

LAW OF THE KYRGYZ REPUBLIC

On Subsoil

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Section I General Provisions

Article 1. Scope of Application of This Law

Law of the Kyrgyz Republic "On Subsoil" (hereinafter referred to as Law) is effective on the entire territory of the Kyrgyz Republic and governs relationships arising between the government and individuals and legal entities, and other states while using subsoil.

Legislation of the Kyrgyz Republic on subsoil use is based on provisions of the Constitution of the Kyrgyz Republic, and consists of this Law and other normative legal acts of the Kyrgyz Republic adopted in accordance with it.

Article 2. Application of Other Laws and Normative Legal Acts while Subsoil Use

Land, water, forest relationships and relationships pertaining to use and protection of flora, fauna, and atmospheric air, and other relationships arising in subsoil use, are governed by the appropriate legislation of the Kyrgyz Republic.

Article 3. Concepts Used in This Law

Subsoil - a part of the surface of the Earth, including mineral resources which extends from the surface or lower border of the soil, the bottom of water reservoirs and channels to depths which are accessible for geological surveying and industrial development.

Mineral resources (minerals) - natural mineral formations of the surface of the Earth used in the area of goods production.

Common mineral resources - widely spread minerals and rock in destroyed and natural state, used in construction and production of construction materials.

Mineral deposits - natural accumulations of mineral formations in the subsoil, which have economic significance, taking into consideration the given level of prices and industrial technologies.

Technogenic formations of minerals - formations of mineral substances on the surface or in the subsoil which are waisted of mining or processing of natural mineral resources, suitable for industrial use.

Subsoil use - actions pertaining to subsoil study, minerals recovery, and the use of subsoil for construction and operation of structures not related to recovery.

Subsoil user (user of subsoil) - a legal entity or an individual who directly conducts a geological study and (or) industrial subsoil development.

Geological allotment - a portion of subsoil allocated for industrial development of useful mineral resources, which is depicted in graphic documentation in geographic or rectangular coordinates of its angular points.

Land allotment - a portion of topsoil provided to a subsoil user for geological study and industrial development of the subsoil, which is depicted in graphic documentation in rectangular coordinates of its angular points.

Mining allotment - a portion of subsoil allocated for industrial mineral development which is depicted in graphic documentation in rectangular three-dimensional coordinates of its angular points.

Geological subsoil study - a set of special research activities pertaining to search and exploration of deposits, determining the amount and quality of a stock of raw minerals contained in the subsoil, and assessment of their economic value, and study of other geological objects which were not related to mineral recovery.

Feasibility study - technical calculations for determining economic expediency of development of the mineral deposit.

Technical project - technical documents containing feasibility study, calculations, drawings, budgets, explanatory notes, and other materials necessary for geological study and industrial development of the subsoil.

Balance stocks - mineral stocks which usage is economically viable under the existing technical level.

Off-balance stocks - mineral stocks which usage is economically non-viable under the existing technical level, and which subsequently may be the object of industrial development.

Mineral recovery - a complex of processes aimed at extraction of minerals from the subsoil.

Impoverishment - decrease of quality of mineral resources in the course of recovery.

Payment for subsoil use right - a single time payment to the owner of subsoil resources (the government) for obtaining the right to explore the subsoil.

Payment for subsoil use - current payments to the owner of resources (the government) for used mineral stores.

Annuity profit - a part of total profit of industrial development of the deposit conditioned by beneficial natural characteristics of mineral reserves, and development of the infrastructure of the area where this deposit is located.

Irrational selective working - forestalling or selective recovery of the most rich stocks, or stocks which are most suitable for extraction, which leads to loss and devaluation of a portion of balance reserves.

Excessive losses - additional losses of mineral resources while mining or processing caused by violation of rules and technologies provided by feasibility studies or projects.

Subsoil protection - ensuring rational use of subsoil and mineral resources contained therein, extraction of these mineral resources to the maximum possible extent and in the volume which is economically viable, the complex use of deposits and extracted raw minerals at all stages of processing.

License - a document which provides the subsoil use right issued by a government agency for subsoil use.

