


## Content

Title :	Mining Act 
Date :	1930.05.26
Legislative :	<ol style="list-style-type: none"><li>1. Instituted and promulgated on May 26,1930 by National Government with total of 121 Articles, and enforced on Dec. 1, 1930</li><li>2. Article 2, 93 and 116 were amended by the National Government on Jan. 23, 1932</li><li>3. Article 2, 5, 9, 10, 20, 41, 48, 50 , 61, 77, 108 were amended by the National Government on Oct.. 15, 1937</li><li>4. Article 5, 41 and 108 were amended and promulgated by the National Government on Jul. 22, 1938</li><li>5. Article 116 was amended by the National Government on Jun. 08, 1942</li><li>6. Article 92, 108, 109, 110, 112 through 115 were amended and promulgated by the National Government on Apr. 30, 1947</li><li>7. Article 92, 108, 109, 110, 112 through 115 were amended and promulgated under the Presidential Decree on Jan. 17, 1949</li><li>8. Article 92 was amended and promulgated under the Presidential Decree on Aug. 6, 1949</li><li>9. Article 92 was amended and promulgated under the Presidential Decree on Jun. 15, 1950</li><li>10. Total 106 Article were amended and promulgated under the Presidential Decree on Jul. 30, 1959</li><li>11. Article 78 was amended and promulgated under the Presidential Decree on Nov. 29, 1966</li><li>12. Article 2, 9, 19, 21, 36, 40, 49, 50, 55, 57, 60, 61, 65 through 67, 73, 78, 81, 82, 90, 96 through 98, 100 through 103 were amended and 102-1, 103-1 were added and promulgated, and 72 and 83 were deleted under the Presidential Decree on Apr. 14, 1978</li><li>13. Article 14 was amended and promulgated under the Presidential Decree on Sept. 25, 1996.</li><li>14. Article 7, 17 through 19, 21, 24, 25, 31, 33 through 35, 38, 40, 41, 45, 48, 64, 65, 79, 81, 84 through 90 were amended and promulgated under the Presidential Decree on Nov. 15, 2000</li><li>15. Article 6, 15, 16, 21, 39, 44, 77, 82 and 84 were amended, 18-1, 19-1, 19-2, 35-1, 35-3, 83-1, 105-1 were added and promulgated, 33 was deleted, and promulgated under the Presidential Decree on Jun. 12, 2002.</li><li>16. Total 81 Article were amended and promulgated under the Presidential Decree on DEC. 31, 2003</li><li>17. Article 69 was amended and promulgated under the Presidential Decree on Nov. 30, 2016.</li></ol>
Content :	<p><b>Chapter I General</b></p> <p><b>Article 1</b> This Act is instituted to effectively utilize national mineral resources for promoting sustained economic development and boosting social welfare.</p> <p><b>Article 2</b> All mineral ownerships within the territory, exclusive economic marine zone and continental shelf of the Republic of China are owned by state and shall not be exploited unless a mineral right thereof has been acquired pursuant to this Act.</p> <p><b>Article 3</b> The minerals referred hereunder include the following: <ol style="list-style-type: none"><li>1. Gold minerals</li><li>2. Silver minerals</li><li>3. Copper minerals</li></ol></p>

4. Iron minerals
  5. Tin minerals
  6. Lead minerals
  7. Antimony minerals
  8. Nickel minerals
  9. Cobalt minerals
  10. Zinc minerals
  11. Aluminum minerals
  12. Mercury minerals
  13. Bismuth minerals
  14. Molybdenum minerals
  15. Platinum minerals
  16. Iridium minerals
  17. Chromium minerals
  18. Uranium minerals
  19. Radium minerals
  20. Tungsten minerals
  21. Manganese minerals
  22. Vanadium minerals
  23. Potassium minerals
  24. Thorium minerals
  25. Zirconium minerals
  26. Titanium minerals
  27. Strontium minerals
  28. Sulfur and Pyrite
  29. Phosphate minerals
  30. Arsenic minerals
  31. Quartz crystal
  32. Asbestos
  33. Mica
  34. Gypsum
  35. Salt
  36. Aluminite
  37. Diamond minerals
  38. Natural Alkali
  39. Baryte
  40. Chile saltpeter
  41. Glauber's salt
  42. Borax
  43. Graphite
  44. Beryl
  45. Fluorspar
  46. Fireclay
  47. Talc
  48. Feldspar
  49. Kaolin
  50. Marble & Calcite
  51. Magnesium & Dolomite
  52. Coal
  53. Petroleum & Oil Shale
  54. Natural Gas
  55. Gem & Jade
  56. Abrasives
  57. Mineral Pigments
  58. Limestone
  59. Serpentine
  60. Silica Sand
  61. Other minerals designated by the Executive Yuan
- Criteria on establishing of mineral rights for the aforementioned minerals may be announced by the competency agency as required.

