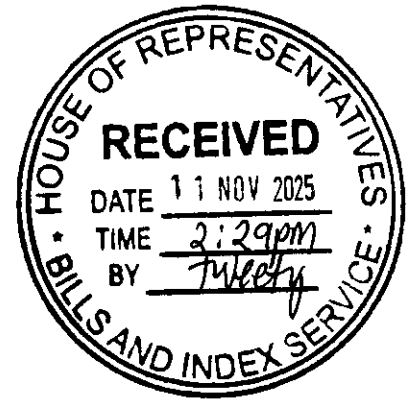


**Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City**

TWENTIETH CONGRESS

First Regular Session

House Bill No. 5840



**Introduced by TUCP Party-List
Rep. RAYMOND DEMOCRITO C. MENDOZA**

EXPLANATORY NOTE

The People's Small-Scale Mining Act of 1991 or Republic Act No. 7076 was enacted to legitimize and regulate the activities of small-scale miners and to provide a framework within which mineral resources can be developed by Filipino citizens, particularly those in remote and marginalized communities. However, after more than three decades, significant gaps in the law's implementation and relevance have emerged, necessitating a comprehensive revision.

Small-scale mining has evolved into a crucial livelihood sector in the Philippines, employing hundreds of thousands of Filipinos and contributing significantly to local economies. Yet, the outdated provisions of R.A. 7076 have constrained the growth, formalization, and sustainability of the industry. The current law lacks adequate safeguards for occupational safety and health, environmental protection, and the rights of Indigenous Peoples (IPs). Furthermore, the burdensome and highly bureaucratic process of declaring a "Minahang Bayan" and acquiring permits has left the majority of small-scale miners operating informally and without legal or technical support.

This proposed measure, entitled the "Minahang Bayan Act," seeks to revise and update the existing law to better respond to the social, economic, environmental, and labor realities of modern small-scale mining in the Philippines. It also integrates the principles of decent work, gender equity, environmental justice, just transition, and inclusive local development in accordance with international labor and environmental standards.

The Philippines is the 5th largest gold producer in Asia and one of six nations contributing to 91% of the continent's gold production. The estimated 500,000 small-scale gold miners operating in over 30 provinces represent one of the poorest sectors in the country.

As inflation rates reach decade highs globally amid geopolitical unrest and a weakening peso, addressing the dire state of the small-scale gold mining sector becomes increasingly crucial for the Philippine economy.

Unlocking the potential of this long-neglected industry necessitates urgent legislative reforms to address the regulatory, technological, and economic barriers that have long held this sector back.

Key features of this bill include:

1. Simplification and Standardization of Processes:

Streamlining the application, licensing, and accreditation processes for small-scale mining operations to facilitate formalization, while reducing red tape and redundancy.

2. Establishment of Minahang Bayan Zones:

Granting greater authority to Provincial and City Mining Regulatory Boards to declare and manage designated small-scale mining areas in consultation with local governments, affected communities, and IPs.

3. Integration of Occupational Safety and Environmental Protection:

Mandating compliance with Republic Act No. 11058 (OSH Law), prohibiting hazardous practices such as mercury use and compressor mining, and instituting Mine Occupational Safety and Health (MOSH) programs.

4. Recognition and Prioritization of Indigenous Peoples' Rights:

Ensuring Free and Prior Informed Consent (FPIC) for operations within ancestral domains, and providing priority rights and royalty benefits to IPs in Minahang Bayan areas located within their territories.

5. Creation of Inclusive Governance Mechanisms:

Expanding the composition of the Provincial/City Mining Regulatory Board and establishing a Multi-Partite Monitoring Team to ensure transparency, compliance, and accountability in small-scale mining operations.

6. Promotion of Sustainable Local Development:

Institutionalizing ancillary livelihood, technical assistance, skills upgrading, and community development programs to support long-term self-reliance and social protection for small-scale miners.

7. Market Access and Economic Incentives:

Requiring all gold to be sold to the Bangko Sentral ng Pilipinas (BSP) at world market prices and exempting such sales from excise tax as provided under R.A. 11256, to improve miner incomes and strengthen national reserves.

This bill responds to long-standing calls by labor groups, local governments, environmental advocates, and small-scale mining communities to promote a legal and policy environment that ensures safe, decent, and sustainable work while responsibly managing the nation's mineral resources.

In view of the foregoing, the immediate passage of this Act is earnestly sought.



RAYMOND DEMOCRITO C. MENDOZA
Representative, TUCP Party-List

Republic of the Philippines
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Rep. RAYMOND DEMOCRITO C. MENDOZA

AN ACT PROVIDING FOR BETTER REGULATION OF SMALL-SCALE MINING

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

SECTION 1. Title. – This Act shall be known as the “Minahang Bayan Act.”

SEC. 2. Declaration of Policy. – It is hereby declared the policy of the State to:

- (a) Create economic opportunities based on freedom of initiative and self-reliance while promoting social justice;
- (b) Ensure an equitable sharing of the nation’s wealth and natural resources to reduce social and economic inequities;
- (c) Promote the rights of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

To this end, the state shall ensure, through a whole-of-government approach, the development of environmentally-sustainable livelihood and decent work in small-scale mining activities, guided by the principle of an inclusive just transition. It is hereby declared the policy of the state to promote, develop, protect, strengthen and rationalize viable, sustainable, and environmentally-sound small-scale mining activities in order to [generate] harness its vast potential and help hasten national economic recovery, sustainable development, and local development, further generating more employment opportunities and providing an equitable sharing of the nation’s wealth and natural resources, giving due regard to existing rights as herein provided.

