

12. KERALA

12.1 TITLE

Kerala Minor Mineral Concession Rules, 1967.

12.2 ADMINISTERING AUTHORITY

The power to grant quarrying lease and quarrying permit is vested in the 'Competent Authority' which is defined to mean the authority or officer appointed by the State Government, by notification in the Gazette, to exercise the powers and perform the functions of the Competent authority under these rules. The State Government has appointed the following officers/authorities to exercise the powers and perform the functions of the 'Competent authority'.

Department/ Local Authority	Officer/Authority Appointed as Competent Authority	Area of Jurisdiction and extent of powers to be exercised and the functions to be performed.
1. Revenue (in respect of revenue lands, private lands and all other type of lands which do not come under the direct control of any other department or local Authorities specified in this notification)	1. Tahsildar	The concerned taluk. All cases except for limeshell and dimension stones where the royalty does not exceed Rs.1,000/-.
	2. Revenue Divisional Officer.	The concerned area of his jurisdiction. All cases except for limeshell and dimension stones where the royalty exceeds Rs.1,000/- does not exceed Rs.5,000/-.
	3. District Collector.	The concerned district. In all cases except for limeshell and dimension stones where the royalty exceeds Rs.5,000/- but does not exceed Rs.10,000/-.
2. Municipalities (in respect of lands vesting in the Municipality concerned)	1. Municipal Secretary.	The concerned Municipality. In all cases except for limeshell and dimension stones where the royalty exceeds Rs.5,000/- but does not exceed Rs.10,000/-.
	2. Municipal Council.	The concerned Municipality. In all cases except for limeshell and dimension stones for which royalty exceeds Rs.5,000 but does not exceed Rs.10,000/-.

Department/ Local Authority	Officer/Authority Appointed as Competent Authority	Area of Jurisdiction and extent of powers to be exercised and the functions to be performed.
3. Panchayats (in respect of lands vesting in the Panchayat concerned)	1. Panchayat Secretary. 2. Panchayat.	The concerned Panchayat area. In all cases except for limeshell and dimension stones where the royalty does not exceed Rs.1,000/- The concerned Panchayat area. In all cases except for limeshell and dimension stones for which the royalty exceeds Rs.1,000/- but does not exceed Rs.5,000/-.
4. Forest (in respect of reserved forests and other forest lands vesting in the forest department)	Divisional Forest Officer.	The concerned Forest Division. In all cases except for limeshell and dimension stones where the royalty does not exceed Rs. 10,000/-.
5. Mining and Geology.	1. Director of Mining and Geology. 2. Heads of district & special officers of Mining & Geology.	Entire State. In all other cases. Respective area of jurisdiction. Grant/Renew quarrying permits of all minor minerals except limeshell, sea shell and granite dimension stones in cases where the royalty does not exceed Rs.20,000/-.

Appeals against the orders passed by the Competent Authority lie with the 'Appellate Authority' appointed by the State Government in this behalf by notification in the Gazette.

12.3 TYPE OF CONCESSIONS

The rules provide for two types of concessions, viz. "quarrying lease" and "quarrying permit". The quarrying lease is similar in nature to the mining lease granted under the MCR 1960. The quarrying permit means a permit granted to extract and remove any minor mineral in specified quantities and within a specified time.

12.4 PROCEDURE FOR GRANT

No quarrying lease or quarrying permit can be granted by the State Government to persons other than Indian nationals, except with the previous approval of the Central Government.

Quarrying of minor minerals from Government owned lands (including Porambokes) by Government Departments, Panchayats and Municipalities (or contractors in their employ) for bonafide public purposes, as long as the work is done under their direct supervision, is exempted from the obligations of obtaining a quarrying permit or quarrying lease.

A person may quarry minor minerals from his own land, even if the mineral rights vest in the Government, for bonafide domestic or agricultural purpose, after obtaining a written permission from the Competent Authority.

The State Government or the Competent Authority may sell by public auction or otherwise dispose of the right to remove any minor minerals in such cases or class of cases and on such terms and conditions as they deem fit.