#### Article 4

Terminology used in the Act is defined as follows:

1. Mining industry- refers to business entities engaged in exploration, mining and the auxiliary mineral processing and smelting.
2. Exploration- refers to exploring for mineral resources and mineral reserves of a deposit and evaluating of its economic values.
3. Mining- refers to extracting a mineral for its economic and effective utilization.
4. Mineral right applicant: refers to the natural or juridical person applying for establishing a mineral right.
5. Exploration right applicant - refers to the natural or juridical person applying for establishing a mineral exploration right.
6. Mining right applicant- refers to the natural or juridical person applying for establishing a mineral right.
7. Mineral right – refers to the right for exploring for or mining a mineral deposit.
8. Mineral right holder- refers to the natural or juridical person holding the right to explore for or to mine a mineral deposit.
9. Mineral concession – refers to the recorded area where a mineral right has been granted pursuant to this Act. Boundary of a mineral concession is the surface border bounded by stakes and down vertically.
10. Mineral claimed area- refers to the staked area applied for exploring for or mining minerals.
11. Exploration claimed area- refers to the staked area where an exploring right is applied to establish.
12. Mining claimed area- refers to the staked area where a mining right is applied to establish.
13. Mining land- refers to the surface approved for the use of actual mining operations.

#### Article 5

The governing agency under the Act is Ministry of Economic Affairs. In executing the affairs specified under the Act, MOEA may designate an agency specifically responsible for execution of the Act.

#### Article 6

Other than in the Mineral Reserved Area provided under Article 29, all minerals provided under Article 3 are available for mineral right application to natural or juridical person of the Republic of China as permitted by the Act. Central and local governments may secure the aforementioned mineral right as permitted by Act.

#### Article 7

The horizontal surface area of a mineral concession shall be from a minimum of two hectares to a maximum of two hundred and fifty hectares; however, in the need for development, the maximum area of the mine concession may be extended to five hundred hectares if it is deemed necessary after investigation is made by the governing agency.

The area of the petroleum and natural gas concession may not be subject to the restriction on the maximum area as provided above, with approval by the governing agency based on the geological structure of oil and gas reserves.

## Chapter II Mineral Right

### Section 1 Nature and Validity of Mineral Right

#### Article 8

Mineral right is deemed as a real right, to which, unless otherwise specified herein, provisions of real estate of Civil Code shall be applicable.

#### Article 9

Mineral right shall not be severed; however, with a partnership relationship and conforming to mine interest, the right may be split as approved by governing agency, but the area shall not be smaller than the minimum limit as provided under Article 7.

#### Article 10

Except for inheritance, assignment, mortgage, entrustment and compulsory execution, a mineral right shall not be subject to third party's right or legal action.

The mortgage of a mineral right shall be limited to the mining right.

#### Article 11

Contract in breach of the provision under the previous Article shall be invalid. The same applies for the assignment and entrustment of a mineral right without approval of the governing agency.

#### Article 12

The duration of an exploration right shall not exceed a period of two years. An application for an extension shall be submitted to the Ministry of Economic Affairs for approval from six months to a year before expiration and only once. The extension shall not exceed a period of two years.

If the application for extension of exploration right is made following the stipulation of the previous paragraph, the exploration right remains valid during the period between the expiry date of the exploration right and the approval date of the said application.

#### Article 13

The duration of a mining right shall not exceed a period of twenty years. An application for extension shall be submitted to the Ministry of Economic Affairs for approval from six months to a year before expiration before expiration. The extension duration shall not exceed a period of twenty years each time.

If the application for extension of a mining right is made following the stipulation of the previous paragraph, the mining right remains valid during the period between the expiry date of the mining right and the approval date of the said application

#### Article 14

The establishment, extension, alteration, closing or transfer due to assignment or entrustment shall not be valid without approval by and registration with governing agency.

The following shall not be valid unless registered with governing agency:

1. Nullification of and the disposal imposed on a mineral right.
  2. Transfer of the mineral right due to inheritance or compulsory execution.
  3. Establishment, alteration, transfer, nullification of and the disposal imposed on a mortgage.
- On approval of the application of paragraph 1 and the registration of transfer due to inheritance or compulsory execution, the governing agency shall issue or remark on a mining license. The qualification of applicant, procedure for application, registration period, registered item, documents to be submitted and other items in registration rule for paragraphs 1 and 2 shall be established by the governing agency.

