



SUPREME DECREE Nº 014-92-EM





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Annotated by Cecilia Ortiz Pecol





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GENERAL MINING ACT CONSOLIDATED REVISED TEXT

SUPREME DECREE № 014-92-EM

PRESIDENT OF THE REPUBLIC

WHEREAS:

The General Mining Act was enacted by Legislative Decree N^0 109 and the Law for the Promotion of Investments in the Mining Sector was enacted by Legislative Decree N^0 708, the latter partially amended the General Mining Act;

The Ninth Transitory Provision of Legislative Decree N°708 establishes that the Consolidated Revised Text of the General Mining Act, incorporating the provisions of the aforementioned Legislative Decree shall be approved by a Supreme Decree endorsed by the Ministry of Energy and Mines;

According to the provisions set forth in Section 211, subsection 26) of the Peruvian Constitution;

DECREE.

Section 1.- Approve the Consolidated Revised Text of the General Mining Act, which consists of fifteen Titles, fifty four Chapters, two hundred and twenty six Sections, sixteen Transitory Provisions and eight Final Provisions, which form part of this Supreme Decree.

Section 2.- The amendments incorporated by Legislative Decree N°708 in Legislative Decree N°109, contained in the Consolidated Revised Text approved by this Supreme Decree shall be valid as of the date of entry into force of Legislative Decree N° 708, with the exception of those that establish a different date in their respective text.

Section 3.- While the rational decentralization and/or deconcentration plan, mentioned in Section 2, subsection 9) of Decree Law №25418 -Fundamental Law of the National Emergency and Reconstruction Government, is being prepared, the functions assigned to the Jurisdictional Administrative Mining Bodies by the General Mining Act, shall be governed by the provisions set forth in Supreme Decree № 002-92-EM/VMM.

Done at Government House, in Lima on June 2, 1992

Signed by the Constitutional President of the Republic

Signed by the Minister of Energy and Mines

(The Supreme Decree was published on 06.03.92 (The Consolidated Revised Text was published on 06.04.92)

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GENERAL MINING ACT CONSOLIDATED REVISED TEXT

(The Regulations of the Pertinent Titles of this Act were approved by Supreme Decree № 03-94-EM)

PRELIMINARY TITLE

The present Act includes all matters related to the development of mineral substances of the soil and subsoil of the national territory, as well as of the maritime domain. Oil and similar hydrocarbons, guano deposits, geothermal resources and medicinal-mining waters are excluded from the scope of application of this Act.



According to Section 69, subsection 9 of Law N° 27972, Organic Act of Municipalities, municipal revenues are the rights paid for the extraction of construction materials located in the river beds and guarries in their jurisdiction, pursuant to Law.

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

All the mineral resources belong to the State, whose ownership is inalienable and indefeasible.

The State evaluates and preserves the natural resources. To this effect, it must develop a system of basic information for the promotion of investment. The State regulates the national mining activity and supervises it according to the basic principle of administrative simplification

Mining resources are developed through public and private enterprises by a system of concessions.



Section 60 of the Peruvian Constitution establishes only if expressly authorized by the law, the State can also directly or indirectly engage in business activities due to reasons of public interest or express national convenience.

The State protects and promotes small-scale, medium-scale, large-scale and artisanal mining.



The mining concession is bound by the obligation to exploit, it, an obligation that consists in investing in the production of mineral substances.

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

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

The State is responsible for rating the mining activities.

To engage in the aforementioned activities, the State or private companies must comply with the provisions set forth in this Act.



Section 1 of Legislative Decree 1048 stipulates that the storage of ore concentrates in deposits located outside the mine operating areas is an activity of the mining sector that is not executed under the concessions system.

The development of the mining activities, with the exception of exploration, prospection and commercialization, is exclusively conducted under the system of concessions, which is accessed under procedures that are matters of public policy. Concessions are granted for both State and private enterprises, without distinction or privilege.



Section 60 of the Peruvian Constitution establishes that, only as expressly authorized by the law, the State may also directly or indirectly, engage in private business activities, due to reasons of public interest or express national convenience.

TITLE ONE

MINING ACTIVITIES AND WAYS TO EXERCISE THEM

CHAPTER I

SEARCH AND PROSPECTION

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

Prospection is the research process conducted to determine possible mineralization areas, through chemical and physical data, 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 persons in areas where there are mining concessions, areas where land claims are forbidden and enclosed or cultivated land, without the prior written consent of its holder or owner, as the case may be.

Search and prospection is prohibited in urban or urban expansion areas, in areas reserved for national defense, in archaeological sites and in property of public use, except with the prior authorization of the competent authority.



Section 5 of the Environmental Regulations for Mining Exploration Activities, approved by Supreme Decree Nº 020-2008-EM requires approved environmental studies to commence mining exploration activities, with the exception of Search and prospection activities.

CHAPTER II COMMERCIALIZATION

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

(Section 9 of Legislative Decree № 1107 establishes that the SUNAT- Tax Administration 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, cannot be claimed. Purchases made from unauthorized persons holds liable the buyer. The buyer is obliged to verify the origin of the mineral substances.



Section 3 of Supreme Decree № 055-2010-EM approving the Mining Occupational Health and Safety Regulations, stipulates that in order to comply with the provisions set forth in Section 4 herein, the beneficiation plants that purchase the product of the mining activity, either unprocessed or as concentrate, molten, tailings or any other condition prior to its refinement; as well as the natural persons or legal entities exclusively engaged in the purchase and sale of gold and/or unworked minerals, must verify their origin and keep an updated record in electronic or physical means.

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 N^o 1107 stipulates that any person purchasing mining products controlled and supervised under the referred legislative decree, whatever their condition, regardless of whether the purchase is made temporarily or

permanently, must verify their origin, requesting the relevant documents and checking the authenticity of the data consigned in the relevant information systems.

SECTION 5.- Enforce Supreme Decree № 005-91-EM/VMM, on the free commercialization of gold.



The Seventh Supplementary Final Provision of Legislative Decree \mathbb{N}^2 1105 establishes that with the aim of promoting the formalization of Small-Scale and Artisanal Miners, the Executive Branch may, by a supreme decree endorsed by the Ministers of Economy and Finance and of Energy and Mines, issue supplementary regulations on the commercialization of gold obtained from the mining activities of the aforementioned producers.

CHAPTER III OTHER MINING ACTIVITIES

SECTION 6.- The State can declare through a special law, the reserve of certain mineral substance of national interest.

SECTION 7.- The exploration, exploitation, beneficiation, general work and mining transportation activities are executed 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 operating areas of the mines.

TITLE TWO

CONCESSIONS

CHAPTER I

MINING CONCESSIONS

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

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

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



Supreme Decree N^{ϱ} 020-2008-EM approves the Environmental Regulations for the Mining Exploration 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 indefinite depth, limited by vertical planes corresponding to the sides of a closed square, rectangle or polygon, in Universal Transverse Mercator (UTM) geographical coordinates.

The mining lease is a different and separate ownership right from the land in which it is located.

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

The works carried out to develop such substances are an integral part of the mining concession. All the goods property of the concessionaire used permanently in the economic purpose of the concession are ancillary parts thereof.



Section 23 of the Mining Procedure Regulations, approved by Supreme Decree Nº 018-92-EM, establishes that the title of the concession does not authorize per se mining exploration or exploitation activities, indicating the procedures required to that effect

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

Concessions are irrevocable as long as the holder complies with the obligations required by this Act to remain valid.



According to Section 6 of Decree Law № 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 System of Grids to be formalized by the Ministry of Energy and Mines.

Concessions shall be granted for 100 to 1,000 hectares, in grids or group of adjacent grids that are contiguous to each other at least by one side, except for concessions on maritime domain, for which grids from 100 to 10,000 hectares can be granted.

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.



The Grid System was formalized by Ministerial Resolution N° 320-91-EM.

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

Section 8 of Law Nº 27015, Special Law that Regulates the Granting of Mining Concessions in Urban 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 for a maximum of one hundred (100) hectares, the vertexes of which shall be fixed in UTM coordinates, according to the system of grids of to be established in the regulations.

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

SECTION 12.- Should there be claims or applications for mining concessions within the area enclosed by a grid prior to December 15, 1991, the new applications will only include the free areas of the grid or set of grids.



Supreme Decree N° 35-94-EM established the procedure to comply with the protection of priority mining rights.

Section 16 of Supreme Decree N° 03-94-EM approving the Regulations of the Pertinent Titles of the Consolidated Revised Text of the General Mining Act, regulates matters related to mining rights formulated under legislations prior to Legislative Decree Nº 708 - Law for the Promotion of Investments in the Mining Sector and under the scope of 12 of Law Nº 26615 - National Mining Registry Act, with UTM coordinates incorporated in the National Mining Registry.

Furthermore, it stipulates that no mining concession titles shall be granted for free areas that form polygons of less than one (1) hectare, proceeding according to Section 114 of this law.

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

The mining concession may be converted to a substance different from that originally granted, for which the statement made by the holder shall suffice.



The Tenth Final Supplementary Provision of Legislative Decree № 1105 establishes that, should exploitable metallic and nonmetallic substances coexist in one mining concession, the holder of the mining concession may enter into mining exploitation contracts for the exploitation of nonmetallic substances in said concession with persons in the process of being formalized.

SECTION 14.- In accordance with the provisions set forth in Decree Law 21419,

Legislative Decree 613 and the Seventh Supplementary Provision of the Law for the Promotion of Investments in the Agricultural Sector, Legislative Decree 653, no nonmetallic concessions or nonmetallic concession extensions shall be established on intangible agricultural areas, or rural land for agricultural use, excluding natural pastures.



The Seventh Supplementary Provision of Legislative Decree 653 was repealed by the Single Supplementary Provision for the Repeal of Legislative Decree 1064; which was subsequently repealed by Section 1 of Law N $^{\circ}$ 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, it shall be deemed approved if the Provincial Council has not acted within sixty calendar days following the presentation of the application.

🗷 Note:

Law № 27015, Law that Regulates Mining Concessions in Urban and Urban Expansion Areas establishes the limitations in urban and urban expansion areas to grant titles of metallic and nonmetallic mining concessions, to impose easements for mining purposes and to commence the mining exploration and exploitation activities, as well as the exploitation of quarries of construction materials and non-metallic quarries for the production of cement.

Section 54 of Legislative Decree N^{o} 757 that dictated the Frame Law for the growth of Private Investment regulates the granting of protected natural areas.

Sections 5, 27 and 28 of Law N^2 26834- Law of Protected Natural Areas, regulate the ownership rights and other property rights acquired prior to the establishment of a Protected Natural Area, as well as the development of natural resources in said area.

SECTION 15.- Non-metallic concession of saline substances, up to the first transformation of the product, is subject to the provisions of this Chapter and their development and commercialization are regulated by the legal provisions on the subject.

SECTION 16.- Radioactive substances are no longer reserved for the State, therefore they may be used by the private mining sector.

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 an aggregate of minerals and/or to purify, smelt or refine metals. It comprises the following steps:

- 1. Mechanical Preparation.- Process to reduce the size, classify and/or wash a mineral.
- Metallurgy.- Set of physical, chemical and/or physicochemical processes used to concentrate and/or extract the valuable substances from the minerals.

3. Refining.- Process to purify metals of the products obtained from the aforementioned 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 that artisanal miners carry out to extract or concentrate the valuable parts of ore aggregates and/or to purify, smelt 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 Mining Bureau.



Paragraph added by Section 5 of Law № 27651.

Section 16 of the Regulations of the Law for the Formalization and Promotion of Small Scale and Artisanal Mining, approved by Supreme Decree Nº 013-2002-EM, establishes the procedure to obtain authorization for the beneficiation of minerals by the artisanal miners.

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

CHAPTER III

GENERAL WORK CONCESSIONS

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

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



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

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

CHAPTER IV

MINING TRANSPORT CONCESSION

SECTION 22.- Mining transport is any system used for the mass continuous conveyance of mineral products, through unconventional means.

The systems include:

- Belt conveyors;
- Pipes/Ducts; or,
- Cableways.

The General Mining Bureau, with the favorable report of 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 concessions confers to its holder the right to install and operate a continuous mass transportation system for the transportation of 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 Section 10, paragraph 1) of this Act is also applicable to mining transport concessions.

TITLE THREE

THE STATE IN THE MINING INDUSTRY

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



Section 60 of the Peruvian Constitution establishes that only as expressly authorized by law, the State may additionally engage directly or indirectly in business activities of public interest or of national convenience.

SECTION 25.- The Ministry of Energy and Mines may authorize the use of areas not admissible for claims, to the Geological Mining and Metallurgical Institute - INGEMMET, for maximum terms of five calendar years, so that it may conduct regional mining prospection works, respecting the acquired rights and areas adjacent to the archaeological sites of the country.

Each of these areas may not include more than three hundred thousand (300,000) hectares.

The mining concessions and claims that revert to the State for any reason may be subject to a statement of inadmissibility of claims.

Under its responsibility, INGEMMET shall make available to the public, for a charge, the studies containing information on their regional prospection works, one month prior to the

expiry of the granted term, after which they shall be freely and readily available with the following exceptions:

- a) The Private Investment Promotion Agency PROINVERSION or its substitute, 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 term mentioned in the first paragraph of this Section, ratified by Supreme Resolution: establishing the mechanism for the compensation of the costs incurred by INGEMMET. In this case, the incorporated areas shall have the status of no?admission of claims and/or petitions and shall remain as such according to the results of the process, until the mining concession is granted. INGEMMET shall grant the mining concessions in said areas to the successful bidder who acquires the ownership or exercises the option, according to the provisions of the contract. Should no transfer agreement or mining option contract be adopted within a term of two (2) years following the issue of the referred Supreme Resolution, the respective areas shall be declared available.
- b) PROINVERSION or its substitute, may request the Ministry of Energy of Mines for authority to incorporate a maximum extension of one hundred thousand (100,000) hectares in the process for the promotion of investment, according to the technicaleconomic studies of the project and within the radius of the mining concessions included in said promotion process, respecting the 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 a Supreme Decree, with the favorable vote of the Council of Ministers and for a term of two (2) years. Should no transfer agreement or mining option contract be adopted within the term fixed in the bidding conditions, the areas shall be declared available.



