

INDIA

SALIENT GENERAL FEATURES

Capital	:	New Delhi
Population Census	:	1,080,264,388
Area	:	3,287,263 sq. km
GDP (per capita)	:	US \$ 3,400
Language	:	The languages listed in the Constitution are recognised as official languages and these have statewide prevalence. English, however, enjoys an associated status and partakes the role as demi-official language.

India a coterminous country shares its borders with many of its neighbours - in the north-west with Pakistan, in the north with China, Tibet, Nepal & Bhutan and in the east with Myanmar. The peninsular region has the Bay of Bengal in the south-east, the Indian Ocean in the south and Arabian sea in the west. The north-eastern states of the country are almost separated from the rest by Bangladesh.

India is a Parliamentary Democracy. The President is the Executive Head of the Country and is aided and advised by the Prime Minister and the Council of Ministers. The Prime Minister and the Council of Ministers are answerable to the two Houses of the Parliament.

Ministry of Mines is responsible for survey and exploration of all minerals, other than natural gas, petroleum and atomic minerals; for mining and metallurgy of non-ferrous metals like aluminium, copper, zinc, lead, gold, nickel, etc. and for administration of the Mines and Minerals (Regulation and Development) Act, 1957 in respect of all mines and minerals other than coal, petroleum and natural gas.

India is rich in varied mineral resources. The important minerals produced are bauxite, barytes, coal, iron ore, limestone, dolomite, manganese ore, chromite, copper, lead & zinc, diamond, gold, soapstone, granite, marble, etc. The value of mineral production constitutes around 2% of the GDP India exports many minerals and export turnover from minerals and mineral-based products accounts for about 21% of the export value of all merchandise. The mining sector provides daily employment for about one million persons.

MINING LEGISLATIVE FRAMEWORK

Mines and Minerals (Development and Regulation) Act, 1957 (Amended up to 14th October, 2004);
Mineral Concession Rules (MCR), 1960 (Amended up to 5th May, 2005);
Mineral Conservation and Development Rules (MCDR), 1988 (Amended up to 24th December, 2003),
Granite Conservation and Development Rules (GCDR), 1999 (Amended up to 17th October, 2002),
Marble Development and Conservation Rules (MDCR), 2002 (as on 15th May 2002 and various Minor

Mineral Concession Rules framed by the State Governments under Sec. 15 of MMDR Act, 1957 constitute the legislative framework of the Mining Sector.

1. Purpose This MMDR Act 1957 governs the development and regulation of mines and minerals (except mineral oils, natural gas & petroleum) which are under the control of Govt. of India.

2. Definition

In this Act, unless the context otherwise requires

- a) "minerals" include all minerals except mineral oils;
- b) "mineral oils" include natural gas and petroleum;
- c) "mining lease" means a lease granted for the purpose of undertaking mining operations, and includes a sub-lease granted for such purpose;
- d) "mining operations" mean any operation undertaken for the purpose of winning any mineral;
- e) "minor minerals" mean building stones, gravel, ordinary clay, ordinary sand other than sand used for prescribed purposes and any other mineral which the Central Government may, by notification in the Official Gazette declare to be a minor mineral;
- f) "Prescribed" means prescribed by rules made under this Act;
- g) "Prospecting Licence" means a licence granted for the purpose of undertaking prospecting operations;
- h) "prospecting operations" means any operation undertaken for the purpose of exploring, locating or proving mineral deposit;
- i) "reconnaissance operation" means any operation undertaken for preliminary prospecting of a mineral through regional, aerial, geophysical or geo-chemical surveys and geological mapping, but does not include pitting of bore holes on a grid specified from time to time by the (Central Government) or sub-surface excavation;
- (j) "reconnaissance Permit" means a permit granted for the purpose of undertaking reconnaissance operations; and
- (k) the expressions "mine" and "owner" have the meanings assigned to them in the Mines Act, 1952.

3. Ownership Right and Administration/ Control

The mineral rights on land vest with the respective State Governments whereas the mineral rights in offshore areas vest with the Central Government. No person shall undertake any reconnaissance, prospecting or mining operations in any area except under and in accordance with the terms and conditions of a Reconnaissance Permit or a Prospecting Licence or a Mining Lease granted under the Act or the rules made thereunder. No Reconnaissance Permit, Prospecting Licence or Mining Lease shall be granted unless otherwise permitted in accordance with provisions of the Act and the rules made thereunder. For grant of concessions for minerals covered under First Schedule of the Act, prior approval of the Central Government is necessary.

