Regulations issued pursuant to the Minerals Act

Translation as of May 2010.

This translation is for information purposes only. Legal authenticity remains with the official Norwegian version as published in Norsk Lovtidend.

Laid down by the Ministry of Trade and Industry 23 December 2009 pursuant to sections 15, 25, 31, 36, 43, 46, 51, 54, 55, 56, 57, 66 and 67 of the Act of 19 June 2009 No. 101 relating to the acquisition and extraction of mineral resources (the Minerals Act)

Chapter 1. Exploration, extraction and operations

Section 1-1. Application for an exploration permit for minerals owned by the State

An application for an exploration permit shall be made on the specified form, and shall be sent to the Directorate of Mining. The application shall contain:

a) the applicant's name or business name
b) the applicant's postal address. Legal persons shall also specify their business address
c) a copy of a valid identity document, if the applicant is a physical person
d) the certificate of registration or a corresponding document, if the applicant is a legal person
e) information about the nationality of any physical person and the country in which any legal person is resident
f) which minerals owned by the State the applicant expects to be present in the area
g) a specification of the exploration area, drawn on a map with a scale of 1:50,000, where the coordinates are linked to the UTM system in accordance with the EUREF 89 (WGS 84) reference system. The coordinates of the corners of the exploration area shall be specified by reference to the cartographical series that has been used
h) a specification of the municipality or municipalities in which the exploration area lies.

The Directorate of Mining may require an applicant to provide the following information about an area or areas that are entirely or partly adjacent to the exploration area:

a) the cadastral unit number and property unit number or title number
b) the names and postal addresses of the owner and the user
c) the name and postal address of at least one of the parties responsible for common land and other areas under co-ownership or joint ownership

If an application encompasses several exploration areas located close to each other, an index map shall be enclosed that covers all of the exploration areas. The index map may replace the map described in sub-paragraph g) of the first paragraph.

Section 1-2. Shape and size of the exploration area

The exploration area shall be a right-angled rectangle or square. The area shall be no larger than 10 km^2, and the longest side shall be no longer than 10 kilometres, calculated on the horizontal plane. No side shall be shorter than 1 kilometre. The sides shall follow or be parallel to the UTM principal axis system contained in the EUREF 89 reference system. The scale shall be 1:50,000.

If the exploration area is made to border on another exploration or extraction area, or if the exploration areas cover several zones in the UTM system, the Directorate of Mining may depart from the requirements regarding the shape of the exploration area and parallelity, to the extent that this is necessary. The exploration area shall not have more than four corners.

In the ground, the boundaries of the exploration area shall be perpendicular.

Section 1-3. Reduction in the size of the exploration area

The holder of an exploration permit for minerals owned by the State may reduce the size of the exploration area, and shall in such cases give notice of this fact to the Directorate of Mining. If the exploration area is divided into two or more independent parts, one of the new areas shall retain the old serial number, while the other parts shall be allocated new serial numbers. The priority and expiry dates of exploration permits shall not change as a result of a reduction in the size of the exploration area.

The provisions in section 1-2 shall apply to reduced exploration areas insofar as they are relevant.

Section 1-4. Reporting in connection with exploration of minerals owned by the State

An exploring party shall send an exploration report, measurement data and sample materials to the Directorate of Mining once exploration is completed or, at the latest, six months after the exploration permit has expired. In special circumstances, the Directorate of Mining may, upon application, extend the deadline by up to six months.

The exploration report, measurement data and sample materials shall consist of:

a) basic materials, such as data registered by geophysical measurement, observations made through geological surveys, and analysis results obtained by geochemical sampling, etc.
b) geological charts
c) geophysical anomaly charts
d) geochemical anomaly charts, which shall contain the information needed to interpret them
e) an index map covering the explored areas, which shall show the geology of the areas, rock exposures, diamond drill holes, other relevant information and the search grid used in geophysical exploration
f) a drill log with specified coordinates, along with associated analyses and sample descriptions, and profiles that specify the coordinates of the drill holes. The Directorate of Mining may, following consultation with the Geological Survey of Norway (*Norges geologiske undersøkelse* – NGU), provide that a representative selection of drill-core samples and sample materials shall be delivered to NGU's store of drill cores. The costs of delivery shall be covered by the exploring party
g) a series of maps showing profiles, which shall be accompanied by a specified key that includes colouring. Symbols, patterns and colouring shall follow the norm used in geological charts published by NGU (NGU publication 113, 1995)
h) reports containing reasoned conclusions based on the exploration materials, including the results of any attempts at enrichment, attempts at ore-dressing, etc.

