

A

Bill

to provide for the establishment of the Pakistan Minerals Regulatory Authority

WHEREAS it is expedient to foster competition, increase national and foreign investment and ownership in the mineral industry, to keep pace with the changing international investment climate, to protect the public interest while respecting individual rights and provide effective and efficient regulations for safety of mines and welfare of labour and for matters connected therewith or incidental thereto;

It is hereby enacted as follows:-

1. Short title and commencement. - (1) This Act shall be called the Pakistan Minerals Regulatory Authority Act, 2024.

(2) It shall come into force at once.

2. Definitions. - In this Act, unless there is anything repugnant in the subject or context. -

- (i) "Authority" means the Pakistan Minerals Regulatory Authority established under section 3;
- (ii) "Chairman" means the member appointed as Chairman of the Authority pursuant to the provisions of this Act and includes a member when acting in substitution thereof;
- (iii) "Geo-scientist" means a legal or natural person qualified in mining, geology, geochemistry, geo-physics, geo-technical and geo-environment;
- (iv) "Large-scale mining" means capital-intensive, legal mineral extraction, performed by companies or associations with cleaner, more efficient, and higher rates of production;
- (v) "Lease" means a mining lease granted by the respective government;
- (vi) "Lessee" means a person, a firm or a company, national or international, as the case may be, to whom a mining lease is granted and includes his successors in interest;
- (vii) "licence" means a reconnaissance, prospecting, exploration or mineral deposit retention licence granted by the respective governments;

- (viii) "licensee" means a person, a firm, or a company to whom reconnaissance, prospecting, exploration or mineral deposit retention licence is granted under these rules, and includes his successors-in-interest;
- (ix) "Licensing Authority" means an Authority to whom powers have been delegated by the respective governments;
- (x) "Mine" means any surface or underground excavation where any operation for the purpose of searching for or obtaining a mineral has been or is being carried on, and includes all works, machinery, tramway, ropeway and siding, whether above or below ground, in or adjacent or belonging to or appurtenant to a mine but does not include the manufacturing or processing plant;
- (xi) "Mineral" means all surface and sub-surface natural deposits of ores and metals and other metallic and non-metallic substances including naturally occurring aqueous solutions containing more than 1% mineral salt in solution, but does not include: -
 - (i) nuclear substances;
 - (ii) mineral oil; and
 - (iii) natural gas;
- (xii) "Mineral operation" means exploration operations or mining operations or both;
- (xiii) "Mining area" means an area of land, including its lateral limits, to which a mining lease relates;
- (xiv) "Mining consultant" means a legal or natural person qualified in Mining Engineering or Geology duly registered with the respective provincial Directorate General of Mines & Minerals;
- (xv) "Mining operation" means any operation carried out in connection with the development of a mine, or the production of minerals from the mine, or both;
- (xvi) "Respective government" means the government of a province or a federating unit, as the case may be; and
- (xvii) "Small-scale mining" means mineral extraction by individuals, cooperatives, or small companies with minimal capital investment and with much use of manual labour.

3. Establishment of Pakistan Minerals Regulatory Authority.—(1)

As soon as may be, after the commencement of this Act, the Federal Government shall, by notification in the official Gazette, establish an Authority to be known as the Pakistan Minerals Regulatory Authority which shall be a body corporate, having perpetual succession and a common seal with powers, subject to the provisions of this Act, to acquire and hold property, both moveable and immovable, and to sue and be sued by its name.

(2) The Authority shall consist of seven members, one from each Province, Islamabad Capital Territory and federating units, to be appointed by the Federal Government after considering the recommendations of the respective Provincial Governments.

(3) The Federal Government shall, from amongst the members appointed under sub-section (2), appoint a member to be the Chairman of the Authority.

(4) The Chairman of the Authority, shall be appointed for a period of three years, by rotation, in the following order, namely:

- (i) the member representing the Province of Balochistan;
- (ii) the member representing the Province of Khyber Pakhtunkhwa;
- (iii) the member representing the Province of the Punjab;
- (iv) the member representing the Province of Sindh;
- (v) the member representing the Islamabad Capital Territory or federating units;
- (vi) the member representing Gilgit Baltistan and Azad Jammu and Kashmir; and
- (vii) the member representing each federating unit.

(5) Every member shall be a professional of known integrity and competence with at least fifteen years of related experience in mineral sector.

