

Law No 54/2015

of 22 June 2015

Legal framework for the exploration and exploitation of geological resources in national territory, including those located in national maritime space.

In accordance with Article 161(c) of the Constitution, the Portuguese Parliament decrees the following:

CHAPTER I

General provisions

Article 1

Object and scope of application

1 — This law lays down the legal framework for the exploration and exploitation of geological resources in national territory, including those located in national maritime space.

2 — Geological resources are considered to be natural assets consisting of:

- a)* Mineral deposits;
- b)* Natural mineral waters;
- c)* Mineral-industrial water;
- d)* Geothermal resources;
- e)* Mineral masses;
- f)* Spring water;

3 — This law further governs classification of assets displaying geological, mineral or educational relevance as a geological resource, with a view to protecting or exploiting such assets, without prejudice to other classifications pursuant to regimes relating to the conservation of nature and cultural heritage.

4 — Occurrences of hydrocarbons shall be the object of a special law.

5 — Geological formations capable of storing carbon dioxide shall be the object of a special law, without prejudice to the subsidiary application of this law and other legislative measures governing the exploration and exploitation of geological resources in the public domain of the State.

6 — This law does not apply to activities subsequent to the exploitation of the resources referred to in Article 2(*b*), (*d*) and (*f*), more specifically, bottling, thermal springs and geothermal energy, which are subject to a special law.

7 — The departments and bodies of the ministry in charge of geology shall be responsible for the management of geological resources, safeguarding the competences attributed to other entities under regimes for the conservation of nature and cultural heritage.

Article 2

Definitions

For the purposes of the provisions of this law, the following definitions shall apply:

- a)* ‘Spring waters’, natural subterranean waters, bacteriologically unique, which do not display the characteristics necessary for classification as natural mineral water, provided that they remain fit for drinking at source;
- b)* ‘Natural mineral water’, subterranean, bacteriologically unique water, with stable physical-chemical characteristics at origin within a range of natural fluctuations, from which possible therapeutic properties or favourable health effects may result;
- c)* ‘Mineral-industrial water’, subterranean water allowing the economic extraction of the substances contained therein;
- d)* ‘Operating annexes’, the installations for integrated or complementary operational services, belonging to the concession holders, located within the demarcated area of the concession or the assigned licence area or elsewhere;
- e)* ‘Concession area’, the area for the exploitation of geological resources assigned in a contract between the State and the concession holder;
- f)* ‘Operation area’, the part of the concession allocated to the extraction of geological resources, excluding the area of the mineral annexes. This latter area corresponds to the industrial and social installations, storage and transfer zones, waste facilities and other support areas for the extraction of the geological resources;
- g)* ‘Reserved areas’, areas of national territory where exclusive rights exist on geological resources within the public domain of the State;
- h)* ‘Geological assets’, the geological resources listed in Article 1(2) and (3), as well as occurrences of hydrocarbons and geological formations capable of storing carbon dioxide;
- i)* ‘Natural cavities’, subterranean spaces commonly referred to as caverns, grottos, chasms, caves and chambers, with or without an identified opening, the formation of which occurred due to natural processes, regardless of their dimensions or type of surrounding rock, and which has relevant geological, environmental, scientific or socio-economic attributes, including local and regional contexts;

- j) 'Demarcation', the normally polygonal line, which delimits the area on the surface in which operating rights are exclusively exercised;
- k) 'Mineral deposits', any occurrences of minerals which, due to their rarity, specific high value or importance of application in industrial processes relating to the substances contained therein, are of special economic interest;
- l) 'Operating fees', the monetary compensation which the holder of rights to geological resources in the public domain of the State is required to pay to exploit such resources;
- m) 'National maritime space', the maritime space identified in Article 2 of Law No 17/2014 of 10 April 2014;
- n) 'Mineral masses', any rocks or other occurrences of minerals which do not display the characteristics necessary for classification as a mineral deposit;
- o) 'Geothermal resources', the fluids and geological formations in the subsoil, the temperature of which may be of economic interest
- p) 'Exploration of resources', the series of activities and operations which seek to discover resources and determine their characteristics, up to the point of confirmation of economic value.

Article 3

Purposes

Public policies on the exploration and exploitation of geological resources address the following purposes:

- a) Further knowledge on resources in national territory with the aim of developing their potential in a sustained and rational manner;
- b) To enhance the economic, cultural, historic and social aspects of the geological resources, so as to promote the sustained growth of the extraction industry, regional development and create jobs;
- c) To contribute to the competitiveness of the extraction industry so as to ensure that it is able to supply raw materials from a perspective of full national sustainability, providing the necessary balance between economic, social, environmental and territorial aspects, with respect to the direct and indirect impacts of the activity.

Article 4

General principles

1 — In the definition and pursuit of the public interest with regard to knowledge, conservation and enhancement of geological assets, political and government bodies shall implement focused strategies for the sustainability of economic, social and environmental domains so as to optimise the exploitation of national geological resources from an integrated perspective of territorial and maritime spatial planning, which includes the spatial complementarity and the timeline of the extraction activities.

2 — The management of geological resources shall comply with the following principles:

- a) The promotion of the economic, social and environmental well-being of populations;
- b) The efficient and rational exploitation of resources, within a framework of an integrated strategy for sustainable development, with a view to minimising all possible negative impacts;
- c) Coordination with the basic options of public policies, particularly with respect to the environment and spatial and national maritime planning;
- d) The promotion of private initiative;
- e) The preservation of the environment;
- f) Respect for rights to civil participation and the promotion of those rights in relation to administrative procedures;
- g) The promotion of scientific knowledge of existing resources and the manners of exploiting such resources;
- h) The promotion of suitable protection of geological resources with a view to their exploitation;
- i) The defence and promotion of competitiveness among concession or licences holders.

3 — In the exploration and exploitation of any geological resources, the interests listed below shall be suitably safeguarded, and whenever possible, in a preventive manner:

- a) Persons potentially or actually affected by such activities;
- b) The rational exploitation of all resources;
- c) The environment and the maintaining of ecological dynamics.