Text of the Section according to the Single Section of Legislative Decree N° 1010, to enter into force as of the approval of its regulations, pursuant to its Fifth Transitory and Supplementary Provision.

SECTION 26.- When institutions or agencies of the National Public Sector acquire concessions granted to private persons, under any title, they must offer them in a public auction within a term of three (3) months following their purchase. In the event of no bidders, they shall be declared free to be claimed, according to the rules established to this effect, in this Act.

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

SECTION 28.- Selling prices and/or fees for the treatment and/or refining of mineral products shall be fixed for each specific product, according to the representative international prices and in line with general international practices. In the absence of representative international prices, the price of sale and/or fees for treatment and/or refining services shall be fixed according to the customary international standards.

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SECTION 29.- In the case of purchases and/or the treatment and/or refining of mineral products exported by the domestic market, the value to be paid for said products shall be calculated according to the provisions of the preceding Section. In the case of purchases, the costs and losses incurred to place 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. Likewise, the re-export of mineral products shall be subject to the provisions set forth in Section 28 herein.

TITLE FOUR

PERSONS DISQUALIFIED TO ENGAGE IN MINING ACTIVITIES

SECTION 31.- The persons who may not engage in mining activities during their term in office or employment are, the President of the Republic, Members of the Legislative Branch and of the Judiciary, Ministers of State and high ranking officials, General Comptroller, Attorney Generals and the officials and employees of the Energy and Mining Sectors appointed or assigned to the Senior Management, the Mining Council, the General Mining Bureau, the Directorate for Mining Control and Supervision, the Regional Mining Bodies and the Public Mining Registry.



The Public Mining Registry is understood as the National Institute of Mining Concessions and Cadastre - INACC, according to Section 5 of Supreme Decree № 015-

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

The personnel of the National Public Sector institutions and agencies and of Decentralized Public Bodies that exercise jurisdictional functions or are engaged in mining activities are also disqualified.

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

SECTION 33.- The spouses 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 mining activities related to rights acquired prior to the election or appointment of the referred persons, or those acquired by inheritance or bequest after the election or appointment, or those brought by the spouse to the marriage.

SECTION 35.- The purchase of the all or part of the concessions by the persons referred to in Sections 31 to 33, is null and void and the purchased concessions shall become property of the State free of charge.

The nullity shall be declared by the Head of the Public Mining Registry, ex-officio or upon request, when the docket is subject to the administrative jurisdiction. Once the ownership of the concession has been recorded, a contentious-administrative proceeding may be filed before the Judiciary, within a term of thirty (30) days.



Section 19 of the Consolidated Revised Text of the Law Regulating the Contentious-Administrative Process, approved by Supreme Decree N° 013-2008-JUS, establishes that the complaint must be lodged within a term of three (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 (90) days after the publication of the notice, or service of notice, referred to in Section 122 of this Act. Should the affected person fail to exercise this right within the aforementioned term, this impediment shall disappear.



The Third Supplementary and Final Provision of Law Nº 28271- Law that regulates the environmental liabilities of the mining industry- incorporates additional impediments to request new mining claims and to exploit any mining unit as a concessionaire or purchaser.

Section 307-F of the Criminal Code, approved by Legislative Decree $N^{\rm u}$ 635, establishes that the agent of the crimes outlined in Sections 307-A, 307-B, 307-C, 307-D and 307-E, shall also be disqualified, in accordance with Section 36, subsection 4), to obtain, in his own name or through third persons, general work , beneficiation or metallic and nonmetallic transport concessions and their commercialization for a period equal to the main punishment.

TITLE FIVE

COMMON RIGHTS OF CONCESSION HOLDERS

SECTION 37.- Concession holders enjoy the following rights:

1. 1. In concessions granted in barren land, to the gratuitous use of the concession surface for mining and economic purposes thereof, without requiring an additional application.

∠ Note:

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

2. To request the mining authority for the gratuitous right to use the barren land located outside the concession for mining purposes.



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

To request the authorization of the mining authority to establish easements in land owned by third parties, that they may require for the rational use of the concession. The easement shall be established prior fair compensation if relevant.

Officially or at the request of the affected owner, the mining authority shall order the expropriation, if the easement renders ineffective his property rights.



According to the provisions set forth in Section 70 of the Peruvian Constitution, no person can be deprived of their property or ownership rights, except for reasons of national security or public necessity, declared by law.

 To request the authority to establish mining use or easements on the surface land of other concessions, provided the mining activities of their holders are not impaired or interrupted.



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

To execute, in neighboring concessions, the necessary construction works to facilitate the access to, ventilation of or sewage for their own concessions, the transportation of minerals and the safety of their workers, prior compensation if such works produce damages and with no liens for the neighboring concessions, depositing, free of charge for these concessions, the minerals resulting from the executed works. The holders of the neighboring concessions may use these works paying the respective compensation, which shall be fixed by the mining authority in the absence of any agreement between the parties.

6. To execute on loam land, activities with the same purposes outlined in the preceding subsection, with the authority of the General Mining Bureau.



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

7. To request the expropriation, 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 provided the prevalence of the mining industry over the affected activity is accredited.

Should the expropriation include properties located in urban or urban expansion area, the opinion of the Ministry of Transport, Communications, Housing and Construction or of the corresponding Regional Institution shall be required.



According to the provisions set forth in Section 70 of the Peruvian Constitution, no person can be deprived of their property or ownership rights, except for reasons of national security or public necessity, declared by law.

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



Subsection added by Section 2 of Legislative Decree N° 868.

TITLE SIX

OBLIGATIONS OF THE CONCESSION HOLDERS

CHAPTER I

IN MINING CONCESSIONS

SECTION 38.- According to the provisions set forth in Section 66 of the Peruvian Constitution, the conditions for the use of natural resources and their conferral to private persons are fixed by an organic act. Hence, the concession holders are obliged to develop the concessions, consisting in making investments for 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 an equivalent of 10% of the Tax Unit per year and per granted hectare. In the case of small-scale miners, 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 [UIT] 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, counted as from the year after the concession title was awarded. The production must be accredited with sales vouchers.

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

The referred sales vouchers must be produced before 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 the Section according to Section 1 of Legislative Decree N° 1054.

The Single Transitory Provision of Supreme Decree № 054-2008-EM establishes the starting date of the terms in which to achieve and accredit the minimum production per year and per hectare for the mining concessions in force on the date of its publication.

It also establishes the applicable law for these cases, if the fixed terms are not met.

Additionally, it regulates the case of those concessions included in the investment promotion processes, as well as the concessions included in contracts of guarantees and investment promotion measures.

Subsection 7.2 of Section 7, stipulates that the production obligations, referred to in Sections 38 and 39 of this Law, must be breached for two (2) consecutive years for them to constitute grounds for expiry.

Section 22 of the Regulations of the Law for the Formalization and Promotion of Small-Scale and Artisanal Mining, approved by Supreme Decree N° 013-2002-EM, establishes that the mining production resulting from the exploitation agreements or contracts accredits the fulfillment of the purposes outlined in this Section.

According to Section 2 of Supreme Decree N° 029-2001-EM, for those mining leases granted as of 1992 inclusive, the term mentioned in this Section is counted as from January 1st of the year following the title award.

SECTION 39.- As of the year in which the claim was made, the mining concessionaire shall be obliged to pay Mining Concession Fees.

The Mining Concession Fee is US\$ 3,00 or its equivalent in local currency per year and per hectare requested or awarded.

For small-scale miners, the Mining Concession Fee is US\$ 1.00 or its equivalent in local currency per year and per hectare requested or granted. For artisanal miners the Standing Fee is US\$ 0.50 or its equivalent in local currency per year and per hectare requested or awarded.



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

The Mining Concession Fee for the year in which the mining concession is requested, must be paid and accredited together with the submittal of the application.

The Mining Concession Fee for the second year, counted as from January 1 of the year after applying for the mining lease, 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 standing rights is independent from the payment of the mandatory property taxes to be paid by the landowner.

Note:

Text of the Section according to Section 1 of Legislative Decree № 913.

Section 8 of Decree Law Nº 25998 establishes that the minimal payment of the Good Standing or Processing Fee may be made within a term of ten (10) business days.

Section 37 of Supreme Decree Nº 03-94-EM, replaced by Section 1 of Supreme Decree Nº 008-2013-EM, stipulates that the Mining Concession Fee and/or Penalty and that accreditation, in the relevant cases, shall be paid between the first business day of January and June 30th of each year. Extemporary accreditation is inadmissible.

SECTION 40.- Failure to comply with the provisions set forth in Section 38, as from the first half of the eleventh year, counted as from the year following the year in which the mining lease title was granted, the concessionaire must pay a penalty equivalent to 10% of the minimum annual production enforceable per year and per hectare, until the year in which it complies with the minimum annual production. The penalty must be paid in addition to the Mining Concession Fee and deposited and accredited on the same date.

Should the breach continue as of the expiry of the fifth year after the mining lease was granted it shall be declared expired.



Text of the Section according to Section 1 of Legislative Decree N° 1054.

According to Section 2 of Supreme Decree Nº 029-2001-EM, for those mining leases granted as of 1992 inclusive, the term mentioned in this Section is counted as from January 1st of the year following the title award.

The Single Transitory Provision of Supreme Decree № 054-2008-EM establishes the starting date of the terms in which to achieve and accredit the minimum production per year and per hectare for the mining concessions in force on the date of its publication.

It also establishes the applicable law for these cases, if the fixed terms are not met.

Additionally, it regulates the case of those concessions included in the investment promotion processes, as well as the concessions included in contracts of guarantees and investment promotion measures.

The concessionaire who, having reached the minimum production, accredits the payment of the penalty referred to in Section 40 and the investment mentioned in Section 41, paragraph 2) of this Act, does not incur in grounds for the expiry mentioned in Subsection 7.2 of Section 7 related to the production obligations, referred to in Sections 38 and 39 of this Act, for a period of two (2) years.

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

Section 5 stipulates the procedure for the accreditation of acts of God, force majeure events and non-imputable fact.

The Single Transitory Provision establishes the starting date for the calculation of the terms to achieve and accredit the minimum production per year and per hectare for the mining concessions in force on the date of their publication.

It also provides the applicable law for these cases if the referred terms are not met.

Additionally, it regulates the case of the concessions included in contracts derived from investment promotion processes, as well as of the concessions included in surety and investment promotion contracts.

SECTION 41.- The concessionaire does not incur in grounds for termination after the expiry of the fifteenth year mentioned in Section 40 and for up to a maximum term of five years non renewable, if the failure to comply with the minimum production is due to an act of God or force majeure event or for any fact not imputable to the holder of the mining concession and duly substantiated and approved by the competent authority.

Furthermore, the concessionaire may be exempted from expiry within the term indicated in the preceding paragraph, by paying the penalty and accrediting investments equivalent to not less than ten times the amount of the penalty it is due to pay. To this effect, the mine owner may accredit investments in mining activities and/or basic infrastructure of public use, which must be accredited in the form and manner established in the Regulations.



Text of the Section according to Section 1 of Legislative Decree N° 1054.

The Single Transitory Provision of Supreme Decree № 054-2008-EM establishes the starting date of the terms in which to achieve and accredit the minimum production per year and per hectare for the mining concessions in force on the date of its publication.

It also establishes the applicable law for these cases, if the fixed terms are not met.

Additionally, it regulates the case of those concessions included in investment promotion processes, as well as the concessions included in contracts of guarantees and investment promotion measures.

Section 4 of Supreme Decree N $^{\rm o}$ 054-2008-EM outlines what is construed as investments for the purposes of Section 41 of this Act.

Section 6 stipulates the events qualified as an act of God, force majeure event and non-imputable fact.

The concessionaire who, having reached the minimum production, accredits the payment of the penalty referred to in Section 59 of this Act-referred to the failure to comply with the minimum production for two (2) years- does not incur in grounds for the expiry mentioned in Section 40 of this Act and the investment mentioned in Section 41, paragraph 2.

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 Mining Concession Fee.

SECTION 43.- All concessionaires who execute drilling procedures in the territory of Peru, may freely dispose of a maximum of fifty percent longitudinally of each section of samples or core drillings they obtain in their drilling procedures and are obliged to keep a record of fifty percent of the remaining samples for their easy identification and location on the ground.

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

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



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

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

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

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By Supreme Decree N $^{\circ}$ 008-2007-EM the merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute - INGEMMET was approved, with the latter being the surviving entity.

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

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 Mining Concession Fee in an annual amount according to its installed capacity, as follows:

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

MT/day refers to the installed treatment capacity. In the case of expansions, the payment that accompanies the application is based on the increase in capacity.



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

CHAPTER IV

IN GENERAL WORK AND MINE TRANSPORT CONCESSIONS

SECTION 47.- Upon applying for a general work or mine transport concession, the applicant shall pay a Mining Concession Fee equivalent to 0.003% of one Tax Unit (UIT) per linear meter of projected work.

CHAPTER V COMMON OBLIGATIONS

SECTION 48.- All mine holders are obliged to execute mining activities according to the systems, methods and techniques used for the improved development of the activity and subject to the safety and health 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.- Mine holders are obliged to provide free access, at any moment, to the mining authority for the supervision of the respective obligations.

SECTION 50.- Mine holders are obliged to submit an Annual Consolidated Statement each year, containing the information to be specified in a Ministerial Resolution and which is confidential.



Ministerial Resolution N° 184-2005-MEM-DM approved the Annual Consolidated Statement Form.

