

LAW OF THE REPUBLIC OF TAJIKISTAN

ON SUBSOIL

(Bulletin of the Supreme Council of the Republic of Tajikistan, 1994, No.15-16, Article 235; Akhbori Majlisi Oli of the Republic of Tajikistan, 1995, No.2, Article 259; 2008, No.1, p-2, Article 16, No.12, p-2, Article 1005; 2010, No.12, p-1, Article 822)

This Law shall establish the legal basis for the study, protection and use of subsoil and regulate relations in this sphere. (ZRT dated 01/05/2008, No.351)

SECTION I. GENERAL PROVISIONS

Article 1. Legislation of the Republic of Tajikistan on subsoil.

The legislation of the Republic of Tajikistan On Subsoil shall be based on the Constitution of the Republic of Tajikistan and consist of this Law and other regulatory acts of the Republic of Tajikistan as well as international legal acts recognized by Tajikistan. (ZRT dated 01/05/2008, No.351).

Local executive authorities of the Gorno-Badakshan Autonomous Oblast, oblasts, cities and districts shall issue acts for the regulation of subsoil use relations within the powers determined by this Law. (ZRT dated 01/05/2008, No.351).

Relations connected with the use and protection of land, water, air, flora and fauna arising from the subsoil use shall be regulated by the corresponding legislation of the Republic of Tajikistan.

Article 1¹. Basic definitions

The following basic definitions shall be used in this Law:

-state geological studies – geological operations related to the monitoring of the subsoil condition, geological structure of certain sites and basins and the territory of the Republic of Tajikistan as a whole, determination of their prospects in terms of presence of minerals, creation of state geological maps, constituting the information basis for subsoil use;

- geological allotment – appendix to the license for geological subsoil studies determining in a graphic and descriptive form the subsoil site where the subsoil users are eligible for exploration;

-mining allotment – appendix to the license for geological exploration works and production of minerals, for construction or operation of underground structures not related to exploration and production, license for production of commonly occurring minerals for commercial purposes, determining in a graphic and descriptive form the subsoil site where

subsoil users are entitled to carry out production, construction of underground structures not related to exploration or production;

- production – the entire set of operations related to the extraction of minerals from the subsoil to the surface as well as from state-owned man-made mineral formations including operations in the places of temporary storage of mineral raw materials; (ZRT dated 12/31/2008, No.471)

- production of commonly occurring minerals – production conducted on the land plot under the right of permanent or temporary subsoil use without the intention of subsequent transactions in respect of the produced commonly occurring minerals or underground waters;

- deposit – a subsoil site containing natural accumulation of minerals;

- mineral raw materials – extracted part of subsoil (rock, ore crude etc.) containing minerals;

- subsoil users – individuals and legal entities authorized hereunder to conduct geological works and production of commonly occurring minerals;

- subsoil – part of the crust lying below the soil layer, and in the absence of the soil layer – below the ground surface and bottom of seas, lakes, rivers and other water reservoirs, extending to the depths accessible for the conduction of geological works on subsoil use in the light of the scientific and technological progress;

- commonly occurring minerals – minerals (sand, clay, gravel etc.) used in their natural form with minor processing and treatment mainly for the satisfaction of local economic needs;

- set of subsoil use operations – works related to the state geological studies, exploration and production, including works related to exploration and production of underground waters, therapeutic muds, subsoil exploration for waste water discharge, as well as works on construction and operation of underground structures not related to production;

- primary processing of mineral raw materials – processing a mineral extracted from the subsoil according to technological schemes determining the sequence of processes and operations for the enrichment and preliminary conversion of extracted minerals;

- processing of mineral raw materials – works related to extraction of useful minerals from the mineral raw materials;

- mineral – natural mineral substance contained in the subsoil in solid, liquid and gaseous state (including underground waters and therapeutic muds) suitable for manufacturing purposes;

- impoverishment – decrease in the quality of minerals at production;

- permanent subsoil users – individuals and legal entities holding the perpetual subsoil use right;

- temporary subsoil users – individuals and legal entities holding the subsoil use right limited by a certain term;

- geological exploration works – works related to the search of mineral deposits and evaluation thereof;

- construction and operation of underground structures not related to geological exploration works and production of minerals – works on construction and operation of underground structures of general economic purpose as well as for the disposal of radioactive wastes, harmful substances and waste waters;

- subsoil site – a part of subsoil allocated within the closed boundaries for subsoil use purposes;

- payment for the right of subsoil use – a one-time fee paid to the subsoil owner (state) for the provision of the right of subsoil use;

- allocation of funds for subsoil use – regular payments to the subsoil owner (state) for the purpose of covering the subsoil use costs. (ZRT dated 01/05/2008, No.351)

Article 2. Ownership of subsoil in the Republic of Tajikistan

Subsoil in the Republic of Tajikistan shall be exclusively owned by the state and can be granted by the owner to:

certain government bodies through the ownership right delegation;

subsoil users through the assignment of the perpetual right or securing the right of limited subsoil use.

Private ownership of subsoil shall not be allowed in the Republic of Tajikistan. Purchase and sale, gifting, pledging and unauthorized exchange of subsoil sites shall be prohibited.

Acts expressly or implicitly violating the right of subsoil state ownership shall be prohibited.

Article 3. National subsoil fund

All the subsoil resources within the state boundaries shall constitute the national subsoil fund consisting of both used and unused parts of subsoil.

Disposition and management of the national subsoil fund in favor of the whole population shall be carried out by the Government of the Republic of Tajikistan.

