

AMENDMENTS IN THE Mines and Minerals (Development and Regulation) Act, 1957 (2015-2021)

A BIG BOOST TO MINERAL
PRODUCTION AND EMPLOYMENT
GENERATION



Self-reliance is not possible without a strong mining and minerals sector; because minerals and mining are important pillars of our economy.

- Prime Minister Narendra Modi



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Background

The Mines and Minerals (Development and Regulation) Act, 1957 regulates the mining sector in India and mandates the requirement for granting leases for mining operations.

Prior to 2015, grant of mineral resources was through ‘first come first serve’ method. This system of allocation of mineral concession was discretionary and decision making was not transparent. The process of renewal of mining leases was acting as an obstacle in attracting large scale investment in the mining sector. The allocation of mineral concession was not generating any revenue to the Government other than royalty.

Consequently, there was slowdown in grant of new concessions and the renewal of existing ones. As a result, the mining sector started registering a decline in production affecting the downstream manufacturing sector which largely depends on the raw material provided by the mining sector.

The government has carried out a series of major reforms in the mining sector starting from 2015.

The Act was comprehensively amended in 2015 to bring several reforms in the mineral sector, notably:-

- Mandating auction of mineral concessions to improve transparency;
- Establishing District Mineral Foundation and National Mineral Exploration Trust; and
- Stringent penalty for illegal mining.



Hindustan Zinc Limited's Rajpura Dariba Mine, Rajsamand

The Act was further amended in the years 2016 and 2020 to allow transfer of leases for non-auctioned captive mines and to deal with the emergent issue of expiry of leases on 31st March, 2020, respectively.

Further, to propel India into a 5-trillion dollar economy and to double the employment potential in next five year, the Mines and Minerals (Development and Regulation) Amendment Act, 2021 has been enacted.

