

The Orissa Minerals (Prevention of Theft, Smuggling and other Unlawful Activities) Rules, 1990

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India

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Rule

THE-ORISSA-MINERALS-PREVENTION-OF-THEFT-SMUGGLING-AND- of 1990

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The Orissa Minerals (Prevention of Theft, Smuggling and other Unlawful Activities) Rules, 1990 Published vide Notification Orissa Gazette Extraordinary No. 646/18.5.1990-S.R.O No. 227/1990 S.R.O. No. 227/90-The 11th May, 1990. - In exercise of powers conferred by Section 37 of the Orissa Minerals (Prevention of Theft, Smuggling and other Unlawful Activities) Act, 1989, the State Government do hereby make the following rules, namely :Chapter-I

1. Short title and commencement

(1) These rules may be called the Orissa Minerals (Prevention of Theft, Smuggling and other Unlawful Activities) Rules, 1990.

2. Definitions.

- In these rules, unless the context otherwise requires-(a)"Act" means the Orissa Minerals (Prevention of Theft, Smuggling and other Unlawful Activities) Act, 1989;(b)"Form" means a form appended to these rules;[(b-i) * * *] [Omitted vide Orissa Gazette Extraordinary No. 141/29.1.2003 S.R.O.No. 28/2003.](c)"scientific test" means any test conducted for chemical and mineralogical analysis of the ores and minerals and assessment of their chemical and mineralogical constituents and properties;(d)"section" means a section of the Act;(e)"research work" means any work done for beneficiation and upgradation of the minerals and ores and for examining their suitability for utilisation for industrial purpose.(2) All other words and expressions used but not defined in these rules, unless the context otherwise requires, shall have the same meanings as respectively assigned

to them in the Act. Chapter-II Grant of licence and its renewal

3. Applications for grant of licence.

- [(1) Any person who wishes to possess, store, sell, trade in or otherwise deal with any mineral shall make an application to the competent authority as required under Sub-section (1) of Section 6 for a licence for [for any or group of minerals] [Substituted vide Notification S.R.O. No. 520/15.7.1991, vide Orissa Gazette Extraordinary No. 891/31.7.1991.] in Form 'A'. The application shall be submitted in duplicate]. (2) [Every applicant while applying the licence under Sub-rule (1) shall in his application accompany the following In Case of Precious and Semi-Precious Stone (i) (a) A Demand draft of Rs. 99,500 (Rupees ninety-thousand five hundred) only to be deposited towards licence fee payable at Government Treasury Branch of State Bank of India, Bhubaneswar A Treasury chalan of Rs. 500 (Rupees five hundred) only shall be deposited in Government Treasury towards processing fee (non-refundable) under the head of Account-"0853-Non-Ferrous Mining and Metallurgical Industries-102-Mineral Concession Fees and Royalties". In Case of the Minerals (b) A Demand Draft of Rs. 4,500 (Rupees four thousand five hundred) only to be deposited towards licence fee payable at Government Treasury Branch of State Bank of India, located at or nearest to the Headquarters of the Competent Authority. The processing fee (non-refundable) of Rs. 500 (Rupees five hundred) only shall be deposited in the Government Treasury under the head of Account "0853-Non-Ferrous Mining and Metallurgical Industries-102-Mineral Concession Fees and Royalties". (ii) (a) In case of refusal or rejection of the application, the Demand Draft deposited towards licence fee shall be returned to the applicant, (b) in case of grant of licence, the demand Drafts deposited towards licence fee shall be deposited with the Government Treasury under the specific head of Account.](3) On receipt of the application for licence the competent authority shall acknowledge the receipt in Form 'B'. The acknowledgement shall be sent to the applicant by registered post.

4. [Processing of applications. [Substituted vide Notification S.R.O. No. 520/15.7.1991, vide Orissa Gazette Extraordinary No. 891/31.7.1991.]