Article 4. Competence of the Majlisi Oli of the Republic of Tajikistan in the sphere of regulating subsoil use relations (deleted by ZRT dated 01/05/2008, No.351)

Article 5. Competence of the Government of the Republic of Tajikistan in the sphere of regulating subsoil use relations

The competence of the Government of the Republic of Tajikistan in the sphere of regulating subsoil use relations shall include:

- 1) development and implementation of state programmes for the use, replacement, further expansion and quality improvement of the country's mineral resource base;
- 2) establishment of the procedure for the subsoil use and protection and development of the corresponding standards (rules and regulations);
- 3) disposition and management of the national subsoil fund including, in cooperation with local executive bodies of the **Gorno-Badakhshan Autonomous Oblast**, oblasts, cities and districts, the fund of commonly occurring minerals; (**ZRT dated 01/05/2008, No.351**)
- 4) defining the lists of minerals related to the commonly occurring minerals as well as lists of collectible materials and minerals allowed for artisanal production;
- 5) issuance of licenses for subsoil use and mineral raw materials processing;
- 6) setting quotas for the production, processing and selling of mineral raw materials of state significance by enterprises;
- 7) setting the procedure for the attraction of foreign investments, granting licenses and concessions to foreign legal entities and citizens for the search, exploration, production and processing of mineral raw materials, as well as for the use of subsoil for other purposes and maintaining compliance monitoring;
- 8) creation of a unified system of the national fund of geological information on subsoil and disposition of information obtained through government funding;
- 9) state supervision and control over efficient subsoil use and conservation, as well as establishment of the control maintenance procedure;
- 10) compilation of the national register of mineral reserves, state accounting of subsoil sites used for mineral production and construction of underground structures not related to production of minerals, state registration of operation on the subsoil geological studies and development to be conducted by enterprises and organizations regardless of their forms of ownership;
- 11) state expert evaluation of information on the proven reserves of minerals, other subsoil properties determining its value;
- 12) establishment of restrictions for the subsoil use at certain sites for ensuring national security and environmental protection;
- 13) determining the state policy, maintaining international cooperation in the sphere of subsoil use and conservation;
- 14) approval of subsoil use fees;

- 15) termination of the subsoil use right in cases of violation of the requirements of this Law;
- 16) coordination of research and development works related to subsoil use;
- 17) protection of subsoil users' rights and interests of the citizens of the Republic of Tajikistan;
- 18) settlement of disputes regarding subsoil use between the **Gorno-Badakhshan Autonomous Oblast**, oblasts, cities and districts of republican subordination of the Republic of Tajikistan; (ZRT dated 01/05/2008, No.351)
- 19) state expert evaluation of subsoil use projects provided to foreign subsoil users on the basis of agreements made in accordance with the legislation of the Republic of Tajikistan;
- 20) regulation of other subsoil use issues determined by the legislation of the Republic of Tajikistan. (ZRT dated 01/05/2008, No.351)**

The Government of the Republic of Tajikistan may delegate certain powers on regulation of subsoil use relations to local executive bodies of the **Gorno-Badakhshan Autonomous Oblast**, oblasts, cities and districts as well as to the republican government authorities. (ZRT dated 01/05/2008, No.351)

Article 6. Competence of local executive bodies of the Gorno-Badakhshan Autonomous Oblast, oblasts, cities and districts of republican and oblast subordination in the sphere of regulating subsoil use relations

The competence of **local executive bodies of the Gorno-Badakhshan Autonomous Oblast**, oblasts, cities and districts of republican subordination in the sphere of regulating subsoil use relations shall include: (ZRT dated 01/05/2008, No.351).

- 1) regulation of relations on subsoil use and conservation within the competence established by this Law;
- 2) exercise of powers within the competence joint with the Government of the Republic of Tajikistan on the disposition of the national fund of commonly occurring minerals;
- 3) termination of the subsoil use right within its competence in case of violation of the requirements of this Law;
- 4) development and implementation of territorial programmes for the development and use of mineral raw material base.

Additionally, the competence of **local executive bodies of the Gorno-Badakhshan Autonomous Oblast**, oblasts, cities and districts of republican and oblast subordination shall include: (ZRT dated 01/05/2008, No.351).

- 1) issuance to subsoil users of land uses permits and land allotments in accordance with the legislation of the Republic of Tajikistan;
- 2) granting mining allotments for the development of commonly occurring mineral deposits;

3) control over efficient subsoil use at production of commonly occurring minerals, as well as at construction and operation of underground structures not related to mineral production;

4) subsoil sites for geological studies shall be provided as geological allotments;

5) establishment of restrictions for the use of subsoil sites within populated centers, suburban areas, industrial, transport and communication facilities in cases when such use may create threat to the public life and health and damage economic entities or environment;

SECTION II. SUBSOIL USE

Article 7. Types of subsoil use

Subsoil shall be provided for use for the purposes of:

1) geological studies;

2) production of minerals including the use of mining and processing waste;

3) construction and operation of underground structures not related to production of minerals including structures for underground storage of oil, gas and other substances and materials, as well as for the disposal of harmful substances and industrial waste water discharge;

4) establishment of specially protected geological sites of scientific, esthetic, cultural, sanitary and health and other importance (scientific and training grounds, geological preserves, sanctuaries, natural monuments, caves and other underground hollows);

5) collection of mineralogical, paleontological and other geological collectible materials.

Article 8. Provision of subsoil for use

Issuance of license (licensing) for the right of subsoil use shall be performed in accordance with the Law of the Republic of Tajikistan “On Licensing of Certain Activities”. (ZRT dated 01/05/2008, No.351)

According to the license for the right of mineral production, construction and operation of underground structures not related to production of minerals, establishment of specially protected geological sites, a site shall be provided to the user as a mining allotment.

A mining allotment shall be also provided for the conduction of geological studies with simultaneous or immediately following production of minerals.

A mining allotment shall be issued and registered, and for the commonly occurring minerals – registered only, by the mining supervision body in accordance with the procedure established by the Government of the Republic of Tajikistan.

The subsoil user granted with the mining or geological allotment shall have an exclusive right to use subsoil within the limits provided therein and in accordance with the license obtained. Any activity related to the use of subsoil within the limits of the mining or geological allotment may be performed only with the consent of subsoil user provided with the mining or geological allotment.

Individuals and legal entities financing geological exploration works from own funds shall have the **exclusive** right of operating the site provided compliance with the requirements hereunder. Such right shall be lost if it was not used within two years after the approval of mineral reserves of the proven deposit. **(ZRT dated 12/31/2008, No.471).**

Article 9. Restriction on subsoil use

For the purpose of ensuring security of the country and environmental protection, the Government of the Republic of Tajikistan shall be entitled to limit or prohibit the use of certain subsoil sites. (ZRT dated 01/05/2008, No.351).