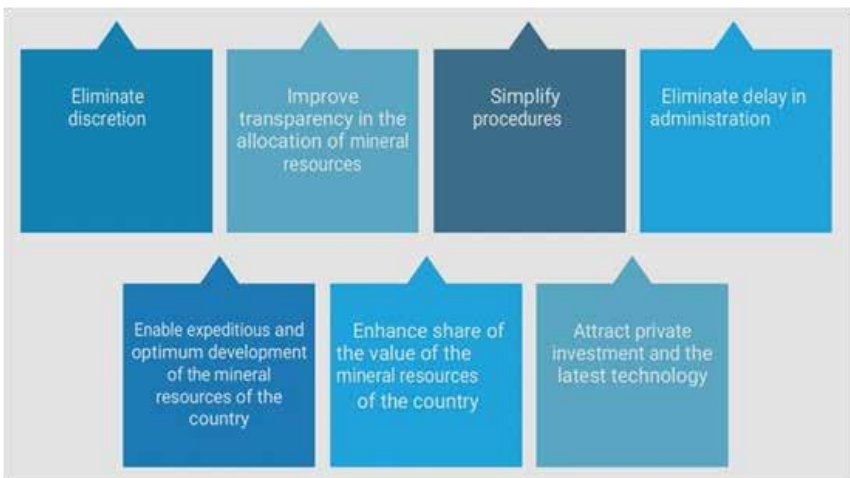
Dawn of a New Era

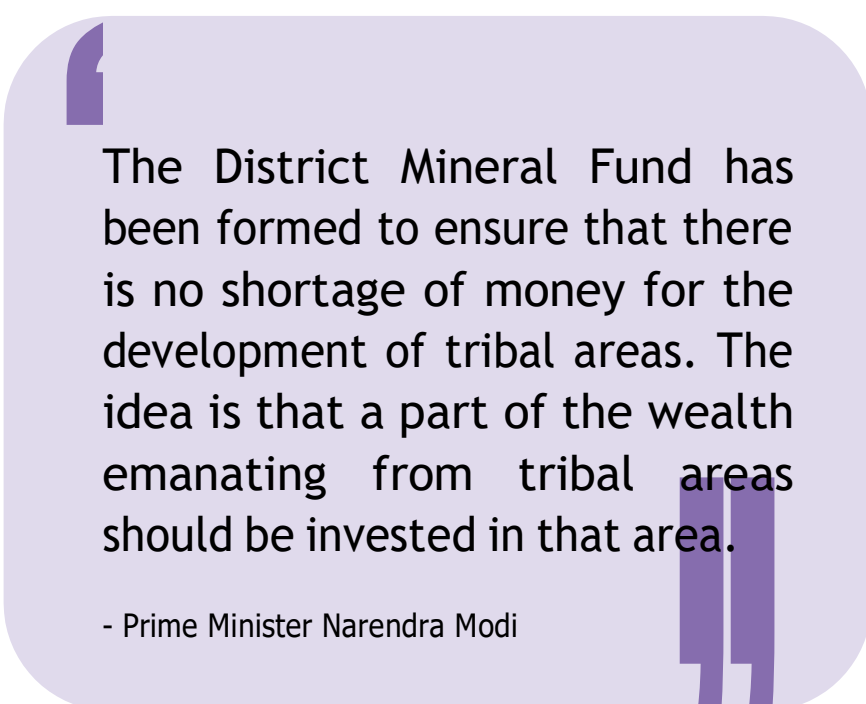
To remedy the basic structural defects of the mining sector and infuse greater ease of doing business, the Mines and Minerals (Development and Regulation) (MMDR) Amendment Ordinance, 2015 was promulgated on 12th January, 2015, which was replaced by the MMDR Amendment Act, 2015.

MMDR Amendment Act, 2015-Initiatives

- E-Auction was made mandatory for the grant of mineral concession to ensure transparent method of allotments of mineral wealth.
- Need for renewals and prior approvals was removed for ease of doing business and removing discretions.
- Provided for establishing District Mineral Foundation Trust for the welfare of mining affected areas by using contributions from the mining companies.

- National Mineral Exploration Trust was established for regional and detailed mineral exploration in the country.
- Penal provisions were made more stringent to deter illegal mining activities like provision for higher penalties upto Rs. 5 Lakhs per hectare of the area and imprisonment upto 5 years. Further, provision was made for constitution of special courts by the State Governments for fast-track trial of cases of illegal mining.





The District Mineral Fund has been formed to ensure that there is no shortage of money for the development of tribal areas. The idea is that a part of the wealth emanating from tribal areas should be invested in that area.

- Prime Minister Narendra Modi

MMDR Act was further amended through MMDR Amendment Act, 2016 to provide for transfer of captive mining leases granted other than through auction in order to facilitate legitimate business transactions. The amendment also redefined 'leased area' in order to expand its scope.

Sustaining Mineral Production

Mineral Laws Amendment Act-2020

MMDR Act, 1957 has been amended through the Mineral Laws (Amendment) Act, 2020 to maintain sustained mineral production in the country. It was carried out keeping in mind the fact that a large number of working mining leases were going to expire in March, 2020 under the provisions of the MMDR Act. The Amendment was an important step to ensure that there is no shortage of mineral availability in the country. It facilitated seamless transfer of all valid rights, approvals, clearances, licenses and the like for a period of two years to a new lessee in case of minerals other than coal, lignite and atomic minerals.

In 2020, mining leases of 334 mines were expiring on 31st March, out of which 46 were working non-captive mines. While some of the states initiated action to auction these blocks, mines allocated through auction could have started mining operations only after obtaining as many as twenty three (23) clearances from different Government agencies. This was causing inordinate delay in commencement of mining operations and subsequent production of the minerals. To sustain supply of minerals, the Act was further amended through the Mineral Laws (Amendment) Act, 2020.

Salient Features of the Mineral Laws (Amendment) Act, 2020

A. Advance Action for Auction

Earlier, the government did not have the power to initiate the auction process for the mining lease before the expiry of the lease period.

To ensure continuity in mining operations, this Act allowed State Governments to auction the mining lease before the expiry.

B. Transfer of the statutory clearances to new bidders

The Amendment Act, now provides that the approvals, licenses and clearances given to the previous bidder shall be extended to the successful bidder in the auction for two years. During these two years, the new lessee can continue the mining activities but has to obtain all the approvals and statutory clearances within these two years.