All maps shall apply the UTM/EUREF 89 (WGS 84) reference system. The Directorate of Mining may require exploration reports, maps and geophysical measurements to be supplied in digital form.

Reports shall be sufficiently detailed to allow the Directorate of Mining to undertake an independent assessment of the material.

Reports on exploration of a mine in operation, other than normal follow-up on ore and detailed exploration that is directly linked to production, shall take the form described in the second paragraph.

Submitted materials may not be made public while the submitting party holds mining rights in the area. This does not apply to new mining rights in an area for which the right holder has previously submitted reports or materials in connection with older mining rights that have subsequently lapsed.

Section 1-5. Application for an extraction permit for minerals owned by the State

An application for an extraction permit shall contain:

a) the name or business name of the applicant

b) the postal address of the applicant. Legal persons shall also state their business address
c) on which exploration area the application for an extraction permit is based
d) a map showing the position of the extraction area and the property boundaries as these appear in the land register. The names and addresses of the owner and the user shall be stated
e) information about which minerals the extraction area contains, what exploration works have been undertaken, and the results of these works
f) documentation showing the abundance, size and nature of the deposit
g) a financial assessment of the commercial viability of the deposit.

Section 1-6. The extraction area

The extraction area shall be a right-angled rectangle or square unless special reasons indicate that a different shape is appropriate. The extraction area shall not have more than four corners. In the ground, the boundaries of the extraction area shall be perpendicular.

The extraction area shall be no larger than is necessary to cover the likely extent of the deposit. The area shall not be larger than 1 km^2.

Section 1-7. Registration of extraction permits for minerals owned by the State

Upon the grant of an extraction permit, the Directorate of Mining shall send a special notification to the registrar. The notification shall:

a) be a certified copy of the decision to grant an extraction permit, written on registration paper
b) contain the cadastral unit number and property unit number of the property or properties that are affected by the extraction permit
c) state to which part of the property the extraction permit relates
d) contain the name of the holder of the right and the name and national identity number or organisation number of the party that has been granted the extraction permit
e) state whether the extraction permit affects any leasehold of a property and, if so, specify the number of the leasehold and the leaseholder’s name.

Section 1-8. Reporting during operations

Operational reports shall be sent to the Directorate of Mining annually while the extraction of mineral resources is in progress. The report shall contain, as a minimum, information on the volume extracted during the past year, the number of employees and sales.

The Directorate of Mining may, in consultation with the Norwegian society for geological exploration (*Norges geologiske undersøkelse*), introduce a special form for operational reports.

Chapter 2. Clean-up and safety measures

Section 2-1. Clean-up and safety measures – financial guarantee

The Directorate of Mining may order an operating party to provide financial security for the implementation of safety measures and clean-up measures pursuant to section 49 and section 50 of the Minerals Act.

The operating party shall submit a proposal for the provision of security. The proposal may include a deposit payment. The Directorate of Mining shall determine the final requirement relating to the provision of security.

The financial security shall be sufficient to cover the operating party's safety and clean-up duties pursuant to section 49 and section 50 of the Minerals Act. In the assessment, emphasis shall be given to the complexity of the extraction operation, the type of matter, the potential threat of pollution, whether operations will involve underground mining or opencast mining, the location, local conditions, etc. The security shall take such a form that it will not become part of the bankruptcy estate in the event of the operating party's bankruptcy.

If a financial guarantee pursuant to the Pollution Control Act becomes relevant, the Directorate of Mining shall coordinate the provision of financial security with the pollution control authority.

Section 2-2. Financial guarantee – deposit payment

When a deposit payment is made, the Directorate of Mining shall decide the amount of the payment and date for payment. The Directorate may decide to alter the amount of the payment and the date for payment. When a decision is made pursuant to the first or second sentence, emphasis shall be given to the complexity of the extraction operation, the type of matter, the potential threat of pollution, whether operations will involve underground mining or opencast mining, the location, local conditions, etc.

