South Australia

Mining Act 1971

An Act to regulate and control mining operations; and for other purposes.

Contents

Part 1—Preliminary
1 Short title
6 Interpretation
7 Application of Act
8 Declaration of mineral land etc
8A Opal development areas
9 Exempt-Restricted land
9AA Waiver of restriction exemption (including cooling-off)
9A Special declared areas
10 Mining in respect of public roads and places
10A Special conditions attaching to mining of radioactive minerals
9B Interaction with other legislation

Part 2—Administration
11 The Minister and the Director to be corporations sole
12 Delegation
13 Mining registrars and other staff
14 Appointment of authorised officers
14A Identity cards
14B Authorised investigations
14C Powers of entry and inspection
14D Power to gather information
14E Production of records
14F Publication of results of investigation
14G Power to give expiation notices
14H Provisions relating to things seized
15 Power to conduct geological investigations etc
15A Register of mining tenements etc

Part 2A – Mining register and information
15AA The register
15AB Dealing with mineral tenements
15AC Mortgages
15AD Application to court to challenge aspects of mortgages
15AE Caveats
15AF Application to Warden’s Court to lapse caveat or obtain compensation
15AG Other dealings
15AH Protection from liability
Mining Act 1971

Contents

15AI Interpretation
15AJ Compilation, keeping and provision of materials
15AK Tests
15AL Release of material

Part 3—Reservation of minerals and royalty
16 Reservation of minerals
17 Royalty
17A Reduced royalty for new mines
17AB Royalty for private mines
17AC Notification of relevant event
17B Assessments by Treasurer

17CA Returns
17C Recovery of royalty where appeal lodged
17D When royalty falls due (general principles)
17DA Special principles relating to designated tenement holders
17E Penalty for unpaid royalty
17F Processed minerals
17G Means of payment
18 Passing of property in minerals

Part 4—Prospecting for minerals
20 General right to prospect for minerals
21 Steps to establish a mineral claim
22 Area of claim
23 Registration of claim
24 Claim may lapse
25 Rights conferred by ownership of mineral claim
26 Mineral claim not transferable etc
27 Land not to be subject to successive mineral claims

Part 5—Exploration licence
28 Grant of exploration licence
29 Application for exploration licence
29A Nature of exploration licence
29B Grant of exploration licence
30 Incidents of licence etc

30AAA Expenditure
30AA Area of licence
30A Term and renewals of licence
30AB Subsequent exploration licence
31 Fee
32 Licensee to keep and, on request, furnish Director with geological records etc
33 Cancellation, suspension etc of licence
33A Minister may describe or delineate land in any manner
33B Retention etc

Part 6—Mining leases
34 Grant of mining lease
35 Application for lease
35A Representations in relation to grant of lease
35B Notification of decision on application

This version is not published under the Legislation Revision and Publication Act 2002 [13.12.2016]
Mining Act 1971

Contents

<table>
<thead>
<tr>
<th>Page</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>36</td>
<td>Approval of application</td>
</tr>
<tr>
<td>37</td>
<td>Nature of lease, Approval of application and registration</td>
</tr>
<tr>
<td>38</td>
<td>Term and renewal of mining lease</td>
</tr>
<tr>
<td>39</td>
<td>Rights conferred by lease</td>
</tr>
<tr>
<td>40</td>
<td>Rental</td>
</tr>
<tr>
<td>41</td>
<td>Suspension or cancellation of lease</td>
</tr>
<tr>
<td>Part 6A—Retention leases</td>
<td></td>
</tr>
<tr>
<td>42</td>
<td>Grant of retention lease</td>
</tr>
<tr>
<td>43</td>
<td>Application for retention lease, Nature of retention lease</td>
</tr>
<tr>
<td>44</td>
<td>Representations in relation to grant of retention lease, Application for retention lease, status</td>
</tr>
<tr>
<td>45</td>
<td>Nature of lease, Approval of application and registration</td>
</tr>
<tr>
<td>46</td>
<td>Term and renewal of retention lease</td>
</tr>
<tr>
<td>47</td>
<td>Rights conferred by lease</td>
</tr>
<tr>
<td>Part 8—Miscellaneous purposes licence</td>
<td></td>
</tr>
<tr>
<td>47</td>
<td>Preliminary, Grant of miscellaneous purposes licence</td>
</tr>
<tr>
<td>48</td>
<td>Application for Nature of miscellaneous purposes licence</td>
</tr>
<tr>
<td>49</td>
<td>Compensation, Application for miscellaneous purpose licence</td>
</tr>
<tr>
<td>50</td>
<td>Approval of application and registration</td>
</tr>
<tr>
<td>51</td>
<td>Term and renewal of miscellaneous purposes licence</td>
</tr>
<tr>
<td>52</td>
<td>Suspension and cancellation of miscellaneous purposes licence</td>
</tr>
<tr>
<td>Part 8A—Special mining enterprises</td>
<td></td>
</tr>
<tr>
<td>56</td>
<td>Object of this Part</td>
</tr>
<tr>
<td>57</td>
<td>Special mining enterprises</td>
</tr>
<tr>
<td>58</td>
<td>Concept phase</td>
</tr>
<tr>
<td>59</td>
<td>Application phase</td>
</tr>
<tr>
<td>56C</td>
<td>Power to exempt from or modify Act</td>
</tr>
<tr>
<td>56</td>
<td>Existing tenements</td>
</tr>
<tr>
<td>Part 8B—Common Provisions</td>
<td></td>
</tr>
<tr>
<td>56</td>
<td>Identification of areas</td>
</tr>
<tr>
<td>57</td>
<td>Related environmental legislation</td>
</tr>
<tr>
<td>58</td>
<td>Specially protected areas</td>
</tr>
<tr>
<td>56</td>
<td>Notice</td>
</tr>
<tr>
<td>56</td>
<td>Matters to be considered</td>
</tr>
<tr>
<td>56</td>
<td>Alteration of terms and conditions</td>
</tr>
<tr>
<td>56</td>
<td>Special term or condition relating to extractive minerals</td>
</tr>
<tr>
<td>56L</td>
<td>Offence to contravene terms or condition</td>
</tr>
<tr>
<td>56M</td>
<td>Rental</td>
</tr>
<tr>
<td>56N</td>
<td>Debt payable to Crown</td>
</tr>
<tr>
<td>Division 5—Rectification of boundaries</td>
<td></td>
</tr>
<tr>
<td>56</td>
<td>Rectification of boundaries</td>
</tr>
<tr>
<td>56P</td>
<td>Amalgamation of areas</td>
</tr>
<tr>
<td>56Q</td>
<td>Preliminary</td>
</tr>
<tr>
<td>56R</td>
<td>Application</td>
</tr>
<tr>
<td>56S</td>
<td>Consultation</td>
</tr>
<tr>
<td>56T</td>
<td>Consideration of proposal</td>
</tr>
<tr>
<td>56U</td>
<td>Terms and conditions</td>
</tr>
</tbody>
</table>

Mining Act 1971

Contents

56V Registration
56W Cancellation and suspension—action by Minister
56X Surrender on application
56Y Reinstatement of tenement
56Z Assessment reports

Part 9—Entry upon land, compensation and restoration
57 Entry on land
58 How entry on land may be authorised
58A Notice of entry requirements
59 Use of declared equipment
61 Compensation
62 Bond and security

62AA Mining Rehabilitation Fund
62A Right to require acquisition of land
63 Extractive Areas Rehabilitation Fund

Part 9A—Access to subsurface strata
63A Pegging out of access claim
63B Access claim may be pegged by agreement, or by authority of the Warden's Court, over land comprised in mining tenement
63C Registration of access claim
63D Rights conferred by access claim
63E Term etc of access claim

Part 9B—Native title land
Division 1—Exploration
63F Qualification of rights conferred by exploration authority
63G Exploration rights to be held in escrow in certain circumstances

Division 2—Production
63H Limits on grant of production tenement
63I Applications for production tenements

Division 3—Application for declaration
63J Application for declaration

Division 4—Negotiating procedure
63K Types of agreement authorising mining operations on native title land
63L Negotiation of agreements
63M Notification of parties affected
63N What happens when there are no registered native title parties with whom to negotiate
63O Expedited procedure where impact of operations is minimal
63P Negotiating procedure
63Q Agreement
63R Effect of registered agreement
63S Application for determination
63T Criteria for making determination
63U Limitation on powers of Court
63V Effect of determination
63W Ministerial power to overrule determinations
63X No re-opening of issues

Division 5—Miscellaneous
63Y Non-application of this Part to Pitjantjatjara and Maralinga lands

This version is not published under the Legislation Revision and Publication Act 2002 [13.12.2016]
Mining Act 1971

Contents

63Z Compensation to be held on trust in certain cases
63ZA Non-monetary compensation
63ZB Review of compensation
63ZBA Mining Native Title Register
63ZC Saving of pre-1994 mining tenements

Part 10—Warden’s Court  general provisions and forfeiture of mining– tenements

64 Establishment of Warden’s Court
65 Powers etc of Warden’s Court
66 Rules of Warden’s Court
66A Removal of cases to ERD Court
67 Jurisdiction relating to tenements and monetary claims

69 Forfeiture of claim
70 Forfeiture and transfer of mineral tenement lease

Part 10A—Programs for environment protection and rehabilitation

70A Object of Part
70B Preparation or application of program under this Part
70C Review of programs
70D Related matters—Audit of program
70DA Related matters

Part 10B—General provisions—environmental protection Compliance and enforcement

70E Power to direct person tenement holders to take action to prevent or minimise environmental harm
70F Power to direct rehabilitation of land
70FA Compliance directions
70FB Emergency directions
70FC Contravention of Act
70G Application for review of direction
70H Action if non-compliance occurs
70HA Restriction of claims
70HB Self-incrimination

Part 10C—Offences and penalties

70HC Penalty for illegal mining
70HD Obstruction of person authorised to mine etc
70HE Civil penalties
70HF Additional orders on conviction
70HG Continuing offences
70HH Offences by bodies corporate
70HI Time limits
70HJ Summary offences
70HK Evidentiary provisions

Part 11—Assistance to mining

71 Minister may assist in conduct of mining operations
72 Research and investigation
73 Acquisition of mining equipment
# Mining Act 1971

## Contents

<table>
<thead>
<tr>
<th>Part 11A</th>
<th>Caveats</th>
</tr>
</thead>
<tbody>
<tr>
<td>73A</td>
<td>Lodging of caveats</td>
</tr>
<tr>
<td>73B</td>
<td>Duration and effect of caveat</td>
</tr>
<tr>
<td>Part 11B</td>
<td>Private mines</td>
</tr>
<tr>
<td>73C</td>
<td>Interpretation</td>
</tr>
<tr>
<td>73D</td>
<td>Exemption from Act</td>
</tr>
<tr>
<td>73E</td>
<td>Royalty</td>
</tr>
<tr>
<td>73EA</td>
<td>Notification of relevant event</td>
</tr>
<tr>
<td>73F</td>
<td>Passing of property in minerals</td>
</tr>
<tr>
<td>73G</td>
<td>Mine operations plans</td>
</tr>
<tr>
<td>73H</td>
<td>General duty to avoid undue environmental damage</td>
</tr>
<tr>
<td>73I</td>
<td>Compliance orders</td>
</tr>
<tr>
<td>73J</td>
<td>Rectification orders</td>
</tr>
<tr>
<td>73K</td>
<td>Rectification authorisations</td>
</tr>
<tr>
<td>73L</td>
<td>Appeals to Warden's Court</td>
</tr>
<tr>
<td>73M</td>
<td>Declaration of Warden's Court concerning variation or revocation of declaration of an area as a private mine</td>
</tr>
<tr>
<td>73N</td>
<td>Variation or revocation of declaration of private mine</td>
</tr>
<tr>
<td>73O</td>
<td>Powers of inspectors or persons</td>
</tr>
<tr>
<td>73P</td>
<td>Service of documents on proprietor</td>
</tr>
<tr>
<td>73Q</td>
<td>Registration of mine operations plans</td>
</tr>
<tr>
<td>73R</td>
<td>Power to correct errors in declarations</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Part 12</th>
<th>Miscellaneous</th>
</tr>
</thead>
<tbody>
<tr>
<td>74</td>
<td>Penalty for illegal miningCivil remedies</td>
</tr>
<tr>
<td>74AA</td>
<td>Compliance directionsEnforceable voluntary undertakings</td>
</tr>
<tr>
<td>74A</td>
<td>Compliance orders</td>
</tr>
<tr>
<td>75</td>
<td>Provision relating to certain minerals</td>
</tr>
<tr>
<td>75A</td>
<td>Avoidance of double compensation</td>
</tr>
<tr>
<td>76</td>
<td>Returns</td>
</tr>
<tr>
<td>77</td>
<td>Records and samples</td>
</tr>
<tr>
<td>77A</td>
<td>Period of retention of records</td>
</tr>
<tr>
<td>77B</td>
<td>Other material to be provided by holder of tenement</td>
</tr>
<tr>
<td>77C</td>
<td>Expert reports</td>
</tr>
<tr>
<td>77D</td>
<td>Release of matter</td>
</tr>
<tr>
<td>78</td>
<td>Persons under 16 years of age</td>
</tr>
<tr>
<td>79</td>
<td>Minister may grant exemptions from certain obligations</td>
</tr>
<tr>
<td>79A</td>
<td>Avoidance of duplication of procedures etc False or misleading information</td>
</tr>
<tr>
<td>80</td>
<td>Conditions under which land may be simultaneously subject to more than 1 tenement</td>
</tr>
<tr>
<td>81</td>
<td>This Act not to affect Pastoral Act or Local Government ActAdditional provisions relating to liability</td>
</tr>
<tr>
<td>82</td>
<td>Deemed consent or agreementSurrender of lease or licence</td>
</tr>
<tr>
<td>83</td>
<td>Dealing with licences</td>
</tr>
<tr>
<td>83A</td>
<td>Licence or other right is not personal property for the purposes of Commonwealth Act</td>
</tr>
<tr>
<td>84</td>
<td>Duplicate copy of lease or licence</td>
</tr>
<tr>
<td>84A</td>
<td>Safety net</td>
</tr>
<tr>
<td>85</td>
<td>Non-payment of money due to CrownCharge on property if debt due to Crown</td>
</tr>
<tr>
<td>86</td>
<td>Removal of machinery etc</td>
</tr>
<tr>
<td>88</td>
<td>Hindering authorised officersObstruction etc of officers exercising powers under Act</td>
</tr>
</tbody>
</table>

This version is not published under the Legislation Revision and Publication Act 2002 [13.12.2016]

Mining Act 1971

Contents

89 Obstruction etc of person authorised to mine
89A Offences and ERD Court
89B Penalties and expiation fees payable into Mining Rehabilitation Fund
90 Evidentiary provisionReports and verification of information
91 Administrative penalties
91A Rectification of boundariesEvocation of private mine
91B Power to correct errors in private mine declarations
92 Regulations

Schedule—Transitional provisions

Legislative history
The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Mining Act 1971*.

