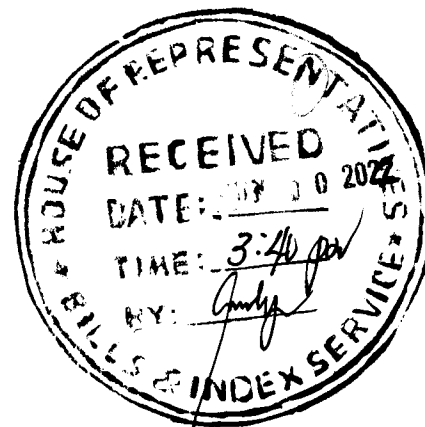


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 259



Introduced by

KABATAAN PARTY-LIST Representative Raoul Dannel A. Manuel,
ACT TEACHERS PARTY-LIST Representative France L. Castro,
and GABRIELA WOMEN'S PARTY Representative Arlene D. Brosas

AN ACT

**RE-ORIENTING THE PHILIPPINE MINING INDUSTRY TOWARDS NATIONAL
INDUSTRIALIZATION AND ENSURING THE HIGHEST INDUSTRY DEVELOPMENT
STANDARDS, AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

In 1995, the Philippines passed Republic Act (RA) 7942, which liberalized every aspect of the domestic mining industry, allowing foreign access and control of our mineral resources including exploration, development and utilization. RA 7942 superseded the country's previous laws on mining, such as the interim Presidential Decree 463 issued by President Ferdinand Marcos in 1974 and, even laws upheld by the United States colonial government, including the U.S. Mining Act of 1972, the Mining Law of 1905, and Commonwealth Act 137 or the Mining Act of 1935.

Yet, even at the onset, RA 7942 was already opposed. Its constitutionality was questioned by a broad range of social sectors and civil society organizations (CSOs), including environmental groups, lawyers, scientists, academics, patriots, and agricultural and indigenous peoples' organizations.

In 2004, the Supreme Court (SC) of the Philippines finally declared RA 7942 as unconstitutional, in the case of the La Bugal B'laan Tribal Association vs. Ramos. However, before the year ended, the SC reversed its own decision and instead adopted policy shifts such as moving on from 'active tolerance' to 'promotion' of mining investments. Thereafter, the Executive Department issued various executive and administrative orders to supposedly harmonize laws with the Mining Act of 1995 and to create a favorable climate for foreign investors.

Historically, state policy has framed the Philippine minerals industry as a driver for increased foreign economic investment and a domestic source of employment. The Philippine government has pursued the policy of liberalizing the mining industry and in effect limiting the industry to extraction and export of raw mineral ores, to import dependence on foreign capital and technologies, and to control by foreign and private entities.

This policy, however, has created an unsustainable situation for the nation, the environment, and the people. Twenty-one years have passed since RA 7942 was signed into law and implemented under four (4) administrations. Now, the country, its ecosystems, and its citizens are suffering from the various adverse impacts of the law's implementation and its policy thrust.

Disasters caused by decades of liberalized mining operations have caused some of the worst environmental tragedies in the country. Mining disasters take place in the Philippines at least every few years: the Marcopper tragedy that rendered the Boac river biologically dead in 1996, just a year after the Philippine Mining Act of 1995 was signed into law; the Lafayette mine spill in Rapu-Rapu Island, shortly after the National Minerals Policy was made official in 2005; and now, the Philex mine spill in August 2012, barely a month after former Pres. Benigno Aquino III issued Executive Order 79, which supposedly aims to regulate the industry pending the passage of a new mining law.

Other phenomena related to mining operations in local communities, such as land subsidence, acid mine drainage, and landslides, have been documented with increasing frequency over the past years. The damage done to the country's mountainous, agricultural, and aquatic ecosystems has been immense.

The losses sustained by the country's other environmental resources loom in comparison to the promised gains of the industry. Contrary to projections, the country did not reap the full benefits from the current mining liberalization policy.

The real benefits of mining in terms of its contributions to the country's GDP, employment, government revenues, investments, national industrialization and poverty alleviation is, in fact, not significant. According to independent think-tank IBON Foundation, 97% of mineral production in the Philippines goes to foreign industries, proving the export-oriented nature of Philippine mining. It supports other countries' industrialization and profit instead of being instrumental in the development of the country's local industries.

Additionally, the mining industry has remained a weak economic contributor after 20 years of wanton mining liberalization. Foreign investments in mining fell from US\$1.45 billion in 2013 to US\$693.1 million in 2014.

The share of mining in the gross domestic product is only 0.7%, while its contribution to employment is only at 0.6%. Government shares from mining in taxes, royalties and fees amounted to Php22.83 billion in 2013 or a measly 1.33% of total tax revenues.

It is also important to note that mining has the highest poverty incidence of any sector in the country at 48.7 percent. The notable mining areas with high poverty incidence include CARAGA (47.5%), the Zamboanga Peninsula (42.75%), Bicol region (44.92%), with the national average at 26 percent. This data shows, at the very least, a correlation between mining and poverty that counters the claims of foreign-backed mining firms that mining improves the quality of life of the immediate communities.

The current policy on mining has spawned more physical, social, and economic displacement of affected communities among other human rights violations. Foremost, indigenous people's communities, whose ancestral lands hold some of the last bastions of our natural wealth, are being dispossessed of their lands, whether through coercion, exigency, or collusion in relation to mining projects. Agricultural and fishing communities affected by the downstream environmental impacts of mining also suffer from diminished productivity and food insecurity.

Grave human rights violations also arise in mining-affected communities. Indigenous peoples organization KATRIBU Kalipunan ng mga Katutubong Mamamayan ng Pilipinas notes that in the administration of former Pres. Aquino III, there have been at least 21 killings of indigenous peoples related to the defense of their lands from big mining interests. One of the most revolting is the 2012 killing of pregnant Blaan lumad leader Juvy Capion and her two other small children in Tampakan, North Cotabato,

when elements of the 27th Infantry Battalion strafed their home. The Blaán has been waging *pangayaw* or tribal war versus multinational mining corporation Xstrata since 2006.

Under the administration of President Rodrigo Duterte, the Philippines garnered the highest number of environmental defenders killed in Asia with 48 deaths recorded in his first year in office, in 2017. The killings are linked with plantations, mining, poaching and logging.

President Duterte was credited for his consistent stand opposing open pit mining. He appointed environment crusader Gina Lopez as the chief of the Department of the Environment and Natural Resources in 2016. Secretary Lopez ordered the closure of 27 mining sites for violating environmental laws. However, her successor, retired general Roy Cimatu quietly lifted the moratorium on mining exploration, opening practically all mineral lands for mining interests. He also reversed the closure of 23 out of the 27 mining sites, essentially reversing the previous decision.

There are also other documented cases of both physical and legal harassment, where citizen's rights to public participation are violated with impunity, such as in the site of the Didipio Gold Copper Project owned by Australia-New Zealand firm OceanaGold Corporation, the Runruno Gold-Molybdenum Project of FCF Minerals Corp owned by UK firm Metals Exploration Plc, and the Pao Gold-Copper Exploration Project by Australian firm Royalco Resources Ltd in Nueva Vizcaya. Among the issues faced by the mine-affected areas are forced displacement of people from their land and homes, destruction of their homes and property, Strategic Lawsuits Against Public Participation (SLAPP) suits, and harassment.

Indeed, the current law, policy, and practices governing the Philippine mining industry are unsustainable from an economic, ecological, legal, cultural, and human rights perspective. These can not and should not be pursued any further, in the interest of protecting the country's remaining finite mineral resources and national patrimony from more plunder; in the interest of allowing State and Filipino citizens to fully benefit and reap the gains from the country's vast mineral wealth.

CSOs, grassroots communities, and local governments have long been clamoring for the repeal of RA 7942 and the passage of an alternative legislation. In 2002, the multisectoral Dapitan Initiative and the Dapitan Declaration affirmed the commitment of non-government entities and advocates to work for the enactment of new legislation based on certain principles.

In 2005, the People's Mining Policy (PMP), an alternative policy framework for the Philippine mining industry, was drafted and affirmed by the nationwide network Defend Patrimony through a series of consultations with people's organizations and CSOs. In the 17th Congress, the People's Mining Bill was enriched and improved with input and additions from other alternative mining bills and inputs from experts in mining, environment, indigenous people's rights taxation, among others.

Local government officials at the provincial level have also upheld LGU-based measures such as moratoriums on large-scale and/or open pit mining. These efforts at the grassroots level of the past years are now converging into concrete proposals in policy and legislation for the Philippine government to heed and take action on.

Thus, this bill is an amalgamation of previous alternative policy proposals which seek to reorient the Philippine mining industry towards the wise and sustainable development and judicious use of our mineral resources. It defines the significant roles that mining and a prosperous minerals industry play in attaining a progressive, independent, industrialized and self-reliant economy. It seeks to place the Philippine's extensive mineral wealth as part of its national patrimony, a resource that has the potential to propel the country towards industrialization and self-sufficiency.

It is estimated that the country has around 7.1 billion metric tons (BMT) of metallic mineral reserves (such as gold, copper, and nickel) and 51 BMT of non-metallic deposits. Combined, the total value of these reserves could reach around US\$840 billion to US\$1 trillion: ten times the country's gross domestic product and 14 to 17 times larger than its entire external debt.

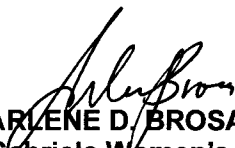
If properly regulated and developed, these resources will be a requisite to developing a strong, self-reliant and progressive economy, founded on a healthy balance between agriculture and industrialization and programmed to break the cycle of the country's underdevelopment.

This bill was first filed in the 15th Congress, and, then re-filed in the 16th and 17th Congress and again in the 18th Congress, enriched by experience and discussions, in response to the critical need for an alternative framework, a new regime for the mining industry, which should be anchored on the principles of social justice, respect for people's rights and welfare, environmental conservation, defense of national sovereignty and patrimony, and national industrialization.

In view of the foregoing, the approval of this bill is earnestly sought.



RAOUL DANNIEL A. MANUEL
Kabataan Partylist



ARLENE D. BROSAS
Gabriela Women's Party



FRANCE L. CASTRO
Act Teachers Partylist

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 259

Introduced by KABATAAN PARTY-LIST Representative Raoul Dannel A. Manuel,
ACT TEACHERS PARTY-LIST Representative France L. Castro,
and GABRIELA WOMEN'S PARTY Representative Arlene D. Brosas

AN ACT
RE-ORIENTING THE PHILIPPINE MINING INDUSTRY TOWARDS NATIONAL
INDUSTRIALIZATION AND ENSURING THE HIGHEST INDUSTRY DEVELOPMENT
STANDARDS, AND FOR OTHER PURPOSES

Be it enacted by the Senate and the House of Representatives of the Philippines in
Congress assembled:

CHAPTER I
DECLARATION OF POLICIES

Section 1. Short Title. This Act shall be known as the **PEOPLE'S MINING ACT**.

Section 2. Declaration of Policy. It is enshrined in the Philippine Constitution that the State owns all the mineral, coal, natural gas and petroleum resources within its national territory, its terrestrial, fluvial and marine domains, including its territorial seas, the seabed, the subsoil, the insular shelves, and other submarine areas within its archipelagic baselines. The appropriate utilization, sound management of the country's finite mineral resources and the enjoyment of the benefits of such is exclusive to the Filipino people. These resources shall in no way be alienated.

The Philippine mining industry shall be developed within the framework of national industrialization through the nationalization of the industry towards self-sufficiency. The pursuit of mining industry development is integrative to the country's priorities in achieving genuine agrarian reform, the modernization of its agricultural base, and rural development.

The State shall take the lead in mining industry development that shall be pursued according to a National Industrialization Program (NIP) and Mining Plan (MP) that adheres to the following:

- a. the medium- and long-term needs of the Philippines;
- b. the advancement of the industry's technology with emphasis on existing indigenous knowledge, research and development;
- c. the right to self-determination of the indigenous and Moro peoples;

- d. the generally accepted principles as embodied in the International Covenants on Civil and Political Rights, on Economic, Social and Cultural Rights, the UN Declaration on the Rights of Indigenous Peoples and other international accords on human rights, labor rights, the rights of women and children, and the protection and preservation of the environment, of which the State is a party; and
- e. a balanced and healthful ecology.

Section 3. Mining is important to nation building and the economic advancement of our people. The mineral industry plays an essential role in establishing a progressive, independent and self-reliant economy.

The State shall craft and implement its National Industrialization Program and a Mining Plan that provides the framework for the utilization and management of the country's mineral resources, which will address the needs of the domestic economy and upholds the rights of industry workers, indigenous peoples and local communities.

The said Mining Plan to be implemented by the State shall be economically-viable, ecologically-sound, and in aid to the nation's efforts to attaining food self-sufficiency, rural development and national industrialization.

The Mining Plan shall be crafted in accord with the National Industrialization Program that will provide a comprehensive economic framework for genuine national development, including agricultural modernization, public infrastructure in energy, transportation, communication, and downstream mineral industries.