Subsoil use in the territories of populated centers, suburban areas, industrial, transport and communication facilities may be partially or fully prohibited in cases when such use may create threat to the public life and health and damage economic entities or environment.

Subsoil use on specially protected sites shall be performed in accordance with the status of such territories.

Article 10. Subsoil users

State-owned, cooperative, socially-owned enterprises, institutions, organizations and business entities regardless of the forms of ownership and citizens, including legal entities and citizens of other states may be subsoil users unless otherwise provided by legislative acts of the Republic of Tajikistan.

The rights of using the subsoil for the purposes of studying and production of radioactive raw materials, warehousing (disposal) of its wastes shall be provided only to legal entities registered in the Republic of Tajikistan and licensed in accordance with the procedure established by the Law of the Republic of Tajikistan "On Licensing of Certain Activities. (ZRT dated 12/31/2008, No.471).

Article 11. Terms of subsoil use

Subsoil shall be provided for use for a certain term or without limitation.

Subsoil sites for the construction and operation of underground structures not related to mineral production and establishment of specially protected areas and for other purposes may be provided for an unlimited term.

The terms of subsoil use shall be specified by the licenses and may be extended upon the initiative of a subsoil user.

The subsoil use terms shall start from the date of granting the right for such use.

Article 12. Subsoil use licensing procedure

The subsoil use licensing shall be established by the Regulation to be approved by the Government of the Republic of Tajikistan.

Subsoil use licensing shall provide equal opportunities for all legal entities and citizens in obtaining licenses, required guarantees to the owners for the use of subsoil sites and protection of their rights.

Article 13. Antimonopoly requirements

The acts of **local executive bodies** as well as any economic entity (subsoil user) shall be prohibited or recognized ineligible if they are aimed at: **(ZRT dated 01/05/2008, No.351)**.

- 1) restriction, despite the conditions of conducted tenders or auctions, of access to participation therein of legal entities and citizens who which to obtain the right of subsoil use according to this Law;
- 2) avoidance of licensing the winners of a tender or auction;
- 3) discrimination of subsoil users establishing the structures to compete with economic entities holding a dominant position in subsoil use;
- 4) discrimination of subsoil users in providing access to transport and infrastructure facilities.

Article 14. Provision of subsoil for the development of commonly occurring mineral deposits

The procedure for the provision of subsoil for the development of commonly occurring mineral deposits, the procedure of subsoil use by legal entities and citizens within the allocate land plots for the purpose of production of commonly occurring minerals as well as for the purposes not related to mineral production shall be established by **local executive bodies** of oblasts, cities and districts of republican subordination in coordination with the Government of the Republic of Tajikistan. **(ZRT dated 01/05/2008, No.351)**.

The subsoil for production of commonly occurring minerals aimed at manufacturing construction materials shall not be provided in case it is possible to use mining and other wastes as an alternative raw material source.

Article 15. production of commonly occurring minerals by land plot owners

Owners of land plots shall be entitled to carry out, at their own discretion, production within their plots of commonly occurring minerals and construction of underground structures for their own needs without blasting operations at the depth of up to five meters in accordance with this Law.

Article 16. Production of minerals through artisanal and small-scale mining

Production of minerals through artisanal and small-scale mining by individuals or groups of persons associated in a partnership (artel) at the deposits and occurrences of precious metals and other minerals or sites thereof as per the list approved by the Government of the Republic of Tajikistan shall be allowed in accordance with the procedure established by the Government of the Republic of Tajikistan On Licensing of Certain Activities. The procedure for the subsoil provision for use shall be established according to Articles 8 and 12 of this Law. **(ZRT dated 01/05/2008, No.351).**

Production of minerals through artisanal and small-scale mining can be carried out by individuals or groups of persons under permit certificates of mining enterprises within their mining allotments based on the agreement with such enterprises with mandatory delivery of produced raw materials to them. The control over artisanal and small-scale production of minerals shall be laid upon the relevant mining enterprises.

Subsoil users shall be obliged to deliver the produced precious metals to the enterprises of the relevant activity profile operating in the district or specially organized reception centers without the right of sale to the third legal entities or citizens. Other produced minerals shall be sold according to the license granted.

Article 17. Production and conservation of fresh groundwater

Production of fresh groundwater shall be carried out without provision of a mining allotment in compliance with the Water Code of the Republic of Tajikistan and other rules established by the legislation of the Republic of Tajikistan.

Fresh groundwater conservation shall consist in its efficient use and taking relevant measures for fighting against depletion and pollution of such waters. Enterprises and organizations carrying out production of fresh groundwaters from the subsoil shall be obliged to make observations of their regime in water intake areas and adjacent territory. Location of observation wells shall be coordinated with the territorial hydro-geological organizations.

In case of changes in the quality and quantity of water at water intakes of an enterprise or organization supervising such water intakes shall be obliged to immediately notify the bodies maintaining control over fresh water conservation about such changes.

Article 18. Pilot commercial development of mineral deposits

Pilot commercial development of mineral deposits or a part thereof shall be carried out without provision of a mining allotment.

The right for the pilot commercial development shall be granted in exceptional cases. **The corresponding license shall be issued in accordance with the procedure established by the Law of the Republic of Tajikistan On Licensing of Certain Activities. (ZRT dated 01/05/2008, No.351).**

The produced mineral raw materials and derivative products shall be sold according to the license with subsequent collection of established payments.

Article 19. Uncovering mineral deposits in the course of subsoil use (ZRT dated 01/05/2008, No.351).

In the event that precious, semi-precious and ornamental stones, optical and piezoelectric crystals, museum and collectible specimens and other minerals of practical and scientific value are uncovered in the course of mining, the subsoil user shall be obliged to suspend operations and notify the national fund of geological subsoil information on the disclosed occurrence of minerals.

Resumption of operations at that site shall be allowed after the permission of the national fund of geological information on the subsoil.

Article 20. Grounds for termination of the subsoil use right

The right for subsoil use shall be terminated:

- 1) upon the expiry of the license term;
- 2) in case the license holder abandons the subsoil use right;
- 3) upon occurrence of the critical condition specified in the license terminating further exercise of the granted right.