(1) The competent authority shall maintain a register in his office in Form 'C' wherein, he will make necessary entry about the application immediately after its receipt and its disposal in due course. (2) The competent authority shall verify the bona fides of the applicant and contents of the application by conducting such enquiry and examination of record, as he deems necessary before disposal of the application.] [Substituted vide Orissa Gazette Extraordinary No. 1673/23.11.2006 S.R.O. No 614/2006.]

5. Disposal of application for licence.

- [(1) After due enquiry, the competent authority shall, within 2 (two) months from the date of receipt of the application, either grant a licence to the applicant on the conditions specified in Rule 6, for a period not exceeding one year at a time for all minerals including precious and semi-precious stones (Gem stone), or refuse to grant the licence as he considers fit.] [Substituted

vide Orissa Gazette Extraordinary No. 1458/12.11.1998 S.R.O.No. 698/1998.](2)In every case where the competent authority refuses to grant the licence, he shall record his reasons therefor in writing and communicate the same to the applicant within the period mentioned in Sub-rule (1).(3)[In case of refusal/rejection of the application, Rs. 500/-(Five hundred) only of the application fee shall be deducted and the rest amount shall be refunded to the applicant.] [Substituted vide Orissa Gazette Extraordinary No. 1458/12.11.1998 S.R.O.No. 698/1998.]

6. Conditions.

- The licence shall be granted in Form 'D' subject to following conditions, namely :(i)[The licensee shall deposit an amount of Rs. 1.00 (Rupees one lakh) only for precious and semi-precious stones (Gem stone) and Rs. 5000/- (Rupees five thousand) only for other minerals as security deposit in shape of postal savings account duly pledged to the competent authority for observance of the terms and conditions of the licence, provided that the Government, may by a general or special order, exempt any Grama Panchayat, a Co-operative Society, the Orissa Tribal Development Co-operative Corporations and any other Government Undertakings from depositing the said security amount and in the event of cancellation of the licence on account of breach of the terms and conditions, the security deposit as well as the interest accrued on the security deposit will be forfeited;] [Substituted vide Orissa Gazette Extraordinary No. 1458/12.11.1998 S.R.O.No. 698/1998.](ii)The licensee shall maintain a correct and intelligible account of ores and minerals procured, processed and transported daily to different destinations in Form 'E';(iii)In case of beneficiation of plant and factory, the licensee will maintain a separate daily account of ores and minerals procured and fed to the factory/plant and the processed minerals/ores recovered in Form 'F';(iv)[The licensee shall submit copies of the above forms duly maintained for every month within the 1st week of the succeeding month to the competent authority] [Substituted vide Orissa Gazette Extraordinary No. 1458/12.11.1998 S.R.O.No. 698/1998.] [* * *]; [Omitted vide Orissa Gazette Extraordinary No. 141/29.1.2003 S.R.O.No. 28/2003.](v)The licensee shall not remove the ores and minerals from any place without obtaining from the competent authority a transit permit in Form 'G' on payment of cost for each consignment;(vi)The licensee shall not pollute the environment by storing the ores and minerals or while utilising them in his factory;(vii)He shall allow the inspecting officers of the [Directorate of Mines] [Substituted vide Orissa Gazette Extraordinary No. 141/29.1.2003 S.R.O.No. 28/2003.] to inspect the stores and factory etc. to verify the stock of ores and minerals to take samples and to take extracts from the records at any working hour.(viii)[* * *] [Omitted vide Orissa Gazette Extraordinary No. 141/29.1.2003 S.R.O.No. 28/2003.].

7. [Renewal of licence. [Substituted vide Orissa Gazette Extraordinary No. 1458/12.11.1998 S.R.O.No. 698/1998.]

- The licence can be renewed further for not more than one year for each term on application in the prescribed form and on payment of renewal licence fee of Rs. 1.00 lakh (Rupees one lakh) for precious and semi-precious stones and Rs. 5000/-(Rupees five thousand) only for other minerals to be deposited in a Government treasury under the Head of account mentioned in Sub-rule (2) of Rule 3.]