### Section 2 Establishment and Renewal of Mineral Right

#### Article 15

When applying for establishment of an exploration right, an applicant shall submit an application form, application fee, mineral concession map, conceptualized exploration plan and its drawing explanation; while applying for establishment of a mineral right, an applicant shall submit an application form, application fee, mineral concession map, ore deposit description, conceptualized mining plan and its drawing explanation.

In the conceptualized exploration and mining plans, soil and water conservation, environmental protection (the impact of exploration or mining activities on the environment), mine safety measures and mining hazard prevention for sustained operation and other items required by the governing agency shall be described in details.

When two or more persons jointly apply for a mineral right, the applicants shall submit a partnership contract, giving separately the investment amount, rights and obligations of each partner, and in case of corporate organization, articles of incorporation shall be submitted together.

#### Article 16

The boundary and area of a mine concession shall be measured in the manner as promulgated by the governing agency.

#### Article 17

In one of the following situations, the governing agency shall not accept the application for establishing a mineral right if:

1. An applicant fails to submit a complete application form with drawing explanation as required pursuant to Paragraph 1 of Article 15.
2. The attached mineral concession map gives no name of place or border of the mineral concession.

3. The mineral claimed area is not within jurisdiction.
  4. An applicant fails to conform to the provisions under Article 6.
  5. The minerals specified in the application form are not those listed under Article 3.
  6. The mineral claimed area is located totally within the area where an application has been suspended or exploration and mining prohibited.
  7. The minerals specified in the application form have been designated as minerals prohibited to exploration and mining in mineral reservation areas.
  8. An applicant fails to pay application fee for establishing the mineral right.
- Application dismissed as per the previous provisions shall not be entitled for priority review.
- Failing in renewal of an application within a period provided under Paragraph 1 of Article 12-1 or Article 13-1, the governing agency shall deny the application.

#### Article 18

In one of the following situations, the governing agency shall dismiss the application for establishing a mineral right and shall notify the original applicant if:

1. An applicant, who submit documents and drawing explanation under Paragraph 1 of Article 15, refuses to amend or fails to resubmit completely amended documents and drawing explanation within a given period of time required by the governing agency after the document has been reviewed.
  2. An applicant keeps failing to guide to survey the area claimed by the applicant on the designated date after the second notice, or fails to denote the claimed area on survey, or the denoted area on survey is totally different from the claimed area on the mineral concession map.
  3. An applicant fails to correct within a given period time the difference of the location and the shape of the claimed area from the mineral deposits, which can damage mining interest.
  4. An application is rejected pursuant to Article 20.
  5. An applicant fails to pay survey fee, current mineral right fee, license fee and registration fee within a given period time after the application has been reviewed and the payment notice has been issued by the governing agency.
- The governing agency shall survey the claimed area and shall approve or reject the application within 6 months after accepting the application.

#### Article 19

The applicant of a mineral right may for the cause of mining interest apply for increase or decrease the acreage of the claimed area; however, the acreage of the claimed area shall remain subject to the provision of Article 7.

#### Article 20

When the exploration right claimed area is deem suitable for mining, the governing agency may notify the exploration right applicant to submit an application for mining right within a given period of time. If the applicant fails to do so, the governing agency may dismiss the original application for the exploration right.

#### Article 21

If a mineral claimed area is found to be overlapping in two or more application for the same kind of mineral, the governing agency shall give the priority review for the overlapping part to the one who first submitted the application.

If the applications referred in the previous paragraph are received on same day, the governing agency shall notify the applicants to negotiate new applications within a given period of time.

If the applicants fail to do so, the governing agency shall determine the priority by lots drawing. However, when an exploration claimed area overlaps with a mining claimed area, the governing agency shall give the priority review to the case of mining application.

If the applicant mentioned in the previous paragraph owns more than 50% of the mineral claimed area, the governing agency shall give the priority review to such an application.

#### Article 22

If an exploration right applicant submits an application for a mining right for the same type of mineral over the same claimed area which overlaps with another mining claimed area applied by other applicant, the arrival date of application for the exploration right shall be deemed as the arrival date of application for the mining right.

#### Article 23

If a mineral claimed area is found to overlap with another applicant's mining concession for the same kind of mineral, the overlapped part of the mineral claimed area shall not be approved.

