

**The Mineral Resource and Mining Development Act (2007).**

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In the Name of God, the Merciful, the Beneficent  
**The National Assembly**

The National Assembly

Legislation

**Third Session**

**The Mineral Resource and Mining Development Act (2007).**

In accordance with the provisions of the Transitional Constitution of the Republic of the Sudan (2005) the National Council had passed, and the President of the Republic had signed the following Act:-

**Section One**  
**Provisional Rules**  
**Title and Commencement**

1- This Act shall be cited as the Mineral Resources and Mining Development Act 2007, and shall be valid or, the date of its signature.

**Repeal and Exception**

2-The Mines and Quarries Act (1972) shall be repealed, provided that work by the Exploration licensing for minerals, the absolute Registration Certificates of the Search Areas, the Mining Contracts, the contracts for the extraction of salt and gypsum and the procedures, arrangements, orders and regulations issued thereof shall remain valid, until they are repealed or amended, according to the provisions of this Act.

**Explanation**

3- In this Act, unless the context requires another meaning:

**"The Mining Materials"** Means the natural minerals, their raw materials, rocks, synthetic minerals, chemical elements, the mineral rocks and layers and sediments, the precious minerals, precious and semi-precious stones and the like, salt, gypsum or any materials the government decides that they are mineral materials; and also mineral waters on the surface or bottom of the earth which are usable and prepared for commercial purposes; with the exception of the quarries materials, coal and petroleum as defined by the Oil Wealth Act 1998 or any Act which amends or replaces it.

**"The Mine"** Means the land which contains mineral materials and operations for

obtaining mineral materials are conducted on it or underneath it, apart from the quarries materials including the lands on which the necessary and assisting establishment are erected for mines work; such as, roads, airports, means of transport, offices, laboratories, workshops and the stores used for the various types of mining.

**"Minerals"** Means all the natural mineral materials of such origin, which are composed of the non-organic chemical compounds; and have a chemical structure and specific physical characteristics and state, including the precious minerals.

**"The Quarries Materials"** Means the rocks, stones, mortar, sand and clay *which* are directly used for building and road making, without any need for a transformational treatment; and which do not contain any transformational treatment, mining or mineral materials which could be extracted by mining methods or the recognized treatment in the field of mining.

**"Mining"** Means all the geological and engineering operations and activities of all types, which are done in mines and activities of all types, which are done in mines to determine the deposits of all types, which are done in mines to determine the deposits of mineral raw materials and the others, their collection and treatment by the use of engineering, physical, chemical, metallurgical. Biological and other technologies, for the purpose of the separation of components from the elements or minerals, their concentration or directly transferring them through any type of treatment to a mineral or industrial component, for commercial purposes.

**"Rocks and Industrial Minerals"** Means each mineral rock or natural solid material which is found above or underneath the ground; and could be transformed, through the various mining or industrial treatment, into an industrial or commercial product, except the raw materials of fills and organic materials.

**"The Search"** Means the total primary investigations about the mineral materials and the other mineral raw materials, by testing the surface or bottom of the earth, by all methods, especially the geological, geochemical or geophysical methods which lead to knowing the: nature of the mineral materials, from their physical or chemical or

other characteristics, or digging \_test holes or ditches to ascertain their existence or the probability of that.

**"The Exploration"** Means the extensive enquiry and expansion in testing the ground- and its bottom- by all the geological, geophysical and geochemical techniques, remote sensing, all the other necessary surveys, drilling of all types and techniques and all the activities used in the ground and its bottom extensively; and which lead to knowing the extent of the spread of the mineral materials and the other mining raw materials, determining their places, the degrees and forms of their concentration, their storage, hosting environment at the search area or licensing. It also includes all that is necessary in the realm of studies, detailed laboratory tests, to assess them to determine the feasibility of their economic utilization.

**"The License"** Means the license granted to any natural or corporate person, for search or exploration of mineral materials.

**"The Mining Contract"** Means the rent or lease contract, granted to any natural or corporate person for the production and commercial utilization of the mining materials.