The right of subsoil use can be early terminated, suspended or limited by the licensing authority in the following cases:

- 1) occurrence of an immediate threat to the life and health of the people working or living in the zone affected by the activities related to subsoil use;
- 2) violation by the subsoil user of the license conditions;
- 3) repeated violation by the subsoil user of the established subsoil use rules;
- 4) occurrence of emergency situations (natural disasters, military operations etc.);

5) if the subsoil user does not start subsoil use within the established volumes and the term specified in the license due to reasons within its control;

6) liquidation of the enterprise or other economic entity which was provided with the subsoil for use;

In case of the subsoil user's disagreement with the decision on termination, suspension or limitation of the subsoil use right it may appeal through the administrative court procedure.

Article 21. Procedure for early termination of the subsoil use right

In cases envisaged by paragraphs 1 and 4, part 2, Article 20 of this Law subsoil use shall be terminated immediately after the corresponding decision is made by the competent body with written notification to the subsoil user.

In cases envisaged by paragraphs 2, 3 and 5, part 2, article 20 of this Law the decision on the termination of the subsoil use right can be made three months after the date of written notification to the subsoil user on the violations it made and its failure to take measures for the elimination thereof.

The subsoil use right shall be terminated through revocation or withdrawal of the license.

At early termination of the subsoil use right liquidation or temporary closing of an enterprise shall be conducted as set forth in Article 27 of this Law. The subsoil user shall bear the expenses for temporary closing and liquidation of an enterprise, if subsoil use is terminated for the reasons specified in paragraphs 1 (in case of fault of the enterprise), 2 and 3 of the second part of Article 20 of this Law, or upon the subsoil user's initiative.

The state shall bear the expenses for temporary closing or liquidation of an enterprise-subsoil user if subsoil use is terminated for the reasons specified in paragraph 1 (in the absence of fault of the enterprise) and paragraph 4 of the second part of Article 20 of this Law.

In case the circumstances or conditions that caused suspension or limitation of the subsoil use right are eliminated, such right may be fully recovered. The suspension period in the absence of the subsoil user's fault shall not be included in the general license term.

Article 22. Basic rights and obligation of the subsoil user

The subsoil user shall be entitled to:

1) use the subsoil site provided to it for any form of business or other activity that meets the purpose specified in the license;

2) independently select the forms of such activities not contradictory to the legislative and regulatory acts;

3) use the results of its activity including produced mineral raw materials, in accordance with the license and legislation;

- 4) use its mining and processing waste unless otherwise provided in the license;
- 5) restrain building-up of the mineral occurrence areas within the provided mining allotment;
- 6) conduct geological subsoil studies without additional permits at its own expense within the mining allotment provided to it in accordance with the license;
- 7) apply to the licensing authorities in respect of reviewing the license conditions upon occurrence of the circumstances different from those, under which the license was issued;
- 8) restrain the activities of other individuals and legal entities in the use of land and subsoil within the allotments provided to it unless otherwise provided by the license in accordance with the legislation.

The subsoil user shall take the priority over the other applicants at the extension of the license term.

The subsoil user shall be obliged to ensure:

- 1) compliance with the legislative requirements as well as standards (rules, regulations) on the technology of conducting operations related to the use of subsoil approved in accordance with the established procedure;
- 2) compliance with the requirements of technical design documents and mining operations development schemes;
- 3) maintenance of geological, surveying and other documentation in the process of subsoil use and preservation thereof;
- 4) maintenance of internal monitoring in the subsoil use;
- 5) submission of geological information or details of it to the national fund of geological information on the subsoil;
- 6) submission of data on the proven, recoverable and lost in the subsoil mineral reserves, components thereof, on the subsoil use for the purposes not related to mineral production, to the national fund of geological information on the subsoil, mining supervision and national statistics authorities;
- 7) safe conduct of operations related to subsoil use;
- 8) compliance with the standards (rules, regulations) approved in accordance with the established procedure and regulating the conditions for protection of subsoil, air, lands, forests, waters as well as buildings and structures from the harmful effect of activities related to subsoil use;
- 9) bringing the land plots and other natural areas disturbed as a result of subsoil use to the condition suitable for their further use.
- 10) preservation of exploratory mining works and drill holes which may be used in development of deposits and for other economic purposes, liquidation of unusable mining works and drill holes in accordance with the established procedure;

11) fulfillment of conditions established by the license, timely and correct payments in the course of subsoil use.

SECTION III. EFFICIENT USE AND PROTECTION OF SUBSOIL

Article 23. Basic requirements on efficient use and protection of subsoil

The basic requirements on the efficient use and protection of subsoil shall include:

- 1) compliance with the procedure for the provision of subsoil for use established by the legislation and prevention of unauthorized subsoil use;
- 2) ensuring comprehensiveness and quality of geological studies, efficient integrated subsoil use and protection;
- 3) conduction of outrunning geological studies including those in the course of deposits development providing for full and reliable assessment of mineral reserves or characteristics of the subsoil site provided for use not related to mineral production;
- 4) conduction of the state expert evaluation and state accounting of mineral reserves as well as subsoil sites used for the purposes not related to mineral production;
- 5) ensuring the most complete extraction from the subsoil of basic and accompanying minerals and associated components;
- 6) reliable recording of extracted minerals and non-recoverable reserves of basic and accompanying minerals and associated useful components;
- 7) protection of mineral deposits from flooding, inundation, fires and other factors decreasing the quality of minerals and industrial value of deposits or complicating development thereof;
- 8) prevention of subsoil pollution at conduction of the works related to subsoil use especially at underground storage of oil, gas or other substances and materials, disposal of harmful substances and production waste and waste water discharge;
- 9) compliance with the established procedure for the temporary closing and liquidation of mineral production enterprises and underground structures not related to mineral production;
- 10) prevention of unauthorized building up of minerals occurrence areas and compliance with the established procedure for the use of such areas for other purposes;
- 11) prevention of accumulation of industrial and household waste in the water intake areas and in the places of groundwater occurrences used for potable and industrial water supply.

