

No. 11022/10/2014-CA-I
Government of India
Ministry of Coal

Date:19.11.2014

Subject: Public Notice seeking comments on draft of the Rules proposed to be notified under the Coal Mines (Special Provisions) Ordinance, 2014

The Coal Mines (Special Provisions) Ordinance, 2014 has been notified on 21.10.2014. In order to operationalize provisions of the Ordinance, draft Rules have been framed. The members of the public and stakeholders concerned are requested to submit their comments/ views, if any, on the email id: ***nomauthority.moc@nic.in*** upto 09:00 AM on 24.11.2014.

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Ministry of Coal
Government of India

DRAFT FOR PUBLIC CONSULTATION:
THE COAL MINES (SPECIAL PROVISIONS) RULES,
2014

To be framed under
The Coal Mines (Special Provisions) Ordinance,
2014

19.11.2014

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THE COAL MINES (SPECIAL PROVISIONS) RULES, 2014

Ministry of Coal

Notification

New Delhi, [date]

[Number] – In exercise of the powers conferred by Section 29 of the Coal Mines (Special Provisions) Ordinance, 2014 (No. 5 of 2014), the Central Government hereby makes the following rules:

CHAPTER 1 : SHORT TITLE AND DEFINITIONS

1. Short title and commencement

- (1) These Rules may be called the Coal Mines (Special Provisions) Rules, 2014.
- (2) These Rules shall come into force on the date of their publication in the Official Gazette. Provided, however that if upon these rules being laid in both Houses of Parliament in terms of Section 29(3) of the Coal Mines (Special Provisions) Ordinance, 2014, both Houses of Parliament agree: (a) to make any modification to these Rules; or (b) that these Rules should not be made, then these Rules shall have effect only in such modified form, or be of no effect, as the case may be.

2. Definitions

- (1) In these Rules, unless the context otherwise requires:
 - (a) “**Additional Levy**” has the meaning given in Section 3(1)(a) of the Ordinance.
 - (b) “**Allotment Document**” has the meaning given in Rule 11(4).
 - (c) “**Allotment Order**” has the meaning given in Section 3(1)(b) of the Ordinance.
 - (d) “**Business Day**” means a day which is not a Saturday or Sunday or any other day declared as a public holiday by the Central Government.
 - (e) “**Designated Custodian**” means a person appointed as a Designated Custodian by the Central Government under Section 18 of the Ordinance.
 - (f) “**Floor Price**” means the minimum price fixed by the Central Government for a Schedule I coal mine allocated by way of auction.
 - (g) “**Mine Dossier**” has the meaning given in Rule 9(5).
 - (h) “**Nominated Authority**” means a person appointed as a Nominated Authority by the Central Government under Section 6 of the Ordinance.
 - (i) “**O&M Plan**” has the meaning given in Rule 28(1).

- (j) **“Ordinance”** means the Coal Mines (Special Provisions) Ordinance, 2014 (No. 5 of 2014).
 - (k) **“Reserve Price”** means the minimum price fixed by the Central Government for a Schedule I coal mine allocated by way of allotment.
 - (l) **“Rules”** means these the Coal Mines (Special Provisions) Rules, 2014.
 - (m) **“Successful Allocatee”** has the meaning given in Rule 13(1).
 - (n) **“Tender Document”** has the meaning given in Rule 10(2).
 - (o) **“Vesting Order”** has the meaning given in Section 3(1)(w) of the Ordinance.
- (2) Words and expressions used herein but not defined and defined in the Ordinance shall have the meaning respectively assigned to them in the Ordinance.

CHAPTER II :THE NOMINATED AUTHORITY

3. Appointment of the Nominated Authority

- (1) The Nominated Authority shall be appointed by the Central Government in terms of Section 6(1) of the Ordinance.
- (2) The Nominated Authority may be a full time position or may be designated as an additional charge, as determined by the Central Government.

4. Office of the Nominated Authority

- (1) The Central Government may specify:
 - (a) the number, designation, roles and functions of the officers and staff to assist the Nominated Authority in terms of Section 6(5) of the Ordinance; and
 - (b) the manner of appointment of the officers and staff including through deputation, recruitment etc.
- (2) The Central Government may also make such budgetary allocation as it may deem fit, for discharge of functions by the Nominated Authority and the office of the Nominated Authority.
- (3) The Nominated Authority shall exercise powers as Head of Department in terms of the General Financial Rules and Delegation of Financial Power Rules. The Nominated Authority may designate one of the officers working under him as Head of Office.