**"The Committee"** Means the mining committee established in accordance with the provisions of Article 19.

**"The Government"** Means the National Government

**"The Ministry"** Means the Ministry of Energy and Mining.

**"The Minister"** Means the Minister who is determined by the corporation

**"The Corporation"** President of the Republic.

**"The Director"** Means the Geological Research Public Corporation.

**Section Two**  
**The Proprietorship of Mining**  
**Materials and Organizing their Exploitation**  
**The Proprietorship of Mining Materials**

4- All the mining materials on the surface or underneath the earth; in the regional waters or in its continental shelf, shall be the property of the State, as represented by the National Government; and the latter shall have the absolute right to search and explore all mining materials and dispose of them.

### **The Regulation of the Exploitation of Mining materials**

5- (1) The Committee shall, according to the provisions of this Act, regulate the exploitation of the mining materials, supervision over the search operation, exploration, production, exploitation and control over minerals; and all that is related to them, such as, processing, transport and storage.

(2) The Corporation may perform the search and exploration of the mining materials, what is related to them and their exploration by itself, directly; and shall have the right in this case, to keep the area in which it performs the geological or mining research works during all the period of search exploration and production. It may also assign same to others or by partnership with them, in accordance with the conditions set in this Act and the regulations issued thereunder.

### **The search and Exploration of Mineral and the Mining Materials**

6- (1) Any person may search for minerals and mining materials, according to the conditions and provisions which are provided for, in this Act and its regulations.

(2) The exploration of minerals and mining materials, and their exploitation in Sudan, including its regional Waters, whatever the owner of the land was, shall be by a license which is issued in accordance with the conditions determined by this Act.

(3) Notwithstanding the provisions of the two items (1) and (2), the Council of Ministers may, in accordance with a recommendation by the Minister, issue a decision for the prohibition of exploration, mining or the exploitation of any mineral or materials which may have importance to the national economy. In this case, all exploration licenses and mining contracts which were previously granted shall be cancelled.

(4) The Council of Ministers shall assign the Corporation with any exploration or mining work, by itself or by any other way, according to the set conditions and controls.

(5) The Corporation pledges to compensate licensee whose license had been cancelled, fairly.

(6) If the licensee did not accept the compensation which is offered by the corporation, a Three- man Arbitration Committee is formed, to include representatives of the licensee and the Corporation, and a Chairman shall be chosen by them. The Award of

the Arbitration committee shall be binding on both parties.

### **The Preparation of Record and the Registration of Applications**

7- The Committee shall prepare records for the registration of the names of the applicants for licenses for search of the mining materials of all types, according to regulations; and others for recording the applications for licensing the exploration of the mining materials; together with records of the names of the owners of the mining contracts.

### **Types of Licenses and Mining Contracts**

8- (1) The Committee, with the approval of the Minister, may issue the licenses and conclude contracts of mining; as follows:-

(a) A general license for the search of minerals and mining materials. This license guarantees for whom it was issued, the right to enter the licensed area and take surface samples for study purposes; save for those licensed areas to others as absolute exploration areas; or a contract had been concluded about them.

(b) Absolute exploration license guarantees for whom it was issued, the right to explore minerals or mining materials in the area included in the license; including conducting the geological and geochemical research, the conducting of the exploitation drilling work and taking samples for making analysis and the required other technical and technological studies for them inside or outside the Sudan.

(c) A mining contract, which guarantees to the party to the contract the right of the extraction of mineral materials which are included in the contract in the licensed area, by all the scientific, technical and technological available means for it (him); together with marketing that production or disposing of it by any other way, according to the provisions of this Act and the regulations issued thereunder.

(d) A small mining contract, which guarantees to the party to the contract the right to extract the mining materials which are included in the contract, in the licensed area, with the traditional, scientific, technical and technological simple techniques which are available to him, marketing that production or disposing of same by any other way; in accordance with the provisions of this Act and the regulations issued thereunder.

