

MINISTRY OF THE ENVIRONMENT AND SPATIAL PLANNING

Decree-Law No 270/2001

of 6 October 2001

Decree-Law No 89/90 of 16 March 1990 laid down the legal regime with respect to the exploitation of mineral masses-quarries, implementing that set out in Decree-Law No 90/90, which laid down the general regime for geological resources, Article 51 of which referred to special legislation for creating specific laws for each type of resource.

Since then, Decree-Law No 89/90 has been the national law governing the important activity of quarry exploitation, an activity which has a significant export value and uses a natural resource which, as with any other resource, is scarce.

Despite the hope placed in the quarry law, the practical implementation of its provisions was not as successful as had been expected. Moreover, the growing importance of environmental aspects on economic activity led to the establishing of more integrating policies which were important to incorporate into the sector's legislative framework. The need to review this Decree-Law therefore became clear, mainly with regard to environmental aspects and the restoration of landscape together with a reinforcement of the role of the Ministry of the Environment and Spatial Planning (MAOT) in proceedings to obtain a licence and the inspection of quarries.

Among the most important changes, it is important to note those relating to the awarding of licences. As such, two new chapters were introduced in order to make the legal regime for research and operating licences independent. Furthermore, the accuracy of administrative documents was reinforced and especially the technical documents to be submitted by the applicant during licence applications. All documents relate to a new approach, the Quarry Plan.

A further relevant change was the replacement of the Landscape Restoration Plan, as set out in Decree-Law No 89/90, with a much more comprehensive plan from an environmental perspective, the Environmental and Landscape Restoration Plan (PARP).

The aim of the changes introduced, in accordance with the spirit of the Communication from the Commission of 3 May 2000 [COM (2000) 265 final] on promoting sustainable development in the EU non-energy extractive industry, is obviously to correct, as far as possible, the numerous situations of abandoned and non-restored quarries and with a view to the significant improvement of environmental performance in the extractive industry.

The bodies of the governments of the Autonomous Regions, the National Association of Portuguese Municipalities and representative quarry industry associations were consulted.

Accordingly:

In accordance with Article 198(1)(a) and (c) of the Constitution, the Government hereby decrees the following as a general law of the Republic:

CHAPTER I

General provisions

Article 1

Scope

This law shall apply to the exploration and exploitation of mineral masses, including research, as provided for herein.

Article 2

Definitions

For the purposes of this Law, the following definitions shall apply:

- a) 'Quarry annexes' — the installations and workshops for services which form part of or assist in the exploitation of mineral masses and which are exclusively used in that activity, more specifically, workshops for the maintenance of the mechanical means used, facilities for the packaging of the substances extracted, for the support services which are indispensable for workers, as well as extraction industry establishments;

- b) 'Classified areas' - areas which are considered as being of particular interest for the conservation of nature, more specifically, protected areas, sites on the National List of Sites, sites of community interest, special conservation zones and special protection zones created under legislation in effect;
- c) 'Contract' — Research and operating contract or operating contract only;
- d) Entity responsible for approving PARP' — Regional Directorate of the Environment and Spatial Planning (DRAOT) and the Institute for the Conservation of Nature (ICN) when quarries are located in classified areas as defined in this article;
- e) 'Entities responsible for approving the Quarry Plan' — the Regional-Directorate of the Economy (DRE) and the entity responsible for approving PARP;
- f) 'Licensing Authorities' — the municipal authority (CM) and DRE;
- g) 'Operator' — the holder of the respective research or operating licence;
- h) 'Operating Licence' — the permit which allows the holder to exploit a specific quarry in accordance with the provisions of this law and the conditions set out in the licence;
- i) 'Research Licence' — the permit which allows the holder to conduct research in accordance with the provisions of this law and the conditions set out in the licence;
- j) 'Mineral masses' — the rocks and mineral occurrences which are not legally classified as mineral deposits;
- k) 'Quarry' — the structure formed by the extraction area and defence zones, by the deposits of extracted mineral masses, sterile masses and soils removed and the respective annexes;
- l) 'Research' — the series of studies and work, prior to the exploitation stage, which has as its goals the sizing, determining of characteristics and the evaluation of the economic interest in using the respective mineral masses, including all the field work set out in Annex I to this Decree-Law;
- m) 'Environmental and Landscape Restoration Plan (PARP)' — the technical document consisting of the environmental measures and the proposed solution for the closure of the quarry and landscape restoration of exploited areas;
- n) 'Extraction Plan' — the technical document containing the description of the exploitation method: cutting, extraction and transport systems, materials, energy and water supply systems, safety systems, signage and drainage;
- o) 'Quarry Plan' — the technical document consisting of the Extraction Plan and PARP, as provided for in Article 42;
- p) 'Depth of excavation' — the difference between the highest original altitude topographic level and the lowest level of extraction;

Article 3

Blocking of areas

The blocking of the areas where mineral masses of relevant interest to the national or regional economy are located is carried out via a joint Ministerial Implementing Order issued by the ministers responsible for the areas of the economy, environment and spatial planning, which shall define:

- a) The location and limits of the area blocked;
- b) The minimum area of the quarries which can be blocked;
- c) The possible compensation due to the State in return for the exploitation;
- d) The requirements of a technical, economic and financial nature to be observed in the exploration and exploitation of quarries by the holders of the respective research and operating licences.

CHAPTER II

Relationships with third-parties

Article 4

Defence zones

1 — Without prejudice to the provisions of a special law, the defence zones referred to in Article 38 of Decree-Law No 90/90 of 16 March 1990, the distances set in the Ministerial Implementing Order on blocking shall be observed, and in the absence of such an Order, those set out in Annex II to this Decree-Law shall be observed.

2 — The defence zones provided for in the previous paragraph shall also be respected whenever new work or other objects as referred to in Annex II, and which are unrelated to the quarry, are intended to be implanted in the surrounding areas to quarries.

Article 5

Special Defence zones

1 — Defence zones around other work areas or sites shall also be defined by a joint Ministerial Implementing Order issued by the competent members of government when such zones prove to be absolutely indispensable for protection purposes. Exploitation work shall be prohibited or limited in such zones.

2 — The Ministerial Implementing Order referred to in the previous paragraph shall set the width of the defence zone and declare if the operation of quarries is prohibited or the conditions which are required to be observed, without prejudice to the provisions of the following paragraph.

3 — Until the publication of the Ministerial Implementing Order referred to in the previous paragraph, the competent entities may order the suspension of work in the area of influence of works or sites which are required to be safeguarded.

4 — Special defence zones shall take into account the distances set out in Annex II to this Decree-Law, except in exceptional cases where, through a technical reasoned opinion issued by the authorities referred to in No 1 of this article, the need to alter such zones is justified to ensure that the work or site in question is protected.

5 — In the case of already licensed quarries, the delimitation provided for in previous paragraphs shall be preceded by a hearing of the quarry operators who are possibly affected. Payment shall also be determined for just compensation for the damages caused.

Article 6

Substances extracted: for public works

1 — The acquisition of substances extracted from quarries, pursuant to that provided for in Article 41 of Decree-Law No 90/90 of 16 March 1990, shall require prior authorisation through a joint official order issued by the Ministers for the Economy and the Minister overseeing public works.

2 — The acquisition referred to in the previous paragraph shall relate to the substances which, for technical and economic reasons, prove to be the most suitable for conducting the work in question.

Article 7

Compulsory purchase

1 — The declaration of public utility for purposes of the compulsory purchase of the land necessary for exploiting the mineral masses referred to in Article 34 of Decree-Law No 90/90 of 16 March 1990 may only be issued when it is expected that the quarries to be installed may produce a benefit greater than that which would arise from the normal use of such land.

2 — Once public utility has been declared in accordance with that set out in the previous paragraph, the right to apply for compulsory purchase may only be exercised when the owners of the mineral mass:

- a) Refuse to exploit it on their own account or demonstrate that they are unable to do so properly;
- b) Refuse to grant consent for exploitation by others or require unacceptable conditions, in accordance with the criteria set out in Article 8.

3 — In the case of the compulsory purchase of land in favour of third-parties, the Minister for the Economy shall determine the opening of a tender to award the respective rights, except as provided for in the following paragraph.

4 — The provisions of the previous paragraph shall not apply whenever an already existing licensed operator is involved. In such a case, the compulsory purchase shall be implemented in favour of the said operator.

