

LAW OF THE AZERBAIJAN REPUBLIC ON SUBSURFACE

This Law shall regulate relations in connection with the development (exploration, research), efficient use, protection and safety of works in the subsurface on the territory of the Azerbaijan Republic, including subsurface in the Azerbaijan Republic section of the Caspian Sea (Lake), provide for the protection of interests of the state, users of the subsurface and individuals in course of use of the subsurface.

Chapter I

General provisions

Article 1. Main terms and expressions

The following terms and expressions shall have the following meaning where used in this Law:

“Subsurface” shall mean section of the Earth core located beneath ground or soil surface, bed of water objects (water reservoirs), spreading to the depth capable of exploration and use and consisting of layers, raw mineral resources, energy resources (oil, gas, etc.), natural and water gaps, geological and technogenic establishments.

“Relations in Connection with the Subsurface” shall mean relations in the area of use, study, development and protection of the subsurface.

“Mineral Resources” shall mean natural mineral resources in the material production section of the subsurface.

“Widely Located Mineral Resources” shall mean widely spread mineral resources in their natural condition or in a condition following minor modifications used for local economic purposes.

“Technogen Establishment” shall mean wastes of mountainous-mining, treatment and other production areas, accumulated on the ground or in the subsurface and containing mineral substances.

“Kern” shall mean a layer sample of cylindrical form taken for the purpose of study of the geological structure of the subsurface.

“Mountain-Mining Allocation” shall mean a section of the subsurface allocated to legal entities and physical persons for the purpose of extraction of mineral resources, as well as for construction of unrelated underground facilities.

Article 2. Principles of use of the subsurface

Use of subsurface shall rely upon the following principles:

- securing efficient, complex and safe use of the subsurface;
- securing protection of the environment;
- expansion and improvement of the mineral and raw material base;

- development of the subsurface in a transparent manner;
- establishment of favourable conditions for facilitating investments into use of the subsurface;
- payment of charges for the use of the subsurface.

Article 3. Legislation on subsurface

Legislation on the subsurface shall consist of the Constitution of the Azerbaijan Republic, this Law, other acts of legislation and international treaties of the Azerbaijan Republic.

Relations concerned with use of the subsurface in the area of energy industry shall be regulated through special rules stipulated by the applicable legislation of the Azerbaijan Republic.

Article 4. Right of ownership over subsurface

In the Azerbaijan Republic subsurface shall, without impairing rights of legal entities and physical persons, be in the ownership of the Azerbaijan Republic.

Article 5. Unified state subsurface fund

Subsurface in the Azerbaijan Republic shall constitute the unified state subsurface fund and the aforementioned fund shall comprise both used and unused sections of the subsurface.

Article 6. Duties of state authorities in regulations of relations associated with the use of subsurface

State shall perform the following duties in connection with the regulation of relations associated with the use of subsurface:

- To implement the state policy related to the subsurface;
- To allocate plots of land for the purpose of use of the subsurface;
- To determine rules applicable to the use of the subsurface and protection thereof and to the efficient use of mineral-raw material resources, to prepare classifications of the applicable standards (normative and regulations), mineral resources and forecast resources;
- To enter into international treaties for exploration, use and protection of the subsurface, to implement special permit system;
- To protect rights of users of the subsurface and interests of citizens of the Azerbaijan Republic in relation to the use of the subsurface;
- To prepare and implement the state program in the area of geological exploration of the subsurface and development of the mineral-raw material resource base;
- To establish procedures applicable for the payment of charges for the use of the subsurface;
- To form the state fund financing expansion of the mineral-raw material resource base and geological exploration of the subsurface;
- To form the subsurface geological information fund and to establish the rules of the use thereof;

- To carry out state examination of geological information assessing explored mineral resources in the subsurface and specifications of the subsurface;
- To keep the state balance of mineral resources and the state cadastre of mineral resources fields and features thereof;
- To prepare a list of widely spread mineral resources;
- To carry out state registration of works for the geological exploration of the subsurface;
- To carry out state registration of subsurface sections used for the construction of underground facilities for the purpose of extraction of mineral resources and otherwise;
- To co-ordinate and carry out registration of scientific-research and testing-engineering works in relation to the use of the subsurface;
- To establish rules for storage and protection of kern and samples having scientific-practical value in relation to the exploration of the subsurface;
- To implement state control over efficient and safe use of the subsurface, protection and geological exploration thereof;
- To impose limitation upon use of the subsurface for the purpose of ensuring state security, protection of public, economic establishment and environment.

Chapter II. Principles of use of the subsurface

Article 7. Categories of use of the subsurface

The following shall constitute the categories of use of the subsurface:

- Ecological and geological explorations;
- Extraction of mineral resources;
- Use of wastes related to mountainous-mining operations
- Construction and operation of underground facilities not related to the extraction of mineral resources;
- Establishment of specially protected geological facilities of scientific, cultural, aesthetic, health-treatment significance (scientific and testing stations, geological reserves, restricted areas, caves and other underground holes);
- Collection of mineralogical, paleontological and other geological collection materials, carrying out archaeological excavations.

Subsurface may be transferred for the simultaneous use for the purpose of geological research (studies, exploration) and extraction of mineral resources. Under such circumstances mineral resources may be extracted both in course of geological exploration of the subsurface, and upon completion of such works.