In case of violation of the requirements of this Article, the right of subsoil use may be restrained, suspended or terminated by specially authorized government bodies in accordance with the legislation.

Article 24. Basic requirements on the safe conduct of operations related to subsoil use

Construction and operation of mineral production enterprises, underground structures of different purpose, and conduction of geological studies shall be only allowed for ensuring safety of life and health of the workers of such enterprises and the population in the zones affected by activities related to subsoil use.

Regulatory and administrative authorities, subsoil users and state mining supervision authorities shall be obliged to ensure, within their competence, compliance with the legislative requirements as well as standards (rules, regulations) on the safe conduct of works related to subsoil use approved in accordance with the established procedure.

The heads of enterprises shall bear responsibility for the provision of safe conduct of operations related to subsoil use, irrespective of whether such enterprises perform works under the license granted to them or under the contract.

Basic requirements on the provision of safe conduct of works related to subsoil use shall include:

- 1) work permit for specially trained and qualified persons;
- 2) provision of the persons engaged in mining and drilling operations with special clothing and equipment for the personal and collective protection of employees;
- 3) application of machines, equipment and materials compliant with the requirements of safety rules and sanitary regulations;
- 4) correct use of explosives and blasting devices, proper accounting, storage and consumption thereof;
- 5) conduction of a package of geological, surveying and other observations sufficient to ensure a normal technological work cycle and forecast dangerous situations;
- 6) systematic monitoring of the mine air condition and the content of oxygen, harmful and explosive gases and dusts therein;
- 7) planning and implementation of activities to ensure protection of workers performing operations related to subsoil use and the population in the zone affected by such activities from harmful effect of such operations under normal and emergency conditions.

The heads of enterprises performing operations related to subsoil use, other duly authorized officials shall be obliged to immediately suspend operations and arrange transportation of people to a safe place on occurrence of direct threat to the life and health of employees of such enterprises.

On occurrence of immediate threat to the life and health of the population in the zone affected by operations related to subsoil use the heads of corresponding enterprises shall be obliged to immediately notify the relevant government authorities and local administration.

Article 25. Rescue and blow-out response services

For the purpose of ensuring safe conduct of operations related to subsoil use, environmental safety, safety of life and health of the employees in the development of mineral deposits as well as in operations in underground structures of different purposes, conduction of geological subsoil studies, militarized or departmental mine-rescue and blow-out response services or other specialized teams and commands to perform such functions shall be established within enterprises institutions, other organizations regardless of forms of ownership.

Subsoil users not having departmental mine-rescue and blow-out response services may use on a contractual basis the services of militarized mine-rescue and blow-out response teams and commands or other specialized units performing such functions by agreement with the authorized government authorities in the sphere of state supervision of the safe conduct of works in industry and mining sector.

The militarized mine-rescue teams and commands shall be established within the Committee for Emergency Situations and Civil Defense under the Government of the Republic of Tajikistan with the corresponding Regulation to be approved by the Government of the Republic of Tajikistan.

Subsoil users not having mine-rescue and blow-out response services or agreement with such units for the provision of services shall not be allowed to perform subsoil use operations. (ZRT dated 12.29.2010, No.663)

Article 26. Conditions for building up areas of mineral occurrences

Designing and construction of populated centers, industrial estates and other economic facilities shall be allowed only upon the receipt of data on the absence of useful minerals in the subsoil under the proposed construction site.

Building up areas of mineral occurrences as well as placement of underground structures in such areas shall be allowed after consultation with the national fund of geological information on the subsoil and with the consent of the mining supervision authorities only provided the possibility of extracting minerals or proven economic efficiency of construction.

Article 27. Liquidation and temporary closing of mineral production enterprises and underground structures not related to production of minerals

Mineral production enterprises and underground structures not related to production of minerals shall be subject to liquidation or temporary closing on the expiry of the license term or at early termination of subsoil use.

The subsoil user shall bear responsibility established by this Law until the end of liquidation or temporary closing process.

In the event of full or partial liquidation or temporary closing of an enterprise or underground structure excavations and drill holes should be brought to a condition ensuring safety for the

life and health of the population, protection of natural environment, buildings and structures, and in case of temporary closing – preservation of the deposit, excavations and drill holes for the period of temporary closing.

In case of liquidation and temporary closing of a mineral production enterprise or a part thereof as well as underground structure not related to mineral production, the geological, surveying and other documentation shall be filled in as of the date of works completion and submitted to the national fund of geological information on the subsoil for storage in accordance with the established procedure.

Liquidation and temporary closing of a mineral production enterprise or underground structure not related to mineral production shall be deemed completed after signing the act of liquidation or temporary closing by the licensing authorities or a state mining supervision authority.

Article 28. Geological information on the subsoil

Information of the geological structure of subsoil, useful minerals contained therein, quality and quantity, conditions of production thereof, as well as other characteristics of subsoil contained in geological reports, maps and other materials shall be owned by the customer financing the operations as a result of which such information was obtained unless otherwise provided in the subsoil use license.

The right of ownership of geological and other information on the subsoil shall be protected according to the procedure established by the legislation of the Republic of Tajikistan in respect of other property items.

The work performer shall be entitled to use information on the subsoil obtained as a result of operations for the purpose of research and teaching unless the customer's commercial interests stipulated by the agreement are affected.

Geological and other information obtained at the expense of the government funds shall be submitted in the prescribed form to the national fund of geological information for storage and systematization.

The procedure and conditions for the use of such information shall be established by the Government of the Republic of Tajikistan.

Organizations, enterprises and citizens obtaining geological and other information at their own expense shall submit such information or data thereon to the national fund of geological information and determine the conditions for its use under the current legislation.

The officials shall be obliged to ensure confidentiality of the information during its collection, storage, transfer or other use.

Article 29. State recording and state registration

The works on geological study of subsoil, subsoil sites allocated for mineral production and for the purposes not related to production shall be subject to state recording and state registration.

State recording and state registration shall be maintained under the unified scheme in accordance with the procedure established by the Government of the Republic of Tajikistan.