5. Conditions of service of the Nominated Authority and the officers and staff

- (1) The conditions of service of the Nominated Authority and the officers and staff, shall be regulated in accordance with such terms of employment, including the laws, rules, regulations, and contracts as are applicable to officers and employees of the Central Government belonging to the corresponding category and scale of pay.

- (2) Officers assigned from other departments/ organisations and posted with the Nominated Authority shall be governed by the terms of employment and the rules applicable to them in their respective departments/ organisations belonging to the corresponding category and scale of pay.
- (3) Personnel appointed on contractual basis in the Nominated Authority shall be governed by their respective terms of contract with respect to their appointment.

6. Experts

- (1) The Nominated Authority may appoint experts who are already on the panel of the following with respect to similar expert advisory as required by the Nominated Authority:
 - (a) any ministry or department of the Central Government; or
 - (b) any Central Government public sector enterprise or any statutory or autonomous organisation of the Central Government.
- (2) The Nominated Authority may also appoint experts who are not on any panel after following the procedure specified by the Central Government.
- (3) The auction and allotment of coal mines being specialized activities, the outcome of which would have a significant impact, in case of appointment of experts who are not on any panel as specified under Rule 6(1), the Nominated Authority may in its discretion use 'quality based selection' or 'selection by direct negotiations' for appointment of experts, as specified in the Manual of Policies and Procedure of Employment of Consultants, dated August 31, 2006, issued by the Department of Expenditure, Ministry of Finance, Government of India.

7. Powers and duties of the Nominated Authority

- (1) The Nominated Authority shall have such powers as specified in the Ordinance and/or these Rules.
- (2) Without prejudice to the generality of the foregoing powers and duties specified under Section 6 of the Ordinance, the Nominated Authority shall have the power or the duty (as the case may be) to:
 - (a) call for all information necessary from any prior allottee in relation to any Schedule I coal mine, including records in relation to the coal reserves, production, costs of production, mine infrastructure and contracts entered into by any prior allottee;
 - (b) execute the Vesting Order on the basis of the model format as provided in Schedule A;
 - (c) execute the Allotment Order on the basis of the model format as provided in Schedule B;

- (d) inform the relevant Central and State authorities to record and mutate incorporeal rights of whatsoever nature including, of consents, permissions, permits, approvals, grants, registrations;
 - (e) take requisite steps for the collection of auction proceeds as well as the amounts realized from allotment;
 - (f) seek the details of taxes, levies or cess;
 - (g) direct the secured creditors in relation to a Schedule I coal mine to provide details of any secured debt, loans or other credit facilities, including security interest created by any prior allottee;
 - (h) ensure collection of bank guarantee in relation to a Vesting Order or an Allotment Order, as the case may be;
 - (i) keep records of any movable property of the prior allottee;
 - (j) keep records of the intimation of any charge in relation to a Schedule I Coal Mine provided by any prior allottee;
 - (k) call for information from the relevant statutory authorities under the Mines and Minerals (Development and Regulation) Act, 1957 and any rules and regulations made thereunder;
 - (l) adjust the preferential payments and transfer of amount to the Commissioner of Payments for disbursal to any prior allottee;
 - (m) transfer of residual amount to the respective State Governments where the Schedule I coal mine is located;
 - (n) open, operate and maintain one or more bank accounts for discharge of its functions;
 - (o) make payment to any person other than the prior allottee in accordance with the priority of payments specified in terms of Section 9 of the Ordinance, in the manner as specified in Rule 15;
 - (p) specify the manner of disposal of coal stock on the Appointed Date with the prior allottee of Schedule II coal mine; and
 - (q) The Nominated Authority may take into consideration such recommendations, findings or reports, including that of any committee of the Central Government, and any order issued by the Central Government as it may deem expedient.
- (3) The Nominated Authority shall also have any other powers which may be consequential or incidental to the functions of the Nominated Authority specified in the Ordinance and/or these Rules.