Article 5

Geological resources in the public domain of the State

- 1 — The geological resources referred to in Article 1(a) to (d) fall within the public domain of the State.
- 2 — Also included in the public domain of the State are the geological resources referred to in Article 1(3) and all the geological resources which are to be found on the bed and in the subsoil of the national maritime space.

Article 6

Private property of geological resources

The geological resources referred to in Article 1(2)(e) and (f), together with the geological formations and structures and other similar natural assets which do not display the necessary characteristics for classification as resources in the public domain of the State, may be the object of private property or other real rights.

Article 7

Classification of geological resources

- 1 — Without prejudice to the provisions of the complementary legislation referred to in Article 63, the geological resources referred to in Article 1(2) and (3) shall obtain their respective classification via an official order issued by the member of the government responsible for the area of geology, published in the Official Gazette, after a reasoned opinion issued by the Directorate General for Energy and Geology (DGEG), together with, when located in the national maritime space, a reasoned opinion issued by the Directorate General for Natural Resources, Safety and Maritime Services.
- 2 — When a geological resource can be classified in more than one of the categories listed in Article 1(2), should the enhancement of such a resource lead to a conflict between different extraction activities, the regime applied shall be that of the classification which provides for the greatest possible exploitation of its potential.
- 3 — Sediment resources with potential interest as borrow sites to nourish coastal stretches may not be exploited as mineral resources.

Article 8

Conservation measures for geological resources

- 1 — Geological assets shall be the object of legislative and administrative measures to ensure the suitable protection of their nature as a scarce resource, which is irreplaceable and non-moveable, ensuring their efficient exploitation.
- 2 — It is the responsibility of the State, through its competent bodies and departments, to develop the measures necessary to ensure conservation, preservation and protection measures are implemented for the geological assets, more specifically, through the following actions:
 - a) Cataloguing and classification of geological resources;
 - b) Drawing up a register of the areas subject to activities for the exploration and exploitation of geological resources;
 - c) Drawing up a register on the geological formations and structures and all other similar natural resources which, depending on their geological relevance, are classified as being of public interest;
 - d) Cataloguing and register of the objects and places of geological, mineral, scientific, teaching or scenic interest;
 - e) Promotion of knowledge on the natural caverns in the subsoil;
 - f) Fostering study, research, dissemination and information on the classified resources;
 - g) Promoting awareness among the community on the importance and relevance of the geological resources;
 - h) Promoting the geological resources, fostering their economic potential as a main or instrumental objective.
- 3 — Where applicable, the DGEG shall ensure that the register and cataloguing of the geological resources cover the surveying of the building infrastructure associated with the resources, including a description of the respective geometry and georeferencing.

Article 9

Information on limitations

- 1 — The awarding of rights for the exploration and exploitation of geological resources, with the exception of that set out in Article 13(1)(a), shall be preceded by an obligatory consultation with the municipal authorities in the respective areas of territorial jurisdiction, and with other competent entities in the fields of environmental protection, spatial management, cultural heritage, conservation of nature, forestry and irrigation. Such consultations shall be conducted pursuant to the complementary legislation referred to in Article 63.
- 2 — For the purposes of the provisions of the previous paragraph, and without prejudice to the consultations and reasoned opinions provided for in other applicable regimes, the entities so consulted shall pronounce on the limitations to the activities of exploring and exploiting geological resources with the aim of providing the applicant with all of the information available on the area requested.
- 3 — The consultations provided for in the previous paragraphs shall be promoted by DGEG and the respective conclusions shall be published on their Internet website.

Article 10

Connected regimes

1 — The awarding of permits or execution of administrative actions pursuant to this law and other complementary legislation as referred to in Article 63, which legitimise the activities of exploration and exploitation of geological resources provided for in Article 13(1) (b), (c) and (d), do not exempt compliance with other obligations or applicable legal requirements, or the prior obtaining of any licences or authorisations so required, more specifically, with respect to the environment or spatial planning, in accordance with that legally prescribed.

2 — For the purposes of the previous paragraph, activities for the exploration and exploitation of geological resources in the national maritime space also require the awarding of the respective private usage licence.

3 — The complementary legislation referred to in Article 63 sets out the terms under which the coordination of administrative proceedings is conducted with respect to awarding of licences issued under connected regimes.

4 — The exploration, exploitation and termination of use of geological resources shall be subject to the proper application of techniques and health and safety at work standards and compliance with appropriate environmental protection and landscape restoration measures, more specifically, those which are set out in the plans approved by the competent entities.

Article 11

Financial guarantees

1 — Contracts which allocate rights for prospecting and research, experimental operation or concession of rights to exploit geological resources are required to establish one or more financial guarantees which ensure compliance with the contract, the restoration of the landscape of the area covered and the closure of the operation.

2 — Financial guarantees may be constituted by taking out insurance policies, bank guarantees, deposits, bank deposits, holdings in the Geological Resources Fund or other financial instruments previously authorised by DGEG.

3 — With the exception of holdings in the Geological Resources Fund, all the guarantees are exclusive and may not be used for other purposes or as the object of any encumbrances.

4 — Minimum limits for the different types of guarantee may be established through a Ministerial Implementing Order issued by the member of the government responsible for the area of geology.

CHAPTER II

Exploration and exploitation of geological resources;

Article 12

Rights to exploration and exploitation

1 — The State, through its competent departments and bodies, may conduct geological resource prospecting and research work.

2 — The exploration and exploitation by private persons of geological resources governed by this law assume the awarding of the corresponding rights via an administrative contract or licence, depending on whether the resources form part of the public domain of the State or are private property.

Article 13

Rights to resources in the public domain of the State

1 — Geological resources in the public domain of the State may be subject to the following private usage rights:

- a) Prior evaluation rights, to conduct studies in order to further knowledge on existing resources;
- b) Prospecting and research rights, to carry out activities with a view to discovering resources and determining their characteristics, up to the point when economic value is established;
- c) Experimental operating rights, when the necessary conditions do not exist for the immediate establishing of the exploitation referred to in the following subparagraph;
- d) Operating rights, to conduct operations for the economic exploitation of the resources.

