

**MINING COUNCIL ACT,
B.E. 2526 (1983)**

BHUMIBOL ADULYADEJ, REX.

Given on the 3rd April B.E. 2526 (1983)
Being the 38th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:
Whereas it is expedient to have the law on mining council.

Be it, therefore, enacted by the King, by and with the advice and consent of
the National Assembly, as follows:

Section 1. This Act is called the “Mining Council Act, B.E. 2526”.

Section 2. This Act shall come into force on the day following the date of its
publication in the Government Gazette.¹

Section 3. In this Act:

“Mining industry” means the mining under the law on mineral;

“Mining business” means mineral survey, mineral purchasing, mineral sale,
mineral collecting, mineral processing, metallurgical industry, import or export of mineral
under the law on mineral;

“Member” means a member of the Mining Council;

“Councilor” means a Councilor of the Mining Council;

“Secretary-General” means the Secretary-General of the Mining Council;

“Worker” means a worker of the Mining Council and including the Vice
Secretary-General;

* Translated by Mr. Panitarn Vacharaprechaskul under contract for the Office of the
Council of State of Thailand's Law for ASEAN project. – Tentative Version – subject to final authorisation
by the Office of the Council of State.

¹ Published in the Government Gazette, Vol. 100, Part 55, Special Issue, dated 7th April,
B.E. 2526 (1983).

“Employee” means an employee of the Mining Council;

“Competent official” means the person entrusted by the Minister for implementation of this act;

“Minister” means the Minister having charge and control of the execution of this Act.

Section 4. The Minister of Industry shall have charge and control of the execution of this act, and shall have power to appoint competent official for implementation of this act.

CHAPTER I ESTABLISHMENT OF MINING COUNCIL

Section 5. There shall be established the Mining Council having the power and duty in accordance with the objectives prescribed in this Act.

The Mining Council shall be a juristic person.

Section 6. The Mining Council has the objectives as follows:

(1) to represent the mining industry and private mining business operators in coordinating policy and performances between private part and the State;

(2) to promote and develop mining industry and mining business;

(3) to study and find solution to the problem concerning mining industry and mining business;

(4) to protect and preserve the benefit of members in operating mining industry and mining business;

(5) to promote and support the study, research, analysis, and experiment concerning mining industry and mining business including dissemination of such achievement to members.

Section 7. Subject to section 6, the Mining Council shall not act as follows:

(1) to act in the manner obstructing fair competition of business operation, except in accordance with Government policy;

(2) to act in the manner limiting the right of mining industry and mining business operators already exists under the law.

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Section 8. The Mining Council shall have its headquarter in the Bangkok Metropolis, and branch offices in other *Changwats* as necessary.

The establishment of branch office under paragraph one shall be in accordance with the rule and procedure prescribed by the Mining Council.

Section 9. The Mining Council may earn the income as follows:

- (1) fee and membership fee;
- (2) special membership fee;
- (3) property donated;
- (4) other incomes.

Section 10. The Mining Council has the power to collect special membership fee.

Special membership fee shall be collected from any category of members, by any means, and at any rate shall be in accordance with the rule, procedure and condition prescribed in the regulation of the Mining Council.

The rate of annual special membership fee for a member operating mining industry must not exceed 0.1 percent of the proceed of selling mineral derived from mining industry by each member in such year, and not more than ten thousand Baht a year for a member who does not operate mining industry.

Section 11. No person other than the Mining Council shall bear the name in Thai language or a foreign language which may be translated or read as "Mining Council".

CHAPTER II

MEMBER, COUNCILOR, WORKER AND EMPLOYEE

Section 12. The Mining Council has three categories of members as follows:

- (1) ordinary members;
- (2) associate members;
- (3) provisional members.

Section 13. A mining industry operator is entitled to apply for recruitment as an ordinary member.

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A mining business operator is entitled to apply for recruitment as an associate member.

The person wishing to operate mining industry or mining business is entitled to apply for recruitment as a provisional member.

Section 14. The admission, right, duty, and removal from membership of member of the Mining Council including the appeal against the refusal to admit any applicant for recruitment as a member of the Mining Council shall be in accordance with the regulation of the Mining Council.

Section 15. For the provisional member who has already been permitted to operate mining industry or mining business, his or her status shall be converted to be ordinary member or associate member, as the case may be.