Bolstering Mining Reforms Reasons for Amendment-2021

Mining sector directly and indirectly employs about 1.1 crore people and sustains livelihood of about 5.5 crore people. If the employment potential is doubled in a period of next five years, the benefit of the sector could extend to 10 crore people. In Financial Year (FY) 2018-19, it is estimated that mining contributed Rs 4.10 Lakh crore to India's GDP. The target is to double the contribution of mining to Rs 8 Lakh crore by FY 24-25.

The Amendment seeks to achieve atmanirbhar \$5 trillion dollar economy.

Salient Features of the Amendment-2021

The MMDR Amendment Act, 2021

1. **Revitalize mineral sector by giving immediate boost to mineral production.**
 - Removing the distinction between captive and merchant mines. It allows all captive mines to sell upto 50% of the minerals produced during the year after meeting the requirement of attached plant. All future auctions will be without any end use restrictions.
 - Resolving pending cases under section 10A (2)(b) by bringing them under new auction regime. Around 500 cases under section 10A (2)(b) of the Act were pending in absence of the sun set clause.

- Substituting ‘mining operations’ with ‘production and dispatch’. Since the interpretation of the term mining operations is generic, it was difficult to cancel non-producing leases.
- Reallocation of non-producing blocks of the Government companies as many of the mining blocks reserved for Government companies are not brought into production for many years.

2. To promote ease of doing business.

- Validity of statutory clearances of expired mining leases to continue even after expiry or termination of mining lease and shall be transferred to next lessee of the mine. This will ensure continuity in mining operations and production despite change in lessee.
- Allow the transfer of all mineral concession without any charges.
- Clarified the scope of the phrase ‘without lawful authority’ by inserting an explanation in section 21, now miners can only be penalized under this section for raising, transporting or causing to raise or transport any mineral

without prospecting licence, mining lease or composite licence or in contravention of the rules made under section 23C.

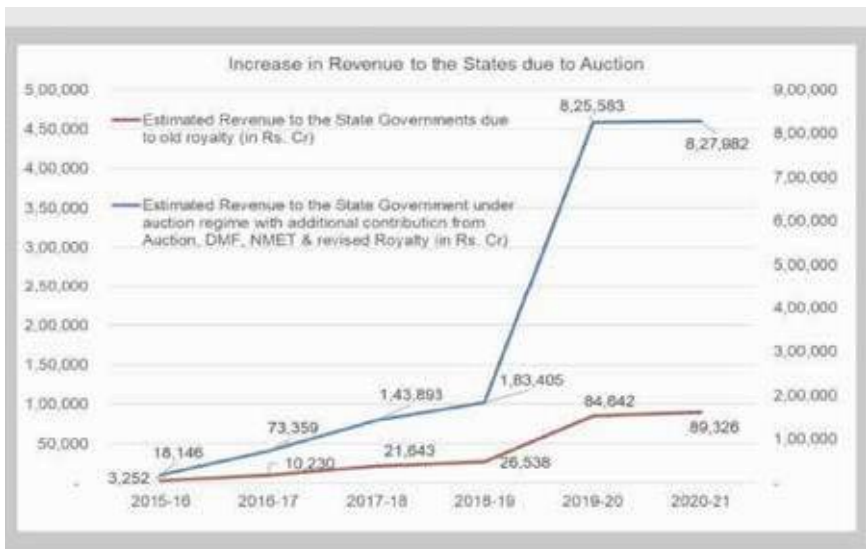
3. Other structural reforms.

- Central Government may issue directions regarding composition and utilization of funds by DMF.
- Empowered Central Government to conduct auction in cases where the States face difficulty in conducting auction or fail to conduct auction in prescribed time fixed in consultation with State Government.
- **Rate of Royalty in Respect of Certain Minerals and Metals:-** Second Schedule of the Mines and Minerals (Development and Regulation) Act, 1957 has been amended specifying rate of royalty in respect of certain minerals and metals i.e. Emerald, Glauconite and Potash, Molybdenum, andalusite and Platinum Group of Metals.

Impact of the Amendments

A. Impact of 2015 Amendment

- Introduction of e-Auction of mining lease brought transparency and additional revenue to States in the form of premium over and above royalty. Since



the introduction of auction regime in 2015 a total of 154 mines have been successfully auctioned in the country.