Article 30. State expert evaluation and approval of mineral reserves

Mineral reserves of proven deposits shall be subject to state expert evaluation. Consideration and approval by the State Committee for Mineral Reserves of the Republic of Tajikistan. The list of minerals and the minimum areas of deposits subject to consideration by the Committee shall be determined by the Government of the Republic of Tajikistan.

Provision of subsoil for the purpose of mineral production shall be allowed only after the state expert evaluation of their reserves.

Opinion on the state expert evaluation of mineral reserves shall be the ground for the state registration of proven reserves of minerals.

State expert evaluation of mineral reserves can be conducted at any stage of geological study of the deposit provided the geological materials submitted for evaluation allow objective evaluation of the quantity and quality of mineral reserves, their economic significance, mining-technical, hydro-geological, environmental and other conditions for production thereof.

State expert evaluation shall be also conducted in respect of geological information on subsoil sites suitable for construction and operation of underground structures not related to mineral deposits development. Allocation of such subsoil sites for use shall be allowed only after the state expert evaluation of geological information.

At the provision of subsoil for concurrent operations on geological study and production of minerals subsoil users may start production according to the license prior to the state expert evaluation of mineral reserves with subsequent submission of materials for expert evaluation including the results of the advance deposits development stage.

State expert evaluation of mineral reserves, geological information on the subsoil sites allocated for use shall be conducted by the body duly authorized by the Government of the Republic of Tajikistan.

Article 31. State cadastre of mineral deposits and occurrences

The state cadastre of mineral deposits and occurrences shall be maintained for the purpose of ensuring development of national and regional programmes for geological study of subsoil,

integrated use of mineral deposits, rational distribution of production enterprises as well as for other economic purposes.

The state cadastre of mineral deposits and occurrences should contain the data on each deposit characterizing the quantity and quality of basic and accompanying minerals, components thereof, mining-technical, hydro-geological, environmental and other conditions for deposit development and its geological-economic assessment as well as data on each mineral occurrence.

Article 32. State register of mineral reserves and in-place reserves write-off

For the purpose of accounting the state of the mineral raw material base the state register of mineral reserves shall be maintained. It should contain the data of the quantity, quality and exploration degree of the reserves of each type of minerals by deposits of industrial significance, location thereof, degree of industrial development, production, losses and extent of industry provision with proven mineral reserves.

The produced minerals as well as reserves of minerals that have lost their commercial value, minerals lost in the course of production, not confirmed during further geological exploration works or deposit development shall be subject to write-off from the register of minerals in accordance with the procedure established by regulatory acts of the Republic of Tajikistan.

Write-off from the records of a mining enterprise of in-place mineral reserves that have lost their commercial value, lost in the course of production or not confirmed during further geological exploration works or deposit development shall be conducted by agreement with the mining supervision authorities.

Article 33. Maintaining state cadastre of mineral deposits and occurrences and state register of minerals

The state cadastre of mineral deposits and occurrences and the state register of mineral reserves shall be compiled and maintained on the basis of geological information submitted by enterprises and organizations engaged in geological studies of subsoil to the national fund of geological information on subsoil in accordance with this Law as well as on the basis of state reports of enterprises and organizations engaged in mineral deposits exploration and production of minerals submitted to the above mentioned fund in accordance with the procedure to be established by the Government of the Republic of Tajikistan.

Article 34. Protection of subsoil sites of special scientific and cultural value

Any activity that breaks the integrity of rare geological exposures, mineralogical formations, paleontological objects and other subsoil sites of special scientific or cultural value, geological reserves, sanctuaries and monuments shall not be allowed.

In case of discovery in the course of subsoil use of rare geological and mineralogical formations, meteorites, paleontological, archaeological and other objects of scientific and

cultural interest subsoil users shall be obliged to suspend the operations on the corresponding site and notify the national subsoil fund management authority.

Article 35. Discoverers of mineral deposits

The persons who discover a previously unknown mineral deposit and other subsoil properties of industrial and scientific value or identify additional mineral reserves or previously unknown subsoil properties as well as new mineral raw material at the previously known deposit that significantly increases its industrial value shall be recognized discoverers.

Discoverers of mineral deposits and other valuable subsoil properties shall be entitled to remuneration.

The discoverers' rights and the procedure for payment of monetary remuneration shall be determined by the legislation of the Republic of Tajikistan.

SECTION IV. STATE REGULATION OF SUBSOIL USE RELATIONS

Article 36. Objectives of state regulation of subsoil use relations

The main objective of the state regulation of subsoil use relations shall consist in ensuring recovery of the mineral raw material base, its efficient use and subsoil protection for the benefit of the current and future generations of the Republic of Tajikistan.

State regulation of subsoil use relation shall be carried out through management, licensing, accounting and control. State regulation objectives include:

1) determination of the volumes of production of basic types of minerals for the current and future periods for the Republic of Tajikistan in general and for its regions;

2) ensuring development of the mineral raw material base and preparation of the reserve of subsoil sites used for construction of underground structures not related to production of minerals;

3) establishment of quotas for the supply of produced mineral raw materials;

4) introduction of payments related to subsoil use as well as regulated prices for certain types of mineral raw materials;

5) establishment of standards (rules, regulations) in the sphere of geological study, use and protection of subsoil, safe conduct of works related to subsoil use.

Article 37. Public administration in the sphere of subsoil use and protection

Public administration in the sphere of subsoil use and protection shall be carried out by the Government of the Republic of Tajikistan, **local executive authorities of the Gorno-Badakhshan**

Autonomous Oblast, oblasts, cities and districts of republican subordination through the government bodies (fund of geological information on subsoil, mining supervision etc.).

Management and disposition of the national subsoil fund shall be determined by the corresponding regulation to be approved by the Government of the Republic of Tajikistan.

Article 38. State control over efficient use and protection of subsoil

The objective of state control over efficient use and protection of subsoil shall consist in ensuring compliance of all subsoil users with the statutory subsoil use procedure, standards (rules, regulations) in the sphere of geological study, use and protection of subsoil approved under the established procedure and the rules for the maintenance of state recording and reporting.

State control over efficient use and protection of subsoil shall be conducted by state geological control bodies and state mining supervision authorities jointly with environmental and other government authorities.