Section 16. There shall be a Mining Council having not exceeding eighteen Councilors consisting of Councilors elected from ordinary members by ordinary members at double numbers of Councilors elected from associate members by associate members.

The Councilors shall elect an ordinary member to be Chairperson, and the Chairperson shall preside over the meeting of the Mining Council.

Section 17. No person of the following nature shall be Councilor:

- (1) being a worker or employee of the Mining Council;
- (2) being a bankrupt;
- (3) being a permanent government official or political official;
- (4) being an incompetent person or quasi-incompetent person;
- (5) having been imprisoned by a final judgment or legal order, except for an offence committed through negligence or a petty offence.

Section 18. A councilor holds office for a term of two years.

At the initial stage, after completing one year from the date of election, the Councilors who are ordinary members and associate members shall vacate office at half the numbers of each part by drawing lots. Fraction of computed numbers, if any, shall be discarded.

Section 16 shall apply to the election of Councilors to replace the Councilors vacating office at the expiration of term under paragraph two.

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In case of the election of Councilors to replace the Councilors vacating office at the expiration of term or by drawing lots, the person newly elected shall hold office for a term of two years.

The Councilors vacating office at the expiration of term or by drawing lots may be re-elected.

Section 19. In addition to vacating office at the end of term under section 18, a Councilor vacates office upon:

- (1) death;
- (2) resignation;
- (3) being removed by not less than two-third of votes of ordinary members, and two-third of votes of associate members attending the meeting of the Mining Council;
- (4) being under the nature under section 17;
- (5) being removed by the order of the Minister, with the approval of the Council of Ministers, issued under section 40.

When a Councilor vacates office before the end of term, the Council shall convene the meeting of the Mining Council for electing an ordinary member or associate member, as the case may be, to be replacing Councilor within thirty days, unless the term of office of such Councilor remains less than ninety days the election of replacing Councilor may be exempted.

The Councilor elected under paragraph two holds office for the remaining term office of the Councilor he or she replaces.

Section 20. Pending the election of replacing Councilor under section 18, or pending the election of replacing Councilor or in case there is no election of replacing Councilor under section 19, the remaining Councilors shall continue to perform the power and duty of the Council; provided that the remaining Councilors must be sufficient for constituting a quorum under section 22.

Section 21. The Council has the power and duty to lay down policy and carry out the activities in accordance with the objectives of the Mining Council, including the power and duty as follows:

- (1) to carry out the performance under section 6;
- (2) to prescribe the regulation concerning election of Councilors;

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(3) to prescribe the regulation concerning the meeting and performance of activities of Councilors and the meeting of the Mining Council;

(4) to prescribe the regulation concerning recruitment, qualification, right, duty, discipline, members punishment, and vacating from office, including the appeal against refusal to admit any applicant for recruitment as a member of the Mining Council;

(5) to prescribe the regulation determining registration fee, membership fee, special membership fee, and service fee to be collected from members;

(6) to prescribe the regulation concerning accountancy and finance of the Mining Council;

(7) to prescribe the regulation concerning recruitment, appointment, removal, positions determining, rate of salary, wage, and pension and reward for workers and employees, including rule, discipline, punishment and grievance of workers and employees;

(8) to prescribe the regulation concerning assistance of workers and employees as well as their families, or the persons retired from being workers or employees;

(9) to prescribe the rule or regulation on any other matter necessary for the performance of the Mining Council;

(10) to give advice, suggestion, explanation, and render facility for members in operating mining industry and mining business;

(11) to give suggestion, opinion, and advice to the Minister on the matter concerning operation of mining industry or mining business.

The determination or modification of the regulation under (2), (3), (4), (5), (6) and (9) requires prior approval of the Mining Council, and the determination or modification of the regulation under (2), (4) and (5) shall come into force upon approval of the Minister.

Section 22. At a meeting of the Councilors, the presence of not less than half of the total numbers of Councilors is required to constitute a quorum.

If the Chairperson is absent or unable to perform the duty, the Councilors shall elect a Councilor who is an ordinary member to preside over the meeting.

The decision of the meeting shall be by the majority of votes.

In casting votes a Councilor shall have one vote. In case of equality of votes, the person presiding over the meeting shall have an additional vote as a casting vote.

At a meeting of the Councilors, if any matter under consideration concerns any Councilor, such Councilor has the right to attend the meeting for explaining such matter, but he or she has no right to vote.