- District Mineral Foundation created in 600 districts for the welfare of the people of mining affected area and with its permanent source of funding is bringing positive changes in the lives of people in the mining affected areas of all the mining states. 1,16,726 number of projects implemented through DMF in the country.
- NMET is facilitating faster and focused exploration for accurately quantifying the mining wealth of the country. 219 exploration projects carried out through NMET.

B. Implications of 2016 Amendment

- Provided for transfer of captive mining leases granted other than through auction in order to facilitate legitimate business transactions.
- Amendment also redefined '*leased area*' in order to expand its scope.



Special focus should be laid on improving Country's self-reliance in production of Minerals and their in-country processing

- Prime Minister Narendra Modi

C. Implications of 2020 Amendment

Mines which were expired in March 2020 were auctioned in time and seamlessly operationalised. All the valid clearances, approvals etc. were vested with the successful bidders to enable them to start the mining operations in time. 27 mines were auctioned subsequent to the amendment in which all the approvals and clearances were transferred to the new lessee.

D. Implications of 2021 Amendment

Removed distinction between captive and merchant mines

- Captive mining results in sub-optimal mining. Auctioning mines without end use restriction will ensure optimal mining. 46 mines were successfully auctioned in the country without end use restriction.
- States will get additional revenue from the sale of mineral by captive miners.
- It will encourage setting-up of industries around the mines, which are generally located in remote locations.

Cases of 10(A)(2)(b) will be resolved and re-allocation will be made

- Such cases were anachronistic to auction regime.

- More blocks now available for auction. It will increase revenue to the States in terms of auction premium.
- Resources of more than 1166 million tonnes (MT) of Iron Ore, 4825 MT of Limestone, 46 MT of Bauxite, 2.6 MT of gold ore, and 15.6 MT of manganese ore released for auction.

Substituting “mining operations” with “production and dispatch”

- This will ensure time bound start and continuation of production and dispatch from mines.
- Boost availability of minerals in the market.



Malanjkhand Copper Project underground expansion project has achieved one of the biggest milestones connecting north and south section of mine at 240 mRL

Re-allocation of non-producing blocks of Government companies

- Fixing a time frame for starting production will result in expediting production by the mines owned by PSUs.
- This will ensure additional revenue to the State Government.

Validity and transfer of statutory clearance of expired mines

- This will ensure continuity in mining operations and production despite change in lessee.
- It will obviate repetitive and time-consuming requirement of obtaining clearances which were already granted in respect of such Mines.

Transfer of mineral concession

- Lessee who is not interested in mining due to his financial condition or any other reason may transfer his mine to anyone interested in mining.
- This would enable the lessee to mortgage the mine to banks and financial institutions.

- Removing restriction in transfer will attract investment and new technology in mining sector.

Boost to exploration of Minerals

- It will increase the pace of exploration and will bring advance technology in exploration of mineral by giving level playing field for government and private agency.
- NMET to be made Autonomous body to ramp up exploration by engaging public and private entities.
- Under seamless prospecting licence cum-mining lease, exploration activity is seamlessly integrated with mining.
- Five (5) agencies have been notified under 'Category 'A' Exploration Agencies' for the purposes of the second proviso to sub-section (1) of section 4 of the MMDR Act.

Better implementation of DMF

- More focused spending of DMF fund on people living in directly affected area and channel funds to national priorities.

- Order regarding inclusion of Hon'ble Members of Parliament in the Governing Council of DMF has been issued on 23.04.2021.
- 18 States implemented the order and 4 States are under process of implementing.

Auction of mineral concessions by Central Government in case of difficulties faced by State Governments

- To prescribe timeline in consultation with State Governments.
- To ensure continuous supply of minerals, more blocks are required to be brought into auction on a regular basis.
- Revenue shall accrue to State Governments.
- Minerals serve as raw material for many industries, paving the path for rapid industrialization and infrastructural development. This will facilitate the economy's ascent to a path of sustained growth.
- The mines and minerals sector is a major employer in rural areas and its role as an essential service has been acknowledged time and again.
- Ministry of Mines is working with a vision to double the production of important minerals for reduction in import dependency, allocating and regulating minerals in a transparent and sustainable

manner. The sector is an integral part of the AatmaNirbhar Bharat Abhiyan.