4. Concessions For

(A) Reconnaissance

Eligibility: The applicant for a Reconnaissance Permit (RP) should be a citizen of India or a company registered in India under the Companies Act, 1956.

Application : An application for Reconnaissance Permit shall be made to the State Government in Form 'A' through such officer or authority as the State Government may specify in this behalf along with all the documents as per provisions under Rule 4 of MCR, 1960. After consideration of application, the State Government may grant or refuse the Reconnaissance Permit. The Reconnaissance Permit should be executed within 3 months from the date of grant of the permit. The date of the commencement of the period for which a Reconnaissance Permit is granted, shall be the date on which the deed is executed after all necessary clearances have been obtained.

Duration : A Reconnaissance Permit is granted for a period of 3 years.

Renewal : There is no provision for renewal under the Act/Rules.

Area : Maximum area permissible for a single permit is 5,000 sq. km and maximum area permissible for a party is 10,000 sq. km in a state.

Rights: Reconnaissance Permit gives right to enter upon or fly over the lands and undertake reconnaissance operations for preliminary prospecting of specified mineral through regional, aerial, geophysical or geochemical surveys, geological mapping; to use water; clear undergrowth and brushwood etc.; and to bring upon machinery, etc.

Obligations : (i) The holder of the Reconnaissance Permit shall strictly adhere to the minimum expenditure commitment and specific physical targets specified in the order of grant of the permit, failing which Reconnaissance Permit may be cancelled.

(ii) The holder of Reconnaissance Permit shall make available all data collected by him during the reconnaissance operations to the Geological Survey of India, Indian Bureau of Mines and the State Government which in turn may be made available to any prospecting investor after a minimum period of two years of the completion of the period of Reconnaissance Permit.

(iii) The holder of Reconnaissance Permit shall not enter any forest land or any private land without obtaining permission of the Forest Department or the owner of the private land, as the case may be.

(iv) The holder of Reconnaissance Permit shall maintain accurate faithful account of all the expenses incurred by him on the reconnaissance operations.

(v) The holder of Reconnaissance Permit shall submit to the State Government a six monthly report of the work done by him and the valuable data collected by him during the period. The report shall be submitted within 3 months of the close of the period to which it relates.

(vi) The permit holder shall also submit to the State Government within three months of the expiry of the permit, or abandonment of the operations or termination of the permit whichever is earlier, a full report of the work done by him and all information relevant to mineral resources acquired by him in the course of reconnaissance operations in the area covered by the permit.

(vii) While submitting reports under sub-clause (v) or (vi), the permit holder may specify that the whole or any part of the report or data submitted by him shall be kept confidential and the State Government shall thereupon keep the specified portions as confidential for a period of two years from the expiry of the permit, or abandonment of operations or termination of the permit, whichever is earlier.

(viii) The permit holder shall allow every officer authorised by the Central Government or the State Government in this behalf at any time to examine the accounts maintained and furnish the Central

Government or the State Government or any other officer authorised by it in that behalf such information and returns.

(ix) The permit holder shall allow any officer authorised by the Central Government or the State Government in this behalf to inspect any reconnaissance operations carried on by him.

(x) The permit holder shall pay the requisite permit fee as may be fixed by the State Government, being not less than five rupees per square kilometres and not more than twenty rupees per square kilometres of land held by the permit holder for each year or part thereof.

Transfer: There is no provision under the rules for transfer of a Reconnaissance Permit.

Surrender/Relinquishment: The holder of Reconnaissance Permit shall progressively relinquish the area granted under the permit as follows:

(i) After completion of two years, the area shall be reduced to one thousand square kilometres or fifty percent of the area granted, whichever is less; and

(ii) The area would be further relinquished so that the permit holder is left with an area not more than twenty-five square kilometres at the end of third year.

Prospecting

Eligibility: An applicant for a Prospecting Licence(PL) should be an Indian National or a Company registered in India under the Companies Act, 1956.

Application : An application for Prospecting Licence and its renewal in respect of land in which the minerals vest shall be made to the State Government in the prescribed forms through the authorised officer as the State Govt. may specify along with necessary documents as per the provisions of Rule 9 of MCR, 1960. An application for the grant of a PL should be disposed of within nine months from the date of its receipt provided the application is complete in all respect. After the grant order is issued, the licence should be executed within 3 months. After consideration of application, the State Government may grant or refuse the Prospecting Licence. The date of commencement of the period for which a Prospecting Licence is granted shall be the date on which the deed is executed.

