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NOTIFICATION

No. H. 12017/55/2003/LJD/113, the 26th August, 2003. The following General Acts are hereby published for general information.

R. Lalthazuala,
Deputy Secretary to the Govt. of Mizoram.

THE OFFSHORE AREAS MINERAL (DEVELOPMENT AND REGULATION) ACT 2002

AN ACT

to provide for development and regulation of mineral resources in the territorial waters, continental shelf, exclusive economic zone and other maritime zones of India and to provide for matters connected therewith or incidental thereto.

It is enacted by Parliament in the Fifty-third Year of the Republic of India as follows:—

CHAPTER-I

PRELIMINARY

1. (1) This Act may be called the Offshore Short title Areas Mineral (Development and Regulation) Act, and commencement. 2002.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. It is hereby declared that it is expedient in the public interest that the Union should take under its control the regulation of mines and the development of minerals in offshore areas to the extent hereinafter provided. Declaration as to expediency of Union control.

33 of 1962. 3. (1) This Act shall apply to all minerals in the offshore areas including any mineral prescribed by notification under clause (g) of sub-section (1) of section 2 of the Atomic Energy Act, 1962 except mineral oils and hydrocarbons related thereto. Application.

(2) Except as otherwise provided in this Act, the provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force in the offshore areas.

Definitions. 4. In this Act, unless the context otherwise requires,—

(a) “administering authority” means an authority notified, in the Official Gazette, by the Central Government for the purposes of this Act;

(b) “atomic minerals” means the minerals included in atomic minerals specified in Part B of the First Schedule to the Mines and Minerals (Development and Regulation) Act, 1957; 67 of 1957.

(c) “Coast Guard” means the Coast Guard constituted under the Coast Guard Act, 1978; 30 of 1978.

(d) “exploration licence” means a licence granted under section 12;

(e) “exploration operation” means any operation undertaken for the purpose of exploring, locating or proving the mineral deposits;

(f) “holder”, in relation to any operating right, means the lessee, licensee or permittee, as the case may be, in respect of such operating right;

(g) “hydrocarbon” means very large group of chemical compounds composed of carbon and hydrogen;

(h) “Indian national” means a citizen of India and includes a firm or other association, if all the members of the firm or, as the case may be, the members of the association, are citizens of India;

(i) "lessee" means the person in whose name the production lease is granted;

(j) "licensee" means the person in whose name the exploration licence is granted;

(k) "mine" means any place in the offshore area wherein any exploration or production operation is carried on, together with any vessel, erection, appliance, artificial island or platform and premises in the offshore area used for the purposes of exploration, winning, treating or preparing minerals, obtaining or extracting any mineral or metal by any mode or method, and includes any area covered by an exploration licence or production lease where exploration or production operation has been, or is being, or may be, carried on under the provisions of this Act;

(l) "mineral" includes all minerals except mineral oil and hydrocarbon resources relating thereto;

(m) "mineral oil" includes natural gas and petroleum;

(n) "offshore area" means the territorial waters, continental shelf, exclusive economic zone and other maritime zones of India under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976,

80 of 1976.

(o) "operating right" means the right of holder of a reconnaissance permit, or an exploration licence, or a production lease;

(p) "permittee" means the person in whose name the reconnaissance permit is granted;

(q) "pollution of offshore environment" means the introduction by any person, directly or indirectly, of substances or energy into the offshore environment which results, or is likely to result, in deleterious effect on living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the offshore areas and impairment of quality of seawater for use and reduction of amenities;

(r) "prescribed" means prescribed by rules made under this Act;

(s) "production operation" means any operation undertaken for the purpose of winning any mineral from the offshore area and includes any operation directly or indirectly necessary therefor or incidental thereto;

(t) "production lease" means a lease granted under section 13 which confers an exclusive right for the purpose of undertaking production operation;

(u) "reconnaissance operation" means any preliminary geo-scientific survey undertaken for the purpose of searching or locating mineral deposits;

(v) "reconnaissance permit" means a permit granted under section 11 for the purpose of undertaking reconnaissance operation;

(w) "vessel" includes any ship, boat, sailing vessel or any other vessel of any description.

CHAPTER II

GENERAL PROVISIONS FOR ACQUISITION OF OPERATING RIGHTS IN THE OFFSHORE AREAS

5. (1) No person shall undertake any reconnaissance operation, exploration operation or production operation in the offshore areas, except under and in accordance with the prescribed terms and conditions of a reconnaissance permit, exploration licence or production lease granted under this Act and the rules made thereunder:

Recon-
naissance
explora-
tion or
production
to be un-
der permit
licence or
lease.

