

**Selected Provisions of RA 7160
(Local Government Code of 1991)
Affecting the Environment and Natural Resources Sector**

Book I - General Provisions

Title One - Basic Principles

**Chapter 2 - General Powers and Attributes
of Local Government Units**

Section 17. Basic Services and Facilities. -

Local government units shall endeavor to be self-reliant and shall continue exercising the powers and discharging the duties and responsibilities currently vested upon them. They shall also discharge the functions and responsibilities of national agencies and offices devolved to them pursuant to this Code. Local government units shall likewise exercise such other powers and discharge such other functions and responsibilities as are necessary, appropriate, or incidental to efficient and effective provision of the basic services and facilities enumerated herein.

Such basic services and facilities, include, but are not limited to, the following:

- (1) For a Barangay:
 - iii. Service and facilities related to general hygiene and sanitation, beautification, and solid waste collection.
- (2) For a Municipality:
 - i. Extension and on-site research services and facilities related to agriculture and fisheries activities which include ... enforcement of fisheries laws in municipal waters including the conservation of mangroves.
 - ii. Pursuant to the policies and subject to supervision, control and review of the DENR, implementation of community-based forestry projects which include integrated social forestry programs and similar projects; management and control of communal forests with an area not exceeding fifty (50) square

kilometers; establishment of tree parks, greenbelts, and similar forest development projects.

- vi. Solid waste disposal system or environmental management system or services or facilities related to general hygiene and sanitation.

(3) For a Province:

- iii. Pursuant to national policies and subject to supervision, control and review of the DENR, enforcement of forestry laws, limited to community-based forestry projects, pollution control law, small-scale mining law and other laws on the protection of the environment; and mini-hydroelectric projects for local purposes.

(4) For a City:

All services and facilities of the municipality and province.

- (e) National agencies or offices concerned shall devolve to local government units the responsibility for the provision of basic services and facilities enumerated in this Section within six (6) months after the effectivity of this Code.
- (h) Regional offices of national agencies or offices whose functions are devolved to local government units as provided herein shall be phased out within one (1) year from the approval of this Code. Said national agencies and offices may establish such field units as may be necessary for monitoring purposes and providing technical assistance to local government units. The properties, equipment, and other assets of these regional offices shall be distributed to the local government units in the region in accordance with the rules and regulations issued by the oversight committee created under the Code.
- (i) The devolution contemplated in this Code shall include the transfer to local government units of the records, equipment, and other assets and personnel of national agencies and offices corresponding to the devolved powers, functions, and responsibilities.

Chapter 3. - Intergovernmental Relations

Article One. - National Government and Local Government Units

Section 5. National Supervision over Local Government Units. -

- (b) National agencies and offices with project implementation functions shall coordinate with one another and with local government units concerned in the discharge of these functions. They shall ensure participation of local government units both in the planning and implementation of said national projects.
- (c) The President may, upon request of the local government unit concerned, direct the appropriate national agency to provide financial, technical, or other forms of assistance to the local government unit. Such assistance shall be extended at no extra cost to the local government unit concerned.
- (d) National agencies and offices including government-owned or controlled corporations with field units or branches in a province, city or municipality shall furnish the local chief executive concerned, for his information and guidance, monthly reports including duly certified budgetary allocations and expenditures.

Section 26. Duty of National Government Agencies in the Maintenance of Ecological Balance. - It shall be the duty of every national agency or government-owned or -controlled corporation authorizing or involved in the planning and implementation of any project or program that may cause pollution, climatic change, depletion of non-renewable resources, loss of crop land, rangeland, or forest cover, the extinction of animal and plant species, to consult with the local government units, nongovernmental organization, and other sectors concerned and explain the goals and objectives of the project or program, its impact upon the people and the community in terms of environmental or ecological balance, and the measures that will be undertaken to prevent or minimize the adverse effects thereof.

Section 27. Prior Consultations Required. - No project or program shall be implemented by government authorities unless the consultations mentioned in Section 2 (c) and 26 hereof are complied with, and prior approval of the sanggunian concerned is obtained; Provided, that occupants in areas where such projects are to be implemented shall not be evicted unless appropriate relocation sites have been provided, in accordance with the provisions of the Constitution.

Book II - Local Taxation and Fiscal Matters

Title One. - Local Government Taxation

Chapter 2 - Specific Provisions on the Taxing and other Revenue-Raising Powers of Local Government Units

Article One - Province

Section 138. Tax on Sand, Gravel and Other Quarry Resources. -

The province may levy and collect not more than ten percent (10%) of fair market value in the locality per cubic meter of ordinary stones, sand, gravel, earth, and other quarry resources, as defined under the National Internal Revenue Code, as amended, extracted from public lands or from the beds of seas, lakes, rivers, streams, creeks, and other public waters within its territorial jurisdiction.

The permit to extract sand, gravel and other quarry resources shall be issued exclusively by the provincial governor, pursuant to the ordinance of the Sangguniang Panlalawigan.