2 — Rights to resources in the public domain of the State, governed by a prior evaluation administrative contract, for prospecting and research, experimental research or operating concession, shall be exercised on an exclusive basis. During the validity period of the contract, incompatible rights may not be awarded to a third-party, with respect to the object, content or geographical area covered.

Article 14

Transfer of contractual position and mortgage

1 — Transfer of contractual position in contracts where private usage rights have been awarded shall be preceded by authorisation issued by the member of the government responsible for the area of geology.

2 — The closure of a legal person holding any of the contractual positions referred to in the previous paragraph shall not lead to the respective transfer of such positions, but only the corresponding property value.

3 — With respect to rights resulting from operating concessions and operation annexes, mortgages may only be constituted to guarantee credits intended for exploitation work. DGEG shall be notified in advance of the constitution of such guarantees.

4 — When a mortgage is taken out, the process shall be conducted in accordance with the Tax Procedures and Process Code or the Civil Procedure Code, until conclusion via DGEG, through a public tender and the respective setting of the value of the object of the mortgage.

Article 15

Rights to private property resources

1 — Geological resources which are not in the public domain of the State may be subject to the following rights:

- a) Prospecting and research rights and mineral mass exploitation rights;
- b) Spring water exploitation rights;
- c) Exploration rights to geological formations and structures and other similar natural assets.

2 — The rights referred to in the previous paragraph are governed by a licence awarded by the entities set out in the complementary legislation referred to in Article 63, and may only be awarded to:

- a) The owner of the building;
- b) To a third-party who has established an operating contract with the owner, in compliance with applicable law.

3 — Prior communication shall be sent to DGEG with regard to any intervention in the subsoil below 50 metres in depth, which does not form part of activities subject to the legal framework for geological resources, with the exception of interventions relating to the water domain.

CHAPTER III

Awarding of rights to resources in the public domain of the State

SECTION I

Prior evaluation rights

Article 16

Requirements for the awarding of prior evaluation rights

1 — Any entity enjoying proven technical, economic and financial good standing for the purpose may apply to DGEG for the awarding of prior evaluation rights, in an area or areas intended for the exercising of activities to exploit metal mineral deposits.

2 — The application referred to in the previous paragraph shall be addressed to the Director-General of Energy And Geology and be accompanied by information confirming the technical, economic and financial good standing of the applicant, clearly setting out the objectives to be achieved, the area sought, the technical and financial means available and the forecast budget, together with any other information which the applicant considers relevant for the purpose.

3 — The awarding of prior evaluation rights allows the applicant to conduct studies to provide better knowledge of the geological potential of the area sought, more specifically, through an analysis of the information available and samples collected.

4 — The area sought shall be published on the DGEG website, and as of that time, shall no longer constitute an available area.

5 — Prior evaluation rights are non-transferable. At the end of the contract, the respective holder shall notify DGEG if they wish to release the area or apply for the awarding of rights for prospecting and research, experimental operation or operation concession.

6 — The information required and the terms and conditions to analyse and decide on an application for prior evaluation rights are set out in the complementary legislation referred to in Article 63.

Article 17

Prior evaluation contract

The administrative contract for prior evaluation shall include the following items:

- a) Full identification of the geographical area, which is the object of the contract, which may not exceed 15 km²;
- b) Maximum validity period of the contract, which may not exceed one year, with no possibility to extend;
- c) Rights and obligations of the holder of prior evaluation rights;
- d) Description of the work to be carried out and respective budget;
- e) Definition of the property and data confidentiality regimes resulting from the evaluation;
- f) Compensation to be attributed to the State;
- g) Time limit for applying for the awarding of rights for prospecting and research, experimental operation or operation concession.

SECTION II

Prospecting and research rights

Article 18

Available areas and reserved areas

- 1 — Areas of national territory which are not subject to exclusive rights for geological resources which form part of the public domain of the State shall constitute areas available for the awarding of private prospecting and research rights.
- 2 — Prospecting and research rights may be granted for reserved areas only when no incompatibility is seen with respect to private rights already awarded for such areas or which are currently undergoing award proceedings.
- 3 — Areas available in the national maritime space are those which are identified in the situation plan as potential areas for geological resource prospecting and research.

Article 19

Proceedings to award prospecting and research rights

- 1 — Proceedings to award prospecting and research rights may be started at the initiative of a private person by submitting the corresponding application, or at the initiative of the State, through the member of the government responsible for the area of geology, by opening a tender procedure, pursuant to the terms and conditions to be defined in a specific law.
- 2 — When proceedings to award prospecting and research rights are started at the initiative of a private person, the submission of a different application with the same object, within the time limit set for the purpose, shall lead to the opening of a tender procedure by DGEG. In the event of equal conditions, the first applicant shall have the right of first refusal.
- 3 — The tender procedure to award prospecting and research rights shall be governed by a specific law. The regime set out in the Public Procurement Code shall apply on a supplementary basis.
- 4 — Prospecting and research rights may only be awarded to the legal persons capable of providing guarantees of good standing and technical and financial capacity which is suitable to the nature of the work proposed.
- 5 — Prospecting and research rights may only be granted for available areas except when no incompatibility is seen with respect to activities corresponding to operating concessions already awarded or which are currently undergoing award proceedings.

Article 20

Prospecting and research contract

1 — In addition to reciprocal rights and obligations, the following conditions shall also apply to the prospecting and research contract:

- a) The area covered in the awarding of prospecting and research rights may not be greater than 500 km² or 5 000 km², should the area be located in the national maritime space;
- b) The validity period may not exceed five years, including any possible extensions;
- c) The conditions to extend the validity period shall depend on confirmation of compliance with legal and contractual obligations by the interested party, and on the requirement, on the date of each extension, to remove part of the area initially covered from the object of the contract, making this area available;
- d) The work programme for the initial period of the contract;
- e) The investment plan;
- f) Compensation to be attributed to the State;
- g) The financial guarantees.