Provided that nothing in this sub-section shall apply to any reconnaissance operation or exploration operation undertaken by the Geological Survey of India, Atomic Minerals Directorate of Exploration and Research, the Chief Hydrographer to the Government of India of Naval Hydrographic Office of the Indian Navy, the National Institute of Oceanography, the National Institute of Ocean Technology of Department of Ocean Development of the Government of India, or any other agency duly authorised in this behalf by the Central Government.

(2) A permittee or licensee or lessee shall furnish—

(a) all data, as the case may be, relating to reconnaissance operation or mineral exploration or

mining such as bathymetry, geo-morphology, mineral distribution, anomaly maps, sections, core logs, location maps, plans, structures, contour maps, chemical analysis, data on current tides, waves, wind, other geophysical and geotechnical data and any other data collected during exploration operation or mining operation, to the Director-General, Geological Survey of India, Kolkata and the Controller General, Indian Bureau of Mines, Nagpur;

(b) all information pertaining to atomic minerals collected, as the case may be, during reconnaissance operation or exploration operation or mining operation, to the Secretary to the Government India dealing with the Atomic Energy, Director-General, Geological Survey of India, Kolkata and the Controller General, Indian Bureau of Mines, Nagpur;

(c) a six monthly report on the work done by him stating the number of persons engaged and disclosing in full the geological, geophysical, geochemical, geoenvironmental or other valuable data collected by him during the period under report, to the Director-General, Geological Survey of India, Kolkata and the Controller General, Indian Bureau of Mines, Nagpur and the report shall be submitted within three months of the closing of the period to which it relates:

Provided that in the case of investigations pertaining to the atomic minerals, such report shall also be submitted to the Secretary to the Government of India dealing with the Atomic Energy;

(d) a full report of the work done by him and all information relevant to mineral resources collected by him during the course of exploration operation of the area covered by the licence within three months of the expiry of the licence, or abandonment of operation or termination of the licence, whichever is earlier, to the Director-General, Geological Survey of India, Kolkata and the Controller General, Indian Bureau of Mines, Nagpur and shall also give therein reasons and indicate whether the whole or any part of the report or data submitted by him should be kept confidential.

(3) Notwithstanding anything contained in this Act, the Central Government may—

(a) authorise seaward artillery practice under the Seaward Artillery Practice Act, 1949;

8 of 1949.

(b) provide for, by notification in the Official Gazette, special measures to ensure public safety and interest, the defence of India and civil defence, conduct of the naval operations and exercises, national security and other strategic considerations and the matters connected therewith during war like conditions or otherwise.

(4) No operating right shall be granted or renewed otherwise than in accordance with the provisions of this Act and the rules made thereunder and any reconnaissance permit, exploration licence or production lease granted, renewed or acquired in contravention of the provisions of this Act or any rules made thereunder, shall be void.

Grant of operating right.

6. The Central Government shall not grant an operating right to any person unless such person—

(a) is an Indian national, or a company as defined in section 3 of the Companies Act, 1956; and

1 of 1956.

(b) satisfies such conditions as may be prescribed:

Provided that no production lease for atomic minerals or prescribed substances may be granted without consultation with the Department of the Government of India dealing with the Atomic Energy.

Termination of operating right.

7. (1) Where the Central Government, after consultation with the administering authority, is of the opinion that it is expedient in the interest of development and regulation of offshore mineral resources, preservation of natural environment and prevention of pollution, avoidance of danger to public health or communication, ensuring safety of any offshore structure or conservation of mineral resources, the Central Government may prematurely terminate any operating right in respect of any mineral in any offshore area or part thereof.

(2) No order for premature termination of operating right under sub-section (1) shall be made except after giving the holder of operating right a reasonable opportunity of being heard.

(3) Where the holder of any operating right fails to commence operation within the period specified in section 14 or discontinues the operation for a period of two years, the operating right shall lapse from the date of execution of the lease or, as the case may be, discontinuance of the operation :

Provided that the administering authority, on an application made by the holder of operating right and after being satisfied that such non-commencement of operation or discontinuation thereof, is due to the reasons beyond the control of the holder of operating right, may condone such non-commencement or discontinuation.

8. (1) The Central Government may, from time to time, by notification in the Official Gazette, reserve any offshore area not already held under any operating right, for the purposes of the Central Government and, where it proposes to do so, it shall, by notification in the Official Gazette, specify the boundaries of such area and the mineral or minerals in respect of which such area shall be reserved. Reserva-
tion of
areas.