The proceeds of the tax on sand, gravel and other quarry resources shall be distributed as follows:

- (1) Province - Thirty percent (30%)
- (2) Component City or Municipality where the sand, gravel, and other quarry resources are extracted - Thirty percent (30%); and
- (3) Barangay where the sand, gravel, and other quarry resources are extracted - Forty percent (40%).

Title III - Shares of Local Government Units in the Proceeds of National Taxes

Chapter 1 - Share of Local Government Units In The National Wealth

Section 289. Share in the Proceeds from the Development and Utilization of the National Wealth. - Local government units shall have equitable share in the proceeds derived from the utilization and development of the national wealth within their respective areas, including sharing the same with the inhabitants by way of direct benefits.

Section 290. Amount of Share of Local Government Units. - Local government units shall, in addition to the internal revenue allotment, have a share of forty percent (40%) of the gross collection derived by the national government from the preceding fiscal year from mining taxes, royalties, forestry and fishery charges, and such other fees, or charges, including related surcharges, interests, or fines, and from its share in any co-production, joint venture or production sharing agreement in the utilization and development of the national wealth within their territorial jurisdiction.

Section 291. Share of the Local Governments from any Government Agency or-Owned and -Controlled Corporation. - Local government units shall have a share based on the preceding fiscal year from the proceeds derived by any government agency or government-owned or -controlled corporation engaged in the utilization and development of the national wealth based on the following formula whichever will produce a higher share for the local government unit:

- (a) One percent (1%) of the gross sales or receipts of the preceding calendar year; or
- (b) Forty percent (40%) of the mining taxes, royalties, forestry and fishery charges and such other taxes, fees, or charges, including related surcharges, interests, or fines the government agency or government-owned or -controlled corporation would have paid if it were not otherwise exempt.

Section 292. Allocation of Shares. - The share in the preceding Section shall be distributed in the following manner:

- (a) Where natural resources are located in the province:
 - (1) Province - Twenty percent (20%)
 - (2) Component City/Municipality - Forty-five percent (45%); and
 - (3) Barangay - Thirty-five percent (35%)

Provided, however, That where the natural resources are located in two (2) or more provinces, or in two (2) or more component cities or municipalities or in two (2) or more barangays, their respective shares shall be computed on the basis of:

- (1) Population - Seventy percent (70%); and
- (2) Land area - Thirty percent (30%);

(b) Where the natural resources are located in highly urbanized or independent component city:

(1) City - Sixty-five percent (65%); and

(2) Barangay - Thirty-five percent (35%)

Provided, however, That where the natural resources are located in such two (2) or more cities, the allocation of shares shall be based on the formulation population and land area as specified in paragraph (a) of this Section.

Section 293. Remittance of the Share of Local Government Units. - The share of local government units from the utilization and development of national wealth shall be remitted in accordance with Section 285 of this Code; **Provided, however,** That in the case of any government agency or government-owned or-controlled corporation engaged in the utilization and development of the national wealth, such share shall be directly remitted to the provincial, city municipal or barangay treasurer concerned within five (5) days after the end of each quarter.

Section 294. Development and Livelihood Projects. - The proceeds from the share of local government units pursuant to this chapter shall be appropriated by their respective sanggunian to finance local development and livelihood projects; **Provided, however,** That at least eighty percent (80%) of the proceeds derived from the development and utilization of hydrothermal, geothermal, and other sources of energy shall be applied solely to lower the cost of electricity in the local government unit where such a source of energy is located.

Book III - Local Government Units

Title Two. - The Municipality

Chapter 3. - Officials and Offices Common to All Municipalities

Article One. - The Municipal Mayor

Section 444. The Chief Executive: Powers, Duties, Functions and Compensation. - (b) For efficient, effective and economical governance the purpose of which is the general welfare of the municipality and its inhabitants pursuant to Section 16 of this Code, the municipal mayor shall:

- (3) Initiate and maximize the generation of resources and revenues, and apply the same to the implementation of development plans, program objectives and priorities as provided for under Section 18 of this Code, particularly those resources and revenues programmed for agro-industrial development and country-wide growth and progress, relative thereto, shall:
- (vi) Adopt measures to safeguard and conserve land, mineral, marine, forest and other resources of the municipality.

Article Three. - The Sangguniang Bayan

Section 447. Powers, Duties, Functions and Compensation. - (a) The Sangguniang Bayan, as the legislative body of the municipality, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the municipality and its inhabitants pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the municipality as provided for under Section 22 of this Code, and shall:

- (1) Approve ordinances and pass resolutions necessary for an efficient and effective municipal government, and in this connection shall:
- (vi) Protect the environment and impose appropriate penalties for acts which endanger the environment, such as dynamite fishing and other forms of destructive fishing, illegal logging and smuggling of logs, smuggling of natural resources products and of endangered species of flora and fauna, slash and burn farming, and such other activities which result in pollution, acceleration of eutrophication of rivers and lakes, or of ecological imbalance;
- (2) Generate and maximize the use of resources and revenues for the development plans, program objectives and priorities of the municipality as provided for under Section 18 of this Code with particular attention to agro-industrial development and countryside growth and progress, and relative thereto shall:
- (vi) Adopt a comprehensive land use plan for the municipality; **Provided**, That the formulation, adoption, or modification of said plan shall be in coordination with the approved provincial comprehensive land use plan;
- (4) Regulate activities relative to the use of land, buildings and structures within the municipality in order to promote the general welfare and for said purpose shall:

