws are hereby repealed: -
- (a) The Upper Myanmar Ruby Regulation, 1887,
 - (b) The Mines Act, 1923,
 - (c) The Union of Myanmar Mines and Minerals Act, 1961.

(Sd) Than Shwe
Senior General
Chairman

The State Law and Order Restoration Council