SEC. 3. *Definition of terms.* – For purposes of this Act, the following terms shall be defined as follows:

- (a) “Ancestral Land” refers to land occupied, possessed, and utilized by individuals, families and clans who are members of the Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) since time immemorial, by themselves or through their predecessors-in-interest, under claims of individual or traditional group ownership, continuously, to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth, or as a consequence of government projects and other voluntary dealings entered into by government and private individuals/corporations, including, but not limited to, residential lots, rice terraces or paddies, private forests, swidden farms and tree lots;
- (b) “Artisanal Small-Scale Gold Mining” refers to gold mining activities that use rudimentary and/or primitive mining methods and which are primarily subsistence economic activities, in nature.
- (c) “Board” refers to the Provincial/City Mining Regulatory Board created under this act as the implementing arm of the Department at the provincial or city level and shall be under the direct supervision and control of the Secretary of the Department;
- d) “Bureau” refers to the Mines and Geosciences Bureau under the Department;
- e) “Claim-owner/ Mining Tenement Holder or Concessionaire” refers to a holder of an existing mining right or any tenorial instrument providing mining rights, such as but not limited to an exploration permit, mineral agreement, financial or technical assistance agreement;
- f) “Contract Area” means the land delineated under a Small-Scale Mining Contract or Integrated Small-Scale Mining Contract properly defined by longitude and latitude;
- g) “Decent work” as defined by the International Labor Organization (ILO), involves opportunities for work that is productive and delivers a fair income, security in the workplace and social protection for all, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men;
- h) “Department” refers to the Department of Environment and Natural Resources (DENR);
- i) “Director” refers to the Director of the Mines and Geosciences Bureau;
- j) “Existing Mining/Quarrying Right” refers to a valid and existing lease, contract, mining patent, agreement or permit covering a mineralized area granted/issued under pertinent mining laws;

- k) “Industrial Development Programs” refer to programs which aim to assist in the development of enterprises’ technical capabilities and workers’ skills or an expansion of marketing opportunities such that a program results in increased employment opportunities or economic returns for a greater number of enterprises, especially as an incentive for improving compliance and regulation;
- l) “Small-Scale Mining Contract” refers to an agreement executed by and between the Government through the Board and the small-scale mining contractor to engage in the extraction or removal of minerals or ore-bearing materials from the ground, processing and disposal for commercial purposes inside a Minahang Bayan area;
- m) “Just Transition” refers to globally recognized principles that should guide the transition to environmentally sustainable economies and societies.
- n) “Miner’s License” refers to the privilege granted to a person to legitimately pursue his/her occupation as a small-scale miner or mineral processor under this Act;
- o) “Mill Tailings” refers to segregated materials originating from mineral-rich sources, e.g., ores and processed by-products, that are generated during mineral processing operations;
- p) “Mill Tailings Storage Facility” refers to a structure used as impoundment/storage area for mill tailings;
- q) “Minahang Bayan” refers to the entire area designated by the Board for the conduct of small-scale mining operations;
- r) “Mineral Lands” refers to any area where mineral resources, such as gold, silver, chromite, copper, magnesite, iron, manganese, bentonite, kaolin, silica, marble, gravel, clay and other minerals that may be declared by the Secretary as recommended by the Director, are found, including areas that are established mineral reservations; areas with active mining operations; areas with projected mining tenurial rights; and areas declared by court decisions as mineral lands;
- s) “Mineral Processing” refers to the beneficiation or upgrading of ores from rocks or raw minerals, metallurgical by-products, mill tailings or mine wastes, including subordinate processes like milling leaching, smelting, calcination or similar means, for the purpose of converting the same into marketable products;
- t) “Mineral Processing License” refers to the license granted to a small-scale mineral processing plant exclusively to operate in the treatment of mineral or ore-bearing materials or mineral processing;

u) “Mineral Processing Plant” refers to a plant established by the permit holder, association, cooperative or private sector within mineral processing zones intended for the mineral processing of mineral-rich sources from small-scale mining;

v) “Mines Occupational Safety and Health Program or (MOSH)” refers to an occupational safety and health program specific to mining, developed and prescribed by the Department and the Department of Labor and Employment (DOLE) in accordance with the International Labor Organization Convention No. 176 or safety and health in the mines convention, Republic Act No. 11058, and relevant executive and department issuances covering small-scale mining (such as implementing rules and regulations), designed to ensure a safe, healthy, humane and socially just working environment for small-scale miners, mineral processors, and such other individuals working or operating in any minahang bayan area;

w) “Mineral Processing Zone” refers to an area duly designated by the local government unit concerned, upon recommendation from the Board, with defined metes and bounds specifically for mineral processing, including the mill tailings disposal system;

x) “Mining Work Program” refers to a five-year program of activities and methodologies to be employed in the extraction, processing, and overall production of minerals, including an enterprises’ financial plan and relevant programs to ensure the environmental, social, and economic sustainability of operations;