- (iii) Regulate the disposal of clinical and other wastes from hospitals, clinics and other similar establishments;
- (5) Approve ordinances which shall ensure the efficient and effective delivery of the basic services and facilities as provided for under Section 17 of this Code, and in addition to said services and facilities, shall:
 - (i) Provide for the establishment, maintenance, protection, and conservation of communal forests and watersheds, tree parks, greenbelts, mangroves, and other similar forest development projects.

Title Three. - The City

Chapter 3. - Officials and Offices Common to all Cities

Article One. - The City Mayor

Section 455. Chief Executive: Powers, Duties and Compensation. - (b) For efficient, effective and economical governance the purpose of which is the general welfare of the city and its inhabitants pursuant to Section 16 of this Code, the city mayor shall:

- (3) Initiate and maximize the generation of resources and revenues, and apply the same to the implementation of development plans, program objectives and priorities as provided for under Section 18 of this Code, particularly those resources and revenues programmed for agro-industrial development and country-wide growth and progress, relative thereto, shall:
 - (vi) Adopt measures to safeguard and conserve land, mineral, marine, forest and other resources of the city.

Article Three. - The Sangguniang Panlungsod

Section 447. Powers, Duties, Functions and Compensation. - (a) The Sangguniang Panlungsod, as the legislative body of the city, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the city and its inhabitants pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the city as provided for under Section 22 of this Code, and shall:

- (1) Approve ordinances and pass resolutions necessary for an efficient and effective city government, and in this connection shall:

- (vi) Protect the environment and impose appropriate penalties for acts which endanger the environment, such as dynamite fishing and other forms of destructive fishing, illegal logging and smuggling of logs, smuggling of natural resources products and of endangered species of flora and fauna, slash and burn farming, and such other activities which result in pollution, acceleration of eutrophication of rivers and lakes, or of ecological imbalance;
- (2) Generate and maximize the use of resources and revenues for the development plans, program objectives and priorities of the city as provided for under Section 18 of this Code with particular attention to agro-industrial development and city-wide growth and progress, and relative thereto, shall:
- (vii) Adopt a comprehensive land use plan for the city; **Provided**, That in the case of component cities, the formulation, adoption, or modification of said plan shall be in coordination with the approved provincial comprehensive land use plan.
- (4) Regulate activities relative to the use of land, buildings and structures within the city in order to promote the general welfare and for said purpose shall:
- (iii) Regulate the disposal of clinical and other wastes from hospitals, clinics and other similar establishments.
- (5) Approve ordinances which shall ensure the efficient and effective delivery of the basic services and facilities as provided for under Section 17 of this Code, and in addition to said services and facilities, shall:
- (i) Provide for the establishment, maintenance, protection, and conservation of communal forests and watersheds, tree parks, greenbelts, mangroves, and other similar forest development projects.

Title Four. - The Province

Chapter 3. - Officials and Offices Common to All Provinces

Article One. - The Provincial Governor

Section 465. The Chief Executive: Powers, Duties, Functions, and Compensation. - (b) For efficient, effective and economical governance the purpose of which is the general welfare of the province and its inhabitants pursuant to Section 16 of this Code, the provincial governor shall:

- (3) Initiate and maximize the generation of resources and revenues, and apply the same to the implementation of development plans, program objectives and priorities as provided for under Section 18 of this Code, particularly those resources and revenues programmed for agro-industrial development and country-wide growth and progress, relative thereto, shall:
 - (vi) Adopt measures to safeguard and conserve land, mineral, marine, forest and other resources of the province, in coordination with the mayors of component cities and municipalities.

Article Three. - the Sangguniang Panlalawigan

Section 468. Powers, Duties, Functions and Compensation. - (a) The Sangguniang Panlalawigan, as the legislative body of the of the province, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the province and its inhabitants pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the province as provided for under Section 22 of this Code, and shall:

- (1) Approve ordinances and pass resolutions necessary for an efficient and effective provincial government, and in this connection, shall:
 - (vi) Protect the environment and impose appropriate penalties for acts which endanger the environment, such as dynamite fishing and other forms of destructive fishing, illegal logging and smuggling of logs, smuggling of natural resources products and of endangered species of flora and fauna, slash and burn farming, and such other activities which result in pollution, acceleration of eutrophication of rivers and lakes, or of ecological imbalance;
- (2) Generate and maximize the use of resources and revenues for the development plans, program objectives and priorities of the province as provided for under Section 18 of this Code with particular attention to agro-industrial development and country-wide growth and progress, and relative thereto, shall:
 - (vi) Review the comprehensive land use plans and zoning ordinances of component cities and municipalities and adopt a comprehensive provincial land use plan, subject to existing laws.