(2) The Central Government may, from time to time, by notification in the Official Gazette, dere-serve, any area reserved under sub-section (1), in the interest of development and regulation of the offshore mineral.

9. (1) The Central Government may, in the public interest, by order in writing and communicated to the permittee, licensee or lessee, as the case may be, close any area either in part or whole, covered under any operating right, for the preservation of natural environment and prevention of pollution, or to avoid danger to public health, or communication, or to ensure safety of any offshore structure or platform, or for the conservation of offshore mineral, or for national security or for any other strategic consideration. Power to
close areas.

(2) Any area, either in part or whole closed under sub-section (1) and included in any operating right, shall, from the date of such order, be deemed to be excluded for the purposes of the operating right and the holder of the operating right shall not undertake any operation in the area covered under such order from the date specified

10. (1) Within six months from the date of commencement of this Act, and subsequently at such times as may be considered necessary in this behalf by the administering authority, it shall, by notification in the Official Gazette, declare the parts of the offshore areas which shall be available for grant of reconnaissance permit, exploration licence or production lease.

Availability of areas for grant of permit, licence or lease.

(2) Any application for the grant of reconnaissance permit, exploration licence or production lease in respect of any area not covered by a notification issued under sub-section (1) shall be deemed to be premature and no application shall be entertained therefor.

(3) Operating rights shall be granted in standard block of five latitude and such grant may cover more than one standard block which shall be contiguous.

11. (1) The administering authority may grant a non-exclusive reconnaissance permit to any person eligible under section 6 for grant of operating right.

Grant of reconnaissance permit.

(2) The period for which a reconnaissance permit may be granted under sub-section (1) shall be for a period specified exceed two years.

(3) A reconnaissance permit granted under sub-section (1) may be renewed for a period not exceeding two years if, after a review of the progress made during the period of such grant, the administering authority is satisfied that a further period necessary to complete the reconnaissance operation.

(4) The area that may be granted under one reconnaissance permit shall not exceed a block of two degree latitude by two degree longitude.

(5) The administering authority may grant reconnaissance permits to more than one person in respect of the same area for the same mineral deposits in the interest of offshore mineral development.

12. (1) The administering authority may grant an exploration licence to any person who—

Grant of exploration licence.

(a) is eligible under section 6 for grant of operating right,

(b) produces, to the satisfaction of the administering authority evidence that such person possesses the requisite technical ability and financial resources to undertake exploration operation based on such scientific parameters, as may be prescribed.

(c) submits a work programme for the area applied for, prepared in such manner and supported by such data as may be prescribed, setting forth the activities proposed to be carried out during the period of the exploration licence including the intended exploration schedule and methods to be used, an estimated schedule of expenditure, measures to prevent pollution and protect the environment and to monitor the effectiveness of environmental safeguards subject to the modifications which the administering authority may make in such work programme;

(d) undertakes not to deviate from the work programme for exploration licence approved by the administering authority; and

(e) has fulfilled, to the satisfaction of administering authority, all his statutory obligations under any operating right previously—

(i) granted; or

(ii) transferred in the prescribed manner,

to him.

(2) The administering authority may, if there is any reasonable cause to believe that any person, to whom an exploration licence has been granted, has violated any undertaking given under clause (b) of sub-section (1), terminate the exploration licence.

(3) All applications for the grant of exploration licence received within the prescribed time and which satisfy the conditions specified in sub-section (1) shall be considered together and while making a selection for the grant of exploration licence, the administering authority shall follow the procedure given below, namely:--

(a) where only one application is received in respect of an area, the administering authority may grant the exploration licence to the applicant;

(b) where two or more applications are received in respect of the same area or substantially the same area, the order of preference shall be as follows, namely:—

(I) preference shall be given to an applicant who requires the mineral for use in an industry either already owned by the applicant or who has taken sufficient steps to set-up such industry:

Provided that where there are more than one applicant of such category, the administering authority may grant licence based on a comparative evaluation of the—

(i) nature, quality and experience of the technical personnel employed by the applicant;

(ii) financial resources of the applicant;

(iii) nature and quantum of the exploration work proposed by the applicant; and

(iv) nature, quality and quantum of data submitted alongwith the programme of exploration;

(II) in case of other applicants, not covered under sub-clause (I), the administering authority may grant licence based on a comparative evaluation of matters stated in items (i) to (iv) of the proviso to sub-clause (I).

(4) The period for which an exploration licence may be granted shall not exceed three years.

