



SUPREME DECREE N° 014-92-EM







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GENERAL MINING ACT SINGLE REVISED TEXT

SUPREME DECREE N° 014-92-EM

THE PRESIDENT OF THE REPUBLIC

WHEREAS:

The General Mining Act was enacted by Legislative Decree No. 109 and the Act for the Promotion of Investments in the Mining Sector was enacted by Legislative Decree No. 708, the latter Act partially amended the General Minina Act:

Transitory Provision Nine of the Legislative Decree No. 708 stipulates that by Supreme Decree, countersigned by the Ministry of Energy and Mines, the Single Revised Text of the General Mining Act will be approved, incorporating the provisions of said Legislative Decree;

Pursuant to provisions in subsection 26) in Section 211 of the Peruvian Political Constitution;

DOES HEREBY DECREE:

Section 1.- The Single Revised Text of the General Mining Act, consisting of fifteen Titles, fifty-four Chapters, two-hundred twenty-six Sections, sixteen Transitory Provisions and eight Final Provisions, which is part of this Supreme Decree, is approved.

Section 2.- Amendments by Legislative Decree No. 708 to Legislative No. 109, included in the Single Revised Text that is approved by means of this Supreme Decree, will be effective from the effective date of Legislative Decree No. 708, except for those stating a different date in their own text

Section 3.- While the rational scheme of decentralization and/or deconcentration is prepared according to the needs of the regions, referred to in Section 2, paragraph 9), of Decree Law No. 25418, Basic Law of the Emergency and National Reconstruction Government, functions assigned to the Mining Administrative Courts by the General Mining Act, will be governed by the provisions in the Supreme Decree No. 002-92-EM/VMM.

Given at the Government House, in Lima, on this 2nd day of June 1992.

Signature of the Constitutional President of the Republic.
Signature of the Minister of Energy and Mines

(The D.S. was published on June 3, 1992 and the T.U.O. on June 4, 1992) This publication corresponds to the updated and annotated text as of June 2021.

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GENERAL MINING ACT SINGLE REVISED TEXT

(D.S. No. 03-94-EM approved the Regulations of the Relevant Titles of this Act)

PRELIMINARY TITLE

The present Act encompasses everything related to the use of mineral substances in the soil and subsoil within the national territory, as well as in the maritime domain. Oil and similar hydrocarbons, guano deposits, geothermal resources and medicinal mineral waters are excluded from the scope of application of this Act.

According to paragraph 9 of Section 69 of Act No. 27972, Organic Act of Municipalities, the rights paid for the extraction of construction materials from riverbeds and quarries located in its jurisdiction, are municipal revenues, according to law.

Section 1 of Act No. 28221 establishes that district and provincial municipalities are competent in their jurisdictions to authorize the extraction of materials carried and deposited by the waters in riverbeds and to collect the corresponding fees in application of the provisions set forth in subsection 9, Section 69 of Act No. 27972.

All mineral resources belong to the government, whose ownership in inalienable and imprescriptible.

The government evaluates and preserves natural resources by developing a basic information system for the promotion of investment. This system regulates mining activity at the national level and monitors it in accordance with the basic principle of administrative simplification.

Mineral resources are exploited through government and private business activity under a system of concessions.

Section 60 of the Political Constitution of Peru establishes that only if expressly authorized by law, the government can directly or indirectly engage in business activity for reasons of high public interest or manifest national convenience.

The government protects and promotes small-scale and artisanal mining, as well as medium-scale mining, and promotes large-scale mining.

Note:

Text of paragraph according to Section 4 of Act No. 27651.

The mining concession is bound by the obligation consisting of investing in the production of mineral substances.

The mining industry is of public interest and the promotion of investments in mining activity is of national interest.

The following are mining industry activities: search, prospection, exploration, exploitation, general work, beneficiation, commercialization and mining transport.

The government is responsible for rating the mining activities.

The government or private companies must comply with the provisions established in this Act in order to engage in the above mentioned activities.



Section 1 of Legislative Decree No. 1048 stipulates that the storage of ore concentrates in deposits located outside the areas of mining operations constitutes an activity of the mining sector that is not executed under the concession system.

The performance of mining activities, except for search, prospection and commercialization, is exclusively conducted under the concession system, which is accessed under procedures that are matters of public policy. Concessions are granted to both government and private companies, without distinction or privilege.



Section 60 of the Political Constitution of Peru establishes that only if expressly authorized by law, the government can directly or indirectly engage in business activity for reasons of high public interest or manifest national convenience.

TITLE ONE

MINING ACTIVITIES AND HOW TO PERFORM THEM

CHAPTER ISEARCH AND PROSPECTION

SECTION 1.- Search is the action aimed to evidencing mineralization through elementary mining works.

Prospection is the research process conducted to determine possible mineralization areas through chemical and physical data and measurements with precision instruments and techniques.

SECTION 2.- Search and prospection can be freely developed throughout the Peruvian territory. These activities may not be conducted by third parties in areas where there are mining concessions, non-claimable areas, and fenced or cultivated lands, unless there is prior written permission from the owner or holder, as the case may be.

Search and prospection in urban or urban expansion areas, in areas reserved for national defense, in archaeological areas, and on public properties is prohibited, unless prior authorization is obtained from the competent authority.



Section 10 of the Environmental Protection Regulations for Mining Exploration Activities, approved by D.S. No.042-2017-EM, and amended by D.S. No. 019-2020-EM, describes the search and prospection activities that do not require environmental certification prior to their section.

CHAPTER II COMMERCIALIZATION

SECTION 3.- The commercialization of mineral products is internally and externally free and no concession is required for its exercise.

Section 9 of Legislative Decree No. 1107 establishes that National Superintendency of Customs and Tax Administration (SUNAT) may apply special controls for the commercialization of mining products within the scope of its competence.

SECTION 4.- Mineral products purchased from persons authorized to dispose of them are not claimable. Purchases made from unauthorized persons holds the buyer liable. The buyer is obliged to verify the origin of the mineral substances.

Mote:

Section 3 of D.S. No. 055-2010-EM provides that, for purposes of compliance with Section 4 of this Act, the beneficiation plants that purchase the product of mining activities either unprocessed or as a concentrate, molten, tailing or any other condition prior to its refining; as well as natural or legal persons that are exclusively engaged in the purchase and sale of gold and/or raw minerals, must verify their origin and keep an updated record in electronic or physical means.

By D.S. No. 024-2016-EM, the Regulations on Safety and Occupational Health in Mining were approved, repealing only Sections 1 and 2 of D.S. No. 055-2010-EM, so its remaining Sections are still in force.

Section 10 of Legislative Decree No. 1107 establishes that the beneficiation plants providing services for unprocessed, molten mining products, tailings or any product in any other condition prior to its refinement, must request the relevant documents, verifying the information contained therein to confirm their origin.

Section 11 of Legislative Decree No. 1107 provides that any purchaser of mining products controlled and supervised under the aforementioned legislative decree, whatever their condition, regardless of whether the acquisition is made temporarily or permanently, must verify the origin of such products, requesting the corresponding documents, and must verify the authenticity of the data entered in the corresponding information systems.

SECTION 5.- Supreme Decree No. 005-91-EM/VMM, on the free commercialization of gold, shall be given the force of law.



The Seventh Final Supplementary Provision of Legislative Decree No. 1105 establishes that the Executive Branch, in order to promote the formalization of Small-Scale and Artisanal Mining Producers, may, by means of a supreme decree countersigned by the Ministers of Economy and Finance and of Energy and Mines, issue supplementary regulations on the commercialization of gold produced by the above-mentioned producers.

CHAPTER III

OTHER MINING ACTIVITIES

SECTION 6.- The government may declare by express law the reserve of certain mineral substances of national interest.

SECTION 7.- Exploration, exploitation, beneficiation, general work and mining transportation activities are carried out by national or foreign individuals and companies, through the concession system.



Section 2 of Legislative Decree No. 1048 establishes that any and all national or foreign natural and/or legal persons engaged in said activity under any title, is responsible for the storage of ore concentrates in deposits located outside the mining operation areas.

TITLE TWO

CONCESSIONS

CHAPTER I

MINING CONCESSIONS

SECTION 8.- Exploration is the mining activity aimed at demonstrating the dimensions, position, mineralogical characteristics, reserves and values of mineral deposits.



By D.S. No. 042-2017-EM, the Environmental Protection Regulations for Mining Exploration Activities were approved, amended by S. D. No. 019-2020-EM.

Exploitation is the activity of extracting minerals contained in a deposit.

Development is the operation carried out to make possible the exploitation of mineral contained in a deposit.



D.S. No. 040-2014-EM approves the Regulations on Environmental Protection and Management for Mining Exploitation, Beneficiation, General Work, Transportation and Storage Activities.

SECTION 9.- The mining concession grants its holder the right to explore and exploit the granted mineral resources, located in a solid area of undefined depth, limited by vertical planes corresponding to the sides of a closed square, rectangle or polygon, with corner points in Universal Transverse Mercator (UTM) coordinates.

The mining concession is a different and separate property from the land where it is located.

The integral and ancillary parts of the mining concession remain as property even if they are located outside its perimeter, unless the differentiation of ancillary parts is otherwise agreed by contract.

The works carried out for the use of such substances are integral parts of the mining concession. All goods owned by the concessionaire that are permanently used for the economic purpose of the concession are ancillary parts thereof.

The concession title in itself does not authorize exploration or exploitation mining activities. Section 37.3 of the Mining Procedures Regulations, approved by D.S. No. 020-2020-EM, specifies the authorizations required by the concessionaire before starting activities.

SECTION 10.- The mining concession grants its holder a real right, consisting of the sum of rights that this Act recognizes for the concessionaire.

Concessions are irrevocable as long as the holder fulfills the obligations required by this Act to maintain its validity.

🗷 Note:

According to Section 6 of Decree Law No. 25998, the principle established in the first paragraph of this Section also applies to the beneficiation, mining transport and general work concessions.

SECTION 11.- The basic surface measurement unit of the mining concession is a geometric figure, delimited by UTM coordinates, with an extension of 100 hectares, according to the Grid System to be formalized by the Ministry of Energy and Mines.

Concessions shall be granted in extensions of 100 to 1,000 hectares, in grids or sets of grids adjacent to each other at least on one side, except in the maritime domain, where they may be granted in grids of 100 to 10,000 hectares.

The mining concession area can be divided into grids of not less than 100 hectares. To this effect, the petition submitted by the holder of the concession shall suffice.

Note:

The Grid System was formalized by R.M. No. 320-91-EM.

Section 5 of Decree Law No. 25998, stipulates that mining concession titles may be granted in extensions of less than one hundred (100) hectares in the border areas of the country; or in extensions of less or more than one hundred (100) hectares in the overlapping strips in zones 17, 18 and 19 of the National Map.

Section 8 of Act No. 27015, Special Act Regulating the Granting of Mining Concessions on Urban Areas and Urban Expansion Areas, establishes that the petitions for metal and non-metal mining concessions located in urban expansion areas, shall be drawn up in extensions of ten (10) hectares and up to a maximum of one hundred (100) hectares, the vertices of which shall be fixed in UTM coordinates, according to the grid system to be established in the regulations.

Section 10 stipulates that the provisions of Sections 3, 5, 8 and 9 of the same Act are not applicable to non-metallic mining concessions, when its holder accredits before the General Directorate of Mining that its production is destined exclusively for the production of cement. These non-metallic mining concessions shall continue to be governed, insofar as applicable, by the provisions set forth in the General Mining Act.

SECTION 12.- When within an area enclosed by a grid there are mining claims, petitions or concessions requested prior to the Mining Grid System in UTM coordinates, referred to the Official Horizontal Geodetic System (WGS84), the new petitions shall only include the free areas of the grid or set of grids.

Text of the section according to paragraph 5.1 of Section 5 of Act No. 30428, Act that formalizes the Mining Grid System in UTM WGS84 coordinates. The regulations of this Act and supplementary provisions were approved by D.S. No. 025-2016-EM.

SECTION 13.- Mining concessions granted after December 15, 1991, shall be classified as metallic and non-metallic, depending on the type of substance, without overlap or priority among them.

The mining concession may be changed to a substance different from the one initially granted, for which the statement made by the holder shall suffice.



The Tenth Final Supplementary Provision of Legislative Decree No. 1105 establishes that, if exploitable metallic and nonmetallic substances coexist in a mining concession, the holder of a metallic mining concession may enter into exploitation or mining assignment contracts with persons in the process of formalization for the exploitation of non-metallic substances in said mining concession.

SECTION 14.- In accordance with the provisions set forth in Decree Law No. 21419, Legislative Decree No. 613 and the Seventh Supplementary Provision of the Act for the Promotion of Investments in the Agricultural Sector, Legislative Decree No. 653, non-metallic

concessions or extensions of non-metallic concessions may not be established on intangible agricultural areas or on rural lands for agricultural use, excluding natural pastures.



The Seventh Supplementary Provision of Legislative Decree No. 653 was repealed by the Single Supplementary Provision for the Repeal of Legislative Decree No. 1064; which was subsequently repealed by Section 1 of Act No. 29382.

In the case of urban or urban expansion areas, the concession title will be awarded prior authoritative agreement by the respective Provincial Council.

To this effect, if the Provincial Council fails to issue an opinion within sixty calendar days after the submission of the application, the application shall be deemed approved.

Note:

Act No. 27015, Act Regulating the Mining Concessions on Urban and Urban Expansion Areas establishes the limitations in urban and urban expansion areas for the granting of metallic and nonmetallic mining concession titles, for the imposition of easements for mining purposes and for the start of mining exploration and exploitation activities, as well as the exploitation of quarries of construction materials and nonmetallic deposits for the production of cement.

Section 54 of Legislative Decree No. 757 that dictated the Framework Law for the growth of Private Investment, regulates the granting of protected natural areas.

Sections 5, 27 and 28 of Act No. 26834, Protected Natural Areas Act, regulate the ownership rights and other real rights acquired prior to the establishment of a Protected Natural Area, as well as the development of natural resources in said area.

SECTION 15.- Nonmetallic concession of saline substances, up to the first transformation of the product, is subject to the provisions of this Chapter, being its use and commercialization regulated by the legal provisions on the subject.

SECTION 16.- Radioactive substances are no longer reserved for the government; therefore, they may be subject to private mining activity.

CHAPTER II

BENEFICIATION CONCESSIONS

SECTION 17.- Beneficiation is the set of physical, chemical and/or physicochemical processes performed to extract or concentrate the valuable parts of a mineral aggregate and/or to purify, melt or refine metals. It comprises the following stages:

 Mechanical Preparation.- Process by which a mineral is reduced in size, classified and/ or washed.

- 2. Metallurgy.- A set of physical, chemical and/or physicochemical processes used to concentrate and/or extract valuable substances from minerals.
- 3. Refining.- Process to purify the metals of products obtained from the previous metallurgical procedures.

SECTION 18.- The beneficiation concession grants the holder the right to extract or concentrate the valuable part of an uprooted mineral aggregate and/or to melt, purify or refine metals, either through a set of physical, chemical and/or physicochemical processes.

The set of physical, chemical and/or physicochemical processes carried out by artisanal miners to extract or concentrate the valuable parts of a mineral aggregate and/or to purify, melt or refine metals, are not included in the scope of this Title. In order to carry out these processes, the application attached to the technical information and an Environmental Impact Statement signed by a competent professional in the field will be required. The respective authorization shall be issued by the General Directorate of Mining.



Paragraph added by Section 5 of Act No. 27651.

Section 16 of Regulations of the Act for the Formalization and Promotion of Small-scale and Artisanal Mining, approved by D.S. No. 013-2002-EM, establishes the procedure to obtain authorization for artisanal miners to perform mineral beneficiation activities.

According to Section 6 of Decree Law No. 25998, the principle established in paragraph 1, Section 10 of this Act is also applicable to beneficiation concessions.

CHAPTER III

GENERAL WORK CONCESSIONS

SECTION 19.- General work is any mining activity that provides ancillary services, such as ventilation, drainage, hoisting or extraction, to two or more concessions from different concessionaires.

SECTION 20.- The general work concession grants its holder the right to provide ancillary services to two or more mining concessions.



According to Section 6 of Decree Law No. 25998, the principle established in paragraph 1, Section 10 of this Act is also applicable to general work concessions.

SECTION 21.- Should water sources containing usable mineral matter be discovered during the provision of a general work, the general work concessionaire shall be entitled to develop them, unless otherwise agreed.

CHAPTER IV

MINING TRANSPORT CONCESSION

SECTION 22.- Mining transport is any system used for the continuous mass transport of mineral products, by non-conventional methods.

The systems may be:

- Conveyor belts;
- Piping; or,
- Cable car.

The General Directorate of Mining, with a favorable report from the Ministry of Transport and Communications and the opinion of the Mining Council, may add new systems to this definition

SECTION 23.- The mining transport concession confers to its holder the right to install and operate a continuous mass transportation system for mineral products between one or several mining centers, a port or beneficiation plant, a refinery or in one or more sections of these routes.



According to Section 6 of Decree Law No. 25998, the principle established in paragraph 1, Section 10 of this Act is also applicable to mining transport concessions.

TITLE THREE

THE GOVERNMENT IN THE MINING INDUSTRY

SECTION 24.- The government has the right to engage in all activities of the mining industry, without exception.



Section 60 of the Political Constitution of Peru establishes that only if expressly authorized by law, the government can directly or indirectly engage in business activity for reasons of high public interest or manifest national convenience.

SECTION 25.- The Ministry of Energy and Mines may authorize the use of areas of non-admission of petitions by the Geological, Mining and Metallurgical Institute - INGEMMET, for maximum terms of five calendar years, so that it may conduct regional mining prospecting works, respecting the acquired rights and areas adjacent to national archaeological sites.

Each of these areas may not include more than three hundred thousand hectares.

Mining concessions and petitions that revert to the government for any reason may be subject to a statement of non-admission of petitions.

Under its responsibility, INGEMMET shall make available to the public, for a charge, the studies containing information on their regional prospecting works, one month prior to the expiry of the granted term, after which they shall be freely available, with the following exceptions:

- a) The Private Investment Promotion Agency PROINVERSION or whoever is acting in its stead, in agreement with the Regional Governments, may engage in the process of promoting investment in all or part of these areas, when approved by its Board of Directors within the five-year period mentioned in the first paragraph of this Section, ratified by a Supreme Resolution: establishing the mechanism for compensation of expenses incurred by INGEMMET. In this case, the incorporated areas have the condition of non-admission of claims and/or petitions and shall remain as such according to the results of the process, until the mining concession ownership is granted. INGEMMET shall grant the mining concessions of such areas to the successful bidder who acquires the ownership or exercises the option, as established in the contract. If the transfer agreement or mining option agreement is not signed within two years after the issuance of the above mentioned supreme resolution, the respective areas shall be declared freely available. Exceptionally, this term may be extended for up to two additional years by Supreme Decree, countersigned by the Minister of Energy and Mines, at the request of PROINVERSION or its designee. Upon expiration of the additional term indicated, the respective areas shall be declared freely available.
- b) PROINVERSION or whoever acts in its stead may request from the Ministry of Energy and Mines to incorporate an extension of up to one hundred thousand hectares in the investment promotion process, according to the technical-economic studies of the project and within the radius of the mining concessions included in such promotion process, respecting acquired rights. These incorporated areas shall have the status of no-admission of claims and/or petitions until the ownership of the mining concession is granted.

The incorporation referred to in the preceding paragraph shall be approved by Supreme Decree, with the favorable vote of the Cabinet and for a period of two years. Should no mining option or transfer agreement be adopted within the term fixed in the bidding conditions, the areas shall be declared freely available.

🗷 Note:

Text of the section according to the Second Supplementary Provision Amending Legislative Decree No. 1333.

The framework for the promotion of private investment through public-private partnerships and projects in assets was established by Legislative Decree No. 1224.

Legislative Decree No. 1362 regulates the promotion of private investment through public-private partnerships and projects in assets.

SECTION 26.- When agencies or departments of the National Public Sector acquire concessions granted to private companies, under any title, they shall put them up for auction in a public auction, within three months following the acquisition. If no bids are submitted, they shall be declared free to be claimed, according to the rules established by this Act.

SECTION 27.- State mining activities, with the exception of commercialization activities, shall be carried out by "Empresa Minera del Peru" directly and/or through affiliates or subsidiaries thereof.

SECTION 28.- Sale prices and/or rates for treatment and/or refining services of mineral products shall be those corresponding to each product, according to representative international quotations and within general international transaction practices. In the absence of representative international quotations, the sale price and/or rates for treatment and/or refining services shall be fixed according to usual international standards.