- (4) Approve ordinances which shall ensure the efficient and effective delivery of basic services and facilities as provided for under Section 17 of this Code, and, in addition to said services and facilities, shall:
- (i) Adopt measures and safeguards against pollution and for the preservation of the natural ecosystem in the province, in consonance with approved standards on human settlements and environmental sanitation.

Title Five - Appointive Local Officials Common to all Municipalities, Cities and Provinces

Article Fourteen. - The Environment and Natural Resources Officer

Section 484. Qualifications, Powers and Duties. -

- (a) No person shall be appointed environment and natural resources officer unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, a holder of a college degree preferably in environment, forestry, agriculture or any related course from a recognized college or university, and a first grade civil service eligible or its equivalent. He must have acquired experience in environmental and natural resources management, conservation, and utilization of at least (5) years in the case of the provincial or city environment and natural resources officer, and three (3) years in the case of the municipal environment and natural resources officer.

The appointment of the environment and natural resources officer is optional for provincial, city, and municipal governments.

- (b) The environment and natural resources management officer shall take charge of the office on environment and natural resources and shall:
- (1) Formulate measures for the consideration of the sanggunian and provide technical assistance and support to the governor or mayor, as the case may be, in carrying out measures to ensure the delivery of basic services and provision of adequate facilities relative to environment and natural resources services as provided for under Section 17 of this Code;
- (2) Develop plans and strategies and upon approval thereof by the governor or mayor, as the case may be, implement the same, particularly those which have to do with environment and natural resources programs and

projects which the governor or mayor is empowered to implement and which the sanggunian is empowered to provide for under this Code;

- (3) In addition to the foregoing duties and functions, the environment and natural resources officer shall:
- (i) Establish, maintain, protect and preserve communal forests, watersheds, tree parks, mangroves, greenbelts and similar forest projects and commercial forest, like industrial tree farms and agro-forestry projects;
 - (ii) Provide extension services to beneficiaries of forest development projects and technical, financial and infrastructure assistance;
 - (iii) Manage and maintain seed banks and produce seedlings for forests and tree parks;
 - (iv) Provide extension services to beneficiaries of forest development projects and render assistance for natural resources-related conservation and utilization activities consistent with ecological balance;
 - (v) Promote the small-scale mining and utilization and mineral resources, particularly mining of gold;
 - (vi) Coordinate with government agencies and non-governmental organizations in the implementation of measures to prevent and control land, air and water pollution with the assistance of the Department of Environment and Natural Resources;
- (4) Be in the frontline of the delivery of services concerning the environment and natural resources, particularly in the renewal and rehabilitation of the environment during and in the aftermath of man-made and natural calamities and disasters;

- (5) Recommend to the sanggunian and advise the governor or mayor, as the case may be, on all matters relative to the protection, conservation maximum utilization, application of appropriate technology and other matters related to the environment and natural resources; and

Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

Approved, October 10, 1991

Republic Act No. 7161

An Act Incorporating Certain Sections of the National Internal Revenue Code of 1977, As Amended, to Presidential Decree No. 705, as Amended, Otherwise Known as "The Revised Forestry Code of the Philippines", and Providing Amendments Thereto by Increasing the Forest Charges on Timber and Other Forest Products

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Section 1. Pursuant to Executive Order No. 273, Sections 230 to 297 of the National Internal Revenue Code of 1977, as amended, are hereby incorporated into Presidential Decree No. 705, as amended, otherwise known as the "Revised Forestry Code of the Philippines" and numbered as follows:

National Internal Revenue Code of 1977	Revised Forestry Code
Section 230	Section 68
Section 231	Section 69
Section 232	Section 70
Section 233	Section 71
Section 234	Section 72
Section 235	Section 73
Section 236	Section 74
Section 237	Section 75
Section 238	Section 76
Section 297	Section 77

All references to the Bureau of Internal Revenue, Commissioner of Internal Revenue, and Ministry of Finance in Sections 230 to 238 of the National Internal Revenue Code of 1977 shall hereafter refer to the Forest Management Bureau, Director of the Forest Management Bureau, and Secretary of Environment and Natural Resources, respectively.

Section 2. The incorporated and renumbered Sections 68 to 76 of Presidential Decree No. 705, as amended, are hereby placed under a new subtitle of Chapter III (Utilization and Management which shall be Subtitle H.

Section 3. Section 70 of Presidential Decree No. 705, as amended (formerly Section 232 of the National Internal Revenue Code) is hereby amended to read as follows:

"Section 70. Charges on Timber Cut in Forestland. - There shall be collected charges on each cubic meter of timber cut in forestland, whether belonging to the first, second, third or fourth group, twenty-five percent (25%) of the actual FOB market price based on species and grading; **Provided, However,** That, in the case of pulpwood and matchwood cut in forestland, forest charges on each cubic meter shall be ten percent (10%) of the actual FOB market price."