The powers of the state geological control bodies shall be determined by the regulation to be approved by the Government of the Republic of Tajikistan.

Article 39. State supervision of the safe conduct of subsoil use related works and subsoil protection

The objective of state supervision of the safe conduct of subsoil related works and subsoil protection shall consist in ensuring compliance of all subsoil users with the legislation, standards (rules, regulations) on the safe conduct of works approved under the established procedure, prevention and elimination of their harmful effect on the population, environment, buildings and structures as well as on the subsoil protection.

State supervision of the safe conduct of subsoil related works and subsoil protection shall be laid upon the state mining supervision authorities. State mining supervision authorities shall carry out their activities in cooperation with the state geological control bodies, environmental and other authorities concerned.

The competence of the state mining supervision authorities, their rights, obligations and working procedure shall be determined by the regulation to be approved by the Government of the Republic of Tajikistan.

Article 40. Internal control over subsoil use and protection

Subsoil users as well as associations thereof irrespective of the forms of ownership shall be obliged to organize internal control over compliance with the established subsoil use and protection procedure.

Internal control shall be held by surveying, geological or other services of enterprises and associations thereof or by specialized organizations on the contractual basis.

The model regulations on surveying and geological services shall be approved by the body duly authorized by the Government of the Republic of Tajikistan.

Subsoil use without timely and qualified geological and surveying support of mining works and without recording the state and movement of mineral reserves shall not be allowed.

Article 41. Designing enterprises to be engaged in production of minerals and mineral raw material processing as well as underground structures not related to subsoil exploration and mineral production

Designing mining enterprises as well as underground structures not related to subsoil exploration and mineral production shall be performed by specialized design institutions based on the proven reserves of minerals taking into account ensuring environmental safety and integrated development of the region.

Location of enterprises to be engaged in mineral production and processing as well as underground structures to be used for purposes other than subsoil study or mineral production shall be determined by specially established committees and agreed with the local government authorities, state mining supervision authorities and other organizations concerned.

In the course of designing enterprises to be engaged in mineral production and processing as well as underground structures to be used for purposes other than subsoil study or mineral production, a designing organization shall be obliged to inform the public on the nature of the environmental impact of the designed facility.

The projects for construction, expansion and reconstruction of mining enterprises and underground structures prior to implementation should undergo comprehensive state expert evaluation, including environmental assessment, in accordance with the procedure to be established by the Government of the Republic of Tajikistan.

Technological design standards for enterprises to be engaged in mineral production and processing as well as underground structures to be used for purposes other than subsoil study or mineral production should be agreed upon with the state mining supervision authorities within their competence.

Organizations engaged in designing enterprises and technologies, products and equipment related to subsoil use as well as organizations conducting expert evaluation of such projects should have corresponding permits (licenses) to be issued in accordance with the procedure established by the Government of the Republic of Tajikistan.

Article 42. Requirements to mineral deposits development, mineral raw materials processing and subsoil use for other purposes

Development of mineral deposits and subsoil use for other purposes shall be conducted in accordance with the current legislation, approved projects and mining operations development

plans, projects and schemes for oil, gas and ground water deposits development, operating rules, subsoil protection rules, sanitary regulations, environmental and other standards.

Operating rules and subsoil protection rules shall be approved by specially authorized government bodies.

In the course of development of mineral; deposits, mineral raw materials processing and use of subsoil for other purposes the following requirements should be met:

1) avoidance of excessive losses and dilution, underworking of ore strands and beds, selective working of deposits that cause decrease in the value of mineral reserves left in the subsoil and unreasonable losses of mineral reserves;

2) prevention of damaging developed and adjacent mineral deposits as a result of mining operations as well as preservation of mineral reserves left in the subsoil and excavations suitable for further use;

3) accounting and state reporting on the state and movement of reserves, losses, dilution of minerals, recording integrity of mineral raw materials development and use as well as goafs;

4) additional exploration of mineral deposits and other geological works. Conduction of surveying works as well as maintenance and storage of geological-surveying documentation;

5) accounting and control of quality and quantity distribution of minerals in the raw materials delivered for processing, end products and washery refuse;

6) safe conduct of works related to subsoil use;

7) maintaining regular control over the state of harmful substances burial (storage) facilities and the state of the environment as well as taking effective measures for protecting and timely informing the population on occurrence of emergency situations;

8) avoidance of harmful substances and toxic waste storage in the areas of mineral deposits distribution, over the pools, structures and facilities located in the subsoil;

9) elimination of the possibility for the burial of especially dangerous and radioactive wastes belonging to foreign states and citizens within the allocated mining and land allotments.

SECTION V. PAYMENT IN SUBSOIL USE

Article 43. System of payments in subsoil use

The use of subsoil shall be paid.

The system of payments in the use of subsoil shall include:

-payments for the right to use subsoil;

-deductions for the mineral raw material base recovery;

-license fee.

In addition, subsoil users shall pay taxes, fees and other charges stipulated by the legislation, including land fee and payment for geological information, and may receive a discount from payments for subsoil depletion according to Article 48 of this Law.

Article 44. Payments for the right to use subsoil

Payments for the right of subsoil use in the search, exploration and study of mineral deposits, production of minerals and in the use of subsoil for other purposes shall be taken from all subsoil users including cases of involving foreign investors in subsoil use according to the legislation of the Republic of Tajikistan.

In case the land plot is allocated for the use of a mineral deposit, the costs of the government or other legal entity for prospecting, assessment and exploration works shall be reimbursed by the subsoil user. Reimbursement of costs for prospecting, assessment and exploration works shall be made in accordance with the Rules for Reimbursement of Costs for Prospecting, Assessment and Exploration approved by the Government of the Republic of Tajikistan. (ZRT dated 12/31/2008, No.471).

Subsoil users performing all kinds of geological works at the expense of the republican budget and land plot owners performing works according Article 15 of this Law shall be released from subsoil use payments.

