

9. HIMACHAL PADESH

9.1 TITLE

Himachal Pradesh Minor Minerals (Concession) Revised Rules, 1971.

9.2 ADMINISTRATIVE AUTHORITY

The power to receive applications and for grant of mining lease, contract or short term permit, the power to extend the validity of short term permit, power to hold auction/call tenders for contracts, power to cancel short term permits have been delegated by the State Government, in a graded manner, under the Fourth Schedule of the rules to the Director of Industries, State Geologist, Mining Officer, District Industries Officers and Assistant District Industries Officers.

When any power is exercisable by any officer sub ordinate to the Director of Industries, the appeal against orders passed by such officer lies with the Director of Industries. The State Government is the appellate authority against the orders passed by the Director of Industries.

9.3 TYPES OF CONCESSIONS

There are three types of concessions available under the above rules, viz. 'mining lease', 'contract' and 'short time permits'. The 'mining lease' is similar in nature to the mining lease granted under MCR, 1960. On the other hand, 'contract' differs from the mining lease not only in the procedure for its grant but also the period of validity. The contract is granted by auction or tender and are valid for a minimum period of 3 years and maximum period of 5 years after which no extension is granted. The short term permit is granted to extract specified quantity of minor mineral from specified land within a specified period.

9.4 PROCEDURE FOR GRANT

No mining lease shall be granted in respect of :

- (i) land within 60 m from any village or national highway, except on special exemption by the competent authority.
- (ii) such minor minerals as the State Government may notify.

Likewise, no mining lease shall be granted to a person who does not hold a certificate of approval.

9.4.1 MINING LEASE

An application for a mining lease shall be made to the State Government through the Director of Industries or any officer authorised by the Government in this behalf, in the prescribed form and shall contain the following particulars : name of the applicant,

nationality, profession, residence, name of the minor mineral or minor minerals, description illustrated by a map or plan showing as accurately as possible the situation, boundaries and area of the land in respect of which lease is required, period for which lease is required and purpose for which the minor minerals extracted is to be used. Every application for mining lease shall be accompanied by an application fee of Rs.700/- an income tax clearance certificate, certified copy of statement from the department showing dues, if any, outstanding against the applicant, a fee of Rs.500/- for meeting the preliminary expenses in connection with the grant of the mining lease and a certificate of approval.

The application for mining lease must be disposed of within a period of one year from the date of receipt, and if it is not disposed of within that period it shall be deemed to have been refused. Where an application for grant of a mining lease is refused or deemed to have been refused under these rules, the application fees paid by the applicant shall be refunded.

In granting of the mining lease the following order of priority shall be followed :

- (i) first priority shall be given to the discoverer of the new mineral;
- (ii) second priority shall be given to a person who intends to set up a mineral-based industry in the State; and
- (iii) third priority shall be given to a co-operative society.

Where two or more persons of the same category apply for a mining lease in respect of the same area, the applicant whose application is received earlier shall have a preferential right for the grant of the lease ones an applicant whose application is received later. In case such applications are received on the same day, the State Government may grant the mining lease to any one of the applicants after taking into consideration their experience in mining, financial soundness, stability, special knowledge of geology and mining of the applicant and the technical staff employed, clearance of Government dues and royalties and satisfactory performance in case the applicant was earlier engaged in mining. The Government may, for special reasons to be recorded in writing, grant a mining lease to an applicant whose application was received later in preference to an applicant whose application is received earlier. After the lease is granted, the applicant must deposit a sum of Rs.1,000/- or 1/4 of the dead rent whichever is more as security for due observance of the terms and conditions of the lease.

The application for renewal of a mining lease shall be made in the prescribed form before six months of the expiry of the lease and upon payment of a fee of Rs.1,000/- . This renewal will be subject to the Government being satisfied that the mines have been developed by the lessee and that substantial investments in machinery and equipment have been made by him and that the mines have been worked and developed in a scientific manner and that the lessee has been paying the Government dues regularly under the rules. The application for the renewal of a mining lease must be disposed of within 3 months from the date of its receipt and if it is not disposed of within that period, it shall be deemed to have been refused.