License agreement - an agreement between the owner of subsoil and a licensee which stipulates the conditions of subsoil use, including issues of division of production, payments, measures to ensure safety and environment protection, etc. A license agreement is an integral part of the license.

Licensed area - a territory designated in rectangular or geographical coordinates which is subject to the licensee's subsoil use right.

Licensee (license holder) - holder of the license to conduct geological subsoil study, development of mineral deposits, and to other types of subsoil use.

Licensor (license agency) - a government agency for subsoil use with the powers to issue licenses delegated by the Government of the Kyrgyz Republic.

Holders of land rights - agencies of local state administration with the delegated right to allocate land allotments (allotments).

Third parties - any persons being business entities, as opposed to subsoil users and license agencies.

Servitude (easement) - right of access to adjacent and remote land, mining, and (or) geological allotments and restrictions of the right to their use provided by the subsoil user, in accordance with the procedure established by Articles 22-25 of this Law. The servitude may be "conciliatory" (free) which is established by the agreement between the parties, or "coercive" (administrative) which is established with the participation of a state agency for subsoil use, or by court.

Force-majeure - circumstances of insuperable force which complicate the performance of a license agreement. Such circumstances are: military conflicts, natural calamities, disasters, etc.

Section II Ownership and Powers to Use Subsoil

Article 4. Right of Ownership to Subsoil

The subsoil of the Kyrgyz Republic is owned exclusively by the government, and constitutes its government fund.

The government subsoil fund includes utilized and nonutilized portions of subsoil within the boundaries of the Kyrgyz Republic.

The Jogorku Kenesh of the Kyrgyz Republic shall exercise the control over implementation of this Law, hear reports and provide assessment to the activity of the Government of the Kyrgyz Republic related to subsoil use and protection.

Article 5. Powers of the Government of the Kyrgyz Republic

The Government of the Kyrgyz Republic shall dispose of the state fund of subsoil directly through state agencies for subsoil use by means of:

- 1) development and implementation of state policy in research of subsoil;
- 2) development of mining business and implementation of anti-monopoly policy;
- 3) fostering the functioning of state system of licensing, control over compliance with the conditions of licensing and requirements of the subsoil legislation;
- 4) development and improvement of system of for-fee subsoil use, studying market trends for mineral resources and production of goods;
- 5) development and implementation of investment policy in subsoil use, solicitation of investments for geological subsoil study, and mineral recovery;
- 6) monitoring the status of subsoil study, expertise, movement and depletion of explored reserves of mineral resources;
- 7) formation, development and management of the government subsoil fund;
- 8) justification of government order to geological subsoil study funded from budget funds;
- 9) development of normative and methodological provisions, rules, regulations, technological standards of subsoil use;
- 10) control over subsoil use and protection while geological study and industrial development of the subsoil;
- 11) expertise of projects of geological exploration and mining projects in the part of subsoil use and protection, ecological and technical safety by involving experts of specialized institutions of the republic and, if necessary, independent experts from international organizations;
- 12) oversight of technical safety while conducting geological exploration and mining activities related to subsoil use;
- 13) attestation of subsoil users to confirm their eligibility to conduct geological exploration and mining, and their compliance with safety regulations;
- 14) introduction of restrictions to use of subsoil at certain sites, to ensure national security and environment protection;
- 15) resolution of disputes arising while subsoil use.

Article 6. Powers of Bodies of Local State Administration in Subsoil Use

Bodies of Local State Administration have the following powers pertaining to regulation of subsoil relationships:

- 1) assignment of land allotments for subsoil portions to be used geological and industrial development;
- 2) development and implementation of territorial programs of reproduction, development and use of raw minerals base, in cooperation with local keneshes;
- 3) ecological expertise of geological exploration and mining projects for local deposits;
- 4) control of subsoil use and protection while geological study and industrial development of subsoil;
- 5) introduction of restrictions to use subsoil sectors in instances where this use creates a threat to lives and health of people, or which may cause damage to economic objects and the environment.