y) “Mining Tenement Holder” refers to a holder of any tenurial instrument providing mining rights, such as but not limited to Exploration Permit, Mineral Agreement, Financial or Technical Assistance Agreement, Mining Patent, and Special Mines Permit;

z) “Mineral Processor” refers to Filipino citizens or Filipino-owned corporations, duly licensed and registered by the Board, that undertakes mineral processing;

aa) “Private Land” refers to any land belonging to any private person which includes alienable and disposable land being claimed by a holder, claimant, or occupant who has already acquired a vested right thereto under the law, although the corresponding certificate or evidence of title or patent has not been actually issued;

ab) “Public Land” refers to land of the public domain which has been classified as agricultural land, mineral land, forest or timber land subject to management and disposition or concession under existing laws;

ac) “Regional Director” refers to the Director of the Regional Office of the Bureau;

ad) “Secretary” refers to the Secretary of the Department of Environment and Natural Resources;

ae) "Small-scale mining contractor" refers to a group of individual small-scale miners organized either as an association or cooperative, duly registered with the appropriate government agency, which has entered into an agreement with the government for the small-scale development and utilization of a plot of mineral land within a Minahang Bayan area;

af) "Small-Scale Miner" refers to individual Filipino citizens concurrently residing in local communities within proximity of a Minahang Bayan area, voluntarily organized into a Filipino mining community association or cooperative that is duly registered with the appropriate government agency and licensed by the board, to engage, under the terms and conditions of a small-scale mining contract, in the extraction or removal of metallic and non-metallic minerals or ore-bearing materials from the ground;

ag) "Small-Scale Mining" refers to mining activities conducted by individual miners or small-scale enterprises on limited capital investment and production which employs manual labor using simple implements and methods and may involve the regulated use of explosives and/or limited heavy equipment;

ah) "Small-Scale Processor" refers to an individual Filipino citizen or such individuals organized as an association or cooperative duly registered with the appropriate government agency, who may not necessarily be engaged under a small-scale mining contract, but are otherwise licensed to undertake mineral processing

ai) "Social protections", as defined by the International Labor Organization (ILO), involves access to the set of policies and programs designed to reduce and prevent poverty and vulnerability in the lives of workers and their families, such as health protection, sickness benefits, employment injury benefits, unemployment benefits, disability pensions, old-age pensions, survivors' pensions, child and family benefits, and maternity protection;

aj) "Social welfare benefits", in accordance with book four of the Labor Code of the Philippines, encompasses social protections like medical and social security benefits as well as compensation and income benefits;

ak) "Work Program" refers to the program of activities and methodologies employed in the extraction, production of minerals, processing, and the financial plan and other resources.

SEC. 4. Policy Objectives. – For the purpose of carrying out the declared policy provided in Section 2 hereof, the following are the objectives:

(a) To identify, segregate and reserve certain mineral lands as Minahang Bayan area;

b) To formalize small-scale miners through registration, licensing, accreditation, and government contracting as the primary instruments to deliver on the formalization and

mainstreaming of the small-scale mining industry, and by associating access to these instruments with capacity-building programs in developing the industry and its workers;

c) To incentivize the formation and participation of cooperatives or associations;

d) To capacitate small-scale miners in attaining technical skills to conduct proper small-scale mining operations, with due consideration for environmental protection, occupational safety and health, labor standards, gender equity and equality, sustainability, and the social and economic growth and development of small-scale miners and their communities;

e) To develop the socio-economic growth of small-scale miners;

f) To enhance the contribution of mineral resources development to the national and local economy;

g) To promote research and support into sustainable non-mercury alternative technologies and practices that are socially and economically viable, and recognize indigenous and traditional knowledge systems and customary laws and practices;

h) To incentivize a transition away from the use of prohibited chemical and mechanical processes, through programs designed for that purpose, which enable the equitable and meaningful participation of stakeholders, and for which sustainable funding mechanisms and resources are sufficiently allocated;

i) To provide guidance and technical and financial assistance to small-scale miners, mining contractors, and mineral processors operating in any minahang bayan area, particularly to enable improvements in compliance and technical and product marketing capacity; aid in transitioning away from the use of prohibited chemical and mechanical processes; and increase legitimate mineral sales;

j) To promote the development of ancillary livelihood activities, particularly to enable self-reliance and the sustainability of miners' households and their communities;

k) To enable the simplification of regulations, requirements, and application processes, including the development of simple and easy-to-follow guidelines. to secure increasing levels of compliance and effective enforcement, taking into consideration the technical capacity of small-scale miners and their enterprises to comply, the primary objective being the facilitation of the formalization of the majority of the small-scale mining industry;

SEC. 5. *Provincial/City Mining Regulatory Board.* – There is hereby created under the direct supervision of the Secretary, a Provincial/City Mining Regulatory Board, herein called the Board, and it shall exercise the following powers and functions, subject to review by the Mines and Geosciences Bureau Central Office:

- a) Declares and segregates existing mineral-rich areas for small-scale mining;
- b) Reserves future mining areas for small-scale mining;
- c) Registers and awards contracts to small-scale miners;
- d) Settles disputes, conflicts, or litigations over conflicting claims within a Minahang Bayan area;
- e) Formulates and implements rules and regulations relating to the processes of the Board, which shall be consistent with this Act;
- f) Furnish a copy of the records on the list of applications, issued contracts and licenses, integrated reports, and Board Resolutions to the MGB Regional Office; and
- g) Perform such other functions as may be necessary to achieve the goals and objectives of this Act.