#### Article 24

During the review period for the application for exploration claimed area, if the governing agency find the said area overlap with another application for mining for the same kind of mineral, the overlapped part area may be subject to the provision under Article 20.

#### Article 25

If a mineral claimed area is found to overlap with another applicant's mineral claimed area or mining concession for the different kinds of mineral, the governing agency shall notify the one who first applies for the mineral claimed area or the holder of mineral right to apply for such different kind of mineral and give the priority review to the application filed within 90 days after notification.

#### Article 26

If the exploration right holder applies for the mining right within 30 days following the expiration of exploration right, the governing agency shall give the application priority review to the said holder.

#### Article 27

Application for a mineral right in the following areas shall not be approved:

1. Within the forbidden areas of fortress, military port, garrison area, and military facility and premises, where permissions of the related governing agencies have not secured.
2. Within one kilometer from the border of commercial district or market place, where permissions of the related governing agencies have not secured.
3. Within conserved forest, watershed area of reservoir, designated scenic area and national park, where permissions of the related governing agencies have not secured.
4. Within 150 meters from public buildings, national cemeteries, railroads, national highways, provincial highways, important factory site and unmovable famous relics, where permissions of the related governing agencies have not secured.
5. Within the areas where exploration or mining is prohibited without permission of the governing agency that is stipulated by other Acts, where permissions of the related governing agencies have not secured.
6. Within the areas where the exploration or mining is prohibited by other Acts.

#### Article 28

The governing agency shall not approve the application for a mineral right if the establishment of the mineral right will be detrimental to the public interest.

To explore for minerals and adjust the mineral concession, the governing agency may designate an area to suspend acceptance of new applications.

#### Article 29

The governing agency, when necessary, may designate minerals and areas as mineral reservation areas and forbid exploration for or mining minerals.

#### Article 30

Renewal procedure for a mineral right may apply the provision of Article 15 and 18.

#### Article 31

Having none of the following, the governing agency shall not dismiss an application for renewal of a mineral right:

1. The applicant different from the mineral right holder.
2. Lack of production record of exploration or mining
3. Having one of the items provided under Article 27 after establishment of a mineral right.
4. Having one of the items provided under Subparagraph 2 to Subparagraph 4 of Article 38.
5. Having the un-improvable item provided under Paragraph 1 of Article 57.

If an application for renewal of a mineral right under Subparagraph 3 of the previous Paragraph are rejected which leads to a loss, the mineral right holder may claim compensation equivalent to the loss incurred within the period of the validity of mineral right against the agency limiting exploration and mining or the one obliged for the compensation.

#### Article 32

After registration for the areas prospected by the governing agency as worth to mine but without establishing a mineral right, or the area the mineral right was revoked pursuant to Article 37 or aborted the approval of a mineral right pursuant to Item 1, 3 or 4 of Article 38, the governing agency may establish the qualification of applicant, capital amount, nature of the business operated, scale of development and other necessary conditions and make public for application within a certain period of time for establishing a mineral right. However, the original mineral right holder of the area with mineral right revoked in accordance with Article 37 or aborted under Article 38 shall not be eligible for re-application. The original right holder shall not be allowed to apply for the mineral right to the area of any adjustment made if this is the case.

If there are more than two applications complying with the provisions of the previous Paragraph within the announced period, the award of the mineral right shall be determined by lots drawing.

#### Article 33

In order to avoid overlapping in application of a mineral right, the applicant may apply by submitting drawings with the governing agency for referring to mineral right registry.

### Section 3 Change, Transfer and Extinction of Mineral Right

#### Article 34

When applying for increasing, decreasing, combining or severing of the approved mineral concession, the mineral right holder shall submit application form, new and old mineral concession plan and reason statement to the governing agency. The area of the mineral concession shall be still subject to the restriction of Article 7.

The processing of the above application shall apply the provisions under Article 18.

#### Article 35

When requiring excavation into adjacent mineral concession due to the location or shape of a mineral deposit, the mineral right holder may negotiate with the adjacent mineral right holder to obtain a consent letter and jointly apply with the adjacent mineral right holder to the governing agency for mineral concession adjustment with the consent letter and mineral deposit drawing and its explanation. The area of mineral concession shall be still subject to the restriction of Article 7.

When requiring drilling a well or excavating a shaft or tunnel through adjacent mineral concession due to the location or shape of a mineral deposit, the mineral right holder may negotiate with the adjacent mineral right holder to obtain a consent letter and apply to the governing agency for approval of construction with the consent letter and construction drawings and its explanation.