Supreme Decree N° 151-2005-MEM-DGM fixes the term and establishes the procedure for the presentation of the Annual Consolidated Statement.

Failure to comply with this obligation, the holder shall be charged a fine.

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



Text of paragraph according to Section 9 of Law № 27651.

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

Based on the statement mentioned in paragraph one of this Section, the Ministry of Energy and Mines shall redistribute the information required by the Public Sector and the holders of mine leases shall not be required, by any other Agencies or Bodies of the Public Sector, to submit additional statements.



Supreme Decree N $^{\circ}$ 002-2013-EM established the guidelines to enforce the verification of the information submitted by the holders of mine leases in the Annual Consolidated Statement -DAC.

SECTION 51.- To the extent possible, mine 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.

Having met the referred specialty requirements, vacancies may be occupied by undergraduates of 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 State, without deductions and without prejudice to the corresponding legal actions.



Section 90 of Supreme Decree № 03-94-EM establishes the procedure to be followed by the competent mining authority for cases of unlawful extraction.

According to Section 4 of Legislative Decree N° 1100, illegal mining activities determine the start of the blocking actions established in said norm; without prejudice to the relevant administrative, civil or criminal actions.

SECTION 53.- When, during the execution of the works related to its concession or ancillary activities and construction works thereof, the holder trespasses the land of another concession without authorization, it is obliged to stop its activities and to return the value of the extracted ore to the aggrieved party without deducting costs and to indemnify the referred party if damages were caused.

Should the trespassed land be more than 10 meters measured perpendicularly from the plane that limits the trespassed mining right, the trespasser must pay double the sums mentioned in the preceding paragraph.

SECTION 54.- In the event of a legal dispute on the validity of a concession, the obligation to pay monetary obligations to maintain its validity shall subsist. The plaintiff is also obliged to comply with the monetary obligations within the terms established in this Law, during the trial, under penalty of dismissing the suit in relation to the disputed concession.

Once the plaintiff has complied with the payment, he must accredit it in the respective docket.

Upon conclusion of the dispute, the defeated party may request the reimbursement of the paid sums.

SECTION 55.- The concessionaire authorized by the mining authority, who executes works intended for the economic purpose of his concession, in a neighboring concession, is obliged to deliver the extracted ore to its concessionaire, tax or lien free, and to indemnify him for the damages caused.

SECTION 56.- The shutdown or reduction of mining activities that implies a staff reduction, will require a decision of the Directorate for Mining Control and Supervision in the proceeding installed according to the pertinent legislation.

TITLE SEVEN

STATE INCOME DISTRIBUTION

SECTION 57.- The income obtained from the Mining Concession 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 collected sum to the district municipality or municipalities of the district/s where the mining claim or concession is located or the concession authorized to execute investment and development programs in their respective jurisdictions. Should the mining claim or concession be located in the jurisdiction of two (2) or more district municipalities, distribution shall be made in equal parts.
- b) Twenty percent (20%) of the collected funds to the Geological, Mining and Metallurgical Institute INGEMMET.
- c) Five percent (5%) of the collected funds 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 of the Section according to Section 2 of Law № 29169.

TITLE EIGHT

EXTINCTION OF CONCESSIONS AND THEIR END-USE

CHAPTER I

EXTINCTION

SECTION 58.- Concessions are extinguished by expiry, dismissal, nullity, surrender and cancellation.



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

CHAPTER II

EXPIRY

SECTION 59.- The untimely payment of the Mining Concession Fee for two (2) consecutive years or not produces the expiry of mining claims, concessions and rights. Should the concession holder fail to pay the Mining Concession Fee for one year, he may regularize and accredit payment of the current year within the term fixed in Section 39 of this Act.

In any event, the payment shall be charged to the expired and unpaid previous year.

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

The mining beneficiation, general work and mining transport concessions shall not be subject to expiry five (5) years after the alleged grounds were produced, if the administrative authority has not issued the Expiration Ruling. The referred term shall not apply if the respective administrative or judicial proceedings began prior to the expiry date.



Text of the Section according to the Single Section of Legislative Decree N° 1010)

According to Section 4 of Supreme Decree Nº 029-2001-EM, amended by Section 2 of Supreme Decree Nº 010-2002-EM, in order to regularize or charge the Mining Concession Fee or penalty to the previous expired year, the holder of the mining right must have obtained a PPM or PMA Certificate until the expiry of the payment term of said year.

The same Section stipulates that, pursuant to Section 112 of the Regulations of Miscellaneous Titles of the Consolidated Revised Text of the General Mining Act, approved by Supreme Decree № 03-94-EM, should the small-scale mining producers lose their condition as such, after December 31 of each year, for having exceeded the limits established in Section 91 of the General Mining Act, they must pay the Mining Concession Fee in the amount set under the general system.

The Single Transitory Provision of Supreme Decree № 054-2008-EM establishes that the mining concessions in force on its date of publication - October 10, 2008 - shall begin to count the terms fixed to achieve and accredit the minimum production per year and per hectare, or pay the penalty according to the provisions set forth in Legislative Decrees № 1010 and № 1054, as from the first business day of the year 2009.

Similarly, it also establishes the applicable law for these cases if the referred terms are not fulfilled.

Additionally, it regulates the case of the concessions included in contracts arising from investment promotion procedures as well as the concessions included in surety contracts and investment promotion measures.

Subsection 7.2 of Section 7, stipulates that the production obligations, referred to in Sections 38 and 39 of this Law, must be breached for two (2) consecutive years for them to constitute grounds for expiry.

SECTION 60.-

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

SECTION 61.-



Paragraph 1) repealed by the First Final Provision of Legislative Decree № 868.

Upon the expiry of the general work concession, the mining authority shall notify the beneficiary concessionaires for them to express, within a term of thirty (30) days, their wish to be replaced by the previous concession holder. If, upon the expiry of the aforementioned term, two or more concessionaires agree to such a 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 Business Corporations Act.

If, upon the expiry of the term established in this Section, none of the beneficiary concessionaires have expressed their interest in being replaced by the previous general work concessionaire, the concession docket shall be filed.

CHAPTER III

DISMISSAL

SECTION 62.- The breach by the party concerned of the mining regulations applicable to the title in formation shall constitute grounds for the dismissal of concession requests.

CHAPTER IV

NULLITY

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

CHAPTER V CANCELACIÓN

SECTION 64.- Mining claims 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, dismissed, annulled, waived mining concessions and claims and those that have been rejected upon their presentation, may not be claimed or requested until they are published as claimable.

CHAPTER VI

END-USE

SECTION 66. The expiry, dismissal, nullity, surrender and cancellation of the concessions and claims shall be declared in a ruling issued by the Management of the Public Mining Registry, in each case or collectively, recording it in said Registry.

€ Note:

Reference made to the Public Mining Registry is understood as reference to the National Institute of Mining Concessions and Cadastre - INACC, according to Section 5 of Supreme Decree № 015-2001-EM.

Supreme Decree N° 008-2007-EM approved the merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute - INGEMMET, whereby the latter is the surviving entity.

Section 2 of Decree Law N° 25998 stipulates that the extinction of the beneficiation, General work and mining transport concessions shall be declared by a Ruling of the General Mining Bureau.

Section 59, paragraph f) of Law Nº 27867 - Organic Act of Regional Governments establishes the transfer to regional governments of the power to grant concessions for the regional small-scale and artisanal mining industry. According to the Annex of Supreme Decree Nº 036-2007-PCM, the power-associated to said function - to grant the referred concessions, including the receipt and processing of applications, petitions and granting and extinguishing said concessions, has been transferred)

By Ministerial Resolution N $^{\circ}$ 562-2009-MEM/DM the power to receive, process, grant and extinguish the beneficiation, General work and mining transport concessions was transferred.

Section 12 of Law 26615 establishes that the areas of the mining concessions granted under systems prior to those regulated by Legislative Decree N $^{\rm S}$ 708, that are extinguished with definitive UTM coordinates, shall be declared and published as freely claimable and the subject of a new application entirely. The limitation of the area referred to in Section 11 of the Consolidated Revised Text shall not apply.

By exception, the following areas shall not constitute records or title for the presentation of new claims and hence, shall not be published as freely claimable:

a) Mining claims extinguished due to the breach of the provisions set forth in Law Nº 26273; b) Mining concessions extinguished due to the breach of 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 Law Nº 27015 stipulates that one urban expansion area shall be declared non-claimable on the grounds of the technical criteria and/or criteria for the protection of areas containing archaeological remains or natural protected areas.

SECTION 67.- Exempted from the freely claimable statement are the beneficiation, General work and mining transport concessions for which new claims cannot be submitted due to their nature.

SECTION 68.- The areas of expired, dismissed, annulled and waived concessions cannot be claimed, in whole or in part, by the previous concessionaire, his relatives up to the second degree of consanguinity or affinity, for a maximum of two years after they were published as claimable.

SECTION 69.- By the new claim, its holder acquires, free of liens, the mining works executed in the concession or on loam land by the former concessionaire.

SECTION 70.- In cases of expiry, dismissal, nullity or surrender of concessions and claims, the new claimant may:

- 1. Use the surface land adjacent to the concession used by the former concessionaire.
- 2. Continue using the land expropriated by the previous holder for mining purposes, at no cost.
- 3. Maintain the easements established for the economic purpose of the concession, in the same conditions in which they were established.

TÍTLE 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.- With the aim of promoting private investment in the mining activity, the holders are granted the following benefits:

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



According to Section 4 of Law N° 27343, the benefit of investing the undistributed profits referred to in this subsection is rendered null and void.

c) The State shall allow the holder of the mining concession to deduct domestic taxes levied on its production, regardless of whether it is exported or, subject to international prices, sold in the country;

- d) Investments by the concession holders, in public infrastructure can be deducted from the taxable income, provided the investments were approved by the entity of the competent sector;
- e) Investments, by the concession holders, in public infrastructure or assets used to meet the housing and welfare obligations referred to in Section 206 of this Act, do not constitute the taxable base of the taxes to be paid by the concession holders, provided they have been approved by the entity of the competent sector;
- f) The share in the proceeds obtained from the exploitation of the mineral resources referred to in Section 121 of the Peruvian Constitution, is translated in the redistribution of a percentage of the Income Tax paid by the concession holders;



This provision is taken from Section 77 of the Peruvian Constitution of 1993.

Section 9 of Law Nº 17506, Mining Cannon establishes that the mining cannon is comprised by 50% of the total income and revenues obtained by the State in the mining activity. for the exploitation of the metallic and nonmetallic 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 Peruvian Constitution;



La Constitución Política del Perú de 1993 no recoge lo señalado en el SECTION 14 de la Constitución de 1979 sobre seguridad social.

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

The State shall contractually guarantee the stability of these benefits, under the regulations in force on the date of approval of the investment programs stipulated in Sections 79 and 83 of this Act.



Section 1 of Law N $^\circ$ 27343 establishes that the guarantee of tax stability includes the taxes in force on the date of adoption of the contract. These contracts are mentioned in Sections 78 and 82 of this Act.

CHAPTER III

TAX SYSTEM

SECTION 73.-



SECTION 74.- The purchase value of the concessions shall be repaid as from the period in which, according to law, the concession holder must meet the minimum production obligation, within a term to be determined by the holder at that moment, based on the probable life of the mining deposit, calculated taking into account the proven and probable reserves and the mandatory minimum production. The established term must be reported to the Tax Administration upon the presentation of the Annual Income Tax Return for the period on which the repayment is due to begin, attaching the corresponding calculations.

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

Likewise, it will include the amount invested in prospection and exploration activities up to the date established, according to law, to meet the minimum production, 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 mineable economic reserves are exhausted, or the concession is released or expires prior to the full repayment of its purchase value; the taxpayer, at his choice, may immediately amortize the balance or continue repaying it annually until it is paid in full, within the originally established term.

SECTION 75.- The exploration costs incurred during the mandatory minimum production stage of the concession, they may be fully deducted in the period or amortized as from said period, at a annual percentage rate according to the probable life of the mine established at the close of said periods, determined based on the volume of proven and probable reserves and the mandatory minimum production.

The development and preparation costs that enable the exploitation of the deposit for more than one period may be fully deducted in the period in which they are incurred or, amortized in said period and in the following periods for a maximum of two additional periods.

In each case, the taxpayer must choose one of the deduction systems mentioned in the preceding paragraph, prior to the end of the period in which the costs were incurred, reporting its decision to the Tax Administration upon the presentation of the Income Tax Return, stating the term in which it shall amortize the cots and attaching the calculations.

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 this Section and the preceding Section shall be exercised for the expenses of each period. Having chosen a system, it may not be modified for the expenditure of the fiscal year.

SECTION 76.- The concession holders are only subject to the payment of the applicable municipal taxes in urban areas.



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

SECTION 77.-

Note:

Repealed by Section 1, paragraph k) of Decree Law № 25702.

CHAPTER IV TAX STABILITY REGIME

SECTION 78.- Holders of mining operations who commence or are developing 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 State, for a term of ten years, counted as from the fiscal year in which the execution of the investment is accredited.

Ministerial Resolution Nº 011-94-EM-VMM approved the model contract of guarantees and investment promotion measures.

SECTION 79.- Holders of mining operations 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.



Text of paragraph 1) according to Section 6 of Law N° 30230.

SECTION 80.- The tax stability contracts mentioned in the two preceding sections of this Act, will guarantee the mining concessionaire 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 the applicable taxes, unless the holder opts to pay taxes according to the amended system. This decision must be reported to the Tax Administration and to the Ministry of Energy and Mines within a period of one hundred and twenty (120) days counted as from the date of amendment of the system.

Neither shall they be subject to the future legal provisions that may be dictated and that contain the obligation of the holders of mining operations to acquire bonds or titles of any other type, make advance payments of taxes or loans in favor of the State;



Section 1 of Law N $^\circ$ 27343 stipulates that the tax stability guarantee includes the taxes in force on the date of adoption of the contract. These contracts are mentioned in Sections 78 and 82 of this Act.