SECTION 29.- For purchases and/or treatment and/or refining services of mineral products to be exported by the domestic market, the value to be paid for such products shall be calculated as provided in the preceding section. In the case of purchases, costs and losses incurred by placing the products in the international market shall be deducted.

SECTION 30.- The import of mineral products required by the domestic market shall be governed by the conditions and prices of the international market. The re-export of mineral products shall also be subject to the provisions of Section 28.

TITLE FOUR

PERSONS DISQUALIFIED TO ENGAGE IN MINING ACTIVITIES

SECTION 31.- The President of the Republic, Members of the Legislative and Judiciary Branches, Ministers of State and officials holding this rank, the Comptroller General, Attorneys General of the Republic, and officials and employees of the Energy and Mining Sector appointed or assigned to the Senior Management, the Mining Council, the General Directorate of Mining, the Mining Control Directorate, Regional Mining Bodies, and the Public Registry of Mining may not engage in mining industry activities during the exercise of their duties or employment.



The Public Registry of Mining is understood as the National Institute of Concessions and Mining Cadaster - INACC, according to Section 5 of D.S. No. 015-2001-EM.

The merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute - INGEMMET was approved by D.S. No. 008-2007-EM, with INGEMMET as the surviving entity.

Having transferred the control responsibilities to OSINERGMIN by Section 2 of Act No. 28964, the Mining Control Directorate changed its name to the Technical Mining Directorate, which is included in the Regulations on the Organization and Duties of MEM, as amended by D.S. No. 021-2018-EM.

Also, the personnel of agencies or departments of the National Public Sector and Decentralized Public Bodies that exercise jurisdictional functions or engage in mining activities shall be disqualified from carrying out mining industry activities.

SECTION 32.- Political authorities and members of the Armed and Police Forces may not engage in mining industry activities in the territory of their jurisdiction.

SECTION 33.- The spouse and relatives financially dependent of the persons listed in the preceding Sections may not engage in mining activities.

SECTION 34.- The prohibition contained in the preceding Sections does not include the exercise of mining activities related to rights acquired prior to the election or appointment of the referred persons, nor those acquired by inheritance or legacy after the election or appointment, nor those brought by the spouse to the marriage.

SECTION 35.- The purchase of all or part of concessions by the persons referred to in Sections 31 to 33, is null and void, and the purchased concessions shall become property of the government at no cost.

Nullity shall be declared by the Head of the Public Registry of Mining, ex-officio or upon request, when the docket is subject to the administrative jurisdiction. Once the concession title is registered, a contentious-administrative action may be filed before the Judiciary, within a term of 30 days.



Section 19 of the Single Revised Text of the Act Regulating the Contentious-Administrative Procedure, approved by D.S. No. 013-2008-JUS, establishes that the complaint must be filed within a term of 3 months counted as from the knowledge or notice of the challenged action, whichever occurs first.

SECTION 36.- The partners, directors, representatives, employees and contractors of natural or legal persons engaged in mining activities, may not acquire concessions for themselves within a radius of ten kilometers from any point of the perimeter that encloses the area where the concessions, owned by the persons to which they are related, are located, unless otherwise expressly authorized by the holder. This prohibition includes relatives that are financially dependent on the disqualified person.

The affected persons have the right to be replaced in the respective file, within a term of ninety days after the notice or notification publication, referred to in Section 122 of this Act. If the affected person fails to exercise this right within the aforementioned period, the impediment shall disappear.



The Third Supplementary and Final Provision of Act No. 28271, Act regulating the environmental liabilities of the mining industry, incorporates additional impediments to apply for new mining petitions and to exploit any mining unit as a concessionaire or purchaser.

Section 307-F of the Criminal Code, approved by Legislative Decree No. 635, establishes that the agent of crimes outlined in Sections 307-A, 307-B, 307-C, 307-D and 307-E, shall also be sanctioned, in accordance with Section 36, subsection 4, with the penalty of disqualification to obtain, in its own name or through third parties, mining, general work, beneficiation or transport concessions of metallic and nonmetallic minerals and their commercialization for a period equal to the main penalty.

TITLE FIVE

COMMON RIGHTS OF CONCESSION HOLDERS

SECTION 37.- Concession holders enjoy the following rights:

 In concessions granted in barren land, to the free mining use of the area corresponding to the concession for the economic purpose thereof, without requiring any additional application.



In accordance with the Second Supplementary Provision of Act No. 26505, the government shall proceed to sell or concession the barren land owned by it in a public auction, except for those parcels used for small-scale agriculture. According to the provisions of Section 7 of the same act, the use of barren land owned by the government for mining or hydrocarbon exploitation and which at the date of the referred act were occupied by infrastructure, facilities and services for mining and hydrocarbon exploitation activities, shall remain valid.

2. To request from the mining authority the right of free mining use for the same purpose on barren lands located outside the concession.



In accordance with the Second Supplementary Provision of Act No. 26505, the government shall proceed to sell or concession the barren land owned by it in a public auction, except for those parcels used for small-scale agriculture. According to the provisions of Section 7 of the same act, the use of barren land owned by the government for mining or hydrocarbon exploitation and which at the date of the referred act were occupied by infrastructure, facilities and services for mining and hydrocarbon exploitation activities, shall remain valid.

- 3. To request from the mining authority, authorization to establish easements on third party lands that are necessary for the rational use of the concession. The easement shall be established with prior fair compensation if applicable.
 - Ex officio or at the request of the affected owner, the mining authority shall order the expropriation if the easement impairs the property right.



According to the provisions set forth in Section 70 of the Political Constitution of Peru, no person can be deprived of their property, except on the grounds of national security or public necessity, as declared by law.

 To request authorization to establish mining use or easements, if applicable, on the surface lands of other concessions, as long as the mining activities of their holders are not impaired or hindered.



In accordance with the Second Supplementary Provision of Act No. 26505 (Private Investment in the Development of Economic Activities within National Territory and on the Land of Indigenous and Native Communities Act), the government shall proceed to sell

or concession the barren land owned by it in a public auction, except for those parcels used for small-scale agriculture. According to the provisions of Section 7 of the same act, the use of barren land owned by the government for mining or hydrocarbon exploitation and which at the date of the referred act were occupied by infrastructure, facilities and services for mining and hydrocarbon exploitation activities, shall remain valid.

- 5. To execute, in neighboring concessions, the necessary construction works to facilitate accesses, ventilation or drainage for their own concessions, transportation of minerals and safety of workers, prior compensation if such works cause damages and with no liens for the servient concessions, leaving in stockpiles, without any costs for these concessions, the minerals resulting from the executed works. The holders of servient concessions may use these works paying the respective compensation, amount that shall be fixed by the mining authority in the absence of any agreement between the parties.
- To execute on loam land works with the same purposes outlined in the preceding subsection, with the authorization of the General Directorate of Mining.



Legislative Decree No. 109 defined loam land as the subsoil that has not been granted in concession.

7. To request the expropriation, with prior fair compensation, of the properties used for other economic purposes, if, in the opinion of the mining authority, they are required for the rational use of the concession and if the greater importance of the mining activity over the affected activity were proven.

In cases in which expropriation involves property located in urban or urban expansion areas, the opinion of the Ministry of Transport, Communications, Housing and Construction or the corresponding Regional Agency shall be requested.



According to the provisions set forth in Section 70 of the Political Constitution of Peru, no person can be deprived of their property, except on the grounds of national security or public necessity, as declared by law.

- 8. To use the water supply required for the domestic services of workers and for the concession operations, pursuant to the legal provisions on the matter.
- 9. To use the mineral substances contained in the water sources discovered during their works.
- 10. To inspect the works of neighboring or adjacent mining concessions, when trespassing is suspected or when the onset of a flood, landslide or fire is feared due to the poor condition or development of works of the neighboring or adjacent concessions.
- 11. To hire specialized companies registered with the General Directorate of Mining for the execution of exploration, development, exploitation and beneficiation works.



Subsection added by Section 2 of Legislative Decree No. 868.

TITLE SIX

OBLIGATIONS OF CONCESSION HOLDERS

CHAPTER I

IN MINING CONCESSIONS

SECTION 38.- According to the provisions of Section 66 of the Political Constitution of Peru, the conditions for the use of natural resources and their conferral to private individuals are established by an organic act. Hence, the concession holders are obliged to develop the concessions, which consists in investing in the production of mineral substances.

In the case of metallic substances, production may not be less than the equivalent to one Tax Unit per year and per granted hectare, and in the case of nonmetallic substances not less than the equivalent of 10% of the Tax Unit per year and per granted hectare. In the case of small-scale mining producers, production may not be less than the equivalent to 10% of the Tax Unit per year and per granted hectare for metallic substances and to 5% of the Tax Unit per year and per granted hectare for nonmetallic substances. In the case of artisanal miners, production may not be less than 5% of the Tax Unit per year and per granted hectare, regardless of the substance. Production must be obtained no later than the expiration date

of the tenth year, calculated from the year after the concession title was granted. The production must be accredited with a sales vouchers.

In the case of internal sales, the vouchers must be issued by commercialization or beneficiation companies duly registered in the Public Registry.

The referred sales vouchers must be submitted to the mining authority in the form provided by it, until June 30 of the following year, for the sales of the previous year.



Text of section according to Section 1 of Legislative Decree No. 1054.

Section 2 of D.S. No. 011-2017-EM provides that mining concessions granted until December 31, 2008 must comply with the minimum annual production set forth in Section 38 of the General Mining Act by the expiration of 2018.

Mining concessions granted as of 2009 comply with their production obligations as set forth in Section 38 of this Act.

Paragraph 2 of the Single Transitory Provision provides that, as long as the term to reach the minimum annual production is not complied with, the calculation of terms to start production, determine the amount to be paid as a penalty and incur in the causes of expiration, as well as the amounts of minimum production per year and per hectare and other provisions and obligations applicable to these mining concessions, will continue to be governed by the text of Sections 38, 40, 41 and 59 in force prior to the entry into force of the aforementioned legislative decrees, as well as their regulatory standards.

Paragraphs 3 and 4 of the Single Transitory Provision regulate the case of concessions included in contracts derived from private investment promotion processes referred to in the Third Transitory and Supplementary Provision of Legislative Decree No. 1010, as well as the case of concessions included in contracts of guaranty and promotion measures for mining investment referred to in the Fourth Transitory and Supplementary Provision of the same legislative decree.

Section 4 of D.S. No. 054-2008-EM details what is understood as investments for the purposes of Section 41 of this Act.

Section 5 sets forth the procedure to prove the grounds for an unforeseeable event, force majeure and non-attributable event.

Section 6 sets forth the events that qualify as unforeseeable circumstances, force majeure and nonattributable events.

Section 7 provides that the cause for expiration established in Section 59 of this Act, which refers to the failure to comply with production obligations for two (2) years, is not incurred by the concessionaire who, having reached the minimum production, accredits the payment of the penalty referred to in Section 40 and the investment referred to in the second paragraph of Section 41 of this Act.

Failure to comply with the production obligations referred to in Sections 38 and 59 of this Act, in order to constitute grounds for expiration, must occur during 2 consecutive years.

Section 5 of D.S. No. 011-2017-EM provides that the General Directorate of Mining shall start receiving the Consolidated Annual Declaration (DAC) with the anticipation necessary to facilitate the review of production and investment declarations. The minimum investment declaration referred to in Section 41 of this Act shall be submitted until April 30 and the production declaration shall be submitted until June 30, as provided for in Section 38 of this Act.

Section 9 of D.S. No. 011-2017-EM establishes that D.S. No. 054-2008-EM remains in force insofar as it does not oppose the provisions of D.S. No. 1320 and the regulation itself.

Section 22 of the Regulations of the Act for the Formalization and Promotion of Small-scale and Artisanal Mining, approved by D.S. No. 013-2002-EM, establishes that the mining production resulting from exploitation agreements or contracts accredits the fulfillment of the purposes outlined in Section 38 of this Act.

SECTION 39.- As of the year in which the petition is filed, the mining concessionaire shall be obliged to pay the annual maintenance fee.

The annual maintenance fee is US\$ 3,00 or its equivalent in local currency per year and per hectare requested or granted.

For small-scale mining producers, the annual maintenance fee is US\$ 1.00 or its equivalent in local currency per year and per hectare requested or granted. For artisanal miners the annual maintenance fee is US\$ 0.50 or its equivalent in local currency per year and per hectare requested or granted.

Note:

Text of paragraph according to Section 7 of Act No. 27651.

The annual maintenance fee for the year in which the mining concession is requested, must be paid and accredited together with the submittal of the petition.

The annual maintenance fee for the second year, counted as from January 1 of the year after submitting the petition for mining concession, must be paid no later than June 30 of the second year. The same rule applies for the following years.

According to Section 9 of this Act, the mining concession is a property distinct and separate from the land on which it is located, hence the obligation of the concession holder to pay the annual maintenance fee is independent from the payment of mandatory property taxes to be paid by the landowner.



Section 8 of Decree Law No. 25998 establishes that the minimal payment of the annual maintenance fee or processing fee may be remedied within a term of ten (10) business days.

Section 37 of D.S. No. 03-94-EM, replaced by Section 1 of D.S. No. 008-2013-EM, stipulates that the annual maintenance fee and/or penalty and the accreditation, in the corresponding cases, shall be paid between the first business day of January and June 30th of each year. Extemporaneous accreditation is not allowed.

Section 6 of D.S. No. 011-2017-EM establishes that when the mining concession is required to pay the penalty, this payment must be made together with the annual maintenance fee. Debt for annual maintenance fee or penalty gives rise to the issuance of a single collective resolution of non-payment for failure to comply with payment obligations, as well as the corresponding collective expiration resolution.

Section 76 of D.S. No. 03-94-EM, as amended by D.S. No. 003-2018-EM, provides that information on non-payment of annual maintenance fee or penalty shall be recorded in the Registry of Payments of the annual maintenance fee and penalty, through INGEMMET's website. Any modification to the Registry of Payments shall follow the procedure detailed in Section 77.

The Single Supplementary Transitory Provision of D.S. No. 003-2018-EM establishes that, as from 2019 and thereafter, no later than the last business day of August of each year, the Directorate of Annual Maintenance Fee of INGEMMET makes available to the administered, through the INGEMMET website, a single list of mining rights whose holders did not comply with the timely payment of the annual maintenance fee and penalty, maintaining the procedure provided for in Section 77 of D.S. No. 03-94-EM on the modification of the Registry of Payments of annual maintenance fee and penalty.

SECTION 40.- Failure to comply with the provisions set forth in Section 38, as of the first half of the eleventh year, counted as from the year following the year in which the mining concession title was granted, the concessionaire must pay a penalty equivalent to 2% of the minimum annual production enforceable per year and per effective granted hectare, until it complies with the minimum annual production or investment.

If minimum production is not achieved by the expiration of the fifteenth year counted from the year following that in which the mining concession title was granted, the concessionaire must pay a penalty equivalent to 5% of the minimum annual production enforceable per year and per effective granted hectare, until it complies with the minimum annual production or investment.

If minimum production is not achieved by the expiration of the twentieth year counted from the year following the year in which the mining concession title was granted, the concessionaire must pay a penalty equivalent to 10% of the minimum annual production enforceable per year and per effective granted hectare, until it complies with the minimum annual production or investment.

If minimum production is not achieved by the expiration of the thirtieth year counted from the year following that in which the mining concession title was granted, the mining concession shall expire.

Penalty is an overpayment or additional payment of the annual maintenance fee, keeping the same nature of such fee, and therefore both must be paid and credited within the same term.



Text of section according to Section 1 of Legislative Decree No. 1320.

Section 3 of D.S. No. 011-2017-EM establishes that, in case the mining concessions granted until December 31, 2008 fail to achieve in 2018 the production stipulated in Section 38 of this Act, the corresponding penalty shall be paid together with the annual maintenance fee, as established in Section 40.

Section 4 of the aforementioned Supreme Decree provides that, in all cases, the penalty that serves as basis for determining the minimum investment is calculated based on the Tax Unit in force in the year in which the investment is made.

Section 6 of the same Supreme Decree establishes that when the mining concession is required to pay the penalty, this payment must be made together with the annual maintenance fee. Debt for annual maintenance fee or penalty gives rise to the issuance of a single collective resolution of non-payment for failure to comply with payment obligations, as well as the corresponding collective expiration resolution.

Section 8 of the above mentioned Supreme Decree establishes that, in accordance with Section 40 of this Act, the mining concession expires necessarily at the end of the thirtieth year without production, calculated as from January 1, 2009 for the mining concessions granted until 2008. For concessions granted as from January 1, 2009, the expiration period is calculated from the year following that of the concession title.

Section 76 of D.S. No. 03-94-EM, as amended by D.S. No. 003-2018-EM, provides that information on non-payment of annual maintenance fee or penalty shall be recorded in the Registry of Payments of the annual maintenance fee and penalty, through INGEMMET's website. Any modification to the Registry of Payments shall follow the procedure detailed in Section 77. The Single Supplementary Transitory Provision of D.S. No. 003-2018-EM establishes that, as from 2019 and thereafter, no later than the last business day of August of each year, the Directorate of Annual Maintenance Fee of INGEMMET makes available to the administered, through the INGEMMET website, a single list of mining rights whose holders did not comply with the timely payment of the annual maintenance fee and penalty, maintaining the procedure provided for in Section 77 of D.S. No. 03-94-EM on the modification of the Registry of Payments of annual maintenance fee and penalty.

SECTION 41.- The concessionaire shall not pay a penalty if it invests not less than ten (10) times the amount of the penalty per year and per hectare to be paid for the concession or administrative economic unit.

€ Note:

Text of section according to the single section of Legislative Decree No. 1320.

Section 4 of D.S. No. 054-2008-EM, as amended by the Single Supplementary Provision Amending D.S. No. 011-2017-EM, details what is understood to be investments for the purposes of Section 41 of this Act. These investments are accredited with a sworn statement countersigned by an external accounting auditor and are submitted jointly with the Consolidated Annual Declaration.

Section 5 of D.S. No. 011-2017-EM provides that the General Directorate of Mining shall start receiving the Consolidated Annual Declaration (DAC) with the anticipation necessary to facilitate the review of production and investment declarations. The minimum investment declaration referred to in Section 41 of this Act shall be submitted until April 30 and the production declaration shall be submitted until June 30, as provided for in Section 38 of this Act. See Note of Section 38.

SECTION 42.- The mine owners who, after having initiated the exploitation stage, stop producing according to the parameter established in Section 38 of this Act, shall pay the charges established in Section 40 in addition to the annual maintenance fee.

SECTION 43.- All concessionaires that perform drilling within the national territory shall be free to dispose of up to fifty percent longitudinally of each section of samples and/or cores obtained from their drilling, and shall be obliged to keep a record of the remaining fifty percent of samples and cores, allowing for their easy identification and location in the field.

CHAPTER II

GROUPING

SECTION 44.- To comply with the work obligations established in the preceding Chapter, the holder of more than one mining concession of the same class and nature may group

them into Administrative Economic Units, provided that they are located within a 5-kilometer radius in the case of non-ferrous metallic minerals or primary metallic gold minerals; a 20-kilometer radius in the case of iron, carbon or nonmetallic mineral; and a 10-kilometer radius in the case of detrital metallic gold or heavy detrital ore deposits.

The grouping of mining concessions constitutes an administrative economic unit and requires a favorable resolution from the General Directorate of Mining.



According to Section 93 of this act, the powers conferred to the General Directorate of Mining can be amended by supreme decree.

The approval of the Administrative Economic Unit was assigned to the Public Registry of Mining by Section 1 of D.S. No. 052-99-EM.

The Public Registry of Mining is understood as the National Institute of Concessions and Mining Cadaster - INACC, according to Section 5 of D.S. No. 015-2001-EM.

The merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute - INGEMMET was approved by D.S. No. 008-2007-EM, with INGEMMET as the surviving entity.

SECTION 45.- The production or investment made in one Administrative Economic Unit may not be attributed to other mining concessions not included in said Unit. When two or more mining concessions are included under the same Administrative Economic Unit system, the penalty shall be calculated based on the oldest concession petition.

CHAPTER III

IN BENEFICIATION CONCESSIONS

SECTION 46.- As from the year in which the beneficiation concession was requested, the holder shall be obliged to pay the annual maintenance fee as an annual amount according to its installed capacity, as follows:

- 350 MT/day or less: 0.0014 of one Tax Unit per MT/day.
- more than 350 and up to 1,000 MT/day: 1.00 Tax Unit
- more than 1,000 and up to 5,000 MT/day: 1.5 Tax Units
- for every 5,000 MT/day in excess: 2.00 Tax Units

MT/day refers to the installed treatment capacity. In cases of expansion, the payment that accompanies the application is based on the increased capacity.