(6) The Chairman and a member shall, unless he resigns or is removed from office earlier as hereinafter provided, hold office for a term of three years and shall be eligible for reappointment for similar two term:

Provided that a Chairman or a member shall not be appointed under sub-section (2) if he has attained the age of sixty years.

(7) No act or proceeding of the Authority shall be invalid by reason only of the existence of a vacancy in, or defect in, the constitution of the Authority.

(8) The principal office of the Authority shall be in Islamabad and it may set up offices at such place or places as it may deem appropriate.

(9) A member of the Authority shall not have any direct or indirect financial interest in, or have business connection with any person, any establishment or firm which renders mining services in Pakistan or abroad.

Explanation.—For the purpose of this sub-section, any involvement of the spouse or blood relation of any member of the Authority with any minerals establishment or firm shall be considered as a direct financial interest or connection of the member with such establishment or firm.

(10) The member of the Authority shall be paid the salary and shall be entitled to the privileges of an officer in MP-II and the Chairman shall be paid the salary and be entitled to the privileges of an officer in MP-I.

(11) The decision of the Authority shall, subject to sub-section (7), be taken with the concurrence of the majority of its members.

4. Resignation and removal of Chairman, etc. — (1) The Chairman, or a member may, by writing under his hand, resign from his office.

(2) The Chairman or a member may be removed by the Federal Government from his office if, on an inquiry by the Cabinet Division, he is found incapable of performing the functions of his office by reason of mental or physical incapacity or has been found guilty of misconduct.

5. Functions and Powers of the Authority.—(1) The Authority shall—

- (i) guide and assist mineral related activities, projects and programmes of the respective Government and public sector on a regular basis;
- (ii) act as a facilitator to all stakeholders and provide a one-window permitting and approval operation to the companies proposing large scale mining projects;
- (iii) review and ensure compliance by the respective Government with mineral projects and agreements;
- (iv) carry out periodic review of implementation of the regulatory and fiscal regimes and functioning of the mineral administration set-up in the country;
- (v) introduce measures for promoting the manufacture and use of local goods and services, thus creating opportunities for industrial development and appropriate education and training of locals in modern mining skills;

- (vi) assist in negotiation of mineral agreements or project development agreements by the respective government with foreign mining companies. However, a record of such agreements will be maintained at federal level as well as at the Authority and respective provincial level;
- (vii) arrange and approve mineral portfolios for attracting private and foreign investments;
- (viii) undertake applied research;
- (ix) undertake skills development and gainful employment of geo-scientists in the country;
- (x) ensure conservation of mineral resources;
- (xi) mitigate the adverse impact of mining on the environment;
- (xii) ensure sustainable development;
- (xiii) develop the infrastructure;
- (xiv) facilitate the small-scale mine operators in the development of their mines on scientific practices;
- (xv) facilitate the mine operators in the transfer of technology;
- (xvi) ensure capacity building of the geo-scientists or engineers engaged in government departments and that of stakeholders;
- (xvii) generation of geological data, development of a national and provincial cadaster and provision of online accessibility to such data;
- (xviii) prescribe timelines for grant of licences and mineral titles;
- (xix) prescribe shares in profit before and after development of resources;
- (xx) coordination among all related departments within federal government, provincial governments, federating units and stakeholders;
- (xxi) resolution of disputes arising between investors and respective government or federating units where enforcement of bilateral or multilateral commitments of the Federal government is involved;
- (xxii) carry out any other function assigned by the respective Government; and

(xxiii) the Authority may make regulations to carry out its functions in accordance with this Act.

6. Chairman, etc. to be public servant. — The Chairman, members, staff, experts, consultants, advisors and other employees of the Authority, when acting or purporting to act in pursuance of any of the provisions of this Act or the rules and regulations, shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (Act XLV of 1860).

7. Staff and advisers, etc. — (1) To carry out the purposes of this Act, the Authority may, from time to time, employ officers, members of its staff, experts, consultants, advisors and other employees on such terms and conditions as it may deem fit.

(2) All officers, members of staff, experts, consultants, advisors and other employees employed by the Authority shall not be deemed to be civil servants within the meaning of the Civil Servants Act, 1973 (Act LXXI of 1973).

8. Pakistan Minerals Regulatory Authority Fund.—(1) There shall be a fund to be known as the " Pakistan Minerals Regulatory Authority Fund " which shall vest in the Authority and shall be utilized by the Authority to meet all its expenses and charges in connection with its functions under this Act, including the payment of salaries and other remuneration to its employees.

(2) The bank accounts of the Pakistan Minerals Regulatory Authority Fund shall be maintained with the National Bank of Pakistan.

