

NATIONAL ASSEMBLY

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

No. 46-2005-QH11

**LAW
ON
AMENDMENT OF AND ADDITION TO
A NUMBER OF ARTICLES OF THE
MINERAL LAW**

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam as amended by Resolution 51-2001-QH10 passed by Legislature X of the National Assembly at its 10th Session on 25 December 2001;

This Law amends and adds to a number of articles of the *Mineral Law* passed by the National Assembly of the Socialist Republic of Vietnam on 20 March 1996.

Article 1

A number of articles of the *Mineral Law* shall be amended and added to as follows:

1. *To amend and add to article 2 as follows:*

"Article 2 *Governing scope and applicable entities*

1. This Law shall govern the administration, protection and basic geological surveys of mineral resources and mineral activities (comprising prospecting, exploration, mining and processing of minerals) in solid and gaseous forms, mineral water and natural thermal water, except oil and gas and other types of natural water which shall be subject to separate legal regulations.
2. This Law shall apply to State bodies exercising State administration of minerals; to organizations conducting tasks of basic geological surveys of mineral resources; to domestic organizations and individuals, foreign organizations and individuals, and Vietnamese residing overseas conducting mineral activities in Vietnam; and to other organizations and individuals involved in the administration and protection of mineral resources.

If any international treaty of which the Socialist Republic of Vietnam is a member contains provisions which are different from those in this Law, the provisions of such international treaty shall apply."

2. *To add a new article 3a as follows:*

"Article 3a *Principles for mineral activities*

Activities of prospecting, exploration, mining and processing of minerals must comply with the following principles:

1. Protection, mining and use of mineral resources must be rational, economical and efficient, and must satisfy the requirements for stable socio-economic development both in the short term and the long term.
2. Exploration, mining, processing and use of minerals must comply with the master plan approved by the competent State body; occupational safety and hygiene must be ensured; there must be close co-ordination on protection of the environment, of other mineral resources, of the landscape and of historical and cultural sites; conditions must be created to stabilize and develop infrastructure and to improve living conditions of citizens in localities where minerals are mined and processed; and national defence and security, social order and safety must be ensured.
3. The scale and technology of mining and processing of minerals must be consistent with the special features of each type of mineral, taking socio-economic effectiveness as the basic criterion for making investment decisions; applying appropriate, progressive mining and processing technology to maximize the recovery coefficient of both the main minerals and associated minerals and the value of processed products; and raising the effectiveness, quality and competitiveness of mineral products."

3. *To add a new article 3b as follows:*

"Article 3b *Master planning for minerals*

1. Master planning for minerals shall be formulated for each region and for each type of mineral, and shall comprise:
 - (a) A master plan for basic geological surveys of mineral resources;
 - (b) A master plan for exploration, mining, processing and use of minerals.

2. Authority to approve master planning shall be regulated as follows:
 - (a) The Ministry of Natural Resources and Environment shall formulate the master plan for basic geological surveys of mineral resources and submit it to the Government for approval; and shall direct and organize implementation of the master plan;
 - (b) The Ministry of Industry shall formulate the master plan for exploration, mining, processing and use of minerals, except for minerals being construction materials and except for minerals being raw materials for production of cement, and submit it to the Government for approval;
 - (c) The Ministry of Construction shall formulate the master plan for exploration, mining, processing and use of minerals being construction materials and minerals being raw materials for production of cement, and submit it to the Government for approval;
 - (d) People's committees of provinces and cities under central authority shall formulate the master plans for exploration, mining, processing and use of all types of minerals within their respective licence-issuing authority as stipulated in article 56.1(b) of this Law, and submit them to the people's council at the same level for promulgation.
3. The Government shall provide regulations on formulation and implementation of master planning for minerals."

4. *To amend and add to article 5 as follows:*

"Article 5 *Policy of the State on minerals*

1. The State shall invest in master planning for basic geological surveys of mineral resources in conformity with the socio-economic strategy, master plan and developmental plans for each period; in training and development of manpower; in scientific research and in the development and application of technology during the work of basic geological surveys of mineral resources.
2. The State shall create favourable conditions for all organizations and individuals to participate in investment in the exploration, mining and processing of minerals.
3. The State shall encourage investment in and grant preferential treatment to mining projects associated with on-site processing of

minerals in areas with difficult socio-economic conditions and in areas with specially difficult socio-economic conditions; projects applying modern techniques and technology, protecting the environment, maximizing the recovery of beneficial components, producing metal and metal alloy products or products of high socio-economic value and efficiency; and projects for processing imported minerals which satisfy the requirements for domestic use and export.