Text of section according to Section 4 of Legislative Decree No. 868.

CHAPTER IV

IN GENERAL WORK AND MINING TRANSPORT CONCESSIONS

SECTION 47.- When applying for a general work or mining transport concession, the applicant shall pay an annual maintenance fee of 0.003% of a Tax Unit per linear meter of projected work.

CHAPTER V

COMMON OBLIGATIONS

SECTION 48.- Every mining holder is obliged to carry out the tasks inherent to the mining activity, according to systems, methods and techniques used to achieve the best performance of the activity and subject to safety, hygiene and environmental sanitation standards applicable to the mining industry.

During the development of such activities, damages to third parties must be avoided as much as possible, and the holder is obliged to indemnify them for any damages caused.

SECTION 49.- Mining holders are obliged to provide free access, at any moment, to the mining authority for the control of their corresponding obligations.

SECTION 50.- Mining holders are obliged to submit an Annual Consolidated Statement (DAC) each year, containing the information to be specified by Ministerial Resolution. Such information shall be confidential.

Failure to comply with this obligation will be sanctioned with a fine.

Fines shall not be less than zero point one percent (0.1%) of one (1) Tax Unit (UIT) or more than fifteen (15) UITs, according to the scale of fines for infractions to be established by Ministerial Resolution. In the case of small-scale mining producers, the maximum amount will be two (2) UIT, and one (1) UIT in the case of artisanal miners.

Failure to pay the fines, which enforcement has been confirmed, shall be subject to coercive collection.

Based on the declaration referred to in the first paragraph of this Section, the Ministry of Energy and Mines shall redistribute the information required by the Financial Intelligence Unit (FIU), as well as by the rest of National Public Sector entities, without the possibility of requiring additional declarations from mining holders by other National Public Sector Agencies or Departments.

Text of section according to the First Supplementary Provision amending Legislative Decree No. 1336.

R.M. No. 184-2005-MEM-DM approved the Consolidated Annual Declaration form.

Board Resolution No. 151-2005-MEM-DGM specified the term and established the procedure for filing the Consolidated Annual Declaration.

Supreme Decree No. 002-2013-EM established the guidelines for the effective verification of information presented by mining holders in the Consolidated Annual Declaration.

R.M. No. 483-2018-MEM-DM approved the Scale of Fines for non-compliance with the submission of the Consolidated Annual Declaration (DAC).

Section 5 of D.S. No. 011-2017-EM provides that the General Directorate of Mining shall start receiving the Consolidated Annual Declaration (DAC) with the anticipation necessary to facilitate the review of production and investment declarations. The minimum investment declaration referred to in Section 41 of this Act shall be submitted until April 30 and the production declaration shall be submitted until June 30, as provided for in Section 38 of this Act.

The General Directorate of Mining is responsible for verifying the information contained in the Consolidated Annual Declaration, according to Section 98 - I of the Organization Manual of MINEM, as amended by D.S. No. 021-2018-EM.

SECTION 51.- To the extent possible, mining holders are obliged to admit in their workplace, engineering students specializing in Mines, Metallurgy, Geology, Industrial and Chemical engineering, to conduct their practices during the holiday season, as well as to facilitate visits by said students to their facilities.

Once the requirements of those specialties have been met, vacancies can be filled by undergraduate students from other specialties.

SECTION 52.- Any person engaging in the unauthorized extraction of mineral substances, shall return the unduly extracted minerals or their value to the government, without deductions and without prejudice to the corresponding legal actions.



Section 90 of D.S. No. 03-94-EM establishes the procedure to be followed by the competent mining authority in cases of unlawful extraction.

According to Section 4 of Legislative Decree No. 1100, illegal mining activities determine the start of the interdiction actions established in said regulations; without prejudice to the relevant administrative, civil or criminal actions.

SECTION 53.- If, during the execution of works inherent to its concession, or ancillary works and activities, the holder trespasses another person's concession without authorization, it is obliged to paralyze its works and to return to the affected party the value of minerals extracted without deducting any cost, and to pay compensation, if damages were also caused.

Should the trespassing be greater than 10 meters measured perpendicularly from the plane that limits the trespassed mining right, the trespasser shall pay double the amounts referred to in the previous paragraph.

SECTION 54.- In case of legal dispute on the validity of a concession, the obligation to pay the financial obligations to keep it in force shall subsist. The plaintiff is also obliged to comply with the financial obligations within the terms established in this Act, during the trial, under penalty of abandonment of instance in relation to the disputed concession.

Once the payment has been made by the plaintiff, the latter must accredit it in the respective docket.

Once the dispute is concluded, the defeated party may request the reimbursement of the amounts paid.

SECTION 55.- The concessionaire authorized by the mining authority, who executes works intended for the economic purpose of its concession in a neighboring concession, is obliged to deliver the extracted ore to its concessionaire, without any encumbrance, and to indemnify it for the damages caused.

SECTION 56.- The shutdown or reduction of mining activities, which implies a reduction of personnel, shall require the opinion of the Mining Control Directorate in the procedure installed according to the pertinent legislation.

TITLE SEVEN

GOVERNMENT INCOME DISTRIBUTION

SECTION 57.- The income obtained from the annual maintenance fee, as well as the penalty established in Title VI of this Act, constitute directly collected resources that shall be distributed as follows:

- a) Seventy five percent (75%) of the amount collected for the district municipality or district municipalities where the petition or concession is located shall be allocated to the execution of investment and development programs in their respective jurisdictions. Should the petition or concession be located in the jurisdiction of two (2) or more district municipalities, distribution shall be made in equal pSections
- b) Twenty percent (20%) of the amount collected shall be allocated to the Geological, Mining and Metallurgical Institute INGEMMET.
- c) Five percent (5%) of the amount collected shall be allocated to the Ministry of Energy and Mines for the maintenance and development of the Mining-Metallurgical Information System.
- d) Regional governments shall receive the percentages established in paragraphs b) and c), which constitute the payment made by Small-Scale and Artisanal Miners to engage in the mining activities transferred within the context of the decentralization process, particularly those related to environmental protection.



Text according to Section 2 of Law No. 29169.

TITLE EIGHT

EXTINCTION OF CONCESSIONS AND THEIR END-USE

CHAPTER I

EXTINCTION

SECTION 58.- Concessions are extinguished by expiration, abandonment, nullity, surrender and cancellation.



Section 5, paragraph 5.3 of Act No. 27015 establishes that failing to comply with the environmental regulations in urban or urban expansion areas shall be sanctioned with a fine and the temporary shutdown of mining operations pursuant to the laws in force. In very serious cases or in case of repeated breach of the mining authority resolutions, the maximum applicable penalty shall be the extinction of the mining right, without prejudice to the corresponding legal actions.

CHAPTER II

EXPIRATION

SECTION 59.- The untimely payment of the annual maintenance fee for two consecutive years or not produces the expiration of mining claims, petitions and concessions, as well as that of beneficiation, general work and mining transport concessions. Should the payment of one year be omitted, its regularization may be fulfilled with the payment and accreditation of the current year, within the term set forth in Section 39 of this regulations.

In any case, the payment shall be charged to the previous year due and unpaid.

In addition to the grounds set forth in Section 40, the failure to comply with the production obligations referred to in Section 38 for two (2) years shall also constitute grounds for expiration of mining concessions.

The mining beneficiation, general work and mining transport concessions shall not be subject to expiration after five (5) years of the alleged cause, without the administrative authority having issued the Expiration Resolution. Such term shall not be applicable in case the respective administrative or judicial procedures have been initiated before its expiration.



Text according to the Single Section of Legislative Decree No. 1010)

According to Section 4 of D.S. No. 029-2001-EM, amended by Section 2 of D.S. No. 010-2002-EM, in order to regularize or charge the annual maintenance fee or penalty to the previous expired year, the holder of the mining right must have obtained a PPM or PMA Certificate until expiration of the payment term of said year.

The same Section provides that, pursuant to Section 112 of the Regulations of Miscellaneous Titles of the Single Revised Text of the General Mining Act, approved by Supreme Decree No. 03-94-EM, in the event that small scale mining producers lose such condition after December 31 of each year, because they exceed the limits established in Section 91 of the Single Revised Text of the General Mining Act, they must pay the annual maintenance fee for the general system amount.

Section 6 of D.S. No. 011-2017-EM establishes that when the mining concession is required to pay the penalty, this payment must be made together with the annual maintenance fee. Debt for annual maintenance fee or penalty gives rise to the issuance of a single collective resolution of non-payment for failure to comply with payment obligations, as well as the corresponding collective expiration resolution.

Section 7 of the same Supreme Decree provides that in case of failure to pay the annual maintenance fee and penalty for one year, the regularization provided for in the first paragraph of Section 59 of this Act is only admissible if the amount to be paid for the second year allows for the total charge to be made to the previous year due and unpaid.

Section 8 of the above mentioned Supreme Decree establishes that, in accordance with Section 40 of this Act, the mining concession expires necessarily at the end of the thirtieth year without production, calculated as from January 1, 2009 for the mining concessions granted until 2008. For concessions granted as from January 1, 2009, the expiration period is calculated from the year following that of the concession title.

Section 76 of D.S. No. 03-94-EM, as amended by D.S. No. 003-2018-EM, provides that information on non-payment of annual maintenance fee or penalty shall be recorded in the Registry Payments of the annual maintenance fee and penalty, through INGEMMET website. Any modification to the Registry of Payments shall follow the procedure detailed in Section 77.

The Single Supplementary Transitory Provision of D.S. No. 003-2018-EM establishes that, as from 2019 and thereafter, no later than the last business day of August of each year, the Directorate of Annual Maintenance Fee of INGEMMET makes available to the administered, through the INGEMMET website, a single list of mining rights whose holders did not comply

with the timely payment of the annual maintenance fee and penalty, maintaining the procedure provided for in Section 77 of D.S. No. 03-94-EM on the modification of the Registry of Payments of annual maintenance fee and penalty.

Section 102 of D.S. No. 03-94-EM, as amended by S. D. No. 003-2018-EM, details the expiration procedure to be followed by INGEMMET or the regional government, in the event that the mining rights are under their scope.

See Note of Section 38.

SECTION 60.-

Section repealed by the First Final Provision of Legislative Decree No. 868.

SECTION 61.-

First paragraph repealed by the First Final Provision of Legislative Decree No. 868.

Once the general work concession has expired, the mining authority shall proceed to notify the beneficiary concessionaires, so that they may express, within 30 days, their willingness to replace the previous holder in the concession title. If, upon expiration of the aforementioned term, two or more concessionaires agree to such replacement, they shall proceed to appoint an attorney-in-fact in common, unless the parties concerned have otherwise expressed their decision to form a partnership pursuant to the General Corporations Act.

If, upon expiration of the term established in this Section, none of the beneficiary concessionaires have expressed their interest in replacing the general work concessionaire, the concession docket shall be filed.

CHAPTER III ABANDONMENT

SECTION 62.- Failure by the party concerned to comply with the mining procedure regulations applicable to the title in formation shall be grounds for abandonment of concession petitions.

CHAPTER IV

NULLITY

SECTION 63.- Applications for concessions made by disqualified persons under Sections 31, 32 and 33 of this Act, are grounds for nullity.

CHAPTER V CANCELLATION

SECTION 64.- Mining petitions or concessions shall be cancelled when they supersede priority mining rights or when the mining right cannot be located.

SECTION 65.- The areas of expired, abandoned, annulled, surrendered mining concessions and petitions, and those that have been rejected upon their submission, may not be claimed until they are published as claimable.

CHAPTER VI

END-USE

SECTION 66.- The expiration, abandonment, nullity, surrender and cancellation of concessions and petitions shall be declared by a resolution issued by the Head Office of the Public Registry of Mining, in each case or collectively, recording it in said Registry.

The areas of petitions or concessions formulated under the UTM coordinate system referred to the PSAD56 or that acquired these coordinates in application of Act No. 26615, that have a final resolution of extinction in the administrative scope, shall be removed from the National Mining Cadaster.

The notice of withdrawal of such areas is made together with the publication of free claimability. These areas may be petitioned in grids as of the first business day, after expiration of the month immediately following said publication of free claimability.

The areas extinguished by final resolution in the mining administrative scope of petitions or concessions that were formulated under the UTM coordinate system referred to in the PSAD56, or that acquired these coordinates in application of Act No. 26615, superposed to petitions and concessions as areas to be respected, shall be incorporated to the mining concession or mining petition.

The incorporation of the area is published in the National Mining Cadaster and is made known to the holder in the mining register of the year following the incorporation

2nd, 3rd, 4th and 5th paragraphs incorporated according to paragraph 5.2 of Section 5 of Act No. 30428, Act that formalizes the Mining Grid System in UTM WGS84 Coordinates. The regulations of this Act and supplementary provisions were approved by D.S. No. 025-2016-EM. The Public Registry of Mining is understood as the National Institute of Concessions and Mining Cadaster - INACC, according to Section 5 of D.S. No. 015-2001-EM.

The merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute - INGEMMET was approved by D.S. No. 008-2007-EM, with INGEMMET as the surviving entity.

Section 2 of Decree Law No. 25998 provides that the extinction of beneficiation, general work and mining transport concessions shall be declared by Resolution of the General Directorate of Mining.

Subsection f) of Section 59 of Act No. 27867, Organic Act of Regional Governments, provides for the transfer of the function of granting concessions for small-scale and artisanal mining of regional scope to regional governments. According to the Annex of D.S. No. 036-2007-PCM, the power associated to said function to grant such concessions, including the reception of petitions, processing, granting and extinction.

By R.M. No. 562-2009-MEM/DM, the power to receive, process, grant and extinguish beneficiation, general work and mining transport concessions was transferred.

Section 12 of Act No. 26615 establishes that the areas of mining concessions granted under systems prior to the one regulated by Legislative Decree No. 708, which are extinguished with definitive UTM coordinates, shall be declared and published as freely claimable and subject to a new petition entirely. The limitation of area and form referred to in Section 11 of the Single Revised Text shall not apply.

By exception, the following areas shall not constitute a background or title for the formulation of new petitions and, therefore, shall not be published as freely claimable:

- a) Mining claims extinguished due to non-compliance with the provisions of Act No. 26273;
- b) Mining concessions extinguished due to non-compliance with the provisions set forth in Section 4 of this act;
- c) Mining concessions extinguished or to be extinguished with no definitive UTM coordinates.

Section 2.4 of Act No. 27015 stipulates that an urban expansion area shall be declared non-claimable on the grounds of technical and/or protection criteria for areas containing archaeological remains or protected natural areas.

SECTION 67.- Exempted from the freely claimable declaration are the beneficiation, general work and mining transport concessions that, due to their nature, cannot be requested again.

SECTION 68.- The areas of expired, abandoned, annulled and surrendered concessions and petitions cannot be claimed, either in whole or in part, by the previous concessionaire, his/her relatives up to the second degree of consanguinity or affinity, for at least two years after they were published as claimable.

SECTION 69.- Through the new petition, its holder acquires, without any liens, the mining works executed in the concession or on loam land by the former concessionaire.

SECTION 70.- In cases of expiration, abandonment, nullity or surrender of concessions and petitions, the new petitioner may:

- Use the surface land adjacent to the concession that was used by the former concessionaire.
- Continue using the land expropriated by the previous holder for mining purposes, at no cost.
- Maintain the easements that have been established for the economic purpose of the concession, under the same terms and conditions in which they were constituted.

TITLE NINE

GUARANTEES AND INVESTMENT PROMOTION MEASURES

The regulations of this title were approved by Supreme Decree No. 024-92-EM

CHAPTER I

GENERAL PROVISIONS

SECTION 71.- The provisions contained in this Title apply to all the persons engaged in mining activities, whichever their type of business organization.

CHAPTER II

BASIC BENEFITS

SECTION 72.- In order to promote private investment in mining activities, the holders are granted the following benefits:

- a) Tax, exchange and administrative stability;
- b)



According to Section 4 of Act No. 27343, the benefit of investing undistributed profits referred to in this subsection is rendered null and void.

- The government shall recognize to the mining activity holder the deduction of domestic taxes affecting its production, whether it is exported or sold domestically, subject to international quotation;
- d) Investments in infrastructure by mining holders and constituting a public service shall be deductible from the taxable income, provided that the investments have been approved by the competent sector agency;
- e) Investments in infrastructure constituting a public service, made by mining holders, shall not constitute taxable income, provided they have been approved by the competent sector agency, nor shall those assets destined to satisfy housing and welfare obligations referred to in Section 206 of this Act;
- f) The share in the proceeds obtained from the exploitation of the mineral resources referred to in Section 121 of the Political Constitution of Peru, is translated in the redistribution of a percentage of the Income Tax paid by the mining holders;



This provision is taken from Section 77 of the Political Constitution of Peru of 1993. Section 9 of Act No. 17506, Mining Canon Act, establishes that the mining canon is constituted by 50% of the total income and revenue obtained by the government through mining activities, for the exploitation of metallic and non-metallic mineral resources.

g) The compensation of the cost of health benefits paid to its workers and dependents, with respect to the contributions referred to in Section 14 of the Political Constitution of Peru;



The 1993 Political Constitution of Peru does not include the provisions of Section 14 of the 1979 Constitution on social security.

- Non-discrimination in exchange matters, regarding regulation, exchange rates or other economic policy measures;
- Unrestricted right to remit profits, dividends, financial resources and free availability of foreign currency in general;
- i) Free internal or external commercialization of production;
- Administrative simplification for procedural celerity, based on the presumption of veracity and positive administrative silence estimated in the administrative procedures;
- I) Non-discriminatory treatment with respect to other sectors of the economic activity;

The government shall contractually guarantee the stability of these benefits, under the regulations in force at the time of approval of the investment programs referred to in Sections 79 and 83 of this Act.



Section 1 of Act No. 27343 establishes that the guarantee of tax stability includes the taxes in force on the date of adoption of the contract. These contracts are those mentioned in Sections 78 and 82 of this Act.

CHAPTER III

TAX SYSTEM

SECTION 73.-

| Section repealed by Section 2 of Decree Law No. 25764. | |
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SECTION 74.- The purchase value of concessions shall be amortized as from the period in which, according to law, the mining holder must meet the minimum production obligation, within a term to be determined by the mining holder at that moment, based on the probable life of the mining deposit, calculated taking into account the proven and probable reserves and the minimum production mandatory by law. The term thus established must be notified to the Tax Administration upon filing the Annual Income Tax Return corresponding to the year in which amortization begins, attaching the corresponding calculation.

The purchase value of concessions shall include the price paid or the petition costs, as the case may be.

Likewise, it will include the amount invested in prospection and exploration activities until the date on which, according to law, the minimum production must be complied with, unless the holder otherwise opts to deduct the amount spent on prospection and/or exploration in the period in which such expenses were incurred.

If, for any reason, the mining concession is abandoned or declared expired prior to complying with the mandatory minimum production, its purchase value shall be integrally amortized during the period in which it occurs. In the event that the economically exploitable reserves are exhausted, or the concession is released or expires prior to the full amortization of its purchase value; the taxpayer, at its choice, may immediately amortize the balance or continue amortizing it annually until it is paid in full, within the originally established term.

SECTION 75.- Exploration costs incurred during the mandatory minimum production stage of the concession may be fully deducted in the period or amortized as from said period, at an annual percentage rate according to the probable life of the mine established at the end of said years, which shall be determined based on the volume of proven and probable reserves and the minimum production mandatory by law.

Development and preparation costs enabling the exploitation of the deposit for more than one year may be fully deducted in the year in which they are incurred or may be amortized in that and the following years for a maximum of two additional years.

In each case, the taxpayer must choose one of the deduction systems mentioned in the preceding paragraphs, prior to the end of the year in which the costs were incurred, reporting its decision to the Tax Administration upon submission of the Annual Income Tax Return, stating, where appropriate, the period required to amortize the costs and the corresponding calculation.

In the event that the economically exploitable reserves are exhausted, or the concession is released or expires prior to the full amortization of the investment in exploration, development or preparation, the taxpayer may opt to immediately amortize the balance or continue to amortize it annually until it has been paid in full, within the originally established term.

The option referred to in the present and preceding Section shall be exercised for the expenses of each year. Once a system has been chosen, it cannot be changed in relation to the expenses of the fiscal year.

SECTION 76.- Mining holders are subject to municipal taxes applicable only in urban areas.

Mote:

The Second Final Provision of Legislative Decree No. 868 stipulates that the construction works and buildings built in mining, beneficiation, general work and mining transport concessions are taxed with municipal taxes only in urban areas.

SECTION 77.-

| Ø | Note: | • |
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Repealed by subsection k), Section 1 of Decree Law No. 25702.