8. [Application for renewal of licence. [Substituted vide Notification. S.R.O. No. 520/15.7.1991 vide Orissa Gazette Extraordinary No. 891/31.7.1991.]

- Every application for renewal of licence shall be made to the competent authority before ninety days of the expiry of the existing licence and shall be proceed in the same manner as provided for the original licence.]Chapter-III

9. Application for grant of permit.

(1)Any person, who wishes to transport or remove any mineral from any place shall make an application in Form 'H' in duplicate to the competent authority for issue of permit.(2)Every application for grant of permit shall be accompanied by a fee of [rupees fifty only] [Substituted vide Orissa Gazette Extraordinary No. 1458/12.11.1998 S.R.O.No, 698/1998.] to be deposited in a Government Treasury under the Head of account as mentioned in Sub-rule (2) of Rule 3.

10. Disposal of application.

- On receipt of the application the competent authority may cause an enquiry and may grant a permit within a period of fifteen days in From 'I' subject to the conditions specified in Rule 12 and for a period not exceeding two months.

11. Refusal of application for grant of permit.

- In case of refusal, the competent authority shall communicate the reasons of such refusal to the person concerned in writing.

12. Conditions of permit.

- The permit granted under Rule 10 shall be subject to the following conditions, namely : (a)The applicant will disclose and satisfy the competent authority regarding the legality of the source from which the ore and mineral are procured. (b)Each consignment of the ore/mineral shall be accompanied with a transit permit in Form 'G', obtainable from the [competent authority] [Substituted vide Notification. S.R.O. No. 520/15.7.1991 vide Orissa Gazette Extraordinary No. 891/31.7.1991.] on payment of usual cost. (c)The permit-holder shall maintain a correct and intelligible account of the ores and minerals transported by him every day in Form 'J'. (d)He shall furnish copies of the above account for every fortnight within three days from the closing of the fortnight to the competent authority. (e)(i)In case of the breach of any of the terms and conditions of the permit the competent authority shall issue a notice to the permit-holder to explain the reasons of such violation within seven days from the date of issue of the notice. (ii)If there is no response from the permit-holder within the stipulated time of the explanation given by him is not found satisfactory the competent authority may cancel or suspend the permit by an order in writing to be communicated to the permit-holder. Chapter-IV Appeal

13. Filing of appeal petition.

(1) Any person aggrieved by an order of the competent authority made under Sub-section (3) of Section 6 read with Sub-rule (2) of Rule 5, Section 7, Section 8 (3) read with Rule 11 or Section 9 may within sixty days from the date of communication of the relevant order, prefer an appeal in Form 'K' to the appellate authority appointed by the Government under Section 10. (2) Every application for appeal shall be accompanied with a fee of [Rs. 500 (Rupees five hundred) only] [Substituted vide Orissa Gazette Extraordinary No. 1458/12.11.1998 S.R.O.No. 698/1998.] to be deposited under the Head of account mentioned in Sub-rule (2) of Rule 3. (3) The appeal shall be disposed of by the appellate authority within a period of two months from the date of its filing.

Chapter-V Compounding of offences

14. Compounding of offences by the competent authority.

(1) On receipt of written application from the accused person the competent authority may, in exercise of its powers under Section 15 compound the offence, punishable under the Act, either before or after institution of the prosecution. (2) After the offence is compounded and the accused person pays the amount determined by the competent authority the accused person if is not interested to pay for the property or the competent authority is of the opinion that such property should not be released in favour of the accused, he shall compound the offence only and take charge of the seized property and dispose it off by auction.

15. Maintenance of register.

- The competent authority shall maintain a register in his office in Form 'M', mentioning therein the details of every offence compounded by him under these rules.

16. Depositing the sums.

- All sums collected by compounding the offence shall be deposited under the Head of account as mentioned in Sub-rule (2) of Rule 3.