Pursuant to Section 2 of Law Ley N° 27343, the exercise of the option contained in this subsection does not constitute a different option to the one stipulated in Section 88 of this Act, with the understanding that only a full option for the common regime shall be effective.

- Free disposition of the foreign currency obtained for its exports, in the country or abroad.
 - If the holder of a mining operation locally sells its production, the Central Reserve Bank of Peru and the national financial system shall sell the foreign currency required to pay for goods and services, purchase equipment, service the debt, commissions, profits, dividends, pay royalties, repatriate capitals, fees and in general, any other cash disbursement it may require or be entitled to make in foreign currency;
- c) Non-discrimination in relation to the exchange rate, based on which the FOB value of the exports and(or local sales is converted to national currency, with the understanding that the best exchange rate for foreign trade operations must be granted, in the event of the existence of any type of control or differential exchange system. The non-discrimination benefit guarantees all matters related to currency exchange in general;
- d) Unrestricted commercialization of the mineral products;
- e) Stability of special tax regimes, when they are granted as a result of the tax refunds, temporary admission and other similar benefits;
- f) Not to unilaterally modify the guarantees included in the contract.

SECTION 81.- To enjoy the benefits outlined in the preceding Section, the holders of mining operations included in the scope of Sections 78 and 78 of this Act, shall submit an investment program with an execution term, with the authority of an affidavit, before the General Mining Bureau.

The program must be approved within a term of forty five (45) calendar days. In the absence of a decision from the General Mining Bureau upon the expiry of the aforementioned term, the program shall be automatically approved on the last day.

The fulfillment of the program shall be accredited with an affidavit countersigned by an independent auditor.

SECTION 82.- With the aim of promoting investment and facilitating the financing of mining projects with an initial capacity of not less than 5,000 MT/day or of expansions made to reach a capacity of not less than 5,000 MT/day for one or more concessions or one or more Administrative Economic Units, the holders of mining operations shall enjoy tax stability to be guaranteed with a contract signed with the State, for a term of twelve years, counted as from the year in which the execution of the investment or the expansion, as relevant, is accredited.

For the effects of the contracts referred to in Sections 78, 83-A and this Section, an Administrative Economic Unit is understood as the set of mining concessions located within the boundaries established by Section 44 herein, 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 Mining Bureau in each case.



Text of the Section according to Section 7 of Law № 30296.

SECTION 83.- The holders of mining operations that submit investment programs of not less than the equivalent in local currency to US\$100'000,000 (One Hundred Million US Dollars) to start any of the activities of the mining industry, shall be entitled to enter into the contracts referred to in the previous Section.

Text of the first paragraph according to Section 6 of Law Nº 30230.

In the case of investments in existing mining companies a minimum investment program equivalent to US\$250'000,000 (Two Hundred and Fifty Million US Dollars) in local currency must be submitted.

Text of the second paragraph according to Section 6 of Law $\ensuremath{\text{N}}^\circ$ 30230.

Exceptionally, persons who invest not less than the equivalent in local currency to US\$250'000,000 in State owned companies subject to the privatization program, according to Legislative Decree 674, shall have access to these contracts.



Text of paragraph 3) according to Section 6 of Law № 30230.

The effects of the contractual benefit shall be exclusively allotted to the activities of the mining company in which the investment is made.

The holder of mining operations who enters into these contracts may opt to forward the stabilized contractual regime to the investment stage, for a maximum of 8 consecutive fiscal years, term that will be deducted from the term 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 not less than 15,000 MT/day or of expansions made to reach a capacity of not less than 20,000 MT/day for one or more concessions or one or more Administrative Economic Units, the holders of mining operations shall enjoy tax stability to be guaranteed with a contract signed with the State, for a term of fifteen years, counted as from the year in which the execution of the investment or the expansion, as relevant, is accredited.



Section incorporated by Section 7 of Law № 30296.

The First Transitory Supplementary Provision of Law № 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 Guarantees and Mining Investment Promotion Measures adopted on and after the date of entry into force of Law № 30230.

The Contracts of Guarantees and Mining Investment Promotion Measures adopted prior to the entry into force of Law N°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 regime. To this effect, the Ministry of Energy and Mines, on behalf and in the name of the Peruvian State, is hereby authorized to sign the corresponding addenda with the holders of mining operations, as appropriate.

The Second Transitory Supplementary Provision of Law Nº 30230 stipulates that the holders of mining operations signing Contracts of Guarantees and Mining Investment Promotion Measures, must furnish the National Superintendence of Customs and Tax Administration - SUNAT, with the information related to the total investment for each mining project, and required expansions thereof, in the form and manner, meanar and terms established by said authority, in the form of a Superintendence Resolution.

SECTION 83-B.- Title-holders of mining operations 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 (Five Hundred Million US Dollars) shall be entitled to enter into the contracts mentioned in the preceding Section.

Exceptionally, persons who invest not less than the equivalent in local currency to US\$500'000,000 in State owned companies subject to the privatization program, according to Legislative Decree 674, shall have access to these contracts.

The effects of the contractual benefit shall be exclusively for the activities of the mining company in which the investment is made and which are expressly mentioned in the investment program containing the feasibility study that forms part of the stability contract;

or for the additional activities executed after the execution of the investment program, provided such activities are executed in one or more concessions or in one or more Administrative Economic Units where the investment development project subject matter of the contract adopted with the State is being developed; that they are related to the purpose of the investment project; that the sum of the additional investment is no less than the equivalent in national currency to US\$25'000,000 (Twenty Five Million US Dollars); and that they 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 Law № 30296.

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

Holders of mining operations who enter into these contracts may choose to forward the stabilized contractual regime to the investment stage, with a maximum of 8 consecutive fiscal years, term that shall be deducted from the term guaranteed by the contract.



Section incorporated by Section 5 of Law № 30230.

The First Transitory Supplementary Provision of Law № 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 Guarantees and Mining Investment Promotion Measures adopted on and after the date of entry into force of Law № 30230.

The Contracts of Guarantees and Mining Investment Promotion Measures adopted prior to the entry into force of Law N°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 regime. To this effect, the Ministry of Energy and Mines, on behalf and in the name of the Peruvian State, is hereby authorized to sign the corresponding addenda with the holders of mining operations, as appropriate.

The Second Transitory Supplementary Provision of Law № 30230 stipulates that the holders of mining operations signing Contracts of Guarantees and Mining Investment Promotion Measures, must furnish the National Superintendence of Customs and Tax Administration - SUNAT, with the information related to the total investment for each mining project, and required expansions thereof, in the form and manner, means and terms established by said authority, in the form of a Superintendence Resolution.

SECTION 84.- The contracts referred to in the previous Section shall guarantee the holders of mining operations the benefits outlined in Section 80 of this Act, as well as the right to extend the annual depreciation rate of the industrial machinery, equipment and other fixed assets to the maximum limit 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 the contracts mentioned in Section 82, holders of mining operations may request, as part of the contract, to keep their accounting records in US Dollars or, in the currency in which they made the investment. To this effect, they must meet the following requirements:

- a) Keep the accounting records in the referred foreign currency over a minimum of five (5) fiscal years each time. Upon conclusion of said period, they may choose to continue with the same system or change to national currency. The balances due on the date of the conversion shall be recorded in the original currency.
- b) During the time the accounting books and records are kept in foreign currency, the Company shall be excluded from the rules governing the integral adjustment for inflation.
- 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.

SECTION 85.- To enjoy the guaranteed benefits, holders of mining operations included within the scope of Sections Sections 82, 83, 83-A and 83-B of this Act, shall submit a technical-economic feasibility study, with the authority of an affidavit which must be approved by the General Mining Bureau within a maximum term of ninety (90) calendar days. In the absence of a decision from the General Mining Bureau upon the expiry of the aforementioned term, the program shall be automatically approved on the last day, which will be construed as the effective date to fix the tax stability system and the guarantees applicable as of the referred date.

Note:

Text of paragraph 1) according to Section 6 of Law № 30230.

Section 1 of Law N° 27343 stipulates that the tax stability guarantee includes the taxes in force on the date of adoption of the contract.

To accredit the invested amount, an affidavit, countersigned by an independent auditor must be submitted.

Note:

Section 1 of Law N° 27343 establishes that the applicable Income Tax ,according to the regulations in force on the date 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 Law N° 27909, the two percentage points mentioned in this Section shall be applied to the Income Tax rate stipulated in Section 56, paragraph 1) of the Consolidated Revised Text of the Income Tax Law.

SECTION 86.- The contracts that guarantee 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. The referred contracts must incorporate all the guarantees established in this Title.

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

The contracts shall be signed on behalf of the State, 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 Minister of Economy and Finance, in tax related matters; and on the other, by the holders of mining operations. A copy of said contracts shall be forwarded to the National Superintendency of Customs and Tax Administration - SUNAT.



Text of the Section according to Section 6 of Law № 30230.

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

Should any of the taxes that form part of the guaranteed tax regime be repealed and replaced by a new and definitive tax, holders of mining operations shall pay the new tax for a maximum amount not to exceed the sum they should have paid 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 Law Nº 27909 establishes that the Guarantee and Investment Promotion Contracts adopted according to the provisions set forth in the Consolidated 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 Gazette "El Peruano" amending said system, even if they enter into force in subsequent periods, also apply, provided said amendments are effectively enforced. 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 this norm shall apply to contracts or agreements being processed before the competent authority.

SECTION 88.- Holders of mining operations 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 holders of mining operations, 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 affidavits that gave rise to the contract, are false, in which case, it shall be rendered null and void, regardless of the corresponding criminal liability.

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

TITLE TEN

SMALL-SCALE MINERS

SECTION 91.- Small-scale 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 in the direct exploitation and/or beneficiation of minerals: and
- 2. Possess, by any title, up to two thousand (2,000) hectares of mining rights, claims 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 producers of non-metallic minerals and construction materials, 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 rights, claims and concessions, or who have adopted agreements or contracts with the holders of mining operations, 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 the producers of non-metallic ores and construction materials, the maximum installed production and/or beneficiation capacity shall be one hundred (100) metric tons per day.
In the case of metallic placer deposits, the maximum installed production and/or beneficiation capacity shall be two hundred (200) cubic meters per day.



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

The condition or small-scale or artisanal miner shall be accredited before the General Mining Bureau, by a biannual affidavit.

SECTION 92.- Small-scale miners, including artisanal miners, may adopt the provisions set forth in Sections 78, 79 and 80 herein, if they invest a minimum sum equivalent in national currency to US\$ 500,000 in the case of small-scale miners and US\$ 50,000 in the case of artisanal miners.

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 Mining Bureau, the Directorate for Mining Control and Supervision, the Regional Mining Boards and the Public Mining Registry. By Supreme Decree, the powers assigned to the General Mining Bureau, the Directorate for Mining Control and Supervision and the Regional Mining Boards may be modified.



Reference to the Public Mining Registry is understood to refer to the National Institute of Mining Concessions and Cadastre - INACC, pursuant to Section 5 of Supreme Decree № 015-2001-EM.

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

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

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

With respect to the small-scale and artisanal mining activities, the functions mentioned in Section 59, paragraphs c) and f) of Law N°27867-Organic Law of Regional Governments and the powers associated to such functions stipulated in the Annex to Supreme Decree N°036-2007-PCM and in Annex 1 to Ministerial Resolution 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 motions for review in the last administrative instance.
- 2) To resolve on administrative actions filed for damages and losses.
- 3) Resolve the remedy of complaint due to the dismissal of the motion for review.
- 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 case.
- 5) Standardize administrative case law in mining affairs.
- 6) Propose to the Ministry of Energy and Mines, the tariff items concerning the issues addressed in 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 provided by the law and regulations thereof, or that are inherent to their principal function.

SECTION 95.- The Mining Council is made up of five members, who shall serve for a term of five years, during which time they shall not be replaceable, 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 Council of Ministers.

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

Exceptionally, alternate members can be appointed.

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

The appointees must be persons of reputed moral integrity and mining expertise and with a professional record or experience in the mining field of not less than 10 years.

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 a Chairman, a Vice-president among its members, who shall remain in 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/disqualification 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 MINING BUREAU

(According to Section 93 of this Act, the powers conferred to the General Mining Bureau - DGM, may be amended, by Supreme Decree)

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

a) To grant the title/deed of the beneficiation, transport and General work concessions.



In terms of small-scale and artisanal mining activities, the function stipulated in Section 59, paragraph f) of Law N^*27867 - Organic Law of Regional Governments and the powers associated to said function, stipulated in Annex 1 to Ministerial Resolution N^*562 -2009-MEM/DM, have been transferred to the regional governments.

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

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

- b) To approve the investment programs with execution terms, with the authority of an Affidavit, related to the tax stability agreements stipulated in Sections 78 and 79 of this Act.
- c) To approve the technical-economic feasibility study, that has the authority of an Affidavit, referred to in Sections 82, 83 and 83 -B herein.



Text of the paragraph according to Section 6 of Law № 30230.

- d) To propose the standard contract models to guarantee the benefits established in Title Nine of this Act.
- e) To supervise the fulfillment of the tax stability agreements.
- f) To rule on the creation of Administrative Economic Units.



The approval of the Administrative Economic Units was assigned to the Public Mining Registry by Section 1 of Supreme Decree № 052-99-EM.

Reference to the Public Mining Registry is understood as reference to the National Institute of Mining Concessions and Cadastre - INACC, pursuant to Section 5 of Supreme Decree N° 015-2001-EM.

By Supreme Decree N $^{\circ}$ 008-2007-EM the merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute - INGEMMET was approved, with INGEMMET as the surviving entity.

- g) To assess the Annual Consolidated Statement to be submitted by the holders of mining operations.
- h) To manage the Mining Concession Fee.



Pursuant to Section 1 of Supreme Decree N $^{\rm o}$ 052-99-EM the function consigned in this paragraph is assigned to the Public Mining Registry.