The use of deposited funds requires the approval of the Directorate of Mining. The Directorate may set conditions for the use of deposited funds.

The Directorate of Mining may set a maximum for the total deposit payment. If, through use, the deposited funds are reduced to a sum that is significantly smaller than the maximum deposit payment, the Directorate may order new deposits to be made.

The Ministry may issue guidelines on the size of the deposit.

Chapter 3. Qualification requirements in connection with the working of mineral deposits

Section 3-1. Mining engineer in charge

The extraction of mineral resources shall be supervised by a mining engineer in charge, who shall ensure that:

a) operations are carried out in a technically appropriate manner in order to ensure that the interests of workers, nearby buildings and the surroundings otherwise are safeguarded
b) that the deposit is extracted in a sustainable manner
c) that the operations are at all times carried out in accordance with an up-to-date and approved plan of operations.

Section 3-2. Mining engineers in charge of subsurface facilities and large opencast mines

Mining engineers in charge of subsurface extraction (mines) or opencast mining facilities with a total annual production (including waste rock and overburden) of more than one million tonnes, shall be educated to at least master of technology level, and have completed specialist training in the operation of mineral resources.

Persons who have completed other technical training of at least three years' duration at university or university college level may, upon application, be approved as a mining engineer in charge of extraction pursuant to the first paragraph if it can be demonstrated that their training confers the necessary qualifications. In the assessment, emphasis shall be given to the content of the training, relevant advanced training, and the applicant's practical experience of mining operations. Emphasis shall also be given to the scope and complexity of, and risk of damage associated with, the extraction operation in question. Emphasis may also be given to whether a lack of expertise in certain areas related to the operation of the deposit will be compensated for by the purchase of consultancy services.

Section 3-3. Mining engineers in charge of opencast mines

Mining engineers in charge of opencast mining facilities with a total annual production (including wasterock and overburden) of one million tones or less shall have completed a two-year course of training at a vocational college, which shall have included specialisation in rock engineering. Persons who have passed the mine foreman examination administered by the Norwegian national mining

college (*Statens bergskole*) shall be deemed to hold a qualification equivalent to that described in the first sentence.

Persons who have completed other technical training may, upon application, be approved as mining engineers in charge of opencast mines pursuant to the first sentence of the first paragraph if it can be demonstrated that their training confers the necessary qualifications. In the assessment, emphasis shall be given to the content of the training, relevant advanced training, and the applicant's practical experience of mining operations. Weight shall also be given to the scope, complexity and risk of damage associated with the opencast mine in question. Emphasis may also be given to whether a lack of expertise in certain areas related to the operation of the opencast mine will be compensated for by the purchase of consultancy services.

The Directorate of Mining may decide that the provisions of section 3-2 shall apply to mining engineers in charge of opencast mines as described in section 3-3, first paragraph, if the on-site mining conditions or other excavation operations are particularly complicated.

Section 3-4. Exemptions

In the case of small and uncomplicated extraction operations, the Directorate of Mining may, upon application, depart from the education requirements in section 3-2 and section 3-3. The exemption may be made subject to conditions.

Section 3-5. Application for approval as a mining engineer in charge

Applications for approval as a mining engineer in charge pursuant to section 3-2, second paragraph, or section 3-3, second paragraph, or for an exemption pursuant to section 3-4, shall contain the information and documentation that is needed to determine whether the person in question may act as a mining engineer in charge of the extraction operation in question. The Directorate of Mining may demand further information from the applicant to clarify whether the person in question fulfils the requirements for acting as a mining engineer in charge.

Chapter 4. Approval as mining engineers in charge of persons holding professional qualifications from other EEA states, see Directive 2005/36/EC on the recognition of professional qualifications

Section 4-1. Definitions

In this chapter, the following terms shall have the following meanings:

a) *professional qualifications*: qualifications attested by evidence of formal qualifications or an attestation of competence pursuant to section 4-3, first paragraph, sub-paragraph a), and relevant professional experience
b) *evidence of formal qualifications*: diplomas, certificates and other evidence issued by an authority in a state that has been designated in an act or pursuant to an act of that state
c) *regulated profession*: a profession which an act or regulation directly or indirectly makes subject to the possession of specific qualifications.