The normal procedure for obtaining the quarrying lease and the quarrying permit and their renewal is described below :

12.4.1 QUARRYING LEASE

The application for the grant or renewal of a quarrying lease must be made in the prescribed form to the 'competent authority'. The application must be accompanied by a fee of Rs.10,000/- in respect of dimension stones and Rs.1,000/- in respect of all other minerals and an Income Tax Clearance Certificate in prescribed Form. It should indicate plan for waste disposal along with area provided for it, plan of reclamaion and plans for minimising the adverse environmental and ecological impacts due to re-gradation of land destruction of scenic beauty.

On receipt of the application and on making such enquiries as is considered necessary, the Competent Authority may sanction the grant of the quarrying lease or refuse to sanction it. The application must be disposed of within six months from the date of its receipt. In case of refusal, the applicant must be informed in writing within 30 days, the reasons for refusal. If the application is not disposed of within the specified period it is deemed to have been refused. In case of refusal or deemed refusal, the application fee must be refunded.

Where two or more persons apply for quarrying lease in respect of the same land, the applicant whose application was received earlier has a preferential right for the grant of the lease over an applicant whose application was received later. The State Government or the competent authority may, for special reasons to be recorded, grant a quarrying lease to an applicant whose application was received later in preference to an applicant whose application was received earlier. Where the area is large enough, the State Government or the competent authority may divide the area into blocks keeping in view the size and shape conducive to economic mining and give the applicant whose

application was received earlier such of the blocks as he may select. The quarrying permit holder has a preferential right over anyone else to apply for and obtain a quarrying lease over the same land during the currency of the quarrying permit. On the date of expiry of the quarrying permit this preferential right ceases.

The lease must be executed within three months from the date of sanction. Before the lease could be executed the grantee is required to make a security deposit of Rs.10,000/- per hectare for dimension stones and Rs.1,000/- for all other minor minerals for due observance of the terms and conditions of the lease. All quarrying leases must be registered.

Every application for renewal of a quarrying lease should be made at least three months before the date of expiry of the lease. The application for renewal must be disposed of within three months from the date of its receipt and in case it is not so disposed of within the specified period it is deemed to have been refused.

12.4.2 QUARRYING PERMIT

No permit may be granted over any land for which a quarrying lease has been applied for earlier.

The application for the grant of a quarrying permit shall be made in the prescribed form to the Competent Authority containing particulars about the applicant; name and quantity of minor mineral for which the permit is required; description such as location, survey number, etc. of the land from which the minor mineral is to be extracted and purpose for which the minor mineral is to be used. Every application shall be accompanied by (i) an attested copy of the survey map, and (ii) certified copy of the relevant extracts from the record of rights, in respect of the area from which the minor mineral is to be extracted, duly certified by an officer not below the rank of a Tahsildar or Deputy Tahsildar (Head Quarters). If the lands from which the minor mineral is to be extracted are occupied lands, the application must also 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. The application must be accompanied by a fee of Rs.5,000/- for dimension stones and Rs.200/- for all other minor minerals.

The competent authority or an officer authorised by it in this regard may grant a quarrying permit to any Indian National to extract and remove from any specified land within the limits of its jurisdiction any minor mineral not exceeding 500 cu m in respect of dimension stone and for others 10,000 tonnes in quantity under one permit, on advance payment of royalties and also on payment in advance of such surface rent and cesses as may be assessable on the lands. The competent authority or the officer authorised by its in this regard may reduce the quantity applied for or refuse to grant such permit for reasons to be recorded in writing. Every quarrying permit shall be subject to the condition that the depth of the pit below the surface shall not exceed 20 feet.

Where two or more persons have applied for a quarrying permit in respect of the same land, the applicant whose application was received earlier shall have a preferential right for the grant of the permit over the applicant whose application was received later, provided the earlier application satisfied all the conditions laid down in these rules.

12.5 PERIOD AND AREA

The period for which a quarrying lease may be granted for all minor minerals except for dimension stones shall not exceed 12 years, except in the case of a quarrying lease for ordinary clay granted to the Cement manufacturers in which case the maximum period shall be 20 years. In respect of dimension stones, the lease period shall not exceed 10 years for those who establish cutting and polishing units within the State involving investment not less than a crore of rupees. In other cases, the lease period shall not exceed 3 years or for a quantity of 2000 cu. m., whichever event comes earlier with provisions to renew the lease in deserving cases. The quarrying lease may be renewed for one or two periods not exceeding the period for which the quarrying lease was originally granted. No lessee shall ordinarily hold in the aggregate more than 2 sq. km. Of area under lease in respect of one minor mineral within the State of Kerala. The area under the lease shall be contiguous unit and except in case of sand or kankar, the length of the area shall not exceed four times its width. However, in case of bedded deposits, the length shall not be more than twice the width measured along the dip.