Article 8

Operating conditions

1 — For the purposes of the provisions of the previous article, conditions which make the operation of the quarry economically unviable shall be considered as unacceptable when:

- a) The rent requested for the occupancy of the area to be exploited is manifestly higher than the earnings from the normal use of the land; or
- b) The 'variable contract payment' value requested for the production to be obtained is manifestly higher than the maximum value charged in the region.

2 — It shall be assumed that the conditions referred to in No 2 of the previous article exist, as proven by the licensing authority in a time limit to be set, and when the owner of the mineral masses in question has been notified, and neither such owner or other person with whom the operator has an agreement apply for a licence with a view to the exploitation of the said mineral masses.

3 — During the time period referred to in the previous paragraph, the licensing authority may undertake on its own account, all actions it deems necessary to discover interest in the exploitation of the mineral masses in question and enable a contract to be signed with the respective owner.

4 — The assumption referred to in No 2 of this article may be overturned if the land owner proves, by any legally admissible means, that despite the conditions required by the said owner being acceptable, no interest was shown in exploiting the said land.

5 — For the purposes of the provisions of the previous paragraph, the conditions required by the owner shall have been advertised, as a minimum, in the newspaper with the largest circulation in the region, or when this is not possible, in a national newspaper.

CHAPTER III

Reasoned opinion on location and awarding of licences

Article 9

Prior reasoned opinion on location

1 — None of the licences provided for in this law may be awarded without a favourable reasoned opinion relating to location.

2 — The reasoned opinion on location shall be issued by the competent entity for approving PARP or by the municipal authority. The latter case shall apply when the area which is the object of the application is in a space for the extraction industry in the respective Municipal Master Plan (PDM).

3 — Excepted from the provisions of the previous paragraph are applications for the awarding of licences for projects subject to the legal regime for assessing environmental impact which do not require the location certificate to be submitted with the licence application.

4 — The reasoned opinion application shall be dealt with by submitting the documents referred to in the draft in Annex III to this Decree-Law.

5 — The entities referred to in No 2 shall issue a location certificate within a maximum period of 30 days after the submission of the reasoned opinion application.

6 — The effects of the location certificate terminate with the rejection of the licence application.

Article 10

Research and operating licence

1 — Exploration and exploitation of mineral masses may only be conducted under a research or operating licence, depending on the case in question. A licence application by the interested party shall require such party to be the owner or is a person who has signed a contract with the owner in accordance with this law.

2 — Licences shall define the type of mineral masses and the boundaries of the respective area.

3 — The areas defined in the licence shall be in the form of a polygon which is compatible with the limit of the building in whose area they are implanted.

4 — A research licence shall be valid for an initial period of six months from the date it is awarded, which, at the request of the holder submitted 30 days in advance, may be extended once and for an equal period.

5 — A research licence does not authorise the holder to dispose of or sell the mineral substances extracted, without prejudice to conducting analyses, laboratory and semi-industrial testing and market tests in the pursuit of the purposes inherent to research.

6 — Only the holder of an up to date licence may apply for an operating licence for the mineral masses and related area.

Article 11

Competent entities for the awarding of research or operating licences

1 — Research licences shall be awarded by the Regional Directorate of the Economy (DRE).

2 — Operating licences shall be awarded by:

- a) The municipal authority, when opencast quarries are involved and none of the following limits are exceeded;
 - i) Power of mechanical means used in the operation — 500 CV;
 - ii) Number of workers — 15;
 - iii) Depth of excavation — 10 m;

b) DRE, in the following cases:

- i) Opencast operations where any of the limits referred to in the previous subparagraphs is exceeded;
- ii) Subterranean or mixed operations;
- iii) All quarries located in blocked or reserve areas.

3 — Regardless of the licensing competences provided for in previous paragraphs, it is the responsibility of DRE, DRAOT or ICN to decide on the Quarry Plan provided for in Article 41. The decision shall be binding on the licensing authority.

4 — When the areas to be licensed fall under the competence of more than one territorially competent entity, the licence shall be awarded by the entity in whose territory the largest part of the area to be licensed is located, which shall consult with the other entities and inform them of the decisions made in accordance with the procedures provided for in this law.

CHAPTER IV

Research and operating contracts or operating contracts only

Article 12

Types of contract and form

1 — A contract may provide for research and exploitation, allowing the holder to apply for both types of licence pursuant to this law, or only for exploitation, allowing the holder to only apply for the latter type of licence.

2 — A contract signed between the building owner and a third-party pursuant to the law shall require a public deed

Article 13

Duration

Without prejudice to the provisions of Articles 16, 17 and 18, the contract shall have a minimum validity period compatible with the following:

- a) One year from the date the research licence was awarded, when provided for, at the end of which it can be renewed for successive periods of equal duration up to the awarding of the operating licence, on which date the operating stage shall start;
- b) Four years from the date of awarding of the operating licence and when this initial period has ended, the contract is renewable for successive periods of equal duration.

Article 14

Compensation due to the owner

1 — Compensation due to the building owner shall be set out in the contract and consist of an annual fixed rent, plus a variable amount, referred to as a 'variable contract payment', based on production volume, except as otherwise expressly agreed to by the parties.

2 — The contract may include clauses for the review of compensation.

Article 15

Transfer of contractual position

1 — Except as otherwise provided for, an operator may not transfer his contractual position without the agreement of the building owner.

2 — Contracts do not expire on the death of the building owner.

Article 16

Withdrawal

1 — A party wishing to withdraw from the contract in the operation stage shall do so in writing with a minimum notice period of 12 months. When such withdrawal is to take place in the research stage, this notice period shall be reduced to half.

2 — The owner may not withdraw from a contract, either during the research stage, up to the awarding of the operating licence, or, after that, at the end of the initial period referred to in Article 13(b) of this law, or at the end of the first three renewals.

Article 17

Cancellation

1 — Regardless of the facility to withdraw as provided for in the previous article, the operator may cancel the contract at any time during the research stage or during the first six years from the date of the awarding of the operating licence. The licensing authority and the building owner shall be notified of such cancellation.

2 — Cancellation does not have retroactive effects.

Article 18

Termination of the contract

1 — Contracts terminate in the following cases:

- a) When the research licence is not applied for within one year from the date of the signing of the contract;
- b) When, in the absence of a research licence application, an operating licence is also not applied for within one year from the date the contract is signed;
- c) When the operating licence is not applied for by the research licence holder within one year after the expiry of the latter;
- d) When the application for any licence is not approved;
- e) When the legal effects of the licence terminate;
- f) When the legal effects of the contract terminate pursuant to Articles 16 and 17 or this article, where the operator has not acquired the position of building owner;
- g) When the operator transfers his contractual position and the assignee does not apply for the licence at the licensing authority within nine months or if the transfer application is denied;
- h) When, in the event of transfer *mortis causa* of the contractual position or the termination of the legal person, the assignee does not apply for the transfer of the licence within 12 months.

2 — When a contract terminates under the provisions of subparagraphs e), f) and g) of the previous paragraph, the operator shall maintain complete access to the area for full compliance with the obligations arising from this law and the licence with respect to closure and landscape restoration of the site, in accordance with the approved PARP.

Article 19

Right of first refusal

The operator shall have the right of first refusal in the sale or transfer in lieu of payment of the building located in the quarry, under the same terms as those for commercial or industrial tenants.

CHAPTER V

Research licence

Article 20

Research licence application

1 — Applicants for a research licence shall submit the following documents in quadruplicate to the licensing authority:

- a) Certificate of favourable reasoned opinion on the location pursuant to Article 9 of this law;
- b) Documentary evidence confirming ownership of the building or a certificate of the research and operating contract when the operator is not the owner;
- c) Request setting out the full identification of the applicant and respective address, an indication of the substances sought to be covered by the licence, location of the area desired and its boundaries in flat rectangular coordinates, referenced to the central point of the Hayford-Gauss system;
- d) Research programme indicating the studies and work to be carried out, the underlying reasoning, techniques to be employed, detailed plans and sections of the projected field work and the post-operational situation, identifying the final restoration solution for the zones which are to be the target of the work;
- e) Location map at a scale of 1:25 000 showing the research area boundaries;
- f) Cadastral map at a scale of 1:2 000, showing the research area boundaries and the boundaries of the adjoining buildings involved.

2 — The licensing authority may request the applicant, once only and based on due grounds, any items which are missing or additionally required, which detail or complete the aspects referred to in the previous paragraph, in order to assess the suitability of the application.

