

**MINING LAW OF THE DOMINICAN REPUBLIC**  
**LAW No. 146**

Substantive Provisions

Title I  
Dominion over Mineral Substances

Chapter I  
Dominion

ARTICLE 1.- Mineral substances of every nature which are found in the soil of the national territory as well as in the underwater soil and subsoil of the territorial sea, belong to the State.

ARTICLE 2.- For purposes of this Law, there shall be considered as mineral substances, whatever their origin or form of deposit, guano, phosphate, substances, marble, travertine and other ornamental rock, amber, graphite, coal and lignite, siliceous and metalliferous sand, talc, Kaolin, and other industrial clays, salt, gypsum and other similar substances.

ARTICLE 3.- The right to explore, exploit or process the mineral substances is originally acquired from the State through concessions or the other contracts granted in conformity with the prescriptions of this Law:

ARTICLE 4.- Petroleum and other hydrocarbons and mineral medicinal waters and gravel and sands constituting construction materials, which are governed by especial laws, are excepted from the provisions of this Law.

ARTICLE 5.- Radioactive mineral resources, which can be explored and developed solely pursuant to especial contracts concluded with the State, are also excepted for the provisions of this Law.

ARTICLE 6.- A mining concession constitutes a right to distinct from that of ownership of the land on which it is located, even though the former and the latter belong to the same person.

ARTICLE 7.- The exploration, exploitation and processing of mineral substances shall be considered of public utility and in the national interest, and shall receive preference over any other utilization of the land, with the exception of those locations specified in Article 30 of this Law.

ARTICLE 8.- All mining concessions are subject to the jurisdictions of the laws and the courts of the Republic and when they involve foreigners, they shall be deemed to have renounced all diplomatic recourse over any matter relating to the concession.

ARTICLE 9.- Mineral concessions may not be granted to foreign governments, either directly or through physical or judicial persons. In cases duly justified and approved beforehand by the National Congress, the Executive Power may conclude special agreements with partially or wholly state-owned foreign mining enterprises.

ARTICLE 10.- A mining concession is considered real property, including property intended for these operations such as installations, machinery, apparatus, instruments, vehicles, animals and such other things as are used for the economic purpose of the concession notwithstanding the fall without its perimeter.

ARTICLE 11.- A mining concession gives the exclusive right over all substances within the perimeter thereof, to explore, exploit or develop in accord with the provisions of this Law.

Nevertheless, extraction of gold from the rivers and streams effected by manual rudimentary means, may be done as long as it does not interfere with the operations of mining concessions.

ARTICLE 12.- Mineral concessions are not susceptible of physical division and are allowed solely by means of shares of stock.

## CHAPTER II UNQUALIFIED PERSONS

ARTICLE 13.- The rights conferred by this law may not be exercised by:

- a) The President and Vice-President of the Republic, the Secretaries of State, Justices of the Supreme Court of Justice, Senators and Deputies while exercising their functions and for up to six months after having ceased to discharge same.
- b) The Director of General Mines and the officials and employees of the Government agencies that intervene in mining activities or in their financial supervision or inspection, while exercising their functions or employment and for up to six months after having ceased to discharge same.
- c) The wives and ascendants or descendants in the first degree of persons referred to in this Article.

ARTICLE 14.- The prohibition contained in the foregoing article does not include rights to exploration or exploitation concessions nor the acquisition of any mining rights prior to the election or nomination of the officials or employees referred to, nor mining rights which they or their spouses acquire by inheritance or legacy or with which their spouses contribute to the material property.

ARTICLE 15.- A person may not represent simultaneously two or more physical or judicial persons involved in a lawsuit relating to the same land when these have opposing interests.

ARTICLE 16.- Applications for mining concessions that infringe the provisions contained in this Chapter shall be null.

### CHAPTER III FISCAL RESERVES

ARTICLE 17.- The Executive Power may declare the fiscal reserve of a given mining zone, to establish mining records, for the exploration and evaluation of deposits of mineral substances, for the establishment of exploitations through special contracts, or for other reasons of interest to the State, respecting previously acquired rights. The total or partial suspension of the fiscal reserve can only be effected by a special legal provision.

ARTICLE 18.- Fiscal reserves for mining records purposes, shall have a maximum duration of two years from the date of the Decree of the Executive Power. Upon completion of this period, the reserve shall remain automatically suspended without need for a new Decree to that effect.

ARTICLE 19.- Any mining exploitation within a fiscal reserve area, shall be granted by public auction and the subsequent conclusion of special contracts with the State. The conditions stipulated in the contracts may not be less favorable to the national economic interest than those established in this Law.

ARTICLE 20.- No mining concession may be applied for within the perimeter of a current fiscal reserve area, whether or not the area applied for overlaps in whole or in part.

## TITLE II INSPECTIONS AND EXPLORATIONS

### CHAPTER I INSPECTIONS

ARTICLE 21.- Inspections consist of the search of indications or manifestations of mineral substances. There are two types of inspections:

- a) Surface inspections which are carried out on the ground.
- b) Air inspections by means of aerophotogrametric, aerophysical and other methods, for the purpose of preparing maps and locating favorable areas, within large extensions of land, for later land exploitation.

ARTICLE 22.- Every physical or juridical person, national or foreign, with exception of those indicated in Article 13, has the right to carry out freely surface inspections in all the territory of the Republic, with the exception of the areas where existing exploration and exploitation concessions have been granted and with the limitations contained in this Law.

ARTICLE 23.- It is understood that the right to a free surface inspection does not authorize anyone to violate private property. For the purpose of making any inspection on private property, it is an indispensable requirement to obtain permission from the owner of the land. If such permission should be refused, the interested party can resort to the Director general of Mines upon previous notice to the owner or occupant of the land, for the purpose of hearing his objections and authorizing or not the surface inspection.

ARTICLE 24.- In the event of damages to a property in the course of a surface inspection, the owner or occupant of the property shall receive just compensation pursuant to the procedure established in articles 181 and 182 of this Law.

ARTICLE 25.- In the event that during the surface inspection and indication is found of the presence of mineral substances, the interested party may report it to the Mining department. This report accords a right of priority for thirty (30) days to request an exploration or exploitation concession, complying with the requirements of this Law, within the area delimited by a circle with a radius of two thousand (2000) meters whose center shall be the place the mineral was discovered.

ARTICLE 26.- Air inspection is the exclusive right of the State. However, the Executive Power, upon the recommendation of the Secretariat of State for Industry and Commerce, can grant special permits for making air inspections.

### CHAPTER III EXPLORATION CONCESSIONS

ARTICLE 27.- Exploration consists of the execution of works in the soil or subsoil, for the purpose of discovering delineating and defining zones containing deposits of mineral substances, by means of technical-scientific investigations, such as geological, geophysical, geochemical and others including drillings, samplings, analyses and metallurgical tests, maps, road constructions and other means access for that purpose.

ARTICLE 28.- The exploration of the national territory is of primary interest to the state, for the purpose of discovering deposits of mineral substances for later exploitation and economic utilization.

ARTICLE 29.- The Secretariat of State for Industry and Commerce shall grant exploration concessions to persons who apply for them, in accordance with the conditions and requirements provided in this Law.

ARTICLE 30.- Mining works may not be carried out within the area of towns or where there are cemeteries, public parks or gardens.

No may such works be done near buildings, ways of communication, power, telegraph or telephone lines, irrigation canals, pipelines, public works of any kind and historical monuments not in the vicinity of fortresses, powder magazines, or shipyards, except with the express authorization of the Executive Power.

ARTICLE 31.- An exploration concession gives an exclusive right to explore mineral substances which are found within the perimeter of the same, for a period of three (3) years, computed from the date of the granting thereof.

ARTICLE 32.- The same physical or judicial person may not be granted an extension of land in a exploration concession exceeding thirty thousand (30,000) mining hectares, comprised in one concession or in separate concessions.

For the purposes of this article, the Secretariat of State for Industry and commerce may consider as the same juridical person two or more concerns belonging to the same owner or owners.

ARTICLE 33.- The mining hectare, which is the unit of land for exploration concessions, is a solid of undefined depth limited to the ground by four vertical corresponding to a horizontal square of one hundred (100) meters per side.

ARTICLE 34.- the planes delimiting exploration and exploitation concessions shall constitute rectangular figures with entering and outgoing angles at ninety (90) degrees, with such orientations the interested party may indicate.