(5) An exploration licence granted under sub-section (1) may be renewed for a period not exceeding two years if, after a review, the administering authority is satisfied that the licensee has been conducting the exploration operation in accordance with the work programme approved by the administering authority regarding such licence and longer period of renewal of the licence is considered necessary to enable the licensee to complete exploration.

(6) The area that may be granted under exploration licence shall not exceed a block of thirty minutes latitude by thirty minutes longitude:

Provided that if the administering authority is of the opinion that in the interest of the development of any mineral, it is necessary so to do, it may, for reasons to be recorded in writing, permit any person to acquire an area in excess of the area specified in this sub-section.

13.(1) The administering authority shall grant a production lease to any person who—

Grant of production lease.

(a) is eligible under section 6 for grant of operating right;

(b) produces, to the satisfaction of the administering authority, evidence that such person possesses the requisite technical ability and financial resources to undertake production operation based on such scientific parameters as may be prescribed;

(c) submits a work programme for the systematic development of the mineral deposits of the area applied for, prepared in such manner and supported by such data as may be prescribed and obtained through exploration operation, setting forth the activities proposed to be carried out during the period of the lease including the resources assessment of the area, the intended schedule of commercial production, methods and technologies to be used for commercial production and processing, measures to be taken to protect the environment and to monitor the effectiveness of environmental safeguards;

(d) undertakes not to deviate from work programme for production lease approved by the administering authority; and

(e) has fulfilled, to the satisfaction of the administering authority, all the statutory obligations under any operating right previously—

(I) granted; or

(II) transferred in the prescribed manner, to him:

Provided that a licensee shall have the exclusive right to a production lease over such part of the offshore area covered by his exploration licence as he may desire subject to the condition that the administering authority is satisfied that the licensee—

(i) has undertaken exploration operation to establish mineral resources in such offshore area;

(ii) has not committed any breach of the terms and conditions of the exploration licence; and

(iii) has not become ineligible under the provisions of this Act.

(2) The administering authority may, if there is any reasonable cause to believe that any person, to whom a production lease has been granted, has violated any undertaking given under clause (d) of sub-section (1), terminate the production lease.

(3) The period for which a production lease may be granted shall not exceed thirty years.

(4) A production lease granted under sub-section (1) may be renewed for a period not exceeding twenty years, if, after a review, the administering authority is satisfied that the lessee has been conducting the production operation in accordance with the work programme approved by the administering authority regarding such lease.

(5) The area under a production lease shall not exceed a block of fifteen minutes latitude by fifteen minutes longitude:

Provided that if the administering authority is of the opinion that in the interest of the development of any mineral, it is necessary so to do, it may, for reasons to be recorded in writing, permit any person to acquire an area in excess of the area specified in this sub-section.

Period of commencement of operating rights.

14. A holder of operating right shall commence operation within the period specified below after the grant of the operating right and shall thereafter conduct such operation in proper, skilful and workman-like manner, as follows :—

- (a) reconnaissance permit — six months;
- (b) exploration licence — one year; and
- (c) production lease — two years.

Power of Central Government to authorise survey, research and scientific investigations in areas covered under operating rights. 15. Any person or agency authorised by notification in the Official Gazette, by the Central Government in this behalf, may conduct survey, research, diving operations and scientific investigations in the offshore areas, including any area covered under operating rights and the permittee, licensee or lessee, as the case may be, shall permit such person or agency to undertake the said investigations in their respective areas and to render such assistance as may be necessary for conduct of the investigations.

Royalty. 16. (1) A lessee shall pay royalty to the Central Government in respect of any mineral removed or consumed by him from the area covered under the production lease, at the rate for the time being specified in the First Schedule in respect of that mineral.

(2) The Central Government may, by notification in the Official Gazette, amend the First Schedule so as to enhance or reduce the rate at which royalty shall be payable in respect of any mineral with effect from such date as may be specified in the notification:

Provided that the Central Government shall not enhance the rate of royalty in respect of any mineral more than once during any period of three years.

Fixed rent. 17. (1) A lessee shall pay to the Central Government, every year, fixed rent in respect of the area covered under the production lease, at the rate for the time being specified in the Second Schedule:

Provided that where the lessee becomes liable under section 16 to pay royalty for any mineral removed or consumed by him from the area covered under such lease, he shall be liable to pay either such royalty or the fixed rent in respect of that area, whichever is greater.