6—Interpretation

(1) In this Act, unless the contrary intention appears—

*Adelaide Dolphin Sanctuary* has the same meaning as in the *Adelaide Dolphin Sanctuary Act 2005*;

*advanced exploration operations* – see subsection (1a);

ancillary operations means –

(a) ancillary operations for the carrying on of any business that may be conducive to the effective conduct of mining operations or operations associated with providing amenities for persons engaged in the conduct of mining operations; or

(b) operations which are brought within the ambit of this definition by a determination of the Minister or by the regulations, but does not include operations excluded from the ambit of this definition by a determination of the Minister or by the regulations;

appropriate court means—

(a) the Supreme Court; or

(b) the ERD Court; or

(c) if proceedings do not involve a monetary claim, or a claim for more than $250,000—the Warden's Court;¹

authorised officer means a person who holds an appointment under section 14;

authorised operations means –

(a) exploration operations; or

(b) mining operations; or

(a)(c) ancillary operations;

baseline means the baseline adjacent to the coast of the State (including the coast of any island forming part of the State) for the time being determined under section 7(2)(b) of the *Seas and Submerged Lands Act 1973* of the Commonwealth;

business day means any day except—

(a) a Saturday, Sunday or public holiday; or

(b) a day which falls between 25 December and 1 January in the following year;

council has the same meaning as in the *Local Government Act 1999* and includes a body corporate that is, by virtue of any Act, deemed to be, or vested with the powers of, a council;
Crown lands means lands that are Crown lands within the meaning of the Crown Lands Act 1929;

declared equipment means—
(a) a trench digger or excavator; or
(ab) drilling equipment within a class prescribed by the regulations; or
(b) mechanically driven equipment, equipped with a blade or bucket of a width exceeding 750 mm, capable of ripping, gouging, scooping or digging earth or rock material; or
(c) equipment that is capable of digging, boring or tunnelling underground, generally in a horizontal plane, with a cross sectional dimension greater than 750 mm;

director of a company includes a person occupying or acting in the position of a director or member of the governing body of the company, by whatever name called and whether or not validly appointed to occupy or duly authorised to act in the position, and includes any person in accordance with whose directions or instructions the directors or members of the governing body are accustomed to act;

the Director of Mines or the Director means the person assigned by the Minister to exercise the powers and discharge the duties of the officer so designated by this Act;

environment—see subsection (4);

ERD Court means the Environment, Resources and Development Court established under the Environment, Resources and Development Court Act 1993;

exempt land means land that is exempt from mining operations under section 9;

exploration authority means—
(b) a right to prospect for minerals under section 20;
(c) a mineral claim;
(d) an exploration licence;
(e) a retention lease (but only if the mining operations to which the lease relates are limited to exploration operations);

exploring or exploration operations means operations of any kind in the course of—
(a) prospecting for minerals; or
(b) exploring for minerals; or
(c) establishing the extent of a mineral deposit; or
(d) undertaking any other activity brought within the ambit of this definition by a determination of the Minister or by the regulations; or
(e) providing for the rehabilitation of land on account of the impact of any operations under a preceding paragraph.
and including such operations carried out at a private mine, and being operations that are classified as low impact exploration operations or advanced exploration operations under subsection (1a), as prospecting, and to explore and exploratory have corresponding meanings;

extractive minerals means sand, gravel, stone, shell, shale or clay, but does not include—

(a) any such minerals that are mined for a prescribed purpose; or
(b) fire clay, bentonite or kaolin; or
(c) proppant sand.

fossicking means the gathering of minerals—

(a) as a recreation; and
(b) without any intention to sell the minerals or to utilise them for a commercial or industrial purpose,

but does not include the gathering of minerals by any means involving disturbance of land or water by machinery or explosives;

the Land and Valuation Court means the Land and Valuation Court constituted under the Supreme Court Act 1935;

low impact exploration operations – see subsection (1a);

machinery means any device operated otherwise than by muscular force exerted by the operator;

marine park has the same meaning as in the Marine Parks Act 2007;

mine means any place in which mining operations are carried out;

mineral land means any land that is mineral land in consequence of a declaration under this Act;

mineral tenement means—

(a) a claim, lease or licence under this Act; or
(b) an entitlement under this Act with respect to a private mine.

(and includes, if the context so requires, the place that constitutes such a claim, lease, licence or private mine)

minerals means—

(a) any naturally occurring deposit of metal or metalliferous ore, precious stones or any other mineral (including sand, proppant sand, gravel, stone, shell, coal, oil shale, shale and clay); or
(b) any metal, metalliferous substance or mineral recoverable from the sea or a natural water supply; or
(c) any metal, metalliferous ore or mineral that has been dumped or discarded—

(i) in the course of mining operations or operations incidental to mining operations; or
Part 1—Preliminary

(ii) in other prescribed circumstances;

but does not include—

(d) soil or moss rocks; or

(e) petroleum or any other substance, the recovery or production of which is governed by the Petroleum and Geothermal Energy Act 2000;

mining or mining operations means—

(a) operations carried out in the course of prospecting, exploring or mining for minerals; or

(b) without limiting paragraph (a), any operations by which minerals are recovered from any place or situation, including by recovering minerals from the sea or a natural water supply; or

(c) on-site operations undertaken to make minerals recovered from the site a commercially viable product, other operations involving such minerals, or other operations involving minerals brought on to the site of a mine for processing; or

(d) operations carried out at a private mine for the rehabilitation of land on account of the impact of any operations under a preceding paragraph; or

(da) operations which are brought within the ambit of this definition by a determination of the Minister or by the regulations; or

(db) operations for the rehabilitation of land on account of the impact of any operations under a preceding paragraph, or on account of a mine closure; or

(e) operations that are directly related to any operations under a preceding paragraph,

but does not include—

(f) an investigation or survey under section 15; or

(g) fossicking; or

(h) the surface removal of loose rock material disturbed by agricultural operations;

mining operator means the holder of the relevant mining tenement;

Mining Register means the register kept by the Mining Registrar under section 15A;

a mining registrar means a person appointed as a mining registrar under section 13 and includes the Mining Registrar;

the Mining Registrar means a person appointed as the Mining Registrar under section 13 and includes a person who is acting in the position of Mining Registrar;

mining tenement means a claim, lease or licence under this Act;

Mining Rehabilitation Fund or fund means the Mining Rehabilitation Fund established under section 62AA;
Murray-Darling Basin has the same meaning as in the Water Act 2007 of the Commonwealth;

native title, native title holder and native title land—see Native Title (South Australia) Act 1994;¹

native title mining determination means a determination authorising a tenement holder mining operator to enter land and carry out mining operations on the land under Part 9B;

opal development area means an area within a precious stones field declared by the Minister under section 8A to be an opal development area;

owner of land means—

(a) a person who holds a registered estate or interest in the land conferring a right to immediate possession of the land; or

(b) a person who holds native title in the land; or

(c) a person who has, by statute, the care, control or management of the land; or

(d) a person who is lawfully in occupation of the land;

precious stones has the same meaning as in the Opal Mining Act 1995;

precious stones field means a precious stones field under the Opal Mining Act 1995;

prescribed notice of entry—see section 58A(1);

private mine means an area declared to be a private mine under section 19 as in force immediately before 1 September 2000;

production tenement means—

(b) a mining lease;

(c) a retention lease (if the mining operations to which the lease relates are not limited to exploratory operations);

(d) an entitlement under this Act with respect to a private mine;

proprietor, in relation to a private mine, means a person who was, on the commencement of this Act, divested of property in the minerals for the recovery of which the mine is operated, or a person lawfully claiming under that person;

prospecting means operations of any kind in the course of exploring for minerals except such as involve the disturbance of land or water by machinery or explosives, and to prospect has a corresponding meaning;

radioactive mineral means uranium or any other prescribed radioactive mineral;

registered representative of native title holders—see Part 4 Native Title (South Australia) Act 1994;

related body corporate, in relation to a particular entity (being a body corporate), is a body corporate that is related to the entity under section 50 of the Corporations Act 2001 of the Commonwealth;
Mining Act 1971—1.7.2011

Part 1—Preliminary

relevant Act means—
(a) in relation to the Adelaide Dolphin Sanctuary—the Adelaide Dolphin Sanctuary Act 2005; or
(b) in relation to a marine park—the Marine Parks Act 2007; or
(c) in relation to a River Murray Protection Area or the Murray-Darling Basin—the River Murray Act 2003;

relevant Minister means—
(a) in relation to the Adelaide Dolphin Sanctuary—the Minister to whom the administration of the Adelaide Dolphin Sanctuary Act 2005 is committed; or
(b) in relation to a marine park—the Minister to whom the administration of the Marine Parks Act 2007 is committed; or
(c) in relation to a River Murray Protection Area or the Murray-Darling Basin—the Minister to whom the administration of the River Murray Act 2003 is committed;

the repealed Act means the Mining Act 1930 repealed by this Act;

restricted land means land that is restricted from authorised operations under section 9;

River Murray Protection Area means a River Murray Protection Area under the River Murray Act 2003;

royalty assessment principles means the principles set out in section 17 that apply for the purposes of assessing royalty;

senior warden means a warden nominated by the Attorney-General to be the senior warden of the Warden's Court;

specially protected area means—
(a) the Adelaide Dolphin Sanctuary; or
(b) a marine park; or
(c) a River Murray Protection Area;

subsurface stratum means a stratum resulting from the division of mineral land into strata under this Act, being a stratum that lies beneath a surface stratum;

surface stratum means a stratum resulting from the division of mineral land into strata under this Act, being a stratum of which the upper surface is the surface of those lands;

tenement holder, or holder in relation to a mineral tenement, means—
(a) the registered holder of a mineral tenement; or
(b) the proprietor of a private mine,
and includes—
(c) a person who is prospecting for minerals under section 20; and
(d) an executor, administrator, or successor at law.
warden means a magistrate nominated by the Attorney-General to exercise the jurisdiction and powers of a warden under this Act;

the Warden's Court means the Warden's Court constituted under Part 10.

(1a) For the purposes of this Act, exploration operations are classified—

(a) as low impact exploration operations, being exploration operations—
   (i) which are not reasonably expected to have any significant adverse impact on the environment; or
   (ii) which will reduce the impact of such operations on the environment; or
   (iii) which are brought within the scope of low impact exploration operations by determination of the Minister or by regulations,

that do not fall within the scope of paragraph (b)(i) or (iii); or

(b) as advanced exploration operations, being exploration operations—
   (i) which involve the use of declared equipment; or
   (ii) which fall outside the scope of paragraph (a)(i), (ii), or (iii); or
   (iii) which are brought within the scope of advanced exploration operations by determination of the Minister or by the regulations.

(2) Where mineral land is divided into strata under this Act, a reference to land, or an area, shall, where appropriate, be construed as a reference to the surface stratum or a subsurface stratum, as the case may require.

(3) An explanatory note to a provision of this Act forms part of the provision to which it relates.

(4) Subject to subsections (5) and (6), environment includes—

   (a) land, air, water (including both surface and underground water and sea water), organisms, ecosystems, native fauna and other features or elements of the natural environment; and
   (b) buildings, structures and other forms of infrastructure, and cultural artefacts; and
   (c) existing or permissible land use; and
   (d) public health, safety or amenity; and
   (e) the geological heritage values of an area; and
   (f) the aesthetic or cultural values of an area.

(5) In relation to a particular mineral mining tenement, paragraphs (c) and (e) of subsection (4) apply according to the circumstances existing at the time that the tenement is (or was) granted.

(6) Subsection (4) does not apply to or in relation to Parts 9B or 11B.

(7) Any determination of the Minister under this section—

   (a) must be published in the Gazette; and
   (b) may be varied or revoked by the Minister by subsequent notice published in the Gazette.

(8) A provision of this Act that requires a tenement holder (or prospective tenement holder)—
Mining Act 1971—1.7.2011

Part 1—Preliminary

(a) to obtain the agreement or consent of an owner of land; or
(b) to give a notice to, or to serve a notice on, an owner of land,

will, in relation to a person who is within the ambit of paragraph (c) or (d) of the definition of owner of land, apply—

(a) to the extent that the tenement holder (or prospective tenement holder) is aware of such a person; or
(b) to the extent that it is reasonable to expect the tenement holder (or prospective tenement holder) to be aware of such a person.

Notes—

1 All native title questions arising in proceedings before the Warden's Court must be referred to the ERD Court—see Part 3 Native Title (South Australia) Act 1994.

2 The Environment, Resources and Development Court Act 1993 and the Native Title (South Australia) Act 1994 contain provisions under which the ERD Court may refer cases to the Supreme Court, or the Supreme Court may remove cases commenced before the ERD Court into the Supreme Court.

3 Part 5 of the Native Title (South Australia) Act 1994 sets out the method of service on native title holders.

7—Application of Act

(1) Except as otherwise provided, this Act applies only in respect of mineral land.

(2) The regulations may provide that a specified provision of this Act applies, or applies with prescribed modifications, to or in relation to land that is not mineral land, this Act does not regulate mining operations for the recovery of extractive minerals, or require payment of royalty in respect of extractive minerals recovered in the course of such operations, where the operations are authorised under some other Act.

(2a) The regulations may provide that a specified provision of this Act does not apply, or applies with prescribed modifications, to or in relation to mining operations for the recovery of extractive minerals that are authorised under another Act.

(2b) Royalty is payable under this Act in respect of the recovery of extractive minerals under another Act, except where the provisions of the other Act provide that royalty is not payable under this Act.

(3) Except where the operations are being carried out in an opal development area, this Act does not regulate authorised mining operations for the recovery of precious stones if those operations are carried out under the authority of a permit or tenement issued under the Opal Mining Act 1995.

(4) The following provisions of this Act do not apply to or in relation to a private mine (or operations carried out at a private mine):

(a) sections 9 and 9AA;
(b) sections 58 and 58A;
(c) any other provision specified by the regulations.
8—Declaration of mineral land etc

(1) The Governor may, by proclamation—
   (a) declare any land in the State or any land under coastal waters on the landward side of the baseline to be mineral land; or
   (b) divide mineral land into a surface stratum and one or more subsurface strata and fix the depth of the surface stratum and the depth of any subsurface stratum below which lies any further subsurface stratum resulting from the division; or
   (c) reserve from the operation of this Act, or any provisions of this Act, any land specified in the proclamation,

and the proclamation shall have effect according to its terms.

(2) The Governor may, by subsequent proclamation, vary or revoke any proclamation made pursuant to this section.

(3) The depth of strata into which mineral land is divided under this section may vary from place to place but, where the mineral land constitutes a precious stones field or part of a precious stones field, the depth of the surface stratum must be at least 50 metres.

(4) Land that is subject to a mineral tenement but is on the seaward side of the baseline because of a change in the position of the baseline after the tenement was granted will be taken to be mineral land until it ceases to be subject to the tenement and to all successive tenements (if any).

(5) This Act applies to and in relation to land referred to in subsection (4) to the exclusion of the Offshore Minerals Act 2000.

(6) A mineral tenement is a successive tenement in relation to another tenement if—
   (a) it applies to the same land or to part of the land covered by the other tenement; and
   (b) it takes effect immediately after the other tenement expires or, where there are two or more successive tenements, immediately after the tenement immediately preceding it expires; and
   (c) it is granted to the person who held the other tenement.

(7) A proclamation made before 29 June 1972 cannot limit or affect, and will be taken not to have limited or affected, the exercise of the power to make a proclamation under this section on or after that date, and to the extent to which there is an inconsistency between a proclamation made on or after that date and a proclamation made before that date (including, in relation to the earlier proclamation, a proclamation that reserved specific land from the operation of the repealed Act), the later proclamation will prevail.

8A—Opal development areas

(1) The Minister may, by notice in the Gazette, declare mineral land within a precious stones field to be an opal development area for the purposes of this Act, and the declaration will have effect according to its terms.
Mining Act 1971—1.7.2011
Part 1—Preliminary

(2) A person must not carry out authorised mining operations in an opal development area except under the authority of an exploration licence or mining lease under this Act.

(3) The Minister may, by subsequent notice in the Gazette, vary or revoke a declaration under subsection (1).