Section 4. Section 71 of Presidential Decree No. 705, as amended, (formerly Section 233 of the National Internal Revenue Code) is hereby amended to read as follows:

"Section 71. Charges on Firewood, Branches and Other Recoverable Wood Wastes of Timber. - Except for all mangrove species whose cutting shall be banned, there shall be collected forest charges on each cubic meter of firewood cut in forestland, branches and other recoverable wood wastes of timber, such as timber ends, tops and stumps, when used as raw materials for the manufacture of finished products, Ten pesos (P10.00).

"Only third or fourth group wood can be taken for firewood. However, if jointly authorized by the Secretaries of both the Departments of Environment and Natural Resources, and Agriculture, first and second group woods may be removed for firewood purposes from land which is more valuable for agricultural than for forest purposes."

Section 5. Section 73 of Presidential Decree No. 705, as amended (formerly Section 235 of the National Internal Revenue Code), is hereby repealed.

Section 72 of Presidential Decree No. 705, as amended, (formerly Section 234 of the National Internal Revenue Code) is hereby amended to read as follows:

"Section 72. Charges on Minor Forest Products. - All other forest products of forestland which are not covered by the preceding sections shall be exempt from any or all forest charges, except rattan, gums and resins, beeswax, guta-percha, almaciga resin and bamboo which shall be charged at ten percent (10%) of the actual FOB market price."

Section 6. There shall be added a new section after Section 72 of Presidential Decree No. 705, to be known as Section 73, to read as follows:

"Section 73. Effectivity and Application of Forest Charges and Determination of Market Price of Forest Products. - The rates of forest charges provided for in Section 70, 71 and 72 hereof shall be effective upon approval of this Act. The new rates shall be published in the Official Gazette or in two (2) newspapers of national circulation and shall also be posted in conspicuous places in the different Department of Environment and Natural Resources field offices.

"The actual FOB market price of forest products shall be justly determined once a year by the Secretary of Environment and Natural Resources; **Provided**, That he shall cause the creation of a committee to be composed of representatives of the Department of Environment and Natural Resources, the National Economic and Development Authority, the Department of Trade and Industry, the Bureau of Internal Revenue and the wood and furniture industry and consumers sectors which shall formulate the criteria and/or guidelines in the determination of the actual FOB market price to be used as the basis for the assessment of the ad valorem tax, taking into consideration production cost (developing cost, contingencies and miscellaneous cost), species and grade of timber, government share, reforestation, tariff duties, taxes, risk involved and a reasonable margin of profit for domestic and export market prices for wood and wood products.

"These forest charges shall be applied to naturally growing timber and forest products gathered within public forestlands, alienable and disposable lands and private lands. Forest charges collected shall be in lieu of the administrative charge on environment and other fees and charges imposed thereon; **Provided**, That planted trees and other forest products harvested from industrial tree plantations and private lands covered by existing tiller or by approved land application are exempted from payment of forest charges."

Section 7. Section 77 of Presidential Decree No. 705, as amended, as numbered herein, is hereby repealed.

Section 68 of Presidential Decree No. 705, as amended by Executive Order No. 277 dated July 25, 1987, and Sections 68-A and 68-B of Presidential Decree No. 705, as added by Executive Order No. 277, are hereby renumbered as Sections 77, 77-A and 77-B.

Accordingly, the succeeding Section 69 to 80 of Presidential Decree No. 705, as amended, are hereby renumbered as Sections 78 to 89, respectively, and Sections 80-A, 80-B to 83 are hereby renumbered as Sections 89-A, 89-B to 92, respectively.

Section 8. This Act shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Approved,

JOVITO R. SALONGA
President of the Senate

RAMON V. MITRA
Speaker of the House
of Representatives

This Act which originated in the House of Representatives was finally passed by the House of Representatives and the Senate on August 12, 1991 and August 8, 1991, respectively.

EDWIN P. ACOBA
Secretary of the Senate

CAMILO L. SABIO
Secretary General
House of Representatives

APPROVED: October 10, 1991

CORAZON C. AQUINO
President of the Philippines

Republic Act No. 7176

An Act Creating a People's Small-Scale Mining Program and for Other Purposes

Be it enacted by the Senate and House of Representatives in Congress assembled:

Section 1. Title. - This Act shall be known as the "People's Small-scale Mining Act of 1991".

Section 2. Declaration of Policy. - It is hereby declared the policy of the State to promote, develop and rationalize viable small-scale mining activities in order to generate more employment opportunities and provide an equitable sharing of the nation's wealth and natural resources, giving due regard to existing rights as herein provided.