Section III Grounds for and Procedure of Subsoil Use

Article 7. Types of Subsoil Use

Subsoil shall be allocated for use for the following purposes:

- 1) geological study;
- 2) development of mineral deposits, including technogenic ones;
- 3) building and operation of underground constructions which are not associated with mineral recovery (storage of oil, gas, other substances and materials, burials of dangerous substances, use of heat of the earth, and for other needs);
- 4) formation of especially protected objects of scientific, cultural, aesthetical, sanitation, or other significance (scientific and training polygons, geological sanctuaries, caves, and other subsoil hollows).

Article 8. Subsoil Users

Subsoil users may be legal entities and individuals of the Kyrgyz Republic and of foreign states.

Article 9. Right and Period of Subsoil Use

The subsoil use right shall be granted on the basis of licenses issued in accordance with requirements of Articles 10-12 of this Law.

Period of subsoil use is determined by feasibility studies and technical projects, and established while licensing objects of subsoil use.

Article 10. License to Conduct Geological Subsoil Study

License to geological subsoil study shall be issued in compliance with provisions of Articles 9, 16, and 17 of this Law.

The Government of the Kyrgyz Republic shall establish the maximum size of the licensed area and the minimum amount of annual investments for geological study per unit of licensed area.

The license to geological subsoil study gives its holder the exclusive right to conduct research within the boundaries of the licensed area for a period of two years, with the following prolongation for up to 10 years, provided that the conditions of license agreement are observed. The licensee shall relinquish the prospected part of the licensed area within the period established in the license agreement.

The licensed area for prospecting certain types of minerals may be also subject to licenses issued to other licensees to prospect other types of minerals.

The licensee may conduct works at the licensed area, which works are related to preparation of geological research, such as allotment of channels, construction of buildings and structures, recovery of common minerals, and to intake surface and underground waters for his/her needs, and to facilitate geological exploration works in accordance with the license agreement.

Should a deposit be discovered, the licensee shall have an exclusive right to obtain a license without holding a tender.

Article 11. License to Develop Mineral Deposits

License to develop mineral deposits shall be issued in accordance with provisions of Articles 9, 16, and 17 hereof.

License to develop mineral deposits grants the licensee the exclusive right, within the boundaries of the mining allotment, to conduct geological study, stripping, deposit preparation, raw minerals recovery and processing, use of mining and processing waste, refining (affinage), to sell and export all recovered minerals and raw minerals processing for a period established by a technical project but no longer than 20 years with the subsequent extension pending the depletion of mineral stocks.

Article 12. License to Build and Operate Underground Structures Not Related to Mineral Recovery

The license to build and operate underground structures not related to mineral recovery shall be issued in accordance with requirements of Articles 9, 16, and 17 hereof, and shall grant the licensee the right, within the boundaries of the mining allotment, to build and operate underground structures in accordance with established rules and norms, within a period established by the project, which shall not exceed 20 years, with the subsequent extensions, if necessary, for periods justified by adjusted technical projects.

Article 13. Pledge of Right to License to Third Parties

The licensee may, with the authority of the government agency for subsoil use, pledge the right to license to third parties which are legal entities or individuals, banks, and other financial structures, for additional funding of the project at the licensed area.

Should the licensee fail to perform his obligations to the banks and other financial structures, the aforementioned funding institutions shall deprive the licensee of the right to buy out the pledge, and within 60 days shall engage technical personnel to perform license obligations of the licensee, and shall submit the respective information to the government agency for subsoil use.

By coordination with the government agency for subsoil use, banks and/or other financial institutions have the right to assign the license obtained as a result of deprivation of the licensee of his/her right to buy out to a third party which possesses technical and financial capacities.

A third party, as a subsequent holder of the license, must within 30 days submit to the government agency for subsoil use an information necessary for re-registration of the license to its name.

A third party, to whose name the license is re-registered, must assume obligations of the former licensee established in the license agreement.

Article 14. License and Content of License Agreement

The license shall contain a brief information on the following:

- type of subsoil use;
- to whom the license was issued and the licensee's particulars;
- name of licensing object;
- issuance date and effective period of the license.

The license agreement shall contain the information on the following sections:

- specified program of activities coordinated with the licensee and indication of force-majeure circumstances beyond control;
- necessary data on the license holder;
- target of works related to subsoil use;
- all types of payments and license fees charged for subsoil use;
- space coordinates of angular points of a land, mining and/or geological allotment for subsoil use;
- conditions for applying technologies of recovery and processing of mineral products and recreation of the environment disturbed by subsoil use.