SEC. 6. *Composition of the Provincial/City Mining Regulatory Board (PCMRB).* – The Board shall be composed of the following:

- | | | |
|----|---|-------------|
| a) | Regional Director | Chairperson |
| b) | Governor or City Mayor | Member |
| c) | One (1) small-scale mining representative | Member |
| d) | One (1) large-scale mining representative | Member |
| e) | One (1) environmental non-government organization representative, | Member |

f) Where mining is conducted or will be conducted in areas with a Certificate of Ancestral Domain Title (CADT) or Certificate of Ancestral Land Title (CALT), a representative of the indigenous community shall serve as a member of the board.

The representatives from the private sectors shall be nominated by the duly-registered mining organizations and shall serve a term of three (3) years unless earlier replaced at the behest of their respective sector.

The Local Government Unit concerned and The Bureau shall provide the technical secretariat/staff support to the Board.

SEC. 7. *Registration and Licensing.* – All small-scale miners shall be registered with and licensed by the Board.

SEC. 8. *Declaration of Minahang Bayan.* – The Board is hereby authorized to evaluate and endorse areas for Minahang Bayan in sites suitable for small-scale mining, subject to review by the MGB. The maximum declared area shall not exceed two (2) meridional blocks.

SEC. 9. *Areas Open as Minahang Bayan.* – The following lands, when suitable for small-scale mining, may be declared by the Board as Minahang Bayan

- a) Public and private lands not covered by any valid and existing mining right;
- b) Mineral reservations, with an allocated maximum aggregate area of two meridional blocks.

SEC. 10. *Areas Closed to Minahang Bayan.* – Applications for mineral contracts, concessions, and agreements shall not be allowed in the following:

- a) In military and other government reservations, except upon prior written clearance by the government agency concerned;
- b) Near or under public or private buildings, cemeteries, archeological and historic sites, bridges, highways, waterways, railroads, reservoirs, dams, or other infrastructure projects, public or private works, including plantations or valuable crops, except upon written consent of the government agency or private entity concerned;
- c) Public and private lands covered by valid and existing mining rights;
- d) Old growth or virgin forests, proclaimed watershed forest reserves, wilderness area, mangrove forests, mossy forests, national parks, provincial/municipal forests, parks, greenbelts, game refuge and bird sanctuaries as defined by law and in areas expressly prohibited under the National Integrated Protected Area System (NIPAS) under Republic Act No. 7586, Department Administrative Order No. 25, series of 1992 and other laws;
- e) Critical watershed and proclaimed watershed reservations;
- f) Prime agricultural lands, in addition to lands covered by Republic Act No. 6657, or the Comprehensive Agrarian Reform Law of 1988, as amended, including strategic agriculture and fisheries development zones and fish refuge and sanctuaries;
- g) Tourism development areas, as identified in the National Tourism Development Plan (NTDP);

h) Other critical areas, island ecosystems, and impact areas of mining as determined by current and existing mapping technologies, that the DENR may hereafter identify pursuant to existing laws, rules, and regulations, such as, but not limited to the NIPAS Act; and

i) In areas expressly prohibited by law.

SEC. 11. *Simplifying all application processes and documentary requirements.* - To ease the formalization of all operations in the small-scale mining industry, a rational simplification and national standardization of all application processes in applying for Minahang Bayan petitions, small-scale mining contracts, licensing and accreditation is required. This includes a simplification and national standardization of associated documentary requirements, as well as the provision of technical assistance where needed.

The program to simplify and standardize applications would consist of, but not be limited to, the following directives:

1. Removal of redundancies in documentary requirements by assigning each required document exclusively to only one application process, as appropriate, whether such a required document pertains to an application for a Minahang Bayan petition, small-scale mining contract, small-scale miner's license, mineral processor's license, or any other emerging application category;
2. Limiting documentary requirements to the most fundamental information needed for each application category;
3. Standardizing and harmonizing document forms and requirements nationally, except in categories that vary across the nation in a standard way such as, but not limited to, whether or not indigenous people or indigenous cultural communities populate a locale, for which a nationally-standardized set of forms would pertain when such a category applies locally;
4. Establishing a "one-stop shop" online application system;

SEC. 12. *Ancestral lands.* – No ancestral land, especially those protected by a Certificate Of Ancestral Domain Title (CADT), may be declared as a *minahang bayan* area without consultation with the indigenous cultural communities concerned; provided, that, if ancestral lands are declared as minahang bayan, the members of the indigenous cultural communities therein shall be given priority in the application and awarding of small-scale mining contracts; provided, further, that representatives of the affected indigenous cultural communities (ICC)/ indigenous peoples (IP) shall be involved in the area status and evaluation assessment conducted by the department as part of the field based investigation; provided, finally, that the ICC/IP shall be entitled to a royalty fee of one per cent (1%) of gross production of the metallic or non-metallic mineral output.