Where a mining lease is sanctioned the lease deed shall be executed in the prescribed form within three months of the order of sanctioning the lease and if the lease is not executed within the aforesaid period, the order sanctioning the lease shall be deemed to have been revoked and the application fee shall be forfeited to the Government. However, where the Government is satisfied that the applicant for the lease is not responsible for the delay in execution of the lease deed, the Government may permit the execution of the lease deed after the expiry of the aforesaid period of three months.

When mining lease is granted, arrangements shall be made, if necessary, at the expense of the lessee, for the survey and demarcation of the area granted under the lease.

9.4.2 SHORT TERM PERMIT

Except where otherwise provided in these rules, the Director or any other officer, authorised by him in this behalf may grant permit in the prescribed form in respect of any specified land not leased to anybody within the limits of Himachal Pradesh for any minor mineral not exceeding the quantity as may be specified under any one permit, on payment of such royalty in advance as shown in the first schedule to these rules. The Director may refuse to grant permit for reasons to be recorded in writing.

An application for a permit shall be made to the Director or any other officer authorised by him in this behalf. It shall bear court fee stamp of one rupee and shall contain the following particulars :

- (i) name, address and profession of the applicant;
- (ii) quantity of minor mineral(s) for which permit is required;
- (iii) name of the minor mineral(s) to be extracted and removed;
- (iv) description of the land, i.e. name of village(s), area, khasra nos., from which minor mineral is to be extracted and removed;
- (v) purpose for which the minor mineral is to be used; and
- (vi) number of labourers to be employed.

Every application for permit, if the land from which the minor mineral is to be extracted, is occupied land, be accompanied by a letter from the occupant of such lands to the effect that he has no objection to the extraction of the minor mineral by the applicant. Every application shall be accompanied by a fee of Rs.10/- in respect of each minor mineral. If the application is refused, the fees shall be refunded. Every permit shall contain a condition that the depth of the pit below the surface shall not exceed three feet.

9.4.3 CONTRACT

Contracts may be granted by the Government by auction or tender.

The auction shall be notified (i) on the notice board of Director, Mining Officers and at least in one newspaper having wide circulation in the locality nearest to the area in question in the regional language; (ii) in the Himachal Pradesh Government Gazette by publishing the auction notice at least 30 days before the date of auction. A copy of the auction notice shall be sent to the local authority having jurisdiction over the area in question for giving wide publicity in the area; (iii) the terms and conditions and description of the Contract shall be read out to the intending bidders at the time of auction. The intending bidders shall deposit such earnest money as may be fixed by the Director. In each case such amount shall be notified in the Government Gazette; (iv) no bid shall be regarded as accepted unless confirmed by the Government. On completion of the auction the result will be announced and provisionally selected bidder shall immediately deposit 25 per cent amount of bid for one year and another 25 per cent as security for due observance of the terms and conditions of the contract; (v) the earnest money shall be refunded immediately on completion of the auction to all excepting the person whose bid is provisionally accepted. The earnest money shall be adjusted against security under clause (iv); (vi) misbehaviour by any bidder during auction can be punished by forfeiting his earnest money or removal or if necessary, by debarring him for a period of three years from any future auction under these rules, at the discretion of the Presiding Officer; and (vii) if the provisionally selected bidder fails to deposit security money as required by clause (iv) above, the earnest money deposited under clause (iii) shall be forfeited to the Government.