Reference to the Public Mining Registry is understood as reference to the National Institute of Mining Concessions and Cadastre - INACC, pursuant to Section 5 of Supreme Decree N° 015-2001-EM.

By Supreme Decree № 008-2007-EM the merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute - INGEMMET was approved, 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 Mining Bureau authorizes the startup/resumption of exploration, development, preparation, and exploitation activities (includes the mining and

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landfill/dump plan) in metallic and non-metallic mining concessions under its competence.

The General Mining Bureau grants the Mine Operating Certificate - COM for metallic and non-metallic mining operations and authorizes the use of explosives [ANFO] and similar materials, under its competence.

In terms of small-scale and artisanal mining activities, the function stipulated in Section 59, paragraph f) of Law N°27867 - Organic Law of Regional Governments and the powers associated to said function, stipulated in Annex 1 to Ministerial Resolution N°562-2009-MEM/DM, have been transferred to the regional governments.

- k) To propose mining welfare, health and safety standards.
- To impose penalties and fines upon the holders of mining rights who breach their obligations or violate the provisions set forth in this Act, its Regulations and the Environmental Code.
- m) To prepare the List of Mining Experts.
- 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.



In terms of small-scale and artisanal mining activities, the function stipulated in Section 59, paragraph f) of Law N°27867 - Organic Law of Regional Governments and the powers associated to said function, stipulated in the Annex to Supreme Decree N°036-2007-PCM, have been transferred to the regional governments.

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

Pursuant to Section 1 of Supreme Decree N $^{\rm o}$ 052-99-EM the function consigned in this paragraph is assigned to the Public Mining Registry.

Reference to the Public Mining Registry is understood as reference to the National Institute of Mining Concessions and Cadastre - INACC, pursuant to Section 5 of Supreme Decree N° 015-2001-EM.

By Supreme Decree № 008-2007-EM the merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute - INGEMMET was approved, 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 Law N° 26505-Law of Private Investment in the Development of Economic Activities in the National Territory and on the Land of Indigenous and Native Communities, and Section 4 of its Regulations, approved by Supreme Decree N° 017-96-AG, establish that the easement shall be approved and granted by Supreme Resolution. The General Mining Bureau shall issue its technical opinion during the procedure.

Regarding expropriations, according to the provisions set forth in Section 70 of the Peruvian Constitution, no one can be deprived of his property, except for reasons of national security or public necessity, declared by law.

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

Note:

Section 105-B, paragraph e) of the Organization and Functions Regulations of the Ministry of Energy and Mines, approved by Supreme Decree N°031-2007-EM and amended by Supreme Decree N°025-2013-EM conferred this function to the General Mining Formalization Directorate.

- 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 motions 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:

- Supreme Decree № 07-94-EM stipulates that the General Mining Bureau shall approve the fulfillment of the implementation of reinvestment programs against the undistributed profits.
- b) According to Law Nº 27623,-Law for the Refund of the Added Value Tax and the Municipal Promotion Tax to Holders of Mining Operations during the Exploration Phase and Regulations thereof, approved by Supreme Decree Nº 082-2002-EF, the General Mining Bureau approves the investment program, signs the contract of investments in exploration and approves the execution of the program.
- c) According to Section 4 of Supreme Decree Nº 005-2008-EM, the General Mining Bureau authorizes the registration in the Registry of Mining Contracting Companies.)
- d) Section 10 of Legislative Decree № 1105 establishes that in order to start or resume exploration and exploitation activities, as well as to beneficiate minerals, the authorization of the corresponding regional government is required, an authorization that must be issued prior favorable opinion of the Ministry of Energy and Mines. The General Mining Bureau is the Line Agency in charge of issuing this opinion.
- w) To exercise all other activities inherent to its function.



The General Bureau of Environmental Affairs also exercises jurisdiction in the mining sector, according to Section 107, paragraph p) of the Organization and Functions Regulations of the Ministry of Energy and Mines/MINEM.

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CHAPTER IV

DIRECTORATE FOR MINING CONTROL AND SUPERVISION

SECTION 102.- The functions of the Directorate for Mining Control and Supervision are to issue its opinion 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 holders of mining operations.
- d) The payment of the Mining Concession Fee.
- e) The breach, by the holders of mining operations, of their obligations or the violation of the provisions set forth in this Act, its Regulations and in the Environmental Code.
- f) The mining related housing, health, welfare and security programs.
- g) The classification of the holders of mining operations into small-scale, mediumscale and large-scale, according to the laws in force.



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

The functions mentioned in this Section are included in the scope of competency of:

- Functions a) and c), to the Directorate for Mining Promotion, according to Section
105, paragraphs h) and a) of the Organization and Functions Regulations of the
MINEM; approved by Supreme Decree Nº 031-2007-EM;

- Functions b) and d) to INGEMMET;
- Function e) to the Technical Mining Directorate, according to Section 103, paragraph g) of the Organization and Functions Regulations of the MINEM;
- Function f) to the Ministry of Labor and Employment Promotion, according to Section 2 of Law № 29901-Law that establishes the competencies of the Supervisory Board for Investment in Energy and Mining (OSINERGMIN);
- Function g) to the General Mining Formalization Directorate, according to Section 105-B, paragraph e) of the Organization and Functions Regulations of the MINEM.

The control and supervisory functions have been transferred to the Supervisory Board for Investment in Energy and Mining- OSINERGMIN by Law № 28964-Law that transfers the functions for the control and supervision of mining activities to the OSINERG, with the exception of the supervision and control of small-scale and artisanal mining activities.

With respect to the small-scale and artisanal mining activities, the functions mentioned in Section 59, paragraphs c) and f) of Law N°27867-Organic Law of Regional Governments and the powers associated to such functions stipulated in the Annex to Supreme Decree N°036-2007-PCM and in Annex 1 of Ministerial Resolution N° 562-2009-MEM/DM.

Law Nº 29325 created the National Environmental Assessment and Control System, to be implemented by the Environmental Assessment and Control Agency -OEFA as the governing body.

CHAPTER V PUBLIC MINING REGISTRY



Reference to the Public Mining Registry is understood as reference to the National Institute of Mining Concessions and Cadastre - INACC, pursuant to Section 5 of Supreme Decree N° 015-2001-EM.

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

SECTION 103.- The Public Mining Registry shall abide by 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 in the Public Mining Registry is hereby created, 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 acts and contracts.

Documents that can also be registered in the Public Mining Registry, 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 the law expressly allows a different formality.

The administrative acts 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 Mining Registry are:

- a) To register and resolve on applications for mining claims.
- b) Process and resolve on the objections filed pursuant to Law.
- c) Process and resolve on complaints filed for trespassing.
- d) Process and resolve on applications for the accumulation of claims and concessions.
- e) Process and resolve applications on the use of barren and loam land.
- f) Grant the title/deed of mining concessions.
- g) Incorporate the legal partnerships when the file is subject to its jurisdiction.
- h) Declare the expiry, dismissal or nullity of the concessions and publish a notice to announce that they are free to be claimed.
- i) Settle the partial or total surrender of the mining concessions.
- j) Periodically inform the General Mining Bureau of the violations committed by the -Experts appointed to exercise their functions.
- k) Prepare the Mining Cadastre.

- Grant appeals for review in the procedures in which it exercises its administrative jurisdiction.
- m) Exercise all other duties inherent to its functions.

SECTION 106.- Unrecorded or unregistered acts, contracts and resolutions shall not be legally effective before the State or third parties.

SECTION 107.- The concession titles/deeds can be registered on the sole merits of the Resolution that grants them..

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

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 acts related to the granted mining concession can be registered at the request of the party concerned.



Text of the Section according to Section 1 of Decree Law N° 25998.

SECTION 109.- Registrars can make observations to the titles/deeds produced before them, in which case the parties concerned may correct them within a maximum term of fifteen (15) days.

The parties concerned may appeal the observations made by the Registrars, before the Head of the Public Mining Registry, within a term of fifteen (15) days. An appeal for review can be filed against the Resolution issued by the Head of the Mining Registry, before the Mining Council, within a term of fifteen (15) days.



In terms of small-scale and artisanal mining activities, the function stipulated in Section 59, paragraph f) of Law N°27867 - Organic Law of Regional Governments and the powers associated to said function, stipulated in the Annex to Supreme Decree N°036-2007-PCM, have been transferred to the regional governments.

According to Section 2, paragraphs b) and c) of Law № 26366, that creates the National System and the Superintendence of the Public Registries, amended by the Fifth Final Provision of Law № 28677, the National System of Public Registries is comprised by the Registry of Corporations 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.

In terms of mining, the regional governments have the functions stipulated in Section 59 of Law Nº 27867 - Organic Law of Regional Governments and the powers associated to such functions, mentioned in the Annex to Supreme Decree Nº 036-2007-PCM and in Annex 1 of Ministerial Resolution Nº 562-2009-MEM-DM, have been transferred to the Regional Governments.

CHAPTER VI

IMPEDIMENTS

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

TITLE TWELVE

PROCEDURES

(Supreme Decree № 018-92-EM approved the Mining Procedure Regulations for this title)

CHAPTER I

GENERAL PROVISIONS

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

SECTION 112.- Should two or more applicants request the same area, the first to submit the application shall be admitted.

SECTION 113.- During the time an application for a mining concession is being processed and its validity has not been settled, no application request for the same area shall be admitted, regardless of the petitioner, not even for it to be considered.

SECTION 114.- During the processing of an application for a mining concession, should it be observed that the mining claim overlaps another previous claim, the new claim shall be cancelled and its docket shall be filed.

If the new claim partially overlaps the previous claim, the new claimant must reduce his mining claim respecting the area of the previous mining claim.

The reduction must be carried out within thirty (30) days following the notice of the Resolution ruling on the overlap.



 N° N° 708, the vertices of which acquire final UTM coordinates under said law, shall be mandatorily respected by the mining concessions granted or to be granted under the system of grids of the regular procedure of the Mining Act. The final UTM coordinates of the vertices that define the area to be respected, in addition to the name of the concession, registration and extension in hectares of the priority concessions shall be consigned in the titles/deeds of said concessions.

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



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

By Supreme Decree № 008-2007-EM the merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute - INGEMMET was approved, with the latter being 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 areas not overlapped, when 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, despite the foregoing provisions, 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.- In the case of applications for mining claims with an area that partially or fully includes land granted according to the provisions set forth in Section 37, paragraph 2) of this Act, the Mining Concessions Office of the Public Mining Registry, prior to delivering the publications and having complied with the process established in Section 143 herein, shall issue its opinion on the admissibility of the claim. It shall be declared admissible if the applicant proves that its claim 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 claim, the Mining Concessions Office shall order, as 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 application.



Reference to the Public Mining Registry is understood as referred to the National Institute of Mining Concessions and Cadastre - INACC, according to Section 5 of Supreme Decree Nº 015-2001-EM.

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

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

CHAPTER II

REGULAR PROCEDURE FOR MINING CONCESSIONS

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



Reference to the Public Mining Registry is understood as referred to the National Institute of Mining Concessions and Cadastre - INACC, according to Section 5 of Supreme Decree Nº 015-2001-EM.

By Supreme Decree N $^{\circ}$ 008-2007-EM the merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute - INGEMMET was approved, with INGEMMET as the surviving entity.

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

In terms of small-scale and artisanal mining activities, the function stipulated in Section 59, paragraph f) of Law N°27867 - Organic Law of Regional Governments and the powers associated to said function, stipulated in the Annex to Supreme Decree N°036-2007-PCM, have been transferred to the regional governments.

To this effect, the Mining Concessions Office of the Public Mining Registry shall keep a system of grids of one hundred (100) hectares each, dividing the national territory into UTM coordinates, incorporating the mining claims made in said grids, with the additional referential criteria provided by the claimant upon filing its application.

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

In the case of applications for a mining concession presented by two or more persons, they must appoint a common attorney-in-fact upon filing their application.

In addition to the remaining legal requirements, the application must indicate the UTM coordinates of the grid or set of adjacent grids, at least to one side, for which it is requesting the concession, respecting the pre-existing rights.

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

Should a duplicate name be identified, the Head of the Mining Concessions Office shall notify the party concerned for it to change the name within a term of fifteen (15) days, after which the change shall be made ex-officio.

SECTION 120.- Should the existence of mining claims or concessions within the same grid or set of grids be identified, the Head of the Mining Concessions Office shall cancel the new application, within seven (7) days after its presentation and order the new claimant to reduce its claim to the available grid or set of grids.

SECTION 121.- Should the existence of other mining claims or concessions on part of the same grid or set of grids be identified, the Head of the Mining Concessions Office shall notify the previous holders of the mining claims or concessions of such a fact, within seven (7) days following the presentation of the new application.

Note:

According to Section 11 of Law N^2 26615, Law of the National Mining Cadastre, the areas of valid mining rights, established under laws enacted prior to Legislative Decree N° N^2 708, the vertices of which acquire final UTM coordinates under said law, shall be mandatorily respected by the mining concessions granted or to be granted under the system of grids of the regular procedure of the Mining Act. The final UTM coordinates of the vertices that define the area to be respected, in addition to the name of the concession, registration and extension in hectares of the priority concessions shall be consigned in the titles/deeds of said concessions.

SECTION 122.- Simultaneously, the Head of the Mining Concessions Office shall furnish the new claimant with notices for publication thereon, once only, within thirty (30) days following their receipt, in the Official Gazette "El Peruano" and in another newspaper of the capital of the province where the requested area is located. In the latter case, should no newspaper exist, notices shall be pinned for seven (7) business days in the respective Regional Mining Office.

SECTION 123.- If no objections are filed within sixty (60) days after the last publication or after the notice served on the previous holders, whichever occurs the latest, the records shall be delivered to the Mining Concessions Office for their evaluation.