Use of the subsurface for the extraction of radioactive raw materials and burial of radioactive wastes and harmful substances shall be regulated by the applicable legislation of the Azerbaijan Republic.

Article 8. Subsurface users

Legal entities and physical persons of the Azerbaijan Republic may in accordance with the procedures specified by the legislation be users of the subsurface in the Azerbaijan Republic.

Rights and duties of users of the subsurface shall arise upon issue of the special permission under the procedures specified by the relevant executive authority.

Article 9. Rights and duties of subsurface users

Subsurface users shall have the following rights:

- To use the subsurface within the boundaries of the allocated section for categories of operations specified in the special permission;
- To independently establish the lawful form of operations in the subsurface in line with the purpose stipulated in the special permission;
- To use results of operations, including extracted mineral-raw materials in accordance with the special permission and legislation;
- To use wastes associated with mountainous-mining works, unless provided otherwise by the special permission;
- To carry out on its personal account geological explorations of the subsurface in line with the special permission without being required to obtain an additional permit;
- To apply to the relevant executive authority issuing the special permission for the modification of terms of the special permission upon change of circumstances stipulated by the special permission.

Subsurface user shall have advantage over other applicants in the event of extension of the term of the special permission.

Subsurface users shall have the following duties:

- To comply with the legislation of the Azerbaijan Republic, standards (norms and regulations) applicable to the use of subsurface, to eliminate losses of mineral resources in excess of prescribed limits and deterioration of quality thereof;
- To carry out geological exploration of the subsurface and to make complex use of mineral-raw material resources;
- To keep geological, marking and other documentation in course of use of the subsurface, to carry out protection of such documentation, kern and samples;
- to submit geological information to the state geological information fund;
- to make full use of production materials and wastes, to ensure collection, recordation and protection of temporarily unused production materials and wastes containing useful components;
- to submit information on discovered, extractable mineral resources and mineral resources remaining in the subsurface and component reserves thereof, as well as information on use of the subsurface for other purposes not associated with the extraction of mineral resources to the state geological information fund;
- to ensure safety of works related to the use of subsurface;
- to comply with standards (norms, regulations) applicable to the protection of the subsurface, atmosphere, lands, forests, waters, constructions and facilities from the harmful impact of works associated with the use of the subsurface;
- to ensure recultivation of lands in course of use of the subsurface;

- development of mineral resources fields and maintenance of exploration mountainous-mining extractions and drilling wells suitable for other business purposes;
- to carry out conservation and abandonment of unusable mountainous-mining extractions and drilling wells;
- to ensure implementation of requirements stipulated by the special permission, making timely and correct payments of charges for the use of the subsurface.

Subsurface users shall possess documentation (diplomas, certificates) evidencing special qualifications and experience of such persons for the implementation of the relevant category of operations (geological planning, research, exploration and various production of mineral resources, construction and operation of underground facilities, other categories of use of the subsurface).

Article 10. Section of the subsurface allocated for use

In accordance with the special permission granting the right to extract mineral resources, to construct and to operate underground facilities not related to the extraction of mineral resources, to establish specially protected geological facilities, section of subsurface shall be allocated to the subsurface user in the form of mountainous-mining allocation. Where mineral resources are extracted simultaneously with the geological exploration of the subsurface or upon completion of the latter works, subsurface section shall also be allocated in the form of mountainous-mining allocation.

Preliminary boundaries of the mountainous-mining allocation shall be established at the stage of issue of the special permission for the use of the subsurface.

Upon completion of the technical project for the extraction of mineral resources and unrelated works, following obtaining a positive opinion of the state examination for such project, upon agreement of the relevant executive authorities, documents certifying revised limits of the mountainous-mining allocation (schedule of limits coordinates, plan and featuring designs of the section) shall be included into the special permission and shall constitute an integral part thereof.

Subsurface sections allocated for the purpose of carrying out geological exploration in accordance with the special permission shall not be required to obtain the status of mountainous-mining allocation. Such section shall be granted by the relevant executive authority with the status of geological allocation.

Several subsurface users may, in a prescribed manner, carry out works within the limits of the subsurface sections allocated for the carrying out of geological exploration. Relations between such person shall be established through the special permission at the stage of transfer of the subsurface into use.

Article 11. Limitation of use of the subsurface

Use of certain sections of the subsurface may be limited or prohibited for the purpose of protection of the state security and the environment.

Where use of the subsurface on the territories of residential settlements, zones adjacent to cities, areas of location of transportation and communication facilities imposes danger upon life and health of individuals, causes damage to business facilities or environment, such use may fully or partially prohibited.

In specially protected territories use of the subsurface shall be made in accordance with the status of such territories and in line with the applicable legislation.

Article 12. Periods of use of the subsurface

Subsurface may be transferred into use for a certain period of time or on a permanent basis.

Subsurface shall be granted for the following periods of time:

- For carrying out geological exploration – up to 5 years;
- For extraction of mineral resources – up to 25 years;
- For [carrying out geological exploration and the extraction of mineral resources] – up to 30 years.

Period of use of the subsurface for the purpose of extraction of mineral resources shall be established upon consideration outcome of development operations, efficient use of the subsurface and technical-economic studies ensuring protection thereof.

