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LAW ON GEOLOGICAL EXPLORATION IN POLAND

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LAW ON GEOLOGICAL EXPLORATION IN POLAND

Following is the translation of Law No 303 (English title above) in Dziennik Ustaw (Law Journal), No 52, Warsaw, 26 November 1960, pages 500-504.

Section I: General Regulations  
on Geological Activity

Article 1: 1. The regulations in this law define the bases for geological activity aimed at ascertaining the geological structure of the country, or connected with the exploration and assaying of mineral deposits or sub-surface waters, or with determining soil potentials for construction and land exploitation needs.

2. As applied in this law, the term "geological activities" means the planning and execution of geological investigations connected with work in the field, particularly with the performance of mining operations and well drilling, observations and surveying related to such work, the drawing up of geological documents, the compilation of records showing mineral resources and the determination of sub-surface water resources.

Article 2: 1. In cases where geological activities embrace mining operations or the well drilling, the regulations of the mining law govern, where applicable the planned operation of mining enterprises, the actual operation of mining operations, as well as penalties; in addition, such mining and drilling operations are subject to the supervision and control of mining bureaus, as set forth in the mining law and the decree of 21 October 1954 concerning mining enterprises (Dziennik Ustaw, No 47, Poz. 223 with subsequent amendments).

2. The regulations of paragraph 1 are not applicable to activities of the following type:

- 1) exploration and assaying of mineral deposits, the mining of which is not covered to mining law;

- 2) exploration for sub-surface water and structures built for its extraction;
- 3) soil potential research for construction and land exploitation needs, if the depth of excavation does not exceed 30 meters, unless such work is carried out on mining land or in a protected mountain mineral springs area. Supervision and control over activities as defined in paragraph 2 is exercised by organs of geological affairs of the Wojewodztwo presidia of the people's councils.
- 4) The chairman of the Council of Ministers shall determine, by decree, on what grounds a person may perform work necessary to obtain, on his own land, sub-surface water for his own needs, as well as the determination of the appropriateness of these grounds for construction needs; he will also determine the grounds and the methods of performing the work defined in paragraph 2, as well as the administration of supervision and control over this work by organs of geological affairs of the Wojewodztwo presidia of the people's councils.

Article 3: The Chairman of the Central Geologic Administration and the Minister of National Defense will, in consultation with the appropriate ministers (directors of central administrations), determine the specific bases and conditions for geological activity on lands of special significance to national defense.

Article 4: 1. Geological activities are conducted by enterprises and other governmental institutions designated for this purpose and, in connection with the development of mining operations, by mining enterprises.

2. The appropriate minister (director of a central administration), in consultation with the Chairman of the Central Geological Administration, on the basis of directives from the Council of Ministers, establishes the specific organization and area of activity of the departmental geological service.

Article 5: 1. Non-governmental economic units may engage in geological activity only upon obtaining permission and in the area stipulated in such permission.

2. The organ for geological affairs of the local presidium of the people's council for the Wojewodztwo in which the non-governmental economic unit is located shall issue the permission stipulated in paragraph 1.

3. The issuing of permission for engaging in geological activity by non-socialized economic units shall proceed on the basis of the general regulations concerning activity in industry, crafts, trade and certain services by non-socialized economic units in the manner prescribed by present law.

4. The Chairman of the Council of Ministers shall establish by decree the method of issuing permission to non-governmental economic units for engaging in geological activity.

Article 6. As applied in this law, the term "geological enterprise" means an enterprise or other institution engaged in geological activity.

Article 7: 1. Geological enterprises have access rights to property for the purpose of conducting geological research and performing work related to such research, in such a manner that no permanent damage is done to the property, and that the owner is allowed uninterrupted use of the property consistent with its economic function.

2. The Council of Ministers shall establish by decree the method of applying the rights defined in paragraph 1 as well as the method of issuing decisions affirming access to the property.

Article 8: 1. Property remaining in the possession of a non-socialized economic unit which is needed for work connected with geological research to be performed by a state geological establishment may be seized for the period during which the work is to be done, and in such a manner as to cause no permanent damage to the property (temporary seizure of property).

2. Temporary seizure of property may not exceed a period of three years. The organ responsible for making the decision to seize the property temporarily may extend the temporary seizure of the property -- but by no more than two years -- if the purpose for which the property was occupied cannot, despite the absence of unjustified interruptions or delays, be fulfilled in the specified period because of special reasons and, further, if the failure to extend the temporary seizure would cause serious damage.