9—Exempt Restricted land

(1) Subject to this section—

(a) land that is lawfully and genuinely used—

(i) as a yard or garden;

(ii) as a cultivated field, plantation, orchard or vineyard for commercial purposes;

(ii) as an airfield, railway or tramway;

(iii) as the grounds of a church, chapel, school, hospital or institution; or

(b) land that constitutes any parklands or recreation grounds under the control of a council; or

(ba) land—

(i) that is dedicated or reserved, pursuant to statute, for the purpose of waterworks; or

(ii) that is vested in the Minister of Public Works for the purpose of waterworks; or

(iii) that is comprised within an easement in favour of the Minister of Public Works; or

(bb) land that constitutes a forest reserve under the Forestry Act 1950; or

(c) any separate parcel of land of less than 2 000 square metres within any city, town or township; or

(d) land that is situated—

(i) within 400 metres the prescribed distance of a building or structure used as a place of residence (except a building or structure of a class excluded by regulation from the ambit of this paragraph); or

(ii) within 150 metres of—

(A) a building or structure, with a value equal to or exceeding the prescribed amount of $200 or more, used for an industrial or commercial purpose; or

(B) a spring, well, reservoir or dam that has some commercial value or use,

(but not if it is an improvement made for the purposes of authorised mining operations),
1.7.2011—Mining Act 1971
Preliminary—Part 1

will be exempt from operations in pursuance of this Act and, unless the benefit of the exemption is waived under section 9AA, no claim, lease or licence shall authorise prospecting, exploring or mining upon such land (but this section does not restrict prospecting under section 20 or the establishing a claim on such land or the issue of a mineral tenement (subject to gaining access under this Act) does not prevent the pegging out of a claim upon such land).

Where any land is subject to a claim, lease or licence under this Act and that land would, but for this subsection, be exempt from authorised mining operations in pursuance of this Act by reason only of a fact or circumstance occurring or arising subsequent to the pegging out, establishing, or granting, of the claim, or an application for a lease or licence, that land will not be exempt from operations in pursuance of this Act.

The following persons will, for the purposes of this Act, be regarded as having the benefit of an exemption under this section (and, subject to an order of the Court under section 9AA, each person who has the benefit of an exemption must be a party to an agreement to waive the benefit before the land can cease to be exempt): (a) the owner of the exempt land; and (b) in the case of land in relation to which that is exempt from mining authorised operations under subsection (1)(d) by reason of its proximity to other land on which a building, structure, spring, well, reservoir or dam is situated—the owner of that other land.

This section does not affect any provision of the Pastoral Land Management and Conservation Act 1989 prohibiting or restricting the conduct of mining operations on lands subject to that Act.

In this section—

mining operations include any operations or activity for which a miscellaneous purposes licence may be granted.

Minister of Public Works means the Minister to whom the administration of the Water Industry Act 2012 is committed.

prescribed amount means— (a) $2,500; or (b) if a greater amount is prescribed by regulation for the purpose of this definition—that amount.

prescribed distance means— (a) in relation to low impact exploration operations—200 metres; and (b) in relation to advanced exploration operations or any operations for the recovery of extractive minerals—400 metres; and (c) in relation to any other authorised operations—
Mining Act 1971—1.7.2011

Part 1—Preliminary

1.7.2011

(i) a distance prescribed by the regulations (which may make a different provision according to the circumstances or thing to which it is expressed to apply); or

(ii) if no distance is prescribed under subparagraph (i) — 600 metres.

9AA—Waiver of exemption restriction (including cooling-off)

(1) A mining operator tenement holder may, by written notice given personally or by post to a person to an owner of land who has the benefit of an exemption restriction under section 9, request the owner person to enter into an agreement with the operator tenement holder to waive the benefit of the restriction exemption.

(1a) If a mineral claim is registered or an application is made for a production tenement or miscellaneous purposes licence, an owner of land who has the benefit of a restriction under section 9 in respect of the land to which the claim or application relates may, by written notice given to the tenement holder, advise the tenement holder of the owner’s position in relation to the waiver of the benefit of the restriction, and the conditions (if any) on which the owner may agree to waive the benefit of the restriction.

(2) A notice under subsection (1) or (1a) must be in a form determined or approved by the Minister.

(3) An agreement to waive the benefit of an exemption restriction—

(a) must be in writing; and

(ab) may be made on such terms and conditions as the parties think fit; and

(b) takes effect on the expiry of the cooling-off period (unless earlier rescinded).

(4) An owner of land person who has entered into an agreement with a mining operator tenement holder to waive the benefit of an exemption restriction may, by giving the tenement holder operator written notice before the expiration of the cooling-off period of the person owner’s intention not to be bound by the agreement, rescind the agreement.

(5) A notice rescinding an agreement may be given—

(a) by giving it to the mining operator personally; or

(b) by posting it by registered post to the operator’s ordinary place of business (in which case the notice is taken to have been given when the notice is posted); or

(c) by leaving it for the operator tenement holder at the operator tenement holder’s ordinary place of business with someone apparently over the age of 16 years; or

(d) by transmitting it by fax or email to a fax number or email address provided by the tenement holder operator (in which case the notice is taken to have been given at the time of transmission).

(6) If in legal proceedings the question arises whether a notice rescinding an agreement has been given in accordance with this section, the onus of proving the giving of the notice lies on the owner of land person rescinding the agreement.
1.7.2011—Mining Act 1971

Preliminary—Part 1

(7) If a mining operator or tenement holder has been unable to reach an agreement to waive the benefit of a restriction exemption with an owner of land person to whom the operator has given a notice under this section, the mining operator or tenement holder may apply to the appropriate Court for an order waiving the benefit of the restriction exemption for the owner (the respondent).

(8) The Court may refuse to determine an application unless the mining operator or tenement holder under subsection (7) unless the tenement holder satisfies the Court that—

(a) the notice that complies with subsection (2) has been given under subsection (1) or (1a); and
(b) the tenement holder provided the respondent with information prescribed by the regulations for the purposes of this section; and
(c) the operator made a reasonable attempt to reach agreement with the respondent.—

(i) in the case of a notice given to the owner of land under subsection (1) – the tenement holder has made a reasonable attempt to reach agreement with the owner of land (whether before or after notice requesting the owner to enter into an agreement was given to the owner); or

(ii) in the case of a notice given to the tenement holder under subsection (1a) – the tenement holder has made a reasonable attempt, having regard to the matters set out in the notice, to negotiate with the owner of land.

(8a) If an application is made for a production tenement or a miscellaneous purposes licence and the relevant consultation period in relation to the application has ended, an owner of land who—

(a) has the benefit of a restriction under section 9 in respect of the land to which the application relates; and

(b) has given notice to the tenement holder under subsection (1a), may apply to the appropriate court for order under subsection (9).

(9) On an application under this section, the Court may make 1 or both of the following orders:—

(a) an order confirming that the owner of land is entitled to the benefit of the restriction under section 9;

(b) if the mining operator or tenement holder or owner of land satisfies the Court that any adverse effects of the proposed mining authorised operations on the owner of land can be appropriately addressed by the imposition of conditions on the tenement holder mining operator (including the payment of compensation to the owner of land), or

—(b) if the Court is not so satisfied—refuse the application.
Mining Act 1971—1.7.2011

Part 1—Preliminary

(10) The ERD Court may not make an order for costs against the owner of land unless the Court considers that it is appropriate to do so on the ground that the owner—

(a) has obstructed or unnecessarily delayed the proceedings; or

(b) has failed to attend any proceedings or failed to comply with a rule, order or direction of the Court.

(11) If an agreement or order to waive the benefit of a restriction or exemption takes effect under this section in respect of exempt or restricted land, the land ceases to be exempt or restricted land, but the restriction or exemption revives on completion of the mining or authorised operations in respect of which the agreement or order was made or at such earlier time as may be stipulated in that agreement or order.

(12) An agreement or order to waive the benefit of a restriction or exemption under this section is binding on—

(a) successors in title to those owners of land who had the benefit of the former restriction or exemption; and

(b) the holders from time to time of any mineral mining tenement under which mining or authorised operations (being authorised mining operations in respect of which the agreement or order was made) are carried out.

(13) Subsections (11) and (12) apply to an agreement to waive an exemption under section 9 entered into before the commencement of this section designated day as if it were an agreement to waive the benefit of a restriction or exemption under this section.

(14) A mining operator or tenement holder is liable to indemnify an owner of land person—

(a) to whom the operator or tenement holder gives a notice under this subsection; or

(b) who gives the tenement holder a notice under subsection (1a); or

(c) who makes application for orders to the appropriate court under subsection (8a) in connection with an application made for a production tenement or a miscellaneous purposes licence made by the tenement holder,

- for the reasonable costs of obtaining legal assistance relating to the operation of this section up to $2,500 or, if some other amount is prescribed by regulation, that amount.

(14a) An application under this section may be made to the Supreme Court only with the permission of the Court.

(14b) If an agreement is entered into under this section, the parties to the agreement must give notice of the agreement to the Mining Registrar for registration on the mining register.

(14c) Nothing in this section derogates from the jurisdiction of the Warden’s Court under section 67 to determine whether or not land is restricted from authorised operations under section 9.

(15) In this section—

business day means a day other than a Saturday or a Sunday or other public holiday;
cooling-off period, in relation to an agreement with a mining operator/tenement holder to waive the benefit of a restriction/exemption, means the period commencing when the agreement is made and concluding at the end of the fifth clear business day after the day on which the agreement is made;

mining operations has the same meaning as in section 9.

designated day means a day declared by proclamation to be the designated day for the purposes of this definition;

relevant consultation period, means the period for public consultation, in relation to an application for a mineral tenement under section 56H(3).

9A—Special declared areas

(1) The Minister may, by notice in the Gazette, declare any land to be exempt from—

(a) mining; or

(b) a specified class of mining; or

(c) a specified provision of this Act; or

(d) this Act, other than any specified provision excluded from the operation of this section by the regulations,

and the notice will (subject to this section) have effect according to its terms.

(2) The Minister must, as soon as practicable after the publication of a notice under subsection (1), prepare a report on the matter (including an outline of the reasons for the declaration and the expected impact of the declaration) and cause copies of the report to be laid before both Houses of Parliament.

(3) The Minister may, by subsequent notice in the Gazette, vary or revoke a notice under subsection (1).

(4) A notice under subsection (1) will not have effect—

(a) in relation to a mineral tenement in force at the time that the notice takes effect; or

(b) so as to prevent a person applying for (and being granted) a subsequent tenement on account of a right arising under a mineral tenement in force at the time that the notice takes effect (including a subsequent exploration licence that arises from an exploration licence in force at the time that the notice takes effect); or

(c) so as to prevent a person establishing a mineral claim (identified in any manner allowed or approved under this Act) after the notice takes effect on account of a right to carry out exploratory operations under an exploration licence in force at the time the notice takes effect, or under a subsequent tenement under paragraph (b), where the holder of the tenement holder has reported to the Director of Mines the discovery on the relevant land of minerals that are potentially capable of economic production (including so as to allow a person to apply for (and being granted) a mineral tenement on account of the establishment of the mineral claim),
but otherwise a person does not have a right to apply for a mining tenement in respect of land subject to the operation of the declaration unless specifically authorised to do so by the Minister (either under the terms of the notice under subsection (1) or under a specific authorisation granted by the Minister in connection with the operation of this section).

(5) While land is subject to the operation of a declaration under subsection (1), the land, to the extent of the exemption, may be dealt with by the Minister in accordance with this section and to that extent is not subject to the other provisions of this Act.

(6) Without limiting subsection (5), the Minister may, while land is exempt under this section—

(a) call for applications for the grant of such mining tenements as the Minister determines in respect of the land or any part of the land;

(b) determine any matter relating to the status or priority of any claim over the land (and, as a result of any such determination, require the removal of any pegs, cancel the operation of any claim, determine not to process any application, or take such other action as the Minister thinks fit);

(c) provide for the management of the land, or any mining right or interest (or potential right or interest) in respect of the land, in such other manner as the Minister thinks fit.

(7) If the Minister calls for applications under subsection (6)(a)—

(a) a person applying to the Minister in response to the call must do so in such manner as the Minister may require; and

(b) the Minister may, on reviewing any application received in response to the call—

(i) grant a mining tenement under this Act, subject to such terms and conditions as the Minister thinks fit; or

(ii) refuse the application.

(8) A declaration under subsection (1) has effect until it is revoked under subsection (3) or until it expires under subsection (9), whichever first occurs.

(9) A declaration under subsection (1) will expire at the end of the period of 2 years from its date of operation unless it is extended for a period or periods, not exceeding 2 years at a time, by further notice published by the Minister in the Gazette.

(10) The Minister must cause copies of a notice of extension published under subsection (9) to be laid before both Houses of Parliament.

(11) If either House of Parliament passes a resolution disallowing a notice laid before it under subsection (10) then the declaration under subsection (1) will immediately cease to have effect.

(12) A resolution is not effective for the purposes of subsection (11) unless passed in pursuance of a notice of motion given within 14 sitting days (which need not fall within the same session of Parliament) after the day on which the notice under subsection (9) was laid before the House.
(13) Where a resolution is passed under subsection (11), notice of that resolution must forthwith be published in the Gazette.

10—Mining in respect of public roads and places

Subject to the appropriate regulations for preventing undue interference with public use, the rights conferred by this Act may be exercised in respect of any public road, reserve or place.

10A—Special conditions attaching to mining of radioactive minerals

(1) Subject to this section, no person shall carry out mining operations (other than exploratory operations) for the recovery of any radioactive mineral unless he is the holder of a mining lease or retention lease upon which the Minister has endorsed an authorisation to carry out mining operations for that purpose.

(2) An authorisation to carry out mining operations for the recovery of a radioactive mineral may be granted upon such conditions as the Minister thinks fit and may be revoked upon breach of any condition.

(3) This section does not prevent the recovery of any radioactive mineral in the course of mining operations carried out for the recovery of other minerals provided that the radioactive mineral—

(a) is stockpiled in accordance with conditions stipulated by the Minister; or

(b) is of such low concentration that it may, in the opinion of the Minister, be safely discarded as waste and is in fact discarded as waste.

(4) Notwithstanding any other provision of this Act, the property in any radioactive mineral—

(a) stockpiled in pursuance of conditions imposed by the Minister under subsection (2); or

(b) stockpiled in pursuance of subsection (3)(a),

does not pass from the Crown unless and until the Minister, by instrument in writing, authorises the person by whom the radioactive mineral was mined to sell and dispose of the mineral.

10B—Interaction with other legislation

The Minister must, in acting in the administration of this Act, take into account the following insofar as they may be relevant:

(a) the objects and objectives of the Adelaide Dolphin Sanctuary Act 2005;

(b) the objects of the Marine Parks Act 2007;

(c) the objects of the Natural Resources Management Act 2004;

(d) the objects of the River Murray Act 2003 and the Objectives for a Healthy River Murray under that Act;

(e) the code of management of wilderness protection areas and wilderness protection zones under the Wilderness Protection Act 1992.
Part 2—Administration

11—The Minister and the Director to be corporations sole

The Minister and the Director of Mines shall each be a corporation sole.

12—Delegation

(1) The Minister may delegate any power or function vested in or conferred on the Minister—

(a) under this Act; or

(b) under any other Act prescribed by the regulations for the purposes of this subsection.

(1a) The Treasurer may delegate any power or function vested in or conferred on the Treasurer under this Act.

(2) The Director of Mines may, with the Minister’s consent—

(a) delegate any power or function (including a delegated power or function) vested in or conferred on the Director of Mines—

(i) under this Act; or

(ii) under any other Act.

(2a) If the terms of an instrument of delegation allows for subdelegation, the delegate may subdelegate the power or function in accordance with the instrument (and a reference in this section to a delegation will then extend to any such subdelegation).

(3) A delegation under this section—

(a) may be absolute or conditional; and

(b) may be made—

(i) to a specified particular person or body; or

(ii) to the person for the time being holding or acting in a particular specified office or position; and

(c) does not derogate from the power of the delegator to act in any matter; and

(d) is revocable at will by the delegator.

(4) In any legal proceedings an apparently genuine certificate, purportedly signed by the Minister or the Director, containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

13—Mining registrars and other staff

(1) There is to be a Mining Registrar and other mining registrars.

(2) The Mining Registrar and the mining registrars are to be Public Service employees.

(3) The Mining Registrar may delegate a power or function of the Mining Registrar to another mining registrar.
(3a) If the terms of an instrument of delegation allows for subdelegation, the delegate may subdelegate the power or function in accordance with the instrument (and a reference in this section to a delegation will then extend to any such subdelegation).