Article 21

Processing of the application

1 — Once the duly formulated application has been received in accordance with that set out in the previous article, the licensing authority shall issue a receipt and send it to the applicant.

2 — The date of the receipt referred to in the previous paragraph shall represent, for all purposes, the start date of the research licence award procedure.

3 — The licensing authority shall send a copy of the application to DRAOT or ICN and the municipal authority, which, within 20 days after receipt of the application, shall inform the said licensing authority of their reasoned opinion. In the absence of a response within the abovementioned time limit, the application shall be considered favourable.

4 — In the 15 days after the end of the time limit for the receipt of the reasoned opinions referred to in the previous paragraph, the licensing authority shall analyse the application and issue a decision or a draft decision, which shall either approve or reject the licence application.

5 — When the licensing authority imposes conditions on the applicant, more specifically, to pay the deposit referred to in Article 52 of this law, the provisions of Article 29 shall apply, with the time limit set out in Article 29(1) being reduced to half.

6 — The applicant shall be notified of the decision and communicated to the entities consulted pursuant to this article by the licensing authority.

7 — The Institute of Geology and Mines (IGM) shall also be notified of the awarding of the licence for purposes of alphanumeric and geo-referenced registration.

Article 22

Rejection of application

Duly submitted applications shall be rejected in the following cases:

- a) When the area requested overlaps with areas licensed under this law or when incompatibility may be seen in operating activities with areas which are subject to mineral deposit prospecting and research rights;
- b) When the applicant does not accept the licence conditions;
- c) When the application does not prove to be suitable for satisfying the objectives proposed by the applicant;
- d) When the application does not ensure the sustainable exploitation of the resource;

Article 23

Application to extend licence

1 — Applications to extend a licence shall be submitted to the licensing authority at least 30 days before the licence expires and be accompanied by the following items:

- a) Report with a brief description of work undertaken and finished, restoration work and results achieved; and
- b) Summary plan of work planned for the extension period setting out the information indicated in Article 20(d) of this law.

2 — Within 10 days, the licensing authority may request clarifications, on due grounds, and indicate measures to improve the work programme and the respective conditions. The applicant shall then pronounce on such measures, after which the decision shall be made.

3 — With the exception of cases where the applicant has proposed the opening of cutting faces, the application shall be tacitly approved should the licensing authority not pronounce within 10 days after the end date of the initial licensing application or, in the case provided for in the previous paragraph, the applicant's response does not fully meet the licensing authority's requests and indications.

4 — Within eight days after the decision or tacit approval in accordance with the provisions set out in the previous paragraph, the licensing authority shall notify DRAOT or ICN, the competent municipal authority and IGM of the extension application and its approval or rejection.

Article 24

Transfer of research licence

The transfer of a research licence shall comply with the provisions of Article 37 of this law.

Article 25

Termination of the legal effects of the research licence

1 — A research licence terminates:

- a) When it expires at the end of the initial term or extension, when granted;
- b) Through cancellation, if the respective holder informs the licensing authority of his cancellation of the licence;
- c) When revoked by the licensing authority, if the holder does not comply with this law or the terms and conditions of the licence.

2 — IGM shall be immediately notified of the termination of the licence for registration purposes.

Article 26

Rules and good practices relating to research

1 — The operator shall define and execute research work programmes in accordance with responsible environmental management criteria, assessing, preventing and minimising any impact which may be caused on soils, flora, surface or underground waters. The operator shall be fully aware of and comply with all applicable laws and regulations and limit any interference with dominant types of procedures set out in effective spatial planning to the necessary minimum.

2 — Research work which involves the opening of cutting faces shall be executed in full observance of the defence zones set out in Annex II, and protection distances shall be measured from the edges of excavation.

3 — Once research work has terminated, the operator shall:

- a) Seal wells and gullies, filling them with the material extracted and deposited, restoring the topography and soil to a situation equivalent to that initially found;
- b) Seal bore holes to avoid possible contamination of aquifers.

CHAPTER VI

The awarding of operating licences

Article 27

Operating licence application

1 — Applicants for an operating licence shall submit the following documents in sextuplicate:

a) Administrative documents:

- i) Request in accordance with the drafts set out in Annex IV to this law;
- ii) Certificate of favourable reasoned opinion on the location, when required pursuant to Article 9 of this law;
- iii) Documentary evidence confirming ownership of the building or a certificate of the contract when the operator is not the owner;
- iv) Statement of responsibility from the technician in charge of the Quarry Plan in accordance with the draft in Annex V to this Decree-Law;
- v) Environmental impact study in the case of operations subject to environmental impact assessment;
- vi) Location map at a scale of 1:25 000 showing site access, covering a radius of 4 km;
- vii) Cadastral map at a scale of 1:2 000, showing the quarry and boundaries of the property, adjoining properties and accesses to site;
- viii) Topographical map at a scale of 1:500 or 1:1 000, showing the location of the quarry annexes when they are planned;

b) Economic viability study;

c) Technical documents relating to the Quarry Plan as provided for in Annex IV to this Decree-Law.

2 — The applicant may be exempted from submitting one or more of the technical items referred to in Annex VI when, based on the characteristics of the quarry to be licensed, and provided that it is duly justified that such items are not required to execute the Quarry Plan.

3 — Should it be seen that the process does not satisfy the provisions of the previous articles, the licensing authority shall request the applicant to provide the missing items within 10 days. The time limit on the proceeding shall be suspended until such items are submitted.

Article 28

Processing of procedure

- 1 — The licensing authority shall issue a receipt for the application and send it to the applicant
- 2 — The date of the receipt referred to in the previous paragraph shall represent, for all purposes, the start date of the operating licence award procedure.
- 3 — The decision on the awarding or rejection of the operating licence provided for in this article shall be pronounced within 80 days from the date the application is submitted, when the licensing authority is a DRE and within 65 days when the entity responsible is a municipal authority.
- 4 — DRE, DRAOT and ICN may request the applicant to provide duly justified additional documentation to that provided for in the previous point which is necessary for the technical analysis of the application. The licensing authority shall be notified to suspend the time limit referred to in the previous paragraph.
- 5 — After hearing the applicant, the licensing authority, within the time limit set, may immediately reject the application in accordance with Article 30.
- 6 — When the licensing authority is a DRE, the procedure shall be conducted as follows:
 - a) In cases other than those provided for in No 9, DRE shall send a copy of the application to DRAOT or ICN within 20 days;
 - b) The entity responsible for approving PARP shall notify DRE, within 40 days from the date of the request of the latter, of its decision with respect to the analysis of items in the Quarry Plan which it is responsible for and state the value of the deposit to be paid by the applicant, also notifying the said applicant of this value.
 - c) During the time limit referred to in the previous subparagraph, DRE shall request the Regional Health Administration (ARS) and the Institute for the Development of Working Conditions to provide their respective reasoned opinions which are to be issued within 20 days.
 - d) Once the provisions of the previous subparagraphs have been complied with, DRE shall pronounce on the licence application within 20 days.
- 7 — When the licensing authority is a municipal authority, the procedure shall be conducted as follows:
 - a) The municipal authority shall send DRE one copy of the application within 10 days and, in cases other than those provided for in No 9, a copy shall also be sent to DRAOT and ICN;
 - b) Within 40 days after receipt of the document referred to in the previous subparagraph, DRE and DRAOT or ICN shall notify the municipal authority of their decision on the items in the Quarry Plan they are responsible for, stating in the decision the entity which shall be responsible for approving PARP, the value of the deposit and also notifying the applicant.
 - c) During the time limit referred to in the previous subparagraph, the municipal authority shall request the Regional Health Administration and the Institute for the Development of Working Conditions to provide their respective reasoned opinions which are to be issued within 20 days.
 - d) Once the provisions of the previous subparagraphs have been complied with, the municipal authority shall pronounce on the licence application within 15 days.
- 8 — In the case of licence applications for operating quarries subject to environmental impact assessment, the proceedings governed in this article shall be suspended until the licensing authority has received the Environmental Impact Statement (DIA).
- 9 — In the cases referred to in the previous paragraph, the approval of PARP by DRAOT or ICN is not required
- 10 — If a licence is awarded further to an Environmental Impact Statement (DIA) which is favourable or favourable with constraints, the inspection provided for in Article 31(1) of this law shall be conducted.

