



Key Mining Policies and Laws Governing the Mining Industry in India

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India produces 89 minerals including four fuel minerals, 52 non-metallic minerals, 11 metallic minerals and 22 minor minerals. The mineral extractions or industries being land-based activities it became pertinent that certain policies and laws were brought into force to govern the operation of mining industries in the country. These policies and laws not only included in aiming the extraction of these minerals, but also to address the problems arising from the environmental consequences of mining operations. In this paper, we tend to identify the key mining policies and general legislative frameworks governing mining operations in India.

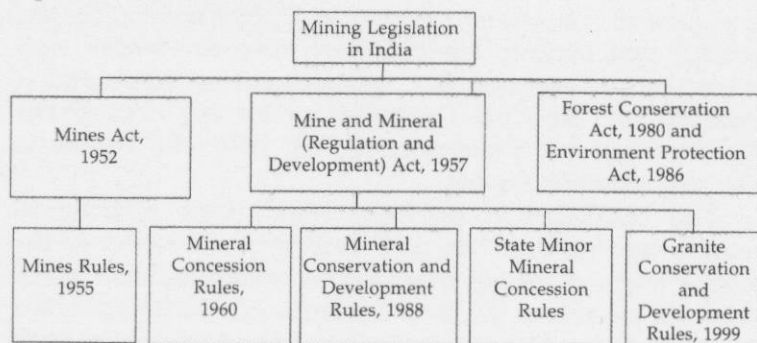
The Government of India introduced the New Industrial Policy — 1991 to bring out industrial de-regulation and to subsequently liberalize the provisions related to domestic and foreign investment. Since then the number of items requiring industrial licensing is reduced to a very minimum mostly confined to industries related to health and hazards and the list of industries reserved for the public sector is pruned drastically to a limited number of three items: (1) arms and ammunition and allied items of defence equipment, defence aircraft and warships; (2) Atomic energy; and (3) Railways.

From the liberalization measures mentioned above it would appear that domestic private and foreign investments are now possible in any field of mining and quarrying sector including oil, petroleum, coal and minerals. However, it is misleading

because there are multiple Acts in place to govern these sectors. In the case of petroleum and mineral oil, the legislative framework was simpler and therefore, private and foreign investments were possible immediately. However, in the case of coal, lignite and minerals, several other legislations are required to be amended in order to complete the reforms set out in the industrial policy. Therefore, in the following paragraphs such measures and their implications will be discussed in details. Nevertheless, the Indian Company law, and Labour law and the Factory Act are uniformly applicable to all sectors wherever applicable.

The General Legislative Framework for Mining other than Petroleum and Gas

The management of mineral resources in India is the responsibility of the Central Government and the State Governments as per the Constitution of India. The legislative framework governing the mining industry can be broadly represented as follows:



The Mines and Minerals (Regulation and Development) Act, 1957 ('MMRD') lay down the legal framework for the regulation of mines and development of all minerals other than petroleum and natural gas. The health and safety of the workers is governed by Coal Mines Regulations 1957, Metalliferous Mines Regulatins 1961, Maternity Benefits (Mines) Rules, 1963and the Mines Rules, 1955 created under the jurisdiction of the Mines Act, 1952. Thus the Mines and

Minerals (Development and Regulation) Act, 1957, ('MMRD') and the Mines Act, 1952, together with the rules and regulations framed under them, constitute the basic laws governing the mining sector in India. The Director General of Mines Safety (DGMS) is responsible to enforce the provisions of the Mines Act.

Important rules in force under the MMDR Act are the Mineral Concession Rules, 1960, the Mineral Conservation and Development Rules, 1988 and Granite conservation and development rules, 1999. The Mineral Concession Rules, 1960 outline the procedures and conditions for obtaining a Prospecting Licence or Mining Lease. The Mineral Conservation and Development Rules, 1988 lays down guidelines for ensuring mining on a scientific basis, while at the same time, conserving the environment. The minor minerals are separately notified and come under the purview of the State Governments. The State Governments have for this purpose formulated the Minor Mineral Concession Rules.

The provisions of Mineral Concession Rules and Mineral Conservation and Development Rules are, however, not applicable to coal, atomic minerals and minor minerals. In the case of coal mining, the operators have to comply with inspection and appropriate enforcement of conservation measures by the Coal Controller under the Coal Mines (Conservation and Development) Act, 1974 with a view to ensuring scientific mining.

The MMRD also provides regulations relating to prospecting fee, royalties, and dead rent in respect of the prospecting and mining leases for minerals other than minor minerals, payable to the State Government. The holder of the prospecting licence is required to pay a Dead Rent to the State Government till any mineral is removed or consumed, from which time, the holder has to pay royalty or dead rent whichever is higher. These provisions of MMRD can only be amended by the Central Government through a notification in the official Gazette.

The royalty and the dead rent has been revised in order to make them more favourable to the private sector. The dead rent for the first year of the lease has been removed for all

categories. The royalty rates and the dead rent for minor minerals are fixed by the respective State Governments. There are also cess and other taxes on minerals levied in accordance to the Cess and Other taxes on Minerals (Validation) Act, 1992, which is applicable in respect of certain specific states like A.P., Bihar, M.P., Maharashtra, Orissa and Tamil Nadu to validate the imposition and collection of cesses and certain other taxes on minerals in those States.

All mining activities have to comply with the environmental legislation of India. The relevant acts in respect of environment protection and forest conservation are the Environment (Protection) Act, 1986 and the Forest (Conservation) Act, 1980 and the rules made there under. While the Forest (Conservation) Act, 1980 primarily deals with the issue of diversion of forest land for non-forest purpose and the need for raising compensatory afforestation in equivalent area or double the area of forest land diverted, the Environment (Protection) Act, 1986 encompasses all other aspects of environmental concerns and management. The Environmental Impact Assessment Notification, 1994 also apply for all the mining projects for detailed consideration of impacts of the mining activities on the environment and the ameliorative measures to be undertaken.

It is the responsibility of the state administration to acquire land and then lease it to the mining operators. However, Coal being a mineral listed in the first Schedule of the MMRD act, 1957, the State Governments can grant coal-mining leases only with the prior approval of the central government accorded under the provision to Section 5 (1) of MMRD Act. Before the prior approval of the Central Government is accorded, the coal mining company is required to get the mining plan for the proposed coal mining area approved from the central government. Acquiring land involves several agencies under the Land acquisition Act, 1894, Coal Bearing area (CBA) Act, 1957 and the Forest Conservation Act 1980.

The coal mining leases under the MMRD Act are now granted for 20–30 years and can be renewed for a further period of 20 years with the previous approval of the central government. The coal mining leases under the MMRD Act,

1957 are ordinarily subject to the ceiling of 10 square km of area.

Of vital concern in the mineral industries is now the sustainable management of the environment, including the forests. In tune with these requirements, of late, there has been several amendments to the Forest (Conservation) Act, 1980 and the Environment (Protection) Act, 1986. Some of these amendments/proposed amendments pertaining to mining are green belt development and safety reserves around the mining areas, ecological reclamation of mine spoil areas, containment of acid mine drainage, mine decommissioning and closure.