ARTICLE 35.- The exploration concessionaire has the exclusive option to obtain within the exploration area, exploration concessions, which may be applied for at any time within the exploration period, subject to the requirements established in this Law.

ARTICLE 36.- It shall not be necessary in order to obtain an exploration concession that any mineral has been discovered nor that the report of minerals referred to in article 25 has been made.

ARTICLE 37.- Exploration or exploration concessions confer a right to carry out mining activities on all the lands contained within their perimeter, with the obligation to justly indemnify the owner of the ground of the occupants thereof, for whatever injury or damage has been caused them, pursuant to the procedure established in articles 181 and 182 of this Law.

ARTICLE 38.- The owners or occupants of lands within a perimeter that includes an exploration concession, may not refuse to allow works carried out in said lands for exploration purposes when they comply with the provisions of Articles 181 and 182 of this Law.

Neither may the owners or occupants of the lands adjoining the areas covered by exploration concessions refuse to allow the passage of the concessionaire or his employees for access to those areas. In the event that the latter is refused, authority from the Director General of Mines shall be obtained, upon notice to the owner or occupant of the land, in order to prior determine the causes of the refusal and find a solution to the problem that arouse.

ARTICLE 39.- The beneficiary of an exploration concession shall be obligated to comply with the laws and regulations concerning police, health, labor, social security and labor accidents and those other which are applicable by reason of his activities.

ARTICLE 40.- During the period of exploration, under penalty of forfeiture, no exploration works can be performed; and only what the Mining Department shall determine, can the mineral substances eventually extracted be disposed of.

ARTICLE 41.- When in spite of continual effort and adequate of the diligence no areas containing deposits of mineral substances shall have been defined, the concessionaire may apply for an extension to the Mining Department, which, upon prior study of the case, shall grant extensions up to one year at time and in no case for more than two years in addition to the exploration period provide in article 31.

### TITLE III EXPLOITATION AND PROCESSING

#### CHAPTER I EXPLOITATION CONCESSIONS

ARTICLE 42.- For the purposes of this Law, exploitation consists of the preparation and mining of mineral substances from the deposits for economic utilization.

Article 43.- The same physical person may not be granted an extension of land in an exploitation concession exceeding twenty thousand (20,000) mining hectares, comprised in one concession or in separate concessions.

For the purpose of this article, the Secretariat of State for Industry and commerce may consider as the same juridical person two or more concerns belonging to the same owner or owners.



ARTICLE 44.- The exploration concessionaire, upon applying for the conversion of his concessions into one or more exploitation concessions, can reduce the explored area if it suits him but in no case may the aggregate of the areas selected for exploitation exceed twenty thousand (20,000) mining, under penalty of nullity.

ARTICLE 45.- The unit of land for exploitation concessions and the form of the maps which delimit them are those outlined in Article 33 and 34, respectively.

ARTICLE 46.- When between two or more neighboring mining concessions there is left a free space which does not permit the completion of one mining hectare, such space shall form an excess, which may be granted by the Secretariat of State for Industry and Commerce to the first of the adjoining concessionaires who shall apply for it to the Mining Department.

ARTICLE 47.- Before issuance of definitive title to an exploitation concession, the interest party, previously authorized by the Secretary of State for Industry and Commerce, shall delimit on the land the perimeter thereof, by the placement of solidly built landmarks with an identifying sign. If the sides of the rectangle are very far from each other, or the landmarks cannot be placed, witness landmarks shall be built on the most projecting portions of the region. This delimitation shall be verified on the spot by the Mining Department, which shall approve it or shall point out the proper correction of the fundamental technical errors, if any.

ARTICLE 48.- Exploitation works shall be subject to the restrictions prescribed in Article 30 of this Law.

ARTICLE 49.- An exploitation concession gives to the concessionaire the exclusive right to exploit, process, melt, refine and utilize economically for a period of seventy-five (75) years the mineral substances which he shall mine within the perimeter of this concession, provided that he complies with the requirements provided in this Law. However, every twenty-five (25) years the concessionaire is obligated to submit himself to the tax treatment provided by the mining legislation governing at the time.

ARTICLE 50.- The State shall grant exploitation concessions through the Secretariat of State for Industry and Commerce, upon a prior favorable report from the Mining Department.

ARTICLE 51.- Exploitation concessionaires shall have the right of access to their concession area as provided in article 65 and to carry out all the mining activities described in Article 64, within the perimeter of their concession, with the obligation of indemnification indicated in Articles 181 and 182.

ARTICLE 52.- The exploitation concessionaire shall be obligated to comply with police, health, labor and social insurance laws and regulations, including work accidents and regulations concerning environment protection and such other provisions as may be applicable to mining activities.

## CHAPTER II PROCESSING PLANTS

ARTICLE 53.- For the purpose of this Law, a processing plant shall be considered to be the industrial establishment comprising related installations and constructions where operations of mechanical concentration or mineral-metallurgical treatment of any type performed on mineral substances, including melting or refining operations, for the purpose of obtaining mineral concentrates and metallic compounds, meals, metalloids, or non-metallic minerals which may be utilized by other industries.

ARTICLE 54.- For the installation of a processing plant it shall not be necessary to be an exploitation concessionaire if the mineral substance will be acquired from third parties. However, in these cases, it shall be necessary to obtain an expressed authorization from the Secretariat of State for Industry and Commerce, to which the plans and specifications of the plant and other information which the said Secretariat deems pertinent, shall be submitted, except data relative to secret technical processes.

After studying the documentation, the Secretariat of State for Industry and Commerce shall or shall not authorize the

installation of the plant. The authorized interested party shall submit these plans specifications to the Secretariat of State for Public Works and Communications and to the Secretariat of State for Public health and social welfare for legal purposes.

ARTICLE 55.- No processing plant may be installed in places where, in the judgment of the Secretariat of Public Health and Social Welfare, the installation of such plant would affect the wholesomeness of the region.

ARTICLE 56.- Every processing plant should prevent materials emitted from its chimneys from causing damage to third parties and shall attempt the industrial use of such materials or shall neutralize the noxious effect of same so as to avoid pollution of the area. The waste material should be destined to industrial utilization or its harmful effect should be neutralized so as to avoid pollution of the area.

ARTICLE 57.- The residue from the processing of mineral substances shall be deposited on the ground owned by the companies and the liquid material discharge from the plant in rivers should be devoid of any harmful substance which could pollute the waters in a dangerous manner for their use or consumption or for the fluvial or maritime fauna.

ARTICLE 58.- The owners of processing plants who acquire their raw material from third parties shall enjoy the rights granted by this law to exploitation concessionaires to such extent as may be necessary for their own purposes, including the right to apply for the expropriation of lands and the establishment of easements.

ARTICLE 59.- As to fiscal incentives, all processing plants, without exception, shall enjoy the incentives prescribed in this Law. The Industrial incentives and Protection Law, there before shall not be applicable to processing plants.

ARTICLE 60.- Processing plants or any installation serving mining exploitation, shall conform to the laws concerning construction, sanitation and hygiene and other legal or regulatory provisions applicable to industrial installations and to such other regulations as the Executive Power may issue to that effect.

The working personnel of those plants shall be subject to all provisions applicable to the working personnel of the other industries of the country.

Processing plants and their installations must be inspected periodically by the Mining Department.

#### TITLE IV RIGHTS AND OBLIGATIONS

##### CHAPTER I RIGHTS OF CONCESSIONAIRES

ARTICLE 61.- The resolution of the respective competent authority constitutes the title which gives the right to explore mineral substances within the corresponding concession.

ARTICLE 62.- No authority may order the suspension of mining works within the concession area, under sanction of payment of damages and losses caused to the concessionaire, except in cases of invasion of surface or underground areas, or whenever it shall be required by the public order, and the health and lives of the workers.

ARTICLE 63.- For the usufruct of the subsoil the soil be used by the concessionaire even if he is not the owner of the land, whether it is owned by the State or by private persons, on the condition that he shall compensate such damages or losses as might be caused during the mining operations.