3. The Council of Ministers shall establish by decree the method of using the rights defined in paragraph 1 well as the method of issuing decisions regarding the temporary seizure of property.

Article 9: A geological enterprise which, while engaging in geological activities, damages another institution's or person's property or a constituent part thereof, is obligated to make indemnification, regardless of whether or not the damage could have been prevented or of who is to blame.

Article 10. During the entire period of the temporary seizure of the property, the geological enterprise is obligated to pay the owner (proprietor) of the property an annual remuneration for the loss of the use of his property equivalent to the average annual net income that the

property earned during the five-year period immediately preceding its seizure.

Article 11. Indemnification for seed-corn, crops and tilled land destroyed in the course of carrying out geological activity must, on the basis of the decision affirming access rights to the property, correspond to the value of the anticipated yields based on average market prices, after deducting the amount of expenses the owner would have to bear in connection with completing the harvest.

Article 12. If, as a result of the geological activities performed, there should arise a permanent loss of water or a loss of its fitness for human or animal consumption, the damage shall be rectified by the construction of wells or other arrangements which will provide the persons concerned with a permanent water supply for domestic use and for livestock, in such a manner that the supply will at least equal that which was available immediately preceding the loss of water.

Articles 13. Where farm land or forested land has been damaged and there is no possibility of rectifying this damage, indemnification shall be made on the basis of the equivalent of the decrease in annual income from the land as a result of damage made in connection with work performed with reference to the average annual income from this land during the three years immediately preceding the time when the damage was caused.

Article 14. In the event damages should arise during geological activity other than those described in Articles 10-13, the manner and amount of indemnification shall be determined from the compensation clauses for mining damages as stipulated in mining statutes.

Article 15: 1. Organs of state administration, state institutions and state enterprises are themselves directly obligated to make indemnification for permanent damage to property or to constituent parts of property in connection with geological activity.

2. The expenses of such indemnification will be borne by the geological establishment.

Article 16. In disputes over indemnification and compensation for permanent damages in connection with the performance of geological activity, the proper organ of the presidium of the Wojewodztwo people's council shall decide the matter in the manner prescribed in the statute on regulations and methods of expropriation of property.

## Section II: Geological Research and Exploration

Article 17: 1. Activities connected with geological research must be performed in a manner that assures safety to human life and health, protection of land and buildings thereon, protection of equipment from damage, protection of the supplies of geological expedition, and the protection of water, forested areas and excavations.

2. On land subject to protection by specific regulations, work may be performed only during the period and under the conditions set forth in such regulations.

Article 18: 1. The geological enterprise is obligated, for each excavation or group of excavations, to specify those persons responsible for geological supervision, in sufficient numbers, and to report such persons to the appropriate district mining office or organ for geological affairs of the presidium of the Wojewodztwo people's council.

2. The Chairman of the Central Geological Bureau, in consultation with the Chairman of the Higher Mining Bureau, shall determine the regulations and manner of effecting the geological supervision set forth in paragraph 1.

Article 19: 1. The Chairman of the Council of Ministers shall issue regulations concerning the following:

- 1) the specific principles of performing and manner of approving a project of geological research;
- 2) the methods of performing geological research and the work related thereto, taking into account the manifold usefulness of such research in learning the geological structure of the country and in broadening the raw materials base, as well as methods of handling geological documents.

2. The Chairman of the Council of Ministers may compel enterprises engaged in mining activity to carry out specific radiometric research.

Article 20: 1. A person who possesses the requisite general, scientific and professional qualifications may conduct geological exploration and documentation, engage in the work specified in Article 2, paragraph 2, and carry out geological supervision of work related to geological exploration.

2. The Chairman of the Council of Ministers shall establish by decree the qualifications of persons entitled to perform the functions specified in paragraph 1, the method of confirming such qualifications, and the principle and method of depriving persons of these rights who have displayed a clear lack of ability or negligence in carrying out the tasks assigned to them.

Article 21. The State administrative geological organ responsible for geological control and supervision of work may suspend a persons engaged in work specified in Article 2, paragraph 2 or responsible for geological supervision of work related to geological exploration in connection with his assignment, if it learns that a continuation of such work threatens the public interest, and may at the same time turn the matter over to the organ that approved the suspended person's qualifications, for decision.

Article 22: 1. Those using underground water are required to report the use of such water to the appropriate organ of the presidium of the Wojewodztwo people's council and to make periodic observations and records of any fluctuations in the water level and in the flow of water.