Sections of subsurface may be transferred for use for the purpose construction and operation of underground facilities, establishment of specially protected facilities and other purposes not related to the extraction of mineral resources for a certain period of time or on a permanent basis.

Periods of use of the subsurface shall be calculated from the date of transfer of the right of use.

Where the subsurface user complies with the requirements of the special permission, period of use of the subsurface may be extended upon agreement of the parties.

Article 13. Procedures for allocation of the subsurface for use

Use of the subsurface shall be granted in accordance with the special permit under the procedures specified by the legislation by the relevant executive authority.

Use of the subsurface shall be granted following tenders, auctions and direct negotiations. Grant of use of the subsurface through direct negotiations shall be implemented under exceptional circumstances in accordance with the decision of the relevant executive authority.

Special permission shall grant the right to use the subsurface for geological exploration, development of mineral resources reserves with appropriately proven reserves, use of wastes of mountainous-mining enterprises and treatment enterprises associated therewith, use of the subsurface for the purposes not related to the extraction of mineral resources, establishment of specially protected geological

facilities, collection of mineralogical, paleontological and other geological collection materials and carrying out archaeological excavations.

Where use of the subsurface encompasses multiple categories (multiple profiles), legal entities or physical persons may possess several special permission.

State duty (fee) shall be payable for the issue of the special permission. Amount of the state duty (fee) shall be established by the relevant executive authority.

Scientific-research operations and all categories of geological operations carried out in accordance with the state program, operations related to prediction of earthquakes, establishment and maintenance of environmental monitoring, control over regime and balance of underground waters, implementation of archaeological studies and other categories of operations not impairing the integrity of the subsurface shall not require the special permission.

Operations associated with the exploration of the subsurface shall pass through the state registration in the geological fund.

Special permission shall be issued upon advance consent of the relevant executive authority or the owner of the land for the allocation of the section of land for the purpose of use of the subsurface (including operations undertaken under state programs). Plot of land shall be allocated to the subsurface user upon issue of the special permission for the use of the subsurface in accordance with the rules prescribed by the land legislation of the Azerbaijan Republic.

Article 14. Special state permit system for use of the subsurface and duties thereof

Special permit system shall represent unified rules encompassing formal permissions for the preparation and formalisation of materials related to use of the subsurface from informational, scientific-analytical, economic and legal aspects.

The following shall constitute the duties of the special permit system:

- Implementation of the state program in the area of development of the mountainous-mining industry and mineral-raw materials resource base;
- Consideration of social, economic, ecological and other interests of all individuals;
- Establishment of equal opportunities for legal entities and physical persons for the obtaining of special permissions;
- Development of market relations in the area of use of the subsurface and implementation of the anti-monopoly strategy;
- Grant of requisite warranties to holders of special permissions and protection of their rights in course of use of the subsurface.

Article 15. Anti-monopoly measures in relation to use of the subsurface

The following actions of state authorities, as well as of any business establishments (subsurface users) shall be prohibited or be declared void in accordance with the prescribed procedures:

- Limitation of access of legal entities and physical persons for participation in tenders and auctions for the acquisition of rights for use of the subsurface in accordance with this Law in breach of rules of such tenders and auctions;
- Avoiding issue of a special permission to winners of tender or auctions;
- Replacing auctions and tenders with direct negotiations;
- Discriminating against subsurface users establishing structures capable of competing with business entities holding monopolistic position in use of the subsurface;
- Discriminating between subsurface users in relation to establishment of opportunities for the use of transportation and infrastructure facilities.

The relevant executive authority may establish dimensions of the subsurface section transferred for the use, number of such sections and reserves of extractable mineral resources.

Article 16. Allocation of the subsurface for the development of fields of widely located mineral resources

Allocation of the subsurface for the development of fields of widely located mineral resources, as well as procedures applicable to the use of subsurface within limits of the plot of land allocated for purposes not related to the extraction of mineral resources shall be established by the relevant executive authority.

Allocation of the subsurface for the development of fields of widely located mineral resources shall not be made in the event of availability of opportunities for the use of mountainous-mining and other production areas wastes constituting source of alternative raw materials.

Article 17. Use of the subsurface by landowners

Landowners may, in accordance with the procedures established by the relevant executive authority, within boundaries of their plots of land and for the satisfaction of their personal needs, engage into extraction of widely located mineral resources on the depth of up to five meters without carrying out any blasting works and construction of underground facilities, as well as drilling and operation of wells in the first unpressurised aquatic layer not constituting centralised source of water.

Use of underground drinking waters shall be regulated by the applicable legislation of the Azerbaijan Republic.

Article 18. Principles of cancellation and limitation of right of use of the subsurface

Right to use the subsurface shall be terminated under the following circumstances:

- 1) upon expiration of the period of validity of the special permission;

- 2) upon refusal of the holder of the special permission from the right of use of the subsurface;
- 3) upon occurrence of facts canceling the right to the special permission.