(4) A delegation under this section—
   (a) may be made absolute or subject to conditions or limitations; and
   (b) may be made—
       (i) to a specified person; or
       (ii) to a person for the time being holding or acting in a specified office or position, revocable at will; and
   (c) does not derogate from the powers of the delegator to act prevent the Mining Registrar from acting personally in any matter; and
   (d) is revocable at will by the delegator.

(5) A mining registrar may be assigned to act as the Mining Registrar—
   (a) during a vacancy in the office of Mining Registrar; or
   (b) when the Mining Registrar is absent from, or unable to discharge, official duties.

14—Appointment of authorised officers

(1) The Minister may, by instrument in writing, appoint a Public Service employee to be an authorised officer under this Act.

(2) An appointment under this section may be made subject to such conditions or limitations as the Minister thinks fit.

(3) The Minister may vary or revoke an appointment at any time.

14A—Identity cards

(1) The Minister must issue to each authorised officer an identity card—
   (a) stating the name of the authorised officer; and
   (b) containing a photograph of the authorised officer; and
   (c) stating that the person whose name and photograph appear on the card is an authorised officer for this Act.

(2) If an authorised officer proposes to exercise powers under this Act against a person, the authorised officer must produce the identity card for inspection on request.

14B—Authorised investigations

An investigation by an authorised officer is an authorised investigation if the purpose of the investigation is—
   (a) to monitor compliance with this Act; or
   (b) to gather information about a suspected offence against this Act; or
   (c) to gather information about personal injury or loss of property related to authorised mining operations; or
14C—Powers of entry and inspection

(1) For the purpose of carrying out an authorised investigation, an authorised officer may—

(a) enter, search, inspect and examine any premises, land, or vehicle that has been or is intended to be, used for, or in connection with, and inspect the land and any operations or activities regulated by this Act and, where necessary for the purpose, break into or open a part of, or anything in, the premises, land or vehicle conducted on the land; or

(b) inspect or examine anything on the land; or

(c) take photographs, films or videos; or

(d) carry out tests on mines, facilities and equipment; or

(e) take and remove samples; or

(f) take and remove, seize and retain any thing that may be evidence of non-compliance with this Act.

(2) A person must not, without reasonable excuse, obstruct an authorised officer in the exercise of powers under this section.

Maximum penalty: $10 000 or imprisonment for 6 months.

(3) A person involved in the operation of a mine must give an authorised officer such assistance as is reasonably required for the effective exercise of a power conferred by this section.

Maximum penalty: $10 000 or imprisonment for 6 months.

(4) An authorised officer may only exercise a power under subsection (1)(a) in respect of premises on the authority of a warrant issued by a magistrate (including a warden) or justice.

(5) However, a warrant is not required to exercise a power under subsection (1)(a) in relation to non-residential premises if—

(a) the premises are used by a tenement holder for, or in connection with, authorised operations; or

(b) the authorised officer has reason to believe that, in the circumstances, urgent action is required.

(6) A warrant may not be issued unless the magistrate, warden or justice (as the case may be) is satisfied that the warrant is reasonably required in the circumstances.

Part 3—Reservation of minerals and royalty

(7) An application for the issue of a warrant—
   (a) may be made either personally or by telephone; and
   (b) must be made in accordance with any procedures prescribed by the regulations.

14D—Power to gather information

(1) An authorised officer may require a person who may be in a position to provide information relevant to any matter subject to an authorised investigation—
   (a) to answer a question relevant to the investigation; or
   (b) to take reasonable steps to obtain information relevant to the investigation and to pass it on to the authorised officer.

(2) A person required to answer a question under this subsection (1) must answer the question to the best of the person's knowledge, information and belief.

Maximum penalty: $10 000 or imprisonment for 6 months.

(3) A person of whom a requirement is made under subsection (1)(b) must comply with the requirement.

Maximum penalty: $10 000 or imprisonment for 6 months.

(4) A person is not required to answer a question or to provide information under this section if the answer to the question or the information would tend to incriminate the person of an offence and the person objects to answering the question or providing the information on that ground.

(4) It is not an excuse for a natural person to refuse to answer a question or to provide information under a preceding subsection on the ground that to do so might tend to incriminate the person or make the person liable to a penalty.

(5) However, if compliance with a requirement to answer a question or to provide information might tend to incriminate the person or make the person liable to a penalty, then—
   (a) in the case of a person who is required to provide information, including by the production of a document—the fact of the provision of the information or document (as distinct from the information itself or the contents of a document); or
   (b) in any other case—the answer given in compliance with the requirement, is not admissible in evidence against the person in proceedings for an offence or for the imposition of a penalty (other than proceedings in respect of the making of a false or misleading statement).

(6) An authorised officer may require a person who the authorised officer reasonably suspects has committed, is committing or is about to commit, a contravention of this Act to state the person’s full name and usual place of residence and to produce evidence of the person’s identity.

(7) A person of whom a requirement is made under subsection (6) must comply with the requirement.

Maximum penalty: $5 000

14E—Production of records

(1) This section applies to records relating to authorised mining operations.
(2) A person who has possession or control of a record to which this section applies must, at the request of an authorised officer—

(a) produce the record for inspection by the authorised officer; and

(b) answer any questions that the authorised officer reasonably asks about the record.

Maximum penalty: $10 000 or imprisonment for 6 months.

(3) An authorised officer may—

(a) retain records produced under this section for the purpose of making copies of them; or

(b) if the authorised officer suspects that the records may be evidence of noncompliance with this Act, seize and retain records produced under this section.

(4) In this section—

record includes any document or other form of material.

14F—Publication of results of investigation

(1) The Minister may publish a report setting out the results of an authorised investigation.

(2) A report published under this section is protected by absolute privilege.

14G—Power to give expiation notices

An authorised officer is authorised to give expiation notices for alleged offences which are expiable under this Act.

14H—Provisions relating to things seized

(1) If a thing is seized under this Part, the following provisions apply:

(a) the thing seized must be held pending proceedings for an offence against this Act relating to the thing seized, unless the Minister, on application, authorises its release to the person from whom it was seized or a person who had legal title to it at the time of seizure, subject to such conditions as the Minister thinks fit (including conditions as to the giving of security for satisfaction of an order under paragraph (b)(ii));

(b) if proceedings for an offence against this Act related to the thing seized are commenced within the prescribed period after its seizure and the defendant is found guilty of the offence, the court must consider the question of forfeiture and—

(i) order that it be forfeited to the Crown; or

(ii) if it has been released under paragraph (a), order that it be forfeited to the Crown or order that the person to whom it was released pay to the Minister an amount equal to its market value at the time of its seizure, as the court thinks fit; or

(iii) make no order for forfeiture;

Part 3—Reservation of minerals and royalty

(c) if proceedings for an offence against this Act related to the thing seized—

(i) are not commenced within the prescribed period after its seizure; or

(ii) are commenced within the prescribed period after its seizure and the defendant is found not guilty of the offence; or

(iii) are commenced within the prescribed period after its seizure and the defendant is found guilty of the offence but no order for forfeiture is made under paragraph (b),

the person from whom the thing was seized or a person who had legal title to it at the time of its seizure is entitled to recover, by action in a court of competent jurisdiction, the thing itself or, if it has deteriorated or been destroyed, compensation of an amount equal to its market value at the time of its seizure.

(2) In this section—

prescribed period means 12 months or such longer period as the court may, on application by the Minister, allow.

15—Power to conduct geological investigations etc

(1) For the purpose of making any geological, geophysical or geochemical investigation or survey, the Minister or the Director of Mines, or any person authorised in writing by the Minister or the Director, may—

(a) enter and remain upon any land with such assistants, vehicles and equipment as may be necessary or expedient for the purposes of the investigation or survey; and

(b) conduct such an investigation or survey on the land; and

(c) take, and remove from the land, any geological specimens or samples.

(1a) Subsection (1) does not apply to land constituted as a wilderness protection area under the Wilderness Protection Act 1992.

(2) A person exercising a power under this section—

(a) must not recover from any land more minerals than are reasonably necessary for the purpose of making the relevant investigation or survey; and

(b) must not unnecessarily impede or obstruct the lawful use or enjoyment of any land by an owner of the land.

(3) A person who interferes with or obstructs any person in the exercise of any power conferred by this section shall be guilty of an offence.

Maximum penalty: $210 000 or imprisonment for 6 months.

(4) The Minister may publish, in such manner as he thinks fit, the results of an investigation or survey under this section.
At least 14 days before the Minister or the Director of Mines, or any authorised person, undertakes an investigation or survey under this section, the Minister may publish in the Gazette a notice—

(a) describing the area of land in which the investigation or survey will be undertaken; and

(b) setting out a completion date in respect of the investigation or survey.

The Minister may extend the completion date from time to time by publishing a further notice in the Gazette.

If a notice is published under subsection (5), the Minister may refuse to receive and consider an application for a mining tenement in respect of the land described in the notice until the completion date set out in the notice.

15A—Register of mining tenements etc

(1) The Mining Registrar shall keep a register of—

(b) registered claims; and

(c) leases and licences issued under this Act; and

(d) instruments registered under this Act.

(2) Subject to this Act, a person may, upon payment of the prescribed fee, inspect the register.

(3) The register may be kept in such forms as the Mining Registrar thinks fit.
Part 2A – Mining Register and Information

Division 1 – Mining Register

15AA—The register

(1) The Mining Registrar will keep a register (the mining register).

(2) The register will be a register of—

(a) any mineral tenement granted under this Act; and
(b) the terms and conditions of any mineral tenement granted under this Act; and
(c) instruments of transfer with respect to any mineral tenement registered under this Act; and
(d) any mortgage registered under Division 2; and
(e) any caveat registered under Division 3; and
(f) instruments, agreements, determinations and dealings required to be registered under any other provision of this Act; and
(g) determinations and dealings required to be lodged with the Mining Registrar under any other provision of this Act (or which have effect on registration under this Act); and
(h) the commencement and completion of proceedings before the Warden’s Court under this Act; and
(i) decisions, determinations, and orders of the Warden’s Court under this Act; and
(j) anything registered under Division 4; and
(k) any cancellation, suspension or surrender relating to a mineral tenement under this Act; and
(l) any other interest, instrument, approval, agreement, determination, statement, notice, order, direction, bond, penalty, or other document or dealing required to be registered by or under the regulations.

(3) The register will also contain such information as the Mining Registrar thinks fit.

(4) The register will be kept in such forms as the Mining Registrar thinks fit (including in an electronic form).

(5) The Mining Registrar may establish requirements as to—

(a) the form of any instrument or document that is to be registered on the register; and
(b) the use of electronic files, including as to their formats; and
(c) the provision and certification of any instrument, document or information, or as to any other matter; and
Reservation of minerals and royalty—Part 3

(6) Without limiting any other provision, the Mining Registrar may amend the register—

(a) in order to ensure that the register is kept up to date; or

(b) in order to ensure that the register meets standards determined to be appropriate by the Mining Registrar.

(7) The Mining Registrar may delay the registration of any instrument, document or dealing for such period as the Mining Registrar considers appropriate in a particular case.

(8) The Registrar who is responsible for the Warden's Court’s registry must, after consultation with the Mining Registrar, ensure that there is a scheme in place to ensure that information relating to the proceedings, decisions, determinations and orders of the Warden's Court that are relevant to the operation of the register is provided to the Mining Registrar for the purposes of this section.

(9) A tenement holder or other person who is required—

(a) to serve a notice on the Mining Registrar; or

(b) to provide or give a notice to the Mining Registrar; or

(c) to provide or give an agreement to the Mining Registrar, must not fail to comply with that requirement—

(d) in accordance with any relevant provision of this Act; or

(e) in accordance with the regulations; or

(f) to the extent that paragraph (d) or (e) does not apply—within a reasonable time.

Maximum penalty: $5 000.

(10) Subsection (9) does not apply to—

(a) the Minister; or

(b) the Registrar who is responsible for the Warden's Court registry; or

(c) a person prescribed by the regulations for the purposes of this subsection.

15AB—Dealings with mineral tenements

(1) This section does not apply to or in relation to an interest if the interest is not a legal or proprietary interest in a mineral tenement.

(2) A mineral tenement, or an interest in a mineral tenement, must not be transferred, assigned, sublet or be held subject to a trust, whether directly or indirectly, without the consent of the Minister.

(3) A dealing to which subsection (2) applied has no effect unless or until it is—

(a) consented to by the Minister; and

(b) registered on the register under this Part.

(4) An application for the consent of the Minister under this section—
   (a) must be made in a manner and form determined by the Minister after consultation with the Mining Registrar; and
   (b) must be accompanied by the prescribed fee.

(5) The Minister may, in connection with an application for consent, require the parties to furnish the Minister with any information specified by the Minister.

(6) An application for the registration of an instrument giving effect to or recording a dealing under this subsection must be made in a manner and form determined by the Mining Registrar.

Division 2—Mortgages

15AC—Mortgages

(1) In this section—
   mortgage includes any form of charge.

(2) A party to a mortgage over a mineral tenement may apply to the Mining Registrar to have the mortgage registered under this section.

(3) An application for the registration of a mortgage—
   (a) must be made in a manner and form determined by the Mining Registrar; and
   (b) must be accompanied by the prescribed fee.

(4) The Mining Registrar may, in connection with an application for registration, require the applicant to furnish the Mining Registrar with any information specified by the Mining Registrar.

(5) A mortgage may be created with respect to a particular interest of a tenement holder in the mineral tenement (being an interest that may be constituted as a share in a mineral tenement (including a share expressed as a percentage), or an interest as a tenant in common, or any other interest recognised at law).

(6) The registration of a mortgage under this Part—
   (a) does not give the mortgage (or the interest secured by the mortgage) priority over other interests; and
   (b) does not confer any additional status with respect to a power of enforcement.

(7) However, if a mortgage is registered in relation to a mineral tenement with the consent of the tenement holder (or tenement holders), the Mining Registrar must not proceed to register a transfer of the mineral tenement, or an interest in the mineral tenement, under Division 1 after the registration of the mortgage unless—
   (a) the instrument giving effect to the transfer was received by the Mining Registrar before the registration of the mortgage; or
   (b) the transfer is expressed to be subject to the mortgage; or
   (c) the mortgagee (or mortgagees) consent to the registration of the transfer; or
   (d) the transfer is required by an order of a court or tribunal constituted by law; or
(e) the mortgage is discharged before the registration of the transfer; or
(f) the Mining Registrar is acting in any circumstances prescribed by the regulations.

(8) Furthermore, if a mortgage is registered in relation to a mineral tenement with the consent of the tenement holder (or tenement holders), the mineral tenement may not be surrendered under this Act unless—

(a) the mortgagee (or mortgagees) consent to the surrender; or
(b) the mortgage is discharged before the surrender; or
(c) the surrender is by operation of section 30AAA, 30A or 33B; or
(d) the surrender is happening in any circumstance prescribed by the regulations.

(9) A mortgage registered under this section may be discharged in accordance with procedures determined by the Mining Registrar.

(10) A discharge under subsection (9) may only be made—

(a) on application made by the mortgagee; or
(b) on application made with the consent of the mortgagee.

(11) The Mining Registrar must discharge, or partially discharge, a mortgage if the discharge is required by an order of a court or tribunal constituted by law.

(12) An application for the discharge of a mortgage—

(a) must be in a form determined by the Mining Registrar; and
(b) must be accompanied by the prescribed fee.

15AD—Application to Court to challenge aspects of mortgages

(1) A person who—

(a) has an interest in a mineral tenement subject to a mortgage registered under this Division; or
(b) has an interest that is directly affected by a mortgage registered under this Division,

may apply to the appropriate court under this section.