2. The Chairman of the Central Geological Bureau, in consultation with the Minister of Communal Economy and the Chairman of the Central Bureau of Water Resources, will determine which water sources are to be regulated by the provisions of paragraph 1, the method of registration and the performance of observations, the submission of records, and the organs of the presidium of the Wojewodztwo people's council responsible for making such registrations.

Article 23: 1. The organ responsible for supervision and control of work related to geological research (Article 2) may terminate work related to geological research, if such work is performed without geological supervision or in violations of the provisions of this law.

2. Entering an appeal against the order of a supervisory organ does not void this order.

### Section III: Compilation and Approval of Geological Documents

Article 24: 1. The results of geological exploration and work, regardless of the specific purpose of such exploration or work, must be stated in geological documents, giving details of the findings in excavations, sources of sub-surface water, and suitability of soil for

construction purposes and for land exploitation.

2. Geological documents containing information about findings in exploration or sources of sub-surface water are subject to approval by the Chairman of the Central Geological Bureau or, on his authorization, by the organs for geological affairs of the presidia of the Wojewodztwo people's councils.

3. The Chairman of the Central Geological Bureau will determine the following:

- 1) the principle and method of stating and the method of approving the findings in explorations, and the compilation of geological documents not mentioned in paragraph 1;
- 2) in consultation with the Chairman of the Central Bureau of Water Resources, the principle and method of specifying and the method of approving the locations of sub-surface water;
- 3) in consultation with the Chairman of the Building, City Construction and Architecture Committee, the principle and method of specifying, and the method of approving the suitability of soil for construction purposes and for land exploitation.

Article 25. The appropriate minister (director of a central bureau), in consultation with the Chairman of the Planning Commission of the Council of Ministers and the Chairman of the Central Geological Bureau, shall determine the conditions that an excavation and its contents must meet to be considered suitable for economical exploitation (criteria for profitable exploitation of excavations).

Article 26. The Council of Ministers shall determine the degree of accuracy needed to establish the contents of an excavation, or the resources of sub-surface water for investment purposes related with exploitation or re-working of such excavations, or the exploitation of sub-surface water.

#### Section IV: Survey of Mineral Resources

Article 27: 1. The Central Geological Bureau shall conduct an annual survey of mineral resources.

2. The unit which is to exploit an excavation or is forming a team for such excavation must submit current evidence of the content involved, in the period and manner prescribed by the Chairman of the Central Geological Bureau in consultation with appropriate ministers.

3. Ministries and other organs of State administra-

tion, as well as economic units and scientific-research institutions, must supply the Central Geological Bureau with data necessary for compiling the survey of mineral resources and the analysis thereof.

## Section V: Organs of State Geological Administration

Article 28: 1. Organs of State geological administration coordinate geological work and effect geological supervision and control of planning for geological exploration, execution of exploration and compilation of geological documents, by application of the provisions of the present law and regulations promulgated on the basis thereof.

2. The Council of Ministers determines, in detail, the division of assignments and the basis of collaboration between mining bureaus and organs of State geological administration in the area of control and supervision of work performed in relation to geological exploration.

Article 29. The organs of State geological administration are the following:

- 1) those organs responsible for geological affairs in the presidia of the local people's councils;
- 2) The Central Geological Bureau.

Article 30. The organs for geological affairs in the presidia of the local people's councils are active in the first case, and are responsible for affairs which, in accordance with the provisions of the present law, belong to the area of activity of organs of State geological administration, but not specifically to the Central Geological Bureau.

Article 31: 1. The Central Geological Bureau forms a section of the Council of Ministers and is the central organ of State administration in the area of geological activity.

2. The Central Geological Bureau is subject to the supervision of the Chairman of the Council of Ministers.

3. The Chairman of the Bureau is the head of the Central Geological Bureau.

4. The Chairman of the Council of Ministers appoints and dismisses the Chairman and Vice Chairman of the Central Geological Bureau.

Article 32. The Central Geological Bureau is active in the second case in affairs which, in accordance with the provisions of present law, are the province of organs for geological affairs in the presidia of Wojewodztwo people's

councils.

Article 33. The Council of Ministers determines by decree the specific area of activity of the Central Geological Bureau and the organs for geological affairs in the Wojewodztwo people's councils.

Article 34: 1. Commissions operating in the Central Geological Bureau assess the accuracy of reports on mineral resources, sub-surface water, or geological conditions affecting construction needs.

2. Insofar as the present law, or regulations promulgated on the basis thereof, involve approval or criticism of geological documents on the part of the Chairman of the Central Geological Bureau, the Chairman of the Bureau shall approve or criticize the documents on the basis of evidence from the appropriate commission.