- Mining being a major economic activity, generates employment in far flung and tribal areas.
- Mining sector has the potential to create a vast number of employment opportunities. Being the source of raw materials for Indian industries and society, mining is crucial for both AatmaNirbhar Bharat as well as for India to become a USD5-trillion economy.



In mineral mining too, now companies can do mining work simultaneously with exploration. Those familiar with this sector are well aware of the far-reaching consequences of these decisions.

- Prime Minister Narendra Modi



Appreciation by Stakeholder

PM Modi is taking the Mining sector from red tape to red carpet.

- Anil Agarwal Chairman, Vedanta



Hindustan Zinc Limited's Dariba Smelting Complex, Rajsamand

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All these steps will not only improve the ease of doing business, but also significantly contribute to the global competitiveness of the metals and mining industry.

- Satish Pai, Managing Director, Hindalco

It is critical for India to build a globally competitive mining sector. The industry is key to ensuring the country's energy and raw material security.

- Chandrajit Banerjee, Director-General, CII

India is blessed with abundant reserves of coal, bauxite and other mineral resources, and these reforms will bolster India's production of these critical resources.

- Ajay Kapur, CEO, Vedanta Aluminium and Power

The auction of mineral blocks with pre-embedded clearances is another significant reform taken by the government. This is going to attract huge investments in the mining and metals sector which has the potential to make the nation self-reliant, reduce import bills by US\$100 billion and create multiple livelihood opportunities.

- Rahul Sharma, Co-Chair, FICCI Mining Committee

I am happy to note that many of our suggestion have been considered positively... The present set of reforms are definitely going to streamline and enhance the ease of doing business. I support the bill in its present form.

- Shri Pinaki Misra, MP BJD

During discussion on

MMDR (Amendment) Bill 2021

on 19/03/2021

We are following the objective of making people of mineral-rich areas wealthy.

- Prime Minister Narendra Modi



Mining Operation at Panchpatmali Bauxite Mines of National Aluminium Company Limited (NALCO)

Media Coverage

Date: 20-03-2021 Publication: Amar Ujala Edition: Lucknow

खनन में निजी क्षेत्र को अनुमति से
55 लाख लोगों को मिलेगा रोजगार
खान और खनिज (विकास और विनियमन) संशोधन बिल लोकसभा से पास

Date: 23-03-2021 Publication: Millennium Post Edition: New Delhi

**Parliament passes Bill to boost
private investment in mining**

FINANCIAL EXPRESS

HOME

BUSINESS POST

MARKETS STOCKS INDUSTRY ECONOMY MONEY AUTO INFRA THE BREAKTHROUGH US STOCKS

Stakeholders, analysts hail mining reforms

By FE Bureau | January 15, 2021 8:14 AM

Apart from freeing over 500 blocks stuck in legacy issues, the Cabinet is learnt to have also gave the go-ahead for reallocation of several non-producing blocks of state-run companies.

Opinion

Bolstering the ongoing mining reforms

Rajesh Chaudhary/Ganesh Sivamani | Updated on March 04, 2021



Increasingly available: More trucks have been seen with increasingly high bids. © N. Siva

Transparency apart, the auctions must provide enough revenues for the exchequer and incentives to industry

Date: 20-03-2021 Publication: The Times of India

LS okays bill on mining reforms

Union minister Pralhad Joshi saying the changes will help generate "55 lakh direct and indirect employment" by allowing the entry of private enterprise and enhanced technology in mining activities.

Date: 14-01-2021 Publication: The Times of India
Edition: Kolkata

Mining reforms cleared to pave way for auction of 500 mines

TIMES NEWS NETWORK

Date: 20-03-2021 Publication: Prabhat Khabar Edition: Ranchi

खानों की नीलामी केंद्र करेगा तो भी पूरा पैसा राज्यों को : मंत्री

प्रखर एनर्जिया ३० मार्च २०२१



लोकसभा में प्रखर हुआ लखन और लखन लखन विधेयक

- सी से अधिक खाने राज्यों को दी गयी, लेकिन पाव वही ही नीलामी हुई

Captive Power Plant, National Aluminium Company Limited (NALCO)
at Angul , Odisha



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