CHAPTER III : AUCTION AND ALLOTMENT PROCESS

8. Allocation process

- (1) In connection with the allocation of Schedule I coal mines:
 - (a) the Nominated Authority shall finalise a Mine Dossier in the manner specified in Rule 9;
 - (b) the Central Government shall issue an order to the Nominated Authority as provided in Rule 8(2);
 - (c) pursuant to the order issued by the Central Government under Rule 8(2), the Nominated Authority shall conduct the auction process in accordance with Rule 10 or the allotment process in accordance with Rule 11, as the case may be.
- (2) The Central Government shall issue an order to the Nominated Authority regarding the following:
 - (a) the manner of allocation of the Schedule I coal mine through: (i) public auction in terms of Section 4 of the Ordinance; or (ii) allotment under Section 5 of the Ordinance;
 - (b) in case of any Schedule II coal mine or Schedule III coal mine, the specified end use;
 - (c) broad parameters for the conduct of auction or allotment; and
 - (d) any other matter that the Central Government may deem expedient in accordance with the Ordinance or these Rules.
- (3) The Central Government may also recommend the methodology for determination of the Floor Price or Reserve Price, as the case may be, to the Nominated Authority who shall make the determination of the same in accordance with the Ordinance and these Rules.

9. Mine Dossier

- (1) The Nominated Authority may notify any prior allottee of the Schedule I coal mine under Section 8(1) of the Ordinance to provide such information and documents regarding the Schedule I coal mine earlier allotted to such prior allottee, as the Nominated Authority may feel expedient.
- (2) Upon receipt of such notice, in terms of Section 8(2) of the Ordinance, the prior allottee shall be under an obligation to provide the information requested by the Nominated Authority within a period of 15 days starting from the date of receipt of the notice referred in Rule 9(1).
- (3) Without prejudice to the generality of Rule 9(1), the Nominated Authority may seek any information from a prior allottee, at any time, including:

- (a) particulars of Schedule I coal mine, including the geographical area, coal reserves and other geological information;
 - (b) particulars of the mine infrastructure;
 - (c) particulars of mining operations conducted by the prior allottee, if any, including details of the personnel engaged;
 - (d) particulars of the secured creditors, along with details of dues towards secured creditors as on the date of receipt of the notification referred in Rule 9(1);
 - (e) particulars of all contracts relevant to the mining operations;
 - (f) particulars of any entitlement to mining lease, all statutory licenses, permits, permissions, approvals or consents relevant to the mining operations;
 - (g) balance sheet and profit and loss accounts, auditor's reports and other financial information;
 - (h) particulars of movable property used in connection with the mining operations.
- (4) The Nominated Authority may seek information regarding any Schedule I coal mine from any person other than the prior allottee, including without limitation secured creditors, auditors, counterparties to contracts and the Designated Custodian and such person shall provide such information sought within the period as specified by the Nominated Authority. Such third parties shall be under an obligation to provide the information as required by the Nominated Authority. Failure to provide information requested by the Nominated Authority may attract penalties under Sections 23 and 24 of the Ordinance, as applicable.
- (5) The Nominated Authority shall finalise a written dossier (the "**Mine Dossier**") for each Schedule I coal mines based on the information received from prior allottee under Rule 9(2) and/or information received from persons other than the prior allottee under Rule 9(4).
- (6) The Nominated Authority may update the Mine Dossier from time to time, on its own accord or upon receiving a direction from the Central Government in this regard.

10. Auction

- (1) The auction of a Schedule I coal mine would be conducted by the Nominated Authority in the manner specified in the Ordinance; these Rules; and any other order issued by the Central Government in this regard, as the case may be.
- (2) In respect of Schedule I coal mines for which the Central Government has specified auction under Rule 8(2)(a), the Nominated Authority may issue a document for the tendering process (the "**Tender Document**").
- (3) Each Tender Document would include such information as the Nominated Authority may consider expedient for the purposes of auction including:

- (a) the particulars of specified end use, if any;
 - (b) the Mine Dossier containing particulars of the Schedule I coal mine;
 - (c) the terms and conditions associated with the public auction, including the Floor Price, eligibility conditions, the process of conduct of auction and other related information;
 - (d) the request for proposal;
 - (e) agreements proposed to be entered into with the successful bidder.
- (4) The following provisions would apply to the conduct of an auction by the Nominated Authority:

(a) **Electronic Auction:**

The process of auction of Schedule I coal mines shall be conducted through electronic auction, to be conducted in accordance with the Ordinance, these Rules, the Tender Document and orders issued by the Central Government, if any.

(b) **Tender Process:**

The Tender Process shall be a two stage process comprising of:

- (i) technical bid; and
- (ii) financial bid.

The Tender Document may specify the weightage that may be applied to the technical bid and the financial bid for the purposes of determination of the successful bidder.

(c) **Eligibility:**

The Nominated Authority shall specify the applicable eligibility conditions for participation in auction in the Tender Document. The eligibility norms may include:

- (i) technical and financial qualifications of the participants in the auction;
- (ii) compliance with the procedure specified for the auction process; and/or
- (iii) requirement to provide security, guarantee.