Section 4. The exploration, development and utilization of natural resources shall comply with the following principles:

1. The current export-orientation of mining is hereby reversed and a domestic needs-based development of the industry shall be pursued by the State as a step towards achieving genuine economic development;

2. The mining industry shall be geared towards national industrialization and shall be built for the production of raw materials such as base metals, basic chemicals and petrochemicals needed by the basic, medium and heavy industries to produce as much consumer, intermediate and capital goods with the country's stock of finite mineral and non-mineral industrial raw materials and in the process provide jobs to the country's vast human resources;

3. The State shall provide the appropriate support and protection to Filipino corporations to further develop and increase their participation in the industry. All mining industry investments shall be mutually-beneficial and help achieve the specific target and goals of the National Industrialization Program. To come up with the large capital requirement for mining, the State must use local sources such as but not limited to the granting of incentives and financial aid to local private sector investors, re-channelling of government budget allocations for foreign debt payments and military expenditures, and the proceeds from the government shares of the Malampaya Natural Gas Project, and/or similar projects;

1
2 4. The State shall allow, in exceptional cases, foreign corporations to invest
3 in the mineral industry. Based on the National Industrialization Program and the
4 country's capability and capacity, the government must identify the mineral areas
5 where foreigners can help and invest subject to rigorous screening and strict
6 regulations as provided in this Act and related laws. The participation of foreign
7 companies in the critical stages of minerals extraction and processing shall be in
8 accordance with a mandatory program or agreement for technology transfer and
9 equity shares that do not exceed 40 percent of the full capital requirements;

10
11 *Provided*, that capital accumulation and reinvestment within the country shall be
12 primarily encouraged over profit repatriation by the foreign companies and that foreign
13 mining corporations, their principals, local firms and conduits that have a bad track
14 record in the Philippines are banned from investing in the country;

15
16 5. The development of the mining industry should primarily be geared to
17 serve the needs of the country's agrarian reform program and help modernize
18 Philippine agriculture. Mining shall be prohibited in prime agricultural lands.

19
20 6. Inland and water use, the production of sufficient food free from pollution
21 towards food security shall always be the priority.
22

23 7. Mining shall also be prohibited in areas specified for food production,
24 fisheries development, watershed and heritage areas, sacred sites of indigenous
25 people, and in small island ecosystems. Mining in environmentally-critical areas such
26 as small island ecosystems, primary forests and environmentally sensitive watersheds
27 such as, but not limited to, the areas surrounding the Verde Island Passage connecting
28 and surrounding the provinces of Batangas, Marinduque, Occidental Mindoro, Oriental
29 Mindoro and Romblon, shall be banned. Dumping of mine wastes and tailings to rivers,
30 lakes and seas are prohibited. Additionally, off-site effects of mining shall not have
31 disadvantageous effects on downstream areas;

32 8. Mining shall also be prohibited in areas declared by local government
33 units as No-Mining Zones; in prime agricultural lands, irrigable and irrigated lands as
34 defined by Republic Act 9700, and, in areas wherein cultural properties are found, as
35 enumerated under Republic Act 10066;

36
37 9. Long-term mining development shall be programmed by the State in
38 accordance with the country's availability of resources, capability and well-being of the
39 people, technological capacity and people's acceptability. The right of Muslim Filipinos
40 or the Moro people and indigenous peoples to self-determination and ancestral
41 domain shall be recognized and their collective property rights are guaranteed by this
42 Act;

43
44 10. Job security, adequate wages, benefits, and safe working conditions for
45 mine workers shall be ensured in state and privately owned mining corporations. Their
46 right to organize and form their own associations, to collective bargaining and to strike
47 shall be upheld. The state will strictly prohibit forced and child labor in the industry;

11. Small-scale mining operations shall be supported and regulated by the state. The state will encourage the formation of cooperatives among small-scale miners and provide financial and technical support to develop the labor-intensive and upgrade the backward technologies into a more efficient and less environmentally destructive mining process. Whenever small-scale mining activities are stopped, alternative and sustainable livelihood shall be provided to the small-scale miners;

12. In no instance shall the Armed Forces of the Philippines (AFP), the Philippine National Police (PNP) and private security and paramilitary groups be used to coerce or force the entry and protection of mining operations;

13. Mining industry research and development shall focus on harnessing more economically-efficient and less environmentally-destructive methods. The advanced technologies from other countries that are proven to be appropriate locally shall be adopted in the industry;

14. All mining operations shall be strictly regulated to ensure the domestic processing of mineral ores up to the secondary and tertiary stages of industrial production to develop our own basic and medium industries. Recycling programs and substitution in the use of minerals shall be incorporated in the overall plan of mining development to reduce mine waste and pollution, and mining rehabilitation techniques. Indigenous technologies that are relevant and appropriate, particularly with respect to the domestic processing of minerals shall be promoted, harnessed, expanded and upgraded;

15. Ecologically-sound practices at all stages of mining shall be promoted. Mining technologies such as open-pit mining and submarine mine tailing disposal methods that are banned abroad and/or proven inappropriate in countries like the Philippines must and shall all be banned. Environmental standards shall be set to ensure the protection and efficient utilization of the country's mineral resource base. Ecological considerations in mining development shall be given due emphasis and attention to substantially eliminate destructive effects that certain mining industrial processes might have on the people's health and the environment. Monitoring mechanisms with strong participation from the local communities will be instituted;

16. Areas affected by mining shall be rehabilitated, including abandoned mines. Violators shall be strictly punished and made to pay heavy compensation to the State and the affected communities.

CHAPTER II
SCOPE AND GENERAL PRINCIPLES

Section 5. Scope. This Act shall cover the ownership, management and governance of both metallic and non-metallic minerals, as well as quarry resources, sand and gravel, guano, magnetite, and gemstones; including the conservation, exploration, development, utilization, processing and transportation thereof. The ownership, management and

governance of petroleum, natural gas and coal shall be governed by special laws. Offshore mining shall also be governed by special laws.

This Act shall cover onshore and offshore, large-scale and small-scale mining operations in the country, including mining projects in ancestral domains in accordance to the existing national and international policies on our indigenous peoples.

Section 6. All ore minerals are part of the national patrimony and form part of the country's irreplaceable and non-renewable natural wealth and capital. The conservation of our mineral wealth is of paramount public interest and mineral resources shall be utilized only in a rational manner for national and local development as specified by law and the National Industrialization Program and the Mining Plan.

Section 7. The State shall have primary role, responsibility and concern in the management, conservation, utilization, and development of the mining industry and shall ensure the people's participation in policy making and implementation of the same at all levels of government. Mining shall be a shared concern and responsibility of the national and local governments, corporations, and the communities affected by the exploration, development, and utilization of mineral resources.

Section 8. The State shall support small-scale Filipino mining corporations and mining cooperatives to venture into large-scale mining projects through Joint-Venture Agreements and invest on mutually-beneficial grounds that will push forward the National Industrialization Program.

Section 9. Mineral resource extraction shall be allowed based on the country's Mining Plan. The sharing of profits from mining activities, including the anticipated environmental and social costs on the affected local communities of each mining project, should substantially exceed the returns compared to alternative land uses. The environmental and social costs shall be prevented and/or mitigated at all times with the appropriate allocation of sufficient funds for this purpose. In mining projects with foreign participation, a just return of investment scheme for the foreign entrants into the industry shall be prescribed by law.

Section 10. The State shall support indigenous cultural communities/indigenous peoples (ICCs/IPs) in developing capacities to effectively exercise their rights and responsibility, including their right to self-determination. ICCs/IPs have the shared responsibility with the State to manage the mineral resources in their respective ancestral domains. They shall be free from external interference, manipulation, threats, intimidation, coercion and other analogous acts.

Section 11. The State shall prioritize the development of mineral resources that are needed for national development and for the creation of domestic processing capacity for industrial metals, the integration of agricultural modernization, and downstream industries that will generate employment. The Mining Plan shall be formulated to meet the country's needs to build basic, medium and heavy industries for the country to attain sustainable development advances and modernization of its economic base. The Mining Plan shall be crafted to meet this principle. The National Industrial Plan shall support national development and modernization of its economic base. This framework will define minerals to be extracted, volume to be extracted and when to be extracted. This shall be matched with the approved

1 mining areas as identified by the Multi-Sectoral Mining Councils. These matched areas are
2 eligible for mining operations.

3
4 **Section 12.** The State shall also give priority to the re-mining and recycling of mineral
5 resources as the first option instead of opening new mines to maximize the remaining
6 mineral resources from the wastes of previous mine projects subject to the environmental,
7 social and economic costs. The rehabilitation of abandoned mines shall also be given
8 importance.

9
10 **Section 13.** The State shall ensure the fullest compliance of all government and corporate
11 entities in and on the closure of mines, the rehabilitation/restoration of the immediate
12 environs of each mining project/activity in the country as provided by law. The rehabilitation
13 of abandoned mines shall also be given importance.

14
15 **CHAPTER III**
16 **DEFINITION OF TERMS**

17
18 **Section 14. Definition of terms.** For the purposes of this Act, the following terms shall
19 mean:

20
21 a. **Abandonment** - the contractor's act of leaving the entire mining lease in a state
22 that has not met agreed rehabilitation standards;

23
24 b. **Acid mine drainage** - the dissolution, mobilization and transportation of toxic
25 metals from rocks arising from the chemical reaction of acid-generating minerals in
26 rock and waste materials that possess high permeability to air, rainfall and other
27 water inflows when land is opened up for mining that initiates the chemical reaction,
28 resulting to a perpetual machine of acid generation.

29
30 c. **Ancestral domain** - all areas generally belonging to indigenous cultural
31 communities/indigenous peoples (ICCs/IPs) comprising the lands, inland waters,
32 coastal areas, and natural resources therein, held under a claim of ownership,
33 occupied or possessed by ICCs/IPs, by themselves or through their ancestors,
34 communally or individually since time immemorial, continuously to the present
35 except when interrupted by war, *force majeure*, deceit, stealth or as a consequence
36 of government projects or any other voluntary dealings entered into by government
37 and private individuals/corporations, and which are necessary to ensure their
38 economic, social and cultural welfare. It shall include ancestral lands, forest, pasture,
39 residential, agricultural, and other lands individually owned whether alienable and
40 disposable or otherwise; hunting grounds, burial grounds, areas of worship, bodies
41 of water, mineral and other natural resources, and lands which may no longer be
42 exclusively occupied by ICCs/IPs but from which they traditionally and historically
43 had access to for their subsistence and traditional activities, particularly the home
44 ranges of ICCs/IPs who are still nomadic and/or shifting cultivators.

45
46 d. **Ancestral lands** - lands occupied, possessed and utilized by individuals, families
47 and clans who are members of ICCs/IPs since time immemorial, by themselves or
48 through their predecessors-in-interest, under claims of individual or traditional group
49 ownership, continuously, to the present except when interrupted by war, *force*
50 *majeure* or displacement by force, deceit, stealth, or as a consequence of

government development aggression projects and other dealings entered into by government and private individuals/corporations including, but not limited to, residential lots, rice terraces or paddies, forests, swidden farms and tree lots;

e. **Beneficiation** – a process wherein a large fraction of the waste material is removed from the mineral ore;

f. **Buffer Zones** – identified areas that are outside the boundaries of, and immediately adjacent to protected areas designated by law that need special development control in order to avoid or minimize harm to the said protected areas;

g. **Bureau** – denotes the Mines and Geosciences Bureau (MGB) under the Department of Environment and Natural Resources (DENR);

h. **Carrying capacity** - the capacity of the natural and human environments to accommodate and absorb changes without giving rise to conditions of ecological instability and degradation;

i. **Certificate of Ancestral Domains Title (CADT)** – a title that formally recognizes the rights of possession and ownership of ICCs/IPs over their ancestral domains identified and delineated in accordance with law;

j. **Certificate of Ancestral Lands Title (CALT)** - a title formally recognizing the rights of ICCs/IPs over their ancestral lands;

k. **Closure of mines** – the permanent termination of operations at a mine or mine processing site after its complete decommission;

l. **Consensus** - the decision collectively reached after the appropriate participatory consultations and discussions that are free from any external manipulation, interference and coercion, and other analogous acts; and obtained after fully disclosing the intent and scope, including the positive and negative impacts, of the mining activity in a language and process understandable to the community or group;

m. **Consent** - the voluntary assent of the landowner or those who have been in open, continuous, and exclusive possession of the land for more than ten (10) years in good faith, or thirty (30) years in bad faith, free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent, scope, and the positive and negative impacts of the activity, in a language and process understandable to the said landowner or occupant;

n. **Contract area** - the area delineated as specifically provided by a mineral agreement for the development or utilization of mineral resources found therein;

o. **Critical watershed** - refers to a drainage area of a river system, lake or water reservoir that supports any existing and proposed hydroelectric power, domestic water supply, geothermal power and irrigation sources and works, that needs immediate rehabilitation and protection to minimize soil erosion, improve water yield and prevent possible flooding. The term shall also include areas which are traditional

1 areas for human settlements, land-uses, or sea-uses which are representative of a
2 culture (or cultures), or human interaction with the environment especially when it
3 has become vulnerable under the impact of irreversible change;

4
5 **p. Critical habitats** – areas where species and/or subspecies naturally occur or that
6 have naturally established its population that are crucial to the survival of other
7 species and are essential for its conservation;

8
9 **q. Cultural sites** - those that bear a unique or exceptional testimony to a cultural
10 tradition or to a civilization which is living or which has disappeared or, directly or
11 tangibly associated with events or living traditions, with ideas, or with beliefs, with
12 artistic and literary works of outstanding universal significance;

13
14 **r. Customary laws** - body of written and/or unwritten rules, usages, customs and
15 practices that are traditionally recognized, accepted and observed by respective
16 ICCs/IPs and local communities;

17
18 **s. Decommissioning** - the activity or process that commences after the cessation of
19 prospecting activities or mineral production, including metallurgical plant production.
20 It involves, among others, the removal of unwanted infrastructure, making
21 excavations and waste repositories safe and stable; and surface rehabilitation with a
22 view to negate any adverse environmental impacts remaining after cessation of
23 mineral production. It includes the after-care or maintenance that may be needed;

24
25 **t. Downstream industries** – are mining activities that cover minerals processing,
26 refining, manufacturing of intermediate and capital goods and marketing of such;

27
28 **u. Ecological profile** - geographic-based instruments for planners and decision-
29 makers which present an evaluation of the environmental quality and carrying
30 capacity of an area and measures the specific interactions that will be affected by
31 any and all mining operations;

32
33 **v. Exploration** – covers all methods of searching or prospecting for mineral
34 resources for the purpose of determining the existence, extent, quantity and quality
35 thereof, which may include but are not limited to seismic, gravity, magnetic,
36 electromagnetic, radar, induced polarization, radio-wave and electro-geochemical;

37
38 **w. Extraction** - ore-removal activities that take place at the mine site itself;