(e) The contract for the extraction of minerals and industrial rocks; which grants to

the party to the contract the extraction and processing of the materials from the area which is determined by the contract and their marketing; according to the provisions of this Act and the regulations issued thereunder.

(f) The Director of the Corporation shall sign the exploitation contracts, after the approval of the Minister, on behalf of the Committee.

2- Notwithstanding the provisions of item (1), the Minister may, by a recommendation of the Committee, conclude special agreements with any company, by which it is granted concessions for exploration of any minerals, including the precious minerals, the mining materials and their exploitation, on the basis of partnership, the division of production or any other form of conditions which he deems suitable. He may also, according to those special concessions, grant the preferential privileges; according to the Investment Encouragement Act (1999), or any other Act replacing it.

3- The Minister may cancel the licenses, contracts and agreements, which are provided for in Act, if the licensee breached any item of the license, contract or conditions of the agreement, or offended against this Act or any of the conditions of the regulations issued thereunder.

#### **Conditions of the License or contract**

9- Without prejudice to any of the general conditions, the license or contract shall include the following information:

- (1) The mineral or mining materials for which the license or the contract was made for.
- (2) The area included in the license or contract and a map showing the limits and the geographic location.
- (3) The period of the validity of the license or contract and the extent of the susceptibility of that period for renewal.
- (4) The financial ability and technical experience.
- (5) Any other conditions of special nature, according to regulations.

### **Section Three Mining**

#### **Reporting the discovery of Mining Materials**

10- (1) Any person who discovers any mineral or mining material raw materials, shall



report same, in writing to the committee.

(2) The Committee shall register the right of discovery to that person, who shall have the priority to get an exploration licence for that mineral or mining material. In this case, the condition is that he applies for licencing during four months of the date of his reporting to the Committee of such discovery, with fulfilling the conditions provided for in Article (11) of this Act.

(3) If the period referred to in item (2) had lapsed, and the discoverer did not apply for getting an exploration licence, the priority shall be according to the provisions of priority provided for in Article (7) of this Act.

**The Conditions which shall be fulfilled by the licencing Applicant.**

11- (1) The conditions for granting an applicant, a license, search, discovery or mining contract, are as follows and he must :-

(a) have the technical efficiency and ample experience in the field of mining.

(b) have the sufficient financial capacity, to fulfill his contractual obligations, in full, in the way approved by the Committee.

(c) Adhere to the general policies of the State, in the field of mining and environmental protection.

(d) Attach with the application, the Registration Certificate, if the applicant was a company or a business name in Sudan, or a branch of a company, if it was a company abroad.

(e) accept and fulfill any other conditions decided by the Committee, from time to time

(f) Pledge the fees, rent and other set financial conditions.

**Issue of the Licence and its Renewal**

12- (1) The Exploration licence is issued by a decision by the Minister, in accordance with a recommendation by the Committee; and the regulations shall determine the conditions of the licences and their renewals.

(2) Notwithstanding the provisions of item (1), the Minister may not adhere to the renewal of the licence, if he deemed that site, or a part of it, was ready for production; in accordance with a recommendation by the Committee; and the licensee shall apply for obtaining a mining contract, according to the terms and conditions for the

Exploration license, after The Committee informs him, in writing, about that. Likewise, the Minister may not renew the licence, if it was provided that the licensee breached his obligations.

#### **The Right to Licencing**

13- The licensee for exploration shall not explore any raw material, materials or other mining materials, save for raw mineral material; which it was licenced to explore, unless the raw material or materials was mixed with the raw material it was licenced to explore and it is impossible to mine one without the other. In this case, it may obtain the approval of the Committee to add the name of this mixed other mineral material or materials, as accompanying minerals, to the exploration licence issued to it.

#### **The Fees and the Rent**

14- In addition to the set fees, in accordance with the attached annex to this Act, an annual rent shall be collected for each licence for exploration, search or mining contract, according to what is determined by the regulations, for each square kilometer or any other measurement unit determined by the regulations, of the area of the exploration or mining contract site. Any part of these measurement shall be considered a complete unit.