Duration : The Prospecting Licence is granted initially for a period of 3 years.

Renewal : The PL can be renewed for a period not exceeding 2 years.

Area : The maximum area that can be granted for one or more Prospecting Licenses in respect of any mineral shall not exceed 25 sq. km in a State, for a party.

Rights: The Prospecting Licence gives right to enter upon the land and to search for minerals specified by quarrying, boring and digging or otherwise. It also gives right to bring upon and erect machinery, etc. for carrying out various prospecting operations. The licensee may win and carry away for purposes other than commercial purposes -

- (i) any quantity of such minerals within the limits specified under column 3 of Schedule III MCR, 1960 without any payment;

- (ii) any quantity of such minerals not exceeding the limits specified under column 4 of Schedule III, on payment of royalty for the time being specified in the Second Schedule to the Act in respect to those minerals.
- (iii) any quantity of limestone not exceeding 500 tonnes on payment of royalty specified as per II Schedule to the Act for testing its use in any industry.
- (iv) any quantity of minerals with written approval of State Government, in excess of twice the limit specified in Schedule III on payment as per Second Schedule to the Act for chemical, metallurgical ore dressing and other test purposes.

Obligations: The licensee shall pay such prospecting fee as may be fixed by the State Government. The licensee shall report to the State Government the discovery of any mineral not specified in the licence within a period of sixty days from the date of such discovery. The licensee would carry out prospecting operations in a fair orderly skilful and workmanlike manner. He shall maintain a correct and faithful account of all expenses incurred by him on such prospecting operations and also the quantity and other particulars of all minerals obtained during such operations and their dispatch. The licensee is bound by rules made under Sec. 18 of the MMDR Act regarding conservation and development of minerals and related rules. The licensee should submit to the State Government a six monthly report of work done by him stating the no. of persons engaged and disclosing in full the geological, geophysical or other valuable data collected by him during the period. He is also expected to furnish a full report of the work done within 3 months of the expiry of the licence, or abandonment of prospecting operation or termination of the licence whichever is earlier, providing all information relevant to mineral resources acquired by him in course of prospecting operations in the area covered by the licence.

Transfer: The licensee shall not, except with the previous sanction of the State Government, transfer his licence.

EXPLOITATION

Eligibility: An applicant for Mining Lease (ML) should be an Indian National or a company registered in India under Companies Act, 1956.

Application: An application for the grant of a mining lease in respect of land in which the minerals vest shall be made to the State Government in Form I through such officer or authority as the State Government may specify in this behalf, along with documents specified under Rule 22 of MCR, 1960. Once the applicant is informed of grant of area for ML, he should submit the mining plan within six months, duly approved by the Central Govt. or an officer duly authorised by the Central Govt., to the State Govt. before execution of mining lease. However, the State Govt. is competent to approve Mining Plan of open cast mines in respect of 29 industrial minerals as per the provision of Rule 22(4A) of MCR, 1960. The Central Government or the State Government shall dispose of the application for approval of the Mining Plan within a period of ninety days from the date of receipt of such application. An application for grant of Mining Lease shall be disposed of within 12 months from the date of receipt of the application provided it is complete in all respect. For minerals covered under the First Schedule to the Act, previous approval of the Central Govt. is required. A Mining Lease should be executed within six months of the grant order.

Duration : The maximum period for which a mining lease can be granted is 30 years and the minimum period is 20 years.

Area : Maximum area to be granted for one or more mining leases shall not exceed 10 sq. km in favour of a person in a State. Minimum area to be granted for a lease shall not be less than :

- (i) one hectare in respect of small deposits not exceeding 200 metres in strike length;
- (ii) two hectares in respect of beach sands or placer deposits; and
- (iii) four hectares in respect of all other minerals.

Renewal : Mining Leases can be renewed for a period of 20 years. Further renewals can be granted by the State Government, in the interest of mineral development, for periods not exceeding twenty years. In respect of minerals covered under parts A & B of the first schedule, previous approval of the Central Government is necessary.