39
40 **x. Free, prior and informed consent (FPIC)** - the consensus of all members of the
41 ICCs/IPs to be determined in accordance with their respective customary laws and
42 practices, free from any external manipulation, interference, coercion, and other
43 analogous acts and obtained after fully disclosing the intent and scope, including the
44 positive and negative impacts, of all the activities, in a language and process
45 understandable and acceptable to the community;

46
47 **y. Indigenous peoples/Indigenous cultural communities (IP/ICC)** - refer to a
48 group of people or homogenous societies identified by self-ascription and ascription
49 by others, who have continuously lived as organized communities on communally
50 bounded and defined territory, and who have, under claims of ownership since time

1 immemorial, occupied, possessed and utilized such territories, sharing common
2 bonds of language, customs, traditions and other distinctive cultural traits, or who
3 have, through resistance to political, social and cultural inroads of colonization, non-
4 indigenous religions and cultures, became historically differentiated from the majority
5 of Filipinos. ICCs/IPs shall likewise include peoples who are regarded as indigenous
6 on account of their descent from the populations which inhabited the country, at the
7 time of conquest or colonization, or at the time of inroads of non-indigenous religions
8 and cultures, or the establishment of present state boundaries, who retain some or
9 all of their own social, economic, cultural and political institutions, but who may have
10 been displaced from their traditional domains or who may have resettled outside
11 their ancestral domains. They are peoples who have a spiritual relationship with the
12 land;

13
14 **z. Indigenous political structure** - refers to organizational and cultural leadership
15 systems, institutions, relationships, patterns and processes for decision-making and
16 participation as identified by ICCs/IPs such as, but not limited to, Council of Elders,
17 Council of Timuays, Bodong Holders, and any other tribunal or body of similar
18 nature;

19
20 **aa. Joint Venture Agreement** - an agreement wherein the government and a
21 qualified person organize a joint-venture company, with both parties having equity
22 shares, to develop and manage mineral resources. Aside from earnings on the
23 equity, the Government shall be entitled to a share in the output computed at a
24 certain percentage mutually agreed upon by and beneficial to both parties;

25
26 **bb. Key biodiversity areas** - are places of international importance for the
27 conservation of biodiversity;

28
29 **cc. Large-scale mining** - mining in areas with more than twenty (20) hectares, using
30 mechanized tools and equipment, requiring considerable capital and having large-
31 scale environmental, social, cultural and economic impacts with regard to resource
32 use and/or consumption;

33
34 **dd. Mineral Agreement** - a contract entered into by the government, in behalf of the
35 State, and a private Filipino person, granting such person/s the privilege to mine a
36 specific contract area;

37
38 **ee. Mineral resource** - any concentration of minerals/rocks with potential economic
39 value;

40
41 **ff. Mineral processing** - the milling, beneficiation or upgrading of ores or minerals
42 and rocks or by similar means to convert the same into marketable products;

43
44 **gg. Minerals** - all naturally occurring inorganic substances in solid, gas, liquid, or any
45 intermediate state excluding energy materials such as petroleum, natural gas,
46 radioactive materials, and geothermal energy;

47
48 **hh. Mine development** - preparing the mine site for production by shaft sinking or pit
49 excavation, building of access roads, and constructing of surface facilities;

1 ii. **Mine wastes and tailings** - rock materials from surface or underground mining
2 and milling operations with little or no economic value to the generator of the same;
3

4 jj. **Mining activity** - any or all of the following activities: exploration, extraction,
5 utilization, processing, transportation and other activities conducted for the same;
6

7 kk. **Mining area** - a portion of the contract area which has been identified by the
8 contractor wherein actual mining operations shall be conducted;
9

10 ll. **Mining operations** – any and all of the mining activities involving the acts of
11 exploration, feasibility, development, utilization, and processing;
12

13 mm. **National Industrialization** – in the mining industry, this shall denote the
14 primacy of mineral production, processing and distribution for the primary benefit of
15 the domestic economy. This includes creating favorable conditions for Filipino
16 entrepreneurs to engage in mining through various state-private agreements that
17 shall ensure that mining shall help spur more domestic investments, increase
18 agricultural production and produce both consumer and producer goods and
19 manufactures;
20

21 nn. **National park** - an area of the public domain that is a natural wilderness that is
22 scenic or historic in character and has been withdrawn from settlement, occupancy,
23 or any form of exploitation except in conformity with an approved management plan
24 and set aside exclusively to conserve the area or preserve the scenery, the natural
25 and historic objects, wild animals, and plants therein mainly for the purpose of
26 biodiversity conservation and/or human enjoyment;
27

28 oo. **Native title** - pre-conquest rights to lands and domains which, as far back as
29 memory reaches, have been held under a claim of private ownership by ICCs/IPs,
30 have never been public lands and are thus indisputably presumed to have been held
31 that way since before the Spanish Conquest;
32

33 pp. **Natural forest** - forests composed of indigenous, native or endemic trees, with
34 high biodiversity, whose structure, functions, and dynamics have been largely the
35 result of natural succession processes;
36

37 qq. **Natural parks** - is a relatively large area not materially altered by human activity
38 where extractive resource activities are not allowed. These parks are maintained to
39 protect outstanding natural and scenic areas of national or international significance
40 for scientific, educational and recreational use;
41

42 rr. **Open-pit mining** - Extracting metal ores and minerals that lie near the surface by
43 removing the overlying material and breaking and loading the ore. Also known as
44 open-cast mining and open-cut mining;
45

46 ss. **Ore** - a material that contains minerals in such quantities that can be mined and
47 worked commercially to extract that mineral. The mineral is usually contained in
48 chemical combination with some other element in addition to various impurities;
49

1 **tt. Pollution control and infrastructure devices** - infrastructure, machinery,
2 equipment and/or improvements used for the impounding, treating, or neutralizing,
3 precipitating, filtering, conveying and cleansing mine industrial waste and tailings as
4 well as reducing or eliminating hazardous effects of solid particles, chemicals, liquids
5 or other harmful by-products and gases emitted from any facility utilized in mining
6 operations for their disposal;

7
8 **uu. Private land** - any land belonging to any private person which includes alienable
9 and disposable land being claimed by a holder, claimant, or occupant who has
10 already acquired a vested right thereto under the law, although the corresponding
11 certificate or evidence of title or patent has yet to be issued;

12
13 **vv. Processing** - includes all the treatment an ore receives after its extraction and
14 beneficiation, which involves changes in the chemical nature of the mined minerals;

15
16 **ww. Progressive rehabilitation** – a rehabilitation that involves the staged treatment
17 of disturbed areas during mining exploration, construction/development and
18 extraction operations;

19
20 **xx. Protected areas** - identified portions of land and water set aside by reason of
21 their unique physical and biological significance that are managed to enhance the
22 biological diversity and protected against destructive human exploitation;

23
24 **yy. Protected landscapes, seascapes, marine sanctuaries** - areas of national
25 significance which are characterized by the harmonious interaction of man and the
26 environs while providing opportunities for public enjoyment through recreation and
27 tourism within the bounds of the normal lifestyle and economic activity of these
28 areas;

29
30 **zz. Quarry resources** - any common rock or other mineral substances as the
31 Director of the Mines and Geosciences Bureau (MGB) may declare to be quarry
32 resources such as, but not limited to, andesite, basalt, conglomerate, coral sand,
33 diatomaceous earth, diorite, decorative stones, gabbro, granite, limestone, marble,
34 marl, red burning clay for potteries and bricks, rhyolite, rock phosphate, sandstone,
35 serpentine, shale, tuff, volcanic cinders, and volcanic glass;

36
37 *Provided, That such quarry resources do not contain metals or metallic constituents*
38 *and /or other valuable minerals in economically workable quantities;*

39
40 *Provided further, That non-metallic minerals such as kaolin, feldspar, bull quartz,*
41 *quartz or silica, sand and pebbles, bentonite, talc, asbestos, barite, gypsum, bauxite,*
42 *magnesite, dolomite, mica, precious and semi-precious stones, and other non-*
43 *metallic minerals that may later be discovered and which the Director declares the*
44 *same to be of economically workable quantities, shall not be classified under the*
45 *category of quarry resources;*

46
47 **aaa. Quarrying** - process of extracting, removing and disposing quarry resources
48 found on or underneath the surface of private or public land;

49
50 **bbb. Regional director** - the director of any MGB regional office;

ccc. **Regional office** - any of the MGB regional offices;

ddd. **Recycling** - shall refer to the treating of used or waste materials through a process of making them suitable for beneficial use and for other purposes, and includes any process by which solid waste materials are transformed into new products that may be used as raw materials for the production of other goods or services:

Provided, That the collection, segregation and re-use of previously used packaging materials shall be deemed recycling under this Act;

eee. **Rehabilitation** - the process by which the land will be returned to a form and productivity in conformity with a prior land use plan, including a stable ecological state that does not contribute substantially to environmental deterioration;

fff. **Remediation** - removal of pollution or contaminants from environmental media for general protection of the area and the people;

ggg. **Remining** - maximizing and recovering the remaining minerals from the rejects or wastes of previous mines and mining operations;

hhh. **Restoration** - the act of bringing back the original, or the closest possible state, of the forest and biodiversity, with the productivity matching that of the original ecosystem;

iii. **Self-determination** - refers to the right of a people to determine its own political destiny as defined by existing Philippine laws. The right to self-determination has includes the right of ICCs/IPs to choose their form of government within existing national borders to achieve a greater degree of autonomy to help preserve their culture, ancestral domain, and way of life;

jjj. **Small-scale mining** - mining activities which rely heavily on manual labor using simple implements and methods and do not use explosives or any heavy mining equipment, primarily engaged in for sustainable living. Impacts from small-scale mining shall not be large-scale, otherwise, the mining activity shall be defined as large-scale mining;

kkk. **Small-scale mining permit** - permit issued for small-scale mining operations;

lll. **Strategic minerals** - minerals needed for national industrialization, including rural development;

mmm. **Tailings Disposal System or Tailings Placement** - the method wherein the mining wastes are dumped, placed, or disposed;

nnn. **Traditional small-scale mining** - small-scale mining using traditional means and without the use of chemical or mechanized extraction and separation means, methods, implements, and/or equipment;

ooo. **Watershed system** - shall refer to an area consisting of the watershed and its divide including its connection from the headwaters to the reef or a land area drained by a stream or a fixed body of water and with tributaries having a common outlet for surface run-off. It is the system by which the mining-affected communities shall be determined following the drainage of a stream or fixed body of water with tributaries having a common outlet for surface runoff;

ppp. **Wildlife** - undomesticated forms and varieties of flora and fauna.

CHAPTER IV OWNERSHIP AND GOVERNANCE

Section 15. Authority of the Bureau. The Mines and Geosciences Bureau (MGB) shall be a scientific research institution under the Department of Environment and Natural Resources (DENR), primarily conducting the research and development of mineral resources and mining technologies, and the training of local communities, local government units and indigenous peoples. It shall also regulate the operations of persons involved in all mining activities. It shall also work with the Multi-Sectoral Mineral Council in the monitoring of mining activities, as provided in this Act.

Section 16. Regional Offices. The Bureau shall have as many regional offices in the country as may be established by the Secretary, upon the recommendation of the Director.

Section 17. Bureau as repository of information. The Bureau shall be the central repository of information regarding mineral lands, resources, permits, studies and other information relevant to the operation of a mine, including the necessary requirements that a contractor is obliged to submit. All other governmental offices and other bodies created under this Act shall furnish copies to the Bureau of all other information related to mining.

Section 18. Access to Information. All contractors for mineral permits and agreements shall provide information to the Bureau and the affected indigenous peoples, local communities, and local government units. The following information of full disclosure, among others, shall be required:

- (a) the methods and processes of mining to be used by the contractor,
- (b) the environmental and social risks,
- (c) the ownership structure of the contractor/company,
- (d) the sources of financing, including loan agreements;

All information and documents related to the proposals, mineral agreements, permits and mining operations shall not be considered confidential. The refusal to grant access to the aforementioned information shall be cause for the disqualification of prospective proponents, or the cancellation of mineral agreements and permits.

The Bureau, being the repository of all relevant information under this Act is mandated to grant the public access to any information in its custody. The refusal or unnecessary delay by officers of the Bureau to provide information shall be punishable by a fine of fifty thousand pesos (PhP 50,000.00) for every instance of refusal or unnecessary delay.

1 Information requested by indigents or marginalized sectors shall be provided to them for
2 free.

3
4 **Section 19. Recording System.** There shall be established a national and regional filing
5 and recording system. A mineral resource database system shall be set up in the Bureau
6 which shall include, among others, a mineral rights management system.

7
8 **Section 20. Publication.** The Bureau shall publish at least annually a mineral gazette of
9 nationwide circulation containing among others, a current list of mineral rights, their
10 locations specified in the appropriate map, mining rules and regulations, other official acts
11 affecting mining, and other relevant information to mineral resources development. A
12 publication fund shall be included in the regular budget of the Bureau.

13
14 **Section 21. Bureau on exploration activities.** All results of exploration of mineral
15 resources shall be submitted and shared with the State through the Bureau.

16
17 **Section 22. Regulation of exploration phase.** All exploration activities shall be strictly
18 monitored by the MGB to ensure that State rights to mining or mineral resources are not
19 extracted even before mining has been allowed and after the subsequent environmental,
20 social, indigenous and community benefit assessments and approvals have been done.

21
22 **Section 23. Government has the primary responsibility for mining exploration.** The
23 State will also carry out human resource training and development, scientific research
24 and technological application and development in geological baseline surveys of
25 minerals and mineral activities.

26
27 **Section 24. Exploration by private entities shall only be allowed in a Joint Venture**
28 **Agreement as described in this Act.** The State encourages organizations and individuals
29 to invest and cooperate with state-owned geological organizations in conducting geological
30 baseline surveys of minerals.

31
32 **Section 25. The State shall invest in exploration and mining.** Minerals important in the
33 service of socio-economic development, national defense and security shall be invested on
34 by the State.