#### Article 36

The transfer of a mineral right shall be made in writing and apply to the governing agency in accordance with the following requirements:

1. Transfer due to inheritance shall be applied by the successor.
2. Transfer due to assignment shall be applied by the assignee and the mineral right holder jointly.
3. Transfer due to compulsory execution shall be applied by the creditor.
4. Transfer due to entrustment shall be applied jointly by the trustee and the mineral right holder.

At transfer of a mineral right, the rights and obligations imposed on the mineral right holder related to the mineral right shall be transferred together.

#### Article 37

A mineral right obtained through fraudulent is found to be guilty by competent court; the governing agency shall revoke the approval of the mineral right.

#### Article 38

Under one of the followings, the governing agency shall abort the approval of a mineral right if:

1. The mineral right holders don't commence work within 2 years after registration of mineral right or suspend work intermediately for more than one year; however, the abortion can be exempted with a good reason for the un-commencement, approved by the governing agency.
2. The operation of mining is impeding public interest which is un-reparable.

3. The mineral right holder fails to pay the mineral right fee or mineral royalty for more than 2 years.
4. Mining work is damaging mineral resources or harmful to the safety of mining workers that is unable to be improved or the mineral right holder fails to improve the said issues as order.

#### Article 39

Under one of the followings, except those provisions under Paragraph 1 of Article 42, the governing agency shall make extinction registry if:

1. Mineral right is revoked by the governing agency in accordance with Article 37 or the approval of the mineral right is aborted in accordance with the previous Article or Paragraph 1 of Article 57.
2. Mineral right holder applies voluntarily abatement with the approval of the governing agency within the validity of the mineral right.
3. Mineral right holder fails to renew the mineral right in accordance with the provision of the Act in the validity of the mineral right.
4. Renewal application made by the mineral right holder in accordance with the provisions by Act is dismissed by the governing agency while the validity of mineral right is also expired.

The registration of mortgage extinction shall be made concurrently along with the registration of mineral right extinction.

#### Article 40

After a mineral right is revoked aborted or voluntary abated, the original mineral right holder shall dispose the property and equipment by itself within one year; however, additional one-year extension may be granted by the governing agency under special condition of no harm to the mineral interest.

After extinction of a mineral right, the original right holder, for mineral interest protection or hazard prevention, shall not freely dispose the equipment without the approval of the governing agency, and shall still comply with Mine Safety Act and its regulations.

### Section 4 Mortgage of Mineral Right

#### Article 41

After creating mortgage, the mineral right holder shall submit a letter of consent of mortgagee when applying with the governing agency for abatement, severance, combination, reduction, increase or adjustment of mineral concessions.

#### Article 42

The governing agency shall notify the mortgagees prior to processing extinction registration due to revocation, abortion or voluntary abatement of the mining right when the mortgage was created prior to the amendment of the Act on Dec. 9, 2003. The mineral right shall not be exercised as application for voluntary abatement of mining right is submitted, or during the period after the revocation or abortion decision is made by the governing agency and before the final auction is made.

The mortgagee may still request court for auction of the mining right within 60 days after the receipt of notice according to the previous Paragraph, even the debt remain undue; however, as abortion is made for approval of mining right due to impeding of public interest under Paragraph 2 of Article 38, no auction request shall be made.

At the change registration of a transfer due to final auction, the governing agency shall make extinction registration of the mining right under Paragraph 1.

The mining right received from the auction under Paragraph 1 shall be received from the date of extinction of the original mining right. The validity shall be expired at the expiration of original mineral right.

## Chapter III Mining Land

#### Article 43

A mineral right holder shall submit mining and construction plans, together with drawings to the governing agency for review and approval of the area to be acquired for mining use and shall notify the landowner and interest party.

In case the required document under the previous Paragraph is incomplete or application fee and survey fee have not been paid, the governing agency may notify the mineral right



holder to revise the document or pay the fees within a given period of time. If no revision or payment made within the given period of time, the application shall be dismissed. Prior to approval under Paragraph 1, the governing agency shall first consult with such agencies as land administration, environment protection, soil and water conservation and other related governing agencies as well as the landowner. In case the land is within national park, the consent of the governing agency of the national park shall be secured. In case the land under Paragraph 1 is public owned, the governing agency, prior to approval, shall first secure the consent of the administration agency of the particular land.

