

2. ASSAM

2.1 TITLE

The Assam Minor Mineral Concession Rules, 1994.

2.2 ADMINISTERING AUTHORITY

The list of minor minerals has been regrouped under Schedule 'X' and Schedule 'Y' of the Rules depending upon the mineral and its uses. The Director of Geology & Mining is the competent authority to grant the mining leases for minor minerals under Schedule 'X', whereas the Principal Chief Conservator of Forests or any officer authorised by him on this behalf is competent to grant mining lease for minerals under Schedule 'Y'. Competent authorities for grant of mining permits are not specifically mentioned in the Rules; these may be same as in case of mining leases, by implication.

For the purpose of specifying the uses of minor mineral deposit of a particular area, the Director is the competent authority to examine and prescribe the uses of that particular minor mineral deposit according to its suitability and his decision in this regard is final.

The State Government is the appellate authority against orders passed by the competent authority.

2.3 TYPES OF CONCESSIONS

There are two types of concessions in vogue : mining lease and mining permit. The mining lease is granted for a period of time and roughly follows the pattern of leases granted under MCR, 1960. A mining permit on the other hand is a permit granted for extraction and removal of specified quantity of a minor mineral from a specified area.

2.4 PROCEDURE FOR GRANT

No mining lease or mining permit may be granted to a person who is not an Indian National or in respect of land notified by the State Government as reserved for use of Government local authorities or for any other public or for special purposes, except with the previous approval of the State Government.

No lease or permit may be granted in respect of reserved and protected forest area without consulting the Divisional Forest Officer. In case of difference of opinion between competent authority and the Divisional Forest Officer the Deputy Commissioner of the district/Chief Executive Member of the district council will decide on points of differences.

2.4.1 MINING LEASE

Application for mining lease is to be made to the competent authority i.e. the Director of Geology & Mining for Schedule 'X' minerals and Principal Chief

Conservator of Forest or his authorised agents in respect of minerals specified in Schedule 'Y'. The application in Form-A is to be accompanied by a fee of Rs.200/- clearance certificate on payment of mining dues (royalty dead-rent, surface-rent, etc.) from the Director, a deposit of Rs. 500/- for meeting the preliminary expenses in connection with the grant of mining lease. The competent authority may refuse to grant a mining lease over the whole or part of the area applied for, for reasons to be recorded in writing.

An application for mining lease shall be disposed of within 6 months from the date of its receipt. An application not disposed of within the specified time is deemed to have been refused.

Applications from (i) Government's departments, corporations and companies and (ii) Labour Contract Cooperative Societies are accorded preference over other applications. In respect of other applicants, receipt in chronological order is accorded preference, if received in respect of the same land. For applications received on the same date, aspects relating to any special knowledge/experience in mining/quarrying, financial resources stability, nature and quality of technical staff employed, end-use of the mineral by applicant, etc. are taken into consideration. The competent authority in preference to those whose application was received later, with the previous approval of the Government and for reasons to be recorded in writing.

No mining lease may be granted in respect of reserved or protected forest areas without consultation with the concerned Divisional Forest Officer.

When a mining lease is granted, the lessee shall submit a mining plan to the Directorate of Geology & Mining, before execution of the lease-deed, covering, inter alia, the plan of the areas showing spot/spots where excavation is to be done in the first year and its extend, a tentative scheme of mining yearwise for subsequent years of lease, extent of manual and mechanized mining, schemes for aforetation, land reclamation, etc. The requirement of mining plan is however, not applicable to leases of ordinary sand, gravel, lime kankar, pebbles, etc. extraction of which does not involve use of mining machinery and extraction permit of which is granted for a period not exceeding 6 months.

On issue of an order granting the lease and, thereafter a mining plan duly approved by the Director has been submitted to the competent authority, the lease deed shall be executed within 3 months or within such further period as the competent authority may allow in this behalf. In the event of default on the part of the applicant, the order granting the lease may be revoked. Before the execution of a lease-deed, the applicant has to deposit as security, a sum of Rs.2000/- for due observance of terms and conditions of the lease.