35
36 **Section 26. Non-invasive exploration.** Exploration activities shall be non-invasive such as
37 seismic, gravity, magnetic, electromagnetic, radar, induced polarization, radio-wave and
38 electro-geochemical whenever possible.

39
40 **Section 27. Consent.** The Bureau shall not allow entry into any private lands for the
41 purposes of exploration activities without the written consent of the land owner, possessor
42 and/or occupant, or the FPIC of the ICC/IP, and, payment of just compensation for the use
43 of property. Neither shall the Bureau allow entry into any land under dispute.

44
45 **Section 28. Ownership of ICCs/IPs.** The mineral resources within the ancestral
46 domains/ancestral lands are the collective private property of the indigenous cultural
47 communities/indigenous peoples (ICCs/IPs), as provided by law. The management of such
48 mineral resources shall build on the indigenous knowledge systems and practices of the
49 ICCs/IPs.

Section 29. Free, prior and informed consent (FPIC). No mining activity shall be conducted within the ancestral domains/lands of the ICCs/IPs without their free, prior and informed consent (FPIC), in addition to the conditions set forth in the succeeding sections of this Act.

For instances wherein there are questions on the legality or validity of the issued FPIC, mining operations shall not be allowed in the ancestral domains or lands of the ICCs/IPs without the final resolution of such question on the legality or validity of the FPIC.

Section 30. When ancestral domain is yet to be formally recognized. When an ancestral domain is not covered by a Certificate of Ancestral Domain Title (CADT) or Certificate of Ancestral Land Title (CALT), or is covered by a different title issued in favor of members of the ICCs/IPs, then mineral resources shall nevertheless be managed by the ICCs/IPs concerned when it can be presumed that the area is part of their ancestral domain. An area is presumed to be part of an ancestral domain by virtue of historic rights and self-delineation of the ICCs/IPs.

Section 31. ICCs/IPs displaced from ancestral domain due to mining. The native title over an ancestral domain subsists notwithstanding the fact that the ICCs/IPs who hold such title have been displaced therefrom or that such ancestral domains have been occupied by other persons or corporations under another claim of title emanating from the State. In such cases, ICCs/IPs shall continue to own such mineral resources.

Section 32. Questions on the validity of FPIC. In instances that there are questions on the legality or validity of the issued free, prior, and informed consent (FPIC), mining operations shall not be allowed to be conducted in the ancestral domains or lands of the ICCs/IPs without the final resolution of such question on the legality or validity of such FPIC.

Section 33. Ownership of mineral resources. The State owns the mineral resources, facilities and technology within its national territory and shall utilize and manage these for the benefit of the Filipino people on the national and local levels. Consistent with the State's recognition of the indigenous and Moro peoples' right to self-determination, government shall ensure that the management of mineral resources shall be primarily for the benefit of the local communities in whose territory the same shall be found. Any minerals extracted shall be used for local industries consistent with the Mining Plan. The State may directly undertake the development, utilization and processing of mineral resources or enter into mineral agreements with eligible parties pursuant to the provisions of this Act.

Section 34. Inventory of mineral resources. The Bureau shall identify and provide an inventory of all the available mineral resources, including the mine tailings and wastes within the country. It shall submit to the DENR a report which shall contain the following information:

- a. the classification of minerals;
- b. the quality and grade of the ore;
- c. the potential mine life;
- d. the geological description of the area;
- e. the economic viability of mine tailings; and
- f. all other relevant information necessary for potential mineral investments.

1
2 The process for mineral exploration and the approval for any mining permit shall not
3 commence without the said inventory.

4
5 **Section 35. Strategic minerals.** The Bureau shall conduct researches and studies prior to
6 any mining operations to identify strategic mineral resources. Mineral resources needed for
7 local industries, agricultural modernization and rural development shall be opened to mining
8 subject to the implementing rules and regulations of this Act.

9
10 **Section 36. Demarcation of mineral areas.** The Bureau shall demarcate the boundaries
11 of all areas identified as containing commercial quantities of mineral resources.

12
13 **Section 37. Information on watershed continuums.** The baseline information on all
14 watersheds in the country shall be required and made accessible to the public in all forms,
15 including the websites of the Bureau and the National Water Resources Board (NWRB). No
16 mining permit shall be issued without this baseline information.

17
18 **Section 38. Affected local community and local government unit.** For the purposes of
19 this Act, the affected local community and local government unit are defined in relation to
20 any area which has the potential to be negatively impacted by mining operations in the
21 demarcated area. The local communities and the local government units therefore, are
22 those who are dependent on the watershed eco-system and its resources.

23
24 **Section 39. Establishment of the Multi-Sectoral Mineral Council.** A Multi-Sectoral
25 Mineral Council shall be established for the purposes of this Act. There shall be as many
26 Multi-Sectoral Mineral Councils per province corresponding to demarcated mineral areas.

27
28 **Section 40. Powers and Functions of the Council.** The Council shall have the following
29 powers, among others:

- 30
31 a. To define a review period, for each mineral area, where comments on mining
32 proposals shall be submitted to the Bureau;
- 33 b. To call for public hearings to present and formally discuss mining applications
34 and gather options and public feedback or comments before a project should be
35 approved by the Bureau.
- 36 c. To determine whether or not mining operations shall be allowed;
- 37 d. To deliberate on proposals for mineral agreements;
- 38 e. To monitor the conduct of mining operations;
- 39 f. To establish its internal rules of procedure which are not contradictory to this Act;
- 40 g. To provide public comment on all public submissions and justify their decision;
- 41 and
- 42 h. To recommend the cancellation of a permit.

43
44 **Section 41. Composition of the Multi-Sectoral Mineral Council.** The Multi-Sectoral
45 Mineral Council shall be composed of::

- 46
47 (a) a representative from the Bureau, who may come from the concerned Provincial
48 DENR Office;

(b) one (1) representative from each of the affected provincial governments/independent component cities/highly urbanized cities (LGUs);

(c) representatives from an established municipal-level peoples/community/sectoral/ICCs or IP organizations affected by the proposed mining project and whose numbers shall be equal to or as many as the number of those representing the affected LGUs; and,

(d) two (2) representatives from non-government organizations of at least five years (5) of prior existence,

The Bureau shall be the convenor of the Council. No mining operations shall be allowed without the Council having been properly convened.

Section 42. Areas open to mining. The power to determine whether or not the land where mineral resources are found shall be opened to mining is vested in the Council. Areas may only be opened to mining upon the two-thirds vote of all the members of the Council pursuant to the guidelines provided by this Act. In determining whether or not such area shall be opened, the following shall be taken into consideration:

- a. Bureau report on the exploration conducted;
- b. Existence of downstream industries for the mineral resources;
- c. Potential environmental, public health and cultural impacts;
- d. Conflict and risk assessment;
- e. Potential economic benefits of the development and utilization of the minerals;
- f. Carrying capacity and the ecological profile of the area;
- g. Existing and alternative land uses of the area; and
- h. Local government land use plan.

No mining application shall be allowed by the Council unless an environmental economic audit or resource valuation of the proposed mining area has been conducted applying acceptable valuation standards. This audit or resource valuation shall be conducted in coordination with a multi-sectoral group of experts and community stakeholders. It shall include the determination of the expected economic returns and the potential negative impacts from mining. A detailed study must mention the biodiversity present in the mining claim and the impact of mining operations on the environment, the possible environmental degradation and the attendant loss of subsistence resources. There must be mention of existence of sacred areas or areas of cultural significance and address the impacts of resource exploitation on indigenous and local communities.

No mining application shall be allowed by the Council unless an environmental economic audit or resource valuation of the proposed mining area has been conducted applying acceptable valuation standards. This audit or resource valuation shall be conducted in coordination with a multi-sectoral group of experts and community stakeholders. It shall include the determination of the expected economic returns and the potential negative impacts from mining. A detailed study must mention the biodiversity present in the mining claim and the impact of mining operations on the environment, the possible environmental degradation and the attendant loss of subsistence resources. There must be mention also of existence, if any, of sacred areas or areas of cultural significance and address the impacts of resource exploitation on indigenous and local communities.

1
2 This information shall be accessible to the public at all times.
3

4 *Provided however,* That in no case shall the Council open the following areas to mining:
5

- 6 a) Areas declared by the Local Government Units as No-Mining Zones as specified by
7 local ordinances and other issuances;
8
- 9 b) densely populated areas, especially residential areas;
10
- 11 c) prime agricultural lands, irrigable and irrigated lands as defined by Republic Act
12 9700;
13
- 14 d) lands subject for agrarian reform;
15
- 16 e) areas with potential for acid mine drainage;
17
- 18 f) critical watersheds and critical habitats;
19
- 20 g) geohazard and climate disaster-prone areas;
21
- 22 h) small island ecosystems;
23
- 24 i) cultural sites, which may include, but not limited to, sacred sites and burial grounds;
25
- 26 j) traditional swidden farms and hunting grounds;
27
- 28 k) cultural property enumerated under Republic Act 10066;
29
- 30 l) key biodiversity areas;
31
- 32 m) high conflict areas;
33
- 34 n) the Province of Palawan pursuant to Republic Act 7611;
35
- 36 o) in military and other government reservations, except upon prior written clearance by
37 the government agency concerned;
38
- 39 p) near or under public or private buildings, cemeteries, archaeological and historic
40 sites, bridges, highways, waterways, railroads, reservoirs, dams or other
41 infrastructure projects, public or private works including agricultural crop plantations,;
- q) in areas covered by small-scale miners as defined by law unless with prior consent
of the

small-scale miners, in which case a royalty payment upon the utilization of minerals shall be agreed upon by the parties, with said royalty forming a trust fund for the socioeconomic development of the community concerned;

r) old growth, natural or primary forests, watershed forest reserves, wilderness area, mangrove forests, mossy forests, national parks, protection forests, provincial/municipal forests, parks, greenbelts, game refuge and bird sanctuaries and their respective buffer zones as defined by existing laws and ordinances; and

s) In areas expressly prohibited by law or ordinances.

The determination whether or not the same are absolutely closed to mining shall not only be limited to the existence of a law or ordinance declaring it as protected areas, but also to the actual use of said area.

Section 43. Manner of voting by the Council for opening an area to mining. Sections 26 and 27 of the Local Government Code on consultation and consent shall be strictly adhered to. Local government units at all levels shall conduct mandatory public hearings with the affected local communities, to be carried out within their respective territories and presenting those enumerated under Section 42 of this Act.

The Bureau shall convene the Council once the inventory of the existing minerals, the formulation of a mine plan, and the existence of the baseline information of the particular watershed area are submitted.

The Council shall thereafter convene their respective constituents to determine whether or not their respective territories shall be opened for mining.

Local government units, ICCs/IPs, NGOs and peoples organizations, shall ensure that the Bureau shall comprehensively explain the goals and objectives of the project or program, its negative and positive impact upon the people and the community in terms of environmental or ecological balance, and the measures that will be undertaken to prevent or minimize the adverse effects thereof.

Thereafter, the approval of the respective *Sanggunians* of the affected local government units shall be required in accordance to the sentiment of the peoples of the local government unit as a result of the consultations conducted.

Provided, That the affected local government unit representatives shall meet and relay the decision of their respective constituents to the provincial government/independent component cities/highly urbanized cities. The provincial/component city/highly urbanized city government representative shall sit in the Council and shall carry the result of the vote of all the affected local government units within the province resulting from the process as provided in this Act. There must be a two-thirds vote among all the affected LGUs for the purpose of opening a particular area for mining in its jurisdiction. Failure to reach a two-thirds vote for opening shall mean that the area is closed to mining. All the proceedings shall at all times be recorded.

1 *Provided further*, That in case there are affected indigenous cultural
2 communities/indigenous peoples, they shall also bring the community's vote to the Council
3 after undergoing their own processes in accordance with their respective indigenous
4 political structure, free from any external manipulation, interference, coercion and other
5 analogous acts, and obtained after fully disclosing the intent and scope, including the
6 positive and negative impacts of the activity, in a language and process understandable
7 and acceptable to them.

8
9 *Provided finally*, That any member of the community may file a protest with the Council
10 during any point in the period of consultations and deliberations for the Council's
11 consideration.

12
13 **Section 44. Violation of Section 56.** — Local government officials who are
14 administratively found to violate the preceding sections and Section 56 of this Act (*section*
15 *on the Deliberation of Proposals*) vis-à-vis the pertinent sections of the Local Government
16 Code shall be removed from office and perpetually disqualified from holding any elective or
17 appointive position in government, its divisions, subsidiaries and any government owned
18 and controlled corporations.

19
20 **Section 45. Pool of consultants.** There shall be a pool of independent consultants that
21 shall assist the local government units, local communities or ICCs/IPs with regard to the
22 technical aspects of mining.

23
24 **Section 46. Publication, posting and radio announcement requirements.** Any decision
25 of the Council shall be published by the Bureau in the local newspaper in the local
26 language, shall be announced on local radio programs for not less than six (6) weeks and
27 notices shall be distributed widely in communities. The notice containing relevant
28 information shall likewise be posted in conspicuous places for the information of the general
29 public and shall be announced during the local market day.

30
31 **CHAPTER V**
32 **MINERAL AGREEMENTS**

33
34 **Section 47. Modes of Mineral Agreement.** The following are the mineral agreements as
35 herein defined;

- 36
37 a. **Mineral production sharing agreement** - an agreement where the Government
38 grants to the contractor the exclusive right to conduct mining operations within a
39 contract area and shares in the gross output. The contractor shall provide the
40 financing, technology, management and personnel necessary for the
41 implementation of this agreement;
42
43 b. **Co-production agreement** - an agreement between the Government and the
44 contractor wherein the Government shall provide inputs to the mining operations
45 other than the mineral resource; and
46
47 c. **Joint venture agreement** - an agreement where a joint-venture company is
48 organized by the Government and the contractor with both parties having equity
49 shares. Aside from earnings in equity, the Government shall be entitled to a
50 share in the gross output.

