

Ministry of Mines

Frequently Asked Questions (FAQ)

Question: Who is the owner of minerals in India?

Answer: In the federal structure of India, the State (Provincial) Governments are the owners of minerals located within the boundary of the State concerned. The Central Government is the owner of the minerals underlying the ocean within the territorial waters or the Exclusive Economic Zone of India.

Question: Who grants mineral concessions?

Answer: The State Governments grant the mineral concessions for all the minerals located within the boundary of the State, under provisions of the Mines and Minerals (Development and Regulation) Act, 1957 and Mineral Concession Rules, 1960. For minerals specified in the First Schedule to the Mines and Minerals (Development and Regulation) Act, 1957, before granting the mineral concession, approval of the Central Government is necessary.

Absolute powers for deciding on procedures of seeking applications for and granting mineral concessions, fixing rates of royalty, dead rent, and power to revise orders rest only with the State Government.

Question: What are the different mineral concessions in India?

Answer: Three kinds of mineral concessions are recognized in Indian law, viz Reconnaissance Permit (RP), Prospecting License (PL) and Mining Lease (ML).

RP is granted for preliminary prospecting of a mineral through regional, aerial, geophysical or geochemical surveys and geological mapping.

PL is granted for undertaking operations for purpose of exploring, locating or proving

mineral deposit.

ML is granted for undertaking operations for mining any mineral.

Question. Who is eligible to obtain mineral concessions in India?

Answer: Any 'person' who is either an Indian national or a company registered in India under section 3(1) of Companies Act, 1956 is eligible to obtain mineral concessions. While in case of an individual, the 'person' should be a citizen of India, in case of a firm or other association of individuals, all members of the firm or members of the association should be citizens of India for such a 'person' to be considered as 'Indian national'.

Question. What is the period and tenure for which a 'reconnaissance permit' is granted?

i. A RP for any mineral or prescribed group of associated minerals is granted for 3 years and for a maximum area of 5,000 square kilometer, to be relinquished progressively.

ii. After 2 years, the area should be reduced to 1,000 square kilometer or 50% of the area granted, whichever is less

iii. At the end of 3 years, area held under a RP should be reduced to 25 square kilometer.

iv. A RP cannot be renewed.

iv. In a State (Province), a person can be granted a maximum area of 10,000 square kilometer in 2 or more RPs.

v. A person may obtain RPs in various States simultaneously up to the State-wise

area limits. However, a person acquiring in the name of another person a RP which is intended for himself shall be deemed to be acquiring it himself and limits would apply accordingly.

vi. The person who undertakes reconnaissance operations under RP enjoys preferential right for grant of prospecting license.

Question. What is the period and tenure for which a 'prospecting license' is granted?

i. A PL for any mineral or prescribed group of associated minerals is granted for a maximum period of 3 years and for a maximum area of 25 square kilometer.

ii. A PL can be renewed in such a manner that the total period for which a PL is granted does not exceed 5 years.

iii. In a State (Province), a person can be granted a maximum area of 25 square kilometer in 1 or more PLs, but if the Central Government is of the opinion that in the interest of development of any mineral it is necessary to do so, the maximum area limit can be relaxed.

iv. A person may obtain PLs in various States simultaneously up to the State-wise area limits. However, a person acquiring in the name of another person a PL which is intended for himself shall be deemed to be acquiring it himself and limits would apply accordingly.

v. The person who undertakes prospecting under PL enjoys preferential right for grant of mining lease.

Question. What is the period and tenure for which a 'mining lease' is granted?

- i. A ML for any mineral or prescribed group of associated minerals is granted for a minimum period of 20 years and a maximum period of 30 years and for a maximum area of 10 square kilometer.
- ii. A ML can be renewed for periods not exceeding 20 years.
- iii. In a State (Province), a person can be granted a maximum area of 10 square kilometer in 1 or more MLs, but if the Central Government is of the opinion that in the interest of development of any mineral it is necessary to do so, the maximum area limit can be relaxed.
- iv. A person may obtain MLs in various States simultaneously up to the State-wise area limits.

However, a person acquiring in the name of another person a ML which is intended for himself shall be deemed to be acquiring it himself, and limits would apply accordingly.

Question: What is the policy for foreign direct investment in the mining sector?

Answer: The entrepreneurs desirous of bringing in foreign direct investment in the non-fuel and non-atomic mineral mining sector are eligible to bring in the foreign equity just by informing the Reserve Bank of India, termed as 'automatic approval'.

Except for precious stones and diamonds, automatic approval of foreign direct investment up to 100% is permissible for exploration and exploitation of all non-fuel and non-atomic minerals, including for gold and silver. For precious stones and diamonds, automatic approval for foreign direct investment is permissible up to 74%. However, even for precious stones and diamonds,

higher foreign equity is permissible, and the Government considers such cases for approval on merits on a case to case basis through the Foreign Investment Promotion Board.