ARTICLE 64.- During the life of exploration and exploitation concessions, the concessionaire may erect buildings, camps, deposits, pipelines, install pumping and power plants, pipes, electric transmission lines, telephone lines and other means of communications, construct roads and local transportation systems, within the limits of this concession, by submitting himself to the provisions of this law and other applicable laws. If the concessions in a exploitation concession or one covering a processing plant, the concessionaire can also install processing and concentrating plants, metallurgical plants, construct canals, pipelines or gas lines, docks and other shipping facilities and, in general, erect the necessary constructions for the rational development of the exploitation.

ARTICLE 65.- Exploration and Exploitation concessionaires may have access to the area of his concession through lands of the State or of private persons, inside or outside of the perimeter of the concession, necessarily using the way most adequate and least damaging to third parties, and complying with the provisions established by this law.

ARTICLE 66.- The Exploitation concessionaires and concessionaires of processing plants have the right to apply for the expropriation, after payment of the corresponding indemnity, in accordance with the Constitution and the laws governing the matter, of land which is indispensable outside of the perimeter of the concession, in the judgment of the Mining Department, for the purposes indicated in Article 64 of this Law.

ARTICLE 67.- Exploitation and Exploration concessionaires and concessionaires of processing plants have the right to utilize, upon prior compliance with the current legal provisions concerning waters and environment protection, the fluvial waters which they may need for the purposes of their concession. Likewise, they may make use of the waters which overflow or appear during the mining come from the drainage of mines or from properties of third persons, having priority, the concessionaire who discovered them.

ARTICLE 68.- Concessionaires and their administrators are obligated to see that the lives and health of the workers are not endangered, that public tranquility is not disturbed, nor the safety of neighboring mines or the firmness of the lands and edifications of the surface threatened.

ARTICLE 69.- Concessionaires are obligated to start the corresponding works, under sanction of forfeiture during the following periods of time.

- a) Exploration, within six (6) months after the date of the granting of the concession.
- b) Exploitation, within one year after the date of the granting of the concessions.
- c) Processing plants, within one year after obtaining the authorization for installation.

ARTICLE 70.- Concessionaires may not interrupt the works pointed out in Articles 27, 42 and 53, respectively, under sanction of forfeiture, during the following periods of time:

- a) Exploration, for more than six (6) continuous months.
- b) Exploitation, for more than two (2) continuous years.
- c) Processing plants, for more than two (2) continuous years.

ARTICLE 71.- If due to verified force majeure, or because of the economic conditions of the market, the suspension of the works should continue for more than the periods of time established above, the Mining Department shall successive extensions for like periods of time, provided the concessionaire shall justify his application.

ARTICLE 72.- Concessionaires shall render to the Mining department semi-annual progress report and annual operation reports, within thirty (30) days and ninety (90) days following the respective period, under sanction of fine, including the following information:

- a) Exploration concessionaires, in their semi-annual reports shall include the sequence of their activities and expenses incurred; in the annual reports, they shall inform of the results obtained during the period,

including samplings, surveys and geological correlation, methods of exploration employed for the localization and definition of deposits of mineral substances.

- b) Exploitation concessionaires, in their semi-annual reports shall indicate the progress of their activities; and in their annual reports they shall formally inform about their operations, including production with statistical data, development and preparation of deposit or deposits, mineral reserves, tonnage mined and processed during the period and such other data as the Mining Department may require.
- c) Concessionaires of processing plants shall render annual production reports, including statistical of mines (sic!) acquired from third parties and tonnage treated during the period.

ARTICLE 73.- Concessionaires are obligated to have a legal domicile and an authorized manager or representative who shall always be considered with all the necessary powers to receive and execute the determinations which the competent authorities, in accordance with established in this Law, shall adopt with respect to their concession.

ARTICLE 74.- Concessionaires are obligated to carry out their works in accordance with methods and techniques which avoid damages to the owner of the ground and to the adjoining concessionaires, and if such damages should be caused they shall be obligated to indemnify for such damage or injury caused in the performance of said works.

ARTICLE 75.- It is the obligation of every concessionaire to pay the annual patent, royalty and income tax corresponding to him, under sanction of forfeiture. The concessionaire should deliver evidence of such payments to the Mining Department.

ARTICLE 76.- Concessionaires shall be obligated to keep legal accounting books and comply with the requirements and conditions of the current laws governing the matter.

ARTICLE 77.- Concessionaires are obligated to facilitate to the duly authorized officials of the Mining Department free access to all the installations of their concession and to furnish such technical and statistical data as they will acquire.

### CHAPTER III RELATIONS OF CONCESSIONAIRES

ARTICLE 78.- Concessionaires shall agree with the owners or occupants of the land as to the extension required by them for their living quarters, warehouse, workshops, processing and melting plants, dumping grounds for wasters, accumulation storage, purification or recuperation of waters; construction of deposits for waste material and garbage and other analogous uses exclusively for exploration, exploitation and processing purposes. Concessionaires should also make a contract with the owners or occupants of the ground for the use of all that may be necessary for their operations.

ARTICLE 79.- Roads built for the service of the mining industry are of public use. In those cases when two or more concessionaires benefit from the same expense for their preservation shall be prorated among them.

ARTICLE 80.- Concessionaires shall be allowed to enter neighboring concessions with the authorization of their owners. If the latter should refuse it, the Mining Department shall grant it in the following cases:

- a) When there is a founded suspicion that the neighbor is extracting minerals form the concession of the grantee.
- b) If it is reasonably presumed that the works of the neighbor may cause, for any reason, damage to the grantee.

### CHAPTER IV EASEMENTS

ARTICLE 81.- Exploitation concessionaires shall have the right to establish an easement, upon compensation if required and upon authorization by the Mining Department, of underground works through lands of others and to connect them with the surface, for the sole purpose of removing, in a more economic manner, the minerals or the drainage or to provide ventilation of the works of the mine. The expenses shall be borne by the concessionaires who benefits there from. In the event that profitable minerals are found during such works, the same shall be property of the owner of the serving mine, without cost on this part.



ARTICLE 82.- Concessionaires of exploitation and of processing plants have the right to construct, upon payment of an indemnification, on lands owned by others, the necessary surface easements for the operations of their concession requesting the proper authorization to the Mining Department.

ARTICLE 83.- All concessions are subject to easements of the natural passage of the waters from other concessions to the general drainage, provided that the said waters have to pass necessarily by the serving concession. If for the course of the water of a concession for the labors of another, there is necessity for a special waterway, the latter shall be constructed at the expense of the dominating concession.

ARTICLE 84.- The owner of the land or his successors shall have the right, within a period of one year, to regain possession in whole or in part of the serving lot in the following cases:

- a) When having authorized an easement for the execution of some work, such has not been begun, within a period of one year, or when the execution of the work is suspended for the same period, except in case of force majored or justifiable circumstances, in the judgment of the Mining Department.
- b) When the all or part of the serving lot is used for a purpose different from that which the easement was authorized; and
- c) When the concession is extinguished for whose benefit the easement was authorized.

ARTICLE 85.- For purposes of easements, the provisions of the Civil Code shall govern, except as otherwise provided for by the present law.

#### CHAPTER V EXPROPIATION

ARTICLE 86.- In case of disagreement between the parties, the lands required for the constructions provide in Article 64 of this Law, inside or outside of the perimeter of the concession, shall be considered of public utility for purposes of expropriation. Likewise, the space necessary for establishing drainage or transportation conducts or galleries can be expropriated to the neighboring mine.

ARTICLE 87.- Every declaration of public utility shall require a decree from the Executive Power giving to the concessionary the right to carry out the expropriation, in accordance with the Law of Eminent Domain, and in accordance with the procedure authorized in favor of the State and of other public institutions.

ARTICLE 88.- In case of urgency, the Decree of the Executive Power containing the declaration of public utility, may authorize the occupation of the zones absolutely need by the concessionaires in favor of the owners, without prejudice to the final decision which could decision which devolve over the evaluation of said lands.

ARTICLE 89.- The expropriated land may recovered by owner of the land for the same causes established in Article 84 of this Law.

ARTICLE 90.- In cases of expropriation, and once the recovery of what was expropriated had been decreed, the Secretary of State for industry and Commerce, taking into consideration the attending circumstances and the length of occupancy, shall determine the portion which the proprietor or his successor should return from the amount which he may have received as a price of what which was expropriated.

## TITLE V EXTINCTION OF CONCESSION

### CHAPTER I GENERAL PROVISIONS

ARTICLE 91.- The rights of physical or judicial persons over exploration and exploitation concessions shall terminate for the following causes: expiration, renouncement, nullity and forfeiture.