Once the favorable technical and legal decisions have been issued, within a maximum term of thirty (30) days, the Head of the Public Mining Registry shall grant the title of the concession.

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

SECTION 125.- An appeal for review may be filed against the decision of the Head of the Public Mining Registry, before the Mining Council, within fifteen (15) days following the publication mentioned in the preceding Section. The decision of the Mining Council exhausts the administrative channel.

The Resolution of the Mining Council can be appealed before the Judiciary, in a contentious-administrative proceeding, within thirty (30) 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 confirmed or enforced the resolution granting the title of the concession, it shall be registered, at the request of the party concerned.



Text of the Section according to Section 1 of Decree Law N° 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 Law, regardless of the obligations of the concessionaire.



The concession title does not authorize the concessionaire, per se, to engage in mining exploration and exploitation activities. Section 23 of the Mining Procedure Regulations, approved by Supreme Decree N $^{\circ}$ 018-92-EM and amended by Section 1 of Supreme Decree N $^{\circ}$ 059-2008-EM, gives details of the authorizations to be obtained by the concessionaire prior to the startup of its activities.

SECTION 128.- In the case of simultaneously submitted applications with UTM coordinates that determine the existence of an overlap in a specific area, the referred area shall be auctioned (blind) among the claimants. In the same act, the Mining Concessions Office shall establish the date and time of the auction, which may not be held ten (10) days prior to or thirty (30) days after the date of presentation of the applications.

For the purposes of the provisions of this Section, the functions of the Mining Concessions Office may be delegated for each case and expressly by the Head of the National Institute of Mining Concessions and Cadastre, to the decentralized offices of this institution.

The starting price of the blind auction shall be a sum equivalent to 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 (100) hectares or fraction thereof. The payment, in cash or by cashier's check, of 10% of the starting price, in the name of the National Institute of Mining Concessions and Cadastre, no less than 24 hours in advance, is mandatory.

With the presence of the parties concerned who attend the auction at the set time, the Director General of the Mining Concession Office shall open the auction, 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 a Book to be signed by the Director General of the Mining Concessions Office, the awardee and the parties concerned who wish to do so.

The awardee must deposit the sum of his bid minus the bid bond, in the account of the National Institute of Mining Concessions and Cadastre, within the next two (2) business days, under penalty of losing the 10% deposit of the starting price of the auction together with his bid bond and of declaring the claim abandoned, without prejudice to awarding the area to the bidder with the next highest bid, in which case the substitute awardee must pay the offered price within five (5) 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 consignment has been executed. In the event of no bidders, the auction shall be declared deserted and the duly accumulated files shall be forwarded to the Management of the National Institute of Mining Concessions and Cadastre to publish the area as claimable.



Text of the Section according to Section 1 of Law N° 28031.

CHAPTER III

PROCEDURE FOR BENEFICIATION, GENERAL WORK AND MINING TRANSPORT CONCESSIONS

SECTION 129.- The General Mining Bureau 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 terms of small-scale and artisanal mining activities, the function stipulated in Section 59, paragraph f) of Law N°27867 - Organic Law of Regional Governments and the powers associated to said function, stipulated in Annex 1 to Ministerial Resolution N°562-2009-MEM/DM, have been transferred to the regional governments.

These rights shall be registered in the Public Mining Registry.



According to Section 2, paragraphs b) and c) of Law N^2 26366, that creates the National System and the Superintendence of the Public Registries, amended by the Fifth Final Provision of Law N° 28677, the National System of Public Registries is comprised by the Registry of Corporations 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>Expropriation:</u> according to the provisions set forth in Section 70 of the Peruvian Constitution, no one can be deprived of his property, except for reasons of national security or public necessity declared by law.

Easement: According to Section 7 of Law Nº 26505 - , Law of Private Investment in the Development of Economic Activities in the National Territory and on the Land of Indigenous and Native Communities, replaced by Section 1 of Law N°26570, the use of land to exercise mining or hydrocarbon extraction activities requires a prior agreement with the landowner or the completion of the easement procedure to be established in the Regulations to said law.

In the case of mining or hydrocarbon easements, the landowner shall be previously compensated in cash by the mining concessionaire, according to the value that includes the compensation for possible damages, to be determined by a supreme resolution and countersigned by the Ministers of Agriculture and of Energy and Mines. The right of use for mining and hydrocarbon extraction activities remains valid in State-owned barren land and which as at the date of publication of said law, were occupied by infrastructure, installations and services for mining and hydrocarbon activities.

SECTION 130.- The application to establish easements and/or to expropriate shall be submitted to the General Mining Bureau, consigning 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 damages that the alleged property may undergo. The applicant shall attach a Descriptive Report with details of the works to be executed.

The Director General of Mining shall summon the parties to appear on the fifteenth (15) day after receiving notice thereof, under penalty of continuing with the procedure in the event of the absence of the landowner. In said act, the landowner must accredit his rights. Should the parties reach an agreement, the Director General of Mining shall order the provision of the public instrument containing said agreement.

In the event of a disagreement or should the penalty 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, ordering an eye-inspection with the summons of the parties concerned and the expert.

The eye-inspection shall be held within a term of sixty (60) 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 (30) days and deliver it together with the respective file to the General Mining Bureau.



Section 3 of the Regulations of Section 7 of Law N° 26505, approved by Supreme Decree N° 017-96-AG and amended by Section 1 of Supreme Decree N° 015-2003-AG, outlines the direct negotiation stage between the parties as well as the settlement stage.

SECTION 131.- The expert appraisal report must necessarily determine the admissibility of the expropriation and, if relevant, the sum of the compensation or fair value as well as the compensation for the corresponding damages and losses. The General Mining Bureau shall issue a Resolution within a maximum term of thirty (30) days after the receipt of the

expert appraisal 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 requesting concessionaire shall deposit the sum he is obliged to pay, in the name of the General Mining Bureau, within a maximum term of thirty (30) days, under penalty of dismissing his application.

Once payment has been made, the General Mining Bureau shall proceed to draw-up the corresponding preliminary instrument within the next thirty (30) days and shall order the subscription of said instrument and of the public instrument, within a period of fifteen (15) days following the notices served on the parties, under penalty of signing them in contempt. The deposited sum shall be delivered after the public instrument has been signed.



Section 4 of the Regulations of Section 7 of Law N $^{\circ}$ 26505, approved by Supreme Decree N $^{\circ}$ 017-96-AG and amended by Section 1 of Supreme Decree N $^{\circ}$ 015-2003-AG, outlines the administrative procedure for legal easements.

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

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

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



Section 5 of the Regulations of Section 7 of Law N^o 26505, approved by Supreme Decree N^o 017-96-AG and amended by Section 1 of Supreme Decree N^o 015-2003-AG, outlines the procedure to be followed when the landowner fails to accredit his ownership rights over the land subject matter of the easement.

SECTION 133.- While the file is being processed, no appeal that may disturb its course shall be admitted, except for the appeal for review against the ruling granting the easement or the expropriation.

The ruling that exhausts the administrative channel may be legally challenged, solely for pricing purposes.

Should two or more persons allege a better title over the property, the procedure shall continue with the intervention of all such persons, in which they their right shall be held

harmless for its ongoing enforcement before the Judiciary, in terms of the price, which shall remain deposited in the Banco de la Nacion, 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 set forth in the preceding Sections, the applicant and the owner of the encumbered property, may reach a direct agreement at any stage of the procedure, in which case the competent authority shall order the issue of the public instrument formalizing said agreement, which must be granted within a maximum term of fifteen (15) days, under penalty 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 Mining Bureau shall issue the respective Resolution, which it will record in the National Office of the Public Registries and in the Public Mining Registry.

∠ Note:

Section 8 of the Regulations of Section 7 of Law N° 26505, approved by Supreme Decree N° 017-96-AG establishes the grounds for the extinction of the easement.

According to Section 2, paragraphs b) and c) of Law № 26366, that creates the National System and the Superintendence of the Public Registries, amended by the Fifth Final Provision of Law № 28677, the National System of Public Registries is comprised by the Registry of Corporations 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 Law Nº 26505, amended by the First Supplementary and Final Provision of Law Nº 27887 -repealed by the Single Supplementary Provision of Legislative Decree N° 1064, the validity of which is restored by Section 3 of Law N° 29376- establishes that as from its validity (07.19.1995), the State shall sell or concession 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 Law Nº 26505, establishes that the holders of mining operations, among others, who maintain in us the barren land owned by the State, must submit to the Ministry of Energy and Mines a suitable scale drawing and a descriptive report of the land, indicating the surfaces occupied by the exploitation, infrastructure and services within a term of 90 days following the entry into force of these Regulations, with the aim of organizing a register that will enable the exclusion of such land from the auction procedure.

SECTION 136.- The application for the use in mining activities of barren land outside the perimeter of the concession, shall be submitted before the Public Mining Registry, attaching similar information to that required in the application for 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 to the Public Mining Registry is understood to refer to the National Institute of Mining Concessions and Cadastre - INACC, pursuant to Section 5 of Supreme Decree Ng 015-2001-FM.

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

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



(This procedure should be conducted by the Director of Mining Concessions. However, Law $N^{\circ}26505$ is in force)

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



The Chairman of the INGEMMET should be responsible for authorizing the use. However, Law N°26505 is in force.

SECTION 137.- Applications 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 adjoining concessions, if known.

The Head of the Public Mining Registry shall order the publication of the relevant notices, once only, in the Official Gazette "El Peruano" and in a newspaper of the district where the land is located. Should no objection be filed within thirty (30) days following the last publication, he shall grant the use of the requested loam land.



Legislative Decree N^o 109 -of the Consolidated Revised Text of the General Mining Act, approved by Supreme Decree N^o 014-92-EM- defines loam land as the subsoil that has not been granted in concession.

The Director of Mining Concessions should be responsible for conducting this procedure and the Chairman of the INGEMMET for granting its use. However, Law $N^{\circ}26505$ is in force.

CHAPTER VIACCUMULATION

SECTION 138.- Applications to accumulate mining concessions and claim submitted as of December 15, 1991, shall be adjusted to the system of grids 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 made to the Mining Concessions Office is understood to refer to the Directorate of Mining Concessions.

Section 14 of Law N^o 26615-Law of the National Mining Cadastre outlines the procedure for the accumulation of valid, adjoining 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 can be partially surrendered provided the retained area is not less than one grid of one hundred hectares.

The area of the mining concession requested before December 14, 1991, can be partially surrendered, provided 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 Section according to Section 1 of Decree Law N° 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 Mining Bureau, reporting such violations.

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

Upon completion of the eye-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.



Section 11 of Law № 28964 establishes that any and all complaints against holders of mining operations, in terms of Health and Safety and Environmental Conservation and Protection, must be filed before the OSINERGMIN.

In terms of small-scale and artisanal mining activities, the function stipulated in Section 59, paragraph f) of Law N°27867 - Organic Law of Regional Governments and the powers associated to said function, stipulated in the Annex to Supreme Decree N° 036-2007-PCM, have been transferred to the Regional Governments.

SECTION 141.- Complaints for invasions of other mining concessions or claims, shall be filed by the alleged aggrieved party, in writing, before the Head of the Mining Concessions Office of the Public Mining Registry, attaching a certified copy of the titles/deeds of his concession and those of the alleged offender, as appropriate. The Head of the Mining Concessions Office shall order the appointment of an expert and an eye-inspection, to be conducted within a minimum term of ten (10) days and a maximum term of thirty (30) 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 board certified civil, mining engineers and geologists may presence the inspection and may leave a written record of their observations during the procedure.

The expert appraiser must issue his report within a maximum term of thirty (30) 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 rule on the matter within a maximum term of thirty (30) days.

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



(Reference made to the Public Mining Registry is understood as reference to the National Institute of Mining Concessions and Cadastre - INACC, according to Section 5 of Supreme Decree N^{o} 015-2001-EM.)

Supreme Decree N° 008-2007-EM approved the merger by absorption of the INACC with the Geological, Mining and Metallurgical Institute - INGEMMET, whereby the latter is the surviving entity.

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

In terms of small-scale and artisanal mining activities, the function stipulated in Section 59, paragraph f) of Law N°27867 - Organic Law of Regional Governments and the powers associated to said function, stipulated in the Annex to Supreme Decree N° 036-2007-PCM, have been transferred to the Regional Governments.

SECTION 142.- Within three (3) days following the date of confirmation or enforcement of the resolution ordering the invader to vacate the invaded area, the Head of the Mining Concessions Office shall dictate the fulfillment of said resolution, under penalty of vacating the property with the aid of the public forces.

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



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

In terms of small-scale and artisanal mining activities, the function stipulated in Section 59, paragraph f) of Law N°27867 - Organic Law of Regional Governments and the powers associated to said function, stipulated in the Annex to Supreme Decree N° 036-2007-PCM, have been transferred to the Regional Governments.

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 hereinbelow.

Following the presentation of the application, the Head of the Mining Concessions Office of the Public Mining Registry shall summon the parties on the tenth day after receiving notice thereof. Failure by the claimant to appear in the summons proceeding, the procedure shall be dismissed. If the other party fails to attend, he shall be summoned to a new proceeding within a maximum term of six (6) days, under penalty of continuing with the procedure in default. If the parties reach an agreement during the proceeding, a record shall be drawn-up and registered, and the Head of the Mining Concessions Office shall issue the corresponding resolution. In the event of a dispute or default, the Management of Mining Concessions, at the request of the party concerned or ex-officio, shall order the production of the evidence it may deem necessary, to be produced within a maximum term of thirty (30) days, after which the relevant resolution shall be issued.



Reference to the Public Mining Registry is understood as referring to the National Institute of Mining Concessions and Cadastre - INACC, according to Section 5 of Supreme Decree № 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, whereby the latter is the surviving entity.

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

In terms of small-scale and artisanal mining activities, the function stipulated in Section 59, paragraph f) of Law N°27867 - Organic Law of Regional Governments and the powers associated to said function, stipulated in the Annex to Supreme Decree N° 036-2007-PCM, have been transferred to the Regional Governments.