(2) An application may be made for 1 or more of the following:

(a) a declaration that a registered mortgage is defective, invalid or unenforceable, on a ground specified in the application;
(b) an order that a transfer of a mineral tenement, or of an interest in a mineral tenement, be registered despite the mortgage;
(c) an order that a registered mortgage be discharged or partially discharged;
(d) an order that the mortgagee (or purported mortgagee) pay compensation for any loss or damage suffered because of the registration of a mortgage under this Division, or an amount for or towards any such loss or damage.
(3) Any compensation payable under an order under subsection (2)(d) may be recovered as if it were a debt due to the person in whose favour the order is made in a court of competent jurisdiction.

(4) This section does not limit any other jurisdiction or power of a court.

Division 3—Caveats

15AE—Caveats

(5) A person (a ‘caveator’) who has, or who is claiming, an interest in a mineral tenement may apply to the Mining Registrar to have a caveat registered under this Division.

(6) An application for the registration of a caveat must be in a form determined by the Mining Registrar.

(7) A caveat under subsection (1) may—

(a) forbid the registration of any transfer, mortgage or voluntary surrender affecting a specified interest in the mineral tenement (an ‘absolute caveat’); or

(b) forbid the registration of any transfer, mortgage or voluntary surrender affecting the mineral tenement unless the transfer, mortgage or surrender (as the case may be) expressly states that it is to be subject to the interest claimed by the caveator (a ‘claim caveat’).

(8) However, if a caveat is being registered without the express consent of the tenement holder for the mineral tenement to which the caveat relates—

(a) if the caveator is a person who has entered into an agreement with, or is a party to an agreement with, the tenement holder—

(i) the agreement must relate to—

(A) the sale or transfer (or both) of the tenement holder’s interest in the relevant mineral tenement; or

(B) any other matter connected with the tenement holder’s interest in the relevant mineral tenement; and

(ii) the agreement must provide for the registration of a caveat under this Division; and

(iii) a copy of the agreement must accompany the application under subsection (2); or

(b) in any other case—the caveator must provide such information as the Mining Registrar may require regarding the nature of the interest.

(9) A caveat may—

(a) set out a date of expiry (if any); or

(b) set out that the caveat will expire—

(i) on a specified transfer or mortgage of an interest in the mineral tenement; or
Reservation of minerals and royalty—Part 3

(ii) at the end of a specified period.

(10) In connection with the preceding subsections, an application for the registration of a caveat—

(a) must be accompanied by—

(i) the prescribed fee; and

(ii) such other documents or information as the Mining Registrar may require; and

(b) if the caveat is being registered without the express consent of the tenement holder for the mineral tenement to which the caveat relates—must include a statutory declaration as to the truthfulness and accuracy of any matter specified by the caveator in the application.

(11) The Mining Registrar does not have, on the receipt of an application to register a caveat, any duty to determine whether or not—

(a) the caveat relates to a valid caveatable interest; or

(b) a caveatable interest has been sufficiently described; or

(c) there is sufficient evidence to support the caveat; or

(d) any matter specified in the application is true and accurate.

(12) The registration of a caveat does not warrant the validity of any interest claimed in the caveat.

(13) On the registration of a caveat under this section, a notice of the registration of the caveat must be sent by the Mining Registrar to any tenement holder whose interests are affected by the caveat, other than where the tenement holder is also the caveator.

(14) A caveat registered under this Division—

(a) does not affect or prevent the renewal of a mineral tenement; and

(b) does not lapse on the renewal of a mineral tenement (while the caveat is registered); and

(c) does not affect or prevent any dealing with the mineral tenement (or any interest in the mineral tenement) that is required by an order of a court or tribunal constituted by law.

(15) A caveat registered under this Division will lapse on—

(a) any order of the Warden's Court providing for the lapsing of the caveat; or

(b) the withdrawal of the caveat by the caveator; or

(c) the expiry of the caveat as contemplated by subsection (5).

(16) If—

(a) a caveat is registered in respect of a mineral tenement; and

(b) the caveat lapses,

the caveator or any related body corporate may not apply to register a second or
subsequent caveat relating to the same interest in the mineral tenement to which the original caveat related without the approval of the Warden's Court, or unless that second or subsequent caveat is being registered with the express consent of the tenement holder for the mineral tenement to which the caveat relates.

15AF—Application to Warden's Court to lapse caveat or obtain compensation

(1) A person who—

(a) has an interest in a mineral tenement subject to a caveat registered under this Division; or

(b) has an interest that is directly affected by a caveat registered under this Division,

may apply to the Warden's Court under this section.

(2) An application may be made for 1 or more of the following:

(a) a declaration that an interest claimed by the caveator is not a valid caveatable interest;

(b) an order that a caveat lapse;

(c) an order that a transfer, mortgage or surrender relating to a mineral tenement be registered despite the registration of a caveat under this Division;

(d) an order that a caveator pay compensation for any loss or damage suffered because a caveat registered under this Division does not relate to a valid caveatable interest, or an amount for or towards any such loss or damage.

(3) Any compensation payable under an order under subsection (2)(d) may be recovered as if it were a debt due to the person in whose favour the order is made in a court of competent jurisdiction.

(4) This section does not limit any other jurisdiction or power of the Warden's Court in relation to caveats under this Division.

Division 4—Other dealings

15AG—Other dealings

(1) Subject to subsections (2) and (3), a tenement holder may apply to the Mining Registrar for the registration on the mining register of any agreement, memorandum, arrangement, instrument or other document or dealing that relates to—

(a) the relevant mineral tenement, or an interest in the mineral tenement; or

(b) authorised operations carried out, or to be carried out, on the relevant mineral tenement.

(a registrable dealing)
(2) A registrable dealing does not include any agreement, memorandum, arrangement, instrument or other document or dealing—

(a) that does not satisfy any criteria determined by the Mining Registrar for the purposes of this section; or

(b) that falls within a class excluded by the Mining Registrar from the operation of this section.

(3) If a tenement holder enters into a registrable dealing under which another person is to carry out authorised operations in relation to the mineral tenement, the tenement holder—

(a) must, within 14 days after entering into the registrable dealing—

(i) inform the Minister of the registrable dealing in a manner and form determined by the Minister; and

(ii) apply to the Mining Registrar to register the registrable dealing under this section; and

(b) must, within 14 days after the person ceases to be responsible for carrying out those authorised operations—

(i) inform the Minister of the matter in a manner and form determined by the Minister; and

(c) apply to the Mining Registrar to register the cessation under this section.

Maximum penalty: $5 000

(4) A registrable dealing must comply with any relevant requirement of the Mining Registrar as to the form of any instrument or document that is to be registered on the register.

(5) An application to register a registrable dealing under this section—

(a) must be made in a manner and form determined by the Mining Registrar; and

(b) must be accompanied by the prescribed fee.

Division 5—Protection from liability

15AH—Protection from liability

(1) No act or omission undertaken or made by the Mining Registrar, or by any person acting on behalf of the Mining Registrar, in connection with the administration of the mining register, or the registration of any interest, instrument, agreement, statement, notice, order, direction, bond, penalty or other document or dealing on the mining register, subjects the Mining Registrar, or any person acting on behalf of the Mining Registrar, or the Minister, the Director of Mines or the Crown, to any liability.

(2) Without limiting subsection (1), the registration of any interest, instrument, agreement, statement, notice, order, direction, bond, penalty or other document or dealing on the mining register—

Part 3—Reservation of minerals and royalty

(a) does not give rise to any right of action against the Mining Registrar, or any person acting on behalf of the Mining Registrar, or against the Minister, the Director of Mines or the Crown (unless the proceedings are for judicial review on the ground of jurisdictional error); and

(b) does not validate any instrument or dealing or provide any warranty as to the validity of any instrument or dealing.

Division 6—Information

15AI—Interpretation

(1) In this Division—

designated material in relation to a mineral tenement means—

(a) records of surveys and other operations carried out under, or for the purposes of, the mineral tenement; and

(b) geological samples (including drill samples) and logs; and

(c) records that evidence the quality and value of minerals recovered from land comprised in the tenement that are liable to the payment of royalty under this Act; and

(d) information and material prescribed by the regulations (including information that relates to a transaction); and

(e) information and material specified by the Director from time to time in accordance with subsection (2) (either generally or in relation to a specified mineral tenement or class of mineral tenement);

designated person means—

(a) the Minister; and

(b) the Director of Mines; and

(c) the Mining Registrar and other mining registrars; and

(d) an authorised officer; and

(e) any person acting under the authority of a person referred to in a preceding paragraph; and

(f) any other person brought within the ambit of this definition by the regulations;

prescribed material means any document, instrument, report, information, samples or other material—

(a) created under this Act; or

(b) provided to a designated person under this Act, or otherwise obtained by a designated person under this Act.

(2) The Director may specify information or material as designated material—

(a) by notice published in the Gazette; or
Reservation of minerals and royalty—Part 3

(2) in the case of a notice that relates to a specified mineral tenement—by notice served on the tenement holder in the manner prescribed by the regulations.

(3) The Director may vary or revoke a notice under subsection (2) by a further notice of a similar kind.

15AJ—Compilation, keeping and provision of material

(1) A tenement holder must compile or create designated material relating to the tenement in accordance with any requirements prescribed by the regulations.

Administrative penalty.

(2) A tenement holder must keep all designated material—

(a) in a form prescribed by the regulations or approved by the Director; and

(b) in a place that complies with any requirements prescribed by the regulations or that is approved by the Director; and

(c) for a period prescribed by the regulations or approved by the Director.

Administrative penalty.

(3) A tenement holder must, as required by the regulations, provide to the Director any designated material of a prescribed kind.

Administrative penalty.

(4) A tenement holder must, at the request of the Director or a person acting under the written authority of the Director, produce, at the place specified by the Director or the person acting under that written authority, any specified designated material or designated material of a specified kind.

Administrative penalty.

(5) Any designated material provided or produced under subsection (3) or (4) must comply with any requirements—

(a) prescribed by the regulations; or

(b) specified by the Director in the manner prescribed by the regulations.

Administrative penalty.

(6) In the case of any designated material provided or produced to the Director or another person under this section, the Director or other person may—

(a) take extracts from, or copies of, the designated material; or

(b) retain the designated material.

15AK—Tests

(1) A tenement holder must, at the request of the Director or a person acting under the written authority of the Director, permit a person nominated in the request to make tests, and take samples of minerals, in relation to or from land comprised in the mineral tenement.

Administrative penalty.
Part 3—Reservation of minerals and royalty

15AL—Release of material

(1) Subject to this section, the Minister or the Director may, in such manner as the Minister or the Director thinks fit, release any prescribed material.

(2) Subsection (1) does not authorise the release of any prescribed material if—

(a) the release would be contrary to any other Act or law; or

(b) the release would be in breach of an order of a court or tribunal constituted by law; or

(c) the release would involve the disclosure of a trade secret; or

(d) the release would be contrary to any requirement or restriction prescribed by the regulations.

(3) The Minister or Director may release any prescribed material under this section—

(a) in such manner as the Minister or Director thinks fit; and

(b) subject to such conditions as the Minister or Director thinks fit.

(4) A person who contravenes or fails to comply with a condition under subsection (3)(b) is guilty of an offence.

Maximum penalty: $120 000.

(5) Subsections (1) and (2) do not—

(a) limit the ability of the Mining Registrar to publish or release, or to allow access to, any instrument, document or other item or material registered on the mining register; or

(b) limit the operation of any other section that provides for publication or release of any instrument, document or other item of material.

(6) No action lies against the Minister or the Director in respect of the contents of any prescribed material released under this section (including where the release amounts to the publication of any material).

Part 3—Reservation of minerals and royalty

16—Reservation of minerals

(1) Notwithstanding the provisions of any other Act or law, or of any land grant or other instrument, the property in all minerals is vested in the Crown.

(2) This section applies in respect of all mineral land and in respect of all other land (including reserved land) in the State or under coastal waters on the landward side of the baseline.

17—Royalty
Reservation of minerals and royalty—Part 3

(1) Subject to this Act, royalty is payable to the Crown on all minerals recovered from mineral land, and—

— (a) sold or intended for sale; or

— (b) utilised, or to be utilised, for any commercial or industrial purpose.

(1a) Royalty is not payable on extractive minerals recovered from mineral land—

(a) where the terms and conditions of the mineral tenement—

(i) make specific provision for the management and use of the extractive minerals as extractive minerals produced during the course of carrying out authorised operations under the tenement; and

(ii) make specific provision for the exemption of the extractive minerals from the payment of royalty; or

(b) by the owner of the land under section 75(2).

(2) Royalty is not payable on minerals recovered from mineral land that are removed from the area of a mining tenement for the purpose of any testing of a kind approved by the Minister.

(3) Royalty is only payable on precious stones if the precious stones are recovered under this Act.

(4) Subject to this or any other relevant section, royalty will be equivalent to—

(a) in the case of extractive minerals—55 cents per tonne, or such lesser amount as may be prescribed by the regulations, as assessed at the mine gate; or

(b) in the case of minerals other than extractive minerals—

(i) in the case of the minerals are declared mineral ores and concentrates—5% of the value of the minerals, as assessed in accordance with this sub-section (5) (the royalty assessment principles);

(ii) in the case of the minerals are declared refined mineral products—3.5% of the value of the refined mineral products, as assessed in accordance with this section royalty assessment principles;

(iii) in the case of the minerals are declared industrial minerals or construction materials—3.5% of the value of the minerals, as assessed in accordance with this section royalty assessment principles;

(iv) in any other case—5% of the value of the minerals, as assessed in accordance with this section royalty assessment principles.

(5) If minerals are sold pursuant to a contract with a genuine purchaser at arms length, the market value (excluding GST) of the minerals, for the purposes of determining royalty, will be the contract price obtained for the minerals on the day that ownership of the minerals is transferred to the purchaser.
For the purposes of subsection (4)(b) (and any other relevant section), the value of minerals will be the value (the *ex-mine gate value*) that fairly represents the market value (excluding GST) of the minerals at the time that the minerals leave the area of—

— (a) unless paragraph (b) applies, the mining tenement from which the minerals were recovered; or

— (b) if the minerals have been transported to mineral land the subject of a miscellaneous purposes licence— that mineral land.

(6) If subsection (5) does not apply to the sale of minerals because there is no contract with a genuine purchaser at arms length, the following provisions apply:

(a) the value of the minerals for the purposes of determining royalty will be the value that represents the market value (excluding GST) of the minerals on the day on which—

(i) the minerals—

(A) leave the mineral tenement from which the minerals were recovered; or

(B) are used on the tenement; or

(ii) if the minerals have been transported to mineral land the subject of a miscellaneous purposes licence— the minerals leave that mineral land or are used on that mineral land, whichever occurs later;

(b) the market value of the minerals will be determined according to —

(i) any prices quoted or obtained on a market recognised by the Treasurer, after consultation with the Minister by notice in the Gazette as being a relevant industry market for the purposes of determining the market value of minerals of that kind; or

(ii) if subparagraph (i) does not apply—

(A) the price (if any) declared by the Treasurer, after consultation with the Minister, by notice in the Gazette as being an indicative price for the minerals; or

(B) the method (if any) declared by the Treasurer, after consultation with the Minister, by notice in the Gazette that is to be used for determining an indicative price for the minerals; or

(iii) if subparagraphs (i) and (ii) do not apply—

(A) any price obtained in relation to sales of minerals of the same kind where those sales were to genuine purchases at arms length within the same period for which a return is required to be furnished under section 17CA; or

(B) if no relevant transactions have occurred in that period— any price obtained by other parties within the industry in relation to sales of minerals of the same kind on the open market within the
same period for which a return is required to be furnished under section 17AC; or

(iv) if subparagraphs (i), (ii) and (iii) do not apply—the tenement holder’s estimate of the reasonable value of the minerals (to be determined in accordance with any requirements, and accompanied by any information, prescribed by the regulations).

(7) For the purposes of subsection (5), contract price means—

(a) the amount to be paid under the contract; plus

(b) the value of any consideration, set-off, concession or other factor otherwise taken into account by the parties to the contract in determining the amount to be paid under the contract.