## CHAPTER II EXPIRATION

ARTICLE 92.- The rights on exploration concessions are extinguished upon expiration of the period of three (3) years provided in Article 31 of this Law, unfailing, or upon expiration of the additional period of two (2) years of the duly authorized as prescribed in Article 41.

ARTICLE 93.- The rights on exploitation concessions expire at the end of seventy-five (75) years provided in Article 49, and for tax purposes only, upon expiration of twenty-five (25) years from the date of their granting.

## CHAPTER III RENOUNCEMENT AND REDUCTION

ARTICLE 94.- The exploration or exploitation concessionary has the right during the life of the concession, to renounce the whole of his concession or any part of the same. In applying for one more exploitation concessions, the exploration concessionary shall renounce the area or areas of his concessions which exceed the twenty thousand (20,000) mining hectares established a maximum in Article 43 of this Law.

## CHAPTER IV NULLITY AND FORFEITURE

ARTICLE 95.- Concessions granted in violation of this shall be null. Nullity may be official by declaration of a third party. Therefore, the following shall be null.

- a) Concessions granted to unqualified persons as described in Article 13.
- b) Concessions granted directly or indirectly to foreign governments.
- c) Concessions granted within the perimeter of current fiscal reserve zones, in all the extension invades by them.

- d) Concessions granted within the perimeter of preexistent concessions, or in process, including the areas of current reports, in all the extension invades by them.
- e) Concessions granted to the same physical or judicial persons in excess of the maximum limits established in Articles 32 and 43.

ARTICLE 96.- Forfeiture occasions the extinction of the right of exploration and exploitation concessions and is produced by the causes pointed out in this law by means of an expressed document from the competent authority.

ARTICLE 97.- The Secretariat of State for Industry and Commerce shall declare the forfeiture of exploration concessions in the following cases:

- a) For not having begun the exploration defined in Article 27 within the period of six (6) months referred to in paragraph a) of Article 69.
- b) For interruption of works for a continuous period of more than six months, in contravention of the provisions of paragraph a) of Article 70.
- c) For having established a formal exploitation concession in contravention of the provisions of Article 40.
- d) When the annual mining patent has not been paid.
- e) When the projected works have not been executed.
- f) When failure to render the reports as provided in Articles 72 and 192 has been repeated.

ARTICLE 98.- The Secretariat of State for Industry and Commerce shall declare the forfeiture of exploitation concessions for the following causes:

- a) for not having begun the exploitation defined in Article 42 within the period of one year as prescribed in paragraph b) of Article 69.
- b) For interruption of work for a continuous period of more than two (2) years, in violation of the provisions of paragraph b) of the Article 70;
- c) When the annual mining patent has not been paid;
- d) When the royalty established in Article 119 has not been paid;
- e) If the income tax, when applicable, has not been paid

- f) When commercial production has ceased. For these purposes, it shall be deemed that commercial production has ceased when the concessionary sells mineral-metallurgical products without furnishing the State with any share profits resulting from income tax more than two (2) consecutive years.
- g) If within six (6) months following the granting of the exploitation concession foreign concerns have not organized a Dominican company, except for justified delays in the process thereof, or if Dominican personality were denied to them.
- h) Then the failure to render the reports provided in Articles 72 and 192 is repeated.

ARTICLE 99.- In cases of declaration of forfeiture the interested party may remove from the area of the extinguished concession, within the following four (4) months, the removable installations and equipment, over which at the end of such period he shall lose every right.

## TITLE VI CONTRACTS AND MINING SOCIETES

### CHAPTER I

ARTICLE 100.- For the purposes of this law there are distinguished two kinds of contracts: those which are made with the State and those which are stipulated between private parties, calling them commercial acts and as such they are subject to the provisions of the Commercial Code in all that is not provided for in this law.

### CHAPTER II CONTRACTS WITH THE STATE

ARTICLE 101.- The concessions granted in accordance with the prescriptions of this law are deemed contracts of adhesion with the State.

ARTICLE 102.- In fiscal reserve areas the special contracts entered into with the State shall include:

- a) Contracts of exploration and mineral-metallurgical investigations with international organizations.
- b) Contract of exploitation and of processing of mineral substances with private persons.

ARTICLE 103.- The State may also contract the services of entities specialized in mineral-metallurgical exploration and investigations, marketing and other aspects to the activities related to the utilization of mineral substances.

ARTICLE 104.- If it suits the concessionaires to convert their concessions into contracts of exploitation or of processing plants, the Executive Power may make such contracts only under conditions more favorable to the State than those established in this law.

### CHAPTER III CONTRACTS BETWEEN PRIVATE PARTIES

ARTICLE 105.- Contracts between private relative to mining shall be considered to be the transfers leases, loans, mortgages, pledges, organization and dissolution of corporations, promises of transfer and others the direct object of which is the acquisition, trade or enjoyment of the concessions of exploration, exploitation and processing plants, or rights inherent therein.

ARTICLE 106.- In order that contracts may be valid before third parties they should be recorded in the Public register of Mining Rights. This recorder should also be made in the corresponding Certificate of the title when the case involves registered lands in accordance with the Law concerning Registration of Lands.

ARTICLE 107.- Concessions and mining rights maybe transferred, either by an inter vivo act or by cause f death. The acquired has the obligation to record his right in the Public Register of Mining Rights in order to make it opposable to third persons.

ARTICLE 108.- Transfers of exploitation concessions, as well as the encumbrances, should be affected in favor of person or entities who meet the conditions specified in this Law, in the judgment of the Secretariat of State for Industry and Commerce. The same requirement applies in order to be auctioneer or adjudicator in real property foreclosure proceedings, except in the case of a titular creditor of the encumbrance.

#### CHAPTER IV MINING COMPANIES

ARTICLE 109.- Foreign concerns who apply for concessions of exploitation and of processing plants should organize Dominican companies and comply with the pertinent requirements of the Dominican laws.

ARTICLE 110.- Foreign mining companies that desire to explore in the country, shall cause their juridical existence to be recognized. For that purpose, they shall present to the Mining Department the following documents, duly legalized and translated into Spanish:

- a) Charter or instrument of constitution.
- b) By-laws, if required in the country of origin.
- c) Certificate of paid-in shares of the authorized capital stock.
- d) Certificate showing that the corporation is legally organized under the laws empower a general attorney in fact with full powers to handle its affairs and business in the Republic and shall constitute a legal domicile in the country.

ARTICLE 111.- While processing of the recognition of their legal personality is being completed, in compliance with Article 109 of this law, corporation may obtain exploitation concessions by showing that they have complied with the requirements prescribed in paragraphs c) and d) of the preceding article. If the recognition of their legal personality should be refused to them, the concessions obtained by them shall forfeit ipso facto.

ARTICLE 112.- Two or more persons who do not in fact constitute legally organized corporation, shall be jointly liable for their obligations before State. For purposes of forfeiture, nullity and any other pertinent provision, notifications served upon one of them shall have effect on all.

## TITLE VII SYSTEM OF TAXATION

### CHAPTER I GENERAL PROVISIONS

ARTICLE 113.- Taxation of the Mining Industry to the State shall consist of:

- a) The annual mining patent.
- b) The royalty on the exportation of mineral substances in their natural state other form of concentrates of metaliferous minerals; and
- c) The annual income tax.

ARTICLE 114.\_ The mining patent cannot be credited or deducted. In exchange the royalty on the exportation of mineral substances in their natural state or in concentrates shall constitute the minimum taxation received by the state, and, therefore, it shall only be deducted from the income tax to be annually.

### CHAPTER II MINING PATENTS

ARTICLE 115.- exploration and exploitation concessionaires shall be obligated, under sanction of forfeiture, to pay annually the mining patents established in this chapter. Payment shall be made in two fixed semi-annual periods which shall run uniformly for all, from the first July the thirtieth of June and from the first of July to the thirty-



first of December in each year. Payments shall be made in advance at the Department of Internal Revenues during the month of December and June of each year on the basis of the number of mining hectares awarded at that time to the concessionary.