1
2 In no case shall Financial or Technical Assistance Agreements, or any other similar
3 agreements, contracts, and/or executive issuances granting license or permission to
4 explore, develop and/or utilize mineral resources be awarded to foreign entities or persons.
5

6 **Section 48. Eligibility.** Only Filipino citizens or corporations sixty percent (60%) of whose
7 equity is owned or controlled by such citizens shall be allowed to conduct the development,
8 utilization and processing of mineral resources within the country.
9

10 **Section 49. Identification of mining projects.** With at least two-thirds vote of the mining-
11 affected communities as reported by the Council to open areas for mining operations, the
12 Bureau shall prepare the necessary information sheets on the said area for potential
13 investments. The Bureau shall call for proposals to develop the mining area based on the
14 National Mining Plan (NMP).
15

16 **Section 50. Pre-screening of mining proposals.** Mining proposals shall be pre-screened
17 by the Bureau according to the National Industrialization and Mineral Development Plan
18 and upon the submission of interested parties of the following:
19

- 20 a. demonstration of financial capability;
- 21 b. proven social and environmental track record, including those of its officers and
- 22 directors;
- 23 c. clear corporate structure and ownership;
- 24 d. proof of physical office and operations of the proponent within the Philippines;
- 25 e. identification of potential investors;
- 26 f. mining project feasibility and operational work plan to include proposed operation,
- 27 mitigation and prevention methods and/or equipment;
- 28 g. capacity to process minerals;
- 29 h. intent to develop downstream industries and contribute to local community
- 30 development; and,
- 31 i. submission of the Environmental and Social Impact Assessment and Mitigation
- 32 Plan
33

34 The Council shall fix the minimum capitalization that any bidder must satisfy based on its
35 determination of the expected economic returns and the potential negative impacts from
36 mining, upon reference to an independent study proposing such minimum capitalization.
37

38 **Section 51. Environmental and Social Impact Assessment and Mitigation Plan.** The
39 contractor shall submit an Environmental and Social Impact Assessment and Mitigation
40 Plan (ESIAMP) containing the means, methods, processes and schedule by which the
41 contractor shall conduct its operations and mitigate negative environmental and social
42 impacts. Social impact shall include possible impacts on the enjoyment and exercise of
43 human rights, cultural rights, and the right to a healthful ecology. The ESIAMP shall include
44 plans relative to mining operations; the rehabilitation, regeneration and restoration of
45 mineral areas; slope stabilization of mined out and tailings covered areas; aquaculture,
46 watershed development and water conservation; the relocation and return of displaced
47 population; and provisions for alternative livelihood and socioeconomic development.
48

1 The ESIAMP shall also contain a Social Development Plan which shall likewise contain the
2 plans of the proponent for the development of the community through the establishment of
3 infrastructures and programs that shall be sustainable even after the closure of the mine.

4
5 **Section 52. Pre-qualification.** The Bureau shall thereafter identify the top five (5)
6 proposals and shall recommend the same to the Council for deliberation.

7
8 **Section 53. Deliberation.** After the Bureau's transmittal of its recommendations to the
9 Council together with all the submitted documents for the pre-qualification, the Council shall
10 initiate the deliberation process of the pre-qualified proposals.

11
12 Immediately thereafter, Sections 26 and 27 of the Local Government Code on consultation
13 and consent shall be strictly adhered to. Local government units at all levels shall conduct
14 mandatory public hearings with the affected local communities, to be carried out within their
15 respective territories and presenting those enumerated under Section 40. Local government
16 units, ICCs/IPs, NGOs and peoples organizations, shall ensure that the mining applicant
17 shall comprehensively explain the goals and objectives of the project or program, its
18 negative and positive impact upon the people and the community in terms of social, cultural
19 and environmental or ecological balance, and the measures that will be undertaken to
20 prevent or minimize the adverse effects thereof. Thereafter, the approval of the respective
21 *sanggunians* of the affected local government units shall be required in accordance to the
22 sentiment of the peoples of the local government unit as a result of the consultations
23 conducted.

24
25 *Provided,* That the affected local government unit representatives shall meet and shall relay
26 the decision of their respective constituents to the provincial government/independent
27 component cities/highly urbanized cities. The provincial/component city/highly urbanized
28 city government representative shall sit in the Council and shall carry the result of the vote
29 of all the affected local government units within the province/independent component
30 city/highly urbanized city resulting from the process provided in the preceding paragraph of
31 this Section.

32
33 In determining which proposal is acceptable to the people, a majority vote of the local
34 government units within the province/independent component city/highly urbanized city
35 shall be required.

36
37 The affected ICCs/IPs shall also deliberate on the proposals in accordance with their own
38 systems and processes free from any external manipulation, interference, coercion and
39 other analogous acts, and obtained after fully disclosing the intent and scope, including the
40 positive and negative impacts of the activity, in a language and process understandable
41 and acceptable to them.

42
43 After the respective processes are complied with, the Council shall then meet and decide
44 which proposal, if any, is most acceptable and consistent with their own socio-economic,
45 environmental and cultural programs and shall notify the Bureau of the chosen proposal.

46
47 **Section 54. Posting and Publication Requirement.** After notice, the Bureau shall notify
48 the proponent of the accepted proposal and cause the publication and posting of the
49 accepted proposal.

1 *Provided*, That any member of the community may contest the decision of the Council
2 within six (6) weeks upon the posting and publication of notice of the acceptance of the
3 proposal in the manner provided for in Section 38 . No mining operations shall be allowed
4 pending any action questioning the legality or validity of the proposal.

5
6 **Section 55. Permit issuance.** If no contest is filed after six (6) weeks from the date of
7 posting and publication, the DENR shall issue a permit in accordance with the report of the
8 Council on the winning proposal that won 2/3 affirmation of each of the municipalities
9 affected.

10
11 **Section 56. Environmental and Social Impact Compliance Certificate.** The mining
12 proponent shall be issued an Environmental and Social Impact Compliance Certificate by
13 the Environmental Management Bureau with the approval of the Council.

14
15 *Provided*, That no amendments to the ESIAMP shall be allowed, unless any proposed
16 amendment shall benefit the affected communities and that the Council and the Bureau
17 shall be notified of any amendments to the ESIAMP, that the former shall give their consent
18 to the same, after the proponent explains in detail the reason for such amendment/s and
19 the possible impacts and consequences of these.

20
21 *Provided further*, That any violation of the ESIAMP shall cause the cancellation of the
22 Certificate.

23
24 **Section 57. Maximum areas for mineral agreements.** The maximum area under mineral
25 agreements that an entity can hold at any one time shall be determined by the Council,
26 *Provided* That the contract area per agreement shall not exceed five hundred (500)
27 hectares.

28
29 *Provided further*, That no entity shall be awarded in excess of the total contract area of
30 seven hundred-fifty (750) hectares in any given watershed area. For the purposes of this
31 Act, the prohibition on the maximum area shall also include corporations that shall have
32 common directors or significant shareholders.

33
34 **Section 58. Term of Mineral Agreement.** The term of the mineral agreement shall be
35 equivalent to the mine life plus an additional five (5) years for the rehabilitation of the mining
36 area. *Provided* , That Mine Agreements will not exceed fifteen (15) years at most and
37 may be extended multiple times with the total extension period not exceeding fifteen
38 (15) years. *Provided further*, That the contractor shall already include
39 rehabilitation/remediation of the mining area within the first fifteen-year term.

40
41 In no case shall a Mineral Agreement be extended without just cause to be determined by
42 the Council.

43
44 **Section 59**ds and the submarine tailings disposal method shall be prohibited.

45
46 **Section 57. Failure to initiate mining operations.** Failure to initiate mining operations in
47 accordance with the work program within five (5) years from the award of the mineral
48 agreement shall cause the cancellation of the mineral agreement. The contractor thereafter
49 forfeits the value of the improvements made upon the land. The contractor and other
50 corporations who are also run by the same directors and officers are thereafter banned

1 from bidding to conduct mining operations for ten (10) years after failure to initiate its mining
2 operations in accordance with the work program

3
4 **Section 60. Mandatory consultations for each mining phase.** Mandatory consultations
5 and consent/approval shall be undertaken by the Council in each phase of mining
6 operation: exploration, extraction, processing, and mine closure to ensure that mining-
7 affected communities shall be informed and shall approve of the proposed plans and
8 methods to be conducted.

9
10 **Section 61. FPIC of ICCs/IPs on each stage of mining.** The FPIC of the ICCs/IPs shall
11 be required at each and every stage of the mining operations. The FPIC shall be secured in
12 accordance with the laws, practices and processes of the concerned ICCs/IPs. The
13 violation of any of the conditions imposed by the ICCs/IPs on the contractor shall cause the
14 cancellation of the mineral agreement. Explanation of the rights of ICCs/IPs over
15 ownership and self-determination shall be included in this process.

16
17 **Section 62. Consent of private landowners.** No person shall be allowed entry into private
18 lands without the written consent of the landowners, possessors or lawful occupants of the
19 land and/or the FPIC of the ICC/IP.

20
21 **Section 63. Expropriation.** Expropriation proceedings shall be filed with the regular courts
22 to determine whether the taking of private property for mining purposes shall meet a public
23 purpose and to determine just compensation.

24
25 **Section 64. Monitoring.** The Council shall form a multi-partite monitoring team to monitor
26 the contractor's compliance to the terms and conditions of the mineral agreement. It may
27 conduct ocular inspections of the contract area at any time and inspect all the books of
28 contractors and refer the same to independent auditors. The multi-partite monitoring team
29 and/or the Bureau may confiscate surety, performance and guaranty bonds posted through
30 an order to be promulgated by the Director. The Council, the Director or the local
31 government authorities may deputize, when necessary, any member or unit of the
32 Philippine National Police (PNP), barangay, duly registered non-government organization
33 (NGO) or any qualified person to police any and all mining activities.

34
35 **Section 65. Withdrawal from the Mineral Agreement.** The contractor may withdraw from
36 the mineral agreement at any time for justifiable cause with one (1) month's notice to the
37 Bureau, the Council and/or the ICCs/IPs, and other government agencies as provided in
38 this Act. The Council, in cooperation with other concerned government agencies, shall
39 issue a clearance for withdrawal upon certifying that the contractor has complied with all its
40 legal obligations, including the appropriate measures for mine closure and rehabilitation.
41 Funds and bonds which have been put up by the contractor in accordance with this Act
42 shall be forfeited.

43
44 **Section 66. Prohibition on the Transfer of Mineral Agreements.** In no case shall mining
45 rights under this Act be transferable. The contractor shall also immediately notify the
46 Council and the Bureau of any change in the ownership and/or control of the corporation
47 and its financing program. Violation of this provision shall cause the cancellation of the
48 mineral agreement and forfeiture of the contractor's assets in favor of the State.

49 CHAPTER VI 50

SMALL-SCALE MINING

Section 67. Applicability of RA 7076. Small-scale mining shall continue to be governed by the provisions of Republic Act 7076 or the People's Small-Scale Mining Act of 1991, *Provided*, That the Provincial/City Mining Regulatory Board shall be composed of the Governor or City Mayor, as chairperson, as the case may be, a DENR representative as co-chairperson, one (1) small scale mining representative, one (1) large-scale mining representative, one representative from an environmental non-government organization, one representative from a people's organization (PO) coming from the marginalized sector, and at least one (1) representative from the indigenous communities, whenever applicable, as members. The representatives from the private sector, nongovernment organization and indigenous communities shall be selected by their respective organizations and/or communities, and appointed by the PMRB or CMRB.

Provided further, That the conduct of small-scale mining shall also comply with the prohibitions and regulations established herein for large-scale mining. Only individuals and cooperatives may apply for a small-scale mining permit.

Section 68. Maximum term of small-scale mining permits. The term for small-scale mining permits shall be three (3) years, extendable to a maximum of fifteen (15) years.

Section 69. Traditional small-scale mining within ancestral domains. The Council shall conduct regular monitoring activities within its jurisdiction to determine if the provisions of relevant laws are complied with in traditional small-scale mining by ICCs/IPs within their respective ancestral domains.

Section 70. FPIC in small-scale mining. Small-scale mining activities within any ancestral domain by any person shall also require the FPIC of ICCs/IPs.

Section 71. Requirement for Environmental and Social Impact Compliance Certificate. Small-scale mining shall likewise require an Environmental and Social Impact Compliance Certificate (ESICC). All small scale mining applicants or proponents must show proof of compliance with the terms and conditions of its ESICC prior to the issuance of a small scale mining permit (SSMP). Failure to submit this requirement will result in the non-issuance of the SSMP.

Section 72. Environmental measures in small-scale mining. The State shall immediately address the environmental and health hazards and problems in small-scale mining, including the use of mercury, cyanide and other chemicals, in the amalgamation of gold by small-scale miners.

The Bureau shall immediately conduct research to focus on developing and promoting appropriate, clean, efficient, culturally-sensitive and industrially-viable technologies that shall mitigate the environmental and health effects of mercury and cyanide use and eventually replace the current practice.

Section 73. Monitoring small-scale mining. A multi-sectoral monitoring team shall be organized by the Council to monitor SSMP permittees' compliance with the terms and conditions of their respective SSMPs and ESICCs. The team shall conduct ocular inspections of SSMP areas at any time and shall have visitorial powers.

Section 74. Livelihood support. The State shall support the improvement of the livelihood of small-scale-miners by extending services for access to other more viable and sustainable forms of livelihood, and, if the same is not possible, the following support services:

- (a) access to minerals markets and to financing;
- (b) facilitating partnership with mining companies or contractors by, among others, requiring mining companies to buy tailings from small-scale mining operations for further processing or recycling;
- (c) facilitating partnerships among small-scale mining cooperatives; and
- (d) other incentives to attract informal small-scale miners to formalize their status.

Section 75. Buying stations. The Bangko Sentral ng Pilipinas shall ensure that buying stations acquire gold from small-scale traders at prevailing international gold market prices and the prevailing exchange rate set by the BSP Treasury Department on a daily basis.