Chapter-VI Seizure and confiscation

17. Seizure by the authorised officer.

- The authorised officer after seizing any property under Section 16 shall keep such property under his custody with proper official seal and with detailed information in Form 'N', indicating that the same has been seized by him and shall except where the offender agrees in writing to get the offence compounded either produce the same property before the competent authority or make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

18. Confiscation of the property.

- When any mineral and other property seized is produced before the competent authority and he is satisfied that an offence has been committed in respect thereof he may order confiscation of the mineral and other properties used in committing such offence subject to the condition that-(a)he shall issue a notice in writing in Form 'O' to the accused person informing him on the grounds on which it is proposed to confiscate such properties;(b)he shall give opportunity to the accused person for making a representation in writing within a period of. fifteen days against the grounds for confiscation;(c)he shall also give opportunity to the accused person to be heard in the matter;(d)he shall give due regard to the provisions of Sub-section (5) of Section 16 of the Act.

19. Custody of property.

- In case the authorised officer finds difficulties to keep the seized properties under his custody, he shall keep the same under the custody of a third party until the compensation for compounding the offence is paid or until an order of the Magistrate directing the disposal of properties is received. Selection of the third party shall be the sole responsibility of the authorised officer and he should see that the seized properties in no case are pilfered or damaged.

20. Arrest of persons.

- While arresting any person under Sub-section (1) of Section 27 of the Act, the competent authority or the authorised officer shall inform the accused person about his offence. It will be the personal responsibility of the officer, who has arrested or detained any person in custody to see that such person is produced before the Magistrate within a period of twenty-four hours from the time of arrest.

Chapter-VII Revision

21. Filing of revision petition.

(1)Any person aggrieved by an order passed in appeal under the Act may file an application for revision before the Government within thirty days from the date of communication of such order in Form 'L'.(2)Every revision application shall be accompanied with a fee of [Rs. 500/-(Rupees five hundred) only] [Substituted vide Orissa Gazette Extraordinary No. 1458/12.11.1998 S.R.O.No. 698/1998.] to be deposited in Government Treasury under the Head of account as mentioned in Sub-rule (2) of Rule 3. Form 'A'[See Rules 3 (1) and 8]Application for licence/renewal

1. Name of applicant for licence (in full) :

2. Profession :

3. Full address :

4. Father's name in full (in case of firm, give names and address of partner and person holding powers of attorney to act on behalf of the firm) :

5. Specific place or places of business :

6. Financial status with details of person i.e. property, annual payment of Income Tax and any other relevant evidence regarding financial status :

7. Specific purpose for which licence is applied for (processing/storing/selling/trading) :

8. Name of mineral/ore for which licence is required :

9. Evidence of payment of application fee :

10. Name and address of persons/firms from whom the mineral/ores will be purchased/ procured :

11. Period for which licence is required :

12. In case of renewal the number and date of original licence:

13. Detail of Income Tax/Sales Tax clearance certificate:

14. Any special ground for grant of licence in favour of the applicant. List of enclosures

Declaration I/We hereby declare that I/We have read and understood all the provisions of the Orissa Minerals (Prevention of Theft, Smuggling and other Unlawful Activities) Act, 1988 and Rules made thereunder and the conditions of the licence and, I/We agree to abide by the same. Date of application..... Place..... Signature of the applicant Form 'B' [See Rule 3 (3)] Acknowledgement of receipt of application for licence Received..... copies of applications for grant of licence for possessing/storing/selling/trading..... (Name of Mineral/Ore) Ore/Mineral from Shri/Smt..... S/O..... resident of..... P.O..... P.S..... District..... today with the following enclosures: (1)(2)(3)(4)(5) Signature of the competent authority Date..... [Form 'C'] [Substituted vide Notification S.R.O. No. 520/91/15.7.1991 vide Orissa Gazette Extraordinary No. 891/31.7.1991.] [See Rule 5 (1)] Register of application for grant of licence and its renewal