ARTICLE 116.\_ Exploration and exploitation concessionaires shall pay the annual patent per mining, hectare in accordance with the following scale:

TOTAL NUMBER OF AWARDED HECTARES	RD\$PER MINING HECTARE	
	For Exploration	For Exploitation
Up to 1,000	0.10	0.20
Up to 5,000	0.20	0.50
Up to 10,000	0.40	0.80
Up to 15,000	0.60	1.20
Up to 20,000	1.00	2.00
Up to 30,000	1.50	----

ARTICLE 117.- The concessionaire of payment of mining patents, the fraction of a hectare shall be considered as a full mining hectare.

ARTICLE 118.- The concessionaire governed by previous contracts who have the option to avail themselves in part of the provisions of this law as far mining patents are concerned, shall pay RD \$25.00 pr mining hectare in the event that the extension of their concessions shall exceed the limits established in Article 32 and 43.

### CHAPTER III ROYALTY OF MINIMUM TAX

ARTICLE 119.- Mineral substances in their natural state or in the form of concentrates of metalliferous minerals which are exported, shall be subject to a royalty or minimum tax of five percent (5%) of the sales price F.O.B. Dominican port. The payment of the royalty shall be made temporally in the corresponding Customs Office within ten (10) days after the

shipment and shall be subject to a final liquidation within three (3) months after the exportation is made.

The sales price for the final liquidation shall be determined by the secretariat of State for Industry and Commerce jointly with the Central bank, in all cases in the most favorable manner of the State, by approving the price of transfer among economically related enterprises or fixing it taking consideration the quotations from the international market, in accordance with the purity and other characteristics of the mineral product exported, that appear in international publications, within ten (10) days prior to the shipment.

ARTICLE 120.- The five percent (5%) royalty on export may be credited against the payment of the income tax of the same fiscal year. Any excess of the royalty over the income tax of a given year may not be credited against the payment of the income tax of successive years.

ARTICLE 121.- Processing plants which are called smelting and refining plants, which export metallurgical products in the form of metallic compounds, metalloids and metals, shall not be subject to the payment of the five percent (5%) export royalty.

ARTICLE 122.- Exploitation concessionaires and owners of processing plants may only export their production after meeting the demand of the Dominican market. The sales price of the products on the Dominican market shall be the price F.A.S. Dominican port, determined by the secretariat of State for Industry and Commerce and the Central Bank in accordance with the provisions of the second paragraph of Article 119.

#### CHAPTER IV INCOME TAX

ARTICLE 123.- For every exploitation and processing of domestic mineral substances, the State shall receive forty percent (40%) of the net profit each year. This annual income tax shall be liquidated according to the procedures established in the Income Tax Law in force on the date of the granting of the concessions or the signature of the contract, irrespective of the tax on the personal income of the owners or stockholders of the concessionary corporations.

ARTICLE 124.- for the determination of the taxable net profit the exploitation concessionary cannot make any deduction because of exhaustion of the mine. The amount and percentages of amortization of previous exploration expenses must be approved y the Secretariat of State of Industry and Commerce in conjunction with the central bank of the Republic ate the time the concession or contract is executed.

ARTICLE 125.- In the determination of the taxable net profit, annual depreciations can be deducted in accordance with the following scales:

Equipment of processing plants (Concentration, smelting and refining).	5%
Trucks, tractors and light vehicles	20%
Road and transportation heavy maintenance equipment (mechanicals shovels, cranes, heavy tractors) and heavy Equipment in general.	10%
Buildings and other constructions of a permanent nature except those hereinafter indicated.	12%
Roads, docks and port works, highways, railroads, conveyors, aqueducts and pipelines.	10%
Equipment for underground work and underground installations.	10%
Constructions of a permanent nature such as living quarters for workers and technicians for educational purposes or recreation of workers and their families, including libraries, schools, clubs, theaters and other installations of a cultural nature.	5%

ARTICLE 126.- The accelerated depreciation for investments destined to promote the mining-metallurgical development may only be granted by the Executive Power. This privilege shall specifically be described in the title of the exploitation concession or contract.

ARTICLE 127.- The Income exemption on the income received by foreign entities resulting form interest earned in operations of mining-metallurgical credits shall be executed only by the Executive Power.

ARTICLE 128.- The Income tax on the mining industry shall be governed in all that is not provided in this Law by the Income Tax Law and the regulations thereof, in force at the time of the granting of the concession or contract.

## CHAPTER V EXONERATIONS

ARTICLE 129.- Exploration and exploitation concessionaires and the owners of processing plants shall enjoy such exonerations or reductions of taxes or duties as may be specified in their concessions, which can only apply to the importation of mining-metallurgical machinery and equipment of any kind, adequate vehicles for the projected works, chemical reagents and laboratory supplies, explosives, fuels (except gasoline, lubricants, substances and products and all the means of production required in the judgment of the secretariat of State for Industry and Commerce, upon the prior recommendation of the Mining Department, for the exploration, exploitation and processing of mineral substances, provided they are not manufactured in the country at a reasonable price and quality. Exonerations granted to exploitation concessionaires and to the owners of processing plants shall be in force a period of twenty-five (25) years, at the expiration of which they shall be reviewed in accordance with the policy of exonerations existing at that time.

ARTICLE 130.- Goods imported duty free may not be sold in the country except in accordance with the legal provisions in force of the matter.

ARTICLE 131.- The Monetary Board, exceptionally, in such cases as it may judge of national interest, for the benefit of mining and metallurgical enterprises which may require investments in the country of more than twenty (20) million pesos, may issue resolutions exonerating them from compliance with the legal and regulatory provisions relative to the delivery of foreign exchange, by authorizing the central Bank to allow that foreign exchange resulting from exportation of mineral substances or products, from the income derived from issue and insurance, as well as other income, be received directly by an attorney or trustee abroad and applied: a) to the payment of obligations contracted in foreign currency for exploitation and processing of mineral substances; b) to cover expenses of construction, improvement, enlargement and operations in foreign currency; c) to the payment of dividends of Dominican stockholders abroad, and d) to establish reserves for the payments mentioned above.

ARTICLE 132.- Loans in foreign currency which have been approved by the Monetary Board according to the provisions of paragraph c) of Article 3 of Law No. 251, dated May 11, 1964, and which are used for financing the exploitation or processing of mineral substances, shall not be subject to the legal limitations of the rate of interest.

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### TITLE VIII PROTECTION OF THE ENVIRONMENT AND THE USE OF WATERS

ARTICLE 133.- Residue from the exploitation and processing of mineral substances shall be deposited in grounds owned by the concessionaires, and the liquid waste material from plants, thrown in the atmosphere or in a river, shall be devoid of any substance which may pollute the air or the waters in forms and amounts dangerous to animal or vegetable life.

ARTICLE 134.- Concessionaires shall have the right to use the waters which run freely through their concessions, either for producing hydraulic power or for any other use applicable to the exploration, exploitation and processing of mineral substances, with the obligation to return them to their bed after using them, properly purified or free from substances which are harmful to the animal or vegetable life of the region.

ARTICLE 135.- If the waters needed by the concessionary should be of private ownership, he may make use them upon making a previous agreement with the owner or after the initiating steps for corresponding expropriation with the expressed authorization of the Mining Department. The expropriation of the waters shall not be allowed when such expropriation shall interrupt or endanger the supply of potable water to towns.

ARTICLE 136.- Whenever the proprietor of the land desires to change the course of current waters, he shall notify the mining concessionaires of the region. If the latter, within a period of fifteen (15) days after their notification, do not appear before the Mining Department to claim the right to use them, it shall be understood that they have renounced such right.

ARTICLE 137.- Upon verification by the Secretariat of State of Public Health and Social Welfare and the Secretariat of State of Agriculture of the pollution of the air or the waters of a region, the Secretariat of State for Industry and Commerce shall, at the request of the Mining Department, order the suspension of the operations causing it. This operation may not be resumed so long as it is not verified that the cause of pollution has satisfactorily been suppressed.

ARTICLE 138.- If the polluted air or waters shall cause damages to the people, the agriculture or the cattle, the responsible concessionary shall be obligated to indemnify the damages caused.

## PROCEDURAL PROVISIONS

### TITLE IX PROCESSING OF APPLICATIONS FOR MINING CONCESSIONS

#### CHAPTER I GENERAL PROVISIONS

ARTICLE 139.- Applications for exploration and exploitation concessions as well as those for the authorization to install processing plants, shall be submitted to the Mining Department by the interested party or by an attorney, who shall give his authority by an act authentic or notarized instrument.