Under the following circumstances the authority issuing the special permission may limit or cancel the right of use of the subsurface:

- 1) arising of direct danger upon life and health of public resident and working in areas associated with operations related to use of the subsurface;
- 2) breach of conditions of the special permission by the subsurface user;
- 3) repeated violation of rules applicable to use of the subsurface by the subsurface user;
- 4) occurrence of force-majeure circumstances (natural disasters, military operations, etc.);
- 5) failure of the subsurface user to commence proposed scope of operations during the period of time stipulated in the special permission;
- 6) abandonment of the facility covered by the right for use of the subsurface;
- 7) upon application of the holder of the special permission.

Article 19. Procedures for cancellation and limitation of the right of use of the subsurface

Upon refusal of the holder of the special permission from further use of the subsurface, such person shall submit to the relevant executive authority at least 6 months formal notice.

Where holder of the special permission refuses of the right of use of the subsurface prior to the expiration of the period of time specified in the special permission, such person shall compensate damages to the relevant executive authority.

Following formal notice of the subsurface user, under circumstances specified by paragraphs 1 and 4 of Article 18 hereof, use of the subsurface shall be suspended by the decision of the relevant executive authority. Where there is no fault of an enterprise for such cases, expenses related to conservation or liquidation thereof shall be covered by the state.

Where use of the subsurface has been cancelled due to circumstances stipulated by paragraph 1 (through fault of the enterprise), paragraphs 2 and 3 of the first section of Article 18 or upon application of the subsurface user, expenses related to conservation or liquidation thereof shall be covered by the subsurface user.

Upon occurrence of circumstances stipulated in paragraphs 2, 3 and 5 of the second section of Article 18 hereof and failure to eliminate such circumstances within three months from the date of notification, there shall be passed a decision on termination or limitation of the right of use of the subsurface.

In the event of elimination of conditions and circumstances causing limitation or suspension of the right of use of the subsurface, such right may be fully reinstated.

Provided that there is no fault of the subsurface user, period of suspension of the right of use of the subsurface shall not be included into the total term of the special permission.

Legal entity or physical person disagreeing with cancellation or limitation of the right of use of the subsurface shall have the right of appeal to the court.

Article 20. Transfer of the right of use of the subsurface

The right of use of the subsurface shall be transferred under the following circumstances:

- Change of legal-organisational form of the subsurface user;
- Reorganisation of the business entity making use of the subsurface.

Upon transfer of the right of use of the subsurface, special permission shall be re-issued. In such cases no changes to the contents of the special permission shall be made.

Upon reorganisation of business entities making use of the subsurface through division or acquisition by a different entity, a new enterprise continuing the former's operations in the area covered by the special permission shall become the holder of the special permission.

Special permission shall be reissued upon change of the name of the subsurface user.

Special permission shall be reissued upon application of the subsurface user by the state authority issuing a special permission.

Upon refusal from re-issue of a special permission, subsurface user shall have the right of application to the court.

Except as specified by the legislation of the Azerbaijan Republic, the subsurface user shall not have the right to assign right of use of the subsurface to third parties.

Chapter III. Efficient use and protection of the subsurface

Article 21. Principal requirements for the efficient use and protection of the subsurface

The following shall constitute principal requirements for the efficient use and protection of the subsurface:

- Compliance with procedures established by the legislation in relation to grant of use of the subsurface and prohibition of unauthorised use of the subsurface;
- Ensuring geological exploration, efficient and full use and protection of the subsurface;
- Carrying out preliminary geological and geo-ecological works in relation to valuation of mineral resources reserves and establishment of specifications of the subsurface allocated for purposes unrelated to the extraction of mineral resources;
- Establishment of conditions of each mineral reserves field for the purpose of ensuring geological exploration and complex use of the subsurface;
- Carrying out state examination and state registration of mineral resources reserves, as well as sections of the subsurface used for purposes unrelated to the extraction of mineral resources;
- Ensuring more complete extraction of mineral resources and supplementary components from the subsurface;
- Recordation of mineral resources and supplementary components extracted from or left within the subsurface;
- Protection of mineral resources field from flood, radiation, fire and other conditions deteriorating quality of mineral resources, reducing industrial importance of field or complicating development thereof;
- Prevention of contamination of the subsurface and environment in course of use of the subsurface, as well as underground storage of oil, gas, other components and materials, burial of harmful substances and industrial wastes, discharge of waste waters, prohibition upon burial of industrial and household wastes in the area of location of mineral resources or zones of mountainous-mining operations;
- Compliance with rules applicable to temporary suspension and abandonment of enterprises of the extraction industry and operation of underground facilities unrelated to the extraction of mineral resources;
- Prevention of carrying out unauthorised construction works in the area of location of mineral resources and compliance with rules of use of such areas for different purposes;
- Prohibition of accumulation of industrial and household wastes in water objects and areas of spread of underground waters used for drinking and industrial purposes, and control over regime of underground drinking waters in areas of risk of deterioration by mineralised waters or waters failing to comply with the conditions;
- compliance with rules for protection of environment, recultivation of lands, conservation or abandonment of mountainous excavations;
- carrying out compulsory fishery industry examination of mineral resources extraction, geological explorations, blasting, excavation, bed expansion, underground facilities concoction projects in water objects of importance for the fishery industry.

Upon breach of requirements of this Article, right of use of the subsurface may, in accordance with the legislation, be limited, suspended or cancelled by the relevant executive authority.