(d) **Additional eligibility:**

A person who is eligible under sub section (3) of section 4 shall also meet the following eligibility criteria:

- (i) a company engaged in specified end use including a company having a coal linkage or whose application for linkage is pending with the Central Government on the date of commencement of the Ordinance shall be eligible to bid for any Schedule II coal mine provided it has made an expenditure of 80 per cent of the total project cost of the specified end use plant(s),
- (ii) a company engaged in specified end use including a company having a coal linkage or whose application for linkage is pending with the Central Government on the date of commencement of the Ordinance shall be eligible to bid for any Schedule III coal mine provided it has made an expenditure of 60 per cent of the total project cost of the specified end use plant(s),

Explanation: It is clarified that if such company is the successful bidder, then the entitlement to receive coal pursuant to such coal linkage shall stand proportionately reduced on the basis of the requirement of coal being met from the mine allocated to such company.

- (iii) It is clarified that for the purposes of sub-rules (i) and (ii), the expression "total project cost" shall be determined on the basis of a certificate issued by the relevant company, duly certified by the statutory auditors and secured creditors (if any) of the relevant company.
- (5) The Nominated Authority may also specify the maximum number of mines and/or coal reserves that may be allocated to one or more persons.
 - (6) The Nominated Authority may take into consideration such recommendations, findings or reports, including that of any committee of the Central Government, and any order issued by the Central Government as it may deem expedient in determining the Floor Price, pursuant to Section 8(5) of the Ordinance.
 - (7) The Nominated Authority shall issue a public notice for the auction in at least one Hindi and one English language national newspaper. Such public notice shall specify the manner in which the Tender Document may be obtained.
 - (8) The participants in the tender process shall be required to make payment of fee on the basis of the geological reserve of the Schedule I coal mine relevant to the tender, in the manner provided below:

Sl.	Geological reserve in million tonnes (MT)	Fee payable (INR)
1	Less than 10	5,00,000
2	11-50	10,00,000
3	51-100	15,00,000
4	101-200	25,00,000
5	201-500	40,00,000
6	501-1000	60,00,000
7	More than 1000	1,00,00,000

- (9) Upon completion of the public auction process the Nominated Authority shall forward its recommendations to the Central Government with regard to the selection of successful bidder.
- (10) Upon receipt of such recommendation the Central Government may direct the Nominated Authority to issue a Vesting Order in favour of the successful bidder or may provide such other binding directions to the Nominated Authority as may be deemed appropriate.

11. Allotment

- (1) The allotment of a Schedule I coal mine would be conducted by the Nominated Authority in the manner specified in the Ordinance; these Rules; and any other order issued by the Central Government in this regard, as the case may be.
- (2) The Nominated Authority shall specify the end use for any Schedule II coal mine or Schedule III coal mine.
- (3) The Nominated Authority shall specify the maximum number of mines and/or coal reserves that may be allotted to a State.
- (4) In respect of Schedule I coal mines for which the Central Government has specified allotment under Rule 8(2)(a), the Nominated Authority shall prepare an allotment document (the "**Allotment Document**").
- (5) Each Allotment Document would include such information as the Nominated Authority may consider expedient for the purposes of allotment and may include:
 - (a) the particulars of specified end use, if any;
 - (b) the Mine Dossier containing particulars of the Schedule I coal mine;
 - (c) the terms and conditions associated with the allotment, including the Reserve Price, eligibility conditions, the process of conduct of allotment and other related information;
 - (d) agreements proposed to be entered into with the successful allottee.
- (6) The Nominated Authority shall issue a public notice inviting applications from a Government company or corporation eligible under Section 5 of the Ordinance in at least one Hindi and one English language national newspaper. The Nominated Authority may make arrangements for wide dissemination of the Allotment Document to the prospective applicants.
- (7) The Allotment Document shall specify the norms for allotment. Such norms may include, without limitation, the following:
 - (a) progress of development of coal blocks by the applicant in the past;
 - (b) financial details of the applicant, including the net-worth and turnover;
 - (c) technical capabilities of the applicant and the technology proposed to be used for mining;

- (d) the end-use towards which the coal is proposed to be utilised;
- (e) demand-supply gap;
- (f) assessment of current and future requirement of the State;
- (g) in case of utilisation of the coal towards any specified end use:
 - (i) state of preparedness of the end use facility;
 - (ii) proximity of the end use facility to the relevant coal mine;
 - (iii) in case of generation of power being the specified end-use, the per-capita power availability in the State of the applicant company.
- (8) The Nominated Authority may take into consideration such recommendations, findings or reports, including that of any committee of the Central Government, and any order issued by the Central Government as it may deem expedient in determining the Reserve Price, pursuant to Section 8(5) of the Ordinance.
- (9) The Nominated Authority shall forward its recommendations to the Central Government with regard to the selection of the allottee.
- (10) Upon receipt of such recommendation the Central Government may direct the Nominated Authority to issue an Allotment Order in favour of the successful allottee or may provide such other binding directions to the Nominated Authority as may be deemed appropriate.