Small-scale mining contracts applied within ancestral lands shall be required to secure a “Resolution of Consent” or “Non/Consent” adopted by the ICCs/IPs themselves, or through their duly authorized elder/s expressing their acceptance or non-acceptance of the plan, program, project, or activity and the reasons therefor.

SEC. 13. *Mineral Reservation.* – When the national interest so requires, such as when there is a need to preserve strategic raw materials for industries critical to national development, or certain minerals for scientific, cultural or ecological value, the President may establish mineral reservations upon the recommendation of the Director through the Secretary. Mining operations in existing mineral reservations and such other reservations as may thereafter be established, shall be undertaken by the Department or through a contractor: Provided, that the Department, through the Bureau, shall give preferential right to small-scale mining and declare as Minahang Bayan a maximum aggregate area of two meridional blocks of such mineral reservation.

SEC. 14. *Easement Rights.* – Upon the declaration of a Minahang Bayan area, the Board, in consultation with the concessionaire, mining tenement holder or private landowner of an affected area, shall determine the right of way of the small-scale miners to the area and other facilities which are necessary for the small-scale mining operations, upon payment of just compensation to the concessionaire, mining tenement holder or private landowner.

SEC. 15. *Prohibitions.* - Owing to the nature of mining and the hazards it poses to people, communities, and the environment, no small-scale mining shall be allowed outside of the Minahang Bayan area and no entity shall engage in small-scale mining activity without a small-scale mining contract. Likewise, no person shall work or be hired to work in small-scale mining and other similar operations, unless licensed or accredited by the board, as the requirements may be.

A clear and reasonable transition period shall be provided to enable artisanal and small-scale gold mining activities to comply with the requirements of formalization, in line with the principles of an inclusive just transition.

SEC. 16. *Entry Into Lands.* – The small-scale mining contractor shall not be prevented from entry into its/their contract area for the purpose of development, utilization, and/or processing. Provided that written notice at its registered address was sent to and duly received by the surface owner of the land, occupant, and concessionaire thereof.

If the surface owner of the land, occupant or concessionaire thereof cannot be found, the small-scale mining contractor shall notify the Board, copy furnished the local officials concerned in case of private land or the Government agency concerned in case of concessionaires, attaching thereto a copy of the written notice and a sworn declaration by the small-scale mining contractor that it had exerted all efforts to locate such surface owner, occupant, concessionaire. Such notice to the Board shall be deemed notice to the surface owner, occupant, and concessionaire.

In cases where the surface owner of the land, occupant, or concessionaire thereof refuses to allow the small-scale mining contractor entry into the land despite its receipt of the written notice or refuses to receive said written notice, or in case of disagreement over such entry, the small-scale mining contractor shall bring the matter before the Board for proper disposition.

SEC. 17. *Voluntary Agreement.* – A voluntary agreement between a surface owner, occupant or concessionaire thereof permitting the small-scale mining contractor to enter into and use its land for mining purposes shall be registered with the Board. The said agreement shall be binding upon the parties, their heirs, successors-in-interest, and assigns.

SEC. 18. *Award of Small-Scale Mining Contracts.* – A Small-Scale Mining Contract may be awarded by the Board to small-scale miners who have voluntarily organized and have duly registered with the appropriate government agency either as a company, corporation, association, or cooperative: Provided, That only one (1) Small-Scale Mining Contract may be awarded at any one time in a province to a small-scale mining contractor: Provided, further, That priority shall be given to small-scale miners residing in the province or city where the small-scale mining area is located.

Applications for a contract shall be subject to a reasonable fee to be paid to the local government unit having jurisdiction over the area.

All agencies involved in regulating small-scale mining operations shall be streamlined with the board's office serving as a one-stop shop to facilitate the formalization of small-scale mining operations, including ease in ensuring environmental protection, decent work, social protection programs, and occupational safety and health. The contract shall be for a period of five (5) years and renewable for the same period, upon verification of compliance and recommendation by the board's technical committee.

SEC. 19. *Rights Under a Small-Scale Mining Contract.* – A Small-Scale Mining Contract entitles the small-scale mining contractor the right to mine and dispose of mineral ores/products for commercial purposes for a period of five (5) years, renewable for like periods.

In no case shall small-scale mining contracts be subcontracted, assigned, or otherwise transferred.

SEC. 20. *Terms and conditions of the contract.* – The holder of a contract shall have a term of five (5) years and is renewable for the same period upon verification and recommendation by the Board's technical committee. The contract confers upon the contract holder the right to conduct small-scale mining operations within the contract area, and shall observe the following duties and obligations:

- a) Undertake mining activities only in accordance with the five-year work program duly approved by the Board;

- b) Abide by the Mines and Geosciences Bureau (MGB) and the Small-Scale Mining Safety Rules and Regulations;
- c) Assume responsibility in ensuring occupational safety and health, social protections, and social welfare benefits of persons working in the mines, including a fair and equitable share in case of a sharing compensation scheme with the financiers;
- d) Comply with pertinent rules and regulations on environmental protection and conservation, particularly those on tree cutting, mineral processing, and pollution control;
- e) Comply with his/her obligations with the holder of an existing mining rights;
- f) Pay all taxes, royalties, or government production share as are now or may hereafter be provided by laws;
- g) File under oath at the end of each quarter a detailed production and financial report to the Board;
- h) Ensure gender equality and address gaps to ensure gender equity in all aspects of small-scale mining operations;
- i) Sell all produced gold to the Bangko Sentral ng Pilipinas (BSP), or its accredited traders;
- j) Police their contract area from any illegal mining operations;
- k) Comply with prohibitions on mercury, hydraulicking or compressor mining, or any other prohibitions on the use of chemical substances or mechanical processes that are or would, in the future, be strictly controlled or prohibited by legislation, department issuances or obligations with international conventions, at any stage of the small-scale mining operation;
- l) Engage only authorized blaster or contractor accredited with the Philippine National Police (PNP) if the need arises;
- m) Ensure non-engagement of child labor and forced labor in mining activities;
- n) Any policies issued after the issuance of the Mining Permit/Contract shall form part of the terms and conditions of the same.