Question: What steps should a transnational/ foreign company take to operate in the mining sector in India?

Answer: For being eligible to obtain a mineral concession in India, a transnational/ foreign Company will be required to incorporate and register as an Indian company under Section 3(1) of Companies Act, 1956. There is absolutely no bar to the extent of foreign holding in such a company, as long as it is registered in India.

The Indian company can thereafter apply for mineral concessions to the State (Provincial) Government concerned.

Question: What is the principle of granting of mineral concessions?

Answer: The general principle followed in granting mineral concessions for minerals other than minor minerals is, other things being equal, the principle of 'first come first serve'. However, a person who has undertaken reconnaissance operations under a RP has the preferential right for obtaining a PL, and similarly, a person who has prospected for the mineral under a PL has the preferential right for obtaining a ML.

In other cases of simultaneous applications for mining lease, the law provides that the State Government could, in a transparent manner evaluate relative merits of the applicants on objective criteria like special experience, financial resources, level of proposed investment etc. and grant mining lease accordingly.

In addition, for all minerals included in the First Schedule to the MMIDR Act, 1957, approval of the Central Government should be obtained before passing any order.

Question: Does a person have any preferential right to obtain a mineral concession for the area over which he has surface rights?

Answer: No. Having surface rights do not accord any preferential right to a person for obtaining mineral concessions.

Question: After applying for the mineral concession, how long does it take to know the decision?

Answer: As per MCR, 1960, the State Government should convey the decision on a mineral concession applied for as follows:

Reconnaissance Permits: 6 Months

Prospecting License : 9 Months

Milling Lease: 12 Months.

In case of delay, the State Governments are required to indicate the reasons for the delay in writing.

Also, in case the State Government does not find the application worthy of grant of the concession applied for, the law requires that the applicant should be given an opportunity of being heard before the application is rejected.

Question: When does the Mineral Concession become operative?

Answer: The State Government takes a decision on the application for the mineral concession in a time bound manner, as prescribed in Mineral Concession Rules, 1960. After the decision to grant mineral concession is conveyed, the mineral concession should be executed within three months for RP and PL, and within six months for ML, after completing all documentation.

The period of tenure of the mineral concession is operative from the date of the execution of the mineral concession in question.

Question: Can a mining lease be granted without first granting a prospecting license?

Answer: Yes, if the State Government is satisfied that there is evidence to show that the area for which the lease is applied for has been prospected earlier or the existence of mineral contents therein has been established otherwise than by means of prospecting such area.

Question: How does a person renew a mining lease? What rights does he have regarding renewal of the mining lease?

Answer: A person is required to apply for renewal of the mining lease 12 months prior to the date of expiry of the subsisting mining lease. Any delay in such filing can be condoned by the State Government on merits provided the application for renewal is made prior to the date of expiry of the subsisting mining lease. The documentation required and the procedure involved for renewal of a mining lease is the same as that for a new mining lease, and an application for renewal can be granted or rejected by the State Government on merits.

However, if a person applies for renewal of the mining lease in time, he can continue mining even beyond the date of expiry of the subsisting mining lease until the State Government passes a decision on his application for renewal.

Further every person seeking renewal of the mining lease for mineral which is used in his own industry is entitled for renewal of the lease for a period not exceeding 20 years.

Question: On what grounds can a mining lease be terminated?

Answer: A mining lease lapses, if after execution of the mining lease, mining

operation does not commence in two years time. If for genuine reasons more time is required to commence mining operation, the entrepreneur should inform the State Government well in advance and take permission.

After commencement of mining operation, if the area is kept idle/not worked for a continuous period of two years, the mining lease also lapses. In such cases also the entrepreneur should inform the State Government and take permission in order to avoid lapsing of the mining lease.

If the mining leaseholder violates any of the terms and conditions of the mining lease, including default in payment of mining dues, the mining lease can be terminated.

For all minerals other than minor minerals, the Central Government reserves the right to direct premature termination of a mining lease for grounds specified in section 4A(1) of the MMDR Act, 1957, which include preservation of natural environment, prevention of pollution, preservation of monuments etc.

Question: Whom does a person approach if he has grievance against the State Government?

Answer: If a person has any grievance against any order passed by the State Government (impugned order) in respect of any mineral other than a minor mineral, he can file revision application with the Central Government within three months of the impugned order.

Question: What are the provisions of royalty and dead rent, and who collects them?

Answer: The Central Government notifies the rates of royalties and dead rent payable for various minerals from time to time through amendment in the Second and Third Schedules of the Mines and Minerals (Development and Regulation) Act, 1957. Once fixed, the law provides that these rates cannot be enhanced before three years.