(3) The Pakistan Minerals Regulatory Authority Fund shall be financed from the following sources, namely, -

- (i) fees and other amounts received by the Authority;
- (ii) grants from the Federal Government and the Provincial Governments, including an initial grant of fifty million rupees by the Federal Government;
- (iii) loans obtained from the Federal Government;
- (iv) sale proceeds of bonds issued under the authority of the Federal Government; and
- (v) loans and foreign aid obtained by the Authority with the approval of the Federal Government.

9. Powers to make rules.—The respective Government may, by notification in the official Gazette, make rules for the grant of mineral concessions and titles in respect of any mineral falling in its domain.

10. Accounts. — (1) The Authority shall maintain complete and accurate books of accounts of its actual expenses and receipts.

(2) The Accounts of the Authority shall be audited annually by the Auditor General of Pakistan.

11. Grant of prospecting licences and mineral titles. - (1) The Licensing Authority may, in accordance with the rules made by the respective governments, grant prospecting licences, mining leases and mineral titles for minerals.

(2) The respective government may, by notification delegate powers to grant a prospecting licence or a mineral title in respect of any mineral or group of minerals to any person or authority.

12. Grant of Mineral Titles to Foreign Nationals.- Foreign companies will be free to apply, however, no mineral title will be given until the foreign company is incorporated locally.

13. Mineral Agreement.- (1) The respective Governments may enter into an agreement with an investor, within the framework of the law, to define the terms or to predetermine procedures with respect to certain matters relating to the carrying out of operations under license or lease, if government is satisfied that substantial foreign investment in exploration and mining operations is likely to be made and it is desirable in the interest of the development of mineral resources, to do so.

(2) The Authority shall also become signatory to such an agreement, if so requested by the respective government, after independently examining viability of the project and credit worthiness of the party. When the Authority is requested to become a signatory, the terms of such mineral agreement would be mutually agreed between the Authority, the respective Government and the mining company.

(3) For the purpose, the Authority will develop a model mineral agreement designed to provide additional comfort to a mining company and its lenders. The model mineral agreement will contain terms, including without limitation, with respect to the application, grant, duration, renewal, assignment and termination of mineral titles and the rights and obligations of mineral title holders that will protect the economic feasibility of the project and stabilize the legal and fiscal regimes including taxes, fees and royalties, which the mining company will be subject to over the life of the project with necessary protection to the mining company in the event of changes thereto. This will allow the mining company and its lenders to make the necessary investment decisions.

(4) The model mineral agreement shall form the basis of negotiations with a mining company for a mineral agreement and may be varied for project specific reasons on a case to case basis to deal with project specific issues.

(5) The Federal Government shall stand as guarantor of the respective government's obligations, if so requested by the latter. The existing Mineral Rules made by the respective governments will be amended to remove any conflict/overlapping with or other effect on, and to give effect to, the rights and obligations of the mining company under the mineral agreement in line with best international practices and in the meantime, the respective Government shall pass an appropriate order through a notification under the applicable law exempting the class of minerals or the specific minerals covered by mineral agreements from the application of the relevant provisions of the Mineral Rules until the same are amended, such government will also give protection to the incentives and concessions given to mining companies under a mineral agreement through statutory amendments in line with those of the mineral sector:

Provided that the mineral agreement would have an overriding effect in case anything contained therein is inconsistent with any law or rules subsequently amended.

14. National Minerals Data Center (NMDC).- (1) A National Minerals Data Center (NMDC) being established in the Petroleum Division (Mineral Wing) will be shifted to and maintained by the Authority. NMDC will be supported, coupled or fed by Geological Survey of Pakistan (GSP), provincial cadasters and other relevant organizations.

(2) A Geo-data Center of Pakistan (GDCP) will be established by GSP to serve as geological data repository and its effective dissemination.

(3) The respective government shall maintain digitally the database and record of all grants, renewals, assignments, surrender, revocation of mineral titles, relinquishment of acreage, with details of the area and of the companies to whom mineral title and assignment etc. is granted. This database will include information relating to exploration activities, applications for grant of mineral title, free areas, bidding rounds, production data, royalty collection, Corporate Social Responsibility initiatives and contributions, health, safety and environment (HSE), accident data, field monitoring and inspections, sectoral directory (HR, industry players, testing facilities etc.). This database shall be integrated by the respective government with NMDC.

(4) NMDC will also include all information related to exploration activities and data acquired by GSP and other organizations for effective dissemination to attract the investors.