Article 22. Principal requirements in relation to safety of operations related to use of the subsurface

Geological exploration of the subsurface, establishment and operation of enterprises engaged into extraction of mineral resources and various underground facilities shall be permitted only under the condition of ensuring safety of life and health of public residing in the area affected by such operations.

The relevant executive authorities and subsurface users shall ensure compliance with standards (norms, regulations) approved in relation to the safety of works related to use of the subsurface.

Authority controlling mountainous-mining operations shall exercise duties for state regulation and control of safety of works related to use of the subsurface.

Liability for safety of operations related to use of the subsurface shall be borne directly by the management of the enterprises.

The principal requirements in relation to securing safety of operations related to use of the subsurface shall be as follows:

- access to works granted only to duly qualified persons;
- supply of persons engaged into mountainous-mining and drilling works with special clothing and protection devices;
- application of machinery, equipment and materials complying with safety and sanitary norms;
- proper application of radioactive, blasting materials and equipment, due recordation, storage and operation thereof;
- carrying out supervision for the purpose of ensuring normal technological regime of works and prediction of dangerous situations;
- regular control over state of mountainous-mining atmosphere, volume of oxygen, harmful and explosive gases and dust in such areas;
- preparation and implementation of measures directed at protection of the population in the areas affected by the operations on use of the subsurface carried out under normal and extraordinary conditions.

Subsurface users shall establish mountainous-mining rescue groups, as well as groups for prevention and liquidation of open oil and gas fountains, or shall contractually engage such services.

Management and other officials of enterprises engaged into operations related to use of the subsurface shall in the event of direct danger to life and health of employees of such enterprises, or population located in the area affected by such operations, immediately suspend the operations and arrange for relocation of individuals to safe areas and shall further submit an appropriate notification to the relevant executive authority.

Article 23. Conditions for carrying out construction works in areas of location of mineral resources

Operations for design and construction works for residential settlements, industrial complexes and other business facilities in areas of location of mineral resources, as well as installation of underground facilities in such areas shall receive permission of

the relevant executive authority upon consideration of possibility of extraction of mineral resources and economic viability of construction works, as well as safety of mountainous-mining operations and local conditions.

Permission for the construction of the aforementioned facilities shall also be issued by the relevant executive authority where there are no mineral resources in the subsurface located under the proposed area of construction works.

Unauthorised construction works carried out in areas of location of mineral resources shall be suspended without reimbursement of investments and funds expended for demolition of structures and recultivation of the area.

Article 24. Liquidation and conservation of enterprises engaged into extraction of mineral resources and underground facilities unrelated to the extraction of mineral resources

Upon expiration of the period of validity of a special permission, or upon refusal of the subsurface user from the right of use of the subsurface, enterprises engaged into extraction of mineral resources and underground facilities unrelated to the extraction of mineral resources shall either be liquidated or conserved.

Prior to completion of such process, the subsurface user shall bear liability imposed upon such user by this Law.

Upon full or partial liquidation or conservation of an enterprise engaged into extraction of mineral resources, mountainous-mining excavations and drilling wells shall be brought to the conditions ensuring safety of health and life of the public, protection of environment, structures and facilities, and, during the period of conservation, also integrity of field, mountainous-mining excavations and drilling wells.

In course of liquidation or conservation of an enterprise or its branch engaged into extraction of mineral resources, as well as underground facilities unrelated to the extraction of mineral resources, geological, marking and other documentation shall be maintained in accordance with the requirements of the legislation.

Liquidation and conservation of enterprises engaged into extraction of mineral resources and underground facilities unrelated to the extraction of mineral resources shall become effective upon execution of the act of liquidation or conservation by the relevant executive authority.

Article 25. Protection of sections of the subsurface with specific scientific and cultural value

Unique geological opening, mineralogical establishment, paleontological objects and other such sections of the subsurface with specific scientific and cultural value may be designated as geological reserves, state restricted areas, natural and cultural monuments. Any activities impairing integrity thereof shall be prohibited.

Upon discovery in course of use of the subsurface of unique geological and mineralogical forms, meteorites, paleontological, archaeological and other objects being of scientific and cultural interest, subsurface users shall suspend works in such areas and shall submit an appropriate information to the authority issuing the special permission.

Chapter IV. Geological exploration of the subsurface

Article 26. Principal requirements in relation to geological exploration of the subsurface

The following shall constitute principal requirements in relation to geological exploration of the subsurface:

- scientific explanation and effectiveness of geological exploration of the subsurface;
- full research of mountainous-mining – technical, hydro-geological, ecological conditions in relation to geological structure of the subsurface, development of discovered field, as well as construction and operation of facilities unrelated to the extraction of mineral resources;
- correctness of mineral resources reserves, quality and volume of components thereof, geological-economic valuation of mineral resources reserves;
- compliance with norms and standards prescribed by the legislation in relation to the protection of the subsurface and environment;
- carrying out geological exploration of the subsurface through methods and procedures eliminating unnecessary loss of mineral resources and ensuring proper quality thereof;
- allocation of materials and mineral resources extracted from the subsurface with the condition of causing no harm to the environment;
- development of fields and maintenance of discovery mountainous-mining excavations and wells suitable for other business purposes, due abandonment of unusable excavations and structures;
- due maintenance of geological and technical documentation, kern and mineral resources samples duplicates acquired in course of the process of geological exploration of the subsurface and suitable for future use of the subsurface.