Sl. No.	Date of receipt of application	Name of applicant	Address of applicant	Name of mineral/ore	Place of processing/ storing/ selling/ trading
(1)	(2)	(3)	(4)	(5)	(6)
	Date of grant/ refusal	Date of appeal, if any	Date of disposal of appeal with orders in brief	Date of revision	Date of disposal of revision with orders inbriefs
(7)	(8)	(9)		(10)	(11)
	Date of expiry of licence, if granted	Date of application for renewal		Date of renewal	Period of renewal
(12)		(13)		(14)	(15)
					Remarks
					(16)

Form 'D'[See Rule 6]Form of licence

1. Name of the licensee (in full) :

2. Full address :

3. Father's name in full :

(in case of firm, names and address of partner and person holding power of attorney to act on behalf of the firm) :

4. Profession of the licensee :

5. Specific place or places of business :

6. Specific purposes for which licence is granted

7. Name of mineral/ore covered under the licence :

8. Challan No. showing payment of application fee :

9. Challan No. showing payment of security deposit :

10. Name and address of persons/firm from whom the mineral/ore will be purchased/ procured :

11. Period of licence :

12. If it is a case of renewal the number and date of grant of the original licence :

13. No. and date of application for this licence

Date of grant.....Signature of the competent authority to grant licences with designation and address
Form 'E'[See Rule 6 (ii)]Amount of ores/minerals to be maintained daily

1. Name of the licensee :

2. Full address :

3. No. and date of licence :

4. Period of licence :

5. Name of mineral/ore :

6. Place of business :

7. Name of circle mining offices under whose jurisdiction the mineral/ore is stored :

Name of month/year	Gradewise opening balance of Date mineral/ore at the store/factory (in Tonne)	Gradewise quantity of ores/minerals received (in Tonne)	Source of receipt
(1)	(2) (3)	(4)	(5)
Total stock of ore/ mineral (in Tonne)	Gradewise quality of ores/minerals consumed/sold/despached for processing	Details despatches with T.P.Nos. and date	Gradewise closing balance of ore/ mineral at the store or factory site
(6)	(7)	(8)	(9)
			Remarks
			(10)

Signature of the licensee Date.....Form 'F'[See Rule 6 (iii)]Account of ores/minerals fed to

plant and their recovery to be maintained daily

1. Name of the licensee :

2. Full address :

3. No. and date of licence :

4. Period of licence :

5. Name of mineral and ore :

6. Name of the plant/factory :

7. Postal address of the factory :

8. Name of mining circle office having jurisdiction over the factory/plant:

Name of month/year	Date	Opening balance of mineral/ore at the plant	Quantity of ore/mineral received at plant	Quantity of ore/mineral fed to the beneficiation plant	Quantity of ore/mineral recovered after beneficiation	Closing balance of ore/mineral at the plant	Remarks
Crude beneficiated	Crude beneficiated						
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Signature of the licensee Date of submission of the return Form 'G'[See Rule 6 (v) and 12 (b)] Transit permit Department of Steel and Mines Government of Orissa

Book No. : District :

Place from which mineral is transported : Permit No. :

Designation : Route :

Name of consignor :

Name of consignee :

Depot/Benefication Plant/Factory	Stock No.	Name of mineral/ore	Percentage content of mineral/ore	Measurement of mineral/ore in carrier (in metre)L.B.H.
(1)	(2)	(3)	(4)	(5)

Cubic content-(in cum.) : (in tonnes)

Gross weight of carrierBare
weight of carrierNetweight of
mineral/ore

Name of carrier owner :Registration number of the carrier :Signature of person issuing permit with
date :Signature of carrier with date and time :Signature of checking staff with date and time
:Signature of supervisory staff with date and time :Signature of person receiving at destination with
date and time :[Signature of the competent authority] [Substituted vide Notification S.R.O. No.
520/91/15.7.1991, vide Orissa Gazette Extraordinary No. 891/31.7.1991.]Form 'H'[See Rule
9]Application for grant of permit