(2) The Central Government may, by notification in the Official Gazette, amend the Second Schedule so as to enhance or reduce the rate at which fixed

rent shall be payable in respect of any area covered under a production lease and such enhancement or reduction shall take effect from such date as may be specified in the notification:

Provided that the Central Government shall not enhance the rate of the fixed rent more than once during any period of three years.

Contribution towards international Seabed Authority.

18. Every lessee, whose production operation extends beyond two hundred nautical miles from the baseline from which the breadth of the territorial sea is measured shall pay in advance, in addition to other payments required under this Act, to the Central Government, the amount to be paid to the International Seabed Authority towards fulfilment of obligation of the Central Government under Article 82 of the United Nations Convention on Law of the Sea, 1982.

19. (1) The permittee, licensee, lessee or any other person undertaking the reconnaissance operation or exploration operation or production operation under sub-section (1) of section 5 or any agency undertaking the reconnaissance operation or exploration operation under the proviso to sub-section (1) of the said section shall be responsible to ensure that the concerned operation is conducted with due regard to the safety and health of persons including divers and safety and security of property engaged in the operation.

Safety of persons and property.

(2) The Central Government may, by notification in the Official Gazette, declare safety zones in respect of offshore activities as may be necessary and prescribe the norms for regulating the safety and health of persons and safety of property engaged in operations authorised under this Act, the implementation thereof and matters connected therewith.

(3) In the event of any contravention of provisions of sub-section (1) or the norms prescribed under sub-section (2) by the permittee, licensee, lessee or any other person undertaking the reconnaissance operation or exploration operation under sub-section (1) of section 5, or any other agency undertaking the reconnaissance operation or exploration operation under the proviso to sub-section (1) of the said section shall also be deemed to be responsible for such contravention unless he or it proves that he or it, as the case may be, had taken all reasonable precautions within his or, its means for enforcing those provisions to prevent such contravention.

20. (1) Every holder of the operating rights shall carry out the operations authorised under this Act subject to the provisions of this Act and the rules made thereunder and any other law and the rules made thereunder, for the time being in force for the prevention and control of pollution and protection of marine environment. Prevention and control of pollution and protection of marine environment.
- (2) Every holder of an operating right shall be liable for any pollution of, or damage to the marine environment resulting from his activities relating to his operating right in the offshore areas and shall pay such compensation, as may be determined by the administering authority keeping in view the extent of pollution or damage, as the case may be.
- (3) The Central Government may prescribe measure to be taken for prevention and control of pollution and protection of marine environment due to activities in the offshore areas.

21. (1) The permittee, licensee or lessee shall comply with such directions as the Central Government or the administering authority may issue, from time to time, for the conservation and systematic development of offshore minerals, prevention of pollution, protection of marine environment, prevention of coastal erosion or prevention of danger to life or property including the marine life. Power of Central Government and administering authority to issue directions.
- (2) The permittee, licensee or lessee shall comply with such directions as may be issued from time to time by the competent authority or Coast Guard regarding national security, safety and national integrity.

Explanation.—“competent authority” means the competent authority appointed for the purposes of subsection (2) by the Central Government in the Ministry dealing with defence of India.

CHAPTER III

POWER OF ENTRY, INSPECTION, SEARCH AND SEIZURE

22. (1) For the purpose of ascertaining the position of the working, actual or prospective, of any mine or abandoned mine, or for any other purpose connected with this Act or the rules made thereunder, any officer authorised, by the Central Government in this behalf, by general or special order, may— Power of entry inspection, search and seizure.
- (a) enter and inspect, at all reasonable times, any mine;

(b) weigh, draw samples or take measurements of the stocks of minerals recovered from any mine;

(c) survey and take samples and measurements in any such mine;

(d) examine any document, book, register or record in the possession or power of any person having the control of, or connected with, any mine and place marks of identification thereon and take extracts from, or make copies of, such document, book, register or record;

(e) order the production of any such document, book, register and record, by the person referred to in clause (d), and

(f) examine any person having the control of, or connected with any mine.

(2) Any authorised officer may, for the purpose of ascertaining whether or not the requirements of this Act or any rule made thereunder have been complied with, either with, or where it is not possible to obtain warrant conveniently, then, without, a warrant,—

(a) search any mine;

(b) stop or board and search any vessel which is engaged or which is likely to be engaged in any activity regulated under this Act; and

(c) require the person for the time being having command or charge of mine or such vessel to produce any licence, permit, log book or other document relating to the vessel or mine and examine or take copies of such licence, permit, log book or other document, as the case may be, for ascertaining the requirements of sub-section (1).