Article 27. State records and registration

Geological exploration of the subsurface, extraction of mineral resources, as well as sections of the subsurface allocated for purposes unrelated to the extraction of mineral resources and the relevant operations shall be entered into state records and registered with the state.

State records and registration shall be kept by the relevant executive authority within a unified system.

Carrying out of works related to use of the subsurface without state registration shall be prohibited.

Article 28. State geological exploration of the subsurface

Regular state geological explorations works shall be carried out for the purpose of expansion and strengthening of the mineral -raw materials base of the Azerbaijan Republic.

The principal purpose of the state geological exploration shall be carrying out geological researches and mapping operations, search, valuation and discovery of mineral resources reserves, forecasting processes occurring in the subsurface, collection, systematisation, storage of information on mineral resources-raw and undertaking other activities in relation to the territory of the state, including the Azerbaijan Republic section of the Caspian Sea (lake).

Article 29. Geological-economic appraisal of mineral resources field

Geological-economic appraisal of each field shall be carried out and conditions in relation to mineral - raw materials shall be established with consideration of industrial value of the mineral resources fields, mountainous-mining – geological and other conditions for the purpose of determination of efficient and safe methods of use thereof, ensuring complete exploration of the subsurface and complex use thereof.

Conditions for mineral – raw materials shall be prepared with consideration of use of mineral resources, as well as valuable components therein and shall constitute the basis for calculation of industrial reserves of the field.

Requirements in relation to quality of widely located mineral resources shall be established through standards and technical conditions.

Article 30. State examination of mineral resources reserves

Conditions for mineral-raw resources and discovered mineral resources reserves shall pass through the state examination for the purpose of ensuring efficient and complete application of mineral resources reserves of the subsurface, establishment of the form of compensation for the use of subsurface and determination of boundaries of the section of the subsurface allocated for the use.

State examination may be carried out at any stage of geological exploration of the field. Under such circumstances geological materials submitted for the examination shall facilitate fair appraisal of quality and volume, industrial value of mineral resources, mountainous-mining – technical, hydro-geological, ecological and other conditions for the extraction of such resources.

Geological information unrelated to extraction of mineral resources, associated with sections of the subsurface suitable for construction and operation of underground facilities shall also pass through the state examination. Use of such sections shall be permitted only upon carrying out and approval of the state examination.

State examination of geological information on sections of the subsurface allocated for the use and mineral resources reserves shall be carried out in accordance with the procedures stipulated by the relevant executive authority.

Article 31. Approval and cancellation of mineral resources reserves

Mineral resources reserves of discovered fields, as well as mineral resources reserves discovered in course of development of fields shall be approved upon completion of the state examination. Industrial value, viability, volume, quality, location conditions, extent of exploration and availability for development shall be established in course of approval of mineral resources reserves.

Decision on industrial value of discovered mineral resources reserves shall constitute grounds for state registration and recordation of such resources in the state balance.

Allocation of the subsurface for the extraction of mineral resources shall be permitted only upon approval of reserves of such mineral resources.

Extracted mineral resources, as well as mineral resources reserves which have lost industrial value in course of production, mineral resources reserves unproven in course of subsequent geological exploration operations or development of fields shall, in accordance with the prescribed procedures, be cancelled from the account of the entity engaged into operational activities, with the appropriate changes being made in the state balance of mineral resources reserves.

Article 32. Geological information on the subsurface

Information contained in reports, maps and other materials in relation to geological structure of the subsurface, mineral resources located in the subsurface, mountainous-mining conditions, as well as other features of the subsurface shall be in the ownership of the Azerbaijan Republic.

Right of ownership over geological and other categories of information related to the subsurface shall be protected in accordance with the procedures specified by the legislation of the Azerbaijan Republic.

Provided that contractual commercial interests of the client are not negatively affected, contractor shall have the right to make use of information acquired in relation to the subsurface in course of performance of operations for scientific and educational purposes.

Geological and other information acquired on the account of state funds shall, in accordance with the prescribed procedures, be transferred to the state geological information fund. Such information shall be kept and systematised within the fund.

Rules and conditions applicable to the use of geological information shall be established by the relevant executive authority in accordance with the legislation of the Azerbaijan Republic. Enterprises, organisations and individuals engaged into preparation of geological and other information on the subsurface on their personal account shall transfer such information to the state geological information fund and shall determine conditions applicable to the use of such information.

On all stages of collection, registration, storage, transfer and use officials shall ensure confidentiality of the information.

Fee shall be payable for the use of geological information on the subsurface. Procedures and amounts applicable to the fee shall be established by the relevant executive authority.

Article 33. State balance of mineral resources reserves, state kadaastre of mineral resources reserves and features and maintenance thereof

State balance of mineral resources reserves shall contain information related to volume, quality, extent of exploration, location, extent of industrial application for each category of mineral resources in field of industrial significance, extraction and loss of mineral resources and supply of the industry with discovered mineral resources and shall be maintained for the purpose of reflection of the status of the mineral-raw resources base.

State kadaastre of mineral resources fields and features shall encompass information on quality and quantity of principal and supplementary mineral resources for each field, volume of components, mountainous-mining – technical, hydro-geological, ecological conditions of development and geological-economic appraisal of the fields, as well as information on features of each category of mineral resources.