Article 15. Concession of Subsoil Use

Concession for subsoil use shall be granted on the tender basis, in compliance with the Law "On Concessions and Foreign Concession Enterprises in the Kyrgyz Republic".

Payment for concession shall be established in accordance with the natural value of the deposit, and may not be lower than the annuity profit from the development thereof at the moment of signing of the concession agreement.

Article 16. Procedure of Allocation of Subsoil for Use

The subsoil use right shall be granted by holding tenders and auctions. The government agency for subsoil use shall announce and hold tenders on the regular basis, at the extent the geological information on subsoil use objects is prepared. Applicants shall submit applications to the government agency for subsoil use, to participate in the tender.

The application shall contain:

- information on the applicant, including the location and type of his activity, his economic relationship with financial and production partners;
- certificates that funding of subsoil use objects offered for tender is possible, and that labor and material and technical resources are available.

The application to participate in the tender to obtain the subsoil use right may be denied in the instances where:

- the applicant submitted inaccurate information on himself;
- the applicant does not have necessary financial, labor and material and labor resources to implement effective, and technical and environmentally safe development of subsoil.

Bidders who do not have experience in mineral deposit prospecting, exploration, and development of mineral deposits, or who do not have license to this type of activity, necessary labor, material and technical resources, may be allowed to participate in the tender only as investors, who act together with the enterprises that comply with the aforementioned requirements, after making an agreement with such enterprises on joint activity, with or without formation of a legal entity.

Within 3 days after announcement of the tender, a package with geological and other information on the subsoil use objects sufficient for developing a program, or information on enlarged feasibility calculations to determine profitability of development of objects offered for tender, shall be served to the participants for fee.

On receiving a package of geological and other information, participants of the tender shall submit programs or feasibility studies of development of subsoil use objects within one month - for objects of geological study and objects which are not related to mineral recovery, and within two months - for objects of mineral deposits development.

The tender shall be deemed as not taken place if none of the bidders meets the announced conditions of the tender.

Should bidders present equivalent projects of development of the licensed object, the tender system shall be substituted by auction, where a participant who offers the maximum price for the subsoil use right shall be deemed as the winner.

Where only one application was submitted for objects offered for a tender, the license to the subsoil use right shall be issued to the participant in compliance with the conditions of the announced tender, or the object shall be licensed by means of direct negotiations.

Article 17. Organization of State Licensing System

The government agency for subsoil use determined by the Government of the Kyrgyz Republic shall carry out preparatory licensing activities and issue licenses.

The Government of the Kyrgyz Republic shall approve the regulation on the procedure of subsoil use licensing.

Article 18. Suspension and Termination of Subsoil Use Right

The subsoil use right may be suspended in the instances where:

- 1) subsoil is used for a purpose other than that for which it had been allocated;
- 2) terms of license agreement were breached;
- 3) force-majeure circumstances arise.

The subsoil use right shall be terminated by withdrawal (annulment) of license in the following instances:

- 1) where the mineral stock is depleted, or the enterprise is liquidated;
- 2) where technologies are used for subsoil development, which create a threat to health and safety of employees and the population, and a threat of irreparable damage to environment and the loss of mineral stocks;
- 3) where within one year the user fail to start development of subsoil in the volumes provided by the terms of licensing;
- 4) where the user voluntarily refuses to use the subsoil.

Article 19. Rights and Duties of Subsoil Users

Subsoil users have the right to:

- 1) use subsoil allotments to exercise entrepreneurial or other activity which complies with the requirements specified in the license;
- 2) foreign investors are guaranteed the right to repatriation of the capital, and to export the profit, or a part thereof in the form of foreign currency, product received by recovery or processing of any raw minerals including gold;
- 3) recover common minerals for their own needs within the boundaries of the licensed area allocated after established payments were made;
- 4) with the consent of the government agency for subsoil use, assign the rights provided by licenses to geological and industrial development of the subsoil to other persons, provided that the terms of the license agreement will be observed.