#### **The Right to obtain a mining contract or Exploitation**

15- The licensee for exploration shall, during the validity of the period of the licence, have the right to obtain a mining contract or exploitation for the whole licenced exploration area, or some of it, according to the terms and controls provided for, in this Act and the regulations issued thereunder.

#### **Compensation**

16- (1) He who conducts the search work, or those licenced for exploration in others land, shall refrain act which may harm the surface of the earth, or depriving the owner from benefiting from his property. If any damage occurs to the surface of the earth; or depriving the owner from benefiting of his (its) property, a fair compensation is necessary.

(2) The compensation shall be estimated by a Committee which is formed by the

Minister, by his decision, of the related competent authorities.

(3) If the licensee or the owner refuses the compensation which was stimulated by the Committee, an Arbitration Committee of three members, formed, in which the two parties are represented; and shall be chaired by he who is appointed by the Ministry, and the parties shall be bound by the decision of the Arbitration Committee.

### **Reporting in the Case of Finding Archeological Objects**

17-(1) The licensee shall inform the Ministry of all the finds of archaeological objects, old buildings and artistic antiquities whether they are archeological or not, inside the limits of the contracted licencing area, as soon as they are found, and to stop all the search, exploration and mining operations which may adversely affect these finds.

(2) The Ministry shall address the Archeological General Authority, to see into the information and decide about it.

(3) The licensee may not continue in his search, exploration or exploitation operations, in the archeological site, save after the approval of the Archeological General Authority and under its supervision. If the said authority does not approve, the operations shall immediately stop in the archeological site, or the licence or contract is cancelled.

### **The Responsibility of the Licensee**

18- The Licensee alone, shall be responsible in face of others for damage which may result from his actions. He shall then have to pay all the compensations which may incur out of the court cases, claims or procedures taken by others in this matter.

## **Section Four The Mining Committee**

### **The establishment and Formation of the Committee**

19- There shall be established, according to this Act, a Committee to be called "The Mining Committee", which shall be responsible to the Minister, for the implementation of this Act and the regulations issued thereunder, within the limits of the set policy. The Committee shall have to submit its recommendations to the Minister to make a decision on them.

### **The Formation of the Committee**

- 20- (1) The "Mining Committee" shall be formed by the Minister, from a part-timer Chairman; and a number of members who represent the related and competent Ministries and entities and those of experience and knowledge and interest in mineral wealth, and the Committee shall have a full-time Secretary to implement its decisions.
- (2) The Committee shall be subject to the supervision of the Minister.

### **The Functions and Powers of the Committee**

- 21- (1) The Committee shall have the following functions. and powers:
- (a) Setting policies and passing the general plans and programs for search, exploration and production of minerals and mining materials, and submitting same to the Minister for approval.
  - (b) To recommend to the Minister to grant licenses for exploration and concluding mining contracts with individuals, companies and the other corporate bodies.
  - (c) To recommend to the Minister to grant customs exemptions to the exploration equipment and the equipment's and inputs of the mining industry; according to the licenses, contracts and agreements concluded, so as to submit them to the Minister of Finance and National Economy.
  - (d) To recommend the Minister to grant tax exemptions, according to the concluded agreements.
  - (e) Concluding contracts and the issue of licenses, after the approval of the Minister on those contracts and licenses.
  - (f) To supervise and follow-up of the technical sides of the mining operations.
  - (g) The follow-up of the licensees and contracting parties to the controls of employment, training, the insurance of sites and equipment and employees, taking all the safety procedures against the various risks, as is expected in insurance work and preserving the environment according to the standards and provisions provided for in the related legislations.
  - (h) To set internal regulations to organize its work and meetings procedures.
  - (i) Any other functions or powers necessary for performing its tasks, approved by the Minister.

(2) The Committee may delegate any of its powers which are mentioned in this Act, to its Chairman, the Director, any of its members or to any committee which it forms for this purpose; according to the terms and controls it deems suitable.