Section 4-2. Contents of the application

An application for approval as a mining engineer in charge with professional qualifications from another EEA state shall contain:
a) a certified copy of the evidence of qualifications
b) evidence of the applicant's nationality.

The Directorate of Mining may demand evidence of an applicant's work experience if the applicant's qualifications are assessed pursuant to section 4-3, second paragraph.

Section 4-3. Conditions for approval of nationals of EEA states as mining engineers in charge

Nationals of EEA states shall in addition have a right to be approved as mining engineers in charge if this follows from the rules set out in Directive 2005/36/EC, even if they do not hold qualifications that are equivalent to the requirements in section 3-2, first paragraph, and section 3-3, first paragraph. The qualification requirements pursuant to section 3-2, first paragraph, are equivalent to level e), while the requirements pursuant to section 3-3, first paragraph, are equivalent to level c) i). The condition for such approval is that the applicant submits evidence of qualifications that, as a minimum, corresponds to the qualification level immediately below the qualification requirements set out in section 3-2, first paragraph, and section 3-3, first paragraph. When comparing the educational levels, the following five qualification levels shall apply:
a) An attestation of competence confirming the successful completion of a course of education and experience that are not covered by the requirements of the levels described in sub-paragraphs (b) to (e).
b) A certificate attesting to the successful completion of upper secondary education.
c) A diploma certifying that the applicant:
    i) either has successfully completed training at post-secondary level other than that referred to in sub-paragraphs (d) or (e) of a duration of at least one year or of an equivalent duration on a part-time basis, one of the conditions of entry of which is, as a general rule, the successful completion of the secondary course required to obtain entry to university, other higher education or other education at the same level,

as well as any professional training which may be required in addition to post-secondary education; or

ii) in the case of a regulated profession, completed training with a special structure, see Annex 2 of Directive 2005/36/EC.

d) A diploma certifying successful completion of training at post-secondary level at a university or university college establishment or another establishment providing the same level of training. The training shall be of at least three, and not more than four, years' duration, or of an equivalent duration on a part-time basis.

e) A diploma certifying successful completion of training at post-secondary level at a university or university college establishment or another establishment providing the same level of training. The training shall be of at least four years' duration, or of an equivalent duration on a part-time basis.

Applicants who have worked as mining engineers in charge in an EEA state in which the profession is not a regulated profession shall be entitled to approval if they have pursued the profession on a full-time basis for at least two years, or for a corresponding period on a part-time basis, during the previous 10 years. Applicants shall submit evidence of their professional qualifications that documents that they may work as mining engineers in charge.

Nationals of EEA states who hold evidence of qualifications in respect of qualifications issued in accordance with the first paragraph in a state outside the EEA may be approved pursuant to Chapter 4. Any evidence of formal qualifications acquired in a third-party state shall also be accepted as evidence of formal qualifications pursuant to section 4-3, first paragraph, sub-paragraph a). This shall only apply if the applicant has three years' professional experience as a mining engineer in charge in an EEA state, and this has been recognised and confirmed by the approval authority of another EEA state.

Section 4-4. Temporary practice as a mining engineer in charge

Persons may work as mining engineers in charge on a temporary and occasional basis if they are legally established in another EEA state for the purpose of offering such services there, as long as they give notice and provide documentation to the Directorate of Mining in accordance with EEA rules corresponding to Article 7 of Directive 2005/36/EC.

If the profession or the education and training leading to the profession have not been regulated, the person shall have pursued the profession in this state for at least two years during the previous 10 years, see Article 5(1)(b) of Directive 2005/36/EC.

The Directorate of Mining may require practitioners to document that they have the necessary language skills to be able to work as mining engineers in charge in Norway.

Section 4-5. Rules of procedure

The Directorate of Mining shall within one month acknowledge receipt of the application, and inform the applicant of any deficiencies in the application. The Directorate shall make a decision on the application as quickly as possible and, at the latest, within three months of submission of the necessary documentation.