An application for renewal of mining lease is to be made in Form-B to the competent authority alongwith a fee of Rs.200/- and a valid mining dues clearance certificate, as in case of the application for a mining lease. No period for prior submission of renewal application has been specified in the Rules. However, it is provided that such application shall be disposed of before the expiry of lease period, after making such enquiries as the competent authority may deem fit. Application not disposed of before expiry of lease period, are deemed to have been refused. The

competent authority may refuse to renew a mining lease over the whole or part of the area applied for, for reasons to be recorded in writing and communicated to the applicant.

2.4.2 MINING PERMIT

On an application in Form-M, the competent authority may grant a mining permit to any person to extract and remove from any specified land, any minor mineral not exceeding 3,000 cu.m. in quantity under one permit. The permit is issued on prepayment of royalty at rates specified in the Schedule and on satisfaction of the competent authority as to the genuine requirement of the applicant. Mining permit is not granted to obviate the necessity of obtaining a mining lease in the area. The competent authority may refuse to issue permit for reasons to be recorded in writing.

The application for mining permit is to be accompanied by a fee of Rs.500/-, a valid upto date mining dues clearance certificate written consent of occupier of land over which the permit has been applied for, etc.

The application for permit is disposed of within 30 days (60 days with prior approval of State Government) failing which it will be deemed to have been refused.

Every mining permit shall be granted on condition that the pit-depth shall not ordinarily exceed 3 metres without obtaining permission of the competent authority and such other conditions relating to period within which the mineral shall be extracted and removed, quantity of mineral for which the permit is valid, restrictions on surface operations, felling of trees, etc. Requirement of mining plan is not applicable if extraction does not involve use of machineries and extraction permit is granted for a period not exceeding 6 months.

In case of breach of conditions, the mining permit may be cancelled. Every application for extension of period of the permit shall be accompanied by a fee of Rs.500/-.

2.5 PERIOD AND AREA

2.5.1 MINING LEASE

Period of a mining lease granted or renewed shall not ordinarily exceed 5 years. The competent authority, however, on considerations of proper development and economic exploitation of the mines and working on a large scale, may grant or renew the lease exceeding 5 years, with prior approval of State Government. A mining lease may be renewed for two periods each not exceeding the original lease period. The competent authority may, in the interest of mineral development, renew a lease for a further period or periods each not exceeding the period of original grant of lease, for reasons to be recorded in writing.

The length of the area of a mining lease (excluding ordinary sand, gravel, lime shell, lime kankar, pebbles, murrum, etc.) shall not exceed 4 times its breadth. In case of bedded deposits, this limit is twice the breadth measure along dip. Total area held under

mining leases by a person in the State shall not exceed 100 hectares. This ceiling is relaxable by State Government in the interest of mineral development.

2.5.2 MINING PERMIT

The mining permit is granted for the removal of a specified quantity of minor mineral from a specified area within a specific time-limit. The maximum quantity permitted to be removed under any one permit is 3000 cu.m.. the area applied for grant of a mining permit shall be a compact block covering not more than 4 hectares. The validity of the permit is specified in the permit and is extendable on application with requisite fee.

2.6 TRANSFER, SURRENDER, TERMINATION

The lessee shall not assign, sublet, mortgage or in any manner transfer the mining lease or any right, title or interest therein, or enter into any contract for direct or indirect financing to substantial extent whereby the lessee's operations may be substantially controlled by persons or body of persons other than the lessee. However, he may do so only on the previous written consent of the competent authority. The written consent may not be given unless the application for transfer of lease is accompanied with an affidavit specifying the amount involved as consideration from the transferee, unless the transferee directly undertakes the mining operations and, unless the transferee and transferor produce valid mining dues clearance certificate. Subject to above conditions and with the previous approval of the competent authority, the lease may be transferred to an Indian National on payment of a fee of Rs.100/-. The transfer of lease is to be executed in 3 months from the consent of competent authority in Form-G or within a further period allowed for the purpose.

There are no provisions for transfer of a mining permit in the Rules.