Rights : The rights of the lessee include -

- (i) To enter the leased land and to search for mines, bore, dig, drill for win, work, dress, process, convert, carryaway and dispose of minerals specified in the lease land.
- (ii) To sinkdrive, pits and shafts inclines, etc. and construct buildings and roads, store houses, etc.
- (iii) To erect plant and machinery, beneficiation plants, etc.
- (iv) To quarry and obtain building and road materials and make bricks.
- (v) To use water and take timber.
- (vi) To use land for stacking purposes, etc.

Obligations : Every mine owner has to start mining operation within 2 years from the date of execution of the lease and conduct mining operation in proper, skilful and workmanlike manner; pay royalty, dead rent and other taxes as specified in the lease deed; report discovery of new minerals; keep accurate accounts showing the quantities and other particulars of all minerals obtained and dispatched from mines and submission of returns to the State and Central Governments, etc.

The mine owner has to observe the provisions of the Mines Act, 1952 and pay wages as per the Minimum Wages Act, 1948.

The mine owner has to comply with the Mineral Conservation and Development Rules framed under Section 18 of the MMDR Act, 1957.

Transfer : The lessee can transfer the lease only with the previous written consent of the State Govt. and Central Govt. in respect of minerals covered in parts A and B of the First Schedule to the Act.

Surrender/determination/Cancellations: State Governments can determine the lease on breach of condition of the mining lease. Provision also provides for surrender of any mineral covered in the lease by the lessee on application at least 6 months before the intended date of surrender.

The lessee can seek determination of the lease or part of it upon 12 months notice in writing to the State Government on the ground that such area is barren or the deposit of mineral is exhausted or depleted and mining is no longer profitable. The lessee shall not determine the lease or part thereof unless a final mine closure plan, duly approved by the Regional Controller of Mines or the officer authorised by the State Govt. in this behalf, is implemented as per the approval.

5. Royalties /Dead Rent and Other Taxes

Royalty in law means payment made to the owner of certain types of rights by those who are permitted by the owners to exercise such rights. Under the Constitution of India, the States are owners of the minerals and are entitled to royalty on the minerals mined as per the prevailing rates given in Second Schedule of the MMDR Act, 1957. The royalty rates for non-minor minerals are fixed by the Government of India and levied as per Section 9 of the MMDR Act, 1957 on the mineral removed from the leased area. It also provides for levy of 'dead rent' for the area included in the mining lease, if minerals are not extracted. Thus, the lessee has to pay either the royalty or dead rent whichever is higher, and not both. The enhancement or reduction of rate of royalty is permitted but Central Govt. can enhance the rate of royalty in respect of any mineral only once during a period of three years.

Today the royalty structure has been greatly rationalised to make it more market oriented. Now only 20 minerals are charged royalty on unit of production basis. These minerals are asbestos, ball clay, dolomite, graphite, iron ore, kaolin, lime kankar, lime shell, limestone, monazite, moulding sand, ochre, quartz, quartzite, silica sand, slate, tungsten ore, uranium ore, white clay and white shale. Royalty on all the remaining minerals, as many as 39 minerals have been placed under ad valorem rates.

6. Provisions Regarding Environment

As per provisions of MCDR, every holder of a Prospecting Licence or a mining lease shall take all possible precautions for the protection of environment and control of pollution while carrying out prospecting, mining beneficiation or metallurgical operations in the area. These rules provide for removal and utilisation of top soil, storage of overburden, waste rock, control of surface subsidence, restoration of flora, etc.

7. Legal Liabilities – Penalties, Dispute Settlement

a) Whoever contravenes the provisions of Subsection (1) or Subsection (1A) of Section 4 of MMDR Act, shall be punished with imprisonment for a term which may extend up to two years, or with fine which may extend up to twenty-five thousand rupees, or with both.

b) Any rule made under any provision of this Act may provide that any contravention thereof shall be punishable with imprisonment, for a term which may extend up to one year or with fine which may extend up to five thousand rupees, or with both, and in the case of continuing contravention, an additional fine which may extend up to five hundred rupees for every day during which such contravention had continued after conviction for the first such contravention may be liable.

c) The Act also provides for penal action against trespassers, illegal mining, transportation and storage of minerals. Besides, the Act also provides measures for filing of criminal cases against offenders and also for settlement of dispute through compounding of offences.

8. Provincial Enactments

Section 15 of MMDR Act empowers the State Governments to formulate Rules for regulating the grant of Reconnaissance Permits, prospecting licenses and mining leases in respect of minor minerals and for purposes connected therewith. Most of the State Govts. have framed their own minor mineral concession rules.