Article 29

Awarding of licences

- 1 — Once the decision has been made to award a licence, the licensing authority shall notify the applicant, within 20 days, to accept the conditions of the said licence in writing, and, more specifically, the deposit and respective sum. Such sum shall be paid within the time stated in the notification, which may not be less than 60 days or more than six months.
 - 2 — After the applicant has accepted the terms and conditions set out in the notification and pays the deposit in accordance with the previous paragraph, the licensing authority shall award the licence.
 - 3 — The applicant shall be notified of the awarding of the licence and sent a copy of the approved Quarry Plan, with notification also being sent to the municipal authority and the entities responsible for approving the Quarry Plan.
 - 4 — Non-acceptance or non-payment of the deposit within the stated time shall be considered equivalent to refusal of the licence by the applicant.
- Without prejudice to the provisions of the previous paragraph, a duly formulated operating licence application submitted under a research licence may only be rejected should the Quarry Plan not be approved.

Article 30

Rejection of application

At any time during processing, an application, even when duly prepared, shall be rejected by the licensing authority in the following cases:

- a) When the area of the application, not formulated under the research licence of the applicant, overlaps with licences granted in accordance with this law;
- b) When it is considered that the project's economic viability or its proper implementation are not guaranteed;
- c) When the application does not prove to be suitable for satisfying the objectives proposed by the applicant;
- d) When the application does not ensure the sustainable exploitation of the resource;
- e) When the applicant does not accept the licence conditions;
- f) Due to reasons of public interest.

Article 31

Inspection of operations

1 — The entities participating in licensing shall inspect the operation within six months after the licence was awarded, whenever they consider it suitable based on the nature and size of the said operation with the goal of ensuring compliance with the terms and conditions of the licence.

2 — Without prejudice to the provisions of the previous paragraph, the operator shall request the licensing authority to inspect the operation after three years have passed since the licence was awarded and every three years thereafter. The aim of such inspections is to verify compliance with the objectives set out in legal obligations and licence requirements.

3 — The inspection shall be conducted by the licensing authority and the entities responsible for approving the Quarry Plan.

4 — Once the inspection has been concluded, a document attesting to the compliance by the quarry with the terms of the operating licence shall be drawn up. In the event that compliance is not confirmed, a document setting out the measures deemed necessary and the respective deadline for completion shall be drawn up.

5 — The licensing authority is required to inform the operator within 15 days, also notifying the other entities involved, of the terms of the inspection document, as well as the respective decision.

6 — Once the time limit conceded for the measures determined under No 3 of this article has elapsed, a new inspection shall be conducted at the initiative of the same entities, and should such measures not have been complied with, the precautionary or penalty measures considered necessary shall be applied.

Article 32

Reciprocal information and registration

1 — The decision made by DRE regarding an application to award an operating licence shall be immediately communicated to the municipal authority and reciprocally, with acknowledgement to DRAOT or ICN.

2 — Once the operating licence has been awarded, the licensing authority shall inform IGM of the quarry's alphanumeric and geo-referenced data for purposes of allocating the corresponding cadastral number.

Article 33

Quarry annexes

1 — Extraction industry establishments which are annexes to the quarry, although subject to licensing and inspection in accordance with special applicable legislation, may be installed in the respective operations, without prejudice to a prior favourable reasoned opinion on location, when legally required, which shall take into account the Quarry Plan.

2 — At the end of operations, all annexes and other infrastructures shall be removed, except if with respect to an approved or reviewed PARP, a different use is otherwise provided for.

Article 34

Changes to the licensing regime

1 — When a quarry operator, having obtained the operating licence awarded by the municipal authority, wishes to exceed the limits set out in Article 11(2)(a)(iii), or wishes to conduct underground exploitation, such operator is required to obtain a new licence in accordance with the procedure set out in Article 28(6) of this law.

2 — For the purposes of obtaining a new operating licence in accordance with that set out in the previous paragraph, the operating contract shall remain fully adequate and the operator is not required to submit a new favourable reasoned opinion on location in cases where expansion of the exploitation area does not take place.

Article 35

Coordination of operations in adjoining or neighbouring quarries

1 — When interest is shown in the rational exploitation of mineral masses in operation or in the good restoration of already exploited areas, the licensing authority, after consultation with the entities responsible for approving the Quarry Plan, shall invite the owners of adjoining or neighbouring quarries to enter into a written agreement, which shall provide for carrying out activities and respective Quarry Plans with the aim of obtaining the coordinated development of the individual operations of each quarry.

2 — For the purposes of the provisions of the previous paragraph, the licensing authority shall draw up a draft agreement setting out the conditions for coordinating the operations and the measures to be taken with a view to implementing the said agreement, submitting it for the binding opinion of DRAOT or ICN and signature by all participating operators.

3 — Once the agreement referred has been signed by the operators, it shall be binding and taken into consideration by the licensing authority and the entities responsible for approving the Quarry Plan in the exercising of their respective competences.

Article 36

Merger of adjoining or neighbouring quarries

1 — The owners of adjacent or adjoining quarries wishing to merge all or part of their respective operations shall submit an application to the licensing authority describing the objectives and methods of the merger and indicate who will take control of the quarry after the said merger.

2 — Based on the information submitted, the licensing authority, after having heard the entities which approve the Quarry Plan, shall set out the steps to be taken with a view to issuing the licence to replace the individual quarries and reviewing the plans under the new joint arrangement.

3 — The issuing of the licence or approval to replace the previous licences, pursuant to this Article, shall not represent new licensing and the merged quarry shall not be considered as a new quarry. Prior authorisation with respect to location or owner agreement for buildings forming part of the individual quarries now merged shall not be necessary. The holder of the merged quarry shall take over the legal positions held by the previous operators under the same terms as those set out in the respective operating contracts and licences.

4 — Without prejudice to the provisions of the previous paragraphs, when the merger of quarries results in the incorporation of new non-licensed areas, the legal regime on environmental impact assessment shall be observed, as shall the provisions of Article 34, if applicable.

Article 37

Transfer of operating licence

1 — Transfer *inter vivos* or *mortis causa* of the operating licence shall only be valid when in favour of a person who has acquired the position of operator with authorisation from the licensing authority.

2 — The licensing authority shall notify the other entities responsible for approving the Quarry Plan of transfer and loss of licence.

Article 38

Termination of legal effects

1 — The legal effects of an operating licence terminate:

- a) When they expire;
- b) When revoked.

2 — IGM shall be immediately notified of the termination of the licence for registration purposes.

Article 39

Expiry

An operating licence shall expire when any of the following is seen:

- a) Expiry of the contract;
- b) Discontinuation of the quarry;
- c) Depletion of the quarry's reserves;
- d) Death of the natural person or closing down of the legal person holding the licence if the transfer of the said licence in favour of the respective successor has not been applied for within the time limit set out in Article 18(h).

Article 40

Revoking of licences

- 1 — An operating licence may be revoked by the same entity that granted it, in the following cases:
- a) When a licence holder breaches provisions relating to defence zones or the safety of persons and property three times in a 12-month period;
 - b) When, without due reason, a licence holder does not comply with the decisions imposed by an inspection conducted by the entities responsible for approving the Quarry Plan as referred to in Article 54(2) of this law;
 - c) When the seriousness or repeated nature of the breach or breaches committed demonstrates the incapacity of the licence holder to ensure the good operation of the quarry covered by the said licence;
 - d) When the licence holder does not replace or reinforce the deposit in accordance with the provisions of Article 52(5) and (6) of this law;
 - e) When the provisions of Article 63 are not complied with.

2 — When, in any of the cases provided for in the previous paragraph, the provisions, determinations or incapacities referred to therein relate to non-compliance with the Quarry Plan, the licence shall only be revoked after a binding reasoned opinion issued by the entity responsible for approving PARP.

CHAPTER VII

Operating and recovery of quarries

Article 41

Quarry Plan

1 — The operator may not conduct exploitation, closure or restoration operations without an approved Quarry Plan. The said Quarry Plan is required for the respective licence and also sets out the aims, processes, measures and monitoring actions required during and after such operations.

2 — The Quarry Plan includes the Extraction Plan and PARP, which shall be duly coordinated with each other, include the technical documents set out in Annex VI and a work schedule demonstrating the timeline compatibility of the stages planned for each of the technical aspects. The entities responsible for approving the Quarry Plan may, depending on the characteristics of the operation, dispense with the requirement to submit the items set out in Annex VI.