#### Article 44

Under any one of the following, the mineral right holder may, when necessary, use the land owned by others:

1. Drilling a well, excavating a shaft and tunnel or exploring for and mining minerals.
2. Stockpiling mineral product, explosive, earth and rock, wood, charcoal, slag, ash and other material for mining.
3. Building a plant, warehouse or other houses required by the mining operation.
4. Constructing large or small railways, canal, road, water pipe, gas pipe, oil pipe, gas storage tank, water tank, oil pond, boosting station, distribution station, trench, shaft, tramway, electric cable or transformer room.
5. Installing other work or facilities necessary for the mining operation.

#### Article 45

Obtaining the right of land use as specified in the previous Article shall be in the following manners:

1. Purchase: the mineral right holder obtains land ownership by paying considerable amount of money.
2. Rent: the mineral right holder pays rent in one time or by installment.
3. Obtaining in the manners specified in other Act.

If a mineral right holder shall install such facilities as overhead pipeline or cable line only through the land owned by others or with an expense more than the holder can afford, the holder can still pass through over or underneath others' land by the way of less damage to the land; however, the holder shall pay appropriate compensation to the land owner.

#### Article 46

The price of the land purchased by a mineral right holder, in the case of private land, shall be decided through negotiation and should no agreement be reached, a real estate appraiser shall be commissioned to fix; while, in the case of public land, it shall be calculated based on the standard for public property disposal.

The annual rental of the land leased to a mineral right holder shall be set at 8% or less of normal transaction price, and the determination of normal transaction price shall apply the provisions under the previous Paragraph.

#### Article 47

After approval of the land use, the mineral right holder shall consult with the landowner and interested party to secure the right to use the land. If an agreement can't be reached, either party may request the governing agency for settlement.

Landowner and interest party may institute civil proceedings if they fail to accept the settlement as stated in the previous Paragraph; however, the mineral right holder may commence to use the land after depositing the land price, rental or compensation and filing for the reference of the governing agency.

#### Article 48

After completing the use of mining land, the mineral right holder shall conduct rehabilitation and hazard prevention measures as per the approved soil and water conservation plan.

If damage remains on the leased or pass-through land after completing the measures stated in the previous paragraph, the mineral right holder shall compensate the landowner subject to the level of damage.

#### Article 49

If mining operation results in a material loss to the land beyond the mineral concession, the mineral right holder shall make appropriate compensation to the landowner and interested party.

#### Article 50

At the transfer of a mineral right, the relevant rights and obligation of the mining land shall be transferred at the same time.

#### Article 51

A prospector, mineral right applicant or mineral right holder may, as necessary, conduct survey or prospecting on the land of other; however, prior notice shall be given to the local agency and landowner or land user, and owner's consent shall be obtained when an obstacle needs to be removed.

#### Article 52

The prospector, mineral right applicant or mineral right holder shall make compensation at actual value to the landowner, land user or owner of the obstacle as a loss occurs due to the situation as stated in the previous Article.

### **Chapter IV Mineral Right Fee and Mineral Royalty**

#### Article 53

A mineral right holder shall pay mineral right fee based on the kind of minerals, the area of concession and the rate of exploration right or mining right. However, the mineral right holder of offshore petroleum or natural gas may be exempted from mineral right fee under a special reason approved by the governing agency.

The rate of mineral right fee under the previous Paragraph shall be fixed by the governing agency.

The mineral right holder under Paragraph 1 may apply for reduction of the business tax or mineral royalty paid for the mineral production from the mineral right fee for the same type of mineral; however, the reduction of mineral right fee shall be limited to 80%.

#### Article 54

The mineral right holder shall pay mineral royalty of the mineral price at the rate of 2% to 50% for petroleum and natural gas, 2% to 20% for metallic minerals, and 2% to 10% for other minerals.

The mineral price and the rate as stated in the previous Paragraph shall be fixed by the governing agency.

#### Article 55

A mineral right holder shall pay a mineral right fee and mineral royalty on annual basis. In order to cope with a special situation related to domestic or overseas economy and to introduce a rational operation to the industry, the governing agency may adjust mineral royalty as necessary and the adjustment shall not be subject to the restriction on the lowest rate of the mineral royalty under Paragraph 1 of the previous Article.

The collecting procedure and standard adjustment of the mineral right fee and mineral royalty as stated in the previous Paragraph shall be fixed by the governing agency.

#### Article 56

A mineral right holder who delays the payment of a mineral right fee or mineral royalty shall be charged with demurrage of 1% of the un-payment for every two days; however, the demurrage shall be limited to a maximum of 15%. If the payment is delayed over 30 days, the interest accrued on daily basis at fixed annual rate following the postal saving deposit shall be paid together with the un-payment.