2 — The contract may also involve other specific conditions on prospecting and research activities and the subsequent operating concession for geological resources found.

Article 21

Rights and obligations

1 — Upon signing the contract, the State shall guarantee the other party the right to:

- a)* Conduct the studies and work inherent to the prospecting and research of resources in the contract area relating to the rights awarded;
- b)* Use, on a temporary basis, the land necessary for carrying out prospecting and research work and the implantation of the respective installations;
- c)* Obtain the concession to exploit resources discovered, provided that applicable legal and contractual conditions are satisfied.

2 — The holder of the prospecting and research contract shall be required to:

- a)* Start work within six months from the date of signing of the contract, except if otherwise provided for;
- b)* Execute the work in accordance with the approved programme;
- c)* Compensate third-parties for all damages caused directly as a result of prospecting and research activities and to implement proscribed safety, environmental protection and landscape restoration measures, including after the termination of the abovementioned activities.

Article 22

Termination of the contract

The prospecting and research contract terminates through:

- a)* Expiry;
- b)* Agreement between the parties;
- c)* Cancellation by the State, based on non-compliance with the legal or contractual obligations of the holder of the prospecting and research rights;
- d)* Cancellation by the holder of the prospecting and research rights, when, based on the work already completed, it can be proven that the exploitation of the resources in the area covered by the contract is technically or economically unviable;
- e)* Termination of the right to private use of the national maritime space.

Article 23

Work and investment programmes and reports

1 — Prospecting and research work is set out in the contract established and is subject to work programmes and reports on an annual basis, except if otherwise provided for in the respective contract.

2 — The work programmes and reports shall be submitted for the approval of DGEG and are considered tacitly approved should no express pronouncement be made within 45 days from the date of submission.

3 — DGEG may approve changes to work programmes when requested by the counterparty.

4 — Work programmes and reports and investment reports shall be signed by technical specialists in the respective areas.

SECTION III

Experimental operating rights

Article 24

Awarding of experimental operating rights

1 — Should the resources discovered, due to the nature of their composition, the level of related knowledge or manner in which they occur, not yet present the necessary conditions for immediate and effective exploitation to start, experimental operating rights may be granted at the request of the interested party.

2 — The following conditions shall be established in the administrative contract for experimental operation:

- a) The validity period may not exceed five years, including any possible extensions;
- b) The operating conditions and conditions of other activities to be conducted;
- c) The requirement to carry out complementary studies;
- d) The extraction plan;
- e) The investment plan;
- f) Compensation to be attributed to the State;
- g) The financial guarantees;
- h) The requirement for restoration of environmental aspects and landscaping

3 — The regime provided for in Article 27 shall apply to the procedure for awarding experimental operating rights, with the necessary adaptations.

Article 25

Rights and obligations

1 — The holder of an experimental operating contract shall have the rights provided for in Article 28 and may also temporarily use the land necessary for the execution of work and the implantation of the respective annexes, through payment of compensation to the respective owners.

2 — In addition to the obligations provided for in Article 29(c), (d), (e), (g) and (h), the holder of an experimental operating contract shall also be required to execute reconnaissance work on resources in an ongoing and persistent manner in order to define the characteristics of the said resources within the set deadline. The said contract holder is further required to draw up the necessary studies and projects for the exploitation of the resources.

SECTION IV

Operating rights

Article 26

Requirements for the awarding of operating rights

1 — Geological resource exploitation rights shall be granted, as a concession regime, to the holder of the rights to prior evaluation, prospecting and research or experimental operation who has discovered the resources.

2 — In the event that there are no prior evaluation, prospecting and research or experimental operation contracts, exploitation rights may be granted with regard to resources:

- a) Located in available areas;
- b) Located in areas covered by rights to prior evaluation, prospecting and research or experimental operation, should the resources not be covered by the respective contracts and there is no incompatibility between both activities being undertaken.

Article 27

Procedural and material regime

1 — Without prejudice to the provisions of Article 26(1), the regulations on the awarding of prospecting and research rights and the respective contracts shall apply to operating concession award procedures and the corresponding contracts, with the necessary adaptations.

2 — The awarding of exploitation rights requires the compatibility of this activity with the provisions set out in territorial management instruments, administrative encumbrances and public utility restrictions and with the legal regime on the assessment of environmental impact, when applicable.

3 — The extract from the administrative contract for the awarding of exploitation rights shall be published in the Official Gazette.

4 — Operation concession contracts have a maximum validity period of 90 years, including any possible extensions.

5 — In addition to the causes provided for in Article 22, operation concession contracts shall also expire through redemption after payment of compensation calculated based on the circumstances of the specific case and the value of the assets which are indispensable to operations.

Article 28

Rights of the concessionaires

Holders of operation concession contracts shall have the right to:

- a) Exploit the resources in accordance with the law and respective contract;
- b) Sell all the products resulting from operations;
- c) Use, observing legal limitations, the water and other assets in the public domain of the State which are not used in connection with a different legitimate licence;
- d) Contract third-parties to execute specialised work or provide technical assistance, provided that such agreements do not involve a transfer of the responsibilities inherent to the condition of concessionaire;
- e) Apply for urgent compulsory purchases due to public interest of the land necessary for carrying out work and implanting the respective annexes, including when outside the demarcated area, and such land shall be assigned to the concession;
- f) Obtain the constitution in their favour, through an administrative act, of the encumbrances required for the exploitation of resources;
- g) Have preference in the sale or transfer of rural or urban properties in the demarcated area, provided that the acquisition of such property is indispensable for operations.