ARTICLE 140.- All applications shall be registered in the Mining Department at the time of presentation and in the presence of the interested party, without prejudice that it should not be admitted if it does not meet the requirements

provided by this Law. The registration shall be made in a special book other than the Public Register of Mining Rights, indicating the exact date and hour of its presentation, and a copy of the application shall be returned to the applicant with the signature of the acting official or the Director or Assistant Director of Mines.

ARTICLE 141.- The registered application which fulfills with the requirements prescribed in this Law, only grants preference for the corresponding processing with respect to subsequent application.

ARTICLE 142.- If two or more applications for exploration and/or exploitation relative to the same land are presented simultaneously, a provisional registration shall be made of the, with the same number, indicating besides, on the originals and the copies, that the registration is provisional and is subject to review. The Mining Department shall proceed to effect such review in the following order:

- a) Given equal conditions, preferences shall be given to the applications presented by Dominican physical or juridical persons.
- b) Preference shall be given to applications for exploitation concessions over those for exploration, provided they are duly justified.

If all the applications are for the same Kind and on the same conditions, lots shall be drawn in the presence of the interested parties, preparing a corresponding record to determine the one which should be considered, except in the event that the preference is determined by agreement among the interested parties.

## CHAPTER II PROCEDURES FOR OBTAINING EXPLORATION CONCESSIONS

ARTICLE 143.- The application for an exploration concession shall be submitted in one original and five copies, duly signed and initialed on each page by the applicant. The original shall bear an Internal Revenue stamp of two pesos gold (RD\$2.00) and the application shall specify:



1. Name, nationality, domicile, profession, number of the Personal Identify Card of the application or of the attorney, who shall exhibit the corresponding Special Power of Attorney. If the case involves a juridical persona, shall deposit the documents showing its existence and if foreign legal person, shall comply with the requirements provided in Article 110 of this Law.
2. The name which the concession shall have.
3. Place where it shall be situated, with the indication of the province, municipality, section and site.
4. Description of the starting point which shall necessarily be within of in the perimeter of the concession, determining the direction and distance of the same from the fixed and undoubted point of reference; such distances shall not be less than fifty (50) meters nor more than five hundred (500) meters, and one must be visible from the other. The point of reference should be connected with three or more visual points in the direction of topographical points characteristic of the place and/or points of triangulation if there should be any in the region, or defining this point of reference in a technically acceptable manner so that it may be replaced in case of disappearance.
5. The number of mining hectares within the limits fixed by this law.
6. A description of the type of exploration work which shall be commenced initially, indicating the mineral or minerals he propose to explores.
7. Three or more references concerning the moral solvency, the technical and economic capacity of the applicant.
8. Name of the concessions an that of the adjoining, concessionaries, if any, and
9. Names of the owners or occupants of the ground.

ARTICLE 144.- To the application he applicant should annex:

1. One original and five copies of the map of concession with the data specified in the preceding article, except those of paragraphs nos. 6 and 7, made in scale, from 1:5,00 to 1:20,000, showing the magnetic of astronomic North. The perimeter of the concession in straight lines; the adjoining concessions in dotted lines and the essential topographical details in a sketch, such as rivers, hills, cliffs, roads, steams, lakes and such other topographical elements as my clearly identify the region.

2. One copy of the part of the topographical map in a scale of 1:50,000 showing the geographic location of the area of the concession, specifying the name, number, series and edition of the corresponding sheets. In the event that these topographical maps do not exist in the region or are not available, an orientation map may be annexed showing the localization of the concession in the Dominican Republic.
3. Two (2) receipts of the payment of the pesos god (RD\$10.00) in one of the offices of Internal Revenue to cover the payment of the registration of the granting of the concession in the Mining, Department and its publication in the Official Gazette. In case the concession is not granted, the sum shall be considered as processing expenses.

ARTICLE 145.- The Mining Department shall review the application within period of ten (10) working days following its registration, and if it should complete it shall order:

a) that a copy of the application be published on its Bulletin Board or an extract in its Bulletin of Mining concessions, in order that it may serve as notice to those who believe themselves to have the right to oppose it; b) at the same time, the extract of the application shall be published twice, at the expense of the applicant, in a daily newspaper of national circulation, the second publication to take place ten (10) days after the first.

ARTICLE 146.- Upon verification of the existence of the undoubted fixed point of reference, as well Mining Department shall verify on the ground the existence of the starting point and the point of reference, the course and the distance.

ARTICLE 147.- Upon verification of the existence of the undoubted fixed point of reference, as well as the starting point of the map of the concession on the ground and having, favorably verified that the requirement of paragraph 7 of Article 143 has satisfactorily been complied with the Mining Department shall obtain from the applicant the receipt of payment of the patent prescribed in this law.

ARTICLE 148.- he requirements of the procedure having been complied with, the Secretariat of State for Industry and Commerce shall issue the resolution granting the concession which constitutes the little of the exploration concession, ordering its registration in the Public Register of Mining Rights, its publication in the Official Gazette and the delivery of its original with the annexed map, duly countersigned, to the concessionary.

### CHAPTER III

#### PROCEDURE FOR OBTAINING EXPLOITATION CONCESSIONS

ARTICLE 149.- Applications for exploitation concessions, shall contain the requirements specified in Articles 13 and 144 of this Law the following modifications:

- a) If the applicant is a foreign company, it shall present the documentation required in Article 111 of this Law.
- b) He shall present a report of evaluation of the deposit or deposits of mineral substance existing within the perimeter of the concession, including an estimation of the reserves and the program of work for its economic utilization, annexing the corresponding maps.
- c) The map of the concession shall be made in a scale of from 1:1,000 to 1:10,000.

ARTICLE 150.- The Mining Department shall review and order the publication of the application for exploitation concessions within the periods established in Article 145.

ARTICLE 151.- Upon expiration of the period of thirty (30) days following the second publication, without any opposition having arisen, the Mining Department shall verify on the ground the existence o the starting point and the point of reference, the course and distance between them. In a like manner, within this period of thirty (30) days, it shall verify the references indicated in subsection 7 of Article 143 and shall appraise the report of evaluation required in subsection; b) of Article 149.

ARTICLE 152.- If the Mining Department finds that the application for exploitation is complete and conforms to the prescriptions of this law, it shall forward the same to the Secretariat of State for Industry and Commerce with its opinion.

ARTICLE 153.- If the Secretariat of State for Industry and Commerce finds that the application for exploitation is satisfactory to the national interest, it shall forward the same to the Executive Power approval.

ARTICLE 154.- Upon approval of the application by the Executive Power, the Secretariat of State for Industry and Commerce shall instruct the Mining Department to proceed to:

- a) Authorize the applicant within thirty (30) working days or in excess of thirty (30) days which, in the judgment of the said Mining Department, are necessary, to shall carry out the delimitation of the concession as provided in Article 47 of the Law.
- b) Verify on the ground the limits of the concession, instructing the correction to technical and fundamental errors, if any.
- c) Notify the applicant to make the current and the next semiannual payment of the corresponding patent.

ARTICLE 155.- As soon as the above requirements shall have been satisfied, the Secretariat of State for Industry and Commerce shall issue a Resolution granting the concession which shall constitute the title delivery of its original to the concessionary with an annexed countersigned map.

CHAPTER IV  
FORMALIZATION AND DENIAL OF APPLICATIONS OF CONCESSIONS

ARTICLE 156.- If, as a result of the processing in study of application for exploration of exploitation concessions, the Mining Department of the Secretariat of State for Industry and Commerce requires complementary data, information or work they shall request only what is absolutely required for the determination of the case, and the applicant shall be under obligation to submit this additional data within the period of time specified under penalty of being declared renounced.

ARTICLE 157.- When the application or the process is defective for reason of the violation of this Law of its Regulation , of the Secretariat of State for Industry and Commerce of the Mining Department shall disapprove the file, provided that the violation is imputable to the applicant. If the applicant is not responsible for the violation, the file should be ordered reinstated in so far as it is defective.

CHAPTER V  
RESTORATION AND CORRECTION OF THE TITLE OF THE CONCESSION

ARTICLE 158.- When the beneficiary has misplaced his title of the expiration of exploitation concession, he should notify such in writing to the Mining Department and request for the Public Register of Mining Rights that a duplicate of same be issued to him, after the previous publication of an announcement in a newspaper of national circulation, that contains the essential information of the title, in circumstances of the loss or misplacement. The Mining Department after a period of fifteen (15) days without having received any opposition, shall issue the corresponding duplicate.