State kadaastre shall be maintained for the purpose of complex use of mineral resources reserves, efficient development and location of infrastructure for the operation thereof.

State balance of mineral resources reserves and state kadaastre of mineral resources reserves and features shall be compiled and maintained by the relevant executive authority in accordance with reports submitted to the state geological information fund by organisations and establishments engaged into geological exploration of the subsurface and production of mineral resources.

Article 34. Discoverers of mineral resources reserves

Discoverers shall mean persons discovering previously unknown mineral resources filed of industrial significance, additional mineral resources reserves significantly increasing industrial significance of a known field or scientifically explaining and discovering possibility of availability of new mineral-raw materials.

Procedures related to remuneration of discoverers shall be established by the relevant executive authority of the Azerbaijan Republic.

Chapter V. State regulation of relations associated with use of the subsurface

Article 35. Duties of state regulation of relations associated with use of the subsurface

The following shall constitute principal duties of state regulation of relations associated with use of the subsurface:

- establishment of mineral-raw resources base, efficient use thereof and protection of the subsurface;
- determination of production volume of principal types of mineral resources;
- preparation of sections of the subsurface for construction of underground facilities not related to the development of mineral-raw resources base and extraction of mineral resources;
- geological exploration of the subsurface within the territory of the Azerbaijan Republic, including the Azerbaijan section of the Caspian Sea (lake);
- Establishment of export of mineral-raw materials;
- Application of fees for use of the subsurface and regulation of pricing of principal categories of mineral-raw materials;
- Establishment of standards (norms, regulations) in the area of geological exploration, protection and safety of the subsurface, safety of works carried out in relation to the subsurface.

State regulation of relations associated with use of the subsurface shall be implemented through management, special permit, recordation and control mechanisms.

Article 36. State regulation and management of relations associated with use of the subsurface

State regulation of relations associated with use of the subsurface shall be undertaken in accordance with this Law and other normative-legal acts of the Azerbaijan Republic.

Management in relation to use of the subsurface shall be administered by the relevant executive authority. Extraction of mineral resources shall constitute the duty to be exercised by the subsurface users.

The relevant executive authority exercising duties in the area related to use of the subsurface shall not be authorised to perform duties of enterprises to be engaged into development of mineral resources fields, or installation and operation of underground facilities not related to the extraction of mineral resources.

Article 37. State control over efficient use and protection of the subsurface

State control over efficient use and protection of the subsurface shall be exercised for the purpose of verification of compliance by the users with the existing legislation, standards (norms, regulations) applicable to geological exploration, use and protection of the subsurface, state registration and reporting requirements.

State control over geological exploration, efficient use and protection of the subsurface shall be carried out by the relevant executive authority.

Article 38. State control over safety of works in relation to use of the subsurface

State control over safety of works in relation to use of the subsurface shall be exercised for the purpose of verification of compliance by the subsurface users with the existing legislation, requirements in relation to safety of works, prevention and elimination of negative effect upon public, environment, constructions and facilities.

State control over safety of works in relation to use of the subsurface shall be exercised by the relevant executive authority.

Chapter VI. Economic mechanism applicable to use of the subsurface

Article 39. Compensation system for use of the subsurface

Except for cases specified by Article 44 hereof, use of the subsurface in the Azerbaijan Republic shall be paid.

Users of the subsurface shall make the following payments for use of the subsurface:

- State duty (fee) for issue of the special permission;
- Subsurface use fee;
- royalty tax;
- allocation for reinstatement of the mineral-raw resources base;
- fee for use of seabed and marine sections.

Subsurface user shall also make other payments and pay taxes stipulated by the legislation.

Article 40. Payments for use of the subsurface

Subsurface use fee shall be paid for search and exploration of mineral resources. Amount of the fee shall be calculated as a percentage of cost of works and procedure of payment shall be specified by the legislation. No charges shall be levied from the subsurface user in relation to quality of mineral resources within the boundaries of the mountainous-mining allocation.

Payments for use of the subsurface shall be made in compliance with the tax legislation.

Payments for losses above norms in course of extraction of mineral resources shall be paid in the amount and under the procedures to be specified by the legislation.

Payments unrelated to the extraction of mineral resources, including payments for use of the subsurface for installation and operation of underground facilities shall be established by the legislation with consideration of dimensions of the allocated section of the subsurface, productivity of such section and risk of breach of ecological equilibrium in course of use of such subsurface section.

Article 41. Allocations for reinstatement of mineral-raw resources base

Allocations for reinstatement of mineral-raw resources base shall be payable by the subsurface users for extractions of all categories of mineral resources where discovery works have been carried out on the account of the state.

Subsurface users carrying out search and exploration of mineral resources field on their personal account, or reimbursing full expenses incurred by the state for the relevant mineral resources search and exploration operations shall be exempt from allocations for the reinstatement of mineral-raw resources base in course of development of such fields.

Amounts of allocations shall be determined within the extent capable of covering expenses required for the reinstatement of mineral-raw resources base and shall be identical for the subsurface users engaged into extraction of the same category of mineral-raw resources.

Amount of allocations for the restoration of mineral-raw resources base shall be determined as percentage of actually extracted mineral resources.

