



ICLG

The International Comparative Legal Guide to:

Mining Law 2017

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Armenia

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1 Relevant Authorities and Legislation

1.1 What regulates mining law?

Mining Law (Mining Code of RA) regulates relationships relating to the acquisition of subsoil rights (exploration and mining), the protection of the environment during the mining works, the security of conducting the works, and public private cooperation.

1.2 Which Government body/ies administer the mining industry?

The mining industry is regulated by the Ministry of Energy (granting permissions and supervision of the activity) and the Ministry of Natural Protection (environmental issues, supervision on reclamation works).

1.3 Describe any other sources of law affecting the mining industry.

- Law on Payments for Nature Protection and Nature Usage;
- Law on Wastes;
- Law on Environmental Protection;
- Land Code; and
- Water Code, etc.

Natural protection and natural utilisation payments are payable for the pollution of the environment, for utilisation and other activities. The royalties payable on extracted resources are regulated by the Law on Nature Protection and nature utilisation payments.

2 Mechanics of Acquisition of Rights

2.1 What rights are required to conduct reconnaissance?

Armenian law does not require special rights for reconnaissance. The activities that are not considered exploration or mining, are normally permissible with the agreement of the respective land owners. Other activities that are regarded as exploration or mining, require respective mining rights. The only requirement of reconnaissance is the state registration of all identified minerals, mines and reconnaissance works.

2.2 What rights are required to conduct exploration?

To conduct exploration, one needs an exploration right, which consists of the respective permission, agreement, project, plan and land provision act.

In order to receive permission for exploration, an application must be submitted, which must include details of the working plan, the time needed for exploration, information on the mining object, the area which has to be explored, the financial and technical abilities of the applicant, and some other information.

2.3 What rights are required to conduct mining?

To conduct mining, one needs a mining right, which consists of respective permission, agreement, project, plan and land provision act.

Mining permission is needed for extracting minerals. In order to receive permission, an application must be submitted, including information on the exploitation terms, how the project will operate, the confirmed list of minerals, what must be exploited, the closing programme, the financial and technical abilities of the applicant, and some other information.

2.4 Are different procedures applicable to different minerals and on different types of land?

No different procedures are prescribed.

2.5 Are different procedures applicable to natural oil and gas?

These will be regulated by another legal act (as prescribed in the Mining Code), but no such legal act has been adopted and no different procedures are prescribed yet.

3 Foreign Ownership and Indigenous Ownership Requirements and Restrictions

3.1 Are there special rules for foreign applicants?

No special rules are prescribed.

3.2 Are there any change of control restrictions applicable?

There are no special restrictions applicable to foreign companies. The legislation is the same for all.

3.3 Are there requirements for ownership by indigenous persons or entities?

No such requirements are prescribed.

3.4 Does the State have free carry rights or options to acquire shareholdings?

No such rights and options are prescribed by Law.

3.5 Are there restrictions on the nature of a legal entity holding rights?

The rights holder must be a commercial legal person.

4 Processing and Beneficiation

4.1 Are there special regulatory provisions relating to processing and further beneficiation of mined minerals?

The mining proposal must include information on the methods of exploitation based on the best international practice, the formation of infrastructures, the terms of operation based on technical and economic factors, the judgment of an expert about the impact of the project on the environment, an environmental management plan, a social influence valuation, and reclamation plans.

4.2 Are there restrictions on the export of minerals and levies payable in respect thereof?

No such restrictions are applicable; however, since Armenia joined the Eurasian Economic Union, exportation licences have been required for the exportation of precious metals.

5 Transfer and Encumbrance

5.1 Are there restrictions on the transfer of rights to conduct reconnaissance, exploration and mining?

Permission from the authorised governmental body is required. The authorised body makes a decision within 30 days after the application is submitted. A report on the work already concluded, must be submitted with the application.

5.2 Are the rights to conduct reconnaissance, exploration and mining capable of being mortgaged to raise finance?

Mortgaging is not applicable to reconnaissance, as there is no special right to it. Exploration and mining rights can be mortgaged after

informing the authorised government body. The mortgage agreement must be listed in the mining register.

6 Dealing in Rights by Means of Transferring Subdivisions, Ceding Undivided Shares and Mining of Mixed Minerals

6.1 Are rights to conduct reconnaissance, exploration and mining capable of being subdivided?

No; such rights belong only to the owners of the rights.

6.2 Are rights to conduct reconnaissance, exploration and mining capable of being held in undivided shares?

No; such rights are not prescribed by Law.

6.3 Is the holder of a primary mineral entitled to explore or mine for secondary minerals?

All minerals must be included in the mining proposal. No other element can be mined.

6.4 Is the holder of a right to conduct reconnaissance, exploration and mining entitled to exercise rights also over residue deposits on the land concerned?

All such elements must be included in the mining proposal.

6.5 Are there any special rules relating to offshore exploration and mining?

No such rules are prescribed.

7 Rights to Use Surface of Land

7.1 What are the rights of the holder of a right to conduct reconnaissance, exploration or mining to use the surface of land?

Provided that the earth is state property, while the surface is either private, or community or state estate, the holder of the right can use the surface according to the land purchase, usage, lease or servitude agreement.

7.2 What obligations does the holder of a reconnaissance right, exploration right or mining right have vis-à-vis the landowner or lawful occupier?

All such relations are regulated by the agreement on mining entered into with the authorised government body and the respective estate property holder. Some environmental management issues and reclamation works are to be prescribed by a mining proposal.

7.3 What rights of expropriation exist?

No such rights are prescribed by the Mining Code.

8 Environmental

8.1 What environmental authorisations are required in order to conduct reconnaissance, exploration and mining operations?