ARTICLE 159.- The Mining Department, upon petition of the concessionary, may correct administratively and without prejudice to third parties, the material errors existing in a mining title, provided that the correction shall not affect the localization or extension of the concession I n accordance with the data of the Public Register of Mining Rights.

ARTICLE 160.- When, exceptionally, the title of a mining concession lacks clarity in what pertains to the localization of the area of the concession on the land, the concessionary may request that the identification of the ground which has been granted, at his expense. In this case, the application shall be prepared and processed in the same manner as a new concession in handled, and the applicant shall be giving a certified copy of the respective identification, as a formalization of this defective title.

ARTICLE 161.- The applications for enlargements of the area of mining concessions, shall be prepared and processed in the same manner as: the original concession.

#### CHAPTER VI

##### PROCEDURE FOR THE AUTHORIZATION TO INSTALL PROCESSING PLANTS

Article 162.- The application for the installation for processing plants which use raw materials acquired from third parties, shall be presented at the Secretariat of State for Industry and Commerce, through the Mining Department, and should contain the following data:

1. Name, nationality, domicile, profession, number of Personal Identify Card of the applicant or attorney, who should show he correspondent power of attorney. If the case involves a juridical person, the latter shall deposit the documents proving, its existence and if the applicant is a foreign the provision of Article 109 shall be complied with.
2. Location of the plant with the indication of the municipality and the province.
3. Kind of minerals to be treated and the origin thereof.
4. Capacity of the plant expressed in metric tons per day.
5. Method of treatment which shall be employed.
6. Sketch or circuit of treatment.
7. Area of the land required for its installation with the indication of the name of the owner of the ground.
8. Amount of the investment to be made; and
9. Length of time foreseen for initiating the works.

ARTICLE 163.- The Mining Department shall forward the application to the Secretariat of State for Industry and Commerce accompanied by a report in which it shall include recommendations for the technical appraisal of the proposed plant.

ARTICLE 164.- In the event that there are no remarks, or they have been corrected, the Secretariat of State for Industry and Commerce shall authorize the application, upon approval by the Executive Power.

CHAPTER VII  
PUBLIC REGISTER OF MINING RIGHTS

ARTICLE 165.- The Mining Department shall have a Public Register of Mining Rights, the organization and functioning of which shall be subject to the provisions of this Law and its Regulations. The following shall be registered:

1. Exploration concessions, exploration concessions of contracts and authorizations for the installation of processing plants, granted according to the prescriptions of this Law, the registration of which shall be made before the delivery of the title of the concessionary.
2. Reductions of enlargements of areas of concessions, extensions, renuncements, nullities and forfeitures.
3. Power of attorney referring to mining acts.
4. All contract related to mining business such as transfers, changes, either by way of sale, succession, donation of other document by which property is transferred and also leases loans, mortgages and contracts for future transfer.
5. Contracts of constitution modification or dissolution of partnerships or companies which acquire or applied for rights of exploration, exploitation and processing of mineral.
6. The constitution of conventional legal easements, recognized by irrevocable judicial decisions.
7. Expropriations made in accordance with this Law.
8. Provisions related to zones declared as fiscal reserve.

ARTICLE 166.- As long as the acts of contracts are not registered in the Public Register of Mining Rights they can not be asserted against third parties. This registration should be made, also, in the corresponding Certificate of Title in the case of lands registered pursuant to the Law of Registration of Lands.

ARTICLE 167.- The registration mentioned in Article 165 shall not fail to be made, notwithstanding that the other laws

required the registration of the same acts in other registers.

ARTICLE 168.- Registration of documents which are presented may not be refused except in the following cases:

1. When they contain legal defects by reasons of the forms of same.
2. When in view of evidence already in the Register, the new registration would be necessary.
3. When the act or contract is not of the kind which is subject to registration, in conformity with the law and
4. When in cases of acts or contracts contained in private documents, the signatures of the parties are not duly legalized.

ARTICLE 169.- For the purposes of the registration, documents emanating from abroad should be legalized in accordance with the laws of the Dominican Republic and translated into Spanish by a Judicial Interpreter.

ARTICLE 170.- Rights derived from acts and contracts affecting a mining concession, shall be demonstrated by the corresponding proof of the Public Register of Mining Rights. The concessions and contracts which are not inscribed in said Registered cannot be asserted against their parties.

ARTICLE 171.- Anyone who has suffered prejudice by an inscription, modification, rectification or cancellation made in the Public Register of Mining Rights, then by a decision rendered by the competent authority according to the provisions of Law or by a court, may challenge the same before the competent tribunals within a period of two (2) years following the date of said inscription. The chief of the Public Register of Mining Rights shall be defendant in the trial.

ARTICLE 172.- In every judicial proceeding related to the inscription, modification, rectification or cancellation of registrations, the person affected thereby shall be summoned as a party in the proceedings.

ARTICLE 173.- Any person may examine the Public Register of Mining Rights and its archives, and request, at his own expense, a certified copy of the inscriptions and the existing documents. Similarly, he may request a certification to the effect that with reference to a given



inscription, there are no other inscriptions following or that a given inscription does not exist. These certifications shall be made for a fee of RD\$2.00 per sheet, payable in Internal Revenue Stamps.

ARTICLE 174.- To carry out the auction of a mining concession or of a processing plant, it would be necessary that the Mining Department should issue a certificate related to the antecedents of the concession on file in the Public Register of Mining Rights, which is dependency of said Department, in connection with the concession and the encumbrances appearing in said Register with respect to the mine.

ARTICLE 175.- Inscription in the Public Register of Mining Rights of the documents referred to in Article 165 shall be for a fee of ten pesos gold (RD\$10.00), except the inscriptions of transfers of rights on explorations concessions, which shall be for a fee of one hundred pesos gold (RD\$100.00), and the inscription of transfers of concessions for exploitation and processing plants which shall be for a fee of two hundred pesos gold (RD\$200.00)

ARTICLE 176.- The Public Register of Mining Rights shall have, at least, the following books:

1. A register book of exploration and exploitation concessions, and authorizations for installing processing plants.
2. A register book of contracts, changes and encumbrances on mining property of rights.
3. A book of reductions, enlargements, extensions, renouncements, nullities and forfeitures.
4. A book of powers of attorney.
5. A book for the registration of documents relating to the constitution of companies which hold or apply for mining concessions.
6. A book for expropriations.
7. A book relating to fiscal research.

#### *TITLE X*

#### *EXERCISE OF THE RIGHTS AND OBLIGATIONS OF THE CONCESSIONARY*

#### *CHPATER I OPPOSITIONS*

ARTICLE 177.- The oppositions of the applications for mining concessions, alleging acquired rights, shall be asserted before the Mining Department within a period of thirty (30)

days, computed from the second publication of the extract of the application in a daily newspaper of national circulation. If within such period of time no opposition has been formulated, it may be allowed even in the act of verification of the maps of the concession on the ground.

ARTICLE 178.- In the event of the granting of a mining concession which it is founded, accompanied by the documentation offered as evidence. The opponent shall assign a domicile for receipt of notifications.

ARTICLE 180.- The Secretariat of State for Industry and Commerce, upon reviewing the case, shall examine the alleged opposition and shall resolve it in the light of provisions of this Law, disapproving or accepting the opposition, and proceeding to the granting or ordering the correction or cancellation of the application, as the case may be.

## CHAPTER II PROCEDURE FOR THE INDEMNIFICATION

ARTICLE 181.- For the injuries and damages foreseen prior to stating a work in the course of exploration, exploitation or processing of mineral substances, the concessionaries shall agree with the legitimate owners of the land as to the contracts in the Mining Department. In the event that these contracts are not presented, or in lieu thereof, the written authorization of the owner or legitimate occupant of the land, his signature or his fingerprints being legalized by a Notary Public, the Mining Department shall determine the amount of the bond to insure the payment of the indemnification for the unavoidable injuries and damages. This bond shall be posted in an Office of Internal Revenues in proportions, determined by the Mining Department, without prejudice that the interested parties may resort to the competent courts in case of disagreement.

ARTICLE 182.- For injuries and damages occasioned in an unforeseen manner the persons affected may obtain the amount of corresponding indemnifications from the concessionaries by following the procedures described in the preceding article.