CHAPTER IV

TAX STABILITY SYSTEM

SECTION 78.- Mining holders who start or are carrying out operations of between 350 MT/day and 5,000 MT/day, or those who make the investment established in Section 79 of this Act, shall enjoy the tax stability guaranteed by a contract signed with the government for a term of ten years, counted as from the fiscal year in which the execution of the investment is accredited.

Note:

 $\label{lem:ministerial} \textbf{Ministerial Resolution No. 011-94-EM-VMM} \ approved the model of contracts of guaranty and investment promotion measures.$

SECTION 79.- Mining holders who submit investment programs for an equivalent in local currency of US\$20'000,000 shall be entitled to enter into the contracts established in the preceding Section.

Mote:

Text of paragraph 1 according to Section 6 of Act No. 30230.

The effect of the contractual benefit shall fall exclusively on the mining company's activities to which the investment is made.

Mining holders who enter into these contracts may, at their option, advance the stabilized contractual system to the investment stage, with a maximum of three consecutive fiscal years, a period that will be deducted from the period guaranteed by the contract.

SECTION 80.- The stability agreements mentioned in the two preceding sections of this Act, will guarantee the mining holder the following benefits:

a) Tax stability, whereby it shall be solely subject to the tax system in force on the date of approval of the investment program, and no tax created thereafter shall apply. Neither shall the holder be subject to the changes that may be introduced in the system for the establishment and payment of applicable taxes, unless the holder opts to pay taxes in accordance with the amended system. This decision must be notified to the Tax Administration and to the Ministry of Energy and Mines within a period of one hundred and twenty days counted as from the date of amendment of the system. Neither shall be applicable the legal provisions that may eventually be issued, containing the obligation for mining holders to acquire bonds or titles of any other type, make advance payments of taxes or loans in favor of the government;

Section 1 of Act No. 27343 establishes that the guarantee of tax stability includes the taxes in force on the date of adoption of the contract. The contracts are those mentioned in Sections 78 and 82 of this Act.

Pursuant to Section 2 of Act No. 27343, the exercise of the power contained in this subsection does not constitute a different power to the one stipulated in Section 88 of this Act, with the understanding that only a full option for the general tax system shall be effective.

- Free disposition of the foreign currency generated by its exports, in the country or abroad.
 - If the mining holder locally sells its production, the Central Reserve Bank of Peru and the national financial system shall sell the holder the foreign currency required for the payment of goods and services, purchase of equipment, debt service, commissions, profits, dividends, payment of royalties, repatriation of capital, fees and, in general, any other disbursement required or entitled to be made in foreign currency;
- c) Non-discrimination regarding exchange rate, based on which the FOB value of exports and/or local sales is converted to national currency, understanding that the best exchange rate must be granted for foreign trade operations, if there is any type of control or differential exchange system. This non-discrimination guarantees all matters related to currency exchange in general;
- d) Unrestricted commercialization of the mineral products;
- e) Stability of special regimes, when granted as a result of tax refunds, temporary admission and other similar;
- f) Not to unilaterally modify the guarantees included in the contract.

SECTION 81.- Mining holders, included in the scope of Sections 78 and 79 of this Act, shall submit to the General Directorate of Mining, as a sworn statement, an investment program with an execution term, in order to enjoy the benefits set forth in the previous section.

The program must be approved within a term of forty-five calendar days. After this time and in the absence of a decision by the General Directorate of Mining, the program shall be automatically approved on the last day.

Compliance with the program shall be accredited with a sworn statement countersigned by an external auditor.

SECTION 82.- With the aim of promoting investment and facilitating the financing of mining projects with an initial capacity of no less than 5,000 MT/day or expansions made to reach a capacity of no less than 5,000 MT/day for one or more concessions or one or more Administrative Economic Units, the mining holders shall enjoy tax stability to be guaranteed with a contract signed with the government, for a term of twelve years, starting from the fiscal year in which the investment or expansion is accredited, as the case may be.

For the purposes of the contracts referred to in Sections 78, 83-A and this Section, an Administrative Economic Unit is understood as the group of mining concessions located within the boundaries established by Section 44 of this Act, the beneficiation plants and other assets that form part of a single production unit due to common supply, management and services to be qualified by the General Directorate of Mining in each case.

| Text of section according to Section 7 of Act No. 30296. | |
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SECTION 83.- The mining holders who submit investment programs of not less than the equivalent in local currency to US\$100'000,000 to start any of the mining activities, shall be entitled to enter into the contracts referred to in the previous Section.

| Text of paragraph 1 according to Section 6 of Act No. 30230. |
|--|

In the case of investments in existing mining companies, a minimum investment program equivalent to US\$250'000,000 in national currency must be submitted.



As an exception, persons who invest no less than the equivalent in national currency of US\$ 250'000,000 in government owned companies subject to the privatization process, according to Legislative Decree 674, shall have the right to access these contracts.



Text of paragraph 3 according to Section 6 of Act No. 30230.

The effect of the contractual benefit shall fall exclusively on the mining company's activities to which the investment is made.

The mining holder who enters into these contracts may, at their option, advance the stabilized contractual system to the investment stage, with a maximum of 8 consecutive fiscal years, a period that will be deducted from the period guaranteed by the contract.

SECTION 83-A.- With the aim of promoting investment and facilitating the financing of mining projects with an initial capacity of no less than 15,000 MT/day or expansions made to reach a capacity of no less than 20,000 MT/day for one or more concessions or one or more Administrative Economic Units, the mining holders shall enjoy tax stability to be guaranteed with a contract signed with the government, for a term of fifteen years, starting from the fiscal year in which the investment or expansion is accredited, as the case may be.

∠ Note:

Section incorporated by Section 7 of Act No. 30296.

The First Supplementary Transitory Provision of Act No. 30230 establishes that the tax stability system guaranteed pursuant to the provisions set forth in Sections 83-A and 83-B herein, shall only apply to Contracts of Guaranty and Mining Investment Promotion Measures adopted on and after the date of entry into force of Act No. 30230.

The Contracts of Guaranty and Mining Investment Promotion Measures adopted prior to the entry into force of Act No. 30230, and which are not yet valid, may adopt the Guaranteed Tax Stability System referred to in the preceding paragraph, provided they comply with the requirements of said system. To this effect, the Ministry of Energy and Mines, on behalf of the Peruvian Government, is authorized to sign the corresponding addenda with the mining holders. If applicable.

The Second Supplementary Transitory Provision of Act No. 30230 stipulates that the mining holders signing Contracts of Guaranty and Mining Investment Promotion Measures, must provide the National Superintendence of Customs and Tax Administration - SUNAT, with information regarding the total investment for each mining project, and required expansions thereof, in the means, form and term established by said authority through a Superintendence Resolution.

SECTION 83-B.- Mining holders who start or are executing mining activities and who submit investment programs of not less than the equivalent in national currency to US\$ 500'000,000.00 shall be entitled to enter into the contracts mentioned in the preceding Section.

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As an exception, persons who invest no less than the equivalent in national currency of US\$ 500'000,000 in government owned companies subject to the privatization process, according to Legislative Decree 674, shall have the right to access these contracts.

The effects of the contractual benefit shall be exclusively for activities of the mining company for which the investment is made, whether or not those activities are expressly mentioned in the investment program contained in the feasibility study that forms part of the stability agreement; or for the additional activities carried out after executing the investment program, provided that such activities are executed in one or more concessions or in one or more Administrative Economic Units where the investment project subject matter of the contract adopted with the government is being developed; that are related to the purpose of the investment project; provided that the amount of the additional investment is not less than the equivalent in national currency to US\$25'000,000.00, and that are previously approved by the Ministry of Energy and Mines, regardless of the subsequent control of the referred Sector.



Text of paragraph 3 according to Section 7 of Act No. 30296.

The additional activities referred to in the preceding paragraph must be executed within the stability term guaranteed in the Stability Agreement without implying an extension or a new stability term.

The mining holder who enters into these contracts may, at their option, advance the stabilized contractual system to the investment stage, with a maximum of 8 consecutive fiscal years, a period that will be deducted from the period guaranteed by the contract.

∠ Note:

Section incorporated by Section 5 of Act No. 30230.

The First Supplementary Transitory Provision of Act No. 30230 establishes that the tax stability system guaranteed pursuant to the provisions set forth in Sections 83-A and 83-B herein, shall only apply to Contracts of Guaranty and Mining Investment Promotion Measures adopted on and after the date of entry into force of Act No. 30230.

The Contracts of Guaranty and Mining Investment Promotion Measures adopted prior to the entry into force of Act No. 30230, and which are not yet valid, may adopt the Guaranteed Tax Stability System referred to in the preceding paragraph, provided they comply with the requirements of said system. To this effect, the Ministry of Energy and Mines, on behalf of the Peruvian Government, is authorized to sign the corresponding addenda with the mining holders, if applicable.

The Second Supplementary Transitory Provision of Act No. 30230 stipulates that the mining holders signing Contracts of Guaranty and Mining Investment Promotion Measures, must provide the National Superintendence of Customs and Tax Administration - SUNAT, with information regarding the total investment for each mining project, and required expansions thereof, in the means, form and term established by said authority through a Superintendence Resolution.

SECTION 84.- The contracts referred to in the previous Section shall guarantee the mining holder the benefits outlined in Section 80 of this Act, as well as the right to extend the annual depreciation rate of machinery, industrial equipment and other fixed assets up to a maximum of 20% (twenty percent) per year, as a global rate, according to the characteristics of each project, with the exception of edifications and construction works, which shall have a maximum limit of 5% (five percent) per year.

In the case of contracts mentioned in Sections 82 and 83-A, mining holders may request, as part of the contract, to keep their accounting records in US Dollars. To this effect, they must meet the following requirements:

- a) Keep the accounting records in the referred foreign currency for periods of at least five (5) fiscal years each time. After such period, they may choose to continue with the same system or change to national currency. The outstanding balances at the time of conversion shall be recorded in the original currency.
- b) During the period in which accounting records are kept in foreign currency, the company shall be excluded from the comprehensive inflation adjustment regulations.
- c) In the case of taxes payable in national currency, the contract must specify that the exchange rate used for the conversion must be the most favorable to the Tax Office.



Text of second paragraph according to the Single Supplementary Provision amending Emergency Decree No. 021-2019.

SECTION 85.- In order to enjoy the guaranteed benefits, mining holders included within the scope of Sections 82, 83, 83-A and 83-B of this Act, shall submit a technical-economic feasibility study, with the character of sworn statement, and must be approved by the General Directorate of Mining within a maximum term of ninety calendar days. After this period and in the absence of a decision by said Directorate, it shall be automatically considered as approved on the last day, which shall be applicable for setting the date of stability of the tax system and of the guarantees that were applicable as of the aforementioned date.

Note:

Text of paragraph 1 according to Section 6 of Act No. 30230.

Section 1 of Act No. 27343 establishes that the guarantee of tax stability includes the taxes in force on the date of adoption of the contract.

To accredit the invested amount, a sworn statement must be submitted, countersigned by an external auditor.



Section 1 of Act No. 27343 establishes that the Income Tax applicable at the time of adoption of the corresponding contract, shall be stabilized, in which case the rate in force on said date plus 2 (two) percentage points shall apply.

According to Section 2 of Act No. 27909, the two percentage points mentioned in this Section shall be applied to the Income Tax rate stipulated in paragraph 1, Section 55 of the Single Revised Text of the Income Tax Act.

SECTION 86.- The contracts guaranteeing the benefits established in this Title, are standard form agreements, and models thereof shall be prepared by the Ministry of Energy and Mines and the Ministry of Economy and Finance.

The tax clauses contained in said models shall be reviewed every time the tax system is amended by the Ministry of Economy and Finance. Such contracts must incorporate all the guarantees established in this Title.

Model contracts shall be approved by Ministerial Resolution for the case contemplated in Sections 78 and 79 and by a supreme decree, with the favorable vote of the Cabinet, in the case of Sections 82, 83, 83-A and 83-B of this Act.

Contracts shall be signed on behalf of the government, by the Vice-Minister of Mines, in the case contemplated in Sections 78 and 79, and on the one hand, by the Minister of Energy and Mines, in the case set forth in Sections 82, 83, 83-A and 83-B of this Act, prior consent of the Ministry of Economy and Finance, in tax related matters; and on the other hand, by the mining holders. A copy of such contracts shall be sent to the National Superintendence of Customs and Tax Administration - SUNAT.



SECTION 87.- In the event that any of the taxes forming part of the guaranteed tax system are repealed during the validity of the respective contract adopted under the provisions of this Title, the mining holder must continue to pay taxes according to the repealed system.

If any of the taxes forming part of the guaranteed tax system is repealed and replaced by a new and definitive tax, the mining holder shall pay the new tax up to an amount that does not annually exceed the amount payable under the original tax system.

If the replaced tax is temporary, the holders may either continue paying the temporarily replaced tax or adopt the new temporary tax system during its validity. The same rule applies if the temporarily substituted tax becomes permanent or is replaced by another permanent tax.



Section 1 of Act No. 27909 establishes that the Guaranty and Investment Promotion Contracts adopted according to the provisions set forth in the Single Revised Text of the General Mining Act shall stabilize the Income Tax System in force on the date of adoption of the contract. To this effect, the regulations published in the Official State Gazette "El Peruano" amending said system, even if they enter into force in subsequent periods, also apply, provided said amendments are effectively enforced in general. In this regard, the

amendments that are not yet in force on the date of adoption of the contract shall only be applicable as of their validity date. Hence, should said system fail to be enforced because it was amended or repealed after the adoption of the agreement, it shall be automatically excluded from the stability agreement.

The provisions set forth in these regulations shall apply to contracts being processed before the competent agency.

SECTION 88.- Mining holders who have adopted the contracts mentioned in this Title may, at any time, choose to waive the tax stability system, once only, in which case the common system shall apply.

SECTION 89.- Failure by mining holders to comply with the guaranteed tax system shall give rise to the relevant penalties according to the Tax Code and applicable regulations thereof, unless the sworn statements that gave rise to the contract, are false, in which case, it shall be rendered null and void, without prejudice to the corresponding criminal liability.

SECTION 90.- Persons entering into joint venture agreements with mining holders, who have been granted the guarantees referred to in this Title, shall have the same guarantees as those granted to the mining holder, according to the corresponding percentage or amount stipulated in the joint venture agreement.

TITLE TEN

SMALL-SCALE MINING PRODUCERS

SECTION 91.- Small-scale mining producers are those who:

- Individually or as a group of natural or legal persons comprised by individuals or mining cooperatives or mining cooperative centers, regularly engage in the direct exploitation and/or beneficiation of minerals; and
- 2. Possess, by any title, up to two thousand (2,000) hectares of mining claims, petitions and concessions; and who also
- Possess, by any title, an installed production and/or beneficiation capacity of not more than three hundred and fifty (350) metric tons per day. In the case of non-metallic minerals and construction materials producers, the maximum installed production and/or beneficiation capacity shall be one thousand two hundred (1,200) metric tons per day.
 - In the case of placer deposits, the maximum installed production and/or beneficiation capacity shall be three thousand (3,000) cubic meters per day.

Artisanal miners are those who:

 Individually or as a group of natural or legal persons comprised by individuals or mining cooperatives or mining cooperative centers, regularly engage and as a means of their

- livelihood, in the direct exploitation and/or beneficiation of minerals, executing their activities manually and/or with rudimentary equipment; and who
- 2. Possess, by any title, a maximum of one thousand (1,000) hectares, among mining claims, petitions and concessions, or who have adopted contracts with the mining holders, as established in the regulations of this Act; and who also
- 3. Possess, by any title, an installed production and/or beneficiation capacity of not more than twenty five (25) metric tons per day. In the case of nonmetallic minerals and construction materials producers, the maximum installed production and/or beneficiation capacity shall be one hundred (100) metric tons per day.
 - In the case of placer deposits, the maximum installed production and/or beneficiation capacity shall be two hundred (200) cubic meters per day.



Section 21 of Act No. 27651, Act for the Formalization and Promotion of Small-scale and Artisanal Mining, incorporated by Section 2 of Legislative Decree No. 1040, establishes that non-metallic substances and construction materials producers shall be considered Small-scale or Artisanal Mining Producers if they comply with the requirements set forth in paragraphs 1) and 3), Section 91 of the Single Revised Text of the General Mining Act.

The condition of small-scale or artisanal miner shall be accredited before the General Directorate of Mining through a biennial sworn statement.

Note:

Section 105-B, subparagraph e) of the Organization Manual of the MINEM, incorporated by Section 2 of D.S. No. 025-2013-EM, assigns this function to the General Directorate of Mining Formalization.

SECTION 92.- Small-scale mining producers, including artisanal mining producers, may benefit from the provisions of Sections 78, 79 and 80 herein, if they invest at least the equivalent in national currency of US\$ 500,000.00 in the case of small-scale mining producers and US\$ 50,000.00 in the case of artisanal mining producers.

TITLE ELEVEN

MINING JURISDICTION

CHAPTER I

ADMINISTRATIVE JURISDICTIONAL BODIES

SECTION 93.- The Executive Branch has administrative jurisdiction over mining affairs, jurisdiction that shall be exercised by the Mining Council, the General Directorate of Mining, the Mining Control Directorate, the Regional Mining Boards and the Public Registry of Mining. By Supreme Decree, the powers assigned to the General Directorate of Mining, the Mining Control Directorate and the Regional Mining Boards may be modified.



The Public Registry of Mining is understood as the National Institute of Concessions and Mining Cadaster - INACC, according to Section 5 of D.S. No. 015-2001-EM.

The merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute - INGEMMET was approved by D.S. No. 008-2007-EM, with INGEMMET as the surviving entity.

At present, the first administrative instance is comprised by: the General Directorate of Mining, the General Directorate of Environmental Affairs, the General Directorate of Mining Formalization, and the Geological, Mining and Metallurgical Institute - INGEMMET.

The Mining Control Directorate does not form part of the organizational structure of the Ministry of Energy and Mines. Its control functions have been transferred to the Supervisory Agency for Investment in Energy and Mining - OSINERGMIN by Act No. 28964, Act for the transfer of competencies in the supervision and control of mining activities to OSINERG, except for the supervision of small- scale and artisanal mining activities.

With respect to small-scale and artisanal mining activities, the functions mentioned in subparagraphs c) and f), Section 59 of Act No.27867 - Organic Act of Regional Governments and the powers associated to such functions stipulated in the Annex of D.S. No. 036-2007-PCM and in Annex 1 of R.M. No. 562-2009-MEM/DM, have been transferred.

CHAPTER II

MINING COUNCIL

SECTION 94.- The functions of the Mining Council are:

1) To hear and settle appeals for review in the last administrative instance.



According to Section 117 of the Regulations for Mining Procedures, approved by D.S. No. 020-2020-EM, against the decision of the Executive President of INGEMMET, the Directorate of Mining Concessions, the General Directorate of Mining or the Regional Government, it is necessary to file an appeal for review with the Mining Council within fifteen (15) business days after notification of the decision. With the last instance resolution, the administrative proceedings are exhausted.

Against the Resolution of INGEMMET or the Regional Government that grants the mining concession title, an appeal for review shall be filed within fifteen (15) business days following the date of publication of the list of titles granted, which is resolved in the last administrative instance by the Mining Council.

The administrative procedure concludes with a resolution issued in the last administrative instance by the Mining Council of the Ministry of Energy and Mines, which can be challenged in the Judicial Branch by means of a contentious-administrative action.

- 2) To resolve on administrative proceedings filed for damages and losses.
- 3) Resolve the remedies of complaint due to the dismissal of writs of appeal.
- 4) Answer queries posed by the Bodies of the National Public Sector on matters of its competence and provided they do not refer to any ongoing administrative or judicial proceeding.
- 5) Standardize the administrative case-law in mining affairs.
- 6) Propose to the Ministry of Energy and Mines, the tariffs concerning the matters covered by this Act.
- 7) Propose to the Ministry of Energy and Mines, the legal and administrative provisions it may deem necessary for the formalization and improved enforcement of the mining legislation.
- 8) Prepare its Organization and Functions Regulations.
- 9) Exercise all other functions assigned by law and regulations thereof, or those inherent to their function.

SECTION 95.- The Mining Council shall be composed of five members, who shall serve for a term of five years, during which time they shall not be replaced, provided they do not incur in gross negligence, incompetence or immorality, in which case the Minister of Energy and Mines shall issue the corresponding Supreme Resolution for subrogation, with the favorable vote of the Cabinet.

Three of the members of the Council shall be attorneys-at-law and two shall be chartered mining engineers or geologists.

Exceptionally, alternate members can be appointed.

SECTION 96.- Members of the Council shall be appointed by a Supreme Resolution with the favorable vote of the Cabinet.