Subsoil users must:

- 1) comply with requirements of the legislation and standards (rules, normatives) pertaining to the subsoil use, established in compliance with the established procedure;
- 2) monitor the status and movement of stocks, losses and impoverishment, and storage of temporarily non-used accompanying minerals;
- 3) submit to the government agency for subsoil use of information pertaining to geological research, explored, recovered and left mineral stocks and components contained therein, and the use of subsoil for the purposes not related to mineral recovery;
- 4) provide safety of works related to subsoil use;
- 5) protect subsoil, and comply with permissible norms of impact on physical and biological state of the environment while implementation of works related to subsoil use;
- 6) bring land plots and other natural objects disturbed while the subsoil use into the state which is suitable for further use thereof in compliance with the normative requirements;
- 7) preserve explored mining workings and boreholes which may be used in development of deposits and for other economic purposes, and liquidation mining workings and boreholes which may not be used, in compliance with the established procedure;
- 8) ensure safety of geological and other documentation obtained while geological study and industrial exploration of the subsoil;
- 9) make timely and accurate payments for the use of subsoil.

Article 20. Protection of Rights of Subsoil Users

The subsoil user shall be the owner of structures and buildings erected by the subsoil users at the land plots allocated for subsoil development, with all acquired equipment related thereto, and may assign them into ownership of the state and other subsoil users only in compliance with the procedure provided by the license agreement, or by the decision of the court.

Where the subsoil use right was unjustifiedly terminated, the government control agencies that suspended the production activities shall indemnify the damage inflicted by such suspension through court.

Article 21. Priority Right of the Kyrgyz Republic to Acquire
Precious Metals and Other Raw minerals

Where precious metals and other raw minerals are sold or exported, the licensee must submit an advanced notice on that to the National Bank of the Kyrgyz Republic, or other agency authorized by the Government of the Kyrgyz Republic, and grant the aforementioned agencies the priority right to buy the entire stock or a part thereof of the produced precious metal, and other types of raw minerals regardless of whether they had been refined in or beyond the territory of the Kyrgyz Republic.

Section IV
Relationships between Subsoil Users and Holders
of Land Use Rights

Article 22. Servitude at Adjacent Mining Allotments

The right to free or coercive access to an adjacent mining allotment shall arise in the following instances:

- 1) where there is evidence that the work at this mining allotment may cause a damage to the adjacent mining allotment;
- 2) where liquidation works in cases of accidents at mining workings will be sooner carried out if implemented at the adjacent mining allotment.

In all instances losses pertaining to implementation of works stipulated in points 1) and 2) of this Article shall be indemnified at the cost of a party which gains profit.

Article 23. Servitude at Land Allotments while Subsoil Use

The right to free and prescriptive access to an adjacent or non-adjacent land plot shall arise in the following instances:

- 1) servicing and repairs of auto- and railway roads, water, oil, and gas pipelines, electric power lines, and other constructions of regional and state significance laid within the land allotment area;
- 2) where in case of an accident in the mining allotment, an adjacent and/or non-adjacent land allotment provides a faster access to that allotment;
- 3) where geophysical, topographic, mine-surveying, archaeological, and other research works of the state significance are implemented.

Article 24. Relationships between Subsoil Users and Holders
of Land Rights

Subsoil users must make agreements with holders of land rights to use the land plots. Also, agreements may be made to use common minerals, surface waters, forest, and other economic resources necessary for subsoil use.

If a holder of land rights has an intention to change his/her irrigation or other systems for agricultural purposes, and such measurements may affect geological surveying and/or mining works, he/she must obtain a permission to do that from the government agency for subsoil use.

Article 25. Resolution of Disputes between Subsoil Users and
Holders of Land Rights

Where subsoil users and holders of land rights fail to achieve an agreement regarding the terms of land use and/or access to mining and/or land allotments, the court shall make the final decision on such dispute.