12. Allotment on the basis of competitive bidding for power projects

- (1) Notwithstanding anything contained in Rules 8, 10 or 11, in terms of Section 5(1) of the Ordinance, the Central Government may also allot any Schedule I coal mine to any company recommended for such allotment by the Ministry of Power, which has been awarded a power project based on competitive bid for tariff, on such terms and conditions as the Central Government may deem expedient.
- (2) The Central Government shall notify a list of such Schedule I coal mines which would be available for allotment under Rule 12(1) and may also specify the terms and conditions for such allotment.

13. Transition through Vesting and Allotment

- (1) The successful bidder in terms of Rule 10 or the allottee in terms of Rule 11 (the "**Successful Allocatee**") shall be entitled to receive a Vesting Order on the basis of the model format as specified in Schedule-A or an Allotment Order on the basis of the model format as specified in Schedule-B, respectively.
- (2) In the event that the Successful Allocatee is the same as the prior allottee, then:
 - (a) the Successful Allocatee shall be entitled to receive a Vesting Order or an Allotment Order, as the case may be, only after it has made payment of the applicable and Additional Levy within the due date;

- (b) the Successful Allocatee shall immediately inform its secured creditors in writing, who may elect to continue with the facility agreement in terms of Section 12(1)(a) of the Ordinance.
 - (c) The Successful Allocatee shall continue the mining operations in the manner specified in Section 8(10) and Section 8(11) of the Ordinance, as applicable.
- (3) In the event that the Successful Allocatee is not the same as the prior allottee then:
 - (a) the prior allottee shall be entitled to receive compensation in the manner provided in Rule 15;
 - (b) the Successful Allocatee shall:
 - (i) inform the prior allottee in writing to commence negotiations to own or utilize any movable property used in coal mining operations on such terms and conditions as may be mutually agreed to by them in terms of Section 10 of the Ordinance.
 - (ii) inform the Nominated Authority in writing, prior to issuance of the Vesting Order or Allotment Order as the case may, regarding its intention to continue and adopt any contract which may be existing with any prior allottee. In such event, the Nominated Authority shall include the vesting of such contracts in the Vesting Order or the Allotment Order, as the case may be, in terms of Section 11 of the Ordinance.
- (4) The Performance bank guarantee:

In terms of Section 8(6) of the Ordinance, the successful bidder or allottee shall be required to provide a performance bank guarantee for such amount as may be specified by the Central Government or the Nominated Authority. Such performance bank guarantee may *inter alia* provide for the following:

 - (i) it shall be unconditional, irrevocable and valid till the commencement of mining operations;
 - (ii) it shall be linked with the milestones for the development of the coal mine till it reaches its peak rated capacity as specified in the approved mine plan as may be specified by the Central Government; and
 - (iii) upon invocation of the performance bank guarantee, the payment should be made immediately without any demur, reservation, caveat, protest or recourse.
- (5) Successful Allocatee shall be entitled to take possession of the relevant Schedule I coal mine and commence mining operations in the manner specified in Section 8(7) of the Ordinance and the Vesting Order or the Allotment Order, as the case may be.

14. Manner of determination of compensation to the prior allottee and lodging of the registered sale deeds

- (1) The compensation payable to the prior allottee shall be determined by the Nominated Authority in accordance with Section 16 of the Ordinance. For this purpose the Nominated Authority may:
 - (a) seek information regarding the written down value of the mine infrastructure as reflected in the statutorily audited balance sheet of the previous financial year in terms of Section 8(1) of the Ordinance; and
 - (b) seek assistance from the Central Government and/or experts regarding determination of compensation payable to the prior allottee in terms of Section 6(2) of the Ordinance.
- (2) The prior allottee shall lodge the registered sale deeds and/or its certified copy with respect to the Schedule I coal mines with the Nominated Authority in terms of Section 16(1) of the Ordinance, within the time specified by the Nominated Authority in this regard.