The appointees must be persons of reputed moral integrity and mining expertise and with no less than 10 years of professional practice or experience in the activity.

The Council shall have a Licensed Secretary-Reporter, appointed or removed by a Supreme Resolution, proposed by the Council.

The administrative staff shall be appointed or removed by the Council.

SECTION 97.- The members of the Mining Council shall elect among its members a Chairman and a Vice-chairman, who shall hold office for one year.

SECTION 98.- The members of the Council and the Secretary-Reporter shall perform their duties full time and on an exclusive basis.

SECTION 99.- The Council shall meet daily and shall require a minimum quorum of four of its members for its operation. Three favorable votes are required to adopt resolutions, except for the provisions set forth in Section 152 of this Act.

SECTION 100.- The cases of recusal established by law for the members of the Judiciary shall constitute grounds for the abstention of the members of the Council, as applicable. Non-abstention where appropriate shall give rise to liability.

CHAPTER III

GENERAL DIRECTORATE OF MINING

(According to Section 93 of this act, the powers conferred to the General Directorate of Mining can be amended by supreme decree.)

SECTION 101.- The functions of the General Directorate of Mining are:

a) To grant the title of beneficiation, mining transport and general work concessions.



With respect to small-scale and artisanal mining activities, the function stipulated in subparagraph f) of Section 59 of Act No. 27867 - Organic Act of Regional Governments and the powers associated to said function, stipulated in Annex 1 of R.M. No. 562-2009-MEM/DM, have been transferred to the regional governments.

The General Directorate of Mining keeps the online Administrative Record of the beneficiation, transport and general work concessions established by the Ninth Final Supplementary Provision of Legislative Decree No. 1100.

Similarly, the General Directorate of Mining also keeps the Special Register of Gold Traders and Processors, according to Section 7 of D.S. No. 012-2012-EM.

- b) To approve the investment program with execution terms, which has the character of a sworn statement, regarding the tax stability agreements contained in Sections 78 and 79 of this Act.
- c) To approve the technical-economic feasibility study, which has the character of a sworn statement referred to in Sections 82, 83 and 83 -B of this Act.



Text of subsection according to Section 6 of Act No. 30230.

- d) To propose the model contracts of standard form that guarantee the benefits established in Title Nine of this Act.
- e) To ensure compliance with tax stability agreements.
- f) To rule on the creation of Administrative Economic Units.



The approval of the Administrative Economic Unit was assigned to the Public Registry of Mining by Section 1 of D.S. No. 052-99-EM.

The Public Registry of Mining is understood as the National Institute of Concessions and Mining Cadaster - INACC, according to Section 5 of D.S. No. 015-2001-EM.

The merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute - INGEMMET was approved by D.S. No. 008-2007-EM, with INGEMMET as the surviving entity.

- g) To assess the Annual Consolidated Statement to be submitted by the mining holders.
- h) To manage the annual maintenance fee.

Mote:

Pursuant to Section 1 of Supreme Decree No. 052-99-EM, the Public Registry of Mining is assigned the function set forth in this subsection.

The Public Registry of Mining is understood as the National Institute of Concessions and Mining Cadaster - INACC, according to Section 5 of D.S. No. 015-2001-EM.

The merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute - INGEMMET was approved by D.S. No. 008-2007-EM, with INGEMMET as the surviving entity.

- i) To assess and rule on the applications for Areas of Non-Admission of claims.
- j) To approve the location, design and operating projects of the exploitation and beneficiation concessions, in those cases stipulated in the Regulations.

The General Directorate of Mining authorizes the start/resumption of exploration, development, preparation, and exploitation activities (includes the mining and landfill plan) in metallic and non-metallic mining concessions under its competence.

With respect to small-scale and artisanal mining activities, the functions stipulated in subparagraph c), Section 59, of Act No. 27867 - Organic Act of Regional Governments and the powers associated to said functions, stipulated in the Annex of D.S. No. 036-2007-PCM and Annex 01 of R.M. No. 562-2009-MEM/DM, have been transferred to the regional governments.

- k) To propose mining welfare, health and safety regulations.
- To impose penalties and fines to the mining holders who breach their obligations or violate the provisions set forth in this Act, its Regulations and the Environmental Code.

The Agency for Environmental Assessment and Control (OEFA) was created in 2008 by Legislative Decree No. 1013 and started its direct environmental inspection activities in 2010. It is a specialized technical public agency, attached to the Ministry of the Environment, in charge of environmental inspection. The General Directorate of Mining has jurisdiction over the Lima Metropolitan area.

- m) To prepare the List of Mining Experts.
- n) To impose sanctions on the Experts who fail to comply with the provisions set forth in the Regulations of Experts, this Act and Regulations thereof.
- To settle, ex-officio or at the request of the party concerned, the complaints related to illegal mineral extraction.



With respect to small-scale and artisanal mining activities, the functions stipulated in subparagraph c) of Section 59 of Act No. 27867 - Organic Act of Regional Governments and the powers associated to said functions, stipulated in the Annex of D.S. No. 036-2007-PCM, have been transferred to the regional governments.

p) To manage the proceeds obtained from the auction of mining rights.

Note:

Pursuant to Section 1 of Supreme Decree No. 052-99-EM, the Public Registry of Mining is assigned the function set forth in this subsection.

The Public Registry of Mining is understood as the National Institute of Concessions and Mining Cadaster - INACC, according to Section 5 of D.S. No. 015-2001-EM.

The merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute - INGEMMET was approved by D.S. No. 008-2007-EM, with INGEMMET as the surviving entity.

q) To rule on the applications for the establishment of easements and expropriations.

With respect to easements, Section 7 of Act No. 26505, Act of Private Investment in the Development of Economic Activities within National Territory and on the Land of Indigenous and Native Communities, and Section 4 of its Regulations, approved by D.S. No. 017-96-AG, establish that the easement shall be approved and granted by Supreme Resolution. The General Directorate of Mining shall issue its technical opinion during the procedure.

Regarding expropriations, according to the provisions set forth in Section 70 of the Political Constitution of Peru, no person can be deprived of their property, except on the grounds of national security or public necessity, as declared by law.

- r) To approve and supervise the housing, health, mining safety and welfare programs.
- s) To classify mining holders into small, medium or large-scale mining producers according to the law in force.

Note:

Subparagraph e) of Section 105-B of the Organization Manual of MINEM, incorporated by D.S. No. 025-2013-EM, conferred the function of evaluating the applications for Qualification as Small-scale Mining Producer and Artisanal Mining Producer and issuing the respective certificates of accreditation to the General Directorate of Mining Formalization.

- t) To issue its opinion on the admissibility of the application for the shutdown and reduction of the mining activity, in the legal proceedings filed before the labor authority.
- u) To resolve the appeals and grant the appeals for review, in those proceedings in which it is competent to exercise administrative jurisdiction.
- v) To resolve the remedies of complaint due to the dismissal of the appeal.

Additionally, it has the following functions:

- a) D.S. No. 07-94-EM stipulates that the General Directorate of Mining shall approve the fulfillment of the implementation of reinvestment programs against the undistributed profits
- b) According to Act No. 27623, Act for the Refund of the Income Tax and the Municipal Promotion Tax to Mining Holders during the Exploration Phase and Regulations thereof, approved by D.S. No. 082-2002-EF, the General Directorate of Mining approves the investment program, signs the contract of investment in exploration and approves the execution of the program.
- According to Section 4 of D.S. No. 005-2008-EM, the General Directorate of Mining authorizes the registration in the Registry of Mining Contracting Companies.)
- w) To exercise all other activities inherent to its function.



The functions of the General Directorate of Mining are detailed in Section 98 of the Organization Manual of MINEM, amended by D.S. No. 021-2018-EM.

CHAPTER IV

MINING CONTROL DIRECTORATE

SECTION 102.- The functions of the Mining Control Directorate are to issue opinions and rule on the following:

- a) The fulfillment of the Tax Stability Agreements.
- b) The creation of Administrative Economic Units.
- c) The Annual Consolidated Statement to be submitted by the mining holders.
- d) The payment of the annual maintenance fee.
- e) The breach, by mining holders, of their obligations or the violation of provisions set forth in this Act, its Regulations and the Environmental Code.
- f) The mining-related housing, health, welfare and safety programs.
- g) The classification of mining holders into small, medium or large-scale mining producers according to the law in force.



At present, the Mining Control Directorate does not form part of the organizational structure of the Ministry of Energy and Mines.

The functions mentioned in this Section are as follows:

- Functions b) and d) are competence of INGEMMET;
- Function e) is competence of the Technical Mining Directorate, according to subparagraph e) of Section 101 of the Organization Manual of MINEM, amended by D.S. No. 021-2018-EM;
- Function f) is competence of the Ministry of Labor and Employment Promotion, according to Section 2 of Act No. 29901, Act that establishes the competencies of the Supervisory Agency for Investment in Energy and Mining (OSINERGMIN);

 Function g) is competence of the General Directorate of Mining Formalization, according to subparagraph e) of Section 105-B of the Organization Manual of MINEM, incorporated by D.S. No. 025-2013-EM.

Control functions have been transferred to the Supervisory Agency for Investment in Energy and Mining - OSINERGMIN, by Act No. 28964, Act for the transfer of competencies in the supervision and control of mining activities to OSINERG, except for the supervision of small-scale and artisanal mining activities.

With respect to small-scale and artisanal mining activities, the functions mentioned in subparagraphs c) and f), Section 59 of Act No.27867 - Organic Act of Regional Governments and the powers associated to such functions stipulated in the Annex of D.S. No. 036-2007-PCM and in Annex 1 of R.M. No. 562- 2009-MEM/DM, have been transferred.

Act No. 29325 created the National Environmental Assessment and Control System under supervision of the Agency for Environmental Assessment and Control as the governing body.

CHAPTER V PUBLIC REGISTRY OF MINING



The Public Registry of Mining is understood as the National Institute of Concessions and Mining Cadaster - INACC, according to Section 5 of D.S. No. 015-2001-EM.

The merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute - INGEMMET was approved by D.S. No. 008-2007-EM, with INGEMMET as the surviving entity.

SECTION 103.- The Public Registry of Mining shall be subject to the provisions set forth in this Act, its Organic Law and Regulations thereof, and by the provisions of the Registration Regulations of the National Office of the Public Registries.

SECTION 104.- The Mining Concessions Office is hereby created in the Public Registry of Mining, before which the documents in the regular mining procedure shall be processed and the mining concessions already granted and to be granted shall be registered, as well as all other related actions and contracts.

Documents that can also be registered in the Public Registry of Mining, at the request of the party concerned, are the contracts of any kind related to concessions and to persons engaging in mining activities and related parties thereof, provided they are accredited by a public instrument, unless otherwise expressly provided by law.

Administrative actions that can be recorded, ex-officio or at the request of the party concerned, shall be registered on the merit of a certified copy issued by the competent Administrative Authority.

SECTION 105.- The functions of the Public Registry of Mining are:

- a) To register and resolve on applications for mining petitions.
- b) To process and resolve on the oppositions filed according to law.
- c) To process and resolve on complaints filed for trespassing.

- d) To process and resolve on applications for the accumulation of petitions and concessions.
- e) To process and resolve applications on the use of barren and loam land.
- f) To grant the title of mining concessions.
- g) To incorporate the legal partnerships when the docket is subject to its jurisdiction.
- h) To declare the expiration, abandonment or nullity of the concessions and publish a notice to announce that they are free to be claimed, where appropriate.
- i) To settle the partial or total surrender of mining concessions.
- j) To periodically inform the General Directorate of Mining about the violations committed by Experts appointed in the exercise of their functions.
- k) To prepare the Mining Cadaster.
- To grant appeals for review in the procedures in which it exercises its administrative jurisdiction.
- m) To exercise all other powers inherent to its functions.

SECTION 106.- Unregistered actions, contracts and resolutions shall not be legally effective before the government or third parties.

SECTION 107.- The concession titles shall be registered on the sole merits of the Resolution granting them.

The Public Registry of Mining shall extend the registration entry of the title of the mining, general work and mining transport concessions, which shall contain a transcription of the Resolution that grants them. Furthermore, it shall file the pertinent documents related to mining petitions.

In the case of beneficiation concessions, the entry of the title shall contain the Directorial Resolution that granted them, filing a certified copy of the descriptive report, the treatment program, the requested use of water and the system for the discharge of industrial and domestic liquids.

SECTION 108.- The mining concessions are recorded in the Book of Mining Rights.

All other actions related to the granted mining concession can be registered at the request of the party concerned.

| € Note: | |
|---|--|
| Text of section according to Section 1 of Decree-Law No. 25998. | |

SECTION 109.- Registrars can make observations to the titles produced before them, in which case the parties concerned may correct them within a maximum term of fifteen days.

The parties concerned may appeal the observations or deletions made by the Registrars within a term of fifteen days before the Head of the Public Registry of Mining. An appeal for review can be filed against the Resolution issued by the Head within a term of fifteen days before the Mining Council.



With respect to small-scale and artisanal mining activities, the function stipulated in subparagraph f) of Section 59 of Act No. 27867 - Organic Act of Regional Governments and the powers associated to said function, stipulated in the Annex of D.S. No. 036-2007-PCM, have been transferred to the regional governments.

According to paragraphs b) and c) of Section 2 of Act No. 26366, that creates the National System and the Superintendence of Public Registries, amended by the Fifth Final Provision of Act No. 28677, the National System of Public Registries consists, among others, of: the Registry of Legal Entities, which includes the Registry of Mining Companies and others; as well as the Registry of Real Estate Property, which includes the Registry of Mining Rights.

In terms of mining, regional governments have the functions stipulated in Section 59 of Act No. 27867 - Organic Act of Regional Governments and the powers associated with these functions, mentioned in the Annex of D.S. No. 036-2007-PCM and in Annex 1 of R.M. No. 562-2009-MEM-DM, with respect to small and artisanal mining activities.

CHAPTER VI

IMPEDIMENTS

SECTION 110.- The impediments of the persons who exercise jurisdiction over mining affairs, are the same as those established by the Law for the Judges of First Instance.

TITLE TWELVE

PROCEDURES

Supreme Decree No. 020-2020-EM approved the Mining Procedure Regulations.

CHAPTER I

GENERAL PROVISIONS

SECTION 111.- The State guarantees that the mining procedures comply with the principles of certainty, simplicity, publicity, uniformity and efficiency.

SECTION 112.- In the event that two or more petitioners request the same area, the first to file the application shall be admitted.

SECTION 113.- While an application for a mining concession is being processed and its validity has not been definitively established, no application for the same area shall be admitted, regardless of the petitioner, not even to be taken into account.

SECTION 114.- During the processing of a mining petition, should it be observed that it fully overlaps with a previous one, the subsequent petition shall be canceled and its docket shall be filed.

If the overlap is partial, the new petitioner must reduce its petition respecting the area of the previous mining concession.

The reduction must be effected within 30 days following the notice of the resolution ruling on the overlap.



According to Section 11 of Act No. 26615, the National Mining Cadaster Act, the areas of mining rights in force, formulated under legislation prior to Legislative Decree No. 708, the vertices of which acquire final UTM coordinates under said Act, shall be mandatorily respected by the mining concessions granted or to be granted under the grid system of the ordinary procedure of the TUO. The titles of the latter shall include the final UTM coordinates of the vertices that define the area to be respected, in addition to the name of the concession, register and extension in hectares of the priority concessions.

SECTION 115.- If for any reason, two or more mining concessions appear to be overlapped, fully or partially, with a registered title, for more than ninety days from the date of publication referred to in Section 124 of this Act, the Head of the Public Registry of Mining shall incorporate a Legal Partnership with respect to the overlapped area.

Reference made to the Public Registry of Mining is understood as referring to the National Institute of Concessions and Mining Cadaster (INACC), pursuant to Section 5 of Supreme Decree No. 015-2001-EM.

Supreme Decree No. 008-2007-EM approved the merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute (INGEMMET), with the latter as the surviving entity.

The overlapped area shall always constitute a new mining concession, which shall take the name of the oldest overlapped mining concession, preceded by the word "reduction." The original partners shall have an equal percentage share in the legal partnership to be incorporated.

The original rights shall be reduced to the non-overlapping areas, where appropriate.

The provisions set forth in the preceding paragraphs shall not apply if the parties have adopted a different agreement to settle the overlap.

If, notwithstanding the above, the overlap was not identified, upon the expiry of any of the overlapped concessions, the surviving concession shall automatically acquire all the rights over the overlapped area.

SECTION 116.- If a petition is filed covering all or part of the land granted in accordance with the provisions of Section 37, subsection 2) of this Act, the Mining Concessions Office of the Public Registry of Mining, prior to delivering the publications and having complied with the process established in Section 143, shall decide on the admissibility of the petition. It shall be declared admissible if the

applicant proves that its petition is more important and, if possible, the transfer of the facilities built for the purposes of the concession to another area, unless they may otherwise remain in said area without major interference.

Having declared the admissibility of the petition, the Mining Concessions Office shall order, where appropriate, the transfer of the facilities. The costs and payment of the corresponding indemnity calculated according to the valuation of the Mining Authority shall be borne by the applicant. Once the transfer has been executed and the respective sums paid, the Mining Concessions Office shall continue to process the petition.



Reference made to the Public Registry of Mining is understood as referring to the National Institute of Concessions and Mining Cadaster (INACC), pursuant to Section 5 of Supreme Decree No. 015-2001-EM.

Supreme Decree No. 008-2007-EM approved the merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute (INGEMMET), with the latter as the surviving entity.

Reference to the Mining Concessions Office shall be understood as referring to the Directorate of Mining Concessions.

CHAPTER II

ORDINARY PROCEDURE FOR MINING CONCESSIONS

SECTION 117.- The ordinary procedure for the granting of mining concessions is established through a decentralized national jurisdiction, under the responsibility of the Public Registry of Mining.



Reference made to the Public Registry of Mining is understood as referring to the National Institute of Concessions and Mining Cadaster (INACC), pursuant to Section 5 of Supreme Decree No. 015-2001-EM.

Supreme Decree No. 008-2007-EM approved the merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute (INGEMMET), with the latter as the surviving entity.

Reference to the Mining Concessions Office shall be understood as referring to the Directorate of Mining Concessions.

In relation to the small-scale and artisanal mining activities, the function stipulated in Section 59, subparagraph f) of Act No. 27867 - Organic Act of Regional Governments and the powers associated to said function, stipulated in the Appendix of Supreme Decree No. 036-2007-PCM.

To this effect, the Mining Concessions Office of the Public Registry of Mining shall keep a grid system of one hundred hectares each, dividing the national territory into UTM coordinates, incorporating the petitions made in said grids, with the additional referential criteria provided by the petitioner upon filing its application.

SECTION 118.- The applicant must file the petition for the mining concession before any Office of the Public Registry of Mining, or before the entity authorizing said Registry, paying 10% of one Tax Unit (UIT).

In case the claim is made by two or more persons, they must appoint a joint attorney-in-fact upon filing the petition.

In addition to the legal requirements, the application must indicate the UTM coordinates of the grid or group of grids adjacent on at least one side, on which the concession is requested, respecting the preexisting rights.

SECTION 119.- The name of the petition cannot be the same as the name of mining concessions already granted or ongoing petition, nationwide.

Should a duplicate be identified, the Head of the Mining Concessions Office shall notify the interested party to change the name within a term of fifteen days. Once this term has expired, the change shall be made ex-officio.

SECTION 120.- Should the existence of mining concessions or petitions on the same grid or group of grids be found, the Head of the Mining Concessions Office shall cancel the new petition, within seven days of its filing or order the new claimant to reduce it to the available grid or set of grids.

SECTION 121.- Should the existence of mining concessions or petitions on the same grid or group of grids be found, the Head of the Mining Concessions Office shall cancel the new petition, within seven days of its filing or order the new claimant to reduce it to the available grid or set of grids.

According to Section 11 of Act No. 26615, the National Mining Cadaster Act, the areas of mining rights in force, formulated under legislation prior to Legislative Decree No. 708, the vertices of which acquire final UTM coordinates under said Act, shall be mandatorily respected by the mining concessions granted or to be granted under the grid system of the ordinary procedure of the TUO. The titles of the latter shall include the final UTM coordinates of the vertices that define the area to be respected, in addition to the name of the concession, register and extension in hectares of the priority concessions.

SECTION 122.- Simultaneously, the Head of the Mining Concessions Office shall deliver to the new petitioner notices for its publication, once only, within thirty days of their receipt, in the Official State Gazette "El Peruano" and in another newspaper of the capital of the province where the requested area is located. In the latter case, if there is no newspaper, notices will be posted for seven business days in the respective Regional Mining Office.