Section V
Government Regulation of Subsoil Use

Article 26. Requirements to Subsoil Use

Following shall be the main requirements to subsoil use:

- 1) compliance with the established procedure of providing subsoil into use, and prevention of unauthorized subsoil use;
- 2) compliance with requirements of the legislation and standards (rules and norms) of subsoil study, use and protection, approved in compliance with the established procedure;
- 3) conduct of advanced geological studying of subsoil and providing accurate assessment of mineral stock, conditions of subsoil use for the purposes not associated with recovery of minerals;
- 4) government expertise and state registration of mineral stock, and subsoil portions used for the purposes not related to mineral recovery;
- 5) ensuring the maximum possible recovery of principal and jointly deposited mineral stock and accompanying components in compliance with regulations provided by the feasibility study and technical project;
- 6) registration of recovered, processed mineral stock and accompanying components, and those left in the subsoil while development of the deposit;
- 7) protection of mineral deposits from floods, augmentation of water supply, fires and other factors which worsen the quality of minerals and the industrial value of deposits, or complicate the development thereof;
- 8) prevention of subsoil pollution caused by works related to subsoil use, or by underground storage of oil, gas and other substances and materials, burials of dangerous substances, production waste and sewage release;
- 9) compliance with the established procedure of conservation and liquidation of mineral recovery enterprises and underground structures not related to mineral recovery;
- 10) prevention of unauthorized construction at areas of mineral deposits, and compliance with the established procedure of use of these areas for other purposes;
- 11) prevention of accumulation of industrial and household waste at areas where drainage systems are located, or in the places of underground waters deposits which are used for drinking or industrial water supply;
- 12) prohibition of excessive mineral losses, selective developments, and damage of deposit stocks.

Article 27. Anti-Monopoly Requirements

Any acts shall be prohibited or invalidated in compliance with the established procedure, if such acts are aimed at the following:

- restriction of participation in tenders (auctions), or negotiations between legal entities and individuals;
- evasion of issuance of licenses to winners of tenders (auctions);
- substitution of competition while granting subsoil use rights by direct negotiations, except in instances provided by this Law;
- discrimination of legal entities and individuals who compete with the business entities which prevail in subsoil use;
- discrimination while granting the right of access to adjacent and non-adjacent land and mining allotments.

The government agency for subsoil use may establish the size of subsoil portions (mining allotments) assigned in use.

Article 28. Safe Works while Subsoil Use

Construction and operation of enterprises involved in mineral recovery, or underground structures used for various purposes, or geological subsoil study shall be allowed only if measures were taken to ensure the life and health of the employees of such enterprises, and of the population in the influence area of subsoil use works.

The appropriate government agencies and subsoil users, within the scope of their competence, must ensure compliance with the requirements of the legislation and safety standards (norms, rules) of subsoil use works approved in accordance with the established procedure.

Article 29. Terms for Construction at Areas where Minerals Are Bedded

Designing and building settlements, industrial complexes, and other economic objects shall be prohibited, until information on absence or presence of mineral deposits in the subsoil under that area of planned construction become available. The government agency for subsoil use shall be obligated to provide such information.

In exceptional cases, the government agency for subsoil use may allow construction at the mineral deposit areas, and placement of underground structures not related to mineral recovery at such areas.

Article 30. Liquidation and Conservation of Mineral Recovery Enterprises and Objects not Related to Mineral Recovery

Upon completion of mineral stocks working, or if there is no further need in objects and structures for subsoil use, and where further development or operation of the deposit is impossible due to economic or other reasons, mineral recovery enterprises and objects and constructions which are not designed for mineral recovery shall be liquidated or conserved at the cost of subsoil user, by coordination with the government agency for subsoil use.

In case of complete or partial liquidation or conservation of mineral recovery enterprises or facilities which are not designed for recovery, the mining workings and subsoil use facilities must be brought, at the expense of subsoil user, in a state which ensures safety to the population, environment protection, safety of constructions and structures, and in case of conservation -- ensure preservation of deposits, mining workings and facilities pending the period of conservation. In liquidation of mineral recovery enterprises, the issue of further use of mining workings for other purposes should be resolved.

After liquidation and conservation of mineral recovery enterprises, subsoil facilities and constructions, all mine-surveying, geological and technical documentation shall be handed over to the government agency for subsoil use for storage.

Article 31. Use of Information on Subsoil

Information on subsoil obtained in the event of budget funding shall be the property of the Kyrgyz Republic.