3 — DRE shall approve the Extraction Plan and the landfill for waste governed by legislation on waste resulting from the exploitation of mineral masses and included in the Extraction Plan. DRAOT or ICN shall approve PARP and the respective landfill for waste included therein.

4 — The Quarry Plan shall always have as underlying goals the minimising of environmental impact on the surroundings, the sustainable exploitation of the mineral mass and, taking into account the operator's economic situation, the principle of Best Available Techniques (BAT).

5 — The operator may review the Quarry Plan and seek prior approval from the competent entities when wishing to make changes, including when such changes do not fall under the amendment to the licensing regime governed by Article 34.

Article 42

Technician in charge

1 — The technical management of the quarry shall be undertaken by a person of good standing recognised by the licensing authority and who holds a degree in a suitable specialism.

2 — Should the use of explosives be required for extraction work, the technician in charge shall have specific training in this area.

3 — The technician in charge of the quarry shall be liable for the implementation of the approved Quarry Plan, regardless of whether the said technician has endorsed it.

4 — The Quarry Plan shall always be signed and initialled by its author, and may also be endorsed by others involved due to their specialism in components of the plan.

5 — The technician in charge of the quarry shall be jointly and severally liable with the operator for all issues relating to the technical management and implementation of the Quarry Plan in its different components.

6 — Quarries with overall annual operations greater than 300 000 t shall have a minimum of one full-time technician. No technician in charge may be responsible for annual production greater than 500 000 t/year when not concentrated within the same company.

Article 43

Change in person with technical responsibility

1 — The operator shall notify the licensing authority and the entities responsible for the Quarry Plan with regard to changing the technician in charge. The notification shall be accompanied by a proposal, in triplicate, of the appointment of a new technician in charge and the respective statement of responsibility.

2 — A duly authenticated duplicate with the transcription of the official decision therein shall be sent to the operator.

Article 44

Good rules of operation

1 — In the operation of opencast quarries, it is compulsory to:

- a) Employ a cutting method providing straight steps from top to bottom, except if the entity responsible for approving the Extraction Plan approves otherwise;
- b) Remove cover soils to a convenient distance from the upper edge of the quarry, and a band with a minimum width of 2 m free of soils shall always be ensured, surrounding and limiting the abovementioned edge of the quarry area.

2 — Cutting and other underground work in opencast quarries shall require the operator to apply for prior authorisation from DRE.

3 — Good practice rules to be observed in underground or mixed extraction shall be approved through a Ministerial Implementing Order issued 120 days after the publication of this law.

Article 45

Signage

1 — While a quarry is in operation, a sign shall be placed identifying the quarry and the operating company, the date of licensing and the licensing authority. Suitable signage shall also be placed informing persons that they are approaching a work area.

2 — The boundaries of a quarry's licensed area shall be duly marked and, whenever possible, fenced. The excavation border shall be protected by fencing which is suitable for the specific conditions of the site, provided that such fencing does not impede exploitation work.

3 — The use of gunpowder and explosives requires prior audible and visual alarms as well as protection of access points to place where risks may exist.

Article 46

Safety

1 — DRE may order the execution of work or measures to ensure the safety of operations.

2 — Quarry operators and technicians in charge are responsible for taking all suitable steps to ensure the safety of workers and third-parties and the preservation of assets which may be affected by operations.

3 — Quarry operators and technicians in charge of operations shall be jointly and severally liable for damage caused due to the non-observance of rules of good practice in the execution of exploitation work, without prejudice to provisions relating to work accidents and occupational diseases.

Article 47

Use of gunpowder and explosives

1 — Authorisation to use gunpowder and explosives in quarry extraction operations shall be obtained in accordance with current legislation. A favourable reasoned opinion shall be required from DRE, without which any licences possibly granted shall be considered null and void.

2 — The operator shall send a request addressed to the DRE requesting the issue of a reasoned opinion.

3 — In cases where explosives are used, inspection may require, whenever deemed necessary, completion of the registration explosives application forms in order to assess the effects caused.

4 — Regardless of a favourable reasoned opinion for the use of explosives, DRE, for duly justified technical or safety reasons may limit the use of explosives and, in duly justified cases, require the use of alternative procedures.

5 — The use of gunpowder and explosives shall comply with the provisions of legislation and technical regulations in force.

Article 48

Discoveries of cultural interest

1 — Any archaeological find occurring during quarry operations shall be communicated by the operator to the licensing authority and the Portuguese Institute of Archaeology (IPA).

2 — When a palaeontological or a karstic cavity of unusual interest is involved, the operator shall notify IGM and the licensing authority, which shall inform the competent entity at the Ministry of Science and Technology.

Article 49

Closure and restoration of a quarry

Operators shall close operations and restore the quarry area in accordance with the approved PARP:

- a) Whenever possible, this should take place as the cutting faces advance;
- b) When the operations are concluded;
- c) When the quarry is discontinued or the licence expires pursuant to this Decree-Law.

Article 50

Discontinuation

1 — A quarry shall be considered to have been discontinued whenever the operator so declares to the licensing authority or when operations are interrupted, except:

- a) When justified reasons so exist and are recognised by the licensing authority, after the entities responsible for the Quarry Plan have been heard;
- b) When the operator proves that the work interruption period is less than six continuous months;
- c) When the operator has obtained prior authorisation from the licensing authority to suspend operations through a duly justified request which states the planned interruption period.

2 — When interruption of work has been confirmed, the licensing authority shall notify the operator to justify such interruption within 30 days or prove that it did not last six continuous months.

3 — Should the licensing authority, after consultation with the entities responsible for the Quarry Plan, not consider that the interruption is justified or not accept the proof that it did not last less than six continuous months, the said licensing authority shall declare the operating licence as expired, notifying the operator and all entities which participated in the licensing procedure and IGM.

Article 51

Statistical data and technical reports on the quarry plan

1 — Up to the end of April every year, quarry operators shall send DRE a statistical report on production from the previous year, drawn up in accordance with the approved model. Which shall be sent to IGM.

2 — In addition to the statistical report referred to in the previous paragraph, quarry operators shall also send the DRE and DRAOT or ICN, up to the end of the same month, a technical report in duplicate, drawn up and signed by the technician in charge of the operation, which shall include sufficient information to analyse progress in work carried out in the previous year with respect to the Quarry Plan. More specifically, it shall include information on production achieved, labour and mechanical means employed, explosives and power used, the status of PARP implementation and other defined specifications.

3 — DRE and DRAOT or ICN, when it is deemed necessary, may require the submission of complementary working drawings to the technical report.

4 — Operators and the technicians in charge of the quarry shall be responsible for the accuracy of the information provided under Nos 1 and 2, respectively.

5 — Holders of research licences shall send IGM a copy of all data, technical reports and analytical results obtained during work undertaken.

6 — Statistical information provided to DRE, DRAOT and ICN is confidential, except if the operator expressly specifies which information is not confidential, without prejudice to applicable legislation

Article 52

Deposit

1 — The licensing authority shall require the payment of a deposit from operating licence holders and research licence holders wishing to open cutting faces, in favour of the entity approving PARP. This deposit is to ensure compliance with the legal obligations set out in the licence and PARP.

2 — The deposit shall be paid by any suitable method accepted directly, more specifically, through a bank guarantee, deposit or insurance-deposit, provided that such methods guarantee the immediate and unconditional payment of any sums, up to the limit value of the deposit, which the beneficiary entity, regardless of legal decisions, may demand when non-compliance with PARP is deemed in accordance with the provisions of the previous paragraph.

3 — The value of the deposit shall be set by DRAOT or ICN based on the circumstances of the specific case, primarily taking into account the updated estimate of the total cost of PARP. The full deposit may be required or, at the option of the beneficiary, part thereof, taking into consideration the type and speed of advance in operations, the concurrence of closure and restoration work and the existence of solidity and other forms of ensuring that this work is completed.

4 — Depending on the type of mineral mass being exploited and the particularities of PARP, the value of the deposit shall be calculated based on one of the following methods.

a) $x = \frac{C \times A}{D} - F$, where:

x = value of deposit;

C = total estimated updated cost to implement PARP;

A = total area exploited (in the previous year or the defined period);

D = total area licensed;

F = amount spent on restoration;

or $x = \frac{C \times V}{D} - F$, where:

x = value of deposit;
 C =total estimated updated cost to implement PARP;
 V =total volume extracted (in the previous year or the defined period);
 D =total volume of extraction;
 F =amount spent on restoration;

b) $x=c \times t$, where:

x =value of deposit;
 c =estimated unit cost updated to restore one unit of area;
 t =area to be restored in a specific period of time (subject to later adjustment based on performance in the previous period and perspectives for future development).