Section 3. Definitions. - For purposes of this Act, the following terms shall be defined as follows:

- (a) **Mineralized areas** refers to areas with naturally occurring mineral deposits of gold, silver, chromite, kaolin, silica, marble, gravel, clay and like mineral resources;
- (b) **Small-scale mining** refers to mining activities which rely heavily on manual labor using simple implements and methods and do not use explosives or heavy mining equipment;
- (c) **Small-scale miners** refers to Filipino citizens who, individually or in the company of other Filipino citizens, voluntarily from a cooperative duly licensed by the Department of Environment and Natural Resources to engage, under the terms and conditions of a contract, in the extraction or removal of minerals or ore-bearing materials from the ground;
- (d) **Small-scale mining contract** refers to co-production, joint venture or mineral production sharing agreement between the State and a small-scale mining contractor for the small-scale utilization of a plot of mineral land;
- (e) **Small-scale mining contractor** refers to an individual or a cooperative of small-scale miners, registered with the Securities and Exchange Commission or other appropriate government agency, which has entered into an agreement with the State for the small-scale utilization of a plot of mineral land within a people's small-scale mining area;

- (f) **Active mining area** refers to areas under actual exploration, development, exploitation or commercial production as determined by the Secretary after the necessary field investigation or verification including contiguous and geologically related areas belonging to the same claimowner and/or under contract with an operator, but in no case to exceed the maximum area allowed by law;
- (g) **Existing mining right** refers to perfected and subsisting claim, lease, license or permit covering a mineralized area prior to its declaration as a people's small-scale mining area;
- (h) **Claimowner** refers to a holder of an existing mining right;
- (i) **Processor** refers to a person issued a license to engage in the treatment of minerals or ore-bearing materials such as by gravity concentration, leaching, beneficiation, cyanidation, cutting, sizing, polishing and other similar activities;
- (j) **License** refers to the privilege granted to a person to legitimately pursue his occupation as a small-scale miner or processor under this Act;
- (k) **Mining plan** refers to a two-year program of activities and methodologies employed in the extraction and production of minerals or ore-bearing materials, including the financial plan and other resources in support thereof;
- (l) **Director** refers to the Regional Executive Director of the Department of Environment and Natural Resources; and
- (m) **Secretary** refers to the Secretary of Environment and Natural Resources.

Section 4. People's Small-scale Mining Program. For the purpose of carrying out the declared policy provided in Section 2 hereof, there is hereby established a People's Small-scale Mining Program to be implemented by the Secretary of the Department of Environment and Natural Resources, hereinafter called the Department, in coordination with other concerned government agencies, designed to achieve an orderly, systematic and rational scheme for the small-scale development and utilization of mineral resources in certain mineral areas in order to address the social, economic, technical and environmental problems connected with small-scale mining activities.

The People's Small-scale Mining program shall include the following features:

- (a) The identification, segregation and reservation of certain mineral lands as people's small-scale mining areas;

- (b) The recognition of prior existing rights and productivity;
- (c) The encouragement of the formation of cooperatives;
- (d) The extension of technical and financial assistance, and other social services;
- (e) The extension of assistance in processing and marketing;
- (f) The generation of ancillary livelihood activities;
- (g) The regulation of the small-scale mining industry with the view to encourage growth and production; and
- (h) The efficient collection of government revenue.

Section 5. Declaration of People's Small-scale Mining Areas. -

The Board is hereby authorized to declare and set aside people's small-scale mining areas in sites onshore suitable for small-scale mining, subject to review by the Secretary, immediately giving priority to areas already occupied and actively mined by small-scale miners before August 1, 1987; **Provided**, That such areas are not considered as active mining areas; **Provided, further**, That the minerals found therein are technically and commercially suitable for small-scale mining activities; **Provided, finally**, That the areas are not covered by existing forest rights or reservations and have not been declared as tourist or marine reserves, parks and wildlife reservations, unless their status as such is withdrawn by competent authority.

Section 6. Future People's Small-scale Mining Areas. - The following lands, when suitable for small-scale mining, may be declared by the Board as people's small-scale mining areas:

- (a) Public lands not subject to any existing right;
- (b) Public lands covered by existing mining rights which are inactive mining areas; and
- (c) Private lands, subject to certain rights and conditions, except those with substantial improvements or in bona fide and regular use as a yard, stockyard, garden, plant nursery, plantation, cemetery or burial site, or land situated within one hundred meters (100 m.) from such cemetery or burial site, water reservoir or a separate parcel of land with an area of ten thousand square meters (10,000 sq. m.) or less.

Section 7. Ancestral Lands. - No ancestral land may be declared as a people's small-scale mining area without the prior consent of the cultural communities concerned; Provided, That, if the ancestral lands are declared as people's small-scale mining areas, the members of the cultural communities therein shall be given priority in the awarding of small-scale mining contracts.

Section 8. Registration of Small-scale Miners. - All persons undertaking small-scale mining activities shall register as miners with the Board and may organize themselves into cooperatives in order to qualify for the awarding of a people's small-scale mining contract.

Section 9. Award of People's Small-scale Mining Contracts. - A people's small-scale mining contract may be awarded by the Board to small-scale miners who have voluntarily organized and have duly registered with the appropriate government agency as an individual miner or cooperative; **Provided**, That only one (1) people's small-scale mining contract may be awarded at any one time to a small-scale mining contractor who shall start mining operations within one (1) year from the date of award; **Provided, further**, That the priority shall be given to small-scale miners residing in the province or city where the small-scale mining area is located.