The tenders shall be invited through the Himachal Pradesh Gazette and atleast in one newspaper having wide circulation in the locality nearest to the area in question in the regional language and shall be displayed on the notice board of the Director, Mining Officers and all District Industries Officers. The notification shall be published atleast 30 days before the date of tender. A copy of the notification shall be sent to the local authority having jurisdiction over the area in question. Every tender shall be submitted to the Director or any other officer authorised by him in this behalf, in a sealed cover superscribed with the relevant details of the contract. Every tender shall be accompanied with earnest money in cash or crossed payment draft in favour of the Director. The amount of the earnest money shall be fixed by the Director in each case and it shall be mentioned in the aforesaid notification. Tenders shall be opened in the presence of the tenderer or tenderers who may be present at the notified time for opening the tenders. The tenderer who is provisionally accepted shall deposit 25 per cent of the amount of the tender for one year and another 25 per cent as security for the due observance of the terms and conditions of the contract. The earnest money shall be refunded within 3 months from the date of final decision on the tenders excepting for the person whose tender is accepted. The earnest money of the successful tenderer will be adjusted against security deposit.

The Presiding Officer may accept or reject any bid or tender without assigning any reason to the bidders. However, where the highest bid or tender is rejected, the reasons shall be reported to the Government. No tender/auction shall be considered accepted unless approved by the State Government.

When a bid is confirmed or a tender is accepted, the bidder or tenderer shall execute a deed in the prescribed form within three months from the date of communication of acceptance of bid or tender and if no such contract is executed within

this period the acceptance order shall be deemed to have been revoked and amounts paid shall be forfeited to the Government. However, if the Government or an officer authorised by it is satisfied that the bidder or tenderer is not responsible for the delay in the execution of the contract, he may permit the execution of the contract within a reasonable time after the expiry of the aforesaid period of three months.

9.5 PERIOD AND AREA

The period for which a mining lease may be granted shall be 5 years in the first instance. It may be renewed for one or two periods not exceeding the period for which the mining lease was originally granted. No limit has been prescribed for the period for which a permit may be granted. However, no permit shall be granted to a person who is not an Indian National for a period of more than 6 months. In case of a contract, the minimum period is 3 years and the maximum period is 5 years. No extension shall be granted.

A mining lease may be granted for such area as the Government may deem fit. No lessee by himself or with any person joint in interest with him shall ordinarily hold in aggregate more than 5 sq.kms. of area under mining lease in respect of one minor mineral within Himachal Pradesh. The area held under a mining lease, shall be rectangular as far as possible and its length shall not exceed four times its breadth. However, the Government may in any particular case relax the provisions of this rule. The application for a mining lease shall relate to one compact area only.

9.6 TRANSFER, SURRENDER, TERMINATION

The lessee or the Contractor may, with the previous sanction of the Government, assign, sublet or transfer his lease or any right, title or interest therein, to any person holding a valid certificate or approval, on payment of a fee of Rs.100/- to the Government.

The lessee may determine the lease at any time by giving not less than 6 calendar months notice in writing to the Government and after paying all outstanding dues of the Government.

The Government may, by giving two month's prior notice in writing determine the lease if the Government considers that minor mineral under the lease is required for establishing an industry beneficial to the public. No notice is required in a state of emergency or war. The Government has also the right to terminate the lease if the lessee does not pay the dues within 30 days of receipt of the notice in this regard. Likewise, the lease may be terminated if the lessee does not allow entry or inspection by the authorised officers.

The contract may be terminated by the Government or any officer authorised by the Government in this behalf, by giving one month's notice, in case of default in the due observance of the terms and conditions of the contract or for non-payment of the contract money on the due date. In such a case the Government may also forfeit the security deposit as also the installment paid in advance, if any. Likewise, the contract may also be terminated by the Government if considered by it necessary in public interest, by giving

one month's notice. No notice is required to be given in the state of national emergency or war.

A permit may be cancelled by the Director of Industries or the authority issuing the permit, for breach of any of the conditions subject to which permit was granted.

9.7 RENTS AND ROYALTIES

Dead rent : The lessee shall pay for every year, yearly dead rent at the rate specified in the Second Schedule. If the lease permits the working of more than one minor mineral in the same area, the Government may charge separate dead rent in respect of each minor mineral provided that the mining of one minor mineral does not involve the working of another minor mineral. However, the lessee shall be liable to pay the dead rent or royalty in respect of such mineral, whichever is higher but not both.