SEC. 21. Mineral Processing. – The establishment and operation of safe and efficient mineral processing plants shall be exclusively dedicated to processing minerals or ore-bearing materials from small-scale mining, with the location of such plants limited to mineral processing zones

duly designated by the local government unit concerned, upon the recommendation of the board.

a) In the gold production process, small-scale miners shall not use mercury; instead, environmentally sound management practices will be employed consistent with relevant national legislation and international policy instruments such as the *Minamata Convention* and *Basel Convention*.

b) In mining areas where the local government concerned is unable to establish a mineral processing plant, the private sector shall construct such mineral processing plants upon the recommendation of the Board based on the viability of the project.

c) In mining areas where the private sector is unable to establish mineral processing plants, the Department of Science and Technology (DOST) shall construct such mineral processing plants as a shared facility, upon the recommendation of the board, based on the viability of the project.

d) The board shall issue licenses for the operation of mineral processing plants, the operation of which is subject to pollution control and safety standards.

e) The DENR's Mines and Geosciences Bureau Regional Offices shall establish assay laboratories to cross-check the integrity of processing plants and to render metallurgical and laboratory services to mines.

SEC. 22. *Ownership of Mill Tailings.* – The integrated small-scale mining contractor shall be the owner of all tailings produced from the contract area. The contractor may sell the tailings or have them processed by any Mineral Processor.

The Mineral Processor shall be the owner of all tailings produced from their operations.

SEC. 23. *Use of Equipment and Explosives.* – The small-scale mining contractor may employ modern mining technologies, use limited heavy equipment, and regulate the use of explosives in the conduct of their small-scale mining operations.

SEC. 24. *Sale of Gold, and Other Metals and Minerals.* – All gold produced by small-scale miners in any small-scale mining contract area shall be sold to the Bangko Sentral ng Pilipinas (BSP), or its accredited traders, which shall buy it at prices competitive with those prevailing in the world market, regardless of volume or weight.

The BSP shall establish as many buying stations as possible in gold-rush areas in the nearest Business District of the Province/City where the BSP has its Office to fully service the requirements of the small-scale miners thereat.

The market for other metals and minerals shall be supervised by the Board.

SEC. 25. *Payment of Taxes and Government Production Share.* – The small-scale mining contractor/mineral processor shall pay to the government the following:

- (a) National and local taxes due as provided for in the National Internal Revenue Code; and
- (b) Royalty, if within mineral reservations.

However, the sale to the BSP of gold sourced from small-scale mining shall be exempt from excise tax, in accordance with section 2c and 3 of Republic Act No. 11256 otherwise known as “An Act to Strengthen the Country's Gross International Reserves, Amending for the Purpose Sections 32 and 151 of the National Internal Revenue Code, as amended, and for other purposes”.

SEC. 26. *Mine Safety, Health, and Environmental Management, and Community Development.* – The small-scale mining contractor and mineral processing license holder shall comply with all pertinent issuances in relation to mine safety, health, and environmental management and community development.

SEC. 27. *Grounds for Suspension and/or Cancellation of Contracts or Mineral Processing License (MPL).* – Small-scale mining operations covered by a Small-Scale Mining Contract/Mineral Processing License may be suspended on the following grounds:

- a) Violation of the safety standards as stated in DAO No. 97-30;
- b) Violation of the terms and conditions of the Small-Scale Mining Contract and Mineral Processor's License;
- c) Non-compliance with the approved Environmental Compliance Certificate;
- d) Gross violation of the terms and conditions of the contract/mineral processing license;
- e) Non-submission of reports and/or non-payment of fees, taxes, and/or royalties pursuant to this Act and other applicable laws, rules and regulations for two (2) consecutive years;
- f) Any falsehood or omission of facts in the contract or MPL which may alter, change or affect substantially the facts set forth in all statements, which are considered as conditions and essential parts thereof, made in the contract;
- g) When national interest and public welfare so require or for environmental protection or ecological reasons.

SEC. 28. *Reversion of the Minahang Bayan.* – The Secretary, upon recommendation of the Board, shall withdraw the status of the Minahang Bayan for any of the following conditions:

- (a) When it can no longer be feasibly operated on a small-scale mining basis; or
- (b) When the safety, health and environmental conditions warrant that the same shall revert to the State for proper disposition.