(8) Costs of a prescribed kind incurred before minerals leave—

(a) the mineral tenement from which the minerals were recovered; or

(b) if the minerals have been transported to mineral land, the subject of a miscellaneous purposes licence— that mineral land,

are not to be included for the purposes of determining the market value of those minerals.

(8a) Costs of a prescribed kind incurred after minerals leave—

(a) the mineral tenement from which the minerals were recovered; or

(b) if the minerals have been transported to mineral land, the subject of a miscellaneous purposes licence— that mineral land,

are not to be included for the purposes of determining the market value of those minerals.

Any costs of a prescribed kind are not to be included in the market value of particular minerals at the gate of the relevant tenement.

(9) The Treasurer may, after consultation with the Minister and under an agreement between the Treasurer and the person liable to pay royalty on any minerals other than extractive minerals, determine that royalty will be payable according to the weight or volume of minerals recovered or some other basis will be payable at some other price or according to some other method, and royalty will be payable by the person in accordance with the determination.

(10) The Treasurer may, after consultation with the Minister and on the application of a person liable to pay royalty under this section, having regard to the effect that payment of such royalty would be likely to have on the viability or profitability of authorised mining operations carried on by the person, waive payment of royalty wholly or in part, or reduce the rate at which royalty is payable, on minerals recovered in the course of those operations.

(11) Royalty may be recovered by the Crown as a debt due to the Crown in any court of competent jurisdiction.

(12) The holder of a tenement holder for the tenement from which minerals are recovered is liable to pay the royalty.
Part 3—Reservation of minerals and royalty

(13) For the purposes of this section, the Treasurer may, after consultation with the Minister, from time to time—

(a) by notice in the Gazette—

(i) declare specified types of mineral ores or concentrates to be declared mineral ores and concentrates; and

(ii) declare specified types of refined mineral products to be declared refined mineral products; and

(iii) declare specified types of minerals to be declared industrial minerals or construction materials; and

(b) by subsequent notice in the Gazette, vary or revoke a declaration under paragraph (a).

(14) A notice under subsection (13) will have effect from a date specified in the notice by the Treasurer.

Note—For private mines see section 73E.

17A—Reduced royalty for new mines

(1) The Treasurer may, after consultation with the Minister and on the application of a person liable to pay royalty (other than on extractive minerals), by notice in the Gazette, declare that a mine will be taken to be a new mine for the purposes of this section.

(2) Despite section 17, for the period of 5 years commencing on the date on which the first royalty payment under this Act is due and payable, royalty payable in relation to minerals (other than extractive minerals) recovered from mineral land at a new mine will be equivalent to 2 per cent of the value of the minerals (as assessed in accordance with the royalty assessment principles under section 17).

(3) The Treasurer may, after consultation with the Minister and by subsequent notice in the Gazette, vary or revoke a declaration under subsection (1).

(4) An application under this section must be made in a manner and form determined by the Treasurer after consultation with the Minister and must be lodged with the Director of Mines.

(5) An applicant must provide any information reasonably required by the Treasurer to determine the application.

(6) In determining whether or not to make a declaration under this section, the Treasurer may have regard to the following matters (insofar as they may be relevant):

(a) the extent to which the miningauthorised operations to be carried on at the mine can be viewed as constituting an extension of existing miningauthorised operations, or the revival of miningauthorised operations that have been previously carried on;

(b) the nature of the miningauthorised operations to be carried on at the mine when compared to any existing operations carried on, or previously carried on, at the same tenement, or a tenement within the vicinity of the relevant mine;
Reservation of minerals and royalty—Part 3

(c) the relationship of the applicant to any other person carrying on mining operations within the vicinity of the relevant mine (including, in the case of a body corporate, mining operations carried on by a related body corporate within the meaning of section 50 of the Corporations Act 2001 of the Commonwealth);

(d) such other matters as the Treasurer thinks fit.

17AB—Royalty for private mines

(1) Subject to and in accordance with the provisions of this Act, royalty in respect of minerals recovered from private mines is payable as follows:—

(a) in the case of a private mine in relation to which a relevant event has occurred—royalty is payable on—

(i) extractive minerals recovered from the private mine; and

(ii) any other minerals recovered from the private mine on or after the day on which the relevant event occurred;

(b) in any other case—royalty is payable on extractive minerals recovered from the private mine, but is not payable on any other minerals so recovered.

(2) For the purposes of subsection (1), a relevant event occurs if there is a change in—

(a) the proprietor of the private mine; or

(b) the whole or any part of the right to carry out authorised operations at the private mine.

(3) A reference in subsection (2)(a) to a change in the proprietor of a private mine includes a change in a person lawfully claiming under the proprietor whether the claim is of a legal or equitable kind.

(4) If a private mine has 2 or more proprietors, a change in any of those proprietors will be taken to be a relevant event for the purposes of subsection (2)(a).

(5) Without limiting any other provision, the following will be taken to be relevant events for the purposes of subsection (2)(a):

(a) the creation, transfer, assignment, sale or disposal of an interest in proprietary rights in minerals recovered from a private mine under a contract or other instrument or agreement;

(b) an event, transaction or acquisition that would give rise to liability to pay duty under Part 3 Division 6 or 8 or Part 4 of the Stamp Duties Act 1923, disregarding any exemptions from such duty applying under that Act;

(c) without limiting paragraph (b), the acquisition of a controlling interest in a business that—

(i) is the proprietor of the private mine; or

(ii) holds the whole or any part of the right to carry out authorised operations at the private mine.

(6) For the purposes of subsection (5)(c)—

Part 3—Reservation of minerals and royalty

(a)  *business* includes bodies and associations (corporate and incorporated) and partnerships; and

(b)  a person has a *controlling interest in a business* if the person would be treated as having a controlling interest in the business for the purposes of section 72 of the *Payroll Tax Act 2009* (disregarding section 72(1)).

(7)  Subject to subsection (8), the proprietor of a private mine is liable for royalty payable under this section.

(8)  If—

(a)  a person other than the proprietor is carrying out authorised operations at a private mine; and

(b)  the proprietor gives notice to the Minister, in a manner and form determined by the Minister, under this section,

the person carrying out the authorised operations (rather than the proprietor) is liable for royalty under this section.

(9)  If—

(a)  the proprietor of a private mine has given a notice to the Minister under subsection (8); and

(b)  the person carrying out authorised operations at the private mine fails to pay royalty; and

(c)  the proprietor pays the royalty,

the proprietor may, subject to any agreement to the contrary—

(d)  recover the amount paid as a debt from the person who failed to pay the royalty; or

(e)  set off the amount paid against a liability (if any) to the person who failed to pay the royalty.

17AC—Notification of relevant event

(1)  If a relevant event within the meaning of section 17AB occurs, the person who, as a result of the relevant event, becomes a proprietor of a private mine or acquires a right to carry out authorised operations at a private mine (as the case may be) must, within 30 days after the relevant event, notify the Minister of the relevant event.

Maximum penalty: $20 000.

(2)  The notification of the relevant event—

(a)  must be made in a manner and form determined by the Minister; and

(b)  must be accompanied by such information as may be prescribed by the regulations.

17B—Assessments by Treasurer

(1)  If -

Reservation of minerals and royalty—Part 3

(a) The Treasurer may, after consultation with the Minister, make an assessment of royalty under this Act if the Treasurer is of the opinion that a person liable to pay royalty—

(i) has not made a payment of royalty when it falls due; or
(ii) has not paid royalty in accordance with the royalty assessment principles (and any related provision under this Act); or
(iii) has not paid royalty in accordance with any agreement or determination that applies under section 17 or 17A; or
(iv) has not paid royalty in accordance with any other relevant requirement or,

(b) the market value of minerals has been determined, for the purposes of determining royalty, according to a tenement holder's estimate of the reasonable value of the minerals under section 17(6)(b)(iv) and the Treasurer does not agree with the estimate; or

(c) a person makes a default in furnishing a return; or

(d) the Treasurer is not satisfied with a return furnished by a person; or

(e) the Treasurer has reason to believe—

(i) that royalty is payable by a person who has not furnished a return; or
(ii) that a person who has furnished a return has made an over payment of royalty.

the Treasurer may, after consultation with the Minister, make an assessment of royalty the person is liable to pay.

(2) Without limiting subsection (1), the Treasurer may, after consultation with the Minister, on application or on the Treasurer's own initiative, after consultation with the Minister, review and revise an earlier assessment of royalty (and that revision will then be taken to be a new assessment for the purposes of this Act).

(3) For the purposes of making an assessment under subsection (1) or (2), the Treasurer may estimate the amount of royalty payable by a person and may base the estimate on any matter the Treasurer considers relevant.

(4) The Treasurer must cause a copy of any assessment under this section to be served on the person liable to pay the royalty or to whom a refund is payable.

(5) If, as a result of the Treasurer’s assessment, a lower amount of royalty is payable for the relevant return period or periods, the Treasurer must—

(a) refund the amount of the excess to the person; or
(b) set off the amount against a future liability to make payments of royalty under this Act.

(6) A person on whom a copy of an assessment is served may, within 1 month after the date of service, appeal against the assessment to the ERD Court.

(7) On the hearing of an appeal, the ERD Court may, if satisfied on the basis of evidence provided by the appellant that the assessment of the Treasurer is incorrect, vary the assessment of the Treasurer to such extent as it thinks fit.

Part 3—Reservation of minerals and royalty

(96) In this section—

royalty assessment principles means the royalty assessment principles that apply under section 17.

17C—Recovery of royalty where appeal lodged

The fact that an appeal has been lodged under section 17B but not yet determined does not in the meantime affect the assessment to which the appeal relates, and the amount of any royalty or civil penalty amount determined as being payable under this Act as a result of the assessment may be recovered as if no appeal had been lodged.

17CA-Returns

(1) A tenement holder must, not later than 31 January and 31 July in each year, furnish the Director of Mines with a return in a manner and form determined by the Director of Mines.

(2) A return under subsection (1) must contain the information required by the Director of Mines relating to the conduct of authorised operations, the minerals recovered in the course of those operations (including but not limited to, minerals intended for sale or utilised in some way by the tenement holder) and the sale or disposal of those minerals during the period of 6 months commencing—

(a) in the case of the return due on 31 January in each year—on the preceding 1 July; and

(b) in the case of the return due on 31 July in each year—on the preceding 1 January,

and must comply with any other requirement specified by the Director of Mines.

(3) If a mineral tenement is cancelled, suspended, transferred, or forfeited, the tenement holder at the time of cancellation, suspension, transfer or forfeiture must, not later than 3 months after the occurrence of that event, furnish the Director of Mines with a return in a manner and form determined by the Director of Mines containing the information required by the regulations.

(4) If a mineral tenement is due to expire, the tenement holder must, on or before the date of expiry, furnish the Director of Mines with a return in a manner and form determined by the Director of Mines containing the information required by the regulations.

(5) If a tenement holder has applied for an approval to surrender the mineral tenement, the tenement holder must comply with any prescribed requirements as to the furnishing of a final return to the Director of Mines.

(6) A return under this section must be accompanied by any information, samples or other material required by the Director of Mines.

(7) The Director of Mines may, on application or on the Director’s own initiative, extend the date or time by which or within which a return must be furnished under this section.

(8) A person who fails to comply with this section is guilty of an offence.

Maximum penalty: $120 000.
(9) The regulations may exempt a person, or a class of persons, from a requirement of this section.

(10) An exemption—

(a) may be granted absolutely or on conditions; and

(b) remains in force for the period specified in the regulations.

17D—When royalty falls due (general principles)

(1) Subject to this Act, royalty will fall due—

(a) in respect of minerals with an ex-mine gate value if the day on which a determination of the value of the minerals is made for the purposes of assessing royalty falls calculated during the period between 1 January and 30 June (both dates inclusive) in any year—on 31 July of that year;

(b) in respect of minerals with an ex-mine gate value calculated if the day on which a determination of the value of the minerals is made for the purposes of assessing royalty falls during the period between 1 July and 31 December (both dates inclusive) in any year—on 31 January of the following year,

(but the Treasurer may, after consultation with the Minister, on application by the person liable to pay the royalty or of his or her own motion, extend the date on which the royalty will fall due).

(1a) Subsection (1) does not apply to the extent that a designated mining operator/tenement holder under section 17DA must pay royalty on a monthly basis.

(2) Despite subsection (1), any royalty on minerals recovered from land within a mining tenement or private mine will be due and payable (including for the purposes of the imposition of a penalty amount for unpaid royalty under this Act)—

(a) in the case of a mining tenement other than a private mine—

(i) when the mining tenement is being transferred, surrendered or forfeited; or

(ii) when the mining tenement is suspended or cancelled; or

(iii) when the mining tenement expires; or

(b) in the case of a private mine—when the declaration of the relevant area as a private mine is revoked; or

(c) at any other time in accordance with the regulations.

(3) The Treasurer may, after consultation with the Minister, on application by a person liable to pay royalty or of his or her own motion, exempt (on such conditions as the Treasurer thinks fit) a person from the operation of subsection (1) or (2) if the Treasurer is satisfied that it is not reasonably practicable for the person to strictly comply with the requirements of this section.

(4) In this section—

ex-mine gate value means a value calculated in accordance with section 17(5).

Part 3—Reservation of minerals and royalty

17DA—Special principles relating to designated mining operator: tenement holder

(1) In this section—

designated mining operator: tenement holder—see subsection (2);

half-year period means—

(a) 1 July to 31 December in a financial year; and
(b) 1 January to 30 June in a financial year.

(2) A designated mining operator: tenement holder is a mining operator: tenement holder who, in relation to a particular financial year (the relevant financial year), is designated by the Treasurer, after consultation with the Minister, by notice served on the mining operator: tenement holder, as being a mining operator: tenement holder to which this section applies.

(3) The Treasurer may only make a designation under subsection (2) in relation to a mining operator: tenement holder if—

(a) the royalty paid by the mining operator: tenement holder in relation to the financial year immediately preceding the relevant financial year exceeds $100,000, or is expected by the Treasurer to exceed $100,000; or

(b) taking into account the amount of royalty paid by the tenement holder: mining operator, or expected by the Treasurer to be paid by the tenement holder: mining operator, in relation to the financial year immediately preceding the relevant financial year, the Treasurer expects that the royalty to be paid by the mining operator: tenement holder in relation to the relevant financial year will exceed $100,000; or

(c) a mine in relation to which royalty payments are to be made was not in production during the financial year immediately preceding the relevant financial year, or is expected by the Treasurer to be subject to increased production in the relevant financial year, and the Treasurer expects that the royalty to be paid by the mining operator: tenement holder in relation to the relevant financial year will exceed $100,000; or

(d) the Treasurer expects that the amount of royalty to be paid by the mining operator: tenement holder in relation to the relevant financial year will be within 5% of the $100,000 threshold established by this section and accordingly determines to designate the mining operator: tenement holder as being a mining operator: tenement holder to whom this section applies.

(4) For the purposes of subsection (3), the Treasurer may make or apply any estimate in order to determine whether or not it is expected that the royalty to be paid by a mining operator: tenement holder in relation to a particular financial year will (or will not) reach or exceed a particular amount.

(5) A designated mining operator: tenement holder will, in relation to a relevant financial year, pay royalty on a monthly basis (rather than in accordance with section 17D(1)).
(6) For the purposes of subsection (5)—

(a) the Treasurer must, by 31 March immediately preceding the relevant financial year, serve a notice (a notice of assessment) on each designated mining operator—tenement holder—setting out the monthly payments of royalty that the mining operator—tenement holder must make for the relevant financial year (subject to the operation of the succeeding subsections); and

(b) the designated mining operator—tenement holder must then pay royalty on or before the last day of the month that immediately follows each month in the relevant financial year.

(7) A monthly payment set out in a notice of assessment will be an amount which the Treasurer determines to be a reasonable amount taking into account an estimate made by the Treasurer of the amount of royalty that may be payable on account of the operation of sections 17 and 17A (as the case may require) in relation to the relevant financial year.

