

Law for the Regulation of Mineral Investments No. 91 for 1988 after Amendment

Jan 30, 2011

Part One

Definitions and Terms

Article 1

The following expressions shall have for the purposes of this Law the meaning set out next to them:

- 1- The Ministry - The Ministry of Industry and Military Manufacturing
- 2- The Minister - The Minister of Industry and Military Manufacturing
- 3- The Establishment - The General Establishment for Geological Survey and Mineral Investigation
- 4- The Director General - The Director General of the General Establishment for Geological survey and Mineral Investigation
- 5- Mineral Investment - All work aimed at investment in mined and quarried materials in their natural state or after treatment.
- 6- Investor - The party authorised according to this Law to invest in quarried or mined materials.
- 7- Quarry - The natural reservoir subject to investment containing rocks and quarry material such as marble, gypsum, gravel, limestone or sandstone, flint, clay, sand, soil and other materials used in industry or construction; whether they are on the earth's surface or in the interior or in the territorial waters or beneath.
- 8- Mine - The natural reservoir subject to investment containing mineral ores like iron, phosphates, sulfates, industrial mud or any mineral ores used in industry; whether they are on the earth's surface or in the interior or in the territorial waters or beneath.

Article 2

1- The Establishment shall undertake the responsibility for supervising the enforcement of this Law, monitoring the investment in quarries and mines across the country, compiling and classifying the information pertaining to these activities for the purposes of promoting, guiding and directing investments to guarantee the maintenance of mineral wealth and protecting the environment.

2- A permanent committee shall be formed in the Establishment, to determine land suitable for investment as quarries, with the Director General as president and membership of representatives from the following ministries:

- a- Ministry of Defence
- b- Ministry of Planning
- c- Ministry of Local Government
- d- Ministry of Agriculture & Irrigation
- e- Ministry of Health
- f- Ministry of Oil
- g- Ministry of Culture & Media
- h- Ministry of Housing & Construction
- i- Ministry of Endowments & Religious Affairs
- j- Ministry of Transport & Communications

Its meetings shall be periodical once annually at least or according to the request of one of the authorities represented above.

Part Two

Interdictions

Article 3

The allocation of land for mineral investment shall not be allowed in the following places:

- 1- The area which includes a sacred site, public cemetery or is located less than five hundred meters of it unless approved by competent authorities for that site. Every religious place or building run by a recognized religious body shall be considered a sacred site.
- 2- The area which contains a historical site, or is located within five hundred meters of it unless approved by competent authorities. Every place which is declared to be historical according to provisions of the Archeology Law shall be considered a historical site.
- 3- Agricultural projects land, forests, dam and reservoir sites, tunnels and main streams connected to them, unless approved by the competent authorities, taking into account stipulated conditions for the protection of agricultural produce and compensation for damages incurred.
- 4- Urban land located within and outside municipal boundaries of cities, unless determined by the special delimiters for quarry and mine sites issued by the Council for the Protection of the Environment.
- 5- Land dedicated or maintained for:
 - a- Railway line at a distance less than five hundred metres from each side
 - b- Main road at a distance less than one thousand metres from each side
 - c- Bridges at a distance less than one thousand five hundred metres from themWhat the competent authorities approve shall be excluded from that.
- 6- Land which belongs to military authorities or which has special military significance, unless approved by military authorities.
- 7- Oil and gas fields and land within five hundred metres from pipelines for oil, oil products and gas, unless approved by the competent authorities.
- 8- Sites of factories and departments of the social, mixed and private sectors, unless approved by competent authorities.
- 9- Land which is situated within one thousand metres from electric power transmission lines, unless approved by competent authorities.
- 10- Land which is situated within five hundred metres from coaxial cable lines, unless approved by competent authorities.

Part Three

Investment in Land Dedicated for Quarries & Mines

Article 4

- 1- Quarry and mine materials shall be considered property of the state and investment tariffs shall be charged for them by the Establishment.
- 2- The Minister or his nominee may allocate certain areas of land to departments of the social and mixed sectors for investment as quarries for their own projects and works without recompense or with suitable recompense for a limited period on special conditions to be agreed upon including disposition of by products.
- 3- The Establishment, or its nominee, may contract with private sector individuals or companies investing in land as quarries within delimited areas set by the establishment according to technical controls for each case according to the nature of the material to be invested.