CHAPTER X

OBJECTION

SECTION 144.- Objection is an administrative proceeding to contest the validity of the application for a mining concession, which may be lodged by any natural or legal person who believes his rights have been affected.

An objection shall be filed before any office of the Public Mining Registry prior to the issue of the title of the new claim, offering the pertinent evidence at that moment. Upon the expiry of the referred 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 N° 25998.

Reference to the Public Mining Registry is understood as referring to the National Institute of Mining Concessions and Cadastre - INACC, according to Section 5 of Supreme Decree N° 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, whereby the latter is the surviving entity.

In terms of small-scale and artisanal mining activities, the function stipulated in Section 59, paragraph f) of Law N°27867 - Organic Law of Regional Governments and the powers associated to said function, stipulated in the Annex to Supreme Decree N° 036-2007-PCM, have been transferred to the Regional Governments.

SECTION 145.- The objecting party may offer an expert appraisal report, linking his 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 eye-inspection or land survey report as proof, to which effect the parties shall appoint a deciding expert. Failure by the parties 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 terms of small-scale and artisanal mining activities, the function stipulated in Section 59, paragraph f) of Law N°27867 - Organic Law of Regional Governments and the powers associated to said function, stipulated in the Annex to Supreme Decree N° 036-2007-PCM, have been transferred to the Regional Governments.

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 proof within a term of thirty (30) days.



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

In terms of small-scale and artisanal mining activities, the function stipulated in Section 59, paragraph f) of Law N°27867 - Organic Law of Regional Governments and the powers associated to said function, stipulated in the Annex to Supreme Decree N° 036-2007-PCM, have been transferred to the Regional Governments.

Si la prueba fuese de inspección ocular o relacionamiento, el perito dirimente citará a las partes para llevar a cabo la diligencia respectiva, la que se realizará con o sin concurrencia de ellas.

Los gastos de actuación de las pruebas de oposición serán sufragados por el titular del petitorio más reciente.

SECTION 147.- Should the evidence be constituted by the eye-inspection or survey, the deciding expert shall summon the parties to carry out the respective procedure, to be executed with or without their presence.

The costs incurred in the production of evidence in the objection shall be borne by the holder of the most recent claim.

Reference to the Public Mining Registry is understood as referring to the National Institute of Mining Concessions and Cadastre - INACC, according to Section 5 of Supreme Decree N° 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, whereby the latter is the surviving entity.

In terms of small-scale and artisanal mining activities, the function stipulated in Section 59, paragraph f) of Law N°27867 - Organic Law of Regional Governments and the powers associated to said function, stipulated in the Annex to Supreme Decree N° 036-2007-PCM, have been transferred to the Regional Governments.

CHAPTER XI NULLITY

SECTION 148.- The null and void administrative are those:

- 1) Dictated by an incompetent body:
- 2) Contrary to the Constitution and the laws and those containing a legal impossibility;
- 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

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to the stage in which the defect was produced. However, the evidence and other records not affected by said annulment shall subsist.

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

CHAPTER XII

DISMISSAL

SECTION 151.- Applications for mining concessions, whose terms or extended terms have expired due to the default of the party concerned, shall be dismissed by the mining authority.

CHAPTER XIII

RECUSAL

SECTION 152.- In cases of recusal, the proceeding shall be forwarded to the higher instance that shall rule in 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, orders, administrative decrees, directorial resolutions and of the Mining Council.



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

Decrees are dictated for the procedures established in the law.

Orders/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 orders issued in the mining proceeding are not final.

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

No appeal or review can be filed against the resolutions contained therein.

An appeal and/or review, as appropriate, may be filed against the orders, which shall be processed in a separate docket.

An appeal can be filed against administrative decrees.

An appeal for review or reconsideration can be filed against directorial resolutions.



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

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

- 1) Against decrees, within five (5) days following the service of notice.
- 2) Against orders and resolutions, within fifteen (15) days following the service of notice.

SECTION 156.- Petitions in error can be filed against the resolutions or rulings of authorities that do not grant appeals or review.

The petition in error shall be filed before the immediately higher authority, within a term of fifteen (15) days counted as from the day after the notice of the rejected resolution, which shall be resolved in a single instance.

The petition in error shall be processed separately and will not interrupt the processing of the docket.

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CHAPTER XV CONTENTIOUS-ADMINISTRATIVE ACTION

SECTION 157.-



Repealed by the First Provision of Law № 27584, that entered into effect on 04-05-2002, according to Section 5 of Law № 27684.

CHAPTER XVI

TFRMS

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

SECTION 159.- In this Law, when the terms are consigned in days, they are understood as business days for the public administration.

Terms consigned in months are met on the month and initial day of expiry. The same rule applies when the term is consigned in years. Should the referred day be missing on the month of expiry, 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 domicile before the mining authority with jurisdiction, the distance shall be added to the conditions established in this Act.

CHAPTER XVII

NOTICES

SECTION 161.- The mining authority shall serve notices by certified mail, in which case it shall attach a proof of service form to the docket, except in those cases in which the party concerned has directly collected the notice.

The terms shall begin to run as from the sixth day after the date of service of notice by mail.

In the case of personally delivered notices, the term shall begin to run as from the day after their receipt by the party concerned.

In the event of a dispute, a copy of the appeal and the documents to be produced by the parties to this effect, shall be attached to the notices.



Supreme Decree N° 018-2008-EM approved the System of Service of Notice to a Personal Electronic Address.

TITLE THIRTEEN

MINING CONTRACTS

CHAPTER I

GENERAL PROVISIONS

SECTION 162.- Mining contracts and agreements are governed by common law, in all those matters that do not contradict the provisions set forth in this Act.

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



According to Section 2, paragraphs b) and c) of Law Nº 26366, that creates the National System and the Superintendence of the Public Registries, amended by the Fifth Final Provision of Law N° 28677, the National System of Public Registries is comprised by the Registry of Corporations 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.

Contracts and 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 set forth in its Organic Law.



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 N $^{
m o}$ 077-2008-EF concluded the liquidation process of the Banco Minero del Peru in Liquidation.

CHAPTER II

TRANSFER AGREEMENT

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

CHAPTER III OPTION CONTRACT

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

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

The mining option contract shall be adopted for a maximum term of five (5) years counted as from its date of signing.

CHAPTER IV

MINING ASSIGNMENT CONTRACT

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

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

SECTION 167.- State-run companies subject to private law are prohibited from entering into mining assignment contracts 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 contracts in force, the referred companies shall encourage the adoption, in order of priority, of option contracts, 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, the claimant must necessarily deal with the assignor and the assignee, unless either one 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 assignment agreements in relation to said concession with third parties at the same time.

SECTION 170.- The mining assignment contract 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 contract, are grounds for the termination of the referred contract.

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



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

CHAPTER V CONTRATO DE HIPOTECA

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



According to Section 2, paragraphs b) and c) of Law № 26366, that creates the National System and the Superintendence of the Public Registries, amended by the Fifth Final Provision of Law № 28677, the National System of Public Registries is comprised by the Registry of Corporations 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 pricing and auctioning purposes, 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.

SECTION 175.-

SECTION 176.-

SECTION 177.-

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

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

CHAPTER VI

| WINNING FLEDGE | |
|----------------|--|
| SECTION 178 | |
| SECTION 179 | (Section repealed by the Sixth Final Provision of Law № 28677 that entered into force ninety [90] days after its publication, according to its First Final Provision) |
| SECTION 180 | (Section repealed by the Sixth Final Provision of Law Nº 28677 that entered into force ninety [90] days after its publication, according to its First Final Provision) |
| SECTION 181 | (Section repealed by the Sixth Final Provision of Law Nº 28677 that entered into force ninety [90] days after its publication, according to its First Final Provision) |
| SECTION 182 | (Section repealed by the Sixth Final Provision of Law № 28677 that entered into force ninety [90] days after its publication, according to its First Final Provision) |

SECTION 183.-

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

(Section repealed by the Sixth Final Provision of Law N° 28677 that entered into force ninety [90] days after its publication, according to its First Final Provision)

CHAPTER VIICORPORATIONS AND BRANCH OFFICES

SECTION 184.- Mining corporations shall be governed by the provisions set forth in the Business Corporations Act and in this Law and shall be mandatorily filed in the Public Mining Registry.

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

Those corporations who are solely registered in the Public Mining Registry must necessarily refer to the mining activities in their corporate name or purpose.

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 Law N° 26366, that creates the National System and the Superintendence of the Public Registries, amended by the Fifth Final Provision of Law N° 28677, the National System of Public Registries is comprised by the Registry of Corporations 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 185.- Branch offices or subsidiaries incorporated abroad and established in the country to exercise mining activities must comply with the provisions set forth for them in the Business Corporations Act and in this Law.

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



According to Section 2, paragraphs b) and c) of Law № 26366, that creates the National System and the Superintendence of the Public Registries, amended by the Fifth Final Provision of Law № 28677, the National System of Public Registries is comprised by the Registry of Corporations 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 ENTITIES

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

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 only answer individually according to their share.



According to Section 7 of Decree Law Nº 25998, legal entities 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 Mining Registry.



Reference to the Public Mining Registry is understood to refer to the National Institute of Mining Concessions and Cadastre - INACC, pursuant to Section 5 of Supreme Decree N° 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, whereby the latter is the surviving entity.

The company shall be filed in said Register on the merits of the certified copy of the resolution declaring its incorporation.

According to Section 2, paragraphs b) and c) of Law Nº 26366, that creates the National System and the Superintendence of the Public Registries, amended by the Fifth Final Provision of Law N° 28677, the National System of Public Registries is comprised by the Registry of Corporations 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 Corporate Bylaws, which the partners agree to grant, as appropriate. The provisions set forth in Section 199, paragraph 1) herein 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, any and all mining activities in and outside the area where the concession that originated its incorporation is located, filing the necessary applications and claims 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.

SECTION 192.- The capital stock of the company shall be formed with contributions in cash, properties and/or credits. The provisions of the Business Corporations Act shall govern for the effects of the contribution.

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

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

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

SECTION 193.- The starting capital of a company incorporated in the act of the claim, shall be the sum of the value of the claim and registration rights, as well as the costs incurred to file the application, 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 company or partnership, the parties concerned must consign the starting capital stock of the company and the form and manner in which it shall be paid.

SECTION 194.- The domicile of the company shall be the city where the concession that gave rise to its incorporation is located, unless the partners otherwise agree to change the domicile, 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 (annual) or special.

Regular or Annual Shareholders' Meetings must be held as provided for in the Bylaws, at least once a year, within the three months following the end of the annual financial year. The Regular/Annual Shareholders' Meeting must decide on the corporate management, the accounts and balance sheet of the period and on the distribution of profits, if any. Additionally, all other matters consigned in the notice of the meeting can be discussed therein, provided the required quorum has been met.

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

SECTION 197.- General Shareholders' Meetings shall be called by the Manager, by a notice published no less than ten (10) days in advance, in the case of Regular Meetings and as deemed convenient to the company's interest, within no less than three (3) days in advance, in the case of Special Meetings.

Additionally, a Shareholders' Meeting must be called at the notarial request of a number of shareholders/members representing at least, one fifth of the corporate stock, 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 (15) days following the date of the request.

The notice of the meeting must be published, once only, in a newspaper of the province of the domicile of the company and in the official gazette "El Peruano", consigning the date, time and place of the meeting and the matters to be discussed therein.

Notwithstanding the foregoing, the Meeting shall be validly installed, provided the shareholders representing all the corporate shares are present and 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 shareholders 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 Corporate Bylaws may require higher majorities but never lower.

SECTION 199.- To hold Regular and Special Shareholders Meetings, as appropriate, to discuss the transfer or assignment of the concessions held by the company, a change in address, the establishment of a mortgage and pledge on the rights or assets of the company, the 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. A quorum of shareholders or members representing three fifths of the paid-up capital shall suffice for a second meeting.

In both cases, the favorable vote of the shareholders or members that represent the absolute majority of corporate shares shall be required for the validity of the resolutions.

In any meeting to discuss a capital increase or reduction, a quorum and the favorable vote of the shareholders or members who represent a minimum of 51% of the corporate shares shall be required.

SECTION 200.- Any and all legal entities shall initially appoint the majority shareholder as their Manager, and should two or more shareholders hold the same share percentage, the Management shall be occupied by the corresponding person according to the alphabetical order of surnames, and if necessary, 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 parties concerned have appointed the Manager, in the claim or upon the occurrence of other reasons for the incorporation of the company.

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

Regardless of the powers conferred upon him by the General Shareholders' Meeting, the Manager is responsible for the execution of the regular acts and contracts 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 Business Corporations' Act cannot be subject to restrictions.



Reference to the Code of Civil Procedure shall be understood as referring to the Consolidated Revised Text 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 Business Corporations' Act. The Manager is particularly responsible for the existence, regularity and validity of the accounting books and records to be kept pursuant to Law and for the rendition of accounts and presentation of balance sheets.

SECTION 201.- The transfer of shares shall be performed by Notarial recorded instrument. The partner that desires to transfer his share and the purchaser 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 to the domicile they indicated to the Corporation, and, upon failure, through notice published once in the Official Gazette "El Peruano" and in a newspaper of the Corporation domicile. The partners will have the right to acquire such shares in proportion to those corresponding in the Corporation, within fifteen days following the notice or publication. In case no partner exercises his preemptive right, the interested party will be able to directly alienate his share.

The By•]laws set forth different rules.

SECTION 202.- Shares transfer duly formalized by notarially recorded instrument will be recorded on the Public Mining Record in the Entry corresponding to the Corporation. All the acts and contracts affecting the shares may be recorded as well.