SECTION 123.- If no objections are filed within sixty days after the last publication or after service of notice to the holders of previous petitions, whichever occurs last, the records shall be delivered to the Mining Concessions Office for their evaluation.

Once the favorable technical and legal opinion have been issued, within a maximum term of thirty days, the Head of the Public Registry of Mining shall grant the title of the concession.

SECTION 124.- Every month, the Public Registry of Mining shall publish the list of mining concessions whose titles have been approved in the previous month, in the Official State Gazette "El Peruano".

SECTION 125.- An appeal for review may be filed against the resolution of the Head of the Public Registry of Mining, before the Mining Council, within fifteen days following the publication mentioned in the preceding Section. The resolution of the Mining Council concludes the administrative proceedings.

The Resolution of the Mining Council can be appealed before the Judiciary, in a contentious-administrative action, within thirty days following its notification to the parties.

Following the expiry of the term mentioned in the preceding paragraph, the concession title and the rights acquired with said title may not be challenged before the Judiciary, for any reason.

SECTION 126.- Having agreed upon or enforced the resolution granting the title of the concession, it shall be registered, at the request of the interested party.



Text of the Section according to Section 1 of Decree-Law No. 25998.

SECTION 127.- With the concession title, the State recognizes the right of the concessionaire to exclusively exercise, within a duly delimited surface, the activities inherent to the concession, as well as all the other rights recognized by this Act, regardless of the obligations of the concessionaire.



The concession title does not authorize, per se, mining exploration and exploitation activities. Section 37.3 of the Regulations for Mining Procedures, approved by Supreme Decree No. 020-2020-EM, details the authorizations the concessionaire must have prior to starting its activities.

SECTION 128.- If applications with UTM coordinates that determine the existence of an overlap in a specific area are simultaneously filed, the area shall be auctioned among the petitioners. In the same action, the Mining Concessions Office shall establish the date and time of the auction, which may not be held ten days prior to or thirty days after the date of filing of the applications.

For the purposes of this Section, the functions of the Mining Concessions Office may be delegated on a case-by-case basis and expressly by the Head of the National Institute of Concessions and Mining Cadaster, to the decentralized offices of this institution.

The starting price of the auction shall be 3% of the Tax Unit (UIT) for concessions of up to 100 hectares. For larger areas, the starting price shall be increased by 0.2% of the UIT, for every additional one hundred hectares or fraction thereof. It is mandatory to pay, in cash or by

cashier's check, 10% of the starting price, to the order of the National Institute of Concessions and Mining Cadaster, no less than 24 hours in advance.

With the presence of the interested parties who attend the auction at the set time, the Director General of the Mining Concessions Office shall open the auction report, receiving the bid of each bidder and a bid bond equivalent to 20% of their bid, in cash or by cashier's check, in a sealed envelope. Once the envelopes have been opened and the bids read, the area shall be awarded to the person with the highest bid.

The details of the auction shall be recorded in an auction report to be signed by the Director General of the Mining Concessions Office, the successful bidder and the interested parties who wish to do so.

The successful bidder must deposit the sum of his bid minus the bid bond, in the account of the National Institute of Concessions and Mining Cadaster, within the next two business days, under warning of losing the 10% deposit of the starting price of the auction together with his bid bond and of declaring the petition abandoned, without prejudice to awarding the area to the bidder with the next highest bid. In this case, the substitute successful bidder must pay the offered price within five business days after receiving notice to that effect. This rule shall be applied successively.

The deposits made shall be returned to the unsuccessful bidders, after the respective award has been executed. In the event of no bidders, the auction shall be declared void and the duly accumulated dockets shall be forwarded to the Management of the National Institute of Concessions and Mining Cadaster to publish the area as claimable.



Text of Section 1 Act No. 28031.

CHAPTER III

PROCEDURE FOR BENEFICIATION, GENERAL WORK AND MINING TRANSPORT CONCESSION

SECTION 129.- The General Directorate of Mining is responsible for reviewing and approving applications for beneficiation, general work and mining transport concessions. The respective procedures shall be established in the Regulations of this Act.



In relation to the small-scale and artisanal mining activities, the function stipulated in Section 59, subparagraph f) of Act No. 27867 - Organic Act of Regional Governments and the powers associated to said function, stipulated in the Appendix 01 of Supreme Decree No. 562-2009-MEM/DM.

These rights shall be registered in the Public Registry of Mining.



According to Section 2, paragraphs b) and c) of Act No. 26366, that creates the National System and the Superintendence of Public Registries, amended by the Fifth Final Provision of Act No. 28677, the National System of Public Registries is comprised by the Registry of Legal Entities that includes the Registry of Mining Companies and Partnerships and others; as well as by the Registry of Real Estate Property which includes the Registry of Mining Rights.

CHAPTER IV

EXPROPRIATION AND EASEMENT PROCEDURES

<u>Regarding expropriation</u>: according to the provisions of Section 70 of the Political Constitution of Peru, no one can be deprived of his property, except for reasons of national security or public necessity declared by law.

<u>Regarding easement</u>: according to Section 7 of Act No. 26505 - Private Investment in the Development of Economic Activities within National Territory and on the Land of Indigenous and Native Communities Act, replaced by Section 1 of Act No. 26570, the use of land to exercise mining or hydrocarbon activities requires a prior agreement with the owner or the completion of the easement procedure that will be specified in the Regulations to said Act.

In the case of mining or hydrocarbon easements, the landowner shall be previously compensated in cash by the holder of the mining or hydrocarbon activity, according to the value that includes the compensation for possible damages, which shall be determined by a supreme resolution and countersigned by the Minister of Agriculture and Minister of Energy and Mines.

The right of use for mining and hydrocarbon activities remains valid in barren lands owned by the State, which as at the date of publication of said act, were occupied by infrastructure, facilities and services for mining and hydrocarbon activities.

SECTION 130.- The application to establish easements and/or to expropriate shall be filed to the General Directorate of Mining, indicating the location of the property, its owner, extension, the purposes for which it is being requested and the value that, in the opinion of the applicant, the referred property is worth, as well as an appreciation of the deterioration that the alleged property may undergo. The applicant shall attach the Work Specification detailing the works to be executed.

The Director General of Mining shall summon the parties to appear on the fifteenth day after receiving notice thereof, under warning of continuing with the procedure in case of absence of the landowner. In said act, the owner of the property must prove his rights. Should the parties reach an agreement, the Director General of Mining shall order a public instrument containing said agreement to be formalized.

In the event of a disagreement or should the warning be enforced, the Director General of Mining shall appoint an expert to determine the admissibility of the expropriation and, if appropriate, the compensation or fair price, for which purpose he shall order a visual inspection with the summons of the parties concerned and the expert.

The visual inspection shall be held within a term of sixty days after the date of the summons, to check the need for the requested right.

Upon conclusion of the inspection, the expert must issue his report within a term of thirty days and deliver it together with the respective docket to the General Directorate of Mining.



Section 3 of the Regulations of Section 7 of Act No. 26505, approved by Supreme Decree No. 017-96-AG and amended by Section 1 of Supreme Decree No. 015-2003-AG, outlines the direct negotiation stage between the parties as well as the settlement stage.

SECTION 131.- The expert's report must necessarily determine the admissibility of the expropriation and, if relevant, the amount of the compensation or fair value as well as the compensation for the corresponding damages and losses. The General Directorate of Mining shall issue a Resolution within a maximum term of thirty days after the receipt of the expert's report. Should the application be declared admissible, the Resolution shall fix the compensation or fair price, as well as the corresponding compensation for damages and losses.

The applicant concessionaire shall deposit the sum he is obliged to pay, to the order of the General Directorate of Mining, within a maximum term of thirty days, under penalty of declaring the application abandoned.

Once payment has been made, the General Directorate of Mining shall proceed to draw-up the corresponding preliminary instrument within the next thirty days and shall order its subscription and of the public instrument, within a period of fifteen days after the parties have been notified, under warning of signing them by default. The deposited sum shall be delivered after the public instrument has been signed.

∠ Note:

Section 4 of the Regulations of Section 7 of Act No. 26505, approved by Supreme Decree No. 017-96-AG and amended by Section 1 of Supreme Decree No. 015-2003-AG, outlines the administrative procedure for legal easement.

SECTION 132.- If the owner of the requested land is unknown, the notice of summons shall be published three times, with an interval of 8 days between them, in the Official State Gazette "El Peruano" and in a local newspaper or one from the closest place to the property and, in addition, by a sign installed in the property.

The summons proceeding shall take place after the expiry of the sixty-day term counted as from the day after the last publication, with or without the presence of the owner, in which case the procedure shall continue according to the provisions of the previous two Sections.

The provisions of the preceding paragraphs shall apply if the alleged owner fails to accredit his ownership rights over the property in the summons proceeding.



the procedure to be followed when the owner fails to prove his ownership rights over the land subject matter of the easement.

SECTION 133.- During the processing of the docket, no appeal that may disturb its course shall be admitted, except for the appeal for review against the resolution granting the easement or expropriation.

The resolution that exhausts the administrative proceedings may be legally challenged, solely for valuation purposes.

Should two or more persons allege a better title over the property, the procedure shall continue with the intervention of all such persons until the issuance of the resolution, in which their right to enforce it before the Judiciary shall be safeguarded, in terms of the price, which shall remain deposited in the Banco de la Nacion (Bank of the Nation), awaiting the outcome of the trial.

Until the easement or expropriation is approved, the works for which it was requested may not be initiated.

SECTION 134.- Notwithstanding the provisions of the preceding Sections, the petitioner and the owner of the affected property may reach a direct agreement at any stage of the procedure, in which case the authority exercising jurisdiction shall order the issue of the public instrument formalizing said agreement, which must be granted within a maximum term of fifteen days, under warning of continuing with the procedure according to its stage.

SECTION 135.—If the Mining Authority confirms that the expropriated property is being used for purposes other than those specifically requested, its ownership rights shall be transferred to the State, free of charge, in which case the General Directorate of Mining shall issue the respective Resolution, which it will record in the National Office of the Public Registries and in the Public Registry of Mining.

Note:

Section 8 of the Regulations of Section 7 of Act No. 26505, approved by Supreme Decree No. 017-96-AG establishes the grounds for the extinction of the easement.

According to Section 2, paragraphs b) and c) of Act No. 26366, that creates the National System and the Superintendence of Public Registries, amended by the Fifth Final Provision of Act No. 28677, the National System of Public Registries is comprised by the Registry of Legal Entities that includes the Registry of Mining Companies and Partnerships and others; as well as by the Registry of Real Estate Property which includes the Registry of Mining Rights.

CHAPTER V

MINING USE OF BARREN AND LOAM LAND

The Second Supplementary Provision of Act No. 26505, amended by the First Supplementary and Final Provision of Act No. 27887 - repealed by the Single Supplementary Provision of Legislative Decree No. 1064, the validity of which is restored by Section 3 of Act No. 29376 - establishes that, as of its validity (July 19, 1995), the State shall proceed to the sale or concession of the barren land under its domain, in a public auction, with the exception of those parcels used for small-scale agriculture, which shall be granted in a purchase and sale process, prior qualification of the candidates by the Ministry of Agriculture.

Section 10 of Supreme Decree No. 017-96-AG, Regulations of Section 7 of Act No. 26505, establishes that the holders of mining activities, among others, who maintain in use the

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barren land owned by the State, must submit to the Ministry of Energy and Mines a suitable scale map and the work specifications of the land, indicating the surface areas occupied by the exploitation, facilities and services within a term of 90 days following the entry into force of these Regulations, in order to organize a register that would enable the exclusion of such lands from the auction procedure.

SECTION 136.- The application for the mining use of barren land outside the perimeter of the concession, shall be filed before the Public Registry of Mining, attaching similar information to that required for the petition of mining concessions, accompanied by a sketch of the perimeter of the requested area, which shall be enclosed within a polygon referenced to UTM coordinates.



Reference made to the Public Registry of Mining is understood as referring to the National Institute of Concessions and Mining Cadaster (INACC), pursuant to Section 5 of Supreme Decree No. 015-2001-EM.)

Supreme Decree No. 008-2007-EM approved the merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute (INGEMMET), with the latter as the surviving entity.

The Head of the Public Registry of Mining shall fix the date and time for a visual inspection to check the UTM coordinates of the land and confirm that it is barren.

€ Note:

This procedure should be conducted by the Director of Mining Concessions. However, Act No. 26505 mentioned above is in force

Having complied with these requirements, the Head of the Public Registry of Mining shall authorize the use of the barren land for mining activities.

Note:

The Chairman of the INGEMMET should be responsible for authorizing the use. However, Act No. 26505 mentioned above is in force

SECTION 137.- The application for the use of loam land shall be submitted according to the same requirements mentioned in the previous Section, accompanied by a sketch of the neighboring or adjacent concessions, if known.

The Head of the Public Registry of Mining shall order the publication, once only, in the Official State Gazette "El Peruano" and in a local newspaper where the land is located. Should no objection be filed within thirty days following the last publication, he shall grant the use of the requested loam land.

Note:

Legislative Decree No. 109 - of the Single Revised Text (TUO) of the General Mining Act, approved by Supreme Decree No. 014-92-EM - defines loam land as the subsoil that has not been granted in concession.

This procedure should be conducted by the Director of Mining Concessions and the Chairman of the INGEMMET should be responsible for granting its use. However, Act No. 26505 mentioned above is in force

CHAPTER VI ACCUMULATION

SECTION 138.- The applications to accumulate mining concessions and petitions filed as of December 15, 1991, shall be adjusted to the grid system established in Section 117 of this Act, in the area or areas in which such an adjustment is possible.

The accumulation procedure shall be pursued before the Mining Concessions Office.



Reference to the Mining Concessions Office shall be understood as referring to the Directorate of Mining Concessions.

Section 14 of Act No. 26615, the National Mining Cadaster Act, outlines the procedure for the accumulation of valid, adjacent or overlapped mining concessions, as well as for the division of the concession area into two or more concessions.

CHAPTER VII

SURRENDER

SECTION 139.- Mining concessions may be partially surrendered provided that the retained area is not less than one grid of one hundred hectares.

The area of the mining concession requested up to December 14, 1991, may be partially surrendered, provided that the retained area is not less than one hectare.

Assignees and mortgagees shall have a preemptive right over the surrendered area, when its free availability is declared.

In the aforementioned cases of surrender, the application must contain the requirements established in the Regulations.



Text of the Section according to Section 1 of Decree-Law No. 25998.

CHAPTER VIII

COMPLAINTS

SECTION 140.- When the concession holder suspects a flood, landslide or fire during its activities or, in general, situations that contravene the safety and health standards, for causes attributed to the neighboring concessions, a complaint shall be filed in writing before the General Directorate of Mining, reporting such violations.

The Director General of Mining shall order a visual inspection, to be conducted within the shortest possible term, according to the severity of the reported fact, not to exceed a term of 10 days following the receipt of the complaint.

Upon completion of the visual inspection, the Director General of Mining shall issue the corresponding Resolution.

Appeals filed against this Resolution shall be processed without the suspension of its effects.

∠ Note:

Section 11 of Act No. 28964 establishes that any and all complaints against holders of mining activities, in terms of Health and Safety and Environmental Conservation and Protection, must be filed before the OSINERGMIN (Supervisory Agency for Investment in Energy and Mining).

In relation to the small-scale and artisanal mining activities, the function stipulated in Section 59, subparagraph c) of Act No. 27867 - Organic Act of Regional Governments and the powers associated to said function, stipulated in the Appendix of Supreme Decree No. 036-2007-PCM.

SECTION 141.- Complaints for trespassing of other people's mining concessions or petitions, shall be filed by the alleged aggrieved party, in writing, before the Head of the Mining Concessions Office of the Public Registry of Mining, attaching a certified copy of the title deeds of their concession and those of the alleged offender, where appropriate. The Head of the Mining Concessions Office shall order the appointment of an expert and a visual inspection, to be conducted within a minimum term of ten days and a maximum term of thirty days, which shall include land surveys, the valuation of the allegedly extracted mineral substances, the calculation of the damages and losses caused, if any, and the analysis of the deed of each concession.

The parties assisted by chartered civil, mining engineers and geologists may attend the inspection and may leave a written record of their observations during the procedure.

The expert must issue his report within a maximum term of thirty days following the procedure, unless a greater term is required due to the nature of the operation, in which case it shall be authorized by the Head of the Mining Concessions Office.

The Head of the Mining Concessions Office shall decide on the matter within a maximum term of thirty days.

Having exhausted the administrative proceedings, the resolution may be appealed before the Judiciary, prior deposit in the Banco de la Nacion (Bank of the Nation) or sufficient guarantee of the sum dictated in the administrative resolution that ended the instance.

Reference made to the Public Registry of Mining is understood as referring to the National Institute of Concessions and Mining Cadaster (INACC), pursuant to Section 5 of Supreme Decree No. 015-2001-EM.

Supreme Decree No. 008-2007-EM approved the merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute (INGEMMET), with the latter as the surviving entity.

Reference to the Mining Concessions Office shall be understood as referring to the Directorate of Mining Concessions.

In relation to the small-scale and artisanal mining activities, the function stipulated in Section 59, subparagraph c) of Act No. 27867 - Organic Act of Regional Governments and the powers associated to said function, stipulated in the Appendix of Supreme Decree No. 036-2007-PCM.

SECTION 142.- Within three days following the date when the resolution ordering the evacuation of the invaded area is agreed upon or enforceable, the Head of the Mining Concessions Office shall dictate the fulfillment of said resolution, under warning of vacating the property with the aid of law enforcement.

Failure by the summoned party to deposit the ordered sums, the affected party may demand their payment before the Judiciary.



Reference to the Mining Concessions Office shall be understood as referring to the Directorate of Mining Concessions.

In relation to the small-scale and artisanal mining activities, the function stipulated in Section 59, subparagraph c) of Act No. 27867 - Organic Act of Regional Governments and the powers associated to said function, stipulated in the Appendix of Supreme Decree No. 036-2007-PCM

CHAPTER IX **OTHER PROCEDURES**

SECTION 143.- The contentious issues that are not subject to the special procedures

mentioned in this Act, shall be subject to the procedure outlined below.

Upon filing the application, the Head of the Mining Concessions Office of the Public Registry of Mining shall summon the parties on the tenth day after receiving notice thereof. If the applicant fails to attend the summons proceeding, the procedure shall be considered abandoned. If the other party fails to attend, a new summons will be issued within a maximum term of six days, under warning of continuing with the procedure by default. If the parties reach an agreement during the summons, it shall be recorded, and the Head of the Mining Concessions Office shall issue the corresponding resolution. In the event of a dispute or default, the Head Office of Mining Concessions, at the request of a party or ex-officio, shall order the evidence it may deem necessary, to be produced within a maximum term of thirty days, upon expiration of which the corresponding resolution shall be issued.



Reference made to the Public Registry of Mining is understood as referring to the National Institute of Concessions and Mining Cadaster (INACC), pursuant to Section 5 of Supreme Decree No. 015-2001-EM.

Supreme Decree No. 008-2007-EM approved the merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute (INGEMMET), with the latter as the surviving entity.

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Reference to the Mining Concessions Office shall be understood as referring to the Directorate of Mining Concessions.

In relation to the small-scale and artisanal mining activities, the function stipulated in Section 59, subparagraph c) of Act No. 27867 - Organic Act of Regional Governments and the powers associated to said function, stipulated in the Appendix of Supreme Decree No. 036-2007-PCM.

CHAPTER X

OBJECTION

SECTION 144.- Objection is an administrative procedure to appeal the validity of the application for a mining concession, which may be lodged by any natural person or legal entity that believes their rights have been affected.

An objection shall be filed before any office of the Public Registry of Mining prior to the issuance of the title of the new petition, offering the pertinent evidence at that moment. Upon the expiry of this term, the new title may only be objected by the appeal mentioned in Section 125 of this Act.



Text of the second paragraph according to Section 1 of Decree-Law No. 25998.

Reference made to the Public Registry of Mining is understood as referring to the National Institute of Concessions and Mining Cadaster (INACC), pursuant to Section 5 of Supreme Decree No. 015-2001-EM.

Supreme Decree No. 008-2007-EM approved the merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute (INGEMMET), with the latter as the surviving entity.

In relation to the small-scale and artisanal mining activities, the function stipulated in Section 59, subparagraph f) of Act No. 27867 - Organic Act of Regional Governments and the powers associated to said function, stipulated in the Appendix of Supreme Decree No. 036-2007-PCM.

SECTION 145.- The objecting party may offer an expert's report, linking their mining right with the UTM coordinates, resorting to that effect, to any of the experts included in the list approved by the Director General of Mining.