Applications for a contract shall be subject to a reasonable fee to be paid to the Department of Environment and Natural resources regional office having jurisdiction over the area.

Section 10. Extent of Contract Area. - The Board shall determine the reasonable size and shape of the contract area following the meridional block system established under Presidential Decree No. 463, as amended, otherwise known as the Mineral Resources Development Decree of 1974, but in no case shall the area exceed twenty hectares (20 has.) per contractor and the depth or length of the tunnel or adit not exceeding that recommended by the Director taking into account the following circumstances:

- (a) Size of membership and capitalization of the cooperative;
- (b) Size of mineralized area;
- (c) Quantity of mineral deposits;
- (d) Safety of miners;
- (e) Environmental impact and other considerations; and
- (f) Other related circumstances.

Section 11. Easement Rights. - Upon the declaration of a people's small-scale mining area, the director, in consultation with the operator, claimowner,

landowner or lessor of an affected area, shall determine the right of the small-scale miners to existing facilities such as mining and logging roads, private roads, port and communication facilities, processing plants which are for the effective implementation of the People's Small-scale Mining Program, subject to payment of reasonable fees to the operator, claimowner, landowner or lessor.

Section 12. Rights Under a People's Small-scale Mining Contract. - A people's small scale-mining contract entitles the small-scale mining contractor to the right to mine, extract and dispose of mineral ores for commercial purposes. In no case shall a small-scale mining contract be subcontracted, assigned or otherwise transferred.

Section 13. Terms and Conditions of the Contract. - A contract shall have a term of two (2) years, renewable subject to verification by the Board for like periods as long as the contractor complies with the provisions set forth in this Act, and confers upon the contractor the right to mine within the contract area; **Provided**, That the holder of a small-scale mining contract shall have the following duties and obligations:

- (a) Undertake mining activities only in accordance with a mining plan duly approved by the Board;
- (b) Abide by the Mines and Geosciences Bureau and the Small-scale Mining Safety Rules and Regulations;
- (c) Comply with his obligations to the holder of an existing mining right;
- (d) Pay all taxes, royalties and government production share as are now or may hereafter be provided by law;
- (e) Comply with pertinent rules and regulations on environmental protection and conservation, particularly those on tree-cutting, mineral-processing and pollution control;
- (f) File under oath at the end of each month a detailed production and financial report to the Board; and
- (g) Assume responsibility for the safety of persons working in the mines.

Section 14. Rights of Claimowners. - In case a site declared and set aside as a people's small-scale mining area is covered by an existing mining right, the claimowner and the small-scale miners therein are encouraged to enter into a voluntary and

acceptable contractual agreement with respect to the small-scale utilization of the mineral values from the area under claim. In case of disagreement, the claimowner shall be entitled to the following rights and privileges:

- (a) Exemption from the performance of annual work obligations and payment of occupational fees, rental and real property taxes;
- (b) Subject to the approval of the Board, free access to the contract area to conduct metallurgical tests, explorations and other activities, provided such activities do not duly interfere with the operations of the small-scale miners; and
- (c) Royalty equivalent to one and one half percent (1 1/2 %) of the gross value of the metallic mineral output or one percent (1%) of the gross value of the nonmetallic mineral output to be paid to the claimowner; **Provided**, That such rights and privileges shall be available only if he is not delinquent in the performance of his annual work obligations and other requirements for the last two (2) years prior to the effectivity of this Act.

Section 15. Rights of Private Landowners. - The private landowner or lawful possessor shall be notified of any plan or petition to declare his land as a people's small-scale mining area. Said landowner may oppose such a plan or petition in an appropriate proceeding and hearing conducted before the Board.

If a private land is declared as a people's small-scale mining area, the owner and the small-scale mining contractors are encouraged to enter into a voluntary and acceptable contractual agreement for the small-scale utilization of the mineral values from the private land; **Provided**, That the owner shall in all cases be entitled to the payment of actual damages which he may suffer as a result of such declaration; **Provided**, further, That royalties paid to the owner shall in no case exceed one percent (1%) of the gross value of the minerals recovered as royalty.

Section 16. Ownership of Mill Tailings. - The small-scale mining contractor shall be the owner of all mill tailings produced from the contract area. He may sell the tailings or have them processed in any custom mill in the area; **Provided**, That, if the small-scale mining contractor decides to sell its mill tailings, the claimowner shall have a preemptive right to purchase said mill tailings at the prevailing market price.

Section 17. Sale of Gold. - All gold produced by small-scale miners in any mineral area shall be sold to the Central Bank, or its duly authorized representatives, which shall buy it at prices competitive with those prevailing in the world market regardless of volume or weight.

The Central Bank shall establish as many buying stations in gold-rush areas to fully service the requirements of small-scale miners thereat.

Section 18. Custom Mills. - The establishment and operation of safe and efficient custom mills to process minerals and ore-bearing materials shall be limited to mineral processing zones duly recognized by the local government unit concerned upon recommendation of the Board.