Information on subsoil obtained in the event of funding by entrepreneurs, enterprises and organizations, including joint ventures and foreign entities, shall be the property thereof pending the period determined by the license agreement, and on expiration of that term this information shall become the property of the government, without compensation.

Information on subsoil obtained regardless of the sources of funding shall be handed over to the government agency for subsoil use, and shall be subsequently included into the government subsoil information fund. Officials who have the right of access to information on subsoil must keep this information confidential.

The government agency for subsoil use shall determine the procedure and terms of use of the government subsoil information, and the procedure and terms of use of subsoil information being a corporate and/or private property shall be determined by coordination with the owner of such information while issuance of the license to use subsoil, and in the license agreement.

Article 32. State Record and Registration while Subsoil Use

The state record and registration of subsoil use shall be conducted in accordance with the single system developed in the Kyrgyz Republic, in compliance with the procedure established by the government agency for subsoil use.

The state record and registration shall be mandatory for the following: geological subsoil study, subsoil portions allocated for mineral recovery, including technogenic formations, and also for the purposes not related to the recovery.

Article 33. State Expertise of Mineral Stocks and Information on Subsoil Portions not Related to Recovery

The state expertise shall be obligatory for mineral stocks at explored deposits and information on subsoil portions allocated for construction and operation of subsoil facilities not related to mineral deposits development.

The state expertise may be held at any stage of deposit study. To hold state expertise, the government agency for subsoil use shall engage independent experts.

The opinion of the state expertise shall be the ground for recording explored mineral stocks into the state balance.

Allocation of subsoil for use and for mineral recovery prior to the state expertise of the mineral stock shall be prohibited.

The state expertise shall be conducted at the expense of the customer.

Article 34. State Cadastres while Subsoil Use

State cadastres shall be composed on deposits, mineral shows and technogenic formations of minerals, and on subsoil facilities used for the purposes not designated for mineral recovery.

State cadastres of mineral deposits, shows and technogenic formations of minerals shall contain information on their location, amount, and quality of the principal and jointly deposited minerals, and components contained therein, mining and technical, hydrogeological and other conditions of deposit development and the economic assessment thereof.

State cadastres of subsoil facilities not designated for mineral recovery shall contain information on the location, size, designation, term of service, mining and geological and other natural conditions of the object.

The government agency for subsoil use shall be responsible for maintaining state cadastres.

Article 35. State Balances of Mineral Stock

State balances of mineral stock shall contain information on the amount, quality, and the level of study of minerals at the deposits of industrial significance, their economic assessment, placement and the level of industrial development, recovery, losses, and supply of operating enterprises by explored mineral resources.

State balances of mineral stock shall be based on the opinion of the state expertise and accountability of subsoil users which study and develop mineral deposits and process raw minerals.

The government agency for subsoil use shall be responsible for composing the State Balances of Mineral Stock.

Article 36. Writing Off

The government agency for subsoil use shall write off from the record of subsoil users the mineral stock depleted by recovery, or which was not proven while subsequent geological study or development of the deposit, and shall make appropriate changes in the State Balance of Mineral Stock.

Article 37. Protection of Subsoil Portions of Special Scientific or Cultural Value

Subject to the opinion of the government agency for subsoil use, geological outcrops, mineralogical formations, paleontologic objects and other subsoil portions of special scientific or cultural value may be declared geological sanctuaries or reserves, or natural or cultural monuments. Any activity which might affect the safety of these sanctuaries, reserves, and natural monuments shall be prohibited.

Should any rare geological and mineralogical formations, meteorites, paleontological, archaeological and other objects of scientific or cultural value be discovered while subsoil use, the subsoil users must discontinue works at such plot, and inform the government agency for subsoil use on that.

Article 38. Government Control over Subsoil Use and Protection, Environment Protection, and Safe Conduct of Works while Subsoil Use

Government control over subsoil use and protection, environment protection, and safe conduct of works shall be targeted at ensuring the compliance by all subsoil users while subsoil use and study with norms of the legislation, standards (norms and rules), rules of state record of mineral stock, environment protection, safe mining works, prevention and elimination of dangerous impact of such works on population, environment, buildings and construction.