Article 45. Forms of payment for the right of subsoil use

Payment for the right of subsoil use can be charged in the form established in the subsoil use license:

1) cash payments;

2) a part of produced mineral raw material or other products made by subsoil users except for radioactive materials, precious metals, diamonds and other materials and products disposition of which, according to the legislation of the Republic of Tajikistan, belongs to the exclusive competence of the Government of the Republic of Tajikistan;

3) performance of works or provision of services except for military services and information constituting state secret or commercial secret of the enterprise;

4) setting off the amounts payable to the republican budget and budgets of **the Gorno-Badakhshan Autonomous Oblast**, oblasts, cities and districts as a share in the authorized capital stock of the established mining enterprise. **(ZRT dated 01/05/2008, No.351)**

The amounts of payment for the right of production shall be determined depending on the type of mineral, quantity and quality of its reserves, natural-geographic, mining-technical and economic conditions for the search and exploration, deposit development and the extent of risk.

The method of differentiating such amounts shall be determined by the Government of the Republic of Tajikistan.

Article 46. Deductions for the mineral raw material base recovery

Deductions for the mineral raw material base recovery shall be collected from subsoil users engaged in production of all types of minerals except for land plots owners according to Article 15 of this Law. These deductions shall be transferred to the republican budget as rates of partial reimbursement for exploration works and used for financing of works on geological study of subsoil and assessment of mineral reserves.

The subsoil users' expenses for the performance of geological works according to the project approved (agreed) by the authorized body, shall be reimbursed through reduction of the royalty and production bonus after approval of mineral reserves by the State Committee for Mineral Reserves and deposit opening validation by the authorized body in the amount of actual expenses stipulated by the Tax Code of the Republic of Tajikistan. (ZRT dated 12/31/2008, No.471).

The amounts of deductions for the recovery of the mineral raw material base, procedure for the collection, distribution and use thereof shall be established by the Government of the Republic of Tajikistan.

Article 47. License fee

The license fee shall be paid in accordance with the procedure established by the Law of the Republic of Tajikistan On Other Mandatory payments to the Budget and the Law of the Republic of Tajikistan On Licensing of Certain Activities. (ZRT dated 01/05/2008, No.351)

Article 48. Discount for subsoil depletion

Discount for subsoil depletion shall be applied to payments for the right of subsoil use and may be provided to:

1) subsoil user engaged in production of a scarce mineral under low economic efficiency of the deposit development, objectively conditioned and not related to the violation of conditions of rational use of proven reserves;

2) subsoil user engaged in production of a mineral from lower-quality residual reserves, except for cases of deterioration of the quality of the mineral reserve as a result of selective working of the deposit. The decision on the establishment of the subsoil depletion discount rate shall be taken by the authority issuing licenses for the right of subsoil use.

SECTION VI. RESPONSIBILITY FOR VIOLATION OF SUBSOIL LEGISLATION

Article 49. Responsibility for violation of the Law On Subsoil

Legal entities and citizens who committed an unlawful or injurious act, guilty of:

1) violation of the subsoil use procedure established by this Law;

2) unauthorized subsoil use;

3) violation of the requirements of standards (rules, regulations) approved in accordance with the established procedure on the safe conduct of subsoil use related works, on the protection of subsoil and environment including violation resulting in subsoil pollution and bringing the mineral deposit in the condition unsuitable for operation;

4) violation of the right of ownership of geological and other information or the right of its confidentiality;

5) unauthorized build-up of the areas of mineral occurrences;

6) failure to ensure preservation of buildings, structures as well as specially protected territories and natural facilities in the course of subsoil use;

7) destruction or damaging of underground water observation wells as well as surveying and geodetic marks;

8) repeated violation of the procedure of payments for subsoil use;

9) failure to comply with the requirements on bringing the liquidated or temporarily closed excavations and drill holes in a condition ensuring safety for the population as well as requirements on the preservation of mineral deposits excavations and drill holes for the period of their temporary closing;

10) failure to bring land plots and other natural facilities damaged in the course of subsoil use in a condition appropriate for their further use;

11) failure to comply with the instructions of controlling bodies shall bear criminal, administrative or other responsibility according to the legislation of the Republic of Tajikistan.

Responsibility for other violations of the Law On Subsoil can be also established by the legislation.

Article 50. Dispute settlement

The disputes concerning subsoil use shall be resolved in accordance with the procedure established by the legislation of the Republic of Tajikistan. (ZRT dated 01/05/2008, No.351)

Article 51. Compensation for damage caused

Damage caused to the subsoil user as a result of activities of enterprises, institutions, organizations, citizens, regulatory and administrative authorities shall be subject to compensation at the expense of own funds and corresponding budgets.

In case the subsoil site is not transferred for use compensation for damage shall be made through payments to the budget of the Republic of Tajikistan or budgets of districts and cities.

The monetary form of compensation for damage by agreement of the parties concerned may be replaced by performance of works on the recovery of damaged natural subsoil properties.

Unauthorized use of subsoil and unauthorized build-up of areas of mineral occurrences shall be terminated without compensation of costs incurred for the period of unauthorized subsoil use.

SECTION VII. INTERNATIONAL TREATIES

Article 52. International treaties

If the international treaty of the Republic of Tajikistan determines the rules other than those established by this Law, the rules of the international treaty shall be applied.

Chairman of the Supreme Council

of the Republic of Tajikistan

Emomali Rakhmon

July 20, 1994, Dushanbe,

№ 983

**RESOLUTION OF THE SUPREME COUNCIL
OF THE REPUBLIC OF TAJIKISTAN**

Concerning enactment of the Law of the Republic of Tajikistan On Subsoil

The Supreme Council of the Republic of Tajikistan hereby **resolves**:

1. The Law of the Republic of Tajikistan on Subsoil shall be enacted immediately upon publication thereof.

2. The Council of Ministers of the Republic of Tajikistan should:

bring the decisions of the Government of the Republic of Tajikistan into conformity with this Law;

prepare according to the established procedure the proposals for bringing the current legislative acts in line with the Law of the Republic of Tajikistan On Subsoil;

ensure revision and cancellation by ministries and agencies of the Republic of Tajikistan of their regulatory and other acts contradictory to this Law.

Chairman of the Supreme Council

of the Republic of Tajikistan

Emomali Rakhmon

July 20, 1994, Dushanbe,

№ 984