SEC. 29. *Labor standards, industrial relations, and contractual relations.* - The relationship between small-scale miners and their financiers, absent proof of existence of an employer-employee relationship, shall be governed primarily by applicable civil and commercial laws. Whether governed by contracts for industrial partnerships involving shares or through other arrangements, and whether or not contracts are formal or informal, or written or verbal, all conditions at work must be compliant with labor standards, especially on hours of work, occupational health and safety requirements, prohibitions on forced labor and child labor, gender equality and equity capacitating requirements, and the like, as stipulated and governed by legislation, Executive issuances, and regulations such as the Labor Code of the Philippines, Republic Act 11058 (An Act Strengthening Compliance with Occupational Safety and Health Standards), and Executive or Department Order issuances.

SEC. 30. *Administrative Supervision Over Small-Scale Mining Operation.* - The Secretary, through his/her representative, shall exercise direct supervision over the activities of the small-scale miners within the Minahang Bayan area.

SEC. 31. *Prohibited Acts.* - The following shall be considered as prohibited acts and be penalized with imprisonment, applicable fees, and/or shall include the confiscation and seizure of equipment, tools, and instruments.

a) Mercury use - Any person who makes use of mercury in any part of their small-scale mining operations, which is prohibited under Section 11 of Executive Order No. 79, shall be penalized with imprisonment of not less than six (6) months and one (1) day but not more than six (6) years, and/or shall be fined ranging from Fifty Thousand Pesos (P50,000.00) to One Hundred Thousand Pesos (P100,000.00);

b) Child labor - Any person who employs the services of a child for any work or economic activity that subjects the child to any form of exploitation or is harmful to his/her health and safety or physical, mental or psychosocial development shall be penalized with imprisonment of not less than twelve (12) years and one (1) day to twenty (20) years, or shall suffer the penalty of a fine of not less than One hundred thousand pesos (P100,000.00) but not more than One million pesos (P1,000,000.00), or both such fine and imprisonment at the discretion of the court pursuant to Section 6.b of the Republic Act No. 9231;

c) False Statements - Any person who knowingly presents any false application, declaration, or evidence to the Government or publishes or causes to be published any prospectus or other information containing any false statement relating to mines, mining operations or mineral agreements, financial or technical assistance agreements and permits shall, upon conviction, be

penalized by a fine of not less than fifty thousand pesos (50,000.00) and not exceeding Five Hundred Thousand pesos (P500,000.00);

d) **Illegal Exploration** – Any person undertaking exploration work without the necessary exploration permit shall, upon conviction, be penalized by a fine of not exceeding Five Hundred Thousand Pesos (P500,000.00);

e) **Illegal Mining** – Any person engaging in the extraction of minerals without a mining agreement/contract, lease, permit, license such as Mineral Agreement, Small-Scale Mining Contract, Financial or Technical Assistance Agreement, Mining/Placer Lease Contract, Special Mines Permit, Quarry Permit or Sand and Gravel Permit, Government Seabed Quarry Permit, Special Mineral Extraction Permit, and/or practices prohibited small-scale mining practices, such as, but not limited to, hydraulicking or compressor mining, shall, upon conviction, be imprisoned from six (6) months to six (6) years and pay a fine of One Hundred Thousand Pesos (P100,000.00), including the confiscation thereof and of the tools, equipment and conveyance used in the commission of the offense in favor of the Government, at the discretion of the appropriate court. In addition, he/she shall be liable to pay damages and compensation for the minerals removed and extracted, including the rehabilitation of the disturbed area. In case of associations, partnerships, or corporations, the president and each of the directors thereof shall be responsible for the acts committed by the association, corporation, or partnership;

(f) **Illegal Processing of Minerals** – Any person engaging in the processing of minerals without permit, license, mining agreement/contract, lease, such as a Mineral Processing Permit, Mineral Processing License, Mineral Agreement, Financial or Technical Assistance Agreement, Mining/Placer Lease Contract, Special Mines permit shall, upon conviction, be imprisoned from six (6) months to six (6) years and pay a fine of Five Million Pesos (P5,000,000.00), including the confiscation thereof and of the tools, equipment and conveyance used in the commission of the offense in favor of the government, at the discretion of the appropriate court. In addition, he/she shall be liable to pay damages and compensation for the damages caused by the processing of minerals, including the rehabilitation of any disturbed area. In the case of associations, partnerships or corporations, the president and each of the directors thereof shall be responsible for the acts committed by the association, corporation, or partnership;

(g) **Illegal Transport of Minerals** – Any person transporting minerals without an Mineral Ore Export Permit (MOEP), Ore Transport Permit and Delivery Receipt for Aggregates, Sand and Gravel, shall, upon conviction, be imprisoned from six (6) months to six (6) years and pay a fine of Five Million Pesos (P5,000,000.00), including the confiscation thereof and the tools, equipment and conveyance used in the commission of the offense in favor of the Government, at the discretion of the appropriate court. In the case of associations, partnerships or corporations, the president and each of the directors thereof shall be responsible for the acts committed by the association, corporation, or partnership;

(h) **Illegal Trading of Minerals** – Any person engaging in mineral trading, buying, or selling minerals without the necessary registration and accreditation shall, upon conviction, be

imprisoned from six (6) months to six (6) years and pay a fine of Five Million Pesos (P5,000,000.00), including the confiscation thereof and of the tools, equipment and conveyance used in the commission of the offense in favor of the Government, at the discretion of the appropriate court. In the case of associations, partnerships or corporations, the president and each of the directors thereof shall be responsible for the acts committed by the association, corporation, or partnership;