The competence of government agency for control over subsoil use and protection, environment protection and safety of works while subsoil use, rights, duties, and the procedure of their work shall be determined by the regulation approved by the Government of the Kyrgyz Republic.

Section VI Taxes and Payments for Subsoil Use

Article 39. Taxation System

Mineral deposit exploration and development enterprises shall be subject to the effective tax legislation of the Kyrgyz Republic.

Article 40. System of Payments

Subsoil shall be used for fee, except the instances provided by Article 41 of this Law.

The system of payments for subsoil use shall include the following:

- payment for subsoil use right (bonus);
- payment for subsoil use (royalty).

Moreover, subsoil users shall make other payments provided by the legislation of the Kyrgyz Republic.

Article 41. Exemption from Payments

The following shall be exempted for subsoil use:

1) manufacturers of agricultural production who recover common minerals at a land plot which they possess or lease for the purposes of their holding, in compliance with the established procedure;

2) subsoil users who carry out geological, geophysical, and other activities aimed at subsoil study, as well as forecasting earthquakes, engineering and geological research, geo-ecological study, control over the underground waters regime, and other works conducted without affecting the integrity of the subsoil;

3) subsoil users who obtained subsoil portions to establish a specially protected objects with scientific, cultural, aesthetical and other significance (geological sanctuaries, natural monuments, etc.).

Section VII Resolution of Disputes on Issues Pertaining to Subsoil Use and Liability for Violation of Subsoil Legislation

Article 42. Procedure of Dispute Resolution

Disputes arising on issues of subsoil use shall be resolved in compliance with the procedure established by the legislation of the Kyrgyz Republic.

Article 43. Liability for Breach of Subsoil Legislation

Any transactions which infringe the right to possess, use and dispose of the subsoil provided by this Law shall be invalidated.

Individuals who are guilty of concluding such transactions, and of:

- implementing works related to subsoil use by methods and ways which create the threat to the safety of the workers and the population, and pollution of the subsoil and the environment;
- implementing unauthorized construction at the areas of mineral deposits;
- using the subsoil without authorization;
- irrational selective working of deposits, formation of excessive losses of minerals while recovery and processing of raw minerals;
- infringing the ownership rights to information on subsoil;
- destroying or damaging observation regime holes for underground waters, mine-surveying and geodesic signs;
- failure to comply with requirements to bring the liquidated or conservated mining workings, and boreholes in the state which would ensure the safety of the population, and the requirements to preserve mining workings and boreholes pending the conservation of the enterprise, -

shall bear liability established by the legislation of the Kyrgyz Republic.

The government agency for subsoil use shall rule to terminate unauthorized use of the subsoil, and unauthorized construction at the areas with mineral deposits without indemnification.

Article 44. Indemnification to Subsoil User

Losses inflicted to the subsoil user shall be indemnified at the cost of individuals and legal entities, if their activity caused worsening natural qualities of subsoil and led to the situation where subsoil use is completely or partially impossible. In the instances where the land plot in question was not assigned for use, the indemnification shall be paid to the budget of the Kyrgyz Republic.

Article 45. Indemnification to the State by Subsoil User

The indemnification of losses inflicted to the state shall be determined based on the amount and the value of the stocks which lost their economic significance by the subsoil user's fault. Cases in dispute shall be resolved in compliance with the legislation of the Kyrgyz Republic.

Section VIII Final Provisions

Article 46. International Agreements

Where an international agreement establishes rules other than those contained herein, rules of the international agreement shall apply.

Article 47. Effectuation

This Law shall become effective as of the moment of its publication;

The following shall be invalidated:

- The Law of the Republic of Kyrgyzstan "On Subsoil" (Vedomosti Verhovnogo Soveta Respubliki Kyrgyzstan, 1992, No.2, page 49);
- The Resolution of the Supreme Soviet of the Republic of Kyrgyzstan "On Procedure of Effectuation of Law of the Republic of Kyrgyzstan "On Subsoil" (Vedomosti Verhovnogo Soveta Respubliki Kyrgyzstan, No. 2, page 50).

President of the Kyrgyz Republic A.Akaev

Adopted by Legislative Assembly of Jogorku
Kenesh of the Kyrgyz Republic June 24, 1997