The objecting party may alternatively serve the visual inspection or land survey report as proof, to which effect the parties shall appoint a deciding expert. If the parties fail to reach an agreement, the deciding expert shall be appointed by the Head of the Mining Concessions Office, among the list of experts approved by the Director General of Mining.



Reference to the Mining Concessions Office shall be understood as referring to the Directorate of Mining Concessions.

In relation to the small-scale and artisanal mining activities, the function stipulated in Section 59, subparagraph f) of Act No. 27867 - Organic Act of Regional Governments and the powers associated to said function, stipulated in the Appendix of Supreme Decree No. 036-2007-PCM.

SECTION 146.- Notice of the objection shall be served for a period of seven (7) days.

Regardless of whether the notice was answered or not, the Head of the Mining Concessions Office shall order the production of evidence within a term of thirty days.



Reference to the Mining Concessions Office shall be understood as referring to the Directorate of Mining Concessions.

In relation to the small-scale and artisanal mining activities, the function stipulated in Section 59, subparagraph f) of Act No. 27867 - Organic Act of Regional Governments and the powers associated to said function, stipulated in the Appendix of Supreme Decree No. 036-2007-PCM.

If the evidence is a visual inspection or land survey, the deciding expert shall summon the parties to carry out the respective proceedings, which shall take place with or without their attendance.

The expenses incurred in the production of evidence for the objection shall be borne by the holder of the most recent petition.

SECTION 147.- Based on the records, the Head of the Public Registry of Mining shall issue a resolution after receiving the opinions from the legal and technical offices. This shall be no later than thirty (30) days from the date when the deciding expert has delivered his report.

An appeal for review may be filed against the resolution issued by the Head of the Registry.



Reference made to the Public Registry of Mining is understood as referring to the National Institute of Concessions and Mining Cadaster (INACC), pursuant to Section 5 of Supreme Decree No. 015-2001-EM.

Supreme Decree No. 008-2007-EM approved the merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute (INGEMMET), with the latter as the surviving entity.

In relation to the small-scale and artisanal mining activities, the function stipulated in Section 59, subparagraph f) of Act No. 27867 - Organic Act of Regional Governments and the powers associated to said function, stipulated in the Appendix of Supreme Decree No. 036-2007-PCM.

NULLITY

SECTION 148.- The following administrative actions are fully null and void:

1) Those dictated by an incompetent body:

- Those contrary to the Constitution and the laws and those containing a legal impossibility;
- 3) Those dictated dispensing with the essential procedural rules and the form prescribed by Law.

SECTION 149.- The mining authority shall declare the nullity of the records, ex-officio or at the request of a party, if any substantial defect is identified, reinstating the proceeding to the stage in which the defect was produced. However, the evidence and other records not affected by said nullity shall subsist.

SECTION 150.- The nullity shall be filed before the authority exercising jurisdiction and shall be processed separately without interrupting the processing of the docket. The referred authority shall create a separate case file, including the copies designated by the parties and indicated by the authority. The file shall be forwarded to the next higher authority, who will decide on the nullity.

CHAPTER XII ABANDONMENT

SECTION 151.- The application for mining concessions, whose terms or extended terms have expired due to the non-compliance of the interested party, shall be declared abandoned by the mining authority.

CHAPTER XIII

RECUSAL

SECTION 152.- In case of recusal, the procedure shall be forwarded to the higher instance that shall decide on a single instance.

The recusal of a member of the Mining Council shall be filed before said council.

The Mining Council must settle the matter, without the presence of the recused member and with the attendance of not less than three members.

The favorable vote of not less than three of its members shall be required to approve the recusal.

CHAPTER XIV

RESOLUTIONS

SECTION 153.- Administrative resolutions are classified into decrees, rulings, administrative decrees, board resolutions and of the Mining Council.



Furthermore, the Resolutions of the Presidency of the Geological, Mining and Metallurgical Institute (INGEMMENT) and of the competent bodies of the regional government must also be considered.

Decrees are issued to carry out the procedures established by law.

Rulings settle procedural matters that are not merely for processing purposes or that put an end to the instance or mining administrative jurisdiction.

Resolutions shall put an end to the instance or the mining jurisdiction.

Decrees and rulings issued in the mining proceedings are not final.

SECTION 154.- A review can be requested against decrees. The mining authority shall settle the case directly or by previously serving notice to the other party.

No appeal or review can be filed against the resolution.

An appeal and/or review, where appropriate, may be filed against the rulings, which shall be processed in a separate case file.

An appeal can be filed against administrative decrees.

An appeal for review can be filed against board resolutions.



Furthermore, the Resolutions of the Presidency of the Geological, Mining and Metallurgical Institute (INGEMMENT) and of the competent bodies of the regional government must also be considered.

SECTION 155.- The terms to file the remedies mentioned in the previous Section are:

- 1) Against decrees, within five days following the service of notice.
- 2) Against rulings and resolutions, within fifteen days following the service of notice.

SECTION 156.- Remedy of complaint can be filed against the resolutions of authorities that do not grant the appeals or review.

The remedy of complaint shall be filed before the next higher authority, within a term of fifteen days from the day after the notice of the rejected resolution, which shall be resolved in a single instance.

The remedy of complaint shall be processed separately and will not interrupt the processing of the docket.

CHAPTER XV

CONTENTIOUS-ADMINISTRATIVE ACTION

SECTION 157.-



Repealed by the First Repeal Provision of Act No. 27584, that entered into effect on April 15, 2002, according to Section 5 of Act No. 27684.

CHAPTER XVI

TERMS

SECTION 158.- The terms shall always be counted from the day after the date of notice or publication of the relevant act.

SECTION 159.- In this Act, when the terms are indicated in days, it shall be understood as business days for the public administration.

The term indicated in months are met on the month of expiration and on the same day as in the initial month. The same rule applies when the term is indicated in years. If there is no such day in the month of expiration, the term shall be met on the last day of said month.

Should the last day of the term be a non-business day, it shall be construed to have been extended to the next first business day.

SECTION 160.- In the case of persons who are not obliged to indicate their address before the mining authority exercising jurisdiction, the distance shall be added to the conditions established in this Act.

CHAPTER XVII

NOTICES

SECTION 161.-



The section was repealed by the Single Supplementary Provision of Repeal in the Legislative Decree No. 1272, being applicable the provisions of such regulation.

Supreme Decree No. 018-2008-EM approved the System of Service of Notice to a Personal Electronic Address

TITLE THIRTEEN

MINING AGREEMENTS

CHAPTER I

GENERAL PROVISIONS

SECTION 162.- Mining agreements are governed by the general rules of the common law, in all those matters that do not contradict the provisions in this Act.

SECTION 163.- Mining agreements shall be recorded in public instruments and registered in the Public Registry of Mining, for them to be legally effective before the State and third parties.

Mote:

According to Section 2, paragraphs b) and c) of Act No. 26366, that creates the National System and the Superintendence of Public Registries, amended by the Fifth Final Provision of Act No. 28677, the National System of Public Registries is comprised by the Registry of Legal Entities that includes the Registry of Mining Companies and Partnerships and others; as well as by the Registry of Real Estate Property which includes the Registry of Mining Rights.

Agreements entered into by the Banco de Fomento Nacional (National Development Bank) are exempted from the formality of the Public Instrument, pursuant to the provisions in its Organic Act.

Note:

The Banco de Fomento Nacional (National Development Bank) was created by Decree-Law No. 25480, repealed by Section 6 of Decree-Law No. 25694 and by the Sixteenth Final Provision of Legislative Decree No. 770.

Supreme Resolution No. 077-2008-EF concluded the liquidation process of the Banco Minero del Peru (Mining Bank of Peru) in Liquidation.

CHAPTER II

TRANSFER AGREEMENT

SECTION 164.- In agreements in which the total aliquots of concessions are transferred, no termination due to injury shall apply.

CHAPTER III

OPTION AGREEMENT

SECTION 165.- By an option agreement, a concession holder unconditionally and irrevocably undertakes to adopt a final agreement in the future, provided the option holder exercises his right to demand the termination of this agreement, within the stipulated term.

The option agreement must contain all the elements and conditions of the final agreement, and the parties may agree to authorize either of the parties to exercise the option indistinctly.

The mining option agreement shall be adopted for a maximum term of five years from its date of signing.

CHAPTER IV

MINING ASSIGNMENT AGREEMENT

SECTION 166.- The concessionaire may assign his mining beneficiation, general works or mining transport concession to a third party, in exchange for a compensation.

By this agreement, the assignee assumes all the rights and obligations of the assignor.

SECTION 167.- State-run companies governed by private law are prohibited from entering into mining assignment agreements that affect mining rights on which these mining companies have not executed mining operations and that, as at December 15, 1991, have not been included in such a contracting system.

In terms of the mining assignment agreements in force, such companies shall encourage the adoption, in order of priority, of option or transfer agreements or any other form of partnership with the current assignees.

SECTION 168.- In proceedings in which the title or the area of the concession is being disputed, it shall necessarily be understood that the assignor and the assignee must agree, unless either of them has expressly delegated the right of defense in favor of the other.

SECTION 169.- The assignee operating a concession may not enter into mining assignment agreements in relation to said concession with third parties at the same time.

SECTION 170.- The mining assignment agreement may be fully transferred to a third party, with the express consent of the assignor.

SECTION 171.- The breach of the obligations contained in Title Six, Chapter I of this Act, as well as those agreed to in the agreement, are grounds for the termination of the mining assignment agreement.

Actions regarding the termination of the mining assignment agreement shall be processed according to the rules of the small claims proceeding.



According to paragraph 2 of the Third Final Supplementary Provision of the Single Revised Text (TUO) of the Civil Procedural Code, approved by Ministerial Resolution No. 010-93-JUS, legal reference to the small claims proceeding refers to the summary procedure.

CHAPTER V

MORTGAGE AGREEMENT

SECTION 172.- A mortgage may be established on concessions filed in the Public Registry of Mining.



According to Section 2, paragraphs b) and c) of Act No. 26366, that creates the National System and the Superintendence of Public Registries, amended by the Fifth Final Provision of Act No. 28677, the National System of Public Registries is comprised by the Registry of Legal Entities that includes the Registry of Mining Companies and Partnerships and others; as well as by the Registry of Real Estate Property which includes the Registry of Mining Rights.

SECTION 173.- For the purposes of valuation and auction, the contracting parties may consider various concessions that form a set of joint or inter-dependent properties as a single unit.

SECTION 174.- The creditor has the right to inspect the properties granted in guarantee and request their improvement.

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SECTION 176.-

Section repealed by the First Final Provision of Legislative Decree No. 868)

(Section repealed by the First Final Provision of Legislative Decree No. 868)

SECTION 177.-

(Section repealed by the First Final Provision of Legislative Decree No. 868)

CHAPTER VI MINING PLEDGE

SECTION 178.-

(Section repealed by the Sixth Final Provision of Act No. 28677 that entered into force 90 days after its publication, according to its First Final Provision.)

SECTION 179.-

(Section repealed by the Sixth Final Provision of Act No. 28677 that entered into force 90 days after its publication, according to its First Final Provision.)

SECTION 180.-

(Section repealed by the Sixth Final Provision of Act No. 28677 that entered into force 90 days after its publication, according to its First Final Provision.)

SECTION 181.-

(Section repealed by the Sixth Final Provision of Act No. 28677 that entered into force 90 days after its publication, according to its First Final Provision.)

SECTION 182.-

(Section repealed by the Sixth Final Provision of Act No. 28677 that entered into force 90 days after its publication, according to its First Final Provision.)

SECTION 183.-

(Section repealed by the Sixth Final Provision of Act No. 28677 that entered into force 90 days after its publication, according to its First Final Provision.)

CHAPTER VII

CONTRACT MINING COMPANY AND BRANCH OFFICES

SECTION 184.- Contract mining company shall be governed by the provisions of the General Corporations Act and in this Act and shall be mandatorily filed in the Public Registry of Mining.

Optionally, mining companies may be registered in the Commercial Registry of the National Office of the Public Registries.

Those companies who are solely registered in the Public Registry of Mining must necessarily refer to the mining activities in their Business or Corporate Name.

When the main purpose of these corporations is to engage in activities other than mining, they must mandatorily be filed in the Commercial Registry of the corresponding National Office of the Public Registries.



According to Section 2, paragraphs b) and c) of Act No. 26366, that creates the National System and the Superintendence of Public Registries, amended by the Fifth Final Provision of Act No. 28677, the National System of Public Registries is comprised by the Registry of Legal Entities that unifies the Commercial Registry, the Registry of Mining Companies and Partnerships and others; as well as by the Registry of Real Estate Property which includes the Registry of Mining Rights.

SECTION 185.- Branch offices incorporated abroad and established in the country to exercise mining activities must comply with the provisions set forth for those in the General Corporations Act and in this Act.

They must be mandatorily registered in the Public Registry of Mining and, optionally, in the Commercial Registry of the National Office of the Public Registries.



According to Section 2, paragraphs b) and c) of Act No. 26366, that creates the National System and the Superintendence of Public Registries, amended by the Fifth Final Provision of Act No. 28677, the National System of Public Registries is comprised by the Registry of Legal Entities that includes the Registry of Mining Companies and Partnerships and others; as well as by the Registry of Real Estate Property which includes the Registry of Mining Rights.

CHAPTER VIII

LEGAL PARTNERSHIP

SECTION 186.- When two or more title holders of a concession exist as the result of a petition, succession, transfer or any other title, a limited liability mining company shall mandatorily be incorporated, unless the parties decide to establish a contract mining company.

The limited liability mining company is a private legal entity, and by its incorporation becomes the sole holder of the concession that originated it.

The partners of limited liability mining companies are not personally liable for the social obligations, but only up to the limit of their shares.



According to Section 7 of Decree-Law No. 25998, legal partnerships that as at their date of entry into force were governed by Decree-Law No. 18880 - as provided for in the Eighth Transitory Provision of Legislative Decree No. 109 - must adjust to the provisions established in this title, with the exception of those submitted for their extinction.

SECTION 187.- The limited liability mining company shall be incorporated ex-officio by the Head of the Public Registry of Mining.

Note:

Reference made to the Public Registry of Mining is understood as referring to the National Institute of Concessions and Mining Cadaster (INACC), pursuant to Section 5 of Supreme Decree No. 015-2001-EM.

Supreme Decree No. 008-2007-EM approved the merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute (INGEMMET), with the latter as the surviving entity.

The company shall be registered in said Register by virtue of the certified copy of the resolution declaring its incorporation.



According to Section 2, paragraphs b) and c) of Act No. 26366, that creates the National System and the Superintendence of Public Registries, amended by the Fifth Final Provision of Act No. 28677, the National System of Public Registries is comprised by the Registry of Legal Entities that includes the Registry of Mining Companies and Partnerships and others; as well as by the Registry of Real Estate Property which includes the Registry of Mining Rights.

SECTION 188.- The limited liability mining company shall be governed by the provisions of this Act and by the Company Bylaws, which, if applicable, the partners agree to grant. The provisions of Section 199, paragraph 1) shall apply for the approval of the Bylaws. No agreement can be adopted against the provisions contained in this Chapter.

SECTION 189.- Limited liability mining companies may exercise, without restrictions, all mining activities in and outside the area where the concession that originated it is located, filing the necessary petitions and applications to that effect.

SECTION 190.- The company shall take the name of the mining concession.

Should the company own more than one concession, its name and address shall be the same as the oldest concession. If all the concession were filed on the same date, the name and address shall be taken from the first concession in alphabetical order.

If the concession that gave rise to the name of the company is transferred and the company owns other concessions, the corporate name must be amended, upon the approval of the transfer, following the procedure established in the preceding paragraph.

SECTION 191.- The existence of these companies is indefinite.

SECTION192.- The share capital shall be formed with contributions in cash, properties and/or credits. The provisions of the General Corporations Act shall govern for the effects of the contribution.

The share capital shall be divided into equal, cumulative and indivisible shares that may not be represented in marketable securities or called shares.

The shares confer upon their legitimate holder, the status of partner and grant him the following rights in proportion to his share:

- 1) To participate in the distribution of profits and in the equity resulting from the liquidation;
- 2) To intervene and vote in General Shareholders Meetings;
- 3) To supervise the management of the corporate business in the manner established in the General Corporations Act.
- 4) To be given preference for the subscription of shares in the event of a share capital increase;
- 5) To withdraw from the company in the cases established in the General Corporations Act.

SECTION 193.- The starting capital of a company incorporated in the petition act, shall be the sum of the value of the claim and registration rights, as well as the expenses incurred to file the petition, contributions that shall be governed by the provisions of the previous Section.

In all the other cases outlined in Section 186, upon requesting the incorporation of the legal partnership, the interested parties must indicate the starting share capital of the company and the form in which it shall be paid.

SECTION 194.- The address of the company shall be the city where the concession that gave rise to its incorporation is located, unless the partners agree to change the address, for which the provisions set forth in Section 199, paragraphs 1) and 2) shall apply.

SECTION 195.- The company shall be managed by the General Shareholders Meeting and the Management.

SECTION 196.- The General Shareholders Meetings can be regular or special.

The Regular Shareholders Meeting must be held as provided for in the Bylaws, at least once a year, within the three months following the end of the fiscal year. The Regular Shareholders Meeting must decide on the social management, the accounts and balance sheet of the fiscal year and on the distribution of profits, if any. Additionally, all other matters indicated in the meeting notice can be discussed, provided the required quorum has been met.

The Special Shareholders Meeting may be held at any time, even simultaneously with the Regular Shareholders Meeting, and it is competent to address all the matters of interest to the company and included in the meeting notice.

SECTION 197.- General Shareholders Meetings shall be called by the Manager, by a notice published no less than ten days in advance, in the case of Regular Meetings, and as deemed convenient to the company's interest, with no less than three days in advance, in the case of Special Meetings.

Additionally, a Shareholders Meeting must be called at the notarial request of a number of partners representing, at least, one fifth of the equity share, expressing in the request the matter or matters to be discussed in the Meeting. In the latter case, the Meeting must be mandatorily called within fifteen days following the date of the request.

The meeting notice must be published, once only, in a newspaper of the province of the address of the company and in the Official State Gazette "El Peruano", indicating the date, time and place of the meeting and the matters to be discussed.

Notwithstanding the foregoing, the Meeting shall be validly installed, provided the partners representing all the equity shares are present and the attendees unanimously agree to hold the Meeting and the matters to be discussed therein.

SECTION 198.- To hold Regular and Special Meetings for matters other than those mentioned in the following Section, the attendance of partners who represent, at least, half of the paid-up capital shall be required. In a second meeting, the attendance of any number of shares shall suffice.

Resolutions shall be adopted by an absolute majority of the shares present at the Meeting.

The Company Bylaws may require higher majorities but never lower.

SECTION 199.- To hold Regular and Special Shareholders Meetings, where appropriate, to discuss the transfer or assignment of the concessions owned by the company, change of address, establishment of a mortgage and pledge on the rights or assets of the company, issue of obligations, the transformation, merger or dissolution of the company and, in general any amendment to the Bylaws, except for the provisions set forth in the last paragraph of this Section, a minimum quorum of two thirds of the total paid-up capital is required in a first meeting. For a second meeting, the attendance of partners representing three fifths of the paid-up capital shall suffice.

In both cases, the favorable vote of the partners that represent, at least, the absolute majority of equity shares shall be required for the validity of the resolutions.

In any meeting, to discuss a capital increase or reduction, the attendance to the General Meeting and the favorable vote of, at least, the partners who represent 51% of the equity shares shall be required.

SECTION 200.- All legal partnership shall initially appoint the majority partner as their Manager, and should two or more partners hold the same share percentage, the Management shall be occupied by the corresponding person according to the alphabetical order of surnames, and where appropriate, of first names. The same rule shall apply to replace the Manager; in the event his office becomes vacant.

The provisions set forth in the previous paragraph shall not apply when the interested parties have appointed the Manager in the petition or upon the occurrence of other reasons for the incorporation of the legal partnership.

The Manager may be removed at any moment by the General Shareholders Meeting.

Regardless of the powers conferred upon the Manager by the General Shareholders Meeting, the Manager is responsible for the execution of the ordinary acts and agreements of the corporate purpose. The powers conferred by Law for legal representation, pursuant to the Code of Civil Procedure, or those ordinarily inherent to the Manager, according to the General Corporations Act cannot be subject to restrictions.

Note:

Reference to the Code of Civil Procedure shall be understood as referring to the Single Revised Text (TUO) of the Civil Procedural Code, approved by Ministerial Resolution No. 010-93-JUS.