#### **The Functions of the Chairman of the Committee**

22-(1) The Chairman of the Committee shall be responsible for the follow-up of the policies set by the Committee; and shall supervise the work of the committee and take the necessary procedures to enable it to achieve its objectives on appropriate basis.

(2) Without prejudice to the generality of the above, the Chairman of the Committee shall have the following functions:-

(a) The follow-up of the implementation of the Committee's decisions.

(b) Supervision of the procedures and conditions for calling the individuals, the national and foreign mining companies and the other corporate bodies, to take part in the negotiations about concluding the search, mining or contracts agreements, or obtaining the search and exploration licenses for mining materials.

(v) Submission of the search and mining project agreements, to the Minister, to sign them, after the fulfillment of the other necessary negotiations and legal aspects.

(d) Any other powers assigned to him by the Committee.

### **Section Five**

#### **General Provisions**

##### **Aggrievement against the Decisions of the Committee**

23- Any applicant, licensee or party to a contract may raise his grievance 'to the Minister, against any decision taken by the Committee, during fifteen days of the issue of the decision; and in case the Minister does not take his decision in period of (30) days of the date of the submission of the grievance to him, this shall be considered as a rejection of the application.

##### **Offences and Penalties**

24-(1) Any person shall be considered committing a crime:-

(a) If he makes a search or exploration for the mining materials (apart from quarries materials) without a valid licence; and shall thus be punished by imprisonment for a period of not more than one year, a fine to be determined by the court; or both.

(b) If he extracts minerals or attempts to extract mining materials, without a valid search licence or a mining contract, he shall be punished for a period of not more than two years, a fine to be determined by the court; or both.

(2) In all the cases provided for in paragraph (b), the court must rule for the confiscation of the minerals and mining materials about which the offence was committed, any profit resulting from same and any machineries or equipment used in their collection, extraction, processing and transporting, whether as raw material or product, inside or outside the area, for the interest of the State.

### **The competent Court**

25- The first instance Criminal Court shall be the competent Court for the review of the offences against the provisions of this Act and the regulations issued thereunder.

### **Authority for the Issue of Regulations**

26- (1) The Minister may issue the regulations for the implementation of the provisions of this Act and for achieving its objectives.

(2) Without prejudice to the above, those regulations may provide for the following:-

(a) The persons who; or corporations which may apply for obtaining the licences and contracts; and the method by which those applications are made, in accordance with this Act.

(b) The financial conditions of the leases and payment method of the set fees according to the annexed table to this Act.

(c) The preparation of books and recording the applications.

### **Testimony**

I testify that the National Assembly had passed The Mineral and Mining Wealth Development Act (2007), in its sitting No. (23), of the third Session, on 3 Moharram 1428H; coinciding with the 22<sup>nd</sup> day of January 2007. The Joint Permanent Committee of both Assemblies had decided, in its meeting No. (9) of Rabi Awal 1428H, coinciding with the 25th day of March 2007, to refer same to the States Assembly, which returned it as of it is, for complementing its legislative procedures.

Signed)  
Ahmed Ibrahim Al-Tahid  
Chairman  
The Joint Permanent Committee  
Both Assemblies

Approved  
Marshal, Omer Hassan Ahmed Al-Basheer  
President of the Republic  
date: 05/06/1428H.  
coinciding with: 24/05/2007.

### The Schedule

Schedule for the fees, as attached to the Mineral and Mining Wealth Development Act (2007).

#### See Article (12)

#### 1- General Search Licence

the Value of the fees (in Ls.)

1500

500

The service offered for the fees

(a) Applications fees and review.

(b) Issue fees

#### 2- Absolute Exploration Licence (Private)

The Value of the fees (in Ls.)

1550

5000

The service offered for the fees

(a) Applications fees and review.

(b) issue fees

#### 3 Mining Licence

The Value of the fees (in Ls.)

1500

5000

10,000

The service offered for the fees

(a) Applications fees and review.

(b) issue fees

(c) Waiver or transfer fees

#### 4- Small mining Licence

15000

4000

2000

same as above