In mining areas where the private sector is unable to establish custom mills, the Government shall construct such custom mills upon the recommendation of the Board based on the viability of the project.

The Board shall issue licenses for the operation of custom mills and other processing plants subject to pollution control and safety standards.

The Department shall establish assay laboratories to cross-check the integrity of custom mills and to render metallurgical and laboratory services to miners.

Section 19. Government Share and Allotment. - The revenue to be derived by the Government from the operation of the mining program herein established shall be subject to the sharing provided in the Local Government Code.

Section 20. People's Small-scale Mining Protection Fund. - There is hereby created a People's Small-scale Mining Protection Fund which shall be fifteen percent (15%) of the national government's share of the internal revenue tax or production share due the Government which shall be used primarily for information dissemination and training of small-scale miners on safety, health and environmental protection, and the establishment of mine rescue and recovery teams including the procurement of rescue equipment necessary in cases of emergencies such as landslides, tunnel collapse, or the like.

The fund shall also be made available to address the needs of the small-scale miners brought about by accidents and/or fortuitous events.

Section 21. Rescission of Contracts and Administrative Fines. - The noncompliance with the terms and conditions of the contract or violation of the rules and regulations issued by the Secretary pursuant to this Act, as well as the abandonment of the mining site by the contractor, shall constitute a ground for the cancellation of the contracts and the ejection from the people's small-scale mining area of the contractor. In addition, the Secretary may impose fines against the violator in an amount of not less than Twenty thousand pesos (P20,000.00) and not more than One hundred thousand

pesos (P100,000.00). Nonpayment of the fine imposed shall render the small-scale mining contractor ineligible for other small-scale mining contracts.

Section 22. Reversion of People's Small-scale Mining Areas. - The Secretary, upon recommendation of the director, shall withdraw the status of the people's small-scale mining area when it can no longer be feasibly operated on a small-scale mining basis or when the safety, health and environmental conditions warrant that the same shall revert to the State for proper disposition.

Section 23. Actual Occupation by Small-scale Miners. - Small-scale miners who have been in actual occupation of mineral lands on or before August 1, 1987 as determined by the Board shall not be dispossessed, ejected or removed from said areas; **Provided**, That they comply with the provisions of this Act.

Section 24. Provincial/City Mining Regulatory Board. - There is hereby created under the supervision and control of the Secretary a provincial/city mining regulatory board, herein called the Board, which shall be the implementing agency of the Department, and shall exercise the following powers and functions, subject to review by the Secretary:

- (a) Declare and segregate existing gold-rush areas for small-scale mining;
- (b) Reserve future gold and other mining areas for small-scale mining;
- (c) Award contracts to small-scale miners;
- (d) Formulate and implement rules and regulations related to small-scale mining;
- (e) Settle disputes, conflicts or litigations over conflicting claims within a people's small-scale mining area, an area that is declared a small mining area; and
- (f) Perform other functions as may be necessary to achieve the goals and objectives of this Act.

Section 25. Composition of the Provincial/City Mining Regulatory Board. - The Board shall be composed of the Department of Environment and Natural Resources' representative as Chairman; and the representative of the governor or city mayor, as the case may be, one (1) small-scale mining representative, one (1) big-scale mining representative, and the representative from a nongovernmental organization who shall come from an environmental group, as members.

The representatives from the private sector shall be nominated by their respective organizations and appointed by the Department regional director. The Department shall provide the staff support to the Board.

Section 26. Administrative Supervision over the People's Small-scale Mining Program. - The Secretary through his representative shall exercise direct supervision and control over the program and activities of the small-scale miners within the people's small-scale mining area.

The Secretary shall within ninety (90) days from the effectivity of this Act promulgate rules and regulations to effectively implement the provisions of the same. Priority shall be given to such rules and regulations that will ensure the least disruption in the operations of the small-scale miners.

Section 27. Penal Sanctions. - Violations of the provisions of this Act or of the rules and regulations issued pursuant hereto shall be penalized with imprisonment of not less than six (6) months nor more than six (6) years and shall include the confiscation and seizure of equipment, tools and instruments.

Section 28. Repealing Clause. - All laws, decrees, letters of instruction, executive orders, rules and regulations, and other issuances, or parts thereof, in conflict or inconsistent with this Act are hereby repealed or modified accordingly.

Section 29. Separability Clause. - Any section or provision of this Act which shall be declared unconstitutional shall not affect the other sections or provisions hereof.

Section 30. Effectivity. - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a national newspaper of general circulation.

Approved,

JOVITO R. SALONGA
President of the Senate

RAMON V. MITRA
*Speaker of the House
of Representatives*

This Act which is a consolidation of House Bill No. 10516 and Senate Bill No. 1333 was finally passed by the House of Representatives and the Senate on May 30, 1991.

EDWIN P. ACOBA
Secretary of the Senate

CAMILO L. SABIO
*Secretary General
House of Representatives*

Approved: June 27, 1991.

CORAZON C. AQUINO
President of the Philippines