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Section 23. The Councilors shall appoint a Secretary-General of the Mining Council having the power and duty under section 26, and the Secretary-General shall be secretary of the Councilors and the meeting of the Mining Council.

The Secretary-General holds office for a term of four years, and after the end of term, he or she may be reappointed.

The Secretary-General shall receive salary and other remuneration prescribed by the Councilors.

Section 24. The Secretary-General must possess the qualification under (1), (2) and (3) and not being under the prohibition under (4), (5), (6) and (7) as follows:

- (1) being of Thai nationality;
- (2) having knowledge concerning mining industry and mining business;
- (3) being able to dedicate full time in working for the Mining Council;
- (4) being a bankrupt;
- (5) being an incompetent person or quasi-incompetent person;
- (6) having been imprisoned by a final judgment or legal order, except for an offence committed through negligence or a petty offence;
- (7) being a permanent government official or political official.

Section 25. In addition to vacating office at the end of term, the Secretary-General vacates office upon:

- (1) death;
- (2) resignation;
- (3) being removed by not less than two-third of votes of total numbers of Councilors;
- (4) lacking qualification or being under the prohibition under section 24.

Section 26. The Secretary-General has the power and duty as follows:

- (1) to administer the affair of the Mining Council and assert commanding power over the workers and employees;
- (2) to compile, study, and analyze data, statistic, and affair concerning mining industry and mining business.
- (3) to suggest and implement the resolution of the Councilors for performance under section 21.

In administering the affair, the Secretary-General must be responsible to the Councilors.

Section 27. In the external affair, the Secretary-General shall represent the Mining Council, and for this purpose, the Secretary-General may entrust any person in writing to carry out any activity in his or her place, unless such activity is not contrary to the rule or regulation prescribed by the Councilors.

Section 28. If the position of the Secretary-General is vacant or the Secretary-General is unable to perform the duty, the Councilors shall appoint any Councilor or worker to perform the duty temporarily. In such case, the person acting in place of the Secretary-General shall have the same power and duty as the Secretary-General.

Section 29. The Councilors shall have power to appoint a Sub-committee for performing any activity of the Mining Council entrusted by the Councilors.

Section 22 shall apply to the meeting of the Sub-committee *mutatis mutandis*.

The Sub-committee shall receive remuneration prescribed by the Councilors.

Section 30. The Chairperson and Councilors shall receive remuneration prescribed by the meeting of the Mining Council.

CHAPTER III

PERFORMANCE OF ACTIVITY OF THE MINING COUNCIL

Section 31. The Councilors shall render an annual meeting of the Mining Council each year. Such meeting is called an ordinary meeting.

The meeting other than that under paragraph one is called an extraordinary meeting.

Section 32. In case of necessity, the Councilors may convene an extraordinary meeting at any time.

The ordinary members or associate members, or ordinary members and associate members, of not less than one-eighth of the total numbers of ordinary members

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and associate members may request in writing to the Councilors to convene an extraordinary meeting. Such request in writing must indicate that the meeting is to be convened for what purpose.

In the case where the extraordinary meeting is requested by members under paragraph two, the Councilors shall convene the extraordinary meeting within thirty days from the date of receiving written request.

Section 33. At a meeting of the Mining Council, the presence of not less than one-third of the total numbers of ordinary members and associate members is required to constitute a quorum.

The decision of the meeting shall be by the majority of votes of the total numbers of ordinary members and associate members attending the meeting.

In casting votes a member shall have one vote. In case of equality of votes, the person presiding over the meeting shall have an additional vote as a casting vote.

Section 34. The provisional member has the right to attend the meeting but he or she has no right to vote.

Section 35. The Councilors shall prepare an annual report showing previous achievement of the Councilors, and explanation on the policy submitting to the ordinary meeting, as well as the balance sheet and statement of account of income and expenditure certified by an auditor within one hundred and twenty days from the date of ending calendar year, and the copies of such document shall be submitted to the Minister within thirty days from the date of approval by the ordinary meeting.

Section 36. The auditor under section 35 shall be appointed by the meeting of the Mining Council from the licensed auditor under the law on auditor, who is not a Councilor, Secretary-General, worker, or employee.

The auditor has the power to examine all the books, accounts, and documentary evidences of the Mining Council, and request for explanation from the Councilor, Secretary-General, workers and employees.