CHAPTER VII QUARRY RESOURCES

Section 76. Quarry resources within ancestral domains. Gathering of quarry resources, sand and gravel, guano and other organic fertilizer materials, and gemstones within ancestral domains shall likewise be subject to the FPIC of ICCs/IPs. ICCs/IPs and the government shall be entitled to ten percent (10%) of royalties depending on whether the resources are found inside or outside ancestral domains. Permits shall have a term of five (5) years, renewable for like period but not to exceed a total term of twenty (20) years, and, only at a maximum surface area of five (5) hectares.

Section 77. Quarry Permit. Any qualified Filipino may apply for a quarry permit on privately-owned lands and ancestral domains and public lands for building and construction materials such as marble, basalt, andesite, conglomerate, tuff, adobe, granite, gabbro, serpentine, inset filling materials, clay for ceramic tiles and building bricks, pumice, perlite and other similar materials that are extracted by quarrying from the ground at the provincial/city mining regulatory board. The provincial governor shall grant the permit after the applicant has complied with all the requirements as prescribed by the rules and regulations set forth by this Act. *Provided that* gathering/extraction of sand for its metallic contents such as magnetite from the country's rivers and shorelines shall be require a mineral agreement in lieu of a quarry permit.

The maximum area which a qualified person may hold at any one time shall be limited to a surface area of five hectares (5 has.) *Provided, That* in large-scale quarry operations involving cement raw materials, marble, granite, sand and gravel and construction aggregates, a qualified person and the government may enter into a mineral agreement as defined herein.

A quarry permit shall have a term of five (5) years, renewable for like periods but not to exceed a total term of twenty (20) years. No quarry permit shall be issued or granted for any area that is covered by a mineral agreement.

1
2 **Section 78. Quarry fees and taxes.** A quarry permittee shall pay quarry fees as provided
3 for under the implementing rules and regulations. The permittee shall also pay excise taxes
4 as provided by pertinent laws.

5
6 **Section 79. Cancellation of quarry permit.** A quarry permit may be cancelled by the
7 provincial governor for violations of the provisions of this Act, its implementing rules and
8 regulations or the terms and conditions of said permit. *Provided,* That before the
9 cancellation of such permit, the holder thereof shall be given the opportunity to be heard in
10 an investigation conducted for the purpose.

11
12 **Section 80. Commercial sand and gravel permit.** Any qualified person may be granted a
13 permit by the provincial governor to extract and remove sand and gravel or other loose or
14 unconsolidated materials outside ancestral domains which are used in their natural state,
15 without undergoing processing from an area of not more than five hectares (5 has.) and in
16 such quantities as may be specified in the permit.

17
18 **Section 81. Industrial sand and gravel permit.** Any qualified person may be granted an
19 industrial sand and gravel permit by the Bureau for the extraction of sand and gravel and
20 other loose or unconsolidated materials outside ancestral domains that necessitate the use
21 of mechanical processing covering an area of not more than five hectares (5 has.) at any
22 one time. The permit shall have a term of three (3) years, renewable for a like period but not
23 to exceed a total term of twenty (20) years.

24
25 **Section 82. Exclusive sand and gravel permit.** Any qualified person may be granted an
26 exclusive sand and gravel permit by the provincial governor to quarry and utilize sand and
27 gravel or other loose or unconsolidated materials from public lands for his own use,
28 *Provided,* That there will be no commercial disposition thereof.

29
30 **Section 83. State gratuitous permit.** Any government entity or instrumentality may be
31 granted a gratuitous permit by the provincial governor to extract sand and gravel, quarry or
32 loose unconsolidated materials outside ancestral domains needed in the construction of
33 building and/or infrastructure for public use or other purposes over an area of not more than
34 two hectares (2 has.) for a period co-terminus with the said construction.

35
36 **Section 84. Private Gratuitous Permit.** Any owner of land may be granted a private
37 gratuitous permit by the provincial governor to extract sand and gravel, quarry or loose
38 unconsolidated materials within his property.

39
40 **Section 85. Guano permit.** Any qualified Filipino may be granted a guano permit by the
41 provincial governor to extract and utilize loose unconsolidated guano and other organic
42 fertilizer materials in any portion of a municipality where he/she has an established domicile
43 outside ancestral domains. The permit shall be for specific caves and/or for confined sites
44 with locations verified by the Department's field officer in accordance with existing rules and
45 regulations. *Provided,* That extraction does not violate and is consistent with the provisions
46 in the Cave Conservation Act and the Wildlife Act.

47
48 **Section 86. Gemstone gathering permit.** Any qualified Filipino may be granted a non-
49 exclusive gemstone gathering permit by the provincial governor to gather loose stones
50 useful as gemstones in rivers and other locations outside ancestral domains..

1
2 **Section 87. Council recommendation for approval.** All permits under Chapter VII of this
3 Act shall require the recommendation of the Multi-Sectoral Mineral Council prior to approval
4 by the provincial government unit. The absence of a recommendation from the Council
5 prohibits the approval of any permit in this Chapter.
6

7 **CHAPTER VIII**
8 **TRANSPORT, SALE AND PROCESSING OF MINERALS**
9

10 **Section 88. Ore transport permit.** A permit specifying the origin and quantity of non-
11 processed mineral ores or minerals shall be required for their transport.
12

13 In the case of mineral ores or minerals being transported from the Minahang Bayan areas
14 to the custom mills or processing plants, the Minahang Bayan Council concerned shall
15 formulate their own policies to govern such transport of ores produced by small-scale
16 mining cooperatives.
17

18 Transport permits shall be issued by the Bureau. The absence of a permit shall be
19 considered as *prima facie* evidence of illegal mining and shall be sufficient cause for the
20 confiscation of the ores or minerals being transported, the tools and equipment utilized, and
21 the vehicle containing the same.
22

23 **Section 89. Track record.** Only mining companies with demonstrated capacity and good
24 environmental track record in mineral processing shall be allowed to extract minerals. The
25 Council shall encourage contractors to put up processing plants within the community with
26 the end in view of generating employment and developing other downstream industries.
27

28 **Section 90. Mineral trading registration.** No person shall engage in the trading of mineral
29 products, either locally or internationally, unless accredited by the Department and duly
30 registered with the Department of Trade and Industry (DTI) with a copy of said accreditation
31 and registration submitted to the Bureau.
32

33 **Section 91. Mineral Processing Permit.** No individual, partnership, partnership,
34 cooperative, corporation or other entity shall engage in the processing of minerals without
35 first securing a minerals processing permit from the Council. Minerals processing permits
36 shall be for a period of five (5) years, renewable for like periods but not to exceed a total
37 term of twenty-five (25) years.
38

39 In the case of small-scale miners, the processing of mineral ores they produce, as well as
40 the licensing of their custom mills or processing plants, shall continue to be governed by the
41 provisions Of Republic Act No. 7076.
42

43 In the case of individuals, corporations, partnerships, cooperatives or other entities who are
44 parties to a Mineral Agreement or a Financial or Technical Assistance Agreement, holders
45 of quarry and industrial sand and gravel permits, the approved work program for the
46 production period shall be sufficient requirement for them to process minerals in lieu of a
47 mineral processing permit.
48

49 A mineral processing permit shall be for a period of ten (10) years, renewable for like
50 periods: Provided, That renewal shall not be allowed unless the permit holder has complied

1 with all the terms and conditions of the permit and has not been found guilty of violation of
2 any provision of this Act and its implementing rules and regulations.

3
4 After due process, a mineral processing permit may be suspended, revoked or cancelled by
5 the DENR for violation of its terms and conditions, or of pertinent laws, rules and
6 regulations.

7
8 Mineral processing shall be included in the Investment Priority plan to be prepared by the
9 Board of Investment in accordance with Executive Order No. 226, as amended, otherwise
10 known as the Omnibus Investment Code of 1987 and shall always be listed as a preferred
11 area of investment.

12
13 **CHAPTER IX**
14 **DEVELOPMENT OF COMMUNITIES, SCIENCE AND TECHNOLOGY**

15
16 **Section 92. Expenditure for community development.** A contractor shall assist in the
17 development of the community, and the promotion of the general welfare of its inhabitants
18 towards sustainable development. Community development projects shall in no way
19 decrease the obligation of the corporation with regard to royalties and fees due to
20 communities and/or local government units. Community development projects should be
21 consistent with the Comprehensive Land Use Plans (CLUP), Ancestral Domains
22 Sustainable Development and Protection Plan (ADSDPP) and annual investment plans of
23 the local governments, CADT/CALT holders, and the like.

24
25 **Section 93. Preferential option for Filipino labor, experts and training of members of**
26 **the local community.** A contractor and/or permittee shall give preference to Filipino
27 citizens in all types of mining employment within the country. Members of the local
28 community shall be trained in all aspects of the mining operations, including remining,
29 recycling, and the management thereof.

30
31 **Section 94. Use of indigenous goods, services and technologies.** A contractor shall
32 give preference to the use of local goods, services, and the scientific and technical
33 resources in all stages of mining operations, where the same are of equivalent quality and
34 are available on equivalent terms as their imported counterparts.

35
36 **Section 95. Donation or turnover of facilities.** Prior to the cessation of mining operations
37 by abandonment or withdrawal of operations on public lands by the contractor, the latter
38 shall have a period of one (1) year therefrom within which to remove improvements.
39 Otherwise, all the infrastructure, facilities and equipment shall be turned over or donated
40 tax-free to the proper government authorities, national or local, to ensure that said
41 infrastructure facilities and equipment are continuously maintained and utilized by the State.
42 A fine of one hundred thousand pesos (PhP100,000.00) shall be imposed for every day of
43 delay.

44
45 **CHAPTER X**
46 **BENEFIT SHARING, TAXES AND FEES**

47
48 **Section 96. Taxes and fees.** The contractor shall pay all taxes and fees as required by
49 law, including, but not limited to:
50

- 1 a. contractor's income tax;
- 2 b. customs, duties and fees on imported capital equipment;
- 3 c. value-added tax on imported goods and services;
- 4 d. withholding tax on interest payments to foreign loans and on dividends to foreign
- 5 stockholders;
- 6 e. documentary stamps tax;
- 7 f. capital gains tax;
- 8 g. excise tax on minerals;
- 9 h. local business tax;
- 10 i. real property tax;
- 11 j. community tax;
- 12 k. occupation fees;
- 13 l. registration, accreditation and permit fees;
- 14 m. water usage fees.

15
16 **Section 97. Government share.** Aside from the taxes and fees referred to in the
17 preceding section, Government shall have a share equivalent or greater than **ten percent**
18 **(10%) of the gross revenues from the development and utilization of mineral**
19 **resources that are owned by it to be set aside for the general fund of the government**
20 **to be used, among others, for special projects such as energy development and**
21 **generation and the management and conservation of protected areas in areas within**
22 **the vicinity or adjacent to mining operations.**

23
24 **Section 98. Indigenous cultural communities' royalty.** In case of mineral operations
25 within ancestral domains, the contractor shall allot at least ten percent (10%) of the gross
26 revenues as royalty to the ICCs/IPs. Community development programs shall not be
27 considered as royalty payment. The payment of the royalties shall directly be given to the
28 communities in a process that build on the ICCs/IPs' traditional and customary laws.

29
30 *Provided,* That the royalty established in this Act shall be free from any external
31 manipulation, interference, coercion, and other analogous acts, and obtained after fully
32 disclosing the intent and scope, including the positive and negative impacts of the activity,
33 in a language and process understandable and acceptable to them.

34
35 **Section 99. Scientific research and development fund.** A Scientific Research and
36 Development Fund shall be set aside to be devoted to research and development of clean
37 mining technologies, improvement of mining processes, mine rehabilitation, mitigating
38 technologies, the setting up and maintenance of an independent pool of experts, and
39 operational expenses of the Bureau.

40
41 **Section 100. Legal services fund.** A legal support fund shall be set aside for the use of
42 the communities and local government units for cases that they may file against mining
43 permittees or cases that may be filed against them by mining companies in trying to do their
44 responsibility of protecting the rights of the marginalized groups, the environment and
45 sustainable development in general.

46
47 **Section 101. Local Government Unit share.** Local Government Units shall be entitled to a
48 share of the net revenues from mining operations which shall be paid directly to the
49 treasurer's office of the provincial/independent component city/highly urbanized city for

1 distribution to other local government units. To determine the government share, the
2 following variables shall be considered:

- 3
4 a. Classification of local government;
5 b. Vulnerability; and
6 c. Human development index.
7

8 A percentage of this amount shall be set aside by the respective local government units for
9 Disaster Risk Management. This fund shall likewise benefit ICCs/IPs within the territory of
10 the local government unit.