9. Provision Regarding Closure

The MCDR, 1988 provide for submission of final mine closure plans duly approved by the Regional Controller of Mines or the Officer authorised by the State Government in this behalf, as the case may be, before abandoning a mine or part thereof. Every mine shall have mine closure plan, which shall be of two types.

- (a) A progressive mine closure plan
- (b) A final mine closure plan

(a) Progressive Mine Closure Plan

The owner, agent, manager or mining engineer shall, in case of fresh grant or renewal of mining lease, submit a progressive mine closure plan as a component of mining plan to the Regional Controller of Mines or the Officer authorised by the State Government in this behalf as the case may be.

(b) Final Mine Closure Plan

The owner, agent, manager or mining engineer shall submit a final mine closure plan to the Regional Controller of Mines or the Officer authorised by the State Government in this behalf, as the case may be, for approval one year prior to the proposed closure of the mine. The rules also provide for financial assurance so as to indemnify the authorities against the reclamation and rehabilitation cost.

India - Salient Features at a Glance

<i>Types of concessions</i>	<i>Salient features</i>
1. Ownership rights & Administration/control	The mineral rights on land vest with the respective State Governments whereas the mineral rights in offshore areas vest with the Central Government.
A. Reconnaissance	
1. Area	Maximum area is 5,000 sq. km for a single permit and 10,000 sq. km permissible for a party in a state.
2. Period	3 years.
3. Renewal	No provision exists under the Rules.
4. Modality of Grant	State Governments are the granting authorities for Reconnaissance Permit. Application shall be made to State Govt in Form 'A' as per provisions under Rule 4 of MCR, 1960. Application should be disposed of within six months from the date of receipt of application. The Reconnaissance Permit should be executed within 3 months from the date of grant.
B. Prospecting Licence	
1. Area	The maximum area granted for one or more PLs shall not exceed 25 sq. km in a state for a party.
2. Period	Initially for a period of 3 years.
3. Renewal	Renewal for a period not exceeding 2 years.
4. Modality of Grant	An application for the grant of Prospecting Licence and its renewal in respect of land in which the minerals vest shall be made to the State Government in the prescribed form through the authorised officer as the State Government may specify along with necessary documents as per the provisions of Rule 9 of MCR, 1960.
C. Exploitation (Mining Leases)	
1. Area	Maximum area to be granted for one or more Mining Leases shall not exceed 10 sq. km in favour of a person in a state. Minimum area to be granted for a lease shall not be less than one hectare in respect of small deposits not exceeding 200 meters in strike length; two hectares in respect of beach sands or placer deposits; and four hectares in respect of all other minerals.
2. Period	The maximum period for which a Mining Lease is granted is 30 years and minimum period is 20 years.
3. Renewal	Mining Leases can be renewed for a period of 20 years. Further renewals can be granted by the State Govt. for periods not exceeding twenty years.

4. Modality of Grant	Application for grant of ML in respect of land in which the minerals vest shall be made to the State Government in form I, along with documents specified under Rule 22 of MCR, 1960.
5. Royalty/Dead Rent	The states are owners of the minerals and are entitled to royalty on the minerals mined as per the prevailing rates given in the Second Schedule of MMDR Act, 1957. The royalty rates for non-minor minerals are fixed by Government of India and levied as per Section 9 of MMDR Act, 1957 on the mineral removed from the leased area. It also provides for levy of 'Dead rent' for the area included in the Mining Lease, if minerals are not extracted. Thus, the lessee has to pay either the royalty or dead rent whichever is higher and not both. The enhancement or reduction of rate of royalty is permitted but Central Government can enhance the rate of royalty in respect of any mineral only once during a period of three years. The royalty structure has been greatly rationalised to make it market oriented. The minerals are charged royalty on unit of production basis as well as ad valorem rates.
Mine Closure 1. Progressive Mine Closure Plan 2. Final Mine Closure Plan	<p>The MCDR, 1988 provides for submission of final mine closure plan approved by the Regional Controller of Mines or officer authorised by State Government.</p> <p>The mine owner shall, in case of fresh grant of ML or renewal of ML, submit a progressive mine closure plan as a component of mining plan to the RCOM or officer authorised by the State Government.</p> <p>The mine owner shall submit a final mine closure plan to the RCOM or officer authorised by the State Government for approval one year prior to the proposed closure of the mine.</p>