5 — At the request of the licence holder, the deposit may be partially released, based on the degree of compliance with PARP. However, it may be increased by the beneficiary entity if changes have been made to PARP or in proportion to any non-compliance with PARP.

6 — Whenever any payment is made by the deposit account, the operator shall re-establish the initial value within 60 days, after notification by the licensing authority or beneficiary of the deposit.

Article 53

Disengagement of the operator and release of deposit

1 — A deposit shall be immediately released when, after an inspection by the licensing authority, to be requested by the operator, with a copy being sent to the entities responsible for approving the Quarry Plan, such entities confirm compliance with PARP in writing and the subsequent disengagement of the operator in an official order issued by the licensing authority.

2 — The inspection shall be conducted within a maximum of 45 days after the request has been submitted. For inspection purposes, the licensing authority shall inform the entities responsible for approving the Quarry Plan 20 days prior to the date the said licensing authority sets for the said inspection.

3 — The release of the deposit may be in full or partial in proportion to the degree of implementation of PARP. In the event of partial release, the inspection shall be repeated in accordance with that provided for in this article.

Chapter VIII

Inspection of quarry research and operation

Article 54

Inspection of research and operating activities

1— Inspection of compliance with legal provisions on the exercising of exploration and exploitation of mineral masses is the responsibility of the municipal authority and the police forces under their respective competences, without prejudice to the competences of other entities involved in the licensing procedure and those of the Inspectorate-General of the Environmental (IGA).

2 — Technical inspection of compliance with the Extraction Plan is particularly the responsibility of the entities responsible for its approval, which shall act in close collaboration with the licensing authority and maintain each other informed of the inspection results.

3 — Whenever it proves to be necessary, the entities referred to in the previous paragraph may require the licence holder to implement measures to prevent risks and accidents or dangerous situations liable to affect persons and property, working conditions or the environment.

Article 55

Inspection activity

1 — Bodies with inspection competences shall:

- a) Seek to ensure compliance with the legal provisions applicable to activities governed by this law;
- b) Visit the quarries in their area of competence, requesting the urgent presence of the licensing authority at any quarry where they believe that operations are taking place under illegal conditions or if they consider that danger exists for employees or third-parties or for neighbouring buildings or public access points;
- c) Proceed immediately to any quarry after receiving complaints or reports of accidents, and all such accidents are required to be communicated by operators.

2 — In the case provided for in subparagraph c) above, after arriving at the accident site, the authorities shall immediately confirm whether the incident has been communicated to DRE. Should this not be the case, they shall ensure that such communication is made.

3 — In accordance with that set out in the previous paragraph, the authorities shall stop unauthorised personnel from approaching the site and the incident itself and ensure that no evidence of the occurrence is destroyed.

4 — When the authorities mentioned in No 1 note the existence of any indication of any infringement, they shall draw up the corresponding official report.

Article 56

Official Report

1 — The entity conducting the inspections provided for in this law shall set out in the Official Report any shortcomings or failures encountered. They shall also include in the same report any warnings and recommendations for the operator or technician in charge of the Quarry Plan with a view to updating the said plan and indicating, when applicable, the legal provisions or technical instructions which have been breached.

2 — The document shall be sent to the competent authority to instigate the infringement proceedings and shall be signed by the entity conducting the inspection and by the operator or technician in charge of the Quarry Plan. The former shall provide the latter with a copy of this document.

3 — If the failure detected is of minor seriousness and if the entity which instigated the proceedings proves that the warnings or recommendations of the entity which sent the report have been complied with, the proceedings may be closed.

Article 57

Inspection obligations

Holders of research or operating licences are required to assist inspection agents:

- a) During visits to operation work sites, branches and annexes;
- b) With the consultation of the items corroborating the licence and other information on the research or operation of the quarry and PARP, which shall be maintained on site at the quarry or at another location, provided that such location is accepted by the licensing authority;
- c) By providing personnel and the technical resources required for the full performance of their work;
- d) By providing all information and clarification on work as requested, more specifically, the collection of samples.

Article 58

Accidents

1 — Without prejudice to the provisions of legislation on work accidents, when any accident occurs at a quarry resulting in death, serious injury or large material damage, the operator or the on-site representative, is required to notify the licensing authority immediately as well as the closest municipal authority or police force so that appropriate measures may be taken.

2 — In the cases provided for in the previous paragraph, the operator or respective representative, shall describe in detail, the work that was taking place at the time of the accident and the possible causes.

3 — The inspection authority shall visit the site of the accident as quickly as possible in order to conduct the respective inquiry to determine the circumstances and causes of the accident. A report shall then be drawn up.

4 — Without prejudice to help to be provided to accident victims and precautions to be taken in the event of imminent danger to quarry personnel or neighbouring buildings, all evidence relating the accident shall be fully preserved and safeguarded.

4 — In the cases provided for in the previous paragraphs, the operator shall take all the necessary precautions to ensure the convenient and immediate treatment of work accident victims.

CHAPTER IX

Penalties

Article 59

Infringements

1 — The following shall constitute an infringement punishable by a fine of 500 000 Escudos (€ 2 493.99) to 9 000 000 Escudos (€ 44 891.81):

- a) Mineral deposit operations without a licence;
- b) Disregard of the provisions of Article 34(1);
- c) Disregard of the provisions of Article 37(1);

2 — The following shall constitute an infringement punishable by a fine of 250 000 Escudos (€ 1 246.99) to 9 000 000 Escudos (€ 44 891.81): Disregard of the defence zones and special defence zones provided for in Articles 4 and 5 of this law.

3 — The following shall constitute an infringement punishable by a fine of 100 000 Escudos (€ 498.79) to 9 000 000 Escudos (€ 44 891.81): Disregard of the provisions of Article 26(3), Article 41(5), Article 45, Article 47, Article 49, unauthorised discontinuation pursuant to Article 50, Article 58 and the provisions of Article 63 of this law.

4 — The following shall constitute an infringement punishable by a fine of 50 000 Escudos (€ 249.39) to 3 000 000 Escudos (€ 14 963.94): Disregard of the provisions of Article 10(5), Article 31(2), Article 42(1), (2) and (6), Article 43(1), Article 44(1) and (2), Article 46(2), Article 51(1), (2), (4) and (5) and Article 57 of this law.

5 — The maximum limit of fines applied to natural persons in accordance with this Article is 750 000 Escudos (€ 3 740.98).

6 — If the agent deducted an economic benefit from the infringement calculable as being greater than the maximum limit of the fine and there are no other means of eliminating such benefit, the fine may be increased up to the value of the benefit. However, the increase may not exceed one third of the legally established maximum limit.

7 — The attempt to commit any such infringement and negligence shall also be punishable.

Article 60

Additional penalties

1 — In addition to the fine, the competent authority may apply the following additional penalties, depending on the seriousness of the infringement:

- a) Loss, in favour of the State, of equipment, machinery and utensils used in the infringement;
- b) Exclusion from entitlements to subsidies or benefits provided by public entities or departments;
- c) Suspension of licence;
- d) Closure of the quarry;
- e) Suspension of exercising the profession or activity which requires public licence or authorisation or similar approval from a public authority.

2 — The penalty referred to in subparagraph *d)* of the previous paragraph shall be applied when unlicensed research or operating activities are carried out.

3 — The penalties referred to in 1(c) and (e) have a maximum duration of two years from the final enforceable judgement, and the restart of activity shall be dependent on express authorisation from the competent entity. Such authorisation may not be granted while the conditions leading to the infringement remain unattended.

4 — In the case of 1(a), (b) and (e), the authority which applied the fine shall publicise it at the offender's expense.

Article 61

Processing of cases and application of fines

1 — In accordance with the provisions of this law, the initiative to instigate administrative offence proceedings is the responsibility of the territorially competent municipal authority, DRE or DRAOT, ICN or the Inspectorate-General of the Environment.

2 — When proceedings have been instigated by any of the entities mentioned above, the licensing authority shall be immediately notified.

3 — The president of the municipal authority, the director or president of DRE, DRAOT or ICN or the Inspector-General of the Environment shall be responsible for applying the fines provided for in this Decree-Law.

4 — The State shall receive 60% of the proceeds from fines and the authority which applied the fine 40%.