11
12 *Provided, That the administrative and operational expenses of the Council shall also be*
13 *taken from this share.*

14
15 **Section 102. Mine wastes and tailings fees.** A semi-annual fee denoted as mine wastes
16 and tailings fee is hereby imposed on all operating mining companies in accordance with
17 the implementing rules and regulations. The mine wastes and tailings fee shall accrue to a
18 fund to be used as support funds for the monitoring activities of the Council. The Secretary
19 is authorized to increase mine wastes and tailings fees, when public interest so requires.
20

21 **Section 103. Incentives.** Incentives that shall be given to the contractors shall be limited
22 only to pollution control or mitigation devices.
23

24 **Section 104. Deposit of capital and profits requirement.** As part of their demonstrated
25 financial capacity, all large-scale mining companies/contractors are required to deposit their
26 capital investment and profits in banks or financial institutions that are owned, managed
27 and operated by the Philippine government.
28

29 **Section 105. General rule on profit repatriation.** Contractors with foreign financial
30 assistance shall be allowed to repatriate their profits from mining projects that should not
31 exceed fifty percent (50 %) of the total posted at the end of every fiscal year. Full disclosure
32 of profits is required. The full repatriation of profits shall be allowed one year after the
33 cessation of mining activities and the progressive rehabilitation of a mining area as
34 specified in the mineral agreement of each contractor.
35

36 The guidelines for Sections 98 and 99 shall be issued by the Bangko Sentral ng Pilipinas
37 and shall be furnished to the Department, Bureau, Council and all respective contractors in
38 the industry.
39

40 CHAPTER XI

41 SAFETY AND ENVIRONMENTAL PROTECTION

42 A. Safety

43
44
45 **Section 106. Mines safety.** All contractors and permittees shall strictly comply with all the
46 rules and regulations concerning the safety and sanitary upkeep of mines and mining
47 development. Government personnel involved in the implementation of mines safety,
48 occupational health and environmental rules and regulations shall be covered under
49 Republic Act 7305 or the Magna Carta of Public Health Workers.
50

1 **Section 107. Mine workers.** No person under sixteen (16) years of age shall be employed
2 in any place of mining operations and no person under eighteen (18) years of age shall be
3 employed in a mine.
4

5 **Section 108. Mine supervision.** All mining and quarrying operations that employ more
6 than fifty (50) workers shall have at least one (1) licensed mining engineer with at least five
7 (5) years of experience in mining operations, and one (1) registered foreman.
8

9 **Section 109. Safety of workers.** All mining companies shall provide safeguards to the
10 health and well-being of workers. The Regional Office of the Department of Labor and
11 Employment shall inspect all mining sites within their areas of jurisdiction to determine the
12 conditions of workers. Denial of entry shall be punishable under this Act. Representatives of
13 trade unions shall also have visitatorial rights.
14

15 **Section 110. Mine inspection.** The regional directors of the Bureau and the Council shall
16 have jurisdiction over the safety inspection of all installations, surface or underground, in
17 mining operations at reasonable hours of day or night and in a manner that shall not
18 impede or obstruct work in progress of a contractor or permittee. Monitoring reports and
19 recommendations of the Bureau shall be submitted to the Council.
20

21 **Section 111. Power to issue orders.** The regional directors of the Bureau, in consultation
22 with the Environmental Management Bureau (EMB), forthwith or within such time as
23 specified in the order, require the contractor to remedy any practice connected with mining,
24 which is not in accordance with safety and anti-pollution laws and regulations. In case of
25 imminent danger to life or property, the Director may summarily suspend the mining
26 operation until the danger is removed, or appropriate measures are taken by the contractor.
27 Unreasonable delay to remove the danger or introduce the necessary improvements by the
28 contractor shall be a cause for the cancellation of the mineral agreement.
29

30 **Section 112. Report of accidents.** In case of any incident or accident, causing or creating
31 the danger of loss of life or serious physical injuries, the person in charge of operations
32 shall immediately report the same to the regional office where the operations are situated.
33 Failure to report the same without justifiable reason shall be cause for the imposition of
34 administrative sanctions prescribed in the rules and regulations implementing this Act.
35

36 **B. Environmental Protection**

37

38 **Section 113. Environmental Protection.** Every contractor shall undertake an
39 environmental protection and enhancement program covering the period of the mineral
40 agreement or permit. Such environmental program shall be incorporated in the work
41 program which the contractor or permittee shall submit as an accompanying document to
42 the application for a mineral agreement or permit. The work program shall include not only
43 plans relative to mining operations but also to rehabilitation, regeneration, revegetation and
44 reforestation of mineralized areas, slope stabilization of mined-out and tailings covered
45 areas, aquaculture, watershed development and water conservation; and socioeconomic
46 development.
47

48 **Section 114. Environmental Impact Assessment (EIA).** Except during the exploration
49 period of a mineral agreement or an exploration permit, an environmental clearance
50 certificate shall be required based on an environmental impact assessment and procedures

under the Philippine Environmental Impact Assessment System, including Sections 26 and 27 of the Local Government Code of 1991 which require national agencies to maintain ecological balance, and prior consultation with the local government units, nongovernmental and people's organizations and other concerned sectors of the community: *Provided*, That a completed ecological profile of the proposed mining area shall also constitute part of the environmental impact assessment. People's organizations and nongovernmental organizations shall be allowed and encouraged to participate in ensuring that contractors/permittees shall observe all the requirements of environmental protection.

Section 115. Environmental Insurance. Contractors and mineral processing permit holders shall be obliged to execute an insurance contract as environmental assurance for each and every source of pollution or disaster, relative to the worst case scenario costs, following accepted actuarial standards, *Provided*, That in no way shall this provision be construed to remove or reduce the liability of the contractors and/or permit holders to compensate any damage caused by their operations. *Provided further*, That the insurer shall be an accredited international company in good standing.

Prior to the approval of the insurance contract, the DENR shall seek and consider the opinion of an independent expert as to the financial credibility of the insurer.

Section 116. Calamity and Human Rights Protection Fund. Persons issued a mineral agreement shall deposit 1/12 of their gross income semi-annually in an interest-bearing account a common fund maintained by the national government which shall be used for responding to, or ameliorating the effects of calamities, natural disasters and human rights violations including militarization, displacement, and forcible evacuation in any part of the country in relation to mining activities. *Provided*, That in no way shall this provision be construed to remove or reduce the liability of the contractors and/or permit holders to compensate any damage caused by their operations.

Section 117. Performance Bond. The contractor shall put up a bond in an amount equivalent to fifty percent (50%) of the projected cost of rehabilitation as validated by independent studies. This amount shall be deposited in an interest-bearing account. The bond shall be forfeited in the event that the contractor shall fail or default in the rehabilitation or remediation of the mining area as included in the work plan of the contractor or abandons the mine at any time of its operations.

Section 118. Final Mine Rehabilitation and Decommissioning Fund. Contractors and permittees shall technically and biologically rehabilitate the excavated, mined-out, tailings covered and disturbed areas to the condition of environmental safety, as provided in the implementing rules and regulations of this Act. A mine rehabilitation fund shall be created, based on the contractor's approved work program, and shall be deposited as a trust fund in a government depository bank and used for physical and social rehabilitation of areas and communities affected by mining activities and for research on the social, technical and preventive aspects of rehabilitation. Failure to fulfill the above obligation shall mean immediate suspension or closure of the mining activities of the contractor/permittee concerned.

A Final Mine Rehabilitation and Decommissioning Fund (FMRDF) shall be established by each operating Contractor or Permit Holder to ensure that the full cost of the approved Final Mine Rehabilitation and Decommissioning Plan (FMRDP) is accrued before the end of the

operating life of the mine- The FMRDF shall be deposited as trust fund in Government depository bank and shall be used solely for the implementation of the approved FMRDP.

Annual cash provisions shall be made by Contractors/Permit Holders to a FMRDF 3 based on the formula:

Annual provision Cost of Implementing the Approved FMR/DP x Percentage Required per Table I

Based on the expected mine life, the initial annual cash provision shall be made to the MRF Committee within sixty (60) days from the date of the FMR/DP's approval and every anniversary date thereafter; Provided, That, on application by the Contractor/Permit Holder, the MRF Committee may allow a later date for the payment of the first annual provision. Failure to fulfil the above obligation shall mean immediate suspension or closure of the mining activities of the contractor/permittee concerned.

Mining firms are also mandated to immediately restore and replant areas that they have already finished excavating as they move on to other development sites: Provided, however, that if mining firms cannot do reforestation in their immediate area they could do the reforestation in other areas provided they comply with 100:1 hectare ratio. Any mining firm found to have violated or have not complied with the foregoing mandatory provisions shall be held liable with the penalty of revocation of their mining permits and payment of a fine of not less than One Million Pesos (P 1,000,000). The owners, officers and management employee of said mining firms shall also be held liable and be subject to imprisonment of not less than one year not more than three (3) years.

Section 119. Progressive rehabilitation. Contractors shall also conduct progressive rehabilitation activities.

Section 120. Adoption of the precautionary principle. When an activity related to mining raises threats of harm to public health or the environment, precautionary measures shall be taken proactively even if some cause and effect relationship have yet to be scientifically established of which the mining proponent and the Bureau shall also be obliged to disclose publicly.

Section 121. Adoption of polluter pays principle. Polluters shall pay for the damage they cause to the environment. The amount of damages shall be determined by accredited independent consultants, to be chosen from a list and agreed upon by both the mining proponent and by the Council.

Section 122 Tailings impoundment. Tailings impoundments shall be built away from critical watershed drainage areas. Furthermore, it shall be ensured impoundments will not endanger critical watershed areas and low-lying valleys in the event of accidents under abnormal conditions. Tailing impoundments and dams shall meet the international standards for large dams.

Section 123. Dumping of waste. Dumping of waste or tailings in any body of water shall be prohibited. Provisions of the Clean Water Act and Clean Air Act shall be strictly implemented.

Section 124. Use of toxic chemicals and methods. At all times, mining contractors shall use chemicals or reagents which would result to the least environmental and social destruction. The use of mercury and cyanide for the extraction of gold, silver and other minerals shall be prohibited. The use of blow torching to separate gold from amalgam shall likewise be prohibited.

Section 125. Preservation of topsoil. The removed topsoil, or the more productive horizons of the soil shall be preserved for other uses.

Section 126. Priority use for water. The National Water Resources Board (NWRB) shall investigate any existing use of water resources in the area whether or not covered by any existing water permit or registration. Upon determination of any existing use, the applicant shall procure the consent of all water users and/or the FPIC of ICCs/IPs with or without water permits within the same groundwater network or any downstream users of water resources. In all instances, priority shall be given to use of water for domestic, municipal, and agricultural purposes. If potential negative impact on other water users is identified, the water permit shall not be granted. For water resources within the ancestral domain of indigenous peoples, no water permit shall be granted by the NWRB without the FPIC of the indigenous peoples.

Section 127. Recycling of water resources. Water used in mining operations shall be recycled. Mining contractors shall be required to provide for the methods and equipment for the recycling or reuse of water. Released contaminated water shall be treated accordingly to meet national standards. Released water must at least be equivalent in quality to the baseline water quality.

Section 128. Water user's fee. A water user's fee that reflects the value of water to the country and community shall be imposed by the Council for water used in mining operations. Contractors shall pay the fee to the NWRB which shall use the same for monitoring and improvement of the affected waterways and systems and the mitigation of negative impacts thereon to ensure that communities shall have access to clean water.

C. Acid Mine Drainage

Section 129. Prohibition from using acid-generating waste rock for infrastructure. The use of acid-generating waste rock to build roads, dams or other infrastructures is prohibited. The use of such materials shall only be used after treatment to neutralize the effect of acid mine drainage.

Section 130. Establishment of a prediction and monitoring system. The Bureau shall establish a prediction and monitoring system to identify potential acid-producing materials and monitor their production of acid waste.

Section 131. Avoidance of waterways. Open pits, waste rock piles and tailings impoundments shall not be built near or on waterways to prevent contact and subsequent acid production and groundwater contamination.

Section 132. Remining. Remining shall be prioritized over the opening of new mines to maximize and recover the remaining minerals from the rejects or wastes of previous mines and mining operations, *Provided*, That remining operations shall follow the processes, standards, parameters and guidelines set for mining operations in this Act.

1
2 **Section 133. Suits after the termination of contracts or projects.** Recognizing that the
3 effects of mining may be seen or felt, actions relating to the health of affected communities
4 or peoples, environmental degradation and other similar effects may be maintained against
5 the project proponent and/or persons even after the mineral agreement or mining project has
6 terminated.
7

8 **CHAPTER XII**
9 **RESOLUTION OF CONFLICTS**
10

11 **Section 134. Panel of Arbitrators.** There shall be a panel of arbitrators in the regional offices
12 of the Department composed of three (3) members, two (2) of whom must be members of
13 the Philippine Bar in good standing, and one a licensed mining engineer or a professional in
14 a related field, and duly designated by the Secretary as recommended by the MGB Director.
15 Those designated as members of the panel shall serve as such in addition to their work in
16 the Department without receiving any additional compensation. As much as practicable, said
17 members shall come from the different bureaus of the Department in the region. The
18 presiding officer thereof shall be selected by the drawing of lots. His tenure as presiding
19 officer shall be on a yearly basis. The members of the panel shall perform their duties and
20 obligations in hearing and deciding cases until their designation is withdrawn or revoked by
21 the Secretary. Within thirty (30) working days, after the submission of the case by the parties
22 for decision, the panel shall have exclusive and original jurisdiction to hear and decide on the
23 following:
24

- 25 a. Questions involving compliance with the established technical guidelines and
26 standards herein established, or those to be established by the implementing
27 rules and regulations of this Act;
28
29 b. Questions involving the compliance with technical procedures herein
30 established, or those to be established by the implementing rules and
31 regulations; and,
32
33 c. Other similar instances wherein the technological and technical expertise of the
34 Department shall be needed.
35

36 Disputes involving real rights, contractual obligations and other causes of action that are not
37 in anyway connected with the abovementioned scopes of jurisdiction shall be under the
38 jurisdiction of the regular courts or as otherwise provided by other special laws.
39

40 *Provided,* That disputes pending before the Bureau and the Department at the date of the
41 effectivity of this Act shall undergo an immediate review within sixty (60) working days upon
42 the passage of this Act to determine the cause of action. Those which are outside the
43 technical expertise of the Department or Bureau shall be refiled with the appropriate court,
44 without costs to the complainant or petitioner. All Decisions or orders to stop mining
45 operations or to clean or rehabilitate mining operations and surrounding communities shall
46 be immediately executory.
47

48 **Section 135. Appeal.** The decision or order of the panel of arbitrators may be appealed by
49 the party not satisfied thereto to the Mines Adjudication Board within fifteen (15) days from
50 receipt thereof, which must decide the case within thirty (30) days from submission thereof
51 for decision.