Section 4-6. Cooperation with other approval authorities

The Directorate of Mining shall cooperate with the approval authorities of other EEA states pursuant to Articles 8(1), 8(2), 56(1) and 56(2) of Directive 2005/36/EC.

Chapter 5. Fees and charges

Section 5-1. Fee for processing of applications

An applicant shall pay a fee of:

a) NOK 1,000 per area in connection with an application for an exploration permit pursuant to section 13 of the Minerals Act
b) NOK 10,000 per area in connection with an application for an extraction permit pursuant to section 29 of the Minerals Act. If an application requires more than one extraction area, the applicant shall pay an additional fee of NOK 500 for each additional area
c) NOK 5,000 in connection with an application for pilot extraction pursuant to section 12 or section 20 of the Minerals Act
d) NOK 10,000 in connection with an application for an operating licence pursuant to section 43 of the Minerals Act. The fee is NOK 20,000 if the application relates to extraction that requires an environmental impact assessment pursuant to the Regulations of 26 June 2009 No. 855 concerning environmental impact assessments
e) NOK 1,000 in connection with an application for compulsory acquisition pursuant to section 37, first paragraph, or section 38, first paragraph, of the Minerals Act
f) NOK 10,000 in connection with an application for compulsory acquisition pursuant to section 37, second paragraph, or section 38, second paragraph, of the Minerals Act.

The fee shall be paid before the application is processed.

Section 5-2. Annual charge for an exploration permit for minerals owned by the State

Pursuant to section 56 of the Minerals Act, the retention of an exploration permit for minerals owned by the State shall be subject to payment to the State of an annual charge for each begun unit of 10,000 m^2 of:

a) NOK 10 for the second and third calendar years
b) NOK 30 for the fourth and fifth calendar years
c) NOK 50 for the sixth and seventh calendar years.

If an exploration permit is extended pursuant to section 23 of the Minerals Act, an annual charge of NOK 50 shall be paid to the State for each begun unit of 10,000 m^2.

In the case of claims (muting) granted pursuant to the Mines Act of 30 June 1972 No. 70, an annual charge shall be paid to the State pursuant to the first and second paragraphs. The calculation of the age of the claim shall be based on the date on which the claim was issued. However, the annual charge per begun unit of 10,000 m^2 for the sixth and seventh calendar years shall not exceed NOK 30 in the first calendar year after the entry into force of the Minerals Act.

Section 5-3. Annual charge for an extraction permit for minerals owned by the State

Pursuant to section 56 of the Minerals Act, the retention of an extraction permit for minerals owned by the State shall be subject to the payment to the State of an annual charge of NOK 100 for each begun unit of 10,000 m^2.

The annual charge per extraction area (extraction permit) shall not be less than NOK 1,000.

Section 5-4. Annual charge for pre-1972 claim patents (*lengdeutmål*)

An annual charge shall be paid to the State pursuant to section 5-3 for pre-1972 claim patents that are limited in the dip direction pursuant to section 68(5) of the Mines Act of 30 June 1972 No. 70.

Pursuant to section 56 of the Minerals Act, an annual charge of NOK 2,000 shall be paid to the State for pre-1972 claim patents under the Mines Act of 14 July 1842 relating to the working of mines.

Section 5-5. Annual landowner fee for the working of minerals owned by the State – amount and calculation

Pursuant to section 57, first paragraph, of the Minerals Act, a party that is extracting a deposit of minerals owned by the State shall pay the landowner an annual fee of 0.5% of the sales value of that which is extracted.

The basis for the calculation of the fee shall, as a general rule, be the extracting party's sales revenues (excluding value added tax), from the sale of extracted volumes and volumes with a potential sales value which the extracting party processes itself or otherwise utilises without selling. If there are significant differences between the extracting party's sales revenues and the normal sales value, the Directorate of Mining may specify the calculation basis. If further processing beyond normal enrichment takes place, the sales value prior to the processing shall be used.

The extracting party shall keep a continually updated record for use in the calculation of the landowner fee of all deliveries of products derived through extraction or, if relevant, derived through ore-separation or ore-dressing operations, which shall specify the product type, number and achieved price. If the extracting party itself processes the ore beyond separation and dressing, the assumed sales value prior to the processing shall be recorded.