(3) Where the authorised officer has reason to believe that any vessel or mine has been, or is being, or is about to be, used or employed, as the case may be, in violation of any provision of this Act or rule made thereunder, he may, with or where it is not possible to obtain warrant conveniently, then, without, a warrant,—

(a) seize and detain such vessel or mine, including any gear, equipment, stores or cargo found on board such vessel or belonging to the vessel and seize any mineral found on board the vessel;

(b) seize any evidence relating to violation of any provision of this Act or rule made thereunder;

(c) require the person for the time being having command or charge of the vessel, platform or erection of the mine so seized or detained to bring such vessel, platform or erection to any specified port;

(d) arrest any person whom such officer has reason to believe, has committed such violation:

Provided that the authorised officer, after arresting such person and before producing him before the competent court, shall inform the administering authority regarding the arrest and grounds of arrest communicated to the person so arrested.

(4) In taking any action under sub-section (3), the authorised officer may use such force as may be reasonably necessary.

(5) Where any vessel or other things so seized or detained, under sub-section (3),—

(a) the vessel or other things so seized or detained shall, as soon as possible be produced before the court competent to try an offence under this Act and the court shall make such order as it may deem fit for the retention or custody of such vessel or things with the Central Government or any other authority pending the completion of any proceedings for the prosecution of any offence relating to such vessel or things, as the case may be, under this Act or rules made thereunder:

Provided that the court may, on an application made by the owner or the person for the time being having command or charge of the vessel or mine, order the release of the vessel or other things so seized or detained; to

the owner or the person for the time being having command or charge of the vessel or mine, furnishing security in the form of cash or a bank guarantee for an amount which is not less than fifty per cent. of the value of the vessel or things so seized or detained;

(b) the administering authority shall be informed by the authorised officer of such seizure and the details thereof.

(6) Where, in pursuance of the commission of any offence under this Act, any vessel is pursued beyond the limits of the offshore area, the powers conferred on an authorised officer by this section may be exercised beyond such limits in the circumstances and to the extent recognised by international law and State practice.

(7) Every person to whom an order or warrant is issued or given by virtue of the powers conferred by this section shall be legally bound to comply with such order or warrant.

Explanation. — For the purposes of this section,—

(i) "authorised officer" means an officer of the Central Government notified as such in the Official Gazette, by the Central Government.

(ii) "warrant" means a warrant issued by the Judicial Magistrate or the Metropolitan Magistrate, as the case may be, within whose jurisdiction the place, where the warrant is to be executed, is situated.

CHAPTER IV

OFFENCES

23. (1) (a) Whoever undertakes any reconnaissance operation, exploration operation or production operation in offshore area without any permit, licence or lease, as the case may be, granted under this Act shall be punished with imprisonment for a term which may extend to five years, or with fine which may extend to fifty thousand rupees, or with both. ●ffences

(b) A permittee, licensee or lessee who does not furnish any data, information or document

under sub-section (2) of section 5, in the manner provided therein, shall be punished with imprisonment which may extend to three years, or with fine which may extend to twenty-five thousand rupees, or with both.

(c) Any vessel, together with its gear, boats, stores and cargo, used or employed in violation of section 5, along with any mineral recovered or processed in violation of that section, if any shall be confiscated.

(d) Whoever ships, transports, offers for sale, sells, purchases, imports, exports, or has custody, control or possession of, any mineral recovered, processed or retained in violation of this Act or any rule made thereunder shall be punished with imprisonment which may extend to three years, or with fine which may extend to fifty lakh rupees, or with both.

(2) Whoever—

(a) intentionally obstructs any authorised officer referred to in section 22 in the exercise of any powers conferred under this Act; or

(b) fails to afford reasonable facilities to the authorised officer referred to in section 22 or his assistant to board the vessel or enter the mine or to provide for adequate security to such officer or assistant at the time of entry into the vessel or mine or when they are on board such vessel or mine; or

(c) fails to stop the vessel or mine or to produce the licence, permit, log book or any other document, as the case may be, on board such vessel, or mine, when required to do so by the authorised officer referred to in section 22; or

(d) interferes with, delays, or prevents, by any means, the lawful apprehension of any person under this Act,

shall be punished with imprisonment for a term which may extend to five years, or with fine which may extend to fifty thousand rupees, or with both.

(3) Whoever contravenes any other provision of this Act or rules made thereunder, other than those

specified in sub-sections (1) and (2) shall be punished with imprisonment for a term which may extend to five years, or with fine which may extend to one crore rupees, or with both, and in the case of continuing contravention, with an additional fine which may extend to five lakh rupees for everyday during which such contravention continues.