15. Priority of disbursement of proceeds to persons other than the prior allottee

- (1) In terms of Section 9 of the Ordinance, the proceeds arising out of land and mine infrastructure in relation to a Schedule I coal mine shall be disbursed maintaining the following priority of payments:
 - (a) employee's dues;
 - (b) payment to secured creditors in terms of Section 9(a) of the Ordinance;

Explanation: In case there are more than one secured creditors and the proceeds arising out of the land and mine infrastructure is not sufficient for full satisfaction of their claims then the Nominated Authority shall pay such creditors in proportion to their secured claims.

- (c) all revenues, taxes, cesses and rates due from the prior allottee to the Central Government or a State Government or to a local authority at the relevant date, and having become due and payable within the twelve months immediately before that date, with respect to the relevant Schedule I coal mine;

Explanation -- For the purposes of this Rule, the expression "employee" has the meaning provided to it under the Employee's Compensation Act, 1923 (8 of 1923).

- (2) The question of discharging any liability with regard to a matter specified in a lower category shall arise only if surplus is left after meeting all the liabilities specified in the immediately higher category.
- (3) **Determination of claims:**

- (a) The Nominated Authority may invite persons other than the prior allottee to submit their claims with proof of their respective claims within a fixed time period to receive payments under this Rule, through publication in at least one English and one Hindi language national newspaper.
 - (b) Every claimant, who fails to file a claim or appropriate proof of the claim within the time specified by the Nominated Authority, shall be excluded from the disbursements made by the Nominated Authority.
 - (c) Upon receipt of the aforementioned claims, the Nominated Authority shall arrange the claims in the order of priority specified in Rule 15(1) and examine the same in accordance with such order of priorities.
 - (d) The Nominated Authority shall after such investigation as may, in his opinion be necessary, determine the nature and extent of such claims and may by an order in writing, admit or reject the claim in whole or in part.
 - (e) In the event of any difference regarding determination of claims in accordance with the order of priority, the matter shall be referred to the Central Government and the decision of the Central Government in this regard shall be binding on the Nominated Authority.
- (4) **Manner of disbursement:**

The payments referred to under this Rule shall be made through the bank account specified by the persons entitled to receive such payments upon verification of the identity of such persons and the claims made by such persons, including the secured creditors as the case may be.

16. **Determination of title to movable property**

The procedure specified in Rule 15(3) shall apply *mutatis mutandis* with respect to determination of title to movable property by the Nominated Authority in pursuance of the provisos to Section 10(5) of the Ordinance. The owner or lessee of movable property which has been disposed off by the successful bidder or allottee in accordance with section 10(5) may establish the title of movable property on the basis of the following documents:

- (a) original bills, invoices, receipts in favour of such owner
- (b) any document evidencing such transfer
- (c) entries in books of accounts of the such owner

17. **Re-auction and re-allotment**

- (1) In the event that any Schedule I coal mine is not allocated pursuant to Rule 10 or Rule 11, as the case may be, on account of any reason whatsoever, the Nominated Authority shall have the power to re-initiate the auction in accordance with Rule 10 or allotment in accordance with Rule 11, as the case may be, with respect to such Schedule I coal mine, provided the Nominated Authority has not received any other order under Rule 8(2) from the Central Government with respect to such Schedule I coal mine.

- (2) In the event that the Central Government has issued a fresh order with respect to any Schedule I coal mine referred in Rule 17(1), then the Nominated Authority shall act in accordance with such order and the provisions of Rule 10 or Rule 11, as the case may be shall apply *mutatis mutandis*.

CHAPTER IV :ADDITIONAL LEVY

18. Additional Levy

- (1) The Additional Levy with respect to the coal extracted from any Schedule II coal mine till September 24, 2014 (inclusive of September 24, 2014), shall be deposited by the prior allottee with the Central Government on or before December 31, 2014.
- (2) The Additional Levy with respect to the coal extracted from any Schedule II coal mine after September 24, 2014 till March 31, 2015 (inclusive of March 31, 2015), shall be deposited by the prior allottee with the Central Government on or before June 30, 2015.
- (3) The Additional Levy shall be deposited into an account as specified by the Central Government by way of a demand draft, banker's cheque or any other electronic means, including RTGS or NEFT.