Article 29

Obligations of the concession holders

Concession holders are required to:

- a) Start, within one year from the date of signing the respective concession contract, the work necessary for operations, except if a different time limit is provided for in the contract;
- b) Maintain the concession in operation, except if the suspension of the operation has been previously authorised;
- c) Compensate third-parties for damages caused by operations;
- d) Comply with regulations and standards on health and safety at work, environmental protection and landscape restoration, including after the termination of the concession;
- e) Exploit the resources in accordance with suitable technical standards and in harmony with the public interests for the best exploitation of the said resources;
- f) Exploit, whenever possible, the resources in the public domain of the State which are discovered in the demarcated area which have recognised economic value, provided that such exploitation is compatible with operations;
- g) Submit, with the frequency established by DGEG, information on knowledge of resources. The abovementioned frequency shall be set based on suitable grounds;
- h) Refrain from conducting overly ambitious extraction, in the case of mineral deposits, which would compromise the best economic exploitation of the resources.

Article 30

Demarcation of the concession

- 1 — Demarcation shall be defined in depth by the verticals of all the points in line.
- 2 — The demarcated area may be reduced or extended through agreement between DGEG and the concession holder, through an addendum to the contract signed, whenever benefits would result for the operation and Article 27(2) is complied with.
- 3 — The concessionaire holder shall be granted the right to require the owners of land adjoining the concession area to collaborate in the implantation of the demarcation.

Article 31

Integration of operation concessions

- 1 — Through an application submitted by the respective concession holders, a single demarcation for all or part of the areas covered by adjoining or neighbouring operating concessions may be established for exploiting resources of the same nature. This single demarcation shall correspond, for all legal purposes, to a single concession, subject to a new demarcation and a new contract.
- 2 — The integration of neighbouring concessions into a single concession may also be determined, on an exceptional basis, through a resolution by the Council of Ministers, further to a proposal from the member of government responsible for the area of geology, when such a course of action results in a more economic and rational exploitation of the respective resources, with clear benefit for the national or regional economy.
- 3 — In the absence of agreement among all or part of the respective concession holders, the concessions constituting an obstacle to integration may be redeemed, awarding the new concession to the entity constituted in accordance with the conditions set out in the integration decision.
- 4 — The costs resulting from the redemption provided for in the previous paragraph shall be paid by the entity to which the new concession is awarded.

Article 32

Operating annexes

- 1 — Operating and extraction plans shall delimit the areas of the operating annexes.
- 2 — Regardless of their location, the operating annexes under the legal regime for mineral deposits shall be approved and inspected by DGEG, without prejudice to the competences attributed to other entities.
- 3 — Different concession holders may share ownership of the same operating annex through authorisation issued by the member of the government responsible for the area of geology. A single interlocutor shall be appointed to deal with DGEG, who shall also represent and bind the different concession holders.
- 4 — Annexes relating to the exploitation of thermal springs or for bottling, the extraction of salts or geothermal power, more specifically, hotels and thermal springs establishments, including shower facilities, refreshment areas and industrial establishments, shall be considered as operating annexes of natural mineral waters, mineral-industrial water and geothermal resources.
- 5 — Operating annexes may only be transferred or, when mortgaged, separately encumbered through express authorisation from the member of the government responsible for the area of geology.
- 6 — Breach of the provisions of the previous paragraph shall lead to any actions being null and void.

Article 33

Suspension of operation

- 1 — Interruption of work or reduction to a lower level than normal, when not of a seasonal or occasional nature, shall be considered, for the purposes of the provisions of this law, as a suspension of operations.
- 2 — Suspension of operations may be authorised by DGEG when it can be confirmed that it is a direct result of force majeure.
- 3 — Suspension of operations may also be authorised by DGEG when it is with respect to resources which may be considered as a suitable reserve for others, being exploited by the same concession holder.
- 4 — Authorisation of suspension shall always refer to the date on which it was applied for and shall remain valid for a period of one year. Suspension may be renewed at the request of the interested party and the total time limit may not exceed five years.
- 5 — In the case provided for in No 3, authorisation may be granted and renewed for longer periods than those set out in the previous paragraph, when it is seen that, for reasons not attributable to the concession holder, it is not possible to restart operations within the stated deadlines.
- 6 — When suspension of operations is authorised, the concession holder shall continue to be responsible for the conservation of the essential installations of the operation and shall implement all measures necessary for the purpose.

Article 34

Sale and transit

- 1 — Any sale or enhancement operation to products from the operation shall be subject to inspection.
- 2 — The export, sale or transfer in any manner, including transfers which are free of charge, of products which do not originate from authorised operations or which are legally imported is prohibited.
- 3 — Through authorisation issued by the member of the government responsible for the area of geology, the export of minerals or soils intended exclusively for analysis or industrial testing may be allowed during the validity period of the mineral deposit prospecting and research contract.

Article 35

Occupancy of property in the public domain of the State

Property which forms part of the public domain of the State, which is located within the concession area, may be covered by the concession provided that occupancy is recognised as indispensable to operations. Authorisation shall be granted through an official order issued by the members of the government responsible for the areas of geology and finance and after payment of suitable compensation by the concession holder.

Article 36

Operating or extraction plans

- 1 — All activities and work to be carried out in the concession areas shall be subject to the approval of an extraction plan for the mineral deposits, and an operating plan for the natural mineral water, the mineral-industrial water and the geothermal resources.
- 2 — Extraction and operating plans may be reviewed and changed, or new matters may be added.
- 3 — Extraction and operating plans may also be adapted on an annual basis where such adaptations are expressly specified in work programmes. Further changes may be introduced through the imposition of duly reasoned measures by DGEG.

Article 37

Changes to the concession area of operation

1 — The initiative to reduce or increase the concession area is the responsibility of DGEG, or the concession holder through a reasoned opinion from DGEG, which shall accompany the respective proposal.

2 — The proposal to reduce or increase the area shall be subject to a decision by the member of the government responsible for the area of geology and be set out in an addendum to the contract.

3 — An increase in the concession area shall respect the provisions of Article 27(2).

4 — Changes to the operating area shall be set out in the extraction or operating plans.

5 — In the national maritime space, an increase of the concession area shall depend on changes to the licence for private use of the national maritime space and, should it not be compatible with the situation plan in effect, shall be subject to an allocation plan in accordance with that provided for in Law No 17/2014 of 10 April 2014 and in Decree-Law No 38/2015 of 12 March 2015.