(8) Subject to subsection (9), a monthly payment in relation to the last month of both half-year periods in a relevant financial year will be the amount set out in the notice of assessment for that month adjusted to take into account any overpayment, or underpayment, of royalty that would otherwise occur over the half-year period after applying the provisions of sections 17 and 17A (as the case may require) so as to ensure that the correct amount of royalty is paid in relation to the half-year period by the end of the month that immediately follows the end of that period.

(9) If an adjustment under subsection (8) will otherwise result in an entitlement to a refund of an amount to be paid as royalty in relation to the relevant half-year period, the Treasurer may, at the Treasurer’s discretion—

(a) refund the amount of the excess to the mining operator—tenement holder who has been paying the monthly amounts; or

(b) set off the amount against a future liability to make payments of royalty under this Act.

(10) The Treasurer may, after consultation with the Minister, on application by a person liable to pay royalty under this section or of his or her own motion—

(a) by notice served on the mining operator, vary a notice of assessment that has been issued to a designated mining operator—tenement holder under this section, with the variation to have effect from a month in the relevant financial year specified by the Treasurer;

(b) extend the date on which royalty will fall due under this section.

17E—Penalty for unpaid royalty

(1) If royalty payable on minerals under this Act (other than minerals recovered from a private mine) is not paid on or by the day on which it fell due, the person liable to pay the royalty is liable to pay a penalty amount, in addition to the amount of royalty unpaid, equal to $1 000 plus the prescribed amount for each month (or part of a month) for which the royalty remains unpaid.

Part 3—Reservation of minerals and royalty

(2) The Treasurer may, at the Treasurer's discretion and after consultation with the Minister, remit a penalty amount payable under subsection (1) by any amount.

(3) A penalty amount may be recovered by the Crown as a debt due to the Crown in any court of competent jurisdiction.

(4) In this section—

*prescribed amount* is to be calculated as follows:

\[
PA = R - (MR + 8\%) \times 12
\]

where—

\(PA\) is the prescribed amount;

\(R\) is the amount of unpaid royalty;

\(CLRR\) is the corporate loan reference rate applied by the Commonwealth Bank of Australia for corporate lending on the day on which the royalty fell due.

\(MR\) is the market rate that applied under section 26 of the *Taxation Administration Act 1996* on the day on which the royalty fell due.

17F—Processed minerals

For the purposes of the imposition of royalty under this Act, a reference to minerals includes a reference to processed minerals or, as the context requires, refined mineral products.

17G—Means of payment

Royalty must be paid in accordance with any requirement prescribed or authorised by or under the regulations.

18—Passing of property in minerals

The property in minerals shall pass to the person by whom the minerals are lawfully mined upon, and in consideration of, payment of royalty or, if royalty is not payable in respect of the minerals, upon recovery of the minerals.

(1) Property in minerals recovered from mineral land passes to the tenement holder (including the proprietor of a private mine), on the day on which a determination of the value of the minerals is made for the purposes of assessing royalty payable on the minerals under section 17 or, if royalty is not payable on the minerals, on recovery of the minerals.

(2) The liability of a tenement holder (including the proprietor of a private mine) to pay royalty to the Crown in respect of minerals recovered from mineral land arises when property in the minerals passes to the tenement holder or the proprietor.

(3) A liability under subsection (2) is a debt due to the Crown.
Part 4—Prospecting for minerals

20—General right to prospect for minerals

(1) A person may prospect for minerals under this section (subject to complying with any relevant requirement under this Act).

(2) Subsection (1) does not authorise the conduct of authorised mining operations that involve disturbance of land by machinery or explosives.

21—Steps to establish a mineral claim

(1) A person may take steps to establish a mineral claim under this section.

(2) The area of a mineral claim must be identified in accordance with the requirements of section 56E. A mineral claim must be identified—

   — (a) by pegging in accordance with the regulations; or

   — (b) in some other manner approved by a mining registrar (after complying with any conditions specified by the mining registrar under the terms of the approval).

(3) In connection with the operation of subsection (2)(b)—

   — (a) A notice relating to the claim must be served on the owner of the land if required by the regulations (and the notice must be served by a prescribed person in a manner prescribed by the regulations) an approval must require the service on the owner of the land (in such manner as the mining registrar thinks fit) of a notice relating to the claim (and such a notice will be taken to be a notice of entry to the owner under section 58A); and

   — (b) the identification of a mineral claim in accordance with an approval will have the same significance as a pegging of the claim; and

   — (c) in relation to the relevant identification, any period under this Act that is to be calculated from a day on which a claim is pegged out will be taken to run from (and the identification of the relevant claim will be taken to constitute a pegging that occurred on) the date of the relevant application to a mining registrar for the approval to identify the claim in a manner contemplated by subsection (2)(b).

(4) If mineral land is divided into strata, a mineral claim may relate to land within the surface stratum or a subsurface stratum.

(5) Despite a preceding subsection, a mineral claim may not be made—

   (a) in respect of land within a subsurface stratum except by a person who holds an exploration licence in respect of that land; or

   (b) in respect of land within a precious stones field, except that if a precious stones field consists of land that is divided into strata a person who holds an exploration licence may make a mineral claim in respect of land within a subsurface stratum.

(6) A person seeking to establish a mineral claim must make application to the Mining Registrar in a manner and form determined by the Mining Registrar.
Mining Act 1971—1.7.2011
Part 4—Prospecting for minerals

(7) An application under subsection (6) must be accompanied by—

(a) a plan delineating the location and area of the mineral claim that complies with any requirements prescribed by the regulations determined or approved under section 56E; and

(b) information concerning the ownership of the land; and

(c) a copy of any notice of entry provided under this Act; and

(d) a copy of any agreement that is relevant to a mineral claim under this Act; and

(e) a copy of any waiver obtained under this Act; and

(f) such other information as may be prescribed by the regulations or as a mining registrar may require; and

(g) the prescribed application fee.

(8) The mining registrar may require an applicant—

(a) to provide such additional documents or information as the mining registrar may reasonably require to deal with the application;

(b) to remedy any defect or deficiency in an application or in any accompanying document or information.

(9) A plan, document or information required under subsection (7) or (8) must be provided in a manner and form determined by the Minister or approved by the mining registrar.

(10) An application under subsection (6) must be made within the prescribed period after the claim has been identified under subsection (2).

23—Area of claim

(1) The area of a mineral claim must not exceed the maximum permissible area stipulated by the regulations.

(2) Despite subsection (1), the area of a mineral claim may exceed the maximum permissible area with the approval of the Minister.

24—Registration of claim

(1) Subject to this Act, a mining registrar will register a mineral claim if due application has been made for the claim under this Act (including by the applicant complying with any requirement under section 21).

(2) A mining registrar must not register a mineral claim if satisfied that—

(a) the registration relates to land that is the subject (in whole or in part) of an application that has been lodged for an exploration licence; and

(b) the application for the exploration licence was lodged before the claim was identified for the purposes of this Act; and

(c) the application for the exploration licence has not been refused.

(3) Subsection (2) does not apply if the mineral claim is solely for extractive minerals.
1.7.2011—Mining Act 1971
Prospecting for minerals—Part 4

(4) A mining registrar must not register a mineral claim if to do so would be inconsistent with an order of the Warden's Court and if the registration of a mineral claim is subsequently inconsistent with the terms of an order of the Warden's Court then the registration must be cancelled.

(5) This section operates subject to the operation of section 80.

(6) If a mineral claim is registered under this section, the location and area of the claim will be determined according to the coordinates specified in the plan accepted for the purposes of registration under section 21.

(7) Without limiting any other provision or law, a mining registrar may cancel the registration of a mineral claim on a ground prescribed by the regulations.

24A—Claim may lapse

If—

(a) an application to establish and register a mineral claim is not made—

(i) in accordance with the requirements of this Act; or

(ii) within a period prescribed by the regulations; or

(b) a mining registrar lawfully refuses to accept and register a mineral claim, the mineral claim will lapse.

25—Rights conferred by ownership of mineral claim

(1) A mineral claim confers on the owner of the claim an exclusive right, subject to the provisions of this Act—

(a) to prospect for minerals in the land comprised in the claim; and

(b) to carry out such other exploratory operations on, or in respect of, the land comprised in the claim as are approved in writing by the Director of Mines; and

(c) to apply for a mining lease or a retention lease in respect of the whole or part of the land comprised in the claim.

(2) A person shall not remove from the area of a mineral claim minerals, or soil and minerals, exceeding a mass of 1 tonne unless authorised to do so by the Director of Mines.

Administrative penalty.

(3) The ownership of a mineral claim does not confer any right to sell or dispose of any—

(a) to sell or dispose of any minerals recovered in the course of authorised mining operations; or

(b) to utilise any such minerals for any commercial or industrial purpose.

26—Mineral claim not transferable etc

(1) A mineral claim is not transferable.
(2) Where an application has not been made for a mining lease or a retention lease in respect of land comprised in a mineral claim within 12 months after registration of the claim, the claim shall lapse.

(3) Where an application is made for a mining lease or a retention lease in respect of land comprised in a mineral claim, and the application is refused, the claim shall lapse.

(4) A mineral claim may, subject to this Act and in accordance with the regulations, be surrendered.

27—Land not to be subject to successive mineral claims

(1) Where a mineral claim lapses or is surrendered, cancelled or forfeited, no claim covering any of the area of that previous claim or a related body corporate shall, without the authority of the Minister or the Warden’s Court, be made by, or on behalf of, the person who held the previous claim within 2 years of its lapse, surrender, cancellation or forfeiture.

(2) If an application for the Minister to grant an authority under subsection (1) in relation to a mineral claim that is due to lapse is made to the Minister before the claim lapses, the Minister may (in the Minister's absolute discretion), determine that no other mineral claim covering any of the area of the claim may be made pending the Minister's decision on the application (and if the Minister decides to grant the authority then the applicant may make a new mineral claim under this Part within a period specified by the Minister (and no other claim may be made in relation to the relevant area during that period)).

(3) A determination of the Minister under subsection (2) will have effect in accordance with its terms.
Part 5—Exploration licence

28—Preliminary

(1) In this Part—

exploration release area means an area identified as an exploration release area in an exploration release area notice;

exploration release area notice means a notice published in relation to relinquished ground under subsection (5);

open ground means land—

(a) that—

(i) is not subject to an existing mineral tenement; and

(ii) subject to paragraph (d), is not relinquished ground; or

(b) that has become available due to the partial surrender of a mineral tenement, other than where the Minister has determined that the land should be considered to be relinquished ground; or

(c) that has become available due to the reduction in the size of an exploration licence on the amalgamation of an expenditure commitment or on renewal of an exploration licence under this Part (other than under section 30A(11)); or

(d) that has been subject to an exploration release area notice and has become available because no exploration licence was granted in relation to the relevant exploration release area on account of an application made during the application period specified in the notice; or

(da) that has been the subject of an exploration licence and is to be considered as open ground by virtue of a determination of the Minister; or

(e) that is to be considered as open ground after the land has been the subject of a reservation order under section 8 or subject to a notice under section 15 by virtue of a determination of the Minister;

relinquished ground means land—

(a) over which an exploration licence has applied where the exploration licence—

(i) has expired; or

(ii) has been cancelled or fully surrendered; or

(iii) has been the subject of an application for renewal, but the application has been withdrawn.
Mining Act 1971—1.7.2011
Part 5—Exploration licence

other than where the Minister has determined that the land should be considered as open ground, or should be the subject of a mineral tenement granted to a particular person; or

(b) that—

(i) has been the subject of a reservation under section 8 and that reservation has been revoked; or

(ii) has been the subject of a notice under section 15 and the completion date under that notice has expired.

other than where the Minister has determined that the land should be considered as open ground, or should be the subject of a mineral tenement granted to a particular person; or

(c) that has been the subject of retention status under section 33B and that status has expired under that section without the land becoming the subject of a mining lease or retention lease, unless the land has returned to its original status under the relevant exploration licence; or

(d) that is to be considered as relinquished ground by virtue of another provision of this Act; or

(e) that is considered as relinquished ground rather than as open ground by virtue of a determination of the Minister after the partial surrender of a mineral tenement; or

(f) that constitutes relinquished ground under the regulations.

(2) An exploration licence has been granted by the Minister.

(3) An exploration licence may be granted—

(a) in relation to an exploration release area; or

(b) in relation to open ground.

(4) If land becomes relinquished ground—

(a) a person may not make an application for an exploration licence in relation to any part of the land; and

(b) a mineral claim may not be established in relation to any part of the land, other than a mineral claim relating to extractive minerals, until the land is subject to an exploration release area notice.

(5) An exploration release area notice will be a notice in a form determined by the Minister and will be issued by the Minister (in such manner as the Minister thinks fit) in relation to relinquished ground at a time determined by the Minister after the land becomes relinquished ground.

(6) An exploration release area notice will specify—

(a) the exploration release area; and
1.7.2011—Mining Act 1971
Exploration licence—Part 5

29—Nature of exploration licence
(1) An exploration licence authorises the holder of the licence to carry out exploration operations of a kind described in the licence in respect of land described, or referred to, in the licence.
(2) An exploration licence must not be granted in respect of extractive minerals.
(3) An exploration licence does not (and cannot) authorise the holder of the licence to carry out exploration operations for precious stones on land within a precious stones field that is outside an opal development area, or on land within an exclusion zone under the Opal Mining Act 1995.

28—Grant of exploration licence
(1) Subject to this Act, the Minister may grant an exploration licence to any person.
(2) An exploration licence authorises the licensee to carry out exploratory operations of a kind described in the licence in respect of land described, or referred to, in the licence.
(2a) However, an exploration licence does not (and cannot) authorise the licensee to carry out exploratory operations for precious stones on land within a precious stones field that is outside an opal development area, or on land within an exclusion zone under the Opal Mining Act 1995.
(3) An exploration licence shall not be granted in respect of extractive minerals.
(5) At least 28 days before the Minister grants an exploration licence, a notice describing the land over which the licence is to be granted and, if the licence is to relate to a particular stratum, specifying the stratum, must be published by the Minister—
(a) in the Gazette; and
(b) in a newspaper circulating generally in the State; and
(c) if there is a regional or local newspaper circulating in the part of the State in which the licence area is situated—in the regional or local newspaper.
(8) If an application for an exploration licence relates to an area within the Murray-Darling Basin, the Minister must, in considering the application, take into account the objects of the River Murray Act 2003 and the Objectives for a Healthy River Murray under that Act.
(9) If an application for an exploration licence relates to an area within or adjacent to a specially protected area, the Minister must, before making his or her decision on the application, refer the application to the relevant Minister and consult with the relevant Minister in relation to the matter.
(10) If an application for an exploration licence is referred to a relevant Minister and the Minister to whom the administration of this Act is committed and the relevant Minister cannot agree—
Mining Act 1971—1.7.2011

Part 5—Exploration licence

(a) on whether an exploration licence should be granted; or

(b) if an exploration licence is granted, on the conditions to which the exploration licence should be subject,

the Ministers must take steps to refer the matter to the Governor and the Governor will determine the matter (and any decision taken by the Governor will be taken to be a decision of the Minister under this Act).

29—Application for exploration licence

(1) An application for an exploration licence

(a) must be made in a manner and form determined by the Minister; and

must be lodged with the Director of Mines

(b) If

(a) an exploration licence has expired or been cancelled or surrendered; or

(b) a part of the area of an exploration licence has been reduced,

an application for a corresponding licence may not be made during a succeeding period specified by the Minister by notice published in a manner and form determined by the Minister.

(2) The applicant shall forward with an application for an exploration licence

(a) must identify the boundaries of the land in respect of which the licence is being sought in accordance with the requirements of this section 56E; and

(b) must be accompanied by such information as may be prescribed by the regulations; and

(c) the prescribed application fee; and

(b) a map on which are delineated the boundaries of the land in respect of which the licence is sought; and

i. (c) a statement outlining the exploratory operations that the applicant proposes to carry out in pursuance of the licence, showing the estimated expenditure to be incurred in carrying out those operations; and

(d) a statement of the technical and financial resources available to the applicant; and

i. (e) a statement of the nature of the minerals for which the applicant proposes to explore.