CHAPTER V :CERTAIN ARRANGEMENTS

19. Arrangements for optimal utilisation of coal mines

- (1) A successful bidder or allottee proposing to enter into any agreements or arrangements referred to in Section 20(1) of the Ordinance shall make an application to the Central Government in writing.
- (2) The application referred to in Rule 19(1) shall include the complete particulars of the following:
 - (a) parties to the proposed agreements or arrangements;
 - (b) the proposed agreements or arrangements; and
 - (c) the manner in which such agreements or arrangements would achieve optimal utilisation of coal mines and cost efficiencies.
- (3) The Central Government may seek such further information regarding the proposed agreement or arrangements as it may deem fit.
- (4) The Central Government may after such investigation as may, in its opinion be necessary, by an order in writing, grant its approval or reject the proposed agreement or arrangements, in whole or in part.
- (5) Upon execution of such agreements or arrangements, a certified copy of the same shall be deposited with the Central Government within 15 Business days of such execution.

20. Utilisation of coal for any other plant of the Successful Allocatee

- (1) A successful bidder or allottee proposing to utilise the coal mined from a particular Schedule I coal mine for any of its other plants in terms of Section 20(2) of the Ordinance, shall provide prior intimation to the Central Government in writing.
- (2) The intimation referred in Rule 20(1) shall be provided at least 30 Business Days prior to the intended date of such utilisation.
- (3) The Central Government may seek further information regarding such utilisation as it may deem fit and may impose such terms and conditions as may be found necessary.

CHAPTER VI : COMMISSIONER OF PAYMENTS

21. Appointment of the Commissioner of Payments

- (1) The Commissioner of Payments shall be appointed by the Central Government in terms of Section 15(1) of the Ordinance.
- (2) The Commissioner of Payments may be a full time position, a part time position or may be designated as an additional charge, as determined by the Central Government.

22. Office of the Commissioner of Payments

- (1) The Central Government may specify:
 - (a) the number, designation, roles and function of the officers and staff to assist the Commissioner of Payments in terms of Section 15(2) of the Ordinance; and
 - (b) the manner of appointment of the officers and staff including through deputation, recruitment or such other manner.
- (2) The Central Government may also make such budgetary allocation as it may deem fit, for discharge of functions by the Commissioner of Payments and the office of the Commissioner of Payments.
- (3) The Commissioner of Payments shall exercise powers as Head of Department in terms of the General Financial Rules and Delegation of Financial Power Rules. He may designate one of the officers working under him as Head of Office.

23. Condition of service of the Commissioner of Payments and the Commissioner's Officers and Staff

- (1) The conditions of service of the Commissioner of Payments and the officers and staff, shall be regulated in accordance with such terms of employment, including the laws, rules, regulations and contracts as are applicable to officers and employees of the Central Government belonging to corresponding category and scale of pay.

- (2) Officers assigned from other departments/ organisations and posted with the Commissioner of Payments shall be governed by the terms of employment and the rules applicable to them in their respective departments/ organisations belonging to corresponding category and scale of pay.
- (3) Personnel appointed on contractual basis in the Commissioner of Payments shall be governed by their respective terms of contract with respect to their appointment.

24. Powers and duties of the Commissioner of Payments

- (1) The Commissioner of Payments shall have such powers as specified in the Ordinance.
- (2) Without prejudice to the generality of the foregoing, the Commissioner of Payments shall have the power or duty (as the case may be) to:
 - (a) make payment to the prior allottee of an amount equal to the compensation determined by the Nominated Authority;
 - (b) open, operate and maintain one or more bank accounts for discharge of its functions; and
 - (c) maintain records with respect to the disbursements made by the Commissioner of Payments for each Schedule I coal mine.
- (3) The Commissioner of Payments shall also have any other powers which may be consequential or incidental to the functions of the Commissioner of Payments.

25. Manner of payment

The payments referred to under this Rule shall be made through the bank account specified by the persons entitled to receive such payments upon verification of the identity of such persons and the claims made by such persons.

CHAPTER VII : DESIGNATED CUSTODIAN

26. Appointment of the Designated Custodian

- (1) The Central Government may appoint any person as a Designated Custodian for any Schedule I coal mine through a notification issued under Section 18(1) of the Ordinance.
- (2) The Central Government may appoint different Designated Custodians for each Schedule I coal mine.
- (3) A Designated Custodian may appoint, with the prior approval of the Central Government, such other officers, consultants and experts as may be necessary to assist it in the discharge of its functions.
- (4) The Central Government may by an order specify such matters as may be deemed expedient including the following:

- (a) the duration of appointment of the Designated Custodian, which may be extended by the Central Government;
 - (b) the specific actions, if any which the Designated Custodian would be required to take with respect to each Schedule I mine entrusted with the Designated Custodian;
 - (c) in case the Designated Custodian undertakes mining operations, the manner of disposal of the coal mined by the Designated Custodian;
- (5) The Central Government may enter into an operations and management agreement with the Designated Custodian.
- (6) It is clarified that for this purposes of this CHAPTER VII, the expression Schedule I coal mine shall mean a Schedule I coal mine as notified by the Central Government under Section 18(1) of the Ordinance.