### **Chapter V Supervision and Promotion of Mining**

#### Article 57

When mining work is considered to be detrimental to public interests, the governing agency shall instruct the mineral right holder to take remedial measures within a designated period time, or suspend the work temporarily. The mineral right holder, without a rational reason, fails to complete the remedial measure within the designated period of time, or does not suspend the work temporarily, the governing agency may revoke the approval of the mineral right. With the need for public interest, the governing agency may designate all or part of the mineral concessions affecting public interest as a mining-prohibited area under the application of other governing agency; or the other governing agencies involved in public interest restrict

the exploration or mining on a mining land approved for mining operation under their Acts, leading to an operational loss, the mineral right holder may claim compensation for the loss suffered within the valid period of the mineral right against the obligating agencies who have imposed such prohibition or restriction.

The dispute once arisen among the mineral right holders and the agency applying for designating an area to be prohibited or restricted for exploration or mining, or other agencies obliged to such compensation, shall be settled by the governing agency.

After designating a mining-prohibited area, the governing agency shall revoke the approval of all or part of the mineral right.

#### Article 58

After registration of a mineral right, the holder shall file with the governing agency for commencing of work by submitting documents of mine commencement application, mine office photos, construction plan and drawing, detail list of mining equipment and facilities inside and outside the mine portal, as well as certificates of appointing a responsible person at the mine, selecting key technicians, and purchasing or leasing of the mining land. The government agency will then issue a mine registration certificate after inspection and approval the documents.

#### Article 59

A mineral right holder shall keep a mining survey map and a mining logbook at the mine office. A mineral right holder shall file with the governing agency a document with the construction and mining survey map and related results every January.

Before 10th of each month, a mineral right holder shall file with the governing agency a copy of mining logbook; however, with rational reason and approval by the governing agency, the filing may be extended.

#### Article 60

A mineral right holder shall file with the governing agency a detail list of the mining operation of the previous year and the construction plan of the current year every January.

#### Article 61

The mineral obtained from exploration shall not be sold without permission of the governing agency.

#### Article 62

The conceptualized exploration plan and its drawing, the conceptualized mining plan and its drawing, the mining and construction plan and its drawing and the annual construction plan and its drawing attached to the application for a mineral right shall be issued by a professional mining engineer registered under the professional engineering Act.

#### Article 63

The governing agency may dispatch personnel to inspect mining-related mining logbook, records or equipment, and the mineral right holder shall not evade, obstruct or refuse such inspection.

#### Article 64

When a survey of adjacent mineral concession is needed due to an accident, the mineral right holder or stakeholders may request the governing agency for joining an in-situ survey with the mineral right holder.

When the government agency conducts a survey at the request from an applicant to the mineral claimed area or mineral concession, the applicant shall pay the expense incurred.

#### Article 65

To explore for a mineral deposit of an area, the governing agency may set up a exploration institute or commission other related parties to conduct the exploration.

#### Article 66

In order to assist in mining operation, the governing agency may provide assistance in land secure, funds raising, equipment procurement, human resources training and techniques development.

#### Article 67

The machinery, equipment and materials used specially for exploring or drilling of offshore petroleum and natural gas shall be exempted from import duty.  
The detail categories of the aforementioned machinery, equipment and materials shall be determined by the governing agency jointly with Ministry of Finance.

#### Article 68

The mineral right holder of offshore petroleum or natural shall establish a safety zone for the equipment and installation necessary for the exploring and drilling in the drilling area.

The necessary equipment, installation and safety zone referred under previous Paragraph shall not obstruct international navigation.

The established equipment, installation and safety zone under Paragraph 1 shall make proper announcement and install a warning sign to indicate their existence.

### Chapter VI Penalties

#### Article 69

Mining without obtaining mineral right pursuant to the Act shall be sentenced to imprisonment for a term of 5 years or less, detention or a fine or a combined fine of not less than NT\$200,000 and up to NT\$1,000,000.

Representative, agent, employee or other servants of a legal entity committing an offense due to performing duty, shall be penalized as an actor, additionally; the legal entity is also subject to the fine under the previous Paragraph.

#### Article 70

With one of the following situations, violator is subject to a fine of not less than NT\$100,000 and up to NT\$300,000:

1. Violating provisions under Article 10 of being subject to third party's right or legal action without authorization.
2. Violating provisions under Article 11 of assigning and entrusting a mineral right without approval of the governing agency.
3. Violating provisions under Article 61 of selling minerals from exploration without permission of the governing agency.

#### Article 71

Mining beyond the mineral concession is subject to a fine of not less than NT\$100,000 and up to NT\$300,000.