Such allocations shall be transferred to the state fund established for the purpose of financing of works for the reinstatement of the mineral-raw resources base and geological exploration of the subsurface.

Allocations for the reinstatement of the mineral-raw resources base may be used for the provision of incentives for preliminary opening and exploration of mineral resource fields.

Extent, payment and use of allocations for the purpose of restoration of mineral-raw resources basis shall be specified by the legislation.

Article 42. Fee for use of seabed and marine section

Fee for use of seabed and marine sections shall be paid for the search, exploration and production of mineral resources in sea conditions and other uses of the seabed. Procedure of payment and amount of the fee shall be determined by the legislation with consideration of location and configuration of the section, depth of the water layers, purposes of use of the seabed.

Article 43. Categories of compensation for use of the subsurface

Depending upon forms of use of the subsurface, compensation for use of the subsurface may be in the following categories:

- cash payments;
- part of extracted mineral resources – raw materials or other products produced by the user;
- provision of services.

Form of the compensation shall be specified by the special permission granting the right of use of the subsurface in accordance with the applicable normative-legal acts.

ARTICLE 44. EXCEPTIONS FROM PAYMENTS OF FEE FOR USE OF THE SUBSURFACE

Exceptions from payments of fees for use of the subsurface in the Azerbaijan Republic shall be paid in the following cases:

- Production of mineral resources and non-pressurised underground waters under the prescribed procedures for the purpose of satisfaction of personal need from plots of land owned by or leased to legal entities and physical persons;
- Scientific-research works for exploration of the subsurface and geological works undertaken under state programs, prediction of earthquakes, engineering-geological researches, geological investigations, control over regime and balance of underground waters, as well as other works carried out without impairing integrity of the subsurface, operations for the establishment of specially protected geological objects listed in paragraph 5 of the first section of Article 7 hereof.

For the purpose of provision of incentives for development of fields located in severe mountainous-mining – geological conditions, or field of low quality, including fields where production operations are associated with difficulties, failing to comply with conditions, or field containing resources which have initially been cancelled from the state balance, as well as for the use covering and side layers, mountainous-mining and associated production wastes, production of principal and supplementary components, application of ecologically safe technologies, users of the subsurface may receive partial exemption from making payments for the use of the subsurface.

Article 45. Privileges for operation of low quality and effectiveness mineral resources fields

Privileges for operation of low quality and effectiveness mineral resources fields shall be granted under the following circumstances:

- Where, unrelated to breach of rules of effective use of discovered resources, rare mineral resources are being extracted under the low economic effectiveness conditions;
- Except for cases of deterioration of qualities of mineral resources as a result of optional development of rich sections of the field, in the event of production of mineral resources from low quality residual reserves.

Such privileges shall be specified by the relevant executive authority issuing the special permission.

Chapter VII. Liability for breach of the Law

Article 46. Liability for breach of the Law

Physical persons and legal entities shall bear liability for the breach of this Law under the following circumstances:

- Breach of rules of use of the subsurface stipulated by the legislation;
- unauthorised use of the subsurface;

- breach of requirements imposed by standards (norms, regulations) in relation to safety of works associated with use of the subsurface, protection of the subsurface and environment;
- upon contamination of the subsurface and making mineral resources field unsuitable for operation;
- breach of right of ownership and confidentially undertakings in relation to geological and other categories of information;
- carrying out unauthorised construction works in the area of location of mineral resources;
- failure to secure integrity of constructions and facilities, as well as of specially protected territories and environmental objects in course of works associated with use of the subsurface;
- destruction and damaging underground waters control wells, marks and geodesic signs;
- repeated breach of payment rules applicable to use of the subsurface;
- failure to comply with requirements in relation to reinstating mountainous excavations and drilling wells to the level ensuring safety of public and environment, as well as failure to comply with requirements in relation to protection of mineral resources fields, mountainous excavations and drilling wells;
- failure to reinstate lands and other natural objects negatively affected by use of the subsurface;
- failure to suspend subsurface use related works and to submit notification to the authority issuing the special permission upon discovery of objects with scientific and cultural value.

Any activities related to use of the subsurface being in breach of this Law shall be prohibited.

Article 47. Resolution of disputes

Disputes related to use of the subsurface shall be settled by the relevant executive authorities and courts in accordance with the procedures prescribed by the legislation.

Article 48. Compensation of damages

Damages caused to the subsurface through actions of enterprises, organisations, officials and individuals being in breach of natural characteristics of the subsurface, or creating conditions for partial or full exception of opportunities for use of the subsurface shall be compensated on the account of such enterprises, organisations, officials and individuals.

Damages caused to the state through the actions of the subsurface user associated with selected production from rich sections of the mineral resources fields, as well as creating conditions for partial or full exception of opportunities for use of the subsurface, or the actions of the subsurface user found liable for actions deteriorating the field shall be compensated on the account of the user.

Amount and procedure of compensation of damages shall be determined by the court.

Upon agreement of the parties, compensation of damages may be substituted with works designed to restore impaired natural characteristics of the subsurface.

Unauthorised use of the subsurface and unauthorised construction works carried out in the area of development of mineral resources shall be suspended without reimbursement of expenses.

President of the Azerbaijan Republic

Heydar ALIYEV

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