27. Possession by the Designated Custodian

- (1) The Designated Custodian shall be entitled to take control and possession of the relevant Schedule I coal mine through an order to the prior allottee of the relevant coal mine under the Ordinance.
- (2) In case of a Schedule II coal mine, if so directed by the Designated Custodian, the prior allottee shall hold the relevant Schedule II coal mine in trust for the Designated Custodian until the Designated Custodian assumes possession of the relevant Schedule II coal mine.

28. Operation and Management Plan

- (1) The Designated Custodian shall prepare a detailed Operations and Management Plan ("O&M Plan") for each Schedule I coal mine entrusted with the Designated Custodian and submit such O&M Plan to the Central Government within such time as specified by the Central Government which shall not exceed 30 Business Days.
- (2) The O&M Plan shall contain details regarding:
 - (a) the manner in which the Designated Custodian would operate and manage the relevant Schedule I coal mine;
 - (b) in case of any Schedule II coal mine, the O&M Plan shall also include particulars of any action that the Designated Custodian may take under Section 19(2) of the Ordinance;
 - (c) the particulars of total cost that may be spent by the Designated Custodian in implementing the O&M Plan;
 - (d) the number of personnel that the Designated Custodian would employ or hire for implementing the O&M Plan;

- (e) in the event the Designated Custodian undertakes mining operations and disposes coal in the manner specified by the Central Government, then the amount that may be received by the Designated Custodian;
 - (f) manner of transfer of operation and management of Schedule-II coal mines from Designated Custodian to a third party in terms of Section 19(6) of the Ordinance.
- (3) The Central Government may make modifications to the O&M Plan and communicate the final O&M Plan to the Designated Custodian which shall be binding on the Designated Custodian. The Central Government may at any time require the Designated Custodian to modify the O&M Plan.

29. Cost, Revenues and Fee

- (1) The cost incurred by the Designated Custodian in operationalising the relevant coal mines including cost of obtaining statutory clearances shall be reimbursed by the Central Government.
- (2) Any revenue which may accrue to the Designated Custodian shall be deposited with the Central Government.
- (3) The Designated Custodian shall be entitled to a fee to defray his costs as may be specified by the Central Government.

30. Powers of the Designated Custodian

- (1) Without prejudice to the generality of the powers specified under Section 19 of the Ordinance, subject to the O&M Plan and any order issued by the Central Government, the Designated Custodian shall have the power to:
 - (a) carry on coal mining operations in any Schedule I coal mine;
 - (b) appoint a manager and other personnel for the carrying out of coal mining operations;
 - (c) enter, or authorize any other person to enter any land or premises of Schedule I coal mine entrusted to it;
 - (d) take such action as may be necessary for the recovery of any debt due to the Schedule II coal mines, in terms of Section 19(3) of the Ordinance;
 - (e) incur any expenditure, including the payment of taxes, duties, cess and rates to the Government or to any local authority, provided, such expenditure are not due on account of the prior allottee. Provided further, that in the event such expenditure is necessary for operation and management of the mine, the Designated Custodian may incur the same with the prior approval of the Central Government.

- (f) require any prior allottee of the Schedule I coal mine entrusted with it, or any third party to provide such information and documents (regarding relevant Schedule I coal mine entrusted with it), as it may feel expedient.
- (2) The Designated Custodian shall have the power to take any action to preserve any Schedule I coal mine entrusted with it, in case of any emergent situation. Any such action shall be immediately intimated in writing to the Central Government by the Designated Custodian.
- (3) The Central Government may at any time direct the Designated Custodian to hand over possession, management and control of any of the mines referred to it to a person selected through the process prescribed under the Ordinance and these Rules.

CHAPTER VIII : AUDIT AND CONDUCT OF OFFICE

31. Audit

The Nominated Authority, the Commissioner of Payment and the Designated Custodian shall be subject to audit by the Comptroller and Auditor General of India.

32. Conduct and Discipline

The Nominated Authority, the Commissioner of Payment and the Designated Custodian and personnel, officers and staff working with the Nominated Authority, the Commissioner of Payment and the Designated Custodian shall be subject to conduct and disciplinary rules as may be applicable to them.