As a violator is penalized under the provision of previous Paragraph, the mined mineral product shall be confiscated and the violator may be charged with equivalent money, if all or part of the product can't be confiscated.

#### Article 72

Any one of the following situations is subject to a fine of not less than NT\$10,000 and up to NT\$30,000:

1. Failing to install drawing, logbook or to report as required under Article 59.
2. Failing to file reports as required under Article 60.
3. Violating provisions under Article 6 of evading, obstructing or refusing inspection.

#### Article 73

The governing agency shall revoke the approval of the mineral right as provided under Paragraph 3 of Article 38 for defaulting payment of mineral right fee or mineral royalty for more than 2 years, while the defaulted mineral right fee, mineral royalty and the additional amount imposed per Article 56 shall be subject to compulsory execution.

#### Article 74

The fine imposed in accordance with the Act but failed to pay within a given deadline is subject to compulsory execution.

### Chapter VII Appendix

#### Article 74-1

For the application, accepted prior to the amendment of the Act on Dec. 9, 2003, for

marking of silica sand excavation permit, the governing agency shall notify the mineral right holder to change to add silica sand as a kind of mineral to his application. For the application to the municipal or prefecture (city) governing agency for silica sand excavation permit pursuant to the Earth and Stone Excavation Act, the said governing agency shall notify the applicant to reapply for establishing a mineral right instead pursuant to this Act.

For the mineral right approved, prior to the amendment of the Act on Dec. 9, 2003, to be marked with silica sand excavation permit, the mineral right holder shall apply to add the silica sand mineral to the original mineral right within 60 days from the enforcement date of the amendment of the Act.

The governing agency shall revoke, on 61st day from enforcement of the amendment of the Act, the approval of the marked silica sand excavation permit if the mineral right holder fails to apply for addition of silica sand mineral as required under the previous paragraph.

For the silica sand excavation permit secured prior to Dec. 9, 2003, the date of amendment of the Act, the permit holder shall apply to establish a mineral right for the permitted excavation area with the governing agency within 60 days after the enforcement of the amendment of the Act. The permitted excavation area shall not be subjected to the minimum area specified under Paragraph 1 of Article 7.

If the permit holder fails to apply for establishing a mineral right as required under the previous paragraph, the governing agency of the municipal or prefecture (city) shall revoke the permit for silica sand excavation on the 61st day from the date of enforcement of the amended Act.

#### Article 75

For the mineral right established prior to June 12, 2002, the previous amendment date of the Act, the mineral right holders may equally share the minerals within the boundary area among the neighboring mineral concessions and then applying for adding the shared area to the original concession. In case an agreement exists among the holders of neighboring mineral concession, the agreement shall stand.

#### Article 76

For the state-owned mineral right established prior to December 9, 2003, the original operator or lessee may, within 60 days from the enforcement date of the amended Act, apply for a change of the original license or lease to a mining right. The validity shall be of the expiry date of the original state-owned mineral right.

For the state-owned mineral right established prior to the amendment of the Act, the original operator or lessee who have entered into contract with the Executive Yuan approval for off-shore petroleum exploration and extraction with a foreign company or a company of the Mainland China in accordance with Statutes for Offshore Petroleum Exploration and Extraction, the original contract shall remain valid without being subject to the restriction under the Act.

The governing agency shall revoke, on the 61st day from enforcement date of the amended Act, the original state-owned mineral right without an operator or lessee from the enforcement date of the amended Act. The governing agency shall also revoke the original state-owned mineral right if the operator or lessee fails to apply for a change of the original state-owned mineral right to mining right pursuant to Paragraph 1 of this Article.

#### Article 77

Prior to the date of December. 9, 2003 the Act is amended, the original mineral right holder may, within 3 months from the enforcement date of the amended Act, renew the mineral right if the validity is less than 9 months and shall subject to no restriction on the date of the renewal provided under Paragraph 1 of Article 12 or Paragraph 1 of Article 13. For the mineral right which validity has expired but not more than 30 days, the mineral right holder may renew the mineral right within 30 days of its expiry.

#### Article 78

The government agency shall impose an application fee, registration fee, copying fee, survey fee or license fee on the application, registration, copying, survey or license pursuant to the Act, governing agency. The rate schedule shall be established by the governing agency.

#### Article 79

The Enforcement Rules for the Act shall be established by the governing agency.

Article 80

The Act shall be implemented from the date of its promulgation.

---

Data Source : Ministry of Economic Affairs R.O.C.(Taiwan) Laws and Regulations Retrieving System