SECTION V

Grouping of concessions

Article 38

Grouping of operation concessions

1 — The holders of different operating concessions may apply for the formation of a grouping to which the rights and obligations arising from their positions as concession holders shall be attributed. Such a grouping shall be based on concessions being neighbouring or adjacent, or belonging to the same economic group, on the similarity or complementarity of the geological resources exploited or on advantages arising from the sale or preparation of the products.

2 — The State, through the member of the government responsible for the area of geology, may require the entities referred to in the previous paragraph to ensure that the grouping represents all of the concession holders in relationships with the grantor and other public entities.

3 — It is the responsibility of the member of the government responsible for the area of geology to decide on the formation of the grouping of operating concessions, after a reasoned opinion issued by DGEG.

4 — Approval of the application for the grouping of concessions may require changes to the ownership of concession contracts and the review of other items which, as a result of such approval, shall no longer be pertinent.

CHAPTER IV

Allocation of rights to private property resources

Article 39

Licences

1 — Rights to resources which are privately owned shall be assigned by a licence awarded by DGEG or by the municipal authorities, in accordance with that set out in a specific law.

2 — Operating areas of mineral masses shall have the legal designation of quarries.

CHAPTER V

Territorial impact

SECTION I

Planning

Article 40

Territorial impact of the geological resource policy

1 — The territorial impact of the programming or execution of public policy on geological resources shall be expressed in sector programmes, pursuant to Law No 31/2014 of 30 May 2014.

2 — In the national maritime space, activities for the exploration and exploitation of geological resources require prior approval of the situation plan or the allocation plan envisioning the geological resources as a potential activity.

Article 41

Geological resource operating areas

1 — With respect to the classification and qualification of soil, municipal and intermunicipal territorial plans shall define the geological resource operating areas pursuant to the legal regime for territorial management.

2 — Municipal and intermunicipal territorial plans shall respect the provisions of sector programmes for geological resources.

3 — The exploration of geological resources with special interest for the national or regional economy may justify the implementation of precautionary measures, more specifically, the suspension of territorial management instruments for the area in question. Such measures shall lay down restrictions and limitations to be observed until territorial management instruments are drawn up applicable to the area in question.

4 — Instruments for national maritime space planning shall identify the areas intended for the exploitation of geological resources, pursuant to that set out in law No 17/2014 of 10 April 2014, and in Decree Law No 38/2015 of 12 March 2015.

SECTION II

Preferential uses

Article 42

Simultaneous exploitation of geological resources in the public domain of the State which are privately owned

1 — When the exploitation of privately owned geological resources may affect the exploitation of geological resources in the public domain of the State, DGEG shall decide whether simultaneous exploitation is viable.

2 — In the event that simultaneous exploitation is deemed viable, through the execution of work determined by DGEG, such work shall be undertaken, and the costs shall be equally shared among all the interested parties.

3 — In the event that simultaneous exploitation is not deemed viable, DGEG shall decide which operation remains. The decision shall be based on the best pursuit of public interest and compensation shall be paid to the aggrieved party, to be borne entirely by the other party.

Article 43

Overlapping of rights and expectations

When an occurrence is found of mineral masses subject to a licence already awarded or applied for in the area covered by a mineral deposit prospecting and research contract, any work carried out by the prospecting and research rights holder which is liable to affect the exploitation of mineral masses shall be dependent on a written agreement between the parties governing the terms of their relationship.

Article 44

Conditions for the exploitation of mineral masses

1 — The government may impose conditions for the exploitation of mineral masses which are considered to be of relevant interest for the national or regional economy, whenever the rational exploitation of such mineral masses so justifies.

2 — Areas where exploitation complies with the conditions set out in the previous paragraph shall be delimited by a Ministerial Implementing Order issued by the members of government responsible for the areas of geology, environment, spatial planning and the economy.

Article 45

Defence zones

The exploitation of mineral masses shall be prohibited on land which surrounds buildings, roads, public facilities, monuments and other property, which is classified or undergoing classification, as well as in the respective zones of protection, relevant natural occurrences and places classified as being of scientific or scenic interest, within the limits set out in the legal regime for the exploration and exploitation of mineral masses.

Article 46

Protection perimeters for natural mineral water and spring waters

1 — Natural mineral water shall be exploited within a protection perimeter, which is set based on hydro-geological studies in order to ensure the availability and characteristics of the water and the necessary conditions for suitable exploitation.

2 — The protection perimeter referred to in the previous paragraph shall cover the immediate surrounding area, an intermediate area and a broader area.

3 — The protection perimeter provided for in the previous paragraphs shall be set by a Ministerial Implementing Order issued by the member of government responsible for the area of geology.

4 — The awarding of a licence for exploiting spring waters may be dependent on the constitution of a protection zone.

5 — The complementary legislation referred to in Article 63 shall determine which activities are prohibited in the areas of the protection perimeter and set out the conditions for exercising other activities, with a view to ensuring the characteristics of the resource.

Article 47

Immediate zone of protection for natural mineral water and spring water

1 — In the immediate zone, the following are prohibited:

- a) Urban development and any other work, including work which does not require prior control;
- b) Surveying and underground work;
- c) The creation of landfills, excavation or other operations which require or result in changes to the land;
- d) The use of organic or chemical fertilizers, insecticides, pesticides or any other chemical products;
- e) Discharge of waste water or the leaving or depositing of waste;
- f) Cattle farming, pig farming, intensive grazing or similar activities;
- g) The installation of drainage, collection and waste water treatment infrastructure.

2 — In the immediate area, the cutting of trees and bushes, the destruction of plantations and the demolition of constructions of any nature shall require prior authorisation from the competent administrative authorities.

3 — When the work referred to in subparagraphs 1(a), (b), (c) and (g), is to conserve and exploit the resource, it may be authorised by the competent administrative authorities.

Article 48

Intermediate zone of protection for natural mineral water and spring waters

The activities set out in the previous article in the intermediate protection perimeter shall be subject to authorisation from the competent administrative authorities. Such authorisation shall be granted only when it is proven that such activities do not result in any damage to the conservation or exploitation of the resource.