Offences by companies.

24. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge and that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in this sub-section (1), where an offence under this Act, has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

Place of trial.

25. Notwithstanding anything contained in other law for the time being in force, any person committing an offence under this Act or any rule made thereunder or under any of the enactment extended under this Act or under the rules made thereunder shall be tried for the offence in such place as the Central Government may, by general or special order published in the Official Gazette, direct in this behalf.

Previous sanction of Central Government for prosecution.

26. No prosecution for an offence committed under this Act shall be instituted except with the previous sanction of the Central Government or such officer or authority as may be authorised by the Central Government, by order in writing in this behalf.

Offences triable by Court of Session.

27. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act shall be triable by the Court of Session.

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CHAPTER V

CIVIL LIABILITY AND ADJUDICATION

Civil liability and adjudication.

28. (1) A person to whom a permit, licence or lease is granted under this Act.—

(a) contravenes the general terms and conditions imposed by the rules made under this Act shall be liable to pay to the Central Government an amount which shall not be less than five lakh rupees and which may extend to one crore rupees;

(b) contravenes any particular terms and conditions applicable only in case of such permittee, licensee or lessee as the case may be, shall also be liable, apart from the liability under clause (a), to pay additional amount to the Central Government which shall not be less than one lakh rupees and which may extend to ten lakh rupees.

(2) No court or other authority except the authorised officer designated by the Central Government for this purpose, shall have jurisdiction to hear and decide the cases relating to clauses (a) and (b) of sub-section (1).

(3) An officer of the Central Government who has been authorised by that Government to file an application before the authorised officer designated under sub-section (2), shall file an application against licensee, lessee or permittee, as the case may be, indicating the civil wrong committed by him under clause (a) or clause (b) of sub-section (1) in such manner as may be prescribed.

(4) When an application is filed under sub-section (3), before an authorised officer designated under sub-section (2), he shall serve notice along with the copy of such application to the person, against whom the application is made, to provide him an opportunity to file reply to the application in the prescribed manner and the authorised officer shall dispose of the case after considering the evidence produced either in support or in opposition to the application and after providing the opportunity of hearing.

(5) For the purposes of this section, the authorised officer designated under sub-section (2), shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

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- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions; and
- (f) any other matter which may be prescribed.

CHAPTER VI

MISCELLANEOUS

29. The Central Government may, by notification in the Official Gazette,—

(a) extend with such restrictions and modifications as it thinks fit, any enactment for the time being in force in India or any part thereof to the offshore area or any part thereof; and

Extension of enactments to offshore areas

(b) make such provisions as it may consider necessary for facilitating the enforcement of such enactment,

and any enactment so extended shall have effect as if the offshore area or the part thereof, as the case may be, is a part of the territory of India.

30. (1) Any offence punishable under this Act may, either before or after the institution of the prosecution, be compounded by the administering authority or any other officer authorised by the Central Government with respect to that offence, on payment for credit to that Government of such sum as that administering authority or officer, as the case may be, may specify:

Compounding of offences.

Provided that such sum shall not, in any case, exceed the maximum amount of the fine which may be imposed under this Act for the offence so compounded.

(2) Where an offence is compounded under subsection (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender in respect of the offence so compounded and the offender, if in custody, shall be released forthwith.

Recovery of certain sums as arrears of land revenue.

31. Any licence fee, royalty, fixed rent or other sum due to the Central Government under this Act or rules made thereunder or under the terms and conditions of a reconnaissance permit, exploration licence or production lease may, on a certificate issued by the administering authority, be recovered in the same manner as if it were an arrear of land revenue and every such sum together with the interest due thereon, shall be the first charge on the assets of the permittee, licensee or lessee, as the case may be.

Delegation of powers.

32. The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act or any rule made thereunder may, in relation to such matter and subject to such conditions, if any, as may be specified in the notification, be exercisable also by such officer or authority subordinate to that Government as may be specified in the notification.

Protection of action taken in good faith.

33. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

Appeals.

34. (1) Subject to the provisions of sub-section (2), any person aggrieved by an order made by the administering authority or any officer under this Act or the rules made thereunder may prefer an appeal against such order to the Central Government.

(2) Every such appeal shall be preferred within prescribed period from the date on which the impugned order was made:

Provided that the Central Government may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within such prescribed period, permit the appellant to the appeal within a further period as may be prescribed.