4- The Establishment or its nominee may contract with non-Iraqi companies which are in contract with an Iraqi authority for investing in quarries, provided that their request shall be endorsed by a request from those authorities stating the quantity and quality of quarry materials required to be contracted for investment.

5- Any investing party shall not be allowed to license or subcontract for investment in a quarry or mine within the area allocated for its investment unless approved by the Minister or his nominee; otherwise provisions of paragraph 1 of article fourteen shall be applied to all investors in addition to applying article ten paragraph 1 item j concerning the private sector.

6- The Establishment or its nominee from the social or mixed sectors shall undertake to invest directly in mines across the country after the approval of the Minister.

7- The Establishment, with the approval of the Minister in case it or its nominee cannot invest directly, may contract others from the private sector in order to invest in a mineral within delimited areas and controls.

Article 5

1- State owned land burdened with the right of disposition, subject to investment as quarries prior to the enforcement of this Law shall be considered dissolved as of the date of enforcement. The governorate, after confirming the investment in the land as a quarry by a committee especially formed for this purpose, shall decide its dissolution and notify the relevant real estate registration department in order to change the land record accordingly. If the investment is on the part of the land burdened by the right of disposition, the governorate shall prepare a drawing for the mentioned part and consider it dissolved without the rest of the land and notify the real estate registration department of that.

2- The land owned by the state, burdened by the right of disposition, shall be considered dissolved if it was used as a quarry without an investment contract after the enforcement of this Law, taking into account provisions of article fourteen thereof.

3- Provisions of paragraph 4 of article nine of this Law shall take effect for installations constructed on land that is determined to be dissolved.

Article 6

When appropriate, the Establishment may seize any land, outside the Interdictions, whose suitability is confirmed for investment as quarries or mines, after a procès-verbal is prepared by a committee formed for this purpose stating the land description, the fixed installations on it, plants and their present status, provided legal process is undertaken for allocating, appropriating it or amortizing disposition rights according to laws in effect within one year of the Establishment's seizure resolution.

Article 7

The investment in land owned as unadulterated property or endowed as genuine endowment shall be subject to an annual license licensed for a period in excess of that for some investment projects according to the type of materials under investment and the nature of the investment after the approval of competent authorities.

Article 8

The license or quarry investment contract shall expire at the end of the prescribed period unless renewed according to provisions of this Law or at the depletion of the material under investment within the area allocated for investment.

Article 9

The investor shall be obligated to the following:

- 1- Place markers at the corners of the quarry or mine after the competent surveyor sets its area and maintain them throughout the validity period of the contract or license and to not develop any area outside the site prescribed for it.
- 2- Notify the Establishment in a quarterly report of the monthly extracted quantities and submit the necessary data about the geological and productivity variables of the quarry or mine for documentation and follow up.
- 3- Gradual rehabilitation of the quarry or mine ground when the extracted material is depleted such as leveling pits and removing risks resulting from investment during the investment period, provided that the reclaimed area shall not be less than 50% of the exploited area at any time during investment.
- 4- Removal of all equipment, installations, machinery and tools; completion of repairing pits and removal of risks resulting from investment according to the Establishment's directives within four months of the expiry of the contract or license. Otherwise, the Establishment or its nominee shall undertake that and the deposits collected according to paragraph 6 of article eleven of this Law shall be considered final revenue for the executing authority.
- 5- Handover the quarry to the Establishment or its nominee as well as the quarried materials remaining in it if the investor did not transport them within one month of the expiry of the contract or license according to the Establishment's directives.
- 6- Provide specialist technical staff, a geologist or mining engineer, to ensure that the quarry or mine is properly developed, to produce materials according to valid specifications and to prepare the quarterly reports mentioned in paragraph 2 of this article.