Article 62

Restoration to the situation prior to the infringement

1 — Without prejudice to the provisions of the previous article, an unlicensed quarry operator is required to rectify the causes of the infringement and restore the situation to its condition prior to when the infringement took place or an equivalent situation.

2 — If the duty to restore the situation is not voluntarily complied with, the territorially competent DRAOT or ICN shall act directly on account of the offender and the respective expenditure shall be charged coercively through proceedings provided for in tax enforcements.

3 — When restoration is not possible or considered suitable by the entities referred to in the preceding paragraph, the offender shall be required to execute, the measures necessary to reduce or offset the impacts caused, in accordance with express guidelines issued by the said entities.

CHAPTER X

Transitory provisions

Article 63

Existing quarries

1 — Without prejudice to the respective licences and the provisions of the following paragraphs, this Decree-Law shall apply to existing quarries.

2 — Already licensed quarry operators are required to:

- a) Adapt their respective operations to the requirements of the Quarry Plan, complementing the technical documents necessary for the purpose, and submit it to the licensing authority within 18 months from the date of entry into force of this Decree-Law;
- b) Pay the deposit provided for in Article 52 of this law within the time limit set by the licensing authority, not less than six months or greater than 12 months, from the date of approval of the Quarry Plan in accordance with the following paragraph.

3 — The procedure to approve the Quarry Plan shall observe, with the necessary adaptations, that set out in No 4 and in Article 28(7)(a) and (b), after which and in the absence of an express decision from the entities responsible for approving the Quarry Plan, it shall be considered as being tacitly approved. The procedure shall then take place to set the deposit referred to in No 7(d).

4 — For already licensed operations with defence zone distances which are less than those set out in this law, the new distances shall only apply if disruptions are not caused to work.

5 — Existing contracts signed between the owner and the quarry operators, shall not be affected.

Article 64

Pending applications for licences

Applications for licensing which have already been submitted shall be adapted to the provisions of this law, without prejudice to actions and formalities already conducted.

CHAPTER XI

Final provisions

Article 65

Precautionary measures

1 — When a situation of imminent or serious danger to safety, health or the environment is detected at an unlicensed quarry, the municipal authority, the law enforcement authorities, the entities responsible for approving the Quarry Plan and the Inspectorate-General of the Environment (IGA) may determine the enforcement of measures justified on a case-by-case basis, to prevent or eliminate such a situation.

2 — The provisions of the preceding paragraph shall apply to licensed quarries and the licensing authority, the entities responsible for approving the Quarry Plan and IGA shall be responsible for imposing precautionary measures under their respective competences.

3 — In respect of general principles, the measures referred to in the previous paragraphs may consist of suspension of work, the preventive closure of the operation or part thereof, or the seizure of equipment, in whole or in part, by sealing such equipment for a specific period of time.

4 — When obstruction of the measures provided for in this article takes place, the licensing authority may also be requested to notify electrical power distributors to cut supply, in accordance with applicable legislation.

5 — For the purposes of Article 103(1)(a) of the Administrative Procedures Code, the measures to be implemented pursuant to No 2 of this article are assumed to be urgent decisions. However, the entity responsible for applying such measures shall, whenever possible, hear the interested party, granting such party a minimum of three days to respond.

6 — The law enforcement authorities shall immediately provide all assistance requested by the authorities referred to in No 1 in order to avoid or eliminate any danger or ensure compliance with prescribed orders.

7 — The termination of precautionary measures shall be determined, at the request of the interested party, after an inspection of the operation where it is demonstrated that the circumstances giving rise to the situation have been resolved.

8 — The implementation of the precautionary measures under this article, as well as the termination of these measures, shall be immediately communicated to the licensing authority of the quarry in question, and to the entities responsible for approving the Quarry Plan.

Article 66

Performance of work by government officials and employees

In accordance with this Decree-Law, government officials and employees who are responsible for inspection shall orientate their work to ensure the necessary weighting and efficiency of the transition between the legal regimes applicable to the activities set out herein. They shall ensure compatibility between the interests of the State and those of holders of research or operating licences.

Article 67

Charges

1 — Payment of a fee shall be due for carrying out the actions provided for in this Decree-Law, to be determined in a joint Ministerial Implementing Order issued by Ministries of the Economy and Environment and Spatial Planning.

2 — The fees referred to in the preceding paragraph shall be paid via a payment slip issued by the licensing authority. The fees shall be deposited in a Treasury account and allocated to the issuing entity.

Article 68

Repeal provision

1 — With the entry into force of this law, Decree-Law No 89/90 of 16 March 1990 is repealed.

2 — Within one year from the publication of this law, the Ministerial Implementing Orders on blocking published under Decree-Law No 89/90 of 16 March 1990 shall be reviewed.

Seen and approved by the Council of Ministers on 19 July 2001 — *Jaime José Matos da Gama* — *José Carlos das Dores Zorrinho* — *Luís Garcia Braga da Cruz* — *António Fernando Correia de Campos* — *Paulo José Fernandes Pedroso* — *Augusto Ernesto Santos Silva* — *José Mariano Rebelo Pires Gago*.

Passed on 19 September 2001

For publication.

The President of the Republic, Jorge Sampaio.

Countersigned on 27 September 2001.

The Prime Minister, *António Manuel de Oliveira Guterres*.

ANNEX I

Field work during research

Research covers the series of studies and work, prior to the exploitation stage, which has as its goals the sizing, determining of characteristics and evaluation of the economic interests in exploiting mineral masses.

Research activities shall be conducted based on the principle of Best Available Techniques (BAT). In other words, given the choice between different methodologies to obtain the desired results of the research, the technique shall be used which, in accordance with BAT, most minimises environmental impact. Except as otherwise provided for in a specific Ministerial Implementing Order on blocking, research field work shall include:

- I) Activities of a general nature:
 - a) Geological reconnaissance of the surface;
 - b) Geophysical surveys;
 - c) Mechanical prospecting or prospecting trenches (up to 30 m in length, 6 m in depth and 1 m in width at the base of the trench), without prejudice to safety requirements;
 - d) Sampling for laboratory or semi-industrial testing (sample volume up to 10 t);
- II) Activities of an exceptional nature, only applicable in the event that it proves to be technically unfeasible to obtain the results desired from the research by means of the activities listed above and when such research relates to ornamental or industrial rock, opening of a cutting face (or two perpendicular faces) with a maximum size of 5 m in height, 10 m in length and 10 m in width.

ANNEX II

Except as otherwise provided for in specific legislation, the defence zones referred to in Article 4 of this Decree-Law shall have the following distances, measured from the edge of excavation or a different reference forming part of the quarry closer to the object to be protected:

Objects to be protected	Protection distances (metres)
Rural neighbouring buildings, walled or otherwise.....	10
Public paths.....	15
Conduits and fluids.....	20
Low voltage electricity lines.....	20
Aerial telephone telecommunications lines which are not part of the operation/telecommunications lines or underground cable car/electrical and telecommunications cabling.....	20
Railway lines.....	50
Bridges.....	30
Navigable rivers and channels/headwaters, permanent waterways and canals.....	50
Medium and high-voltage aerial electricity pylons, electrical transformer or telecommunications stations.	30
Non-specific buildings and places of public use.....	50
Headwaters or water catchments.....	50
National or municipal roads.....	50
Motorways and international roads.....	70
National monuments, places classified as having tourist value, installations and works of the armed forces and security services and forces, schools and hospitals.....	100
.....	
Places and zones classified as having scientific or scenic value.....	500

Without prejudice to the safety requirements, and taking into account the characteristics of the mineral mass, its stability and its location, the width of the defence zones may be increased by decision of the entity responsible for approving the extraction plan, depending on the depth to be reached in relation to the object to be protected and depending on the use of explosives.

ANNEX III

Application for reasoned opinion on location

1 — Request addressed to: Director of the Regional Directorate of the Environment and Spatial Planning.

2 — Name of person with technical responsibility:

Name or company name of applicant: .

Address or corporate address: ..

Post code: ..

Telephone: ..

For the purposes of the provisions of Article 9 of Decree-Law No./2001 of you are requested to issue a reasoned opinion and location certificate necessary for the licensing procedure relating to research/operations located in... . ward of. . municipality of. . .

For this purpose, please find attached the following items:

Location map at a scale of 1:25 000;

Map delimiting the area of the quarry/research area; and

Boundaries of the research/operating area and defence area.