The lessee may on his part determine the lease granted to him at any time giving a notice in writing to the competent authority at least 6 months in advance, after paying all outstanding dues. The competent authority may at any time determine the lease for reasons to be recorded in writing in the event of contravention on the part of lessee in the compliance of Rules or the Act. If the lessee does not allow entry for inspection under the rules and conditions of the lease, the lease may be determined and security deposit forfeited in whole or part, after issue of a show cause notice. In the event of default in payment of royalty, dead rent, surface rent or breach of any conditions, after issuing a notice to remedy the breach within 30 days, the lease may be determined, alongwith forfeiture of the security deposit without prejudice to any proceeding that may be taken against the lessee. If the mining operations are not commenced within 6 months of execution of lease or is discontinued for a continuous period of 6 months after the commencement, order declaring the lease as lapsed shall be communicated to the lessee. However, non-commencement for or discontinuance over 6 months may be considered by the competent authority if beyond the control of the lessee, under the provisions of the rules, on application and fee of Rs.100/-.

2.7 RENTS AND ROYALTIES

Dead rent : Dead rent is payable for the area covered under the lease for every year except the first year of the lease at the rates specified in the Third Schedule. If the lease permits the working of more than one mineral in the same area, separate dead rent in respect of each mineral is not charged. However, the lessee is liable to pay the dead rent or royalty in respect of each mineral, whichever is higher, but not both.

THIRD SCHEDULE

DEAD-RENT

Period of the quarry lease	Rate of dead rent per hectare per annum
1. First year of the lease	N.A.
2. Second year onwards	N.A.

Surface rent : The lessee is liable to pay surface rent for the surface area used by him for the purpose of mining operations. The surface rent is charged at a rate not exceeding the land revenue, as may be specified by the State Government in the lease.

Royalty : Royalty is charged at the rates specified for that mineral in the Second Schedule. This is applicable to mining leases granted, both before and after the commencement of these Rules. The State Government is empowered to amend the Second Schedule so as to enhance or reduce the rates of royalty. Such revision of rates, however, cannot be made more than once in any period of three years. Royalty for minerals quarried under mining permit is payable in advance.

Extraction of minor minerals without grant of mining lease for bonafide personal requirement of the inhabitants of the area and extraction of ordinary clay by artisans for making earthen pots, earthen images, etc. on a cottage industry basis, are exempt from levy of rent, royalty or fee subject to certain conditions.

THE SECOND SCHEDULE**Rates of Royalty**

Sl.No.	Name of Minor Mineral	Rates of Royalty (Rs.)
1.	Building stone including Granite	70.00/Cu.m.
2.	Gravel	70.00/Cu.m.
3.	Ordinary clay	8.00/Cu.m.
4.	Ordinary sand other than sand used for prescribed purposes	50.00/Cu.m.
5.	Boulder	70.00/Cu.m.
6.	Shingle	60.00/Cu.m.
7.	Chalcedony or impure quartz pebbles	70.00/Cu.m.
8.	Limestone	65.00/Cu.m.
9.	Kankar and	
10.	Limestone	
11.	Murram	
12.	Brick earth	8.00/Cu.m.
13.	Fuller's earth	15.00/Cu.m.
14.	Bentonite	20.00/Cu.m.
15.	Road metal	Not stated
16.	Reh matti	
17.	Slate and	
18.	Shale	
19.	Marble	Not stated
20.	Stone used for making household utensils	
21.	Quartzite and sandstone	65.00/Cu.m.
22.	Salt petre	Not stated

2.8 DISPUTE SETTLEMENT PROCEDURE

Any person aggrieved by an order by the competent authority may, within 2 months of the date of communication of order to him, apply to State Government in Form-N for revision of the order. The application should be accompanied by a treasury receipt of Rs.100/-. On receipt of application, the State Government shall send a copy of the application to each of the parties impleaded (in case of grant of lease to other persons than the applicant), specifying a date on or before which he make his representations, if any, against the revision application. The State Government may modify, confirm or set aside the order or form such other order as it may deem just and proper. The order passed by the Government shall be final and binding on the parties. No order shall be passed without giving opportunity to represent his case and of being heard against any person interested. The Government may, however, with sufficient cause, stay the execution of an order against which a revision application is pending for final disposal.

The Director or the principal Chief Conservator of Forest may either suo-moto at any time, or on an application made within 60 days, review any order or proceedings taken by the competent authority as to its legality or propriety or regularity of proceedings and pass such order as deems fit.