4. The export of minerals in the form of crude raw materials or ore concentrate shall be restricted. The Government shall issue the list, conditions and criteria of minerals permitted to be exported, and the list of minerals the export of which is restricted.
5. The policy of the State is to invest in exploration of a number of important minerals servicing the socio-economic development plans for the whole country, and to ensure funding from the State Budget for the work of protection of mineral resources.
6. The State shall protect the lawful rights and interests of organizations and individuals during mineral activities; and encourages such organizations and individuals to purchase business insurance for activities of exploration, mining and processing of minerals."

5. *To amend and add to article 8 as follows:*

"Article 8 *Conduct which is strictly prohibited*

The State strictly prohibits the following conduct:

1. Illegal basic geological surveys of mineral resources; illegal prospecting, exploration, mining, processing, storing, transporting, purchase and sale of minerals.
2. Breaches of master plans for minerals and of areas in which mineral activities are prohibited or temporarily prohibited.
3. Failure to discharge properly obligations in accordance with articles 23, 27, 33, 46 and 52 of this Law during mineral activities.
4. Disclosure of information in the category of State secrets relating to mineral resources.
5. Abuse of position or power in order to act inconsistently with the law on minerals.
6. Other conduct which is strictly prohibited by the laws on minerals."

6. *To amend and add to article 9 as follows:*

"Article 9 *Protection of mineral resources*

1. The Ministry of Natural Resources and Environment shall delineate the zones in which mineral resources have already been investigated and assessed, and shall notify such zones to the people's committee of the province or city under central authority for the latter to administer and protect such zones.
2. People's councils and people's committees at all levels shall, within the scope of their respective duties and powers, be responsible to carry out measures for the protection of mineral resources within their respective localities, including areas in which minerals are discovered but which are not zones already notified by the Ministry of Natural Resources and Environment.
3. All organizations and individuals shall have the right and obligation to protect mineral resources and to guard State secrets relating to mineral resources.
4. Organizations and individuals permitted to conduct mineral activities shall be responsible to protect mineral resources in the areas in which they are operating.
5. When formulating construction master plans for concentrated residential zones and for fixed building works within zones containing mineral resources which have already been investigated and assessed or in areas which have already been explored and the mineral reserves have been approved, organizations and individuals must also include the written opinion of the State administrative body for minerals which is authorized pursuant to article 56.1 of this Law.

The Government shall provide regulations on formulation and approval of construction master plans for works of national security and defence in zones containing mineral resources which have already been investigated and assessed."

7. *To amend and add to article 41 as follows:*

"Article 41 *Mining and processing of minerals being common construction materials*

1. The activities of mining and processing minerals being common construction materials must comply with the provisions of this Law relating to mining minerals.

2. The mining and processing of minerals being common construction materials, except for river-bed sand and gravel, with a mined output not in excess of one hundred thousand cubic metres (100,000m³) per year and a mining duration, including extensions, not in excess of five years shall not be subject to compulsory mineral exploration.
3. The following cases of mining and processing of minerals being common construction materials shall not require an application for a mining licence:
 - (a) Mining of minerals being common construction materials within the scope of an area of land for an investment project for construction of works which has been approved or permitted by the competent State body, in cases where the mined product will only be used for construction of such works.

Prior to commencing mining of minerals, the organization with the right to mine shall register the mining area, output, volume, method, equipment and plan with the people's committee of the province or city under central authority. The administration and use of mined minerals shall be implemented in accordance with law.
 - (b) Mining of minerals being common construction materials within the scope of an area of land which a family household or individual uses in accordance with the law on land, in cases where the mined product will only service construction by such family household or individual.
4. The Government shall issue a list of minerals which are categorized as common construction materials."

8. *To add a new article 43a as follows:*

"Article 43a *Mining of minerals in area of project for investment and construction of works*

1. Mining of minerals in the area of a project for investment and construction of works, except for the works stipulated in clause 2 of this article, shall be implemented as follows:
 - (a) In the case of a zone in which mineral resources have already been investigated and assessed, or an area in which mineral resources have not yet been investigated and assessed but in which minerals have been discovered, the

State body authorized to issue a licence for mineral activities stipulated in article 56.1 of this Law shall issue a decision on exploration as the basis for granting permission for mining prior to approval of the investment project or issuance of permission for the investment;