(i) Selling of Gold outside BSP – Any person who sell any amount of gold produced in the Philippines shall, upon conviction, be imprisoned from six (6) months to six (6) years and pay a fine of Five Million Pesos (P5,000,000.00), including the confiscation thereof and of the tools, equipment and conveyance used in the commission of the offense in favor of the Government, at the discretion of the appropriate court. In the case of associations, partnerships or corporations, the president and each of the directors thereof shall be responsible for the acts committed by the association, corporation, or partnership;

(j) Destruction of Mining Structures – Any person who willfully destroys or damages structures in or on the mining area or on the mill sites shall, upon conviction, be imprisoned for a period not to exceed five (5) years and shall, in addition, pay compensation for the damages which may have been caused thereby;

(k) Mines Arson – Any person who willfully sets fire to any mineral, stockyard, mine workings, mine fittings, mine forest and rehabilitated area, laboratory or core house, equipment and conveyance and other mine and mill facilities shall be guilty of Mines Arson, and upon conviction by the appropriate court, shall pay compensation for the damages caused and serve the penalties of reclusion temporal in its maximum period (imprisonment for 17 years, 4 months and 1 day), to reclusion perpetua if the damage caused exceeds Four Hundred Thousand Pesos (P400,000.00);

(l) Illegal Obstruction to Permittees or Contractors – Any person who, without justifiable cause, prevents or obstructs the holder of any permit, agreement or lease from undertaking his mining operations shall be punished, upon conviction by the appropriate court, by a fine not exceeding Fifty Thousand Pesos (P50,000.00) or imprisonment not exceeding one (1) year, or both, at the discretion of the court;

(m) Violation of the Terms and Conditions of the Environmental Compliance Certificate – Any person who willfully violates or grossly neglects to abide by the terms and conditions of the environmental compliance certificate issued to said person and which causes environmental damage through pollution shall suffer the penalty of imprisonment of six (6) months to six (6) years or a fine of Fifty thousand pesos (P50,000.00) to Two hundred thousand pesos (P200,000.00), or both, at the discretion of the court;

(n) Illegal Obstruction to Government Officials – Any person who illegally prevents or obstructs the Secretary, the Director or any of their representatives in the performance of their duties under the provisions of this Act and of the regulations promulgated hereunder shall be

punished, upon conviction, by the appropriate court, by a fine not exceeding Fifty Thousand Pesos (P50,000.00) or by imprisonment not exceeding one (1) year, or both, at the discretion of the court;

(o) Fencing of Minerals, Mineral Products and By-Products – Any person, who with intent to gain for himself or for another, shall buy, receive, possess, keep, acquire, conceal, sell or dispose of, or shall buy and sell, or in any manner deal in any mineral, mineral products and by-products, which he knows, or should be known to him, to have been derived from the proceeds of the crime of illegal mining, shall be punishable the penalty of prision correccional in its minimum and medium periods (2 years, 4 months and 1 day to 8 years) to prision mayor (6 years and 1 day to 12 years), upon the discretion of the appropriate court, depending upon the value of the mineral, mineral products and by-products involved; and

(p) Other Violations – Any other violation of this Act and its implementing rules and regulations shall constitute an offense punishable with a fine not exceeding Fifty Thousand Pesos (P50,000.00).

(q) Any person or party who willfully violates or fails to comply with his duty or obligation under the provisions of Section 13 (Ancestral Lands) may be held liable in accordance with the customary laws and practices of the host or concerned ICCs/IPs and sanctions may be imposed in accordance therewith: Provided, That the sanctions are not excessive, cruel and degrading, and without prejudice to the exhaustion of conciliation and mediation efforts, and the exercise of the latter's visitorial and injunctive powers. This is without prejudice to the enforcement of civil, criminal or administrative liability.

SEC. 32. *Transitory Provision.* – All informal small-scale miners in actual operation of mineral lands as determined by the Board shall not be dispossessed, ejected, or removed from said areas: Provided, that they comply with the provisions of this Act within one (1) year from its effectivity.

SEC. 33. *Funding.* – All government agencies involved in the implementation of this order are authorized to allocate from their existing funds such amounts as may be necessary for the budgetary requirements that may be needed to pursue the objectives of this Order, subject to the usual government accounting and auditing rules and regulations.

SEC. 34. *Implementing Rules and Regulations (IRRs).* – The DENR, DOLE and the Department of the Interior and Local Government, shall promulgate rules and regulations to effectively implement the provisions of this Act within ninety (90) days from the effectivity of the same. Priority shall be given to such rules and regulations that will ensure the least disruption in the operations of the small-scale miners.

SEC. 35. *Separability Clause.* – Any section or provisions of this Act which may be declared unconstitutional shall not affect the other sections or provisions hereof.

SEC. 36. *Repealing Clause.* – All laws, decrees, including Presidential Decree No. 1899 and Republic Act No. 7076, among others, letters of instruction, executive orders, rules and regulations, and other issuances, or parts thereof, in conflict or inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 37. *Effectivity.* – This act shall take effect fifteen (15) days after its publication in the Official Gazette or in a national newspaper of general circulation.