The auditor shall receive remuneration determined by the meeting of the Mining Council.

CHAPTER IV CONTROL OF THE STATE

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Section 37. The Minister shall have power as follows:

(1) to control and supervise the Councilors in the performance under section 35;

(2) to order the competent official to investigate the facts concerning the performance of the Mining Council;

(3) to issue a written order requiring the Councilor, or Secretary-General to explain the facts concerning the affair of the Mining Council, and may demand for submitting document concerning the performance or the minutes of meeting of the Councilors;

(4) to issue a written order, with the approval of the Council of Ministers, demanding the Mining Council to refrain from or modify any act appearing to contravene the policy of the Government or resolution of the Council of Ministers.

Section 38. In compliance with the order of the Minister under section 37, the competent official shall have power to enter for inspecting document or evidence in the Office of the Mining Council during working hours, or requiring the person concerned to explain to the competent official as required.

In the performance of the competent official under paragraph one, the person concerned shall render facility as appropriate.

Section 39. In the performance under section 38, the competent official shall produce his or her identity card to the person concerned.

The identity card of the competent official shall be in the form prescribed by the Minister.

Section 40. When it appears that the Mining Council fails to comply with the order of the Minister under section 37, or performs any act in contravention of the objective of the Mining Council, or performs any act which may deteriorate the economy or security of the country, or public order or good moral of the public, the Minister, with the approval of the Council of Ministers, shall have power to order removal of any or all of the Councilors from office. In such case, the outgoing Councilor has no right to be Councilor again, unless after two years from the date of issuing order of the Minister.

Section 41. In the case where the Minister issues an order removing all of the Councilors from office under section 40, the Minister shall appoint the appropriate persons from ordinary members and associate members in the numbers and proportion prescribed under section 16 to be Councilors within thirty days from the date of issuing the order of the Minister removing all of the Councilors from office, and the new re-appointed Councilors shall convene a meeting of the Mining Council for electing Councilors under section 16 within sixty days from the date of issuing the order of the Minister appointing Councilors.

After the new Councilors has been elected, the Councilors appointed by the Minister under paragraph one shall vacate from office.

CHAPTER V PENALTY PROVISIONS

Section 42. Any person who violates section 11 shall be liable to an imprisonment for a term not exceeding one month, or to a fine not exceeding two thousand Baht, or to both, and an additional daily fine of one hundred Baht until declining to use such name.

Section 43. Any person who obstructs or fails to explain or render facility to the competent official performing the duty under section 38 shall be liable to a fine not exceeding two thousand Baht.

CHAPTER VI TRANSITIONAL PROVISIONS

Section 44. Within thirty days from the date this Act comes into force, the Minister shall appoint the Director of the Offshore Mining Organization, Director of the Mining Organization, President of the Thai Mining Association, President of the Mining Industry Association, President of the Siamese International Mining Association, President of the Thai Fluorite Association, President of Ranong Province Mining Association, President of Nakorn Si thammarat Province Mining Association, as provisional Councilors acting on behalf of the

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Mining Council, and proceed to recruit members within one hundred and twenty days from the date this Act comes into force.

The provisional Councilors under paragraph one shall convene a meeting of members for approving the regulation on election of Councilors under section 21, and elect the Councilors under section 16, and perform other activity in so far as it is necessary for the implementation of this Act within one hundred and eighty days from the date this Act comes into force, and such provisional Councilors shall vacate office upon the Councilors elected assuming office.

In the performance under paragraph one and paragraph two, if it is necessary and appropriate the Minister may extend such period; provided that it must not be extended in excess of one hundred and twenty days.

The Councilors elected under paragraph two must convene a meeting of Councilors within fifteen days from the date of assuming office for appointing the Chairperson under section 16 paragraph two and the Secretary-General under section 23, and convene a meeting of the Mining Council under section 31 paragraph one within forty-five days from the date of assuming office for approving the performance of the provisional Councilors, as well as considering the appointment of an auditor and other matter which the meeting deems appropriate.

Section 45. The person using the name in Thai language or a foreign language which may be translated or read as “Mining Council” which is prohibited under section 11 on the date this Act comes into force shall cease to use such name or such other words within thirty days from the date this Act comes into force, and during such period section 42 shall not apply.

Countersigned by
General P. Tinsulanonda
Prime Minister

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