According to paragraphs b) and c) of SECTION 2 of Law No. 26366, establishing the National System and the Superintendency of Public Records, as amended by the Fifth Final Provision of Law No. 28677, Law on the National System of Public Records is made, among others, by: the Registry Legal persons comprising the Register of Mining Companies and others; as well as by the Registry of Deeds comprising the Register of Mining Rights.

SECTION 203.- The legal partnership is winded up by termination of all the concessions incorporated to the patrimony; by the transfer of the same, except that in a term of sixty days from the transfer or winding up of the last concession, the parties agree its transformation into a contractual corporation or a new petition is made. Additionally, the corporation is winded up 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.

Winding up and liquidation of the corporations or their contractual transformation will be governed by the provisions of The General Corporations Act.

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CHAPTER IX

JOINT VENTURE CONTRACTS

SECTION 204.- The mining activity holder will be able to enter into joint venture contracts for the development and execution of any mining activity.

According to their nature, joint venture contracts are associative and are aimed at performing common business for a term that may be determined or undetermined, whereby the parties contribute goods, services or knowledge wich complement each other, participating in the results in the appropriate way; and any or all the parties are able to manage the shared business. Except is it otherwise agreed, the contribution of goods does not imply the transfer of property but the usufruct of the same.

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

These contracts shall be formalized by notarial recorded instrument and recorded in the Public Mining Record.



Section text according to SECTION 7 of Legislative Decree No. 868.

According to paragraphs b) and c) of SECTION 2 of Law No. 26366, establishing the National System and the Superintendency of Public Records, as amended by the Fifth Final Provision of Law No. 28677, Law on the National System of Public Records is made, among others, by: the Registry Legal persons comprising the Register of Mining Companies and others; as well as by the Registry of Deeds comprising the Register of Mining Rights.

SECTION 205.- In every joint venture contract 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 are included in a privatization process with other rules, will perform their activities with full autonomy and under the rules governing the private activity, and will not be subject to any restriction or limitation or control rule applicable to The National Public Sector or the Business Activity of the State. This guarantee will be necessarily included in the adhesion contracts mentioned in Article 86 of the present Law.

TITLE FOURTEEN

WELFARE AND SAFETY

By Supreme Decree No. 055-2010-EM Regulation of Occupational Safety and Health was approved in Mining.

SECTION 206.- The mining activity holders are obliged to provide their workers that work in areas far from populations and their relatives with:

a) Housing facilities under any of the following modalities:



Text of subsection under SECTION 2 of Decree Law No. 26121

- 1. Adequate houses to the worker and relatives indicated in this article.
- Housing facilities exclusively for workers under a system allowing for a number of working days and resting days in a settlement as established by the Regulation of this Law.
- b) Schools and their operation;
- c) Recreational facilities;
- d) Social welfare services; and,
- e) Free•of•charge medical and hospital assistance provided that these services are not covered by the entities of the Peruvian Institute of Social Security;

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

The relatives and dependents of the workers indicated in the Regulation will have right to these benefits provided which they depend on them financially, live in the jobsite and have been subject to census by the employer.

The employers may be able to comply with the obligations set forth in this article, developing urban project with urban characteristics, lines and equipment. When these are performed in remote areas, the facilities mentioned in Article 208 of this Law will be obtained.

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

A remote area is considered to be more than thirty kilometers distance or more than sixty minutes route in vehicle at normal or safe speed from the closest population.

The mining activity holders will be able to favor housing building programs in the settlements close to their camps in which their workers and families permanently live in order to own them with the economic and financial facilities that may be established. The own housing programs shall be approved by The General Mining Bureau.

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

The Regulation establishes the number and characteristics of the houses and other premises and services, taking into account the nature of the different mining activities, the legal provisions on the matter and The National Building Regulation.



By S.D. RNC and 66 technical standards of the National Building Regulations approved RNE that became effective from the day of its publication No. 011-2006-VIVIENDA supreme decrees that approved all the titles of the National Building Regulations repealed .

By Decree Law No. 25793 excluded Iron Mining Company of Peru - PERU IRON obligations contained in this article.

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.



According to SECTION 70 of the Constitution of Peru, no one may be deprived of his possessions except exclusively because of national security or public necessity declared by law.

According to SECTION $\, 3$ of Law No. 27117, General Expropriation Act, the sole beneficiary of an expropriation is the state.

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

SECTION 209.- Individuals or legal entities devoted to mining industry activities are obliged to provide hygiene and safety conditions at work established by this Law 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.- The employers shall submit every year to the General Mining Bureau the Annual Safety and Hygiene Program for the next year. Employers will also submit a report of the activities performed in this field the last year, together with the statistics established by the Regulation.



According to SECTION 2 S.D. No. 052-99-EM, the presentation of the program and report referred to in this Section to be carried out at the request of the Directorate General of Mining.

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

SECTION 214.- Employers will foster cooperativism among the workers within the guidelines of the General Cooperatives Law.

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

SECTION 216.- The provisions of the present Title also oblige third parties who, for any act or contract, are executing or performing own works for the mining concession exploitation by the mining right holder. Obligations and responsibilities are joint.

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

SECTION 217.- Employers will be able to join for the compliance 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 will be granted by the employer to his workers only while the labor contract remains in force. The term to vacate the house will be thirty days.

TITLE FIFTEEN

ENVIRONMENT

Supreme Decree № 020-2008-EM approved the Environmental Regulations for Mining Exploration Activities.

Supreme Decree $N^{\underline{o}}$ 040-2014-EM approved the Environmental Management and Protection.

SECTION 219.- To guarantee a suitable stable environment for mining investment, the provisions set forth in Section 53 of Legislative Decree N°613 shall apply insofar 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.



SECTION 220.-

SECTION 221.-

(Section repealed by Section 9 of Decree Law N° 25998)

SECTION 222.-

(Section repealed by the Fourth Transitory Supplementary and Final Provision of Law N° 28611)

SECTION 222.

(Section repealed by the Fourth Transitory Supplementary and Final Provision of Law N° 28611)

SECTION 223.-

(Section repealed by the Fourth Transitory Supplementary and Final Provision of Law N° 28611)

SECTION 224.-

(Section repealed by the Fourth Transitory Supplementary and Final Provision of Law N° 28611)

SECTION 225.-

(Section repealed by the Fourth Transitory Supplementary and Final Provision of Law N° 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 Law № 28611 - General Law of the Environment, repealed Legislative Decree № 613.

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

(In terms of small-scale and artisanal mining activities, the function stipulated in Section 59, paragraph f) of Law N°27867 - Organic Law of Regional Governments and the powers associated to said function, stipulated in the Annex to Supreme Decree N°036-2007-PCM, have been transferred to the regional governments)

TRANSITORY PROVISIONS

ONE.- The National Reserve Areas, Areas of Non•acceptance of Claims, Special Rights of the State, except for those of INGEMMET mentioned in Legislative Decree No 109, in force to date, will change to the mining concession system within ninety calendar days following the moment 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 freely claimable from the first working day of the month of May of 1992.

TWO.- The Special Rights of the State, National Reserve Areas, Areas of Nonacceptance of Claims currently assigned to INGEMMET, and on those which no exploration works are being performed, will be adjusted to the provision set forth in Article 25 of this Law, 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 freely claimable from the first working day of May of 1992.

THREE.- Those areas assigned to INGEMMET in which 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. In case of promotion, a term of two years will be provided. Once such term has expired and the promotion has not been fulfilled, they will be subject to public auction.

25% of the profits or the value of execution of the rights that MINERO PERU obtains for the promotion or auction on such areas will correspond to INGEMMET.

FOUR.- Without detriment to the provision set forth in the Transitory Provision One, those Areas of Non acceptance of Claims, Special Rights of the State and National Reserve Areas assigned more than ten years ago to companies and institutions other than INGEMMET, and that do not produce currently, will have two years to be promoted or auctioned. Once such term has expired and such options have not been materialized, they will be mandatorily subject to public auction.

FIVE.-

(Transitory Provision repealed by Article 2 of Decree Law No 25764, published on 15/10/92)

SIX.- The mining activity 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:

- a) 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) 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 with the benefits previously mentioned, except for surgical interventions which will be provided by the Peruvian Institute of Social Security.



Decree Law No. 22482 was repealed by the Second Supplementary Provision of Law No. 26790, Law on Social Security in Health Law.

SECTION 15 of Law No. 26790 states that employing units that give health coverage to their workers in activity by own services or through health plans or programs contracted with Health Care Providers Entities; will enjoy a credit for contributions to subsection a) of article it refers. 6 of the same law.

SEVEN.- For the effects of compliance with the previous provision, the mining activity holders will submit the Peruvian Institute of Social Security-IPSS, an affidavit whereby they commit to provide the services mentioned in such provision. Upon compliance of this requirement, the system will operate automatically.

This system will automatically become null and void in case the mining activity 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 system benefits of the Peruvian Institute of Social Security, or by the verification made by such Institute in compliance with its supervision function.



Section 15 of Law No. 26790 establishes the requirements to qualify for a credit for the contributions that paragraph a) of article refers. 6 of the same law.

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

Whereas the mentioned study is not approved, the deductions mentioned in this Law will be applicable.

NINE.- The holders of mining claims and concessions made until this Law comes into force, will have until June 30, 1992 to provide the Mining Public Record, as an affidavit, with UTM coordinates of the vertex of their claims or concessions for the effects of the provisions set forth in Article 121 of this Law. Urban domicile will be also stated in this same affidavit for the effects mentioned in Chapter III of the Title Twelve of this Law.



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 title of the award must submit to the Public Mining Registry until 31 December 1993, with an affidavit, the UTM coordinates of the vertices of its denouncements; continued subject to the regular procedure. Failure to comply shall be grounds for abandonment, and no antecedent denounced constitute or title that may be invoked for the formulation of new petitions.

Mention the Public Mining Registry is understood referred to the National Institute of Concessions and Mining - INACC, pursuant to SECTION 5 S.D. No. 015-2001-EM.

By S.D. INGEMMET, corresponding to the last surviving company quality entity - No. 008-2007-EM the merger INACC with the Geological Mining and Metallurgical Institute was approved.

TEN.- The mining rights in process will continue being governed by the ordinary procedure rules set forth in the Legislative Decree No 109 and its regulatory provisions in force to date.

By exception, mining claims not defined by December 14, 1991, will replace the definition diligence for the entry point link to a complementary control point, indicating UTM coordinates to the claim vertex.



Section 4 of Decree Law No. 25998 states that for the purposes stated in the second paragraph of this transitional provision, it will expire on 31 December 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 Directorate General of Mining.

ELEVEN.- The incorporated Special Mining Companies will maintain the acquired rights according to their incorporation contracts.



Current legislation does not provide special mining companies.

TWELVE.- n order to organize the new Concessions System, it must be suspended until July 30, 1992, even the admission of new petitions.

THIRTEEN.- The holders of mining claims or concessions made until December 15, 1991 will pay the Validity Right from 1993, when the computing of the terms mentioned in Article 38 of the present Law will initiate.

During 1992, the mining license fee will continue being paid as established by the Legislative Decree No 109.

Small mining producers located in emergency areas will pay half the Validity Right or the corresponding penalty during 1993 and 1994.

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FOURTEEN.- The qualifications of small mining producers in force to the coming into effect of this Law must be extended to January 1, 1993.

FIFTEEN.- Within fifteen days following the moment the Legislative Decree No 708 comes into effect, the Ministry of Energy and Mines will make official the grid system mentioned in Article 11 of this Law from one single point of origin based on a grid of one kilometer on the side equivalent to 100 hectares, as minimum extension by request.

SIXTEEN.- The Ministry of Energy and Mines, within thirty days from the moment the Legislative Decree No 708 comes into effect, will approve the rules for Mining Experts.

FINAL PROVISIONS

ONE.- The provisions set forth by the Supreme Decree No 135•]91•]PCM will not be applicable neither the extension of the number of members of the Board of Directors in the cases of State Companies under privatization process mentioned in Article 205.

TWO. The fictitious administrative silence mentioned in this Law does not exempt the competent officer from his responsibility against third parties, neither from the administrative procedures started against him for non•]compliance of functions.

THREE.- •] From 1992, 20% will be the percentage to be distributed to the regions with regards to the Income Tax of the mining activities holders.



Section 9, N° 27506, Law of Canon Law states that the mining canon is made up 50% of the total income 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 Mining Record must be exempted from prohibiting to contract new personnel so that it can assume the new entrusted powers.



Mention the Public Mining Registry is understood referred to the National Institute of Concessions and Mining - INACC, pursuant to SECTION 5 S.D. No. 015-2001-EM.

By S.D. INGEMMET, corresponding to the last surviving company quality entity - N° 008-2007-EM the merger INACC with the Geological Mining and Metallurgical Institute was approved.

FIVE.- Claims and concessions granted until December 14, 1991 under the system of non•metallic, carboniferous and metallic will continue conferring the holders the rights for which they were required or granted.

SIX.- In the areas assigned to State Companies or Institutions becoming freely available, new petitions on them will be admitted after ninety calendar days from being considered as such.



Section 1 S.D. No. 08-95-EM states that the deadline for admission of petitions on areas assigned to companies or state institutions is counted from the day following the date of publication freely available in the official gazette El Peruano.

SEVEN.- By Supreme Decree amended by the Ministry of Economy and Finances, the limits, uses, procedures and time of coming into force of the basic principles indicated in Article 72, subsections b) and d) of this Law will be established, which will be included in the contract guarantees of the present Law.



Section 4 of Law No. 18343, Law regulating Stability Agreements with the State under sectoral laws annulled the granting of the benefit of investment earnings in subparagraph b) of Art concerns. 72 T.U.O. General Mining Law.

EIGTH.- Article 53, second paragraph, and 70 of the Legislative Decree No 613, Article 100 of Decree Law No 17752, and Complementary Provision Seven of Law No 25289 must be repealed.



The Final Provision Three of Law No 25381 published on 28 / 12 /•91 also repeals the Complementary Provision Seven of Law No 25289.