

[REPUBLIC ACT NO. 4167, August 05, 1964]

**AN ACT TO AMEND CERTAIN SECTIONS OF REPUBLIC ACT
NUMBERED EIGHTEEN HUNDRED TWENTY-EIGHT AUTHORIZING
THE DEVELOPMENT, EXPLOITATION AND UTILIZATION OF THE
MINERAL DEPOSITS IN THE SURIGAO RESERVATION, AS
AMENDED BY REPUBLIC ACT NUMBERED TWO THOUSAND
SEVENTY-SEVEN.**

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section two of Republic Act Numbered Eighteen hundred twenty-eight, as amended by Republic Act Numbered Two thousand seventy-seven, is hereby amended to read, as follow:

"SEC. 2. There is hereby created the Surigao Mineral Reservation Board, hereinafter referred to as the Board composed of the Chairman of the National Economic Council, as chairman, the Secretary of Agriculture and Natural Resources, the Secretary of Finance, the Secretary of Justice, and the Governor of the Central Bank as members, who shall carry out and implement the provisions of this Act, which shall be known as the "Nickel Law." It shall have the power and authority to represent the Government in the operations and to insure compliance with the terms and conditions of the operating contract or contracts.

"The Board is hereby authorized to organize an office and appoint the necessary staff, whose salaries and emoluments shall be fixed by the Board, and to secure the assistance of the personnel of the National Economic Council and other government offices.

"In order to carry out the policy declared in Section one hereof, the President of the Philippines is hereby authorized to determine, upon previous advice and recommendation of the Board, whether the development exploitation and utilization of the said mineral deposit and the processing and disposition of the minerals that may be produced therefrom:

"(1) shall be undertaken by the Government itself, in which case he is authorized to contract loans and/or float bonds in such amounts as he may deem necessary and adequate to carry out effectively the undertakings contemplated in this Act, but not exceeding two hundred million pesos, after consultation with the Monetary Board of the Central Bank and upon recommendation of the National Economic Council; or

"(2) shall be undertaken by the Government jointly with private enterprise, in which case he is also authorized to contract loans and/or

float bonds in the amount and in the manner stipulated in the preceding sub-paragraph (1) : *Provided, however,* That the Government shall, at any one time, own not less than fifty-one *per centum* of the capital stock of such enterprise; or

"(3) shall have the operation undertaken as herein-above provided through an independent contractor or contractors who are qualified pursuant to the provisions hereunder, for the entire operation or any part or phase thereof.

"Unless there are clear advantages in favor of the third mode, either of the first two modes shall be preferred: *Provided,* That in any case, the Board shall implement the policy herein declared.

"Should the President of the Philippines decide to have the operation undertaken through an independent contractor or contractors, as hereinabove provided, the Board may engage and utilize the services of person or corporations, as independent contractor or contractors, with the approval of the President by calling for bids to undertake or perform for the Government any phase or phases of all the operations authorized in this Act covering any particular area or areas within the Surigao Mineral Reservation, and the processing of the minerals produced therefrom, negotiating and entering for such purpose into a contract or contracts of service with any party or parties, domestic or foreign, fully qualified as to organization, finances, resources, experience and technical competence, and which may offer such terms and conditions as determined by the Board subject to the approval of the President of the Philippines, to be most advantageous to the Government: *Provided,* That should there be no bid submitted or the bid or bids submitted are unacceptable, the Board, with the approval of the President, is hereby authorized to negotiate with such party or parties, domestic or foreign, as may be fully qualified as to organization finances, resources, experience and technical competence, for the operation of the whole or part of the Surigao Mineral Reservation under the provisions of this Act: *Provided further,* That any provision of existing law to the contrary notwithstanding, the successful bidder, contractor, or operator, may be a corporation formed by one or more corporations organized for the purpose of engaging in mining at least sixty per cent of the capital stock of each of said corporations is owned by Filipino citizens except where the effect of such interlocking stock ownership is to divest Filipino citizens of the ultimate and actual control of the corporation, in which case the corporation shall be disqualified to be a bidder, contractor or operator under the provisions of this Act and shall be subject to the penalty prescribed in Section 190 1/7 of the Corporation Law.

"For the purpose of this Act, a contract of service shall mean an operating contract in which the operator is an independent contractor of service, entitled as such to compensation for services rendered: *Provided,* That any contractor or contractors of service shall not, by virtue of the contract, acquire any title or interest in the area or areas affected, nor except as hereinafter provided in Section five hereof, in any of the minerals from the Surigao Mineral Reservation produced or processed by it.

"The operator shall furnish at its own cost and expenses all materials, labor, equipment, plants and other installations and processes that may be required for carrying on the operations herein authorized, or necessarily or incident thereto, and all operations, processes, work or acts shall be carried out at operator's own cost and expense: *Provided*, That all materials, equipment, plants and other installations and/or processes erected, installed, used or placed on the premises subject of the operation, excepting roads, bridges, piers and other similar permanent improvements, shall remain the property of the operator, unless the same are not removed from the premises subject of the operation within one year after the termination of the contract: *And provided, further*, That this is without prejudice to the Government and operator agreeing on other terms regarding materials, equipment, plants, and other installations and processes."

SEC. 2. Section three of the same Act, as amended, is hereby further amended as follows:

"SEC. 3. The President may grant to the government entity which may operate the Reservation under paragraph one or two of Section two or to the operator under paragraph three of the same section, as the case may be, the following rights and privileges:

"(1) Necessary rights over an area or areas for investigation within the Surigao Mineral Reservation;

"(2) Exemption from laws and regulations relating to: (a) importation of machinery, equipment accessories, spare parts, and/or supplies and materials necessary for or in connection with said operation or processing of minerals; (b) construction, installation and operation of power plants, including importation of machinery and equipment, accessories, spare parts and/or operating supplies and materials, should the National Power Corporation fail to supply within a reasonable period and at reasonable cost the power needed in the operation; (c) exportation of such machinery and equipment which were imported solely for construction and installation purposes in connection with the aforesaid operation and processing, and which are no longer needed in the operation;

"(3) Exportation of mineral products produced by the operations: *Provided*, That all domestic requirements for same shall have first been satisfied;

"(4) Importation upon the sole approval of the Surigao Mineral Reservation Board of highly technical and specialized personnel and executive staff, who may exercise without examination or certification their profession solely for this undertaking subject to such regulations as may be prescribed by the office or agency to be created and designated; *And Provided*, That if the alien technicians lose their employment, or connection directly or indirectly with the operator, the applicable laws and regulations on immigrants shall apply to such alien technicians and their immediate families; and

"(5) Gratuitous use of timber and water for mining and processing purposes from any parcel or parcels of the Surigao Mineral Reservation subject of the operation."