CHAPTER III  
PROCEDURES FOR RENUNCIATIONS AND REDUCTION

ARTICLE 183.- The renunciation established in Article 94 should be communicated in writing to the Mining department and should be accompanied by the documents containing the findings of studies and works carried out within the renounced area, as well as by a receipt issue by the office of internal Revenues for the sum of ten pesos gold (RD\$10.00) for its publication in the Official Gazette.

ARTICLE 184.- Before accepting the renunciation, the Mining Department shall examine the Public Register of Mining rights to see if they are creditors, partners or leases in concession. In the event that they are any, it shall summon them so that in the period of fifteen (15) days they can protect their rights. If such rights are well founded, the Mining department may disallow the renunciation.

ARTICLE 185.- In the case of a reduction of partial renunciation of the area of the concession, the same should be communicated in writing to the Mining department, complying with the requirements of Article 183 and annexing, besides, a new map of concession, with the indication of the limits of the area retained in straight lines and those of the area of renounce in dotted lines. Before accepting the reduction, the Mining department shall order the verification of the boundaries on the ground, at the expense of the concessionary.

TITLE XI  
PROCEDURES FOR FORFEITURE AND NULLITY

ARTICLE 186.- Upon the presentation of cause specified in Articles 97 and 93, the Secretariat of state for industry and Commerce, before pronouncement of the forfeiture, shall required within a period of thirty (30) working days. After the said period of a Resolution which shall be published in the Official Gazette. If the non-compliance were the failure to pay the taxes in incurred, this should be paid with a ten percent (10%) surcharge.

ARTICLE 187.- Nullity should be declared officially or by declaration of a third party. In both cases the Secretariat of State for Industry and Commerce shall examine the record of exploration or exploitation and upon verification of the non-compliance it should immediately party and publishing it in the Official Gazette, if the case concerns and existing concession.

## TITLE XII SANCTIONS AND TRIALS

ARTICLE 188.- Those who undertake mining exploration and exploitations without the concessions or contract required by this law, shall be punished with fines of from fifty pesos gold (RD \$50.00) to two thousand pesos gold (RD \$2,000.00) as well as by the confiscation of the works executed by them and the minerals which had been extracted.

ARTICLE 189.- To him who destroys or changes the landmarks or signposts marking the limits of a concessions on the surface of the ground or in the interior of the development, shall be applied the sanctions established in Article 456 of the Penal Code.

ARTICLE 190.- The unjustified resistance of individuals which prevents or has the object to prevent the execution of the works by the experts, or of the inspectors, shall be punished with imprisonment of from ten (10) days to three (3) months and with a fine form twenty-five pesos gold (RD \$25.00) to one hundred pesos gold (RD \$100.00).

ARTICLE 191.- The Director of Mines or any employee who intervenes in the process of a mining concessions, who commit falsity, shall be punished with the penalties established by the Penal Code.

ARTICLE 192.- When semi-annual progress reports and annual operation reports are not submitted within the periods established in Article 72, the Mining department may grant in writing an additional period of thirty (30) days and in case of failure, he shall notify the concessionary with a third period of thirty (30) days so that latter may rectify the non-compliance, under penalty of forfeiture if he has repeated the non-compliance.

ARTICLE 193.- With the exception of the correctional penal trials, which shall be within the competency of the Justices of the Peace, trials arising by reason of the application of this Law, or with regard to any of the rights and publications established by this Law, are within the competency of the Courts of First Instances in their commercial aspects.

### TITLE XIII MINING DEPARTMENT

ARTICLE 194.- The Mining Department is the state organization in charge of promoting the mining-metallurgical development of the country and safeguarding the national interest in all that concerns the mining-metallurgical industry, whatever its organization and position in the Public Administration and the nature of the case which requires it. Its fundamental functions are of a technical scientific and administrative-legal nature.

ARTICLE 195.- The technical-scientific duties of the Mining Department shall include:

- a) To make investigations within the field of geology and related disciplines, which contribute to the Knowledge, development and preservation of the mineral resources of the country.
- b) To coordinate efforts in concession with the investigations previously specified which may be carried out by national, international or foreign entities, in order to attain the most effective utilization of same, for the purpose of obtaining the scientific and intensive utilization of mineral resources.
- c) To organize and develop training in the field of geological disciplines and techniques, inside or outside of the investigations and work personnel by the Mining Department, for the purpose of improving the scientific and technical capacity of young Dominican professionals.
- d) To evaluate the commercial availability of mineral resources.

- e) To study and resolve technical and economic factors which present problems for the development of mineral resources.
- f) To supply advise on the mining-metallurgical industry of the country; and
- g) To protect the hygiene and safety of mining exploitations.

ARTICLE 196.- The administrative-legal duties of the Mining Department shall include:

- a) to enforce the Laws, regulations and contracts governing mining-metallurgical activities in the country.
- b) In connection with the foreign basic duty, the Mining department may carry out as many times as it sees fit and to such an extent as may be required in the case, inspections on surface or underground works of any concession, as well as the identification and verification of the boundaries or landmarks on the ground.
- c) To submit to the consideration of the Executive Power, through the Secretariat of the State for industry and Commerce, those regulatory projects it considers necessary for the correct interpretation of mineral metallurgical products.

ARTICLE 197.- The Mining Department shall be composed as follows:

- a) An office under the authority of a Director assisted by an Assistant Director, who shall substitute for the former provisionally in case of absence, disability or death.
- b) A Section of Concessions and Mining Records.
- c) A Section of Geological and Mining Investigations.
- d) A legal section of which the Public Register of Mining Rights shall be a part.
- e) A Tax Auditing Section.
- f) And such other offices as the Executive Power establishes, in accordance with a justified request of the Director of Mines, through the Secretariat of State for industry and Commerce.

ARTICLE 198.- A specialized fund is hereby created of five percent (5%) of the annual income which the State shall receive as income tax paid by the concessionaries of exploitation and of processing plants for promoting the development of mining activities in the country, which shall be administrated by the Secretariat of State for Industry and Commerce, as the Executive Power determines.

TITLE XIV  
SPECIAL AND TEMPORARY PROVISIONS

ARTICLE 199.- The applications for exploration and concession permits which are being processed on the date of the publication of this law, should adjust to the conditions and requirements established in this law.

ARTICLE 200.- Exploitation concessions or contracts, as well as the exploration permits which are in force on the date of the publication of this law, shall continue to be governed by the law or the contracts by virtue of which they have been granted, by the concessionary may, within a period of six (6) months, request the Secretary of State for Industry and Commerce, through the Mining Department, to authorize that his concession or permit be governed in accordance with this law and its regulations, by expressly waiving any provision or law which might previously benefit him and which is not provided in this law.

The authorization upon its registration in the Public Register of Mining Rights shall be published in the Official Gazette.

ARTICLE 201.- This law repeals all the legal and regulatory provisions which may be contrary to it and especially Mining Law No. 4550 of September 23, 1956.

GIVEN in the Sessions Chamber of the Chamber of Deputies, Palace of the National Congress, in Santo Domingo de Guzmán, Capital of the Dominican Republic, on the twenty day of the month of May of the year one thousand nine hundred seventy one, the 128<sup>th</sup> year of Independence and 108<sup>th</sup> of the Restoration.

Atilio A. Guzmán Fernández  
President  
Caridad R. De Sobrino  
Secretary Francisco Leonidas Peguero H.  
Secretary Ad-Hoc

GIVEN in the Sessions Chamber of the Senate, Palace of the National Congress, in Santo Domingo de Guzmán, National District, Capital of the Dominican Republic, on the twenty six day of the month of May of the year one thousand nine hundred seventy one, the 128<sup>th</sup> year of Independence and 108<sup>th</sup> of the Restoration.

Adriano A. Uribe Silva  
President  
Josefina Porte de Valenzuela  
Secretary

Joaquín Balaguer  
President of the Dominican Republic

In the exercise of the powers conferred upon me by article 55 of the Constitution of the Republic:

I PROMULGATE this Law, and other that it be published in the Official Gazette for this Knowledge and observance.

GIVEN in Santo doming de Guzmán, National district, Capital of the Dominican Republic, on the fourth day of the month of June of the year one thousand nine hundred seventy one, the 128<sup>th</sup> year of the Independence and 108<sup>th</sup> of the Restoration.

Joaquín Balaguer.