3. The Chairman of the Council of Ministers shall determine the manner of appointing the commissions mentioned in paragraph 1, their organization and sphere of activity as well as the procedure involved.

Article 35: 1. Employees of the organs of State geological administration, in exercising control and supervision, have right of access to geological enterprises engaged in geological work and to the place where such work is being carried out.

2. Directors of geological enterprises and persons who direct inspect work related to geological exploration must make accessible to employees of organs of State geological administration those materials and documents necessary for the exercise of control and supervision, as well as to make explanations.

## Section VI: Penalties

Article 36: 1. Whosoever, being obligated to abide by the orders or decrees contained in article 5, paragraph 1; article 27, paragraph 1; article 13, paragraph 1; and article 22, paragraph 1, violates said orders or decrees, is liable to arrest and imprisonment for a period of 3 months, or a fine not to exceed 4,500 zl., unless said violation is applicable to another statute with more rigorous penalties.

2. The same penalties shall apply to a person who, being obligated to abide by the orders or decrees contained in regulations promulgated on the basis of article 2, paragraph 4, performs work specified in article 2, paragraph 2, in a manner that violates said regulations.

3. Sentencing in the cases specified in paragraph 1 and 2 will be carried out in the manner and on the principles specified in the regulations of the State penal code.

#### Section VII. Temporary and Permanent Regulations

Article 37. Persons who, on the day this law comes into force, are engaged in geological supervision of work or drawing up projects for geological exploration or geological documents must file a statement describing their qualifications within six months after the decree set forth in article 20, paragraph 2, comes into force.

2. Persons specified in paragraph 1 may continue their work without stating their qualifications until the time of filing their statements as specified in paragraph 1.

3. The provision of paragraph 2 does not render it impossible to suspend a persons engaged in geological supervision or drawing up projects for geological exploration or geological documents in accordance with the provisions of article 20.

4. Where appropriate, the provisions of paragraph 1-3 apply to personnel inspecting and managing work related to geological exploration who have not previously come under the provisions of mining law (article 2, paragraph 1), as well as to those persons engaged in work specified in article 2, paragraph 2.

Article 38: 1. Whosoever, on the day this law comes into force, is using sub-surface water in the amount of 25 m<sup>3</sup>/hour, or from a depth exceeding 150 meters, is obligated to determine this water supply and to obtain approval thereof within the period designated by the organ for geological affairs of the presidium of the appropriate Wojewodztwo people's council.

2. The provisions of paragraph 1 do not affect the use of sub-surface water in the process of draining excavations nor the drawing of water from the bottom of a cistern or surface reservoir or from the shores thereof for the purpose of utilizing the water coming from the direct infiltration of water from said cistern or reservoir, nor from land under irrigation.

Article 39. The Provisions of this law affecting presidia of Wojewodztwo people's councils also affect presidia of people's councils for cities joint to local municipalities.

Article 40. The provisions pertaining to the specific

method of expropriation and seizure of property contained in the paragraph on principles and manner of expropriating property do not apply in the instances specified in the present law.

Article 41. The law does not nullify the provisions of mining law concerning geological upkeep of mining excavations. In cases not regulated by mining law, the appropriate provisions of the present law apply.

Article 42. The present law does not nullify the provisions of water statutes and in particular, the submission of documents affirming sub-surface water resources does not provide exemption from the obligation of obtaining permission under water statutes as prescribed in the provisions of water law.

Article 43. Matters involving claims for mining damages caused by geological exploration, when covered by mining law and submitted to the commission on mining claims before the day on which the present law comes into force, are subject to the findings of the commissions on the basis of the decree of 6 May, 1953 - Mining Law (Dziennik Ustaw, 1955, No 10, item 65 as amended).

Article 44: 1. On the day the present law comes into force, regulations concerning the material covered by this law are null and void--specifically, the decree of 8 October, 1951, concerning the State Geological Service. (Dziennik Ustaw, No 52, item 369).

2. The law of 1 July, 1953, concerning permission to engage in industry, crafts, trade and certain services by non-socialized elements of the economy (Dziennik Nauki, No 45, item 224) is to be amended as follows: (replacing former paragraph 4): "Separate provisions define the responsibility of organs of State administration in the area of issuing permits to engage in geological activities, as well as the manner of issuing such permits."

Article 45. The provisions and regulations issued on the basis of the decree of 8 October 1951 on the State Geological Service and other regulations on the subject covered by the present law remain in force until such time as they are replaced by regulations issued on the basis of the present law unless they are inconsistent therewith.

Article 46. This law becomes effective as of date of publication.