The Manager is vested with internal management powers and has the responsibilities established for this position by the General Corporations Act. The Manager is particularly responsible for the existence, regularity and validity of the accounting books to be kept pursuant to Law and for the rendition of accounts and presentation of balance sheets.

SECTION 201.- The transfer of equity shares shall be performed by public instrument. The partner that desires to transfer his share and the acquirer shall previously address the corporation Manager in writing, communicating their decision to execute the purchase and sale operation. Within three days following the reception of such notice, the Manager shall

communicate it to the other partners at the address they indicated before the Company, and, upon failure, through notice published once in the Official State Gazette "El Peruano" and in a newspaper from the Company's address. The partners will have the right to acquire such shares in proportion to their shares in the Company, within fifteen days following the notice or publication. In case no partner exercises his preemptive right, the interested party will be able to directly transfer his share.

The Bylaws may establish different rules.

SECTION 202.- Shares transfer duly formalized by public instrument will be recorded on the Public Registry of Mining in the Record corresponding to the Company. All the acts and agreements affecting the shares may be recorded as well.

Note:

According to Section 2, paragraphs b) and c) of Act No. 26366, that creates the National System and the Superintendence of Public Registries, amended by the Fifth Final Provision of Act No. 28677, the National System of Public Registries is comprised by the Registry of Legal Entities that includes the Registry of Mining Companies and Partnerships and others; as well as by the Registry of Real Estate Property which includes the Registry of Mining Rights.

SECTION 203.- The legal partnership is dissolved by extinction of all the concessions incorporated in its assets; by the transfer of the same, except that in a term of 60 days from the transfer or extinction of the last concession, the parties agree to transform it into a contract mining company or a new petition is made.

Additionally, the company is dissolved if only one individual becomes the owner of all the shares, except plurality of partners is reestablished in a term not longer than 60 days.

Dissolution and liquidation of the companies or their transformation into a contract mining company will be governed by the provisions of the General Corporations Act.

CHAPTER IX

JOINT VENTURE AGREEMENTS

SECTION 204.- The mining holder nay enter into joint venture agreements for the development and execution of any mining activity.

According to their nature, joint venture agreements are associative and are aimed at performing common business for a term that may be determined or indeterminate, whereby the parties contribute goods, services or knowledge that complement each other, participating in the results as may be agreed; and any or all the parties are able to manage the shared

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business. Unless otherwise agreed, the contribution of goods does not imply the transfer of property but the usufruct of the same.

In performing the mining activity, the joint venture partnership and other forms of business collaboration agreements are considered mining holders.

These agreements shall be formalized by public instrument and recorded in the Public Registry of Mining.



Text of the Section according to Section 7 of Legislative Decree No. 868.

According to Section 2, paragraphs b) and c) of Act No. 26366, that creates the National System and the Superintendence of Public Registries, amended by the Fifth Final Provision of Act No. 28677, the National System of Public Registries is comprised by the Registry of Legal Entities that includes the Registry of Mining Companies and Partnerships and others; as well as by the Registry of Real Estate Property which includes the Registry of Mining Rights.

SECTION 205.- In every joint venture or partnership agreement in which the companies subject to the privatization process mentioned in Legislative Decree No. 674 participate, as well as their subsidiaries that enter into a privatization process with other regulations, shall perform their activities with full autonomy and under the regulations governing the private activity, and will not be subject to any restriction or limitation or control regulation applicable to the National Public Sector or the Business Activity of the State. This guarantee will be necessarily included in the standard form agreement mentioned in Article 86 of this Act.

TITLE FOURTEEN

WELFARE AND SAFETY

Supreme Decree No. 024-2016-EM approved the Regulations of Occupational Safety and Health in Mining. By means of Supreme Decree No. 023-2017-EM, several sections and appendixes of the new regulations were amended, adding two new appendixes. Extraordinary measures for economic reactivation must be considered, due to the issue of national emergency caused by the outbreak of COVID-19 (Health Protocols for the implementation of prevention and response measures to COVID-19 and the criteria for territorial targeting to be applied in the resumption of mining activities.

SECTION 206.- The mining holder holders are obliged to provide their workers, working in areas far from populations, and their families with:

a) Housing facilities under any of the following modalities:



Text of the subsection according to Section 2 of Decree-Law No. 26121.

- 1. Adequate housing for the worker and his family members indicated in this section.
- Housing facilities, exclusively for workers under a system that allows a number of working days and resting days in a settlement as established by the Regulations of this Act."
- b) Schools and their operation;
- c) Adequate recreational facilities;
- d) Social welfare services; and,
- e) Free medical and hospital care, provided that these services are not covered by the entities of the Peruvian Social Security Institute;



By Act No. 27056, the Social Health Insurance (ESSALUD) Creation Act, this organization was created on the basis of the Peruvian Social Security Institute.

The relatives and dependents of the workers indicated in the Regulations shall be entitled to these benefits, provided that they depend on them financially, live in the jobsite and have been duly registered by the employer.

The employers may be able to comply with the obligations set forth in this section, developing urban project with urban characteristics, layouts and equipment. When these developments are performed in remote areas, the facilities mentioned in Section 208 of this Act will be obtained.

For the project and financial conditions given, they will be the same as those granted trough such institutions for projects of social interest.

A remote area is considered to be more than thirty kilometers away or more than sixty minutes by vehicle at normal or safe speed from the closest settlement.

The mining holders may promote housing building programs in the settlements close to their camps in which their workers and families permanently live with the purpose of acquiring property through the economic and financial facilities that may be established. The own housing programs shall be approved by the General Directorate of Mining.

When the worker accepts this benefit, the mining holder will be exempted from the obligation set forth in subsection a) of this present section.

The Regulations establish the number and characteristics of housing and other facilities and services, taking into account the nature of the different mining activities, the legal provisions on the matter and the National Construction Regulation.

€ Note:

Supreme Decree No. 011-2006-VIVIENDA repealed the supreme decrees that approved all the titles of the National Construction Regulations (RNC) and approved 66 technical regulations of the National Building Regulations (RNE) that came into force the day after its publication.

Decree-Law No. 25793 excluded Empresa Minera de Hierro del Peru – HIERRO PERU from the obligations contained in this section.

SECTION 207.- Land expropriations to comply with housing obligations constitute deed for the first registration of property in the Property Registry of the closest National Office of Public Records, and the provisions set forth in subsection 2) of Article 70 of this Law will not be applied.

Mote:

According to Section 70 of the Political Constitution of Peru, no one can be deprived of his property, except for reasons of national security or public necessity declared by law.

According to Section 3 of Act No. 27117, General Expropriation Act, the sole beneficiary of an expropriation is the State.

SECTION 208.- The financial institutions promoting construction will grant credits to the mining holders in order to comply with their housing programs.

SECTION 209.- Natural persons or legal entities devoted to mining industry activities are obliged to provide hygiene and safety conditions at work established by this Act and the regulatory provisions.

SECTION 210.- The workers are obliged to thoroughly observe the preventive measures and provisions agreed by the competent authorities and established by the employers for safety.

SECTION 211.- All the employers are obliged to establish welfare, safety and hygiene programs according to the activities performed.

SECTION 212.- Every year, the employers shall submit to the General Directorate of Mining the Annual Safety and Hygiene Program for the next year. Likewise, the employers shall submit a report of the activities performed in this field during the previous year, together with the statistics established by the Regulations.

According to section 2 of Supreme Decree No. 052-99-EM, the presentation of the program and report referred to in this section shall be carried out at the request of the General Directorate of Mining.

SECTION 213.- A Safety and Hygiene Committee will be organized in each jobsite where the workers will be represented. The Regulations shall establish the members and functions of this committee.

SECTION 214.- Employers shall promote cooperativism among the workers within the guidelines of the General Cooperatives Act.

SECTION 215.- Employers are obliged to develop training programs for personnel at all levels as it is determined by the Regulations.

SECTION 216.- The provisions of this Title also oblige third parties who, for any act or agreement, execute or perform their own works for the exploitation of the mining concession on behalf of the mining right holder. Obligations and responsibilities are mutually binding.

This provision is not applicable to third parties, contractors of mining companies that render non-mining services.

SECTION 217.- Employers may join forces to comply with the provisions of this title, when it is more convenient due to the operations scale or other conditions.

SECTION 218.- Welfare and safety benefits established in this Title shall be granted by the employer to their workers only while the employment agreement remains in force. The term to vacate the housing shall be thirty days.

TITLE FIFTEEN

ENVIRONMENT

Supreme Decree No. 042-2017-EM approved the Environmental Protection Regulations for Mining Exploration Activities and Ministerial Resolution No. 108-2018/DM approved the Format for the Environmental Technical File and its content guide, as well as the Terms of Reference for projects with common or similar characteristics within the framework of the anticipated classification for the evaluation and preparation of the environmental studies of the mining exploration activities.

Supreme Decree No. 040-2014-EM approved the Regulations on Environmental Protection and Management for Mining Exploitation, Beneficiation, General Work, Transportation and Storage Activities.

Act No. 28090, Act Regulating Mine Closure, establishes the obligations and procedures that must be complied with by the mining holders for the preparation, presentation and

implementation of the Mine Closure Plan and the establishment of the corresponding environmental guarantees.

Supreme Decree No. 033-2005-EM approved the Regulations for the Closure of Mines.

SECTION 219.- In order to guarantee a suitable stable environment for mining investment, the provisions in Section 53 of Legislative Decree No. 613 shall apply, in the sense that the establishment of natural protected areas shall not curtail the rights granted prior to their establishment. In this case, the adjustment of such activities to meet the provisions of the Environmental Code shall be required.

The Fourth Supplementary Provision of Act No. 28611 - General Environmental Act, repealed Legislative Decree No. 613.

SECTION 220.-

SECTION 221.-

Section repealed by Section 9 of Decree-Law No. 25998.

SECTION 222.-

Section repealed by the Fourth Transitory, Supplementary, and Final Provision of Law No. 28611.

SECTION 223.-

Section repealed by the Fourth Transitory, Supplementary, and Final Provision of Law No. 28611.

SECTION 224.-

 $Section \, repealed \, by \, the \, Fourth \, Transitory, \, Supplementary, \, and \, Final \, Provision \, of \, Law \, No. \, 28611.$

SECTION 225.-

 $Section\ repealed\ by\ the\ Fourth\ Transitory,\ Supplementary,\ and\ Final\ Provision\ of\ Law\ No.\ 28611.$

Section repealed by the Fourth Transitory, Supplementary, and Final Provision of Law No. 28611.

SECTION 226.- The Energy and Mines Sector is the competent authority to enforce the provisions contained in Legislative Decree No. 613, the Environmental Code and those related to the mining and energy activities.



 $The Fourth Supplementary Provision of Act No.\,28611 - General Environmental Act, repealed Legislative Decree No.\,613.$

The Second Final Supplementary Provision of Legislative Decree No. 1013 creates the Agency for Environmental Assessment and Control (OEFA), as the public specialized technical body in charge of environmental control, supervision and sanctions.

In relation to the small-scale and artisanal mining activities, the function stipulated in Section 59, subparagraph c) of Act No. 27867 - Organic Act of Regional Governments and the powers associated to said function, stipulated in the Appendix of Supreme Decree No. 036-2007-PCM.

TRANSITORY PROVISIONS

ONE.- The National Reserve Areas, Areas of Non-acceptance of Claims, Special Rights of the State, with the exception of those of INGEMMET mentioned in Legislative Decree No. 109, in force to date, will change to the mining concession system within ninety calendar days after the Legislative Decree No. 708 comes into effect.

To such effect, the holders will indicate the areas that will change to the concession system, and those that can be freely claimable.

Upon expiration of the term, the areas that have not changed will be declared as freely claimable from the first business day of the month of May of 1992.

TWO.- The Special Rights of the State, the National Reserve Areas, the Areas of Non-acceptance of Claims currently assigned to INGEMMET, and on those which no exploration works are being performed, will be adjusted to the provisions set forth in Section 25 of this Act, within ninety calendar days from the moment the Legislative Decree No. 708 comes into effect. If the adjustment is not performed, the areas will be declared as freely claimable from the first business day of the month of May of 1992.

THREE.- Those areas assigned to INGEMMET, where exploration works have been or are being performed, will be transferred to Empresa Minera del Peru S.A. - MINERO PERU, in a term not longer than ninety calendar days from the moment the Legislative Decree No. 708 comes into effect, which will become concessions.

MINERO PERU will promote or perform public auctions of such areas before investors under any modality allowed by the Law. If it chooses to promote them, it will have a term of two years to do so. Once such term has expired and the promotion has not been fulfilled, they will be subject to public auction.

Activos Mineros S.A.C. manages some remaining projects, in coordination with PROJNVERSION

INGEMMET will be responsible for 25% of the income or the execution value of the rights obtained by MINERO PERU for the promotion or auction of the aforementioned areas.

FOUR.- Without prejudice to the provisions of the First Transitory Provision, those Areas of Non-acceptance of Claims, the Special Rights of the State and the National Reserve Areas assigned more than ten years ago to companies and institutions other than INGEMMET, and which are not currently productive, will have two years to be promoted or auctioned. Once such term has expired and such options having materialized, they will be mandatorily subject to public auction.

FIVE.-

SIX.- The mining holders, for compensation, will alternatively deduct from the total amount of contributions to the Health Benefit System mentioned in the Decree-Law No. 22482, the following:

Decree-Law No. 22482 was repealed by the Second Complementary Provision of Act No. 26790, Modernization of Social Security in Health Act.

- a) Fifty-five point six percent (55.6%) of the total contribution corresponding to such Health Benefit System including contributions of the employer and the workers, provided that they provide their workers and dependents the total amount of benefits of such System, being obliged to render the services including subsidies and burial expenses; or,
- b) Forty-four point four percent (44.4%) of the total contribution corresponding to such Health Benefit System including contributions of the employer and the workers, provided that they provide their workers and dependents the benefits previously mentioned, except for surgical interventions which will be provided by the Peruvian Social Security Institute.

Section 15 of Act No. 26790 states that employing entities that provide health coverage to their workers in activity, through their own services or through health plans or programs contracted with Health Care Providers; shall enjoy a credit for the contributions referred to in Section 6, subsection a) of the same Act.

SEVEN.- In order to comply with the previous provision, the mining holders will submit to the Peruvian Social Security Institute (IPSS), a sworn statement whereby they commit to provide the services mentioned in said provision. Upon compliance of this requirement, the system will operate automatically.

This system will automatically become null and void in case the mining holder fails to comply with any of his obligations, which can be supported by a minutes signed by the half plus one of the workers subject to the benefit system of the Peruvian Social Security Institute, or by the verification made by such Institute in compliance with its control function.

Section 15 of Act No. 26790 establishes the requirements to qualify for a credit for the contributions referred to in Section 6, subsection a) of the same act.

EIGHT.- A commission must be formed, made up of three representatives of the Peruvian Social Security Institute, one of which will be the president; two representatives of the Ministry of Energy and Mines; and two representatives of the mining holders; who within a term of sixty business days from the day their appointment, will submit a study analyzing and recommending the deductions that shall be definitely made from the contributions.

Until the referred study is approved, the deductions mentioned in this Act shall be applicable.

NINE.- The holders of mining claims and concessions made until this Act comes into force, will have until June 30, 1992 to provide the Public Registry of Mining, as a sworn statement, with UTM coordinates of the vertices of their claims or concessions for the effects of the provisions set forth in Section 121 of this Act. Urban domicile will be also stated in this same sworn statement for the effects mentioned in Chapter III of Title Twelve of this Act.

Note:

Section 3 of Decree-Law No. 25998 stipulates that holders of mining claims made until December 14, 1991 that, at that time, had no resolution approving the concession title, must submit to the Public Registry of Mining up to December 31, 1993, as a sworn statement, the UTM coordinates of the vertices of their claims; notwithstanding the continuation of the ordinary procedure. Failure to comply shall be grounds for abandonment, and the claim will not constitute a precedent or title that may be invoked for the formulation of new petitions.

Reference made to the Public Registry of Mining is understood as referring to the National Institute of Concessions and Mining Cadaster (INACC), pursuant to Section 5 of Supreme Decree No. 015-2001-EM.

Supreme Decree No. 008-2007-EM approved the merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute (INGEMMET), with the latter as the surviving entity.

TEN.- The mining rights in process will continue being governed by the ordinary procedure regulations set forth in the Legislative Decree No. 109 and its regulatory provisions in force to date.

As an exception, mining claims not delimited by December 14, 1991, will replace the delimitation diligence with the starting point link to a complementary control point, indicating the UTM coordinates to the vertices of the claim.

Note:

Section 4 of Decree-Law No. 25998 states that for the purposes stated in the second paragraph of this transitory provision, the term shall expire on December 31, 1993. Failure to comply with the above points constitute grounds for abandonment.

For compliance with the provisions, the petitioners must use the services of the experts included in the list approved by the General Directorate of Mining.

ELEVEN.- The incorporated Special Mining Companies will maintain the acquired rights according to their incorporation agreements.



The current legislation does not cover special mining companies.

TWELVE.- In order to organize the new Concessions System, it must be suspended until July 30, 1992, even the admission of new petitions.

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THIRTEEN.- The holders of mining claims or concessions made until December 15, 1991 will pay the Annual Maintenance Fee as of 1993, when the calculation of the terms mentioned in Section 38 of this Act will initiate.

During 1992, they shall continue to pay the mining license fee as established by the Legislative Decree No. 109.

Small-scale mining producers located in emergency areas will pay half the Annual Maintenance Fee and corresponding penalty during 1993 and 1994.

FOURTEEN.- The qualifications of small-scale mining producers in force as of the date of entry into force of this Act must be extended until January 1, 1993.

FIFTEEN.- Within fifteen days following the moment the Legislative Decree No. 708 comes into effect, the Ministry of Energy and Mines shall make official the grid system mentioned in Section 11 of this Act, from one single point of origin, based on a grid of one kilometer on the side, equivalent to 100 hectares, as the minimum extension of petition.

SIXTEEN.- The Ministry of Energy and Mines, within thirty days from the moment the Legislative Decree No. 708 comes into effect, shall approve the relevant regulations for Mining Experts.

FINAL PROVISIONS

ONE. The provisions of Supreme Decree No. 135-91-PCM shall not apply, nor shall the number of members of the Board of Directors be increased, in the cases of State-run Companies under privatization process mentioned in Section 205.



Activos Mineros S.A.C. manages some remaining projects, in coordination with PROINVERSION.

TWO.- The presumptive administrative silence mentioned in this Act does not exempt the competent official from his responsibility against third parties, neither from the administrative procedures started against him for non-compliance of his duties.

THREE.- From 1992, 20% will be the percentage to be distributed to the regions with regards to the Income Tax of the mining holders.



Section 9 of Act No. 27506, the Mining Canon Act, states that the mining canon is made up of 50% of the total income and revenues obtained by the State in mining, the exploitation of minerals, metal and non-metal resources.

FOUR.- For seventy days, from the moment the Legislative Decree No. 708 comes into effect, the Public Registry of Mining must be exempted from the prohibition of hiring new personnel, so that it may assume the new entrusted functions.

Note:

Reference made to the Public Registry of Mining is understood as referring to the National Institute of Concessions and Mining Cadaster (INACC), pursuant to Section 5 of Supreme Decree No. 015-2001-EM.

Supreme Decree No. 008-2007-EM approved the merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute (INGEMMET), with the latter as the surviving entity.

FIVE.- Claims and concessions granted until December 14, 1991 under the non-metallic, carbon and metallic system will continue to grant their holders the rights for which they were required or granted.

SIX.- In the areas assigned to State-run Companies or Institutions that become freely available, new petitions on them will be admitted after ninety calendar days from being considered as such.

Note:

Section 1 of Supreme Decree No. 08-95-EM states that the deadline for admission of petitions on areas assigned to State-run companies or institutions is counted from the day following the date when the free availability is published in the Official State Gazette "El Peruano."

SEVEN.- By Supreme Decree countersigned by the Ministry of Economy and Finances, the limits, uses, procedures and time of coming into force of the basic principles indicated in Section 72, subsections b) and d) of this Act will be established, which will be included in the contractual guarantees of this Act.

Note:

Section 4 of Act No. 18343, Act regulating the Stability Agreements with the State under sectoral laws annulled the granting of the investment benefit of undistributed profits referred to in Section 72, subsection b) of the Single Revised Text (TUO) of the General Mining Act.

EIGHT.- Section 53, second paragraph, and 70 of the Legislative Decree No. 613, Section 100 of Decree-Law No. 17752, and the Seventh Supplementary Provision of Act No. 25289 are hereby repealed.

Note:

The Third Final Provision of Act No. 25381, the Financial Equilibrium for the Public Sector Act of 1992, had previously repealed the Seventh Supplementary Provision of Act No. 25289.