15. Proprietary Rights over Data.- All geo-data obtained by a mineral title holder shall be a property of the Licensing Authority and shall be deposited at such offices and at such intervals as are specified in the Rules made by the respective government.

16. Exploration and Coordination for the business in minerals.- An Exploration & Coordination Directorate will be established by the Authority at Federal level, while Exploration Promotion Divisions will be established in the respective Provincial Departments, Directorates General of Mines and Minerals. These entities will.-

- (i) provide competent interface with investors;
- (ii) carry out detailed mineral exploration in priority areas, with or without assistance from GSP and donor agencies;
- (iii) compile, evaluate and disseminate geo-data and make available geological and geographical maps and serve as sales point for GSP publications, maps and reports;
- (iv) provide advisory services to minerals industry;
- (v) feed and receive all critical geo-data to or from the Geo-data Centre of Pakistan maintained by GSP;
- (vi) carry out research and development, for which an agreed portion of royalty would be dedicated; and
- (vii) participate in the international mineral related events, seminars, workshops and roadshows for promotion of mineral sector of Pakistan.

17. Dispute Resolution.- (1) Any question or dispute between a foreign mining investor and the respective government arising out of or in connection with the terms of an agreement or of a granted mineral title shall be settled amicably where possible. Failing an amicable settlement within a reasonable period, such dispute shall be submitted to the procedures for sole expert determination or arbitral or other tribunal agreed in a mineral agreement or, where there is no such agreement or such agreement does not specify a tribunal, to the International Centre for Settlement of Investment Disputes (ICSID) or International Chamber of Commerce (ICC) for arbitration.

(2) The respective government will pass such legislation as is necessary to provide for the effective enforcement in Pakistan of foreign arbitral awards. Disputes between the respective government and a mining company of which the majority of the ultimate parent company's shareholders are Pakistani nationals will be settled by arbitration in Pakistan under the provisions of the Pakistan arbitration laws.

18. Joint Ventures with Local Enterprises.- The Authority shall facilitate to encourage joint ventures between foreign and local private investors. In addition to royalty, the respective Government will be entitled to participate in the project in the form of a negotiated equity, participating interest, enhanced royalty rate or such other structure as agreed to by the respective government and the mining company.

19. Development of Infrastructure.- The Authority, after the approval of Federal government shall, develop mechanisms to provide infrastructure support for,-

- (a) the provision of required water rights for mining operations/projects; and
- (b) the development of roads, provision of electricity, facilitation through water supply, labour colonies, medical and education.

(2) Both the Federal and Provincial Governments will undertake measures for developing infrastructure to facilitate investment in the mineral sector on Build, Operate & Transfer (BOT) basis or other modes.

20. Royalty.- Rate of royalty for minerals will be determined by respective government from time to time and changes will be notified to other provinces and federating units, as the case may be, and the Federal Government.

21. Corporate Social Responsibility (CSR)(1) Mining companies would contribute per annum an amount equivalent to 0.4% of spending during exploration and development phase and that of revenues during production phase of the project towards the social uplift of the local population through establishment and self-sustained maintenance of community improvement projects such as schools, dispensaries, supply of drinking water or upgrades of local roads etc.

(2) The respective government will collect this contribution and spend on the welfare projects prepared in consultation with local representatives of that area or region after legislation by the respective assembly.

22. Contribution for institutional capacity building and trainings.-

(1) Mining companies would contribute per annum an amount equivalent to 0.1% of spending during exploration and development phase and that of revenues during production phase of the project, for institutional strengthening, capacity building, trainings, hiring of specialists, consultants etc. at federal-level to effectively performing its functions.

(2) For the purpose, Authority will open and maintain a dedicated bank account and mining companies will deposit their respective contribution on bi-annual basis.

STATEMENT OF OBJECTS AND REASONS

Nature has endowed Pakistan with rich mineral deposits, however, this potential has not been fully realized because of various factors, including but not limited to the lack of understanding and cooperation between the center, provinces and federating units due to the constitutional and legal barriers. This Act aims at establishment of Pakistan Mineral Regulatory Authority to facilitate the investors (National or International) in the mining sector, to increase national and foreign investment and ownership in the mineral industry while considering the changing international investment climate, to protect the public interest while respecting individual rights and provide effective and efficient regulations for safety of mines and welfare of labour.

**SENATOR DILAWAR KHAN
SENATOR MOHAMMAD ABDUL QADIR
MEMBERS-IN-CHARGE**