(3) On receipt of any such appeal, the Central Government shall, after giving the parties to the appeal a reasonable opportunity of being heard and after making such inquiry as it deems proper, make such order, as it may think fit, confirming, modifying or reversing the order appealed against, or may send back the case with such direction as it may think fit for a fresh order after taking additional evidence, if necessary.

Power to make rules.

35. (1) The Central Government may, by notification in the Official Gazette, make rules for the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the terms and conditions of a reconnaissance permit, exploration licence or production lease under sub-section (1) of section 5;

(b) conditions for grant of operating right under clause (b) of section 6;

(c) substances to be prescribed under proviso to section 6;

(d) the requisite technical ability and financial resources to undertake exploration operation on scientific parameters under clause (b) of sub-section (1) of section 12;

(e) the manner in which a work programme shall be prepared and the data by which the work programme shall be supported under clause (c) of sub-section (1) of section 12;

(f) the manner of transfer referred to in sub-clause (ii) of clause (b) of sub-section (1) of section 12;

(g) the time within which the applications under sub-section (3) of section 12 are to be received;

(h) the requisite technical ability and financial resources to undertake production operation on scientific parameters under clause (b) of sub-section (1) of section 13;

(i) the manner in which a work programme shall be prepared and the data by which the work programme shall be supported under clause (c) of sub-section (1) of section 13;

(j) the manner of transfer referred to in sub-clause (11) of clause (e) of sub-section (1) of section 13;

(k) norms for regulating the safety and health of persons and safety of property engaged in operations authorised under this Act, the implementation thereof and matters connected therewith under sub-section (2) of section 19;

(l) the measures to be taken for prevention and control of pollution and protection of marine environment due to activities in the off-shore areas under sub-section (3) of section 20;

(m) the manner of filing application under sub-section (3) of section 28;

(n) the manner of filing reply under sub-section (4) of section 28;

(o) any other matter under clause (f) of sub-section (5) of section 28;

(p) the period within which appeal shall be preferred under, and the further period which may be permitted under the proviso to sub-section (2) of section 34;

(q) any other matter which is to be, or may be, prescribed under this Act.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while

it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

36. Notwithstanding anything to the contrary contained in this Act or any rule made thereunder, the Central Government may, if it is of the opinion that in the interests of the offshore mineral development, it is necessary so to do, by order and for reasons to be recorded in writing, authorise in any specific case the grant, renewal or transfer of any operating right to any person on such terms and conditions as it may specify in this behalf in such order.

Relaxation in specific cases

37. The administering authority or any other officer shall be deemed, while acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of the Indian Penal Code.

Persons to be public servants.

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38. (1) If any difficulty arises in giving effect to the provisions of this Act, or of any of the enactments extended under section 29, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or, as the case may be, of such enactment, as may appear to it to be necessary or expedient for removing the difficulty:

Removal of difficulties

Provided that no order shall be made under this section,—

(a) in the case of any difficulty arising in giving effect to any provision of this Act, after the expiry of three years from the commencement of such provision;

(b) in the case of any difficulty arising in giving effect to the provisions of any enactment

extended under section 29, after the expiry of three years from the extension of such enactment.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

THE FIRST SCHEDULE

[See section 16(1)]

RATES OF ROYALTY

- | | |
|--|--|
| 1. Brown ilmenite (leucoxene), Ilmenite, Rutile and Zircon | Two per cent. of sale price on ad valorem basis. |
| 2. Dolomite | Forty rupees per tonne. |
| 3. Garnet | Three per cent. of sale price on an ad valorem basis. |
| 4. Gold | One and half per cent. of London Bullion Market Association price (commonly referred to as "London Price") chargeable on the contained gold metal in ore produced. |
| 5. Limestone and Lime mud | Forty rupees per tonne. |
| 6. Manganese Ore | Three per cent. of sale price on ad valorem basis. |
| 7. Monazite | One hundred and twenty-five rupees per tonne. |
| 8. Sillimanite | Two and half per cent. of sale price on ad valorem basis. |
| 9. Silver | Five per cent. of London metal Exchange price chargeable on the contained silver metal in ore produced. |
| 10. All other minerals not hereinbefore specified. | Ten per cent. of sale price on ad valorem basis. |

THE SECOND SCHEDULE
[See section 17(1)]

RATES OF FIXED RENT

Rates of fixed rent in rupees per standard block per annum

Size	1st Year of the lease	2nd to 5th year of the lease	6th to 10th year of the lease	11th year of the lease and onwards
Standard block of 5 minutes longitude by 5 minutes latitude.	Nil	Rupees 50,000	Rupees 1,00,000	Rupees 2,00,000