



Republika e Kosovës \* Republika Kosova \* Republic of Kosova

Komisioni i Pavarur për Miniera dhe Minerale  
Nezavisna Komisija za Rudnike i Minerale  
Independent Commission for Mines and Minerals



Pursuant to section 51, section 59 paragraph 1 and section 62 of the Law 03/L-163 on Mines and Minerals according to section 31, and section 23 of the law nr. 04/L-158 on Amending and Supplementing of the Law no. 03/L-163 on Mines and Minerals, the Board of the Independent Commission for Mines and Minerals in the meeting held on 16.12.2013 hereby issues this:

## **ADMINISTRATIVE INSTRUCTION**

**(ICMM NO. 001/2014)**

### **ON DEFERMENTS AND EXEMPTIONS OF THE ROYALTY PAYMENT**

#### **Section 1**

##### **Purpose**

This instruction shall regulate and determine the manner of royalty payment for all companies possessing mining licences for minerals. This instruction shall also determine the relevant mechanisms within the ICMM on how to process all cases when every mining Licensee applies to defer the financial obligation, processing procedure and the term to defer the payment, interest rate.

#### **Section 2**

##### **Conditions and the right to enter into an agreement**

- 2.1. Every Licensee has a right to make a request to defer the term of payments, respectively programming the royalty obligations by instalments.
- 2.2. The ICMM Director may approve the deferment of the term and exemptions according to section 51 of the Law on Mines and Minerals and section 31 of the law nr. 04/L-158 on Amending and Supplementing of the Law no. 03/L-163 on Mines and Minerals.
- 2.3. A Mining Licensee may apply to the ICMM for an authorization to defer the payment of a royalty, if at the close of the period for which such royalty is due, such licensee's cash operating margin is less than zero.

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### **Section 3**

#### **The request to enter into an agreement**

3.1. When Licensee applies to the ICMM to defer the payment of a royalty shall attach to the request:

3.1.1. Income statement for previous year

3.1.2. Income statement for a specific period on the date of application to defer the payment obligation of a royalty

3.1.3. The state of all accounts for the entity that applies to defer the payment obligation of a royalty

3.1.4. Payment required according to this instruction

3.2. Commission may require an initial payment up to 30% of the total debt as a condition to enter into an agreement depending on the state of income statement.

3.3. Every request on deferment or programming the debt shall be reviewed by an ad-hoc commission (within Finance Department) proposed by the head of Finance Department appointed by the ICMM Director.

### **Section 4**

#### **The term to defer the royalty**

4.1. Regarding the royalty, Licensee has a right to enter into an agreement for outstanding obligations created in the previous year.

4.2. Licensee has a right to enter into an agreement also for obligations created in the present year.

4.3. To enter into an agreement means also to stop the interest application for the debt not paid on time.

4.4. Agreement lasts up to 12 months within a year when the request for agreement is made

4.5. Agreement can last for a period of time longer than twelve months (12) but the Interest will continue to accrue during the agreement duration.

### **Section 5**

#### **Approval of the request to enter into an agreement**

5.1. If Commission (the Commission established within Finance Department) determines that the licensee's cash operating margin is in fact less than zero at the close of the concerned period, the Commission may authorize the deferment of the royalty, in whole or in part, in accordance with section 51 of the Law on Mines and Minerals and section 31, and section 23

of the law nr. 04/L-158 on Amending and Supplementing of the Law no. 03/L-163 on Mines and Minerals

5.2. With licensee request ICMM, can enter into agreement by instalments for royalty payment, by which it can be paid the due royalty, according to paragraph 2. of section 52 of the basic law, with terms and conditions of agreement.

5.3. When the royalty payment is required, and the payer wants an agreement for a period longer than twelve (12) months, the interest will continue to accrue during the agreement duration.

5.4. The payer of royalty shall agree to remain regular in all other obligations and perform them along with the signed agreement, including the performance on time and precisely of the quarterly payments and other payments if they are applicable according to the conditions of licence and the present law.

5.5. If the payer of royalty fails to comply with an agreement by instalments, the interest will be reset retroactively until the date when the agreement has been signed. If the payer of royalty can not fulfil obligations according to the agreement by instalments and he wants to reset an agreement by instalments, the agreement with subsequent instalments will not include the interest discharge. The interest will continue to accrue in any agreement with subsequent instalments for the agreement duration.

5.6. If a licensee fails to pay any royalty according to the terms required by law and other sublegal acts ICMM except the notice of failure to comply according to section 9 of the basic law, and section 6 of the Law no. 04/L-158 on Amending and Supplementing of the Law no. 03/L-163 on Mines and Minerals will apply also the interest of non-payment on time.

5.7. During the review of request, the Commission may require additional documents and advice the company to complete the documentation.

5.8. The Commission decides and determines as well the royalty grace-period in the agreement reached.

5.9. Entry into the programming of debt shall be done for each number of invoice or registration in software for the concerned period and licence number for which it is required the deferment of payment.

5.10. The payer of royalty shall fulfil properly all other obligations and perform them along with the signed agreement, including the performance on time and precisely of the quarterly payments and other payments if they are applicable according to the conditions of licence and the present law.

5.11. If the royalty payer fails to make the royalty payment and if the licence is cancelled to him, when the licence cancelation becomes final then the interest shall be terminated. After the decision to cancel the licence becomes final and sending the case to the court other rules shall be applied on the application of interest under applicable law,

5.12. After approval to defer the term of payment, the Finance Department shall prepare the payment form and register it in the software of revenue.

## **Section 6**

### **Non-approval of the request to defer the term of payment**

6.1. If the Commission determines that the licensee's cash operating margin is more than zero at the close of the concerned period, then the request for deferment shall be refused.

## **Section 7**

### **Interest application**

7.1. Interest means penalty for operators licensed by the ICMM for mining activity who failed to fulfil obligations under foreseen terms.

7.2. Interest rate shall be determined every year by a special decision.

7.3. **Month delay** – means the date from 01 until the end of the specified month, also a month will be calculated also one day if the term of payment has expired except official holidays or weekends.

7.4. Calculation formula is the Interest percentage for delay x outstanding debt x months delay number.

7.5. Payment form will be generated automatically by the Revenue Software with details of payment sum only for interest and in the Uniref system without linking other obligations in the form.

## **Section 8**

### **Informing the company about decision**

8.1. If the request is approved then a registered letter together with the form of payment by instalments will be sent to the Licensee within 2 working days.

8.2. If the request is not approved the Licensee is informed in writing by describing the reasons of non-approval.

8.3. If the additional documents are required, then they can be required from the company by telephone, e-mail or written notice.

## **Section 9**

### **Entry into force**

9.1. This instruction shall enter into force 8 days after its publication in the Official Gazette of the Republic of Kosovo.

9.2 The Administrative instruction 001/2013 on Deferments and Exemptions of the Royalty Payment shall be abolished by this Instruction.



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