Article 49

Broader zone of protection for natural mineral water and spring waters

Through an official order issued by the member of the government responsible for the area of geology, the activities set out in Article 47(1) and (2) may be prohibited in the broader zone, based on the risks of interference or contamination of the hydro-mineral resource.

Article 50

Areas of geological resources of public interest

1 — Subterranean cavities resulting from operations the licences for which have expired, may, depending on their value for specific uses and activities, be considered to be of public interest.

2 — The classification referred to in the previous paragraph shall be the responsibility of the member of the government responsible for the area of geology. The classification procedure and the protection regime applicable shall be governed by law.

3 — Public interest in the cavities is gauged on the basis of scientific, educational, aesthetic and economic criteria and with respect to the special use of such cavities for specific purposes or activities.

4 — The protection regime includes the limitations on any legal or material acts which affect the cavities, their configuration, ownership or manner of use or employment, as well as any possible support or compensation to be awarded to their owners.

Article 51

Objects of geological interest

The members of the government responsible for the areas of geology and conservation of nature may classify:

a) Movable property which is of relevant geological, mineral or educational interest, limiting the transfer of real rights and ensuring it remains in national territory;

b) A set, type or category of movable property which is of relevant geological, mineral or educational interest, and may ban or limit any actions which threaten the preservation of such property.

Article 52

Acquisition of products from exploitation

1 — Due to reasons of public interest, more specifically, to supply industry or carry out public works, the member of the government responsible for the area of geology may exercise the right of first refusal in the acquisition of the products resulting from the exploitation of mineral deposits or masses with respect to the concession or licence holder.

2 — Due to reasons of public interest, more specifically, the sale of mineral resources from concessions at prices lower than market prices, the member of government responsible for the area of geology may exercise the right of first refusal in the acquisition of the products resulting from the exploitation of mineral deposits with respect to the concession holder.

3 — To exercise the right of first refusal referred to in the previous paragraphs, holders of operating rights are required to notify DGEG, whenever requested, of any contracts signed for the sale of such products, as well as other items considered

necessary for the legal and economic assessment of the transfer.

CHAPTER VI

Limitations to private property

Article 53

Administrative encumbrance

1 — The awarding of prospecting and research rights or experimental operation rights shall be accompanied by the creation of an administrative encumbrance with regard to the buildings covered in the respective areas.

2 — A building where a quarry or spring water operation is located may be encumbered by an administrative encumbrance due to the economic interest of the operation, pursuant to that set out in a specific law.

3 — Neighbouring buildings to a concession area for the exploitation of geological resources may be subject to an administrative encumbrance, due to the economic interest of the operation, pursuant to that set out in a specific law.

4 — The buildings covered by the areas for which geological resource exploration or exploitation rights were awarded may only be encumbered by an administrative encumbrance for a maximum of seven years, without prejudice to continued occupancy after consent from the owner.

Article 54

Constitution and object of administrative encumbrances

1 — The administrative encumbrances referred to in the previous article shall be constituted by an act issued by the member of government responsible for the area of geology, which identifies the buildings on which such encumbrances exist and establishes the restrictions necessary for the execution of work.

2 — The act referred to in the previous paragraph shall be preceded by a prior hearing of the interested parties and published in the Official Gazette.

3 — The constitution of the administrative encumbrance on a specific building shall lead to compensation for the damage caused to holders of real rights on the same building, in accordance with that set out in the Compulsory Purchase Code.

4 — The administrative encumbrance shall expire in 30 days from the date of the termination of the contract for prospecting and research, experimental operation, or exploitation of the neighbouring building which legitimised the said encumbrance, except in the situation provided for in the following paragraph.

5 — Should the holder of the rights to prospecting and research or experimental operation be awarded operating rights, the encumbrance shall expire in one year from the termination of the rights awarded by the prospecting and research or experimental operation contract.

6 — The expiry of the administrative encumbrance shall lead to the following obligations for the holders of rights to prospecting and research, experimental operation or exploitation of a neighbouring building:

- a) Removal of installations and constructions and suitable treatment of the waste produced;
- b) Landscape restoration of the area occupied in accordance with the work programme or approved excavation plan. Such restoration work may include reconstitution of the soil and plant cover.

Article 55

Acquisition of land and compulsory purchase

1 — Resource exploitation rights may only be awarded to the holder of the rights allowing the activity to be exercised, without prejudice to the following paragraph.

2 — The concession holder has the right to apply for the compulsory purchase of the land necessary for the exploitation of the geological resources in accordance with general law.

3 — The holder of exploitation rights to mineral masses, spring water or geological formations and structures may apply for the compulsory purchase of the land required for operations, based on the existence of relevant interest to the national or regional economy.

4 — Compulsory purchase may be executed in favour of the State or any other legal or natural person or collective operation concession.

CHAPTER VII

Fees for exploiting geological resources in the public domain of the State

Article 56

Operating fees

1 — The exploitation of geological resources in the public domain of the State shall be subject to the payment of operating fees.

2 — The initial value of the operating fees shall be set in the contract signed with the State. The net proceeds from the operation or the value of the geological resources at the main shaft or abstractions may be used as a reference.

3 — Operating fees may also include premiums to be paid by the concession holder and set values determined on the basis of the geological potential of the areas allocated.

4 — Payment of the operating fees shall be set out in the contract and seeks to support the management of the geological resources, more specifically, by promoting knowledge on such resources. A part of the value calculated for payment may be

allocated to support social responsibility programmes and projects or assigned to the Geological Resources Fund.

5 — Operating fees are set out in the laws on the different geological resources and complemented, if necessary, by a specific law.

6 — Operating contracts shall provide periodic review mechanisms for operating fees and use the evolution of market prices and production costs as a reference.

7 — Operating contracts shall provide updating mechanisms allowing any possible lack of agreement to be overcome with respect to the application of the review mechanisms referred to in the previous paragraph.

8 — Average operating fees for operations subject to contracts in the previous year for similar operations shall be considered as an initial value for operating fees in contracts which do not provide for such fees.