Article 10

- 1- The Establishment's Director General or his nominee may revoke the license or abrogate the investment contract in the following cases:
 - a- If the investor violated the terms of the license or contract; or did not comply with the Law or the directives issued accordingly;
 - b- If the investor did not commence the investment without a legitimate excuse within 3 months from the date of issue of the license or contract;
 - c- If the investor requests in writing the abrogation of the license or contract;
 - d- If the investor did not submit quarterly reports as mentioned in paragraph 2 of article nine;
 - e- If the investor did not comply with the stipulations of paragraph 6 of article nine;
 - f- If the investor did not comply with the technical specifications required for the materials produced;
 - g- If the investment was detrimental to public interest;
 - h- If the investor entered in subcontract with a party not authorised to invest in the area allocated for him;
 - i- If public interest was accomplished thereby by a resolution issued by the Minister.
- 2- The investor whose license was revoked or whose contract was abrogated in the cases mentioned in this article except item (i) shall not claim any compensation therein.
- 3- The investor whose license was revoked or whose contract was abrogated according to paragraph 1 of this article, except items (c) and (i), may object to the Minister within thirty days of the date of notification of the revocation of the license or the abrogation of the contract, the Minister's resolution about that shall be conclusive.
- 4- Provisions of paragraphs 3, 4, and 5 of article nine shall be applied when the license is revoked or the contract is abrogated.
- 5- The application for investment shall be revoked if the applicant lags in completing the transaction within four months of submitting the application without legitimate excuse.

Part Four
Tariffs and Recompense

Article 11

Paragraphs (1) and (2) of this article were amended according to article (1) of the Law Amending Mineral Investment Tariffs No. 21 dated 06/04/1997 and was replaced with the following:

1- An amount of 2000 Dinars shall be collected in lieu of the annual license if the quarry was on land owned as unadulterated property or endowed as genuine endowment.

2- The following tariffs shall be collected in lieu of investment in quarries on land owned by the state:

a- 2000 Dinars for each application for investment in a quarry or annual renewal of its contract;

b- 5000 Dinars when contracting for investment in a quarry or its annual renewal.

3- The whole investment recompense shall be collected for quarries on state owned land, on land owned as unadulterated property or endowed as genuine endowment and renewed according to the Establishment's directives.

4- When applying to the establishment for conducting investigation and exploration, a contract shall be entered into and costs shall be determined according to the nature of sedimentation, geological conditions and size of the required work.

5- An additional amount of 5% of the amounts owed by abusers shall be collected and paid to the members of the committee mandated to verify the overrun according to the Establishment's directives.

6- A cash bond or bank guarantee shall be collected equal to the amount of reciprocal recompense collected when issuing the license or investment contract for each donum (acre) or part of donum as the case may be, excluding departments of the social or mixed sectors.

7- Site detection fees shall be collected for each quarry according to the Establishment's directives.

8- The Establishment shall collect its share of 30% of the net revenue from tariffs, investment and recompenses for abuse.

9- Tariffs and investment recompenses for mines shall be determined in special contracts regulated by the Establishment for each case.

Article 12

The Establishment shall collect the value of reports; data and geological works concerning mineral sediments intended for investment as mines by the investing parties and determine their amounts in agreed contracts.

Part Five

Penalties

Article 13

This article was revoked according to article (1) of the Law of First Amendment for the Law Regulating Mineral Investment No. 91 for 1988 numbered 13 for 1994; and was replaced by the following:

1- According to provisions of the Law for Collection of Government Debt No. (56) for 1977, the double of recompense representing the quantities removed as overruns according to this law shall be collected from the abuser.

2- One or more committees shall be formed by the Director General's resolution in order to undertake in a rationalised resolution the confirmation of the overrun and assess the amount required for collection according to provisions of paragraph (1) of this article.

3- The committee's resolution issued according to paragraph (2) of this article shall be susceptible to objection, within fifteen days after notifying the abuser, to a central committee formed by a resolution from the Minister with the competent Deputy Minister as president and the membership of the Director General and one of the specialists at the Ministry headquarters.

4- The resolutions of the committee formed according to paragraph (2) of this article shall be subject to the Minister's approval, and his decision in this matter shall be conclusive.

5- The committee's ultimate resolution shall be the base for referring the abuser according to paragraph (1) of article fourteen of this Law and shall be adequate evidence for incrimination unless more evidence to the contrary is submitted.