The judgment of an expert is required with regards to the impact a project may have on the environment. This impact must be assessed on an ongoing basis.

8.2 What provisions need to be made for the closure of mines?

The Mining Code provides that the mines shall have a closure plan, which shall include the following:

- the plan for physical closure of the mine;
- a plan for land recultivation during and after mine exploitation;
- an employee social mitigation plan, as provided by law (at the moment no such mitigation is provided);
- a position on leftover waste and security measures for the surrounding community as well as a health and safety monitoring plan;
- the confirmation of the closure plan two years prior to its closure; and
- financial guarantees for the mine closure.

8.3 What are the closure obligations of the holder of a reconnaissance right, exploration right or mining right?

There is an obligation to perform all activities mentioned in question 8.2 above for exploration or mining rights holders.

8.4 Are there any zoning requirements applicable?

According to the Land Code of RA, mining is not permissible in places where it may harm the health of citizens. Some restrictions are prescribed when it comes to the use of forest lands, water lands, or other special lands for mining.

9 Native Title and Land Rights

9.1 Does the holding of native title or other statutory surface use rights have an impact upon reconnaissance, exploration or mining operations?

Yes, the title holder shall enter into agreement with the mining right holder, in order that the latter receives the right to conduct mining on the provided territory. A taking of the land based on prevailing public interest and providing it to the mine holder is possible under Prevailing Public Interest Law; however, the land title holder shall receive fair compensation and special procedures shall be respected.

10 Health and Safety

10.1 What legislation governs health and safety in mining?

The legislation is mainly the Labour Code and The Law on State Regulation of the Maintenance of Technical Security, but other sub legislative acts (technical regulations) governing health and safety in mining also exist.

10.2 Are there obligations imposed upon owners, employers, managers and employees in relation to health and safety?

The opinion of an expert on technical security is required for project documents. It is unlawful to perform any activity without this document. The rights and responsibilities of employees, employers, and managers for each section are regulated by technical regulations set by government decisions (for underground mining process, enrichment of precious metals, etc.).

11 Administrative Aspects

11.1 Is there a central titles registration office?

Yes; all information on rights of exploration or mining, personal information on companies, and information on mortgages are registered by the authorised body.

11.2 Is there a system of appeals against administrative decisions in terms of the relevant mining legislation?

Such decisions can be brought for appeal to both the administrative body and to its superior body or to the Administrative court of RA.

12 Constitutional Law

12.1 Is there a constitution which has an impact upon rights to conduct reconnaissance, exploration and mining?

No, there is not.

12.2 Are there any State investment treaties which are applicable?

The rights and guarantees of foreign investors are regulated by the Law on Foreign Investments.

13 Taxes and Royalties

13.1 Are there any special rules applicable to taxation of exploration and mining entities?

Aside from general taxes (e.g. VAT, income tax, etc.), entities have to pay: nature protection taxes (for the pollution of the environment

(air and water basin) with harmful substances; for allotting production and consumption wastes in the environment according to the specified procedure; and for goods harmful to the environment); nature utilisation fees (payments for the use of water; and payments for the use of bio-resources); and royalties (for the use of precious metals and the high income derived from the supply of such goods).

A special guarantee is set in the Mining Code for subsoil rights holders. In the case of any change in legislation, rights holders, during the three-year time limit which starts from the date of acquiring such right, may apply to the authorised government body and register that the same legal regulations relating to utilisation fees, income tax for residents and non-residents, and royalties are applicable for them.

13.2 Are there royalties payable to the State over and above any taxes?

Base of Royalties is calculated from the supply of concentrates of precious metals for the recording period. The royalty rate is decided by the following formula: $R = 4 + (\text{profit before taxation} / (\text{Revenue from the supply of concentrates} \times 8)) \times 100$. When deciding final obligations relating to royalties, international prices for concentrates should be applied. (Revenue cannot be more than 10% less than the amount calculated with international prices.)

14 Regional and Local Rules and Laws

14.1 Are there any local provincial or municipal laws that need to be taken account of by a mining company over and above National Legislation?

According to the law on the assessment of environmental impact, public hearings should be held at which project documents will be up for discussion.

14.2 Are there any regional rules, protocols, policies or laws relating to several countries in the particular region that need to be taken account of by an exploration or mining company?

If mining operations mentioned in project documents may impact on the territory of another country, an environmental impact assessment should be held according to the international convention of which RA is a member.

15 Cancellation, Abandonment and Relinquishment

15.1 Are there any provisions in mining laws entitling the holder of a right to abandon it either totally or partially?

According to article 45 of the Mining Code, the holder of exploration rights may apply to the authorised state body for the right to totally or partially abandon a project from three months before the planned abandonment date. The application must include information on works already performed and any documents evidencing such work. In the case of partial abandonment, an updated exploration proposal is also required. An application may be refused if the abovementioned documents were not presented or if the remaining part of the location cannot be used properly according to the contract on mining.

According to the Article 58 to the Mining Code, the holder of the mining right may apply to the authorised state body, for the right to totally or partially abandon a project from three months before the planned abandonment date. An application must include details of the closing programme for the mine and financial guarantees for such closing. The authorised state body may propose a list of conditions for the abandonment of the project.

15.2 Are there obligations upon the holder of an exploration right or a mining right to relinquish a part thereof after a certain period of time?

See the answer to question 15.1.

15.3 Are there any entitlements in the law for the State to cancel an exploration or mining right on the basis of failure to comply with conditions?

The State may terminate the contract in case of profound breach of contractual obligations (mining in contradiction with the proposal, not performing expertise obligations, not developing recultivation works, non-payment of taxes, etc.). After the termination, any exploration or mining rights will be also terminated.

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