9 — Through a written application from the holder of operating rights, more specifically, due to reasons of force majeure or of an exceptional nature, the State may defer charging operating fees or totally or partially renounce such fees.

Article 57

Geological Resources Fund

The Geological Resources Fund, to be constituted by a Decree-Law, shall be financed by the operating fees referred to in the previous article and is intended to support actions for improving knowledge, conservation, and the protection and enhancement of the geological assets.

Chapter VIII

Supervision of activity

Article 58

Monitoring and inspection

1 — Verification of compliance with the rules provided for in this law shall be carried out in the following manners:

a) Monitoring, to be carried out systematically by the licensing authority or coordinator, in compliance with their legal inspection obligation;

b) Inspection, whether licences or contracts constituting rights exist or otherwise, carried out systematically by the licensing authority or coordinator on an occasional basis depending on complaints received;

c) The licensing authority or coordinator carrying out inspection on the abovementioned basis, may issue guidelines and implement specific measures in special situations.

2 — Without prejudice to the powers and competences of other entities, the licensing authority or coordinator referred to in the previous paragraph is DGEG.

Article 59

Duty of confidentiality

1 — All those which, in the exercise of their functions, gain knowledge of the terms of the licence or the concession or items in the tender procedure referred to in Article 19, are required to hold such information in confidence and take the necessary steps to preserve full confidentiality.

2 — Infringement of the duties provided for in the previous paragraph shall render the offender liable for civil, criminal and disciplinary proceedings in accordance with the law.

CHAPTER IX

Transitional and final provisions

Article 60

Electronic processing

1 — Without prejudice to coordination with other platforms used for the electronic processing of administrative procedures, communications, notifications and applications, and the sending of documents, applications or information with respect to the administrative procedures provided for in this law, may be carried out electronically via the DGEG website and the one-stop-shop referred to in Articles 5 and 6 of Decree Law No 92/2010 of 26 July 2010.

2 — The platforms used for the electronic processing of administrative procedures provided for in this law shall:

a) Employ secure means of authentication, via an identity card or digital mobile key, pursuant to Article 4 of Law No 37/2014 of 26 June 2014;

b) Provide information and data in open formats, which allow machine reading, pursuant to Law No 36/2011 of 21 June 2011;

c) Ensure interconnection with the public administration interoperability platform and with the online information search system referred to in Decree-Law No 135/99 of 22 April 1999, amended by Decree-Laws Nos 29/2000 of 13 March 2000, 72-A/2010 of 18 June 2010 and 73/2014 of 13 May 2014.

3 — With respect to the administrative procedures provided for in this law, applicants may apply for exemption from submitting the documents held by any public administration department or body, pursuant to Article 28-A of Decree-Law No 135/99 of 22 April 1999 amended by Decree-Laws Nos 29/2000 of 13 March 2000, 72-A/2010 of 18 June 2010 and 73/2014 of 13 May 2014.

Article 61

Fees

1 — To undertake the actions provided for in this law and the complementary legislation referred to in Article 63, the payment of fees shall be due.

2 — Fees relating to acts which are the competence of DGEG shall be governed by a Ministerial Implementing Order issued by the members of government responsible for finance and geology and constitute income for DGEG.

3 — Fees relating to acts which are the competence of municipal authorities shall comply with the provisions of Law No 53-E/2006 of 29 December 2006 and constitute income for the said municipal authorities.

4 — Fees may also be charged for the provision of any goods or services and for the provision of technical information, in accordance with the principle of covering costs.

Article 62

Transitional provision

1 — The provisions of this law shall apply to contracts or licences issued after it enters into force, without prejudice to the provisions of the following paragraphs.

2 — Concession operating contracts in force may, within a time limit of one year from the date of entry into force of this law, by agreement between the parties, be adjusted to the provisions of this law.

3 — The provisions of this law shall also apply to changes or extensions to existing contracts or licences on the date of its entry into force.

4 — Until the entry into force of the complementary legislation referred to in the following article, the regulations approved under Decree-Law No 90/90 of 16 March 1990 shall remain in effect, in all aspects which are not incompatible with the provisions of this law.

5 — The protection perimeters, reserve areas and the captive areas instituted under Decree-Law No 90/90 of 16 March 1990 and the respective complementary legislation shall also remain in effect.

Article 63

Complementary legislation

1 — Complementary legislation to this law shall include the laws which govern the legal regime for the exploration and exploitation of geological resources referred to in Article 1.

2 — Within three months from the date of entry into force of this law, the government shall approve the complementary laws which govern:

- a) The legal regime which defines the exploration and exploitation of mineral deposits, and
- b) The legal regime which defines the exploration and exploitation of natural mineral waters, mineral-industrial water, geothermal resources and spring waters.

Article 64

Repeal provision

The following legislation is hereby repealed:

- a) Decree-law No 90/90 of 16 March 1990;
- b) All administrative regulations provided for through Decree Law No 90/90 of 16 March 1990, without prejudice to the provisions of Article 62.

Article 65

Application in the autonomous regions

1 — The provisions of this law shall apply to the autonomous regions of the Azores and Madeira, with due adaptations, in accordance with their respective political-administrative autonomy. The competent bodies of the respective autonomous regions shall be responsible for implementation, taking into account the provisions of the following point.

2 — The autonomous regions of the Azores and Madeira, through the respective competent bodies and departments, shall be responsible for awarding geological resources rights in the respective territory.

3 — Contracts for awarding rights for prior evaluation, prospecting and research, experimental operation and exploitation of geological resources located in adjacent maritime zones up to 200 nautical miles shall be established between central government, the respective autonomous region and the holder of the rights.

Article 66

Entry into force

This Law shall enter into force on the first day following that of its publication.

Approved on 24 April 2015.

President of the Assembly of the Republic, *Maria da Assunção A. Esteves*.

Promulgated on 5 June 2017.

For publication.

The President of the Republic, ANÍBAL CAVACO SILVA.

Countersigned on 27 June 2017.

Prime Minister, *Pedro Passos Coelho*.