- (b) In the case of an area in which mineral resources have not yet been investigated and assessed but in which minerals are discovered during the building process, the State body authorized to issue a licence for mineral activities stipulated in article 56.1 of this Law shall issue a decision on permitting or not permitting mining; and a decision on the schedule for mining in cases where that is essential to the building schedule. In such case, mineral exploration shall not be compulsory.
2. In the case of an area for a project for investment and construction of important national works for which the National Assembly has authority to decide investment policy or of major works for which the Government or Prime Minister of the Government has authority to decide investment policy, being either in a zone in which mineral resources have already been investigated and assessed or in an area in which mineral resources have not yet been investigated and assessed but in which minerals have been discovered, the Ministry of Natural Resources and Environment shall preside over co-ordination with ministries and branches concerned and with the people's committee of the province or city under central authority where the works are located to issue a decision on mining and to issue a mining licence in accordance with authority delegated pursuant to article 56.1 of this Law in order to ensure compliance with the building schedule.
3. In the case where mining of minerals as stipulated in clauses 1 and 2 of this article would be ineffective or no organization or individual applies for permission to mine, the State body authorized to issue a licence for mineral activities as stipulated in article 56.1 of this Law shall issue a decision not permitting mining and shall provide a written reply to the body which made the investment decision or issued the investment licence, or to the investor.
4. In the case of mining of minerals as stipulated in clauses 1 and 2 of this article where the organization or individual with permission to mine minerals is not the investor of the construction works to which the State has allocated or leased land, the two parties shall reach agreement on land use in accordance with the law on land in order to conduct mining of minerals."

9. *To amend and add to article 49 as follows:*

"Article 49 *Individual mining*

1. Individual mining shall be permitted to be conducted for left-over minerals in mines subject to a decision on closure for liquidation or on dumping and waste grounds of mined and processed minerals from mines subject to a decision on closure.
2. Any lawful licence to conduct individual mining which was issued prior to the date of effectiveness of this Law may continue to be implemented until the date of expiry of such licence."

10. *To amend and add to article 55 as follows:*

"Article 55 *Authority for State administration of minerals*

1. The Government shall exercise uniform State administration of minerals.
2. The Ministry of Natural Resources and Environment shall be responsible before the Government for exercising State administration of minerals throughout the whole country.
3. The Ministry of Industry shall exercise State administration of the industry of mining and processing minerals, except for minerals being construction materials and except for minerals being raw materials for production of cement.
4. The Ministry of Construction shall exercise State administration of the industry of mining and processing minerals being construction materials and minerals being raw materials for production of cement.
5. People's committees at all levels shall exercise State administration of minerals within their respective localities in accordance with their respective authority.
6. Ministries and ministerial equivalent bodies shall, within the scope of their respective duties and powers, be responsible to co-ordinate with the Ministry of Natural Resources and Environment, the Ministry of Industry, the Ministry of Construction and people's committees of provinces and cities under central authority in the exercise of State administration of minerals.
7. The Mineral Reserves Assessment Council shall have authority and responsibility to assist the Government in the evaluation and

approval of mineral reserves in reports on exploration of minerals, except for minerals being common construction materials and peat.

8. The Government shall provide regulations on the specific authority and responsibilities for State administration of minerals of the Ministry of Natural Resources and Environment, the Ministry of Industry, the Ministry of Construction and of people's committees at all levels; and on the organization and operation of the Mineral Reserves Assessment Council."

11. *To amend and add to article 56 as follows:*

"Article 56 *Authority and procedures for issuance, extension and withdrawal of licences to conduct mineral activities*

1. Authority to issue, extend, withdraw and permit surrender of licences to conduct mineral activities, and to permit the assignment of the right to conduct mineral activities, shall be regulated as follows:
 - (a) The Ministry of Natural Resources and Environment shall issue mineral prospecting permits, mineral exploration licences, mineral mining licences and mineral processing licences, except in the cases stipulated in sub-clause (b) of this clause;
 - (b) People's committees of provinces and cities under central authority shall issue licences for individual mining as stipulated in articles 49 and 50 of this Law; licences for prospecting, exploration, mining and processing minerals being common construction materials and peat; mineral mining licences and mineral processing licences for zones which have already been explored, approve mineral deposits not within the master plan for nationwide mineral mining and mineral processing as approved by the competent State body or not within the category of national mineral resources reserves;
 - (c) A body which is authorized to issue any type of licence to conduct mineral activities shall also have the right to extend, withdraw or permit surrender of that same type of licence and to permit the assignment of the right to conduct mineral activities in accordance with law.
2. The Government shall provide regulations on the conditions and procedures for issuance, extension, withdrawal of and permission to surrender licences to conduct mineral activities, and on

permission to assign and bequeath the right to conduct mineral activities, and on registration of mineral activities."

Article 2

1. Article 48 of the *Mineral Law* is hereby repealed.
2. The expression "clauses 1 and 2 of article 5" in article 21.1, article 25 and article 31.2 shall be replaced by the expression "clause 3 of article 5".

Article 3

1. This Law shall be of full force and effect as of 1 October 2005.
2. The Government shall provide detailed regulations and guidelines for implementation of this Law.

This Law was passed by Legislature XI of the National Assembly of the Socialist Republic of Vietnam at its 7th Session on 14 June 2005.

The Chairman of the National Assembly

NGUYEN VAN AN