The quarrying permit is valid only for a maximum period of one year. However, if the Competent Authority is satisfied that the renewal of a quarrying permit is absolutely necessary and inevitable he may renew the same for a further period of one year at a time. The area granted under quarrying permit shall be contiguous area. The maximum quantity permitted to be removed under one permit is 500 cu. m. in respect of dimension stones and for others 10,000 tonnes.

12.6 TRANSFER, SURRENDER, TERMINATION

The lessee may, with the previous sanction in writing of the State Government or the Competent Authority, assign, sublet or transfer his lease or any right, title or interest therein to any person on payment of a free or Rs.100/- to the State Government provided he has paid all the outstanding dues to the Government.

The lessee may determine the lease any time by giving not less than six month's notice in writing to the State Government or the Competent Authority, after paying all outstanding dues to the Government.

If the lessee does not allow entry or inspection as required under the rules, the State Government or the Competent Authority shall give notice in writing to the lessee requiring him to show cause within 30 days why the lease should not be determined and his security deposit forfeited. If the lessee fails to show cause within the aforesaid period to the satisfaction of the State Government or the Competent Authority, they may determine the lease and forfeit the whole or part of the security deposit. Likewise, the Competent Authority or the officer authorised by him in this regard, under instructions from the Competent Authority, may cancel the quarrying permit in case of breach of any of the conditions subject to which the permit was granted. The permit holder is required to be intimated in writing.

12.7 RENTS AND ROYALTIES

Dead rent : The holder of quarrying lease is required to pay to the State Government for every year, except for the first year of the lease, yearly dead rent within the limits specified in Schedule-II, as may be fixed from time to time by the State Government. The lessee is liable to pay dead rent or royalty, whichever is higher in amount, but not both. Where the lease permits the working of more than one mineral in the same area, the lessee is liable to pay dead rent or royalty in respect of each mineral. However, where the quarrying of one mineral involves the quarrying of the other mineral, the lessee is liable to pay dead rent for only one mineral, the highest dead rent being payable for this purpose in lieu of the combined royalty, if the latter is less than the former. The current rates of dead rent are as follows :

Schedule-II (Rates of Dead Rent)

1. Kankar, limestone and limeshell ...	Rs.4,000/- per hectare per year.
2. All other minor minerals except ... Dimension stones stated in item 3 below.	Rs.3,200/- per hectare per year.
3. Dimension stones as specified ... in classification in rule 8A, Sub-item (i)	Rs.60,000/- per hectare per year.

Surface rent : The holder of a quarrying lease and also quarrying permit is required to pay surface rent for the surface area used by him for the purpose of mining operations, at such rates as may be specified in the lease but not exceeding the land revenue and cesses assessable on the land from time to time i.e. at the rate of Rs.4.94 per hectare for one hectare or less and Rs.20/- per hectare for more than one hectare of land. The surface rent is required to be paid by yearly payments, the first of such payments to be made on or before the last date of the first year of occupation. In case of a quarrying permit, the payment is required to be made in advance.

Royalty : The holder of a quarrying lease is required to pay royalty in respect of any mineral removed by him from the leased area, at the rates specified in Schedule-I in respect of that mineral. The mineral can be removed from the leased area only after royalty has been paid and a permit obtained for that purpose. In case of a quarrying permit the royalty is required to be paid in advance as fixed by the Competent Authority on the basis of the rates specified in Schedule-I. The State Government, may, by notification in the Official Gazette, amend the Schedule-I so as to enhance or reduce the rate at which royalty shall be payable in respect of any mineral with effect from such date as may be specified in the notification. The current rate of royalty are as follows :

The Competent Authority, Appellate Authority or the Final Appellate Authority may on its own motion or on an application by any interested party, review any order passed by it and pass such order in reference thereto as it may deem fit.

Pending the final disposal of an appeal, second appeal or review, the Competent Authority, Appellate Authority or the Final Appellate Authority, as the case may be, may, for sufficient cause, stay the execution of the order against which appeal, second appeal or review has been made.