Article 14

Paragraph (1) and paragraph (2) of this article were amended according to the Statement of Amendment to the amount of the fine stipulated in the Mineral Investment Law numbered 100 for 2001 and replaced by the following:

Without prejudice to provisions of article thirteen of this Law:

1- With a fine not less than (1000000/-) Dinars (one million dinars) and not exceeding (3000000) three million Dinars;

2- With a fine not less than (500000) five hundred thousand Dinars and not exceeding (1000000) Dinars (one million Dinars)

Article 15

This article was revoked according to article (2) of the Law of First Amendment for the Law Regulating Mineral Investment No. 91 for 1988 numbered 13 for 1994; and was replaced by the following:

Governors shall acquire the power of a misdemeanours judge in considering cases arising from the enforcement of this Law.

Article 16

This article was added according to article (3) of the Law of First Amendment for the Law Regulating Mineral Investment No. 91 for 1988 numbered 13 for 1994:

Measures taken to implement provisions of articles (13), (14) and (15) of this Law shall be exempt from the measures stipulated in the Penal Procedures Law No. 23 for 1971 after amendment.

Part Six

General Provisions

Article 17

The serial number of this article was amended according to article (3) of the Law of First Amendment for the Law Regulating Mineral Investment No. 91 for 1988 numbered 13 for 1994:

In exemption of the provisions of this Law, investment licenses and contracts for quarries concluded prior to the enforcement of this Law shall remain valid until the expiry of their periods.

Article 18

The serial number of this article was amended according to article (3) of the Law of First Amendment for the Law Regulating Mineral Investment No. 91 for 1988 numbered 13 for 1994:

Exporting any material extracted from quarries or mines out of the country shall not be allowed without the Establishment's approval and according to the rules it sets, taking into account the laws in effect.

Article 19

The serial number of this article was amended according to article (3) of the Law of First Amendment for the Law Regulating Mineral Investment No. 91 for 1988 numbered 13 for 1994:

The Establishment shall issue the regulations and directives necessary to facilitate the enforcement of provisions of this Law for investment in lands as quarries and mines, license terms, investment contracts, method of land development by investors, sale of quarry materials, required record keeping and method of monitoring investment work.

Article 20

The serial number of this article was amended according to article (3) of the Law of First Amendment for the Law Regulating Mineral Investment No. 91 for 1988 numbered 13 for 1994:

When the significance, rarity or particularity of mine or quarry materials is confirmed, the Establishment may specify some of them in areas where exploitation shall be prohibited as a national reserve for the future.

Article 21

The serial number of this article was amended according to article (3) of the Law of First Amendment for the Law Regulating Mineral Investment No. 91 for 1988 numbered 13 for 1994:

- 1- The Law for Quarry Investment No. 39 for 1981 shall be revoked.
- 2- Regulations and directives issued according to the law mentioned in paragraph 1 of this article shall continue to be valid where not contradicting this Law until new regulations and directives shall be issued.

Article 22

The serial number of this article was amended according to article (3) of the Law of First Amendment for the Law Regulating Mineral Investment No. 91 for 1988 numbered 13 for 1994:

Administrative and financial authorities, each according to its competence, shall undertake to cooperate with the Establishment to facilitate the enforcement of provisions of this Law.

Article 23

The serial number of this article was amended according to article (3) of the Law of First Amendment for the Law Regulating Mineral Investment No. 91 for 1988 numbered 13 for 1994:

This Law shall be enforced from the date of its publication in the official gazette.

Saddam Hussain

President of the Revolutionary Council

Rationale

This Law was launched because provisions of the Quarries Investment Law No. 139 for 1981 are no longer keeping pace with structural changes in the industrial sector in general, provisions for mine investment are lacking; to emphasise the implementation of scientific methods and good control, to ensure good mineral investment by optimum exploitation and preserve natural resources, protect the environment and securing quality; for the purpose of encouraging extraction and transformation based industries in the social, mixed and private sectors; to facilitate and clarify procedures; to remove legal obstacles and secure the state's rights in natural mineral resources.