If a landowner cannot inspect the record due to operational or business circumstances that must be kept secret to protect the competitive interests of the extracting party, the landowner may ask the Directorate of Mining to assess whether the calculation of the fee accords with the information in the record. The Directorate may require the extracting party to submit to the Directorate the record or a copy thereof in order to carry out controls pursuant to the first sentence.

Section 5-6. Increased landowner fee for operations on minerals owned by the State in Finnmark

In the case of land owned by Finnmarkseiendom, an increased landowner fee of 0.25% shall be paid in addition to the ordinary landowner fee.

Chapter 6. Enforcement penalty and penalty charge

§ 6-1. Enforcement penalty

An enforcement penalty pursuant to section 66 of the Minerals Act may be imposed in the form of an accruing daily penalty or a lump-sum penalty. If the obligation to pay a lump-sum penalty is not fulfilled before the deadline, a new lump-sum penalty with a new deadline may be imposed. An accruing daily penalty accumulates on both working days and holidays, and shall accumulate until the obligation is fulfilled.

An enforcement penalty begins to accumulate when the deadline for remediation of the matter specified in the enforcement-penalty decision has expired. The length of the deadline shall be stated in the enforcement-penalty decision, and shall be set on the basis of a specific assessment of the degree of seriousness of the order compared to the interests the order is supposed to safeguard.

An enforcement penalty shall accumulate until the responsible party has documented compliance with the order.

Section 6-2. Size of enforcement penalty

In determining the size of an enforcement penalty, emphasis shall particularly be given to:

a) the type of order that has not been complied with
b) the seriousness of the lack of compliance with the order, compared to the interests the order is supposed to safeguard
c) the cost to the responsible party of complying with the order
d) the financial capacity of the responsible party.

Section 6-3. Deadline for payment of an enforcement penalty

The Directorate of Mining shall set a deadline for payment of an enforcement penalty. The deadline for payment of a lump-sum penalty shall be at least one week after the responsible party receives notice of the order to pay the enforcement penalty. The penalty falls due for payment on the first working day after the expiry of the deadline. Accruing daily penalties fall due for payment in daily instalments, starting on the first working day after the expiry of the deadline.

If a penalty is not paid by the time it falls due, interest shall accumulate at the rate applicable at that time pursuant to the Act of 17 December 1976 No. 100 relating to interest on overdue payments, etc.

Section 6-4. Concerning the imposition and size of infringement penalties

In the decision regarding whether an infringement penalty pursuant to section 67 of the Minerals Act should be imposed, and in the assessment of the size of the charge, emphasis shall particularly be given to:

a) the severity of the breach
b) whether the breaching party could have prevented the breach through guidelines, instructions, training, controls or other measures
c) whether the breach was committed to promote the interests of the breaching party
d) whether the breaching party has, or could have, gained any advantage through the breach
e) whether breaches have been committed repeatedly
f) the financial capacity of the breaching party.

Section 6-5. Deadline for payment of an infringement penalty

The deadline for payment of an imposed infringement penalty is four weeks from the date of the decision. If the penalty is not paid by the time it falls due, interest shall accumulate at the rate applicable at that time pursuant to the Act of 17 December 1976 No. 100 relating to interest on overdue payments, etc.

Section 6-6. Collection of enforcement penalties and infringement penalties

Enforcement penalties and infringement penalties shall be paid to the Treasury. The Directorate of Mining shall send payment demands in respect of enforcement penalties and infringement penalties that have fallen due for payment. If an amount is not paid, the demand shall be enforced pursuant to the rules contained in the Act of 26 June 1992 No. 86 relating to enforcement of claims.

Section 6-7. Remission of enforcement penalties and infringement penalties

The Directorate of Mining may, upon application, remit all or part of an imposed enforcement penalty or infringement penalty if it is proved that special circumstances made it very difficult to satisfy the obligations which form the basis for the decision to impose the enforcement penalty or infringement penalty.

An application for remission shall be submitted to the Directorate within one month of receipt by the responsible party of the decision to impose an enforcement penalty or infringement penalty.

Chapter 7. Final provisions

Section 7-1. Entry into force

The regulations enter into force on 1 January 2010.