

## NOTICE

The Ministry of Mines has prepared the Minerals (Other than Atomic and Hydro Carbons Energy Mineral) Concession (Amendment) Rules, 2021 to amend the Minerals (Other than Atomic and Hydro Carbons Energy Mineral) Concession Rules, 2016.

As part of the Pre-Legislative Consultation Policy, the draft Amendment Rules is made available below. Comments/suggestions are invited from the general public, Governments of States and Union Territories, Mining Industry, Stake Holders, Industry Associations, and other persons and entities concerned, on the draft Amendment Rules. The last date for receipt of the comments/suggestions is 5<sup>th</sup> February, 2021

The comments/suggestions may be sent by e-mail in MS-Office Word to the following ID:

[mustaqahmad.dad@gov.in](mailto:mustaqahmad.dad@gov.in)

The subject of the e-mail should be “**Comments/suggestions on the Minerals (Other than Atomic and Hydro Carbons Energy Mineral) Concession (Amendment) Rules, 2021.**”

Alternatively, comments/suggestions may also be sent by post to the following address:

Shri Mustaq Ahmad, Director  
Ministry of Mines  
Room No 313, D-Wing Shastri Bhawan  
Dr Rajendra Prasad Road New Delhi -110 001

The envelope may kindly be superscribed on the top with: “**Comments/suggestions on the Minerals (Other than Atomic and Hydro Carbons Energy Mineral) Concession (Amendment) Rules, 2021**”.

MINISTRY OF MINES

NOTIFICATION

New Delhi, the \_\_ January, 2021

**G.S.R. \_\_\_(E).**— In exercise of the powers conferred by section 13 of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), the Central Government hereby makes the following rules further to amend the Minerals (Other than Atomic and Hydro Carbons Energy Mineral) Concession Rules, 2016, namely:—

**1. Short title and commencement.**— (1) These rules may be called the Minerals (Other than Atomic and Hydro Carbons Energy Mineral) Concession (Amendment) Rules, 2021.

(2) They shall come into force on the date of their publication in the Official Gazette.

**2.** In the Minerals (Other than Atomic and Hydro Carbons Energy Mineral) Concession Rules, 2016 (hereinafter referred to as the principal rules), after rule 23, the following rule shall be inserted, namely:—

**“23A. Transfer of letter of intent for grant of mining lease or composite licence in certain cases.**— (1) The letter of intent issued upon auction for grant of mining lease or composite licence in accordance with the provisions of the Mineral (Auction) Rule, 2015 may be transferred in the manner specified in this rule in cases where the State Government is satisfied that such transfer of letter of intent to the transferee (the “transferee”) is necessary consequent to conclusion of insolvency, liquidation, or bankruptcy proceedings, as the case may be, in respect of the original holder of the letter of intent (the “transferor”) by the competent tribunal or the court under the provisions of the Insolvency and Bankruptcy Code, 2016 (31 of 2016).

(2) The transferee shall make an application, namely the “transfer application”, to the State Government along-with the following particulars:

(a) details of the transferee including its address,

(b) details and certified copy of the approval of the competent authority or the court under the provisions of the Insolvency and Bankruptcy Code, 2016 (31 of 2016) regarding such transfer,

(c) details regarding eligibility of the transferee to hold such letter of intent and consequent mining lease or composite licence in accordance with the Act and the rules made thereunder, and

(d) copy of the letter of intent granted to the original holder of letter of intent (the “transferor”).

(3) The State Government within a period of ninety days from the date of receiving the transfer application shall convey its decision to approve or reject such transfer for reasons to be recorded in writing and the transfer shall be effective from the date of conveyance of such approval:

Provided further that no such transfer of a letter of intent shall be made in contravention of any condition subject to which such letter of intent was granted.

(4) All transfers effected under this rule shall be subject to the following conditions, namely:—

(a) the transferee is eligible to participate in the auction in accordance with the Act and the rules made thereunder, and

(b) the transferee has accepted all the conditions and liabilities under any law for the time being in force which the transferor was subject to in respect of such letter of intent.

(5) On and from the date of transfer, the transferee shall be liable towards the State Government and Central Government with respect to any and all liabilities with respect to the transferred letter of intent and shall continue to comply with all the obligations required for obtaining the mining lease or the composite licence, as the case may be.

(6) The State Government shall intimate the Indian Bureau of Mines in writing about any transfer of a letter of intent.

(7) The State Government may, by an order in writing terminate any letter of intent or consequent mining lease or composite licence, as the case may be, at any time if the transferee has, in the opinion of the State Government, committed a breach of any of the provisions of this rule or has transferred such letter of intent or any right, title, or interest therein otherwise than in accordance with this rule:

Provided that no such order shall be made without giving the transferee a reasonable opportunity of being heard.”

[F. No. 16/31/2019-M.VI]

Dr. Veena Kumari Dermal, Joint Secretary

Note:- The principal rules were published in the Gazette of India, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 279(E) dated the 4<sup>th</sup> March, 2016 and lastly amended *vide* number G.S.R. 191(E), dated the 20<sup>th</sup> March, 2020.

## Background Note

1. The Minerals (Other than Atomic and Hydro Carbons Energy Mineral) Concession Rules, 2016 *inter-alia* provides provision for transfer of mining lease or prospecting license-cum-mining lease granted through auction under rule 23 of the rules. However, the rule is silent on transfer of LOI which is the first state of successful bidder to get a lease in auction. A successful bidder after getting LOI get all the clearances/approval cleared from the different authorities as prescribed under the statute to get its lease executed. Therefore, the outcome of LOI is the execution of the lease.
2. It has been noticed by the Ministry that the State Governments are facing difficulty on the cases where the successful bidder (that received LOI from the state) got dissolved due to various reasons and after due proceedings as per Insolvency and Bankruptcy Code (IBC) of NCLT and the ownership of the company has been changed from the preferred bidder to the company which has acquired the company through IBC Code in transfer of LOI because of non-availability of such provision in the rule.
3. Considering the problem faced by various State Governments in such cases, the Ministry of Mines has decided to amend the rule appropriately so that the decision taken by sub-judice bodies under IBC may be complied.
4. Accordingly, the draft amendment to rule 23 by inserting a new sub-rule 23A in the Minerals (Other than Atomic and Hydro Carbons Energy Mineral) Concession Rules, 2016 has been proposed.

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