Section 136. Mines Adjudication Board (MAB). The Mines Adjudication Board shall be composed of three (3) members. The Secretary of the DENR shall be the Chairperson with the Mines and Geosciences Bureau Director and the Undersecretary for Operations of the Department as members thereof. The Board shall have the following powers and functions:

- a. promulgate rules and regulations governing the hearing and disposition of cases before it, as well as those pertaining to its internal functions, and such rules and regulations as may be necessary to carry out its functions;
- b. administer oaths, summon parties to a controversy, issue subpoenas requiring the attendance and testimony of witnesses or the production of such books, papers, contracts, records, statement of accounts, agreements, and other documents as may be material to a just determination of the matter under investigation, and to testify in any investigation or hearing conducted in pursuance of this Act;
- c. conduct hearings on all matters within its jurisdiction, proceed to hear and determine the disputes in the absence of any party thereto who has been summoned or served with notice to appear, conduct its proceedings or any part thereof in public or in private, adjourn its hearings at any time and place, refer technical matters or accounts to an expert and to accept his report as evidence after hearing of the parties upon due notice, direct parties to be joined in or excluded from the proceedings, correct, amend, or waive any error, defect or irregularity, whether in substance or in form, give all such directions as it may deem necessary or expedient in the determination of the dispute before it, and dismiss the mining dispute as part thereof, where it is trivial or where further proceedings by the Board are not necessary or desirable:
 1. To hold any person in contempt, directly or indirectly, and impose appropriate penalties therefor; and
 2. To enjoin any or all acts involving or arising from any case pending before it which, if not restrained forthwith, may cause grave or irreparable damage to any of the parties to the case or seriously affect social and economic stability.

In any proceeding before the Board, the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Act that shall govern. The Board shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process and social justice. In any proceeding before the Board, the parties may be represented by legal counsel. The findings of fact of the Board shall be conclusive and binding on the parties and its decision or order shall be final and executory.

A petition for review by *certiorari* and question of law may be filed by the aggrieved party with the Court of Appeals within thirty (30) days from receipt of the order or decision of the Board.

Sec. 137. Exceptions.

In no case, however, shall the following cases be subject to arbitration:

- 1
2 A. Cases wherein a mining application was already dismissed or vetoed as provided
3 under Sec. 41 of this Act;
4 B. Cases which involve criminal liability;

5
6 **CHAPTER XIII**
7 **ACCESS TO JUSTICE**
8

9 **Section 138. Human Rights obligations.** Corporations shall respect, protect and promote
10 the human rights of communities affected by mining, including the right to life, liberty and
11 property, freedom of movement, right of public participation and the right to self-
12 determination of indigenous cultural communities.

13
14 **Section 139. Violations of human rights.** Extrajudicial killing, torture, involuntary
15 disappearance, forcible displacement of populations, setting up of checkpoints and
16 imposition of toll fees which impede the freedom of movement within mineral areas,
17 deprivation of food and water sources, vote-buying and bribery for the purpose of securing
18 consent or endorsement for the mining project, and other analogous acts are violations of
19 human rights. Violations of human rights by contractors shall cause the immediate
20 cancellation of mineral agreements. The offending contractor, as well as corporations
21 having the same directors and/or officers as of the offending contractor shall be perpetually
22 disqualified from being granted a mineral agreement. All equipment and assets of the
23 corporation or person shall be confiscated in favor of the State.

24
25 **Section 140. Use of paramilitary and military forces.** All mining companies are strictly
26 prohibited from using and/or funding paramilitary groups. Using private, paramilitary and
27 military forces to threaten and harass individuals and communities shall result in the
28 automatic cancellation of the mineral agreement and the filing of appropriate civil, criminal
29 and/or administrative charges.

30
31 **Section 141. Strategic Legal Action Against Public Participation (SLAPP).** SLAPP is
32 any legal action, whether civil, criminal or administrative, filed to harass, vex, exert legal
33 action or stifle legal recourses of citizens complaining against violations of this Act or
34 enforcing the provisions of the Act, or exercising their freedom of assembly or right of public
35 participation. On motion that alleges that the action is a SLAPP, the investigating
36 prosecutor or court shall immediately determine within a period of thirty (30) days from filing
37 thereof whether a legal action is a SLAPP and accordingly dismiss the same.

38
39 **Section 142. Indigents suit.** Indigents shall be exempt from payment of any administrative
40 or court fees, including docket fees for the filing of a case. Lawyers shall be provided by the
41 Public Attorney's Office to pauper litigants in case they could not afford legal services.

42
43 **Section 143. Application of the customary laws of ICCs/IPs.** The contractor shall
44 respect the customary laws of the ICCs/IPs and ensure that such laws shall be adhered to.
45 Provided, That, in applying this provision in relation to other national laws, as well as in
46 resolving disputes, the integrity of the ancestral domains, culture, values, practices,
47 institutions, customary laws and traditions of the ICCs/IPs shall be given primacy.

48 Interpretation of this provision shall be resolved in favor of ICCs/IPs.
49 **Section 140. Strict liability.** Mining corporations are required to observe extra-ordinary
50 diligence in all its actions in relation to mining operations and are strictly liable for all

1 damages that the mining operations might cause. In case of any actual damage, the burden
2 of proof shall lie with the corporations.

3
4 **Section 144. Surmounting the corporate veil.** When the separate personality of the
5 corporation from its shareholders is being invoked as defense in order to perpetuate a
6 crime, fraud, evade liability, and conduct other machinations, the separate personality of the
7 corporation shall be set aside. Civil, criminal and administrative actions may thus be filed
8 directly against the members of the Board of Directors, officers and the individual
9 stockholders. The corporation shall publish in its website and in the Securities and
10 Exchange Commission the names and addresses of its officers in the Philippines anyone of
11 whom is authorized to receive summons and other court processes on its behalf.

12
13 **Section 145. Citizen Suits.** For the purpose of enforcing the provisions of this Act and its
14 implementing rules and regulations, any citizen may file appropriate civil, criminal and
15 administrative suits against any of the following:

16
17 a. Any person who violates or fails to comply with the provisions of this Act or its
18 implementing rules and regulations;

19
20 b. Any public officer with respect to orders, rules and regulations inconsistent with
21 this Act;

22
23 c. Any public officer who willfully or grossly neglects the performance of an act
24 specifically
25 enjoined as a duty by this Act or its rules and regulations; or abuses the authority in
26 the
27 performance of a duty/ies under this Act or its implementing rules and regulations.

28
29 The court shall exempt such action from the payment of filing fees, except fees for actions
30 not capable of pecuniary estimation, and shall likewise, upon *prima facie* showing of non-
31 enforcement or violation complained of, exempt the plaintiff from filing an injunction bond for
32 the issuance of a preliminary injunction.

33 34 **CHAPTER XIV** 35 **PENAL PROVISIONS**

36
37 **Section 146.** Grounds for the cancellation of mineral agreements and permits:

38
39 a. Late or non-compliance with the requirements and prohibitions set forth in this
40 Act, or in its implementing rules and regulations;

41
42 b. Violation of the Terms and Conditions of Permits or Agreements. Any act or
43 omission contrary to what is stipulated in the exploration permit, mining agreements
44 and other contracts shall cause the immediate revocation and termination of the said
45 permit or agreement. Likewise, any person who knowingly presents any false
46 application, declaration, or evidence to the Government or publishes or causes the
47 publication of any prospectus or other information containing any false statement
48 relating to mines, mining operations or mineral agreements and permits shall, upon
49 conviction, not only cause the immediate revocation and termination of the said

1 permit or agreement, but shall also be penalized by a fine of not exceeding One
2 Hundred Thousand Pesos (P100,000.00).

3
4 c. Human rights violations perpetrated by the contractor or any of its agents;

5
6 c. Failure to pay the taxes and fees provided forth in this Act;

7
8 d. Bribery, use of force, intimidation, threat, coercion of public officials and
9 communities;

10
11 e. Any act that shall create or contribute to conflicts between community members;

12
13 f. Other analogous acts.

14
15 *Provided, that violations of Chapter XI of this Act shall cause the immediate cancellation of*
16 *mining permits, including but not limited to provisions of this Act, and the contractor shall be*
17 *required to pay for the rehabilitation, restoration or clean-up of the impacts of such violations.*

18
19 Corporations, corporate directors/officers found guilty of the above enumeration shall be
20 perpetually banned for participating directly or indirectly in any and all mining operations in
21 the Philippines.

22
23 **Section 147. Illegal exploration.** Any person undertaking exploration work, upon
24 conviction, shall be penalized by a fine of not exceeding Five Million pesos
25 (P5,000,000.00).

26
27 **Section 148. Theft of minerals.** Any person, except traditional miners and small-scale
28 panners, extracting minerals and disposing the same without a mining agreement, lease,
29 permit, license; or steals minerals or ores or the products thereof from mines, mills or
30 processing plants shall, upon conviction, be imprisoned from six (6) months to six (6) years
31 or pay a fine from One Hundred thousand pesos (P100, 000.00) to One Million pesos (P1,
32 000,000.00) or both, at the discretion of the appropriate court. In addition, he shall be liable
33 to pay damages and compensation for the minerals removed, extracted, and disposed of. In
34 the case of associations, partnerships, or corporations, the president and each of the
35 directors thereof shall be responsible for the acts committed by such association,
36 corporation, or partnership.

37
38 **Section 149. Vitiating of FPIC.** Any person found to have vitiated the consent of the
39 ICCs/IPs through bribery, threat, force, and/or intimidation, or any other similar means, shall
40 suffer the penalty of six (6) years and one (1) day to ten (10) years in prison, and a fine of at
41 least two million pesos (PhP 2,000,000.00). If the perpetrator is a government official, the
42 penalty shall be eight (8) years and one (1) day to twelve (12) years imprisonment, and a
43 fine of at least four million pesos (PhP 4,000,000.00). He/she shall be perpetually prohibited
44 from assuming public office, and shall be disqualified from receiving other benefits by virtue
45 of his/her position in government.

46
47 **Section 150. Penalty for human rights violations.** Contractors or other persons who
48 have committed human rights violations in connection with the mining operations shall be
49 penalized with ten (10) to fourteen (14) years imprisonment and a fine of at least five million
50 pesos (PhP 5,000,000.00) and shall indemnify the victims.

Section 151. Abandonment. Contractors and/or permittees who shall abandon mines shall be perpetually banned or disqualified from directly or indirectly conducting mining operations. The ban and/or disqualification shall include the officers and directors of corporations that have abandoned mines.

Section 152. Confiscation of equipment and property. The equipment and property of contractors and permit holders violating this Act shall be forfeited in favor of the State.

Section 153. Non-application of the corporate veil. Any person violating the provisions of Commonwealth Act No. 108, or the Anti-Dummy Law of the Philippines as amended, or is found to have used the corporate structure to defeat the provisions of this Act shall suffer the penalty of five million pesos (P5,000,000.00) and a perpetual ban in the mining industry.

Section 154. Unauthorized dealing, selling, and/or buying of gold. Any person, partnership or corporation who shall sell, buy or in any manner deal gold from any miner or person without being duly authorized by the Bangko Sentral ng Pilipinas shall be punished as unauthorized dealing and shall be penalized in accordance with Section 146 of this Act.

Section 155. Amendment to Section 27 of Republic Act 7076 or the Small-scale Mining Act. Violations of the provisions of Republic Act 7076 or of the rules and regulations issued pursuant hereto shall be penalized with imprisonment of six years and one day to twelve years. The State shall confiscate and seize equipment, tools and instruments; effect immediate suspension or closure of the mining activities of the permittee concerned, and revoke the permit.

Section 156. Confiscation of equipment and property. The equipment and property of small-scale contractors and permit holders who violate this Act shall be forfeited in favor of the State.

Section 157. Local government officials who are administratively found to violate provisions of this Act, vis-à-vis the pertinent sections of the Local Government Code shall be removed from office and perpetually disqualified from holding any elective or appointive position in government, its divisions, subsidiaries and any government-owned and -controlled corporations.

Section 158. Reinstatement of revoked permits. After notice and hearing, revoked permits that have undergone due process may be reinstated, *Provided*, That it may only be reinstated once.

CHAPTER XV
TRANSITORY PROVISIONS

Section 159. There shall be a moratorium on all new mining activities until all the systems are in place for the proper implementation of this Act.

Section 160. Review of Existing Mining Permits, Contracts and Agreements. The DENR shall conduct a review and audit of all mining permits, licenses and agreements for the purpose of determining: (i) whether their continuance shall be advantageous for the

Government in accordance with the Mining Plan, and (ii) the level of compliance of the grantee or concessionaire with its statutory and contractual undertakings and obligations in accordance to this Act and other pertinent laws concerning environmental protection and conservation. Mine workers and their families that may be displaced during the transition period shall receive livelihood support and job placements to be facilitated by the appropriate agencies of the State.

Section 161. The classification of public lands as mineral reservations pursuant to pre-existing laws shall hereby cease. A review of the current mineral land classification shall be conducted to determine the best livelihood and economic options for each area. No mining operations can start within mineral reservations unless finally determined to have been in compliance with this Act.

Section 162. The members of the panels of arbitrators and the provincial or city mining regulatory boards established under Republic Act No. 7942 shall hold-over their positions until replaced in accordance with provisions of this Act.

CHAPTER XVI
FINAL PROVISIONS

Section 163. Separability clause. The provisions of this Act are hereby declared to be separable and, in the event of any such provisions are declared unconstitutional, the other provisions which are not affected thereby shall remain in force and effect.

Section 164. Repealing clause. Presidential Decree 463, Presidential Decree 512, Republic Act 7942, and other related mining laws are hereby repealed. All provisions in laws, decrees, issuances and other regulations inconsistent with this Act shall be deemed amended or repealed if the inconsistency is irreconcilable.

Section 165. Funds. The amount of One Hundred Billion Pesos (PhP 100,000,000,000) is hereby appropriated for the proper functioning of the Bureau, the Council, and other bodies established under this Act of which half of the said amount shall be allotted for the baseline mineral exploration activities of the Bureau.

Section 166. Implementing Rules and Regulations. The implementing rules and regulations of this Act shall be promulgated by the Department and the MGB after collaborative efforts to draft and finalize the same with representatives from the local government units, people's organizations, indigenous peoples organizations, sectoral organizations and non-governmental organizations in exhaustive and appropriate public consultations at all levels nationwide.

Section 167. Effectivity Clause. This Act shall take effect within fifteen (15) days following its publication in two national newspapers of general circulation in the Philippines.

Approved,