

CONCISE COMPARISON OF PREVIOUS 1997 AND CURRENT 2006 MINERALS LAW OF MONGOLIA

1. New regulations

In contrast to previous law, the new law on mining of 2006 started regulating following matters:

- a. Geological survey and research work to be conducted by State budget funding (Article 16)¹
- b. Reissuing of an exploration license for the area where the license is revoked (Article 20);
- c. Protecting cultural inheritance (Article 40¹ and 40²);
- d. Access to minerals related information and reports (Article 57);
- e. Reimbursement of mineral deposits exploration financed from the State budget (Article 60)
- f. Specifics of mining industry finance and accounting (Article 61).

2. Ownership of minerals

On top of previous law's provisions about how minerals are property of the State and that it has the right to grant permissions to explore or mine, clauses² regarding the percentage of the State's share have been added to the current law, which depends on:

- a. whether the exploration was funded by the State;
- b. Whether the mineral deposit has strategic importance.

3. Classifications of mineral deposit

Three types of classifications of mineral deposit were added to the newly revised law. (Article 6)

4. General requirements (Article 7)

Several amendments were made to Article 10 of the Minerals Law of 1997 named "those who can own license" and the name of the article changed into "General requirements with respect to license holder and to conducting mineral exploration and mining operation".

5. Regulation of mineral sector (Chapter 2)

Competence of Parliament, Government, State administrative central body, local administrative and self-governing bodies were used to be in one article and now competence of each body is in separate articles with added clauses.

Roles of State administrative body and National geological office were extended.

¹ Note: Unless otherwise specified, all numbers of articles and chapters that are in parentheses refer to the new Minerals law of 2006.

² Clause 5.4-5.6 of Article 5, Law on Minerals of 2006

6. Reserved areas

Time period of three years for area reservation was removed and on top of two previous bases for establishing reserved areas, new purpose was added to the current law, which is about conducting geological mapping, reconnaissance and exploration of minerals through State budget funding. (Clause 13.1.3 of Article 13)

7. Territory with special purposes (Article 14)

Following amendments were made for special purposes territory:

- a. Land set aside for special purposes shall not be for a less than five (5) years.
- b. If a special purpose territory overlaps entirely or in part with a territory covered by a valid license, prohibiting further exploration or mining in the overlapping area the authority whose decision it was to establish the special purpose territory shall be obligated to compensate the license holder within a year.
- c. The license holder shall have the right to resume its activities if the compensation is not paid in the time.

8. Reconnaissance (Article 15)

According to Law on Minerals of 1997 reconnaissance could have been done without a special permission, however, now it can only be done with a permit.

9. Mineral exploration and mining license related matters (Chapter 3-6)

Following provisions were either extended or amended in the newly revised law:

- a. License holders' rights, obligations and requirement for obtainment;
- b. Application procedure for license;
- c. Extension of the term of an exploration and mining license;
- d. License fee;
- e. General requirements for license holder;
- f. Requirements for closure of a mine

10. Investment agreement related provisions of 1997's law were removed from 2006's law.

11. Most of provisions regarding **environment** stayed the same as it was in 1997's law, however several articles were added and few old clauses were amended in the new law.

12. Previous law stated that citizens of Mongolia shall be prioritized in **hiring employees**. Now Article 43 of the current law, states that "license holder is obliged to employ the citizens of Mongolia and up to ten (10) per cent of the employees may be foreign citizens" and if the number of foreign citizens employed exceeds this percentage, the license holder shall pay 10 times the minimum monthly salary for each foreign citizen every month.

13. Precious stones and metals

Only this clause was added to the new law “If a nugget weighing more than 400 grams or which has a peculiar shape though weighing less or a precious stone with rare color and shape, the license holder is obliged to sell it to the treasury fund of Mongolbank at premium rate” and all other clauses are same as they are in the previous law.

14. Royalties

Following amendments were made in regards to royalties:

- a. Улс болон орон нутгийн төсөвт төлөхөөр байсныг зөвхөн улсын төсөв болгосон.
- b. Royalties were supposed to be paid to the treasuries of central and local administrative bodies, but now it should only paid the central treasury;
- c. Rules to determine the sales value;
- d. Royalty rate;

15. Submission of information and reports (Article 48)

In comparison with the previous law, dates of report submission for legal entities that have exploration and mining licenses become more precise.

16. Transfer of licenses (Article 49)

Amendments that were made in regards to transfer of licenses including, but not limited:

- a. Separate clauses of evidentiary proof for those who hold exploration and mining license
- b. Increased the number of documents that need to be attached into the application for transfer
- c. Төрийн захиргааны байгууллага өргөдөл хүлээн авсны дараа тодруулах зүйл гэсэн заалтыг нэмсэн. / 49.5 /
- d. Things that needs to be verified by the Government agency upon recipient of application;
- e. 15 days for decision making process become 5 days.

17. Provisions for transfer of parts of licensed areas were slightly changed.

18. Pledge

In addition to previous clauses, followings were added to the newly revised law:

- a. About how license cannot be the only pledge
- b. Clause 6 of Article 51 - The pledgee shall not assume any obligations under the license.
- c. Clauses regarding in case of the license holder fails to fulfill its obligations under the pledge agreement and in the emergence of the grounds for termination of the license during pledge agreement.

19. Grounds for license termination

Related provisions are similar in the previous and current laws, except for the added Clause 3 of Article 53, which states “Upon termination of the license, the rights and obligations of the license holder under the license shall cease, except the license holder's obligations with respect to environmental protection, reclamation and mine closure as set forth in Articles 38, 39 and 45 of this law and other obligations pursuant to laws and legislations on environmental protection”.

20. Surrender the entire licensed area

Clause 6 of Article 46 of the previous law was not included in the current law.

21. Surrender of part of the licensed area

Following clauses were added to the newly revised law:

- a. Clause 6 of Article 55 “The Government agency shall notify the relevant bodies of the surrender of a part of a licensed area and it shall be published in a daily newspaper.”
- b. Clause 8 of Article 55 “The license holder shall not have the right to resubmit an application on the same area for two (2) years after surrendering the licensed area.”
Лиценз цуцлах зохицуулалтад нэмэлт өөрчлөлт оруулсан.

22. Provisions regarding revocation of licenses and liabilities for breach of law were changed in the Law on Minerals of 2006.