Date and signature of the applicant: ..

ANNEX IV

Request

1 — Identification of operator:

Name or company name: ..

Name of corporate representative: ..

Name of other partners: ..

Identity card number: ..

Date of issue: ..

Issuing entity: ..

Address or corporate address: ..

Telephone number: ..

Fax number: ..

Legal person tax number or identification number: ..

2 — Identification of quarry:

Rocks extracted: ..

Quarry number: ..

Quarry name: ..

Quarry area: ..

Place: ..

Ward: ..

Municipality: ..

District: ..

3 — Date and signature of the applicant: ..

ANNEX V

Statement of responsibility from the Quarry Plan technician

Name of person with technical responsibility: ..

Identity card number: ..

Date of issue: ..

Issuing entity: ..

Tax number: ..

Address: ..

Telephone number: ..

Fax number: ..

Academic qualifications: ..

Curriculum vitae: . . .

Date and signature of person with technical responsibility. .

ANNEX VI

Quarry Plan

Information required

General information	Written items		Drawings	Technical content	Scale
	Location of project...				
	Physical description of the land.	Regional framework. Biophysical and landscape description. Climate, geological, hydrological and geotechnical description.	Location. Physiographical analysis with cartography of the geotechnical and hydrographic units.	Marking of crest lines. Marking of drainage network.	1:25 000 1:50 000
	Summary of constraints.	Natural — fauna, flora, water, atmosphere, landscape, climate, natural resources. Social — population and settlement, cultural heritage, easements and restrictions, structural network systems, spaces and uses defined in planning and socioeconomic instruments. Classified areas [areas defined in Article 2(b) of this law].	Protection zone and regional framework. Defence zone (defined in the area of the quarries).	Quarry area boundary. Works, roads, buildings, electricity lines, waterways, lakes, ponds, and anything that may be affected of could affect operations. Defence zone.	1:1 000 1:2 000 and 1:5 000
Extraction plan.....	Operating plan...	Description and explanatory notes: Calculation of reserves of mineral masses; Extraction system, cutting and transport; Description of equipment (which shall take into account the minimising of dust and noise) and work (number of workers and work timetable); Height and width of steps; Accesses to quarry and internal traffic circulation, transport; Indication of the methods used to counter dust from the movement of vehicles within the area; Fire diagram; Industrial waste temporary storage area; Areas for retaining industrial waters; Protection and signage; Foreseeable useful life of the quarry. Schedule for Extraction Plan (staging of extraction in coordination with the landfill plan and PARP); and Landfill project in accordance with that provided for in Decree-Law No 544/99 of 13 December 1999.	Topographic map. Geological and cadastral map, the most significant longitudinal and transversal profiles. Drainage network plans. Power network plans. Industrial and potable water network plans. Signage network plans. Ventilation network plans (underground). The plans and maps referred to in Decree-Law No 544/99 of 13 December 1999.	Quarry area boundary and exploitation area boundary. Infrastructures among those referred to above which are within the quarry boundaries. Location of landfills (rubble deposits and cover soil areas) with an indication of maximum heights in the profiles and sections of such items. Parking area. Deposit area for blocks and materials extracted. Neighbouring aspects to be protected. Implanting of vegetation and protection and framework Configuration of the quarry during work and at the end of such work.	1:500 1:1 000

General information	Written items		Drawings	Technical content	Scale
Extraction plan.....	Identification and description, significant environmental impacts and respective mitigation and monitoring measures.	<p>a) Identification and brief description of most significant environmental impacts, for the installation stage, operation and deactivation of the quarry, resulting from extraction work, use of power and natural resources, emission of pollutants, disposal of effluents;</p> <p>b) Indication of the impacts which cannot be minimised or offset, as well as the irreversible use of resources;</p> <p>c) Mitigation measures, description of the measures and techniques planned to avoid, reduce or offset the negative impacts and to promote the environmental recovery of the area;</p> <p>d) Suitable monitoring assessed from a logic of proportionality between the size and the characteristics of the project and the respective environmental impacts;</p> <p>e) Description of the monitoring programme for the quarry opening stage, operation and deactivation, with regard to the parameters to be monitored, places and frequency of sampling or records, analysis techniques and methods, types of measures to be implemented further to results and frequency of monitoring reports; and</p> <p>f) Schedule of mitigation and monitoring measures.</p>			
Auxiliary installations...		Description of quarry annexes.			
Drain system.....		<p>Description of the circuit for water flow and effluents and their final destination.</p> <p>Guarantee, in quality and quantity, of the restoration to normality of this supply by use of alternative means, more specifically, the prior treatment of water and reconstitution and origins of such water (in cases where quarries jeopardise the normal supply of water to people).</p>			
Health and safety.....		<p>Drawing up of health and safety plan.</p> <p>Indication of the measures taken to comply with associated legislation.</p>			
Signage.		<p>Visual and acoustic protection signage systems during explosions.</p> <p>Signage systems for operations and the industrial area.</p> <p>Access and working area signage.</p>	<p>Map with indication of signage. Map with signage warning of explosions.</p> <p>Map with signage of accesses.</p>		

General information	Written items		Drawings	Technical content	Scale
Extraction plan.....	Lighting system...	Description of lighting system with an indication of fixed lighting points (underground operation).			
	Ventilation system...	Description of ventilation system (underground operation).			
Environmental plan for landscape restoration.	Description explanatory notes.	Restoration of land and landfill project in accordance with that set out in the Extraction Plan. Deactivation plan, more specifically: Use of quarry annexes and other industrial installations; Use of fixed and mobile equipment; Schedule of operations; Budget.	Map with final situation of quarry. Map with final situation after restoration. Longitudinal sections. Transversal sections.	Reference to the current and future altimetry and planimetry (this modelling shall provide for the minimising of slopes of greater visual impact and take into account the harmonious integration of the project in the surrounding area, avoiding problems of wind and water erosion and facilitating, in the short-term, the growth of plant cover). Coordination with the excavation stages and expected duration of each stage. Reference to drainage systems for rainwater and respective channelling to closest para water line. Inclusion in the seeding plan and planting of trees, shrubs and plant cover (this plan shall provide for the recovery of vegetation in the area affected so as to quickly achieve suitable and permanent plant cover. The plant species shall ensure the recovery of the main human and ecological uses which existed prior to the start of operations or higher value uses. Plant coverage shall further ensure the stabilisation of final slopes, countering soil erosion).	1:500 1:1 000
		Restoration plan: Area of intervention; Accessibility; Landscape; Plant cover plan and landscaping proposal; Maintenance and conservation. Monitoring.	Restoration staging plan. Rain drainage plan. Seeding plan. Planting.		
	Staging and scheduling	Scheduling of PARP coordinated with the landfill plan and with the deactivation plan.			
	Technical specifications...				
	Measurements and budget.				

General information	Written items		Drawings	Technical content	Scale
Environmental plan for landscape restoration.				<p>Other aspects seen as convenient for better clarification of PARP, such as areas and maximum height of landfills (more specifically, rubble and stored materials), location of cover material and live soil resulting from scraping and drying ponds.</p> <p>Other aspects which the applicant considers relevant for appraising the application.</p>	

The technical content of drawings relating to the Environmental and Landscape Restoration Plan (PARP) shall refer, as a minimum, to the surrounding aspects to be protected, the planting of vegetation and protection and the framing and configuration of the quarry during and at the end of work.

PARP shall always address the following situations:

Accounting documents for the proposal with the municipal plans ratified for the municipality;

Should support infrastructures exist at the quarry (workshops, warehouses, offices, canteens, etc.), indicate their correct and accurate implantation;

Should the area be crossed by a water line, the said water line shall be integrated into the landscape;

Any alteration to the water line shall be subject to licensing from DRAOT, in accordance with legislation in force;

Access and traffic circulation shall be defined and its connection to the surrounding road network;

Delimitation of areas for car parks and their maintenance, so as to minimise noise levels and avoid contamination of aquifers;

Treatment of waters surrounding activity support constructions and, when applicable, structures which are the object of industrial licensing or other licensing in accordance with legislation in effect and which shall be considered in the project;

Legislation in effect with regard to the requirement for forestation with rapid growth forest species and the introduction of exotic species;

When the quarry operation terminates and provided that it is technically possible, PARP shall require the reconstitution of land for use in accordance with the purposes which existed prior to the start of activity, except if otherwise provided for by the competent entities.