1. Name of applicant for permit :

(in full)

2. Profession :

3. Full address :

4. Father's name (in case of firm give names and address of partners and persons holding power of attorney to act on behalf of the firm):

5. Name of mineral/ore to be transported :

6. Source from which mineral/ore is procured

7. Destination to which transportation to be made :

8. Quality and quantity of ore/mineral to be transported (in tonnes and % of mineral content) :

9. Evidence of payment of application fee :

10. Purpose of transportation of ore/mineral :

11. Period for which permit is required :

12. Any special ground for grant of permit in favour of the applicant :

Date of application.....Signature of the applicantForm 'I'[See Rule 10]

- 1. Name (name in full) of the person to whom permit is granted :**
- 2. Profession :**
- 3. Full address**
- 4. Father's name (in case of firm names and address of the partners and persons holding power of attorney to act on behalf of the firm) :**
- 5. Name of mineral/ore to be transported :**
- 6. Quantity and quality of ore/mineral to be transported**
(in tonnes and % of mineral content) :
- 7. Source from which mineral/ore is procured**
- 8. Destination to which transportation to :**
- 9. Purpose of transportation :**
- 10. Period for which permit is granted :**
- 11. Place where the ore/mineral will be presented for checking :**
- 12. No. and date of application for permit :**
- 13. The grantee shall be abided by the conditions overleaf:**

Date of grant.....Signature of competent authority granting permit with designation and address
Form 'J'[See Rule 12 (c)]

- 1. Name of the permit-holder :**
- 2. Address in full :**
- 3. Date of permit :**

4. Period of permit :

5. Name of mineral/ore to be transported :

6. Place from which ore/mineral is transported :

7. Total quantity of mineral/ore to be transported :

8. Name of Circle Mining Office having jurisdiction over the ore/mineral :

Month	Date	Opening stock of mineral to be transported	Quantity of ore/ mineral transported	No. of supporting transit passes	Destination to which ore/ mineral is transported	Closing stock of ore/ mineral to be transported	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Signature of permit-holder _____ Date of submission of return _____ Form 'K'[See Rule 13(1)] _____ Form of appeal _____

1. Name of the appellant/revisionist in full :

2. Address :

3. Father's name (in case of firm name and addresses of the partners and persons holding power of attorney to act on behalf of the firm):

4. No. and date of order of competent authority against which appeal/revision is preferred

5. Ground of appeal/revision :

6. Evidence of payment of fee for appeal/revision

7. In case of appeal preferred after 30 days of order the reasons of delay :

8. Whether the appellant/revisionist desires to be heard in person or through pleader:

(11)

(12)

(13)

(14)

(15)

Form 'N'[See Rule 17]

1. Name of officer seizing the property

2. Designation and address of the officer

*3. Details of property seized-(a)Place of seizure with date and time(b)Description of each property

4. Rule under which property is seized

5. Name and address of person from whom the property is seized

6. Name and address of any other claimant for the seized property

7. Details of 'Seal' given on the seized property

8. Name and address of person under whose custody the seized property has been kept

9.

. Signature of the custodian

10. Approximate value of the seized property

11. Remarks

Date.....Signature of officer seizing the propertywith designation and addressEach article seized should be properly sealed by officers seizing the same and copy of the seizure paper should be attached to the same.Form 'O'[See Rule 18

(a)]ToM/s/Sir.....Address

.....Take notice that the following properties which were involved in offence committed under the Orissa Minerals (Prevention of Theft, Smuggling and other Unlawful Activities) Act, 1989 on dateand seized by

Sri.....;.....Designation.....as.....will be confiscated by the under-signed(place of occurrence of offence)In case you want to be heard in person in the matter you are hereby asked to give the same in writing within 15 days from the date of issue of this notice and if you do not respond within the said period the matter will be decided ex parte.Signature of competent authoritywith designationDate.....