Second Schedule (Rates of Dead rent)

		Rate Rs. Per acre per annum
All minor minerals	(i) For 1 st year of lease	30
	(ii) For 2 nd year of lease	45
	(iii) For subsequent years of the lease or renewal thereof.	70

Surface rent : The lessee shall pay for the surface area occupied by him, surface rent at the rate specified in the lease.

Royalty : The lessee shall pay royalty on the quantity of minor mineral despatched from the leased area at the rates for the time being specified in the First Schedule in respect of that minor mineral. The Government may, by notification in the Official Gazette, amend the First Schedule so as to enhance or reduce the rate of royalty. However, the rate of royalty shall not be revised more than once during any period of four years.

The lessee shall pay in the office of the officer authorised by the Director of Industries in this behalf, dead rent, surface rent and royalty in two half-yearly installments on the 15th April and 15th October each year during the subsistence of the lease. In case of permit, the royalty is to be paid in advance.

First Schedule (Rates of Royalty)

1. Building Stone	
(a) Ashlar and sized dimensional stones.	Rs.20/- per tonne (Rs.8.50 per cubic metre)
(b) Masonry stones including khandas, boulders, shingle etc.	Rs.2/- per tonne (Rs.2.80 per cubic metre)
2. Limestone	Rs.2/- per tonne (Rs.2.80 per cubic metre)
3. Marble	
(a) Used for limeburning	Re.0.55 per quintal
(b) Dressed, carved and rough marble slabs	Rs.5.50 per quintal
(c) Marble chips, fine powder khandas	Rs.0.65 per quintal
(d) Coarse powder of not more than plus 20 mesh	Rs.0.35 per quintal
(e) Kumari Marble	Rs.2.70 per quintal
4. Bajri	Rs.0.50 per tonne (Re.0.70 per cubic metre)
5. Brick earth	Rs.0.50 per tonne (Re.0.70 per cubic metre Rs.1.75 per 1000 pucca Bricks sold)
6. Fuller's earth	Rs.49.00 per tonne
7. Bentonite	Rs.51.00 per tonne
8. Ordinary clay	Re.0.50 per tonne
9. Ordinary sand used for non-industrial purposes.	Re.0.50 per tonne
10. Coloured Ochorous clay red/yellow	Rs.1.50 per tonne
11. (a) Slab slate where used for building material	Re.1.00 per tonne

(b) Slate where used for building material	Rs.7.00 per tonne
(c) Kankar, road metal, blast and Jhajra stone	Rs.2.00 per tonne (Rs.2.80 per cubic meter)
12. All other minor minerals not herein before specified	20% of the sale value at pit's mouth subject to a minimum of Rs.2.00 per tonne.

Contract money : In case of contractors where the annual contract money does not exceed Rs.1,000/- the annual contract money shall be paid in advance on or before 15th April, each year. In case of contracts where the annual contract money exceeds Rs.1,000/- the contractor shall deposit the balance contract money for the first year of the contract and thereafter for each subsequent year, with the Mining Officer in equal quarterly installments, in advance, on the 15th July, 15th October and 15th January.

9.8 DISPUTE SETTLEMENT PROCEDURE

Any person aggrieved by an order of the Director :

- (i) cancelling or terminating a mining lease or forfeiting any deposit thereunder in whole or in part; or
- (ii) refusing to permit transfer of a mining lease, may appeal to the State Government against such order within two months of the date of the order. Any such application may be entertained after the said period of two months, if the applicant satisfies the Government that he had sufficient cause for not making the application within time.

Where the functions of Director of Industries have been delegated to any other officer subordinate to him, any person aggrieved by any order of any such officer of the nature described above may appeal to the Director within two months of the date of the order, appealed against.

The memorandum of appeal or application for review shall be accompanied in every case by a treasury receipt of Rs.25/- to the credit of the Government upon receipt of such application, the Government or the Director, as the case may be, may call for the relevant records and other information and after considering his explanation and giving the appellant an opportunity of hearing and considering any comments that might be offered by the officer, may cancel or review the order against which the appeal has been preferred. The order of the Government or the Director, as the case may be, shall be final.