(d) must be accompanied by the prescribed application fee.

(3) An applicant shall, at the request of the Minister, furnish such further information in relation to his application, or such evidence in support of his application, as the Minister may require.
(1) If an application for an exploration licence is made in accordance with this Act (the relevant application), the relevant application will, for the purposes associated with its consideration and any grant of an exploration licence on the basis of the application, rank ahead of any other application for an exploration licence for an overlapping area received by the Minister after the time that the Minister received the relevant application.

(2) If an application relates to an exploration release area (and is lodged with the Director within the application period for that exploration release area), the following provisions will apply:

(a) if the application is the only application received during the application period—the application will be assessed in accordance with this Act;

(b) if the application is 1 of 2 or more applications received during the application period—

(i) the applications will be ranked according to their merits after taking into account such factors as the Minister considers appropriate in the particular circumstances; and

(ii) the highest ranked application will be considered for the grant of an exploration licence but if 2 or more applications are assessed as being of equal merit, they will be placed in a ballot and the application selected by the ballot will be considered for the grant of an exploration licence in accordance with this Act.

(3) An application that relates to open ground may be made at any time.

(4) The following provisions will apply in relation to applications that relate to open ground:

(a) if, on a particular day, the Director receives only 1 application—the application will be assessed in accordance with this Act (and the determination of the application will take priority ahead of an application for an overlapping area lodged with the Director on a later day);

(b) if, on a particular day, the Director receives 2 or more applications that relate to the same land (wholly or in part)—

(i) the applications will be ranked according to their merits after taking into account such factors as the Minister considers appropriate in the particular circumstances; and

(ii) the highest ranked application will be considered for the grant of an exploration licence but if 2 or more applications are assessed as being of equal merit, they will be placed in a ballot and the application selected by the ballot will be considered for the grant of an exploration licence in accordance with this Act.

(5) The Minister may require the applicant to furnish the Minister with any additional information specified by the Minister (and that information must be furnished within any period specified by the Minister).

(6) A ranking under this section will cease to apply if the Minister cancels the ranking on the ground—
Mining Act 1971—1.7.2011
Part 5—Exploration licence

(a) that the application is found to be invalid; or
(b) that there is some other defect, defect or circumstance that the Minister considers is sufficiently significant to warrant the cancellation of the ranking.

(7) The Minister will not grant an exploration licence unless or until the fee payable under section 31 has been received and if such a fee is not paid in relation to an application that relates to an exploration release area within a period determined by the Minister, the Minister may refuse the application and proceed with the consideration of the application made in relation to the same exploration release area with the next highest ranking (if any) (and if no application is then granted the relevant land will become open ground).

(8) Furthermore, the Minister may at any time and without consultation with the applicant or taking any other step, refuse an application at any stage of its consideration under this Act if—

(a) the applicant fails to comply with a requirement under this Act that is relevant to the making or consideration of the application; or
(b) the Minister considers—

(i) that the applicant has not proceeded with reasonable diligence to obtain any other permission, authorisation, consent or other form of approval under another Act or law that is relevant in the circumstances; or
(ii) that there are other sufficient grounds for not assessing the application further after taking into account the public interest and such other matters as the Minister thinks fit.

(5) Subsection (4) does not apply—

(a) if the application is for a subsequent exploration licence under section 30AB (which will always rank first); or
(b) if—

(i) the application is for a corresponding licence; and
(ii) the Minister has, in the notice under subsection (1a), set a period, commencing on the day specified under that subsection, during which subsection (4) will not apply in relation to competing applications for a corresponding licence; and
(iii) the application has been made during the period set by the Minister; and
(iv) at least 1 other application for a corresponding licence is also made during that period; or
(c) so as to determine priority between 2 or more relevant applications made on the same day.

(6) In a case where subsection (5)(b) or (c) applies, the Minister will determine which application for a corresponding licence should be granted after taking into consideration such factors as the Minister considers appropriate in the particular case.
(7) A ranking established under subsection (4) will cease to apply if the Minister cancels the ranking on the ground—

(a) that the applicant has failed to comply with a requirement under this Act; or

(b) that the application is found to be invalid; or

(c) that there is some other default, defect or circumstances that the Minister considers is sufficiently significant to warrant the cancellation of the ranking.

(8) The Minister may, at any time and without consultation with the applicant or taking any other step, refuse an application at any stage of its consideration under this Act if the Minister considers that there are sufficient grounds for not assessing the application further after taking into account the public interest and such other matters as the Minister thinks fit.

(9) For the purposes of this section, a corresponding licence is an exploration licence over any land—

(a) that has been the subject of a previous exploration licence that has expired or been cancelled or surrendered; or

(b) that has been the subject of an exploration licence where part of the area of the licence has been reduced.

(10) If the Minister, in the notice under subsection (1a), declares that paragraph (b) of subsection (5) will only apply to a part of the land that has been subject to the exploration licence (the declared area), then that paragraph will only apply in relation to an application for an area that overlaps the whole or any part of the declared area.

29B—Grant of exploration licence

(1) If the Minister decides to grant an exploration licence, the licence will be taken to be granted under this Act when the licence is registered on the mining register (and the term of the licence will be taken to commence from the date of registration).

(2) The Minister must give notice of the granting of an exploration licence in the manner prescribed by the regulations.

30—Incidents of licence etc

(1) An exploration licence shall—

(a) describe or delineate the lands in respect of which it is granted; and

(b) be subject to such terms or conditions as may be prescribed and to such additional terms or conditions as the Minister thinks fit and specifies in the licence.

(2) The Minister shall, in determining the terms or conditions subject to which a licence is to be granted under this Part, insofar as the Minister considers to be necessary or appropriate in view of the nature and extent of the licence and any other relevant factor, give consideration to the protection of—

(a) any aspect of the environment that may be affected by the conduct of operations in pursuance of the licence;

(b) any other lawful activities that may be affected by those operations;
Mining Act 1971—1.7.2011

Part 5—Exploration licence

(d) any Aboriginal sites or objects within the meaning of the Aboriginal Heritage Act 1988 that may be affected by those operations, and may take into consideration such other factors as he considers appropriate in the particular case.

(3) It shall be a condition of an exploration licence that the Minister may, at any time, require the holder of the licence to pay to any person an amount of compensation, stipulated by the Minister, to which that person is, in the opinion of the Minister, entitled in consequence of loss or damage suffered by him as a result of operations conducted in pursuance of the licence.

(4) The Minister may, under the terms of an exploration licence or by conditions attached to an exploration licence, limit or define the extent or scope of operations authorised under the licence.

(5) Without limiting any other section, the Minister may add, vary or revoke a term or condition of an exploration licence at any time during the term of the licence considered appropriate by the Minister.

(6) However, if the Minister acts under subsection (5) without the agreement of the holder of the licence, the holder of the licence may appeal to the ERD Court in relation to the matter.

(7) The ERD Court may, on hearing an appeal under subsection (6)—

(a) confirm the action taken by the Minister;

(b) vary or revoke any term or condition imposed by the Minister, or impose any term or condition considered appropriate by the Court;

(c) make any consequential or ancillary order that the Court considers necessary or expedient.

(8) A person must not contravene, or fail to comply with, a term or condition of an exploration licence.

Maximum penalty: $120,000.

30AAA—Expenditure

(1) Subject to this section, it will be a condition of an exploration licence that the tenement holder will achieve at least a level of expenditure specified in or in relation to the licence on operations carried out under the licence in accordance with the requirements of this section (an expenditure commitment).

(2) The initial expenditure commitment will be based on information furnished to the Minister as part of the application for the exploration licence (and may be varied from time to time by the Minister taking into account the operation of this section).

(3) The tenement holder must, at such times as may be prescribed by the regulations, furnish a return in a manner and form determined by the Minister that contains—

(a) a statement—

(i) outlining the exploration operations carried out under the exploration licence within a period prescribed by the regulations; and
(ii) declaring the amount of expenditure incurred in carrying out those operations; and

(b) a statement—

(i) outlining the exploration operations that the tenement holder intends to carry out under the exploration licence over an ensuing period prescribed by the regulations; and

(ii) declaring the amount of expenditure that is estimated to be incurred in carrying out those operations.

(4) A statement under subsection (3)(a)—

(a) must be accompanied by such information or evidence required by the Minister; and

(b) will be registered by the Mining Registrar on the mining register.

(5) Any expenditure commitment under a preceding subsection must at least be at a monetary level set by or under a policy developed and published by the Minister from time to time for the purposes of this section.

(6) A statement under subsection (3)(a), and any information or evidence required under subsection (4)(a), must, if the Minister so requires, be verified by an independent person with qualifications, and in a manner, specified by the Minister.

(7) Any cost associated with a requirement under subsection (6) will be borne by the tenement holder.

(8) A report provided under subsection (6) will, if the Minister so determines, be registered on the mining register.

(9) If—

(a) a person fails to comply with a preceding subsection; or

(b) the Minister has reason to believe that an amount of expenditure that has actually been incurred is less than an expenditure commitment, the Minister may, (without consultation with the tenement holder) alter the relevant exploration licence by reducing the licence area by an amount determined by the Minister.

(10) The Minister may, on application under this subsection, allow a tenement holder or tenement holders to amalgamate their expenditure commitments in relation to 2 or more exploration licences in such manner or to such extent as the Minister may determine.

(11) The Minister may, in assessing an application under subsection (10) take into account such matters as the Minister thinks fit, including—

(a) the relationship between any tenement holders who are parties to the application; and

(b) the proximity of the relevant exploration licences to each other.

(12) If an amalgamation of expenditure commitments is allowed under subsection (10), the exploration licences to which the amalginations relate will be altered by reducing their licence areas by an amount or amounts determined by the Minister after consultation with the tenement holders.
Mining Act 1971—1.7.2011

Part 5—Exploration licence

(13) The Minister may, on application by the tenement holder—
   (a) approve the deferment of an amount of expenditure under an expenditure commitment; or
   (b) approve the variation of an amount of expenditure that would otherwise be required under an expenditure commitment.

(14) This section applies subject to any variation to an expenditure commitment under section 33B.

30AA—Area of licence

(1) The area of the land in respect of which an exploration licence is granted must not exceed 1 000 square kilometres unless, in the opinion of the Minister, circumstances exist that justify the grant of a licence in respect of a greater area.

(2) However, if the exploration licence allows for exploratory operations for precious stones in an opal development area, the area of land in respect of which a licence is granted cannot exceed 20 square kilometres unless, in the opinion of the Minister, circumstances exist that justify the grant of a licence in respect of a greater area.

(3) The holder of an exploration licence may apply to the Minister for approval to surrender a part of the area of the licence under an agreement that is intended to enable another party to the agreement (a designated party) to obtain a new exploration licence in relation to the land to be surrendered.

(4) An application under subsection (3)—
   (a) must be made in a manner and form determined by the Minister; and
   (b) must be accompanied by such information as may be prescribed by the regulations; and
   (c) must be accompanied by the prescribed fee.

(5) An application may not be made under subsection (3)—
   (a) if the exploration licence is due to expire within 2 years of the making of the application; or
   (b) if the other party to the agreement is, in relation to the tenement holder, a related body corporate.

(6) If the Minister decides to consider an application under subsection (3) (and notifies the parties accordingly)—
   (a) the designated party has a period of 6 months to obtain an exploration licence over the land to which the application relates, or such longer period as may be allowed by the Minister; but
   (b) if an exploration licence is not granted to the designated party within the period that applies under paragraph (a), the proposed surrender will be taken to be rejected.

(7) The tenement holder (and the exploration licence) will continue to be subject to all the requirements of this Act in relation to the land to which an application under subsection (3) relates while the designated party seeks to obtain an exploration licence over the land.
8. The tenement holder may at any time withdraw an application under subsection (3) by notice given to the Minister in accordance with the regulations.

9. If an application is withdrawn, an exploration licence will not be granted to the designated party under this section.

10. If an exploration licence is granted to the designated party on application under subsection (3), the land to which the application relates will be taken to have been surrendered by the tenement holder on the date on which the new exploration licence is granted (but will not be considered to be open ground for the purposes of this Part).

11. In addition and without limiting any other provision of this Act, the Minister may at any time, on application by the tenement holder or with the consent of the tenement holder, reduce the area of the licence.

30A—Term and renewal of licence

1. An exploration licence is to be granted for a term decided by the Minister of up to five years.

2. If an exploration licence is granted for a term of less than five years, the licence may include a right of renewal but not so the aggregate term of the licence exceeds five years during this initial period.

3. An exploration licence that does not include in its terms a right of renewal may be renewed at the discretion of the Minister from time to time, but not so the aggregate term of the licence exceeds five years.

4. An application for renewal of an exploration licence must be made to the Minister in a manner and form determined by the Minister before the date of expiry of the licence (including an expiry after 1 or more renewals under this section).

4a. An application under subsection (4) must be accompanied by—

(a) such information as may be prescribed by the regulations; and

(b) any other information that the Minister may require.

5. If an application for the renewal of an exploration licence is not decided before the date on which the licence is due to expire, the licence continues in operation until the application is decided and, if the licence is renewed, the renewal dates from the date on which the licence would, but for this subsection, have expired.

6. The Minister may, on renewing an exploration licence, add, vary or revoke a term or condition of an exploration licence.

6a. The Minister may, on renewing an exploration licence or, with the consent of the holder of the licence, at any other time, alter an exploration licence by reducing the licence area.

7. The following provisions will apply in relation to the renewal of an exploration licence:
Mining Act 1971—1.7.2011

Part 5—Exploration licence

(a) when the term or aggregate term of the licence has reached the period of 6 years from the grant date, the next renewal may be for a period of up to 6 years and if the renewal is granted for a period of less than 6 years then further renewals may be granted until the aggregate period of renewal is 6 years (so that the term of the licence reaches the 12th anniversary of the grant date);

(b) if application is made for renewal of the licence for a period beginning from the 12th anniversary of the grant date—

(i) the term of renewal may be for a period of up to 6 years and if the renewal is granted for a period of less than 6 years then further renewals may be granted until the aggregate period of renewal is 6 years (so that the term of the licence reaches the 18th anniversary of the grant date); and

(ii) the area of the licence must be reduced by 50% (being this percentage of the area of the licence at the grant date) at the time of renewal (from the 12th anniversary of the grant date);

(c) the result will be that the maximum period of an exploration licence with any renewals can be up to (but not exceeding) 18 years.

(8) Subsection (7) is subject to the qualification that—

(a) the Minister and the tenement holder may at any time agree to reduce an area by a percentage that exceeds the percentage referred to in that subsection; and

(b) lesser reductions may be made by the Minister if retention status has been granted in relation to the exploration licence under section 33B.

(9) Despite a preceding subsection, the holder of an exploration licence may, before the date of expiry of the licence, apply to the Minister for the renewal of the licence pending a decision by the Minister on an application for the grant of a mining lease or a retention lease that has been made by the tenement holder under this Act.

(10) If an application for the renewal of an exploration licence is made under subsection (9), the licence continues in operation until the application for the mining lease or retention lease (as the case may be) is decided.

(11) Subsection (10) operates subject to the qualification that on the day on which the licence would otherwise expire—

(a) the area of the licence is reduced, by operation of this subsection, to the area in relation to which the application for the mining lease or retention lease (as the case may be) applies; and

(b) the balance of the area will be taken to be relinquished ground.

(12) This section does not limit the operation of any other section that provides for the relinquishment, excision or other reduction of land in respect of which an exploration licence is granted.

(13) For the purposes of this section, the **grant date** is the date of the original grant of the relevant exploration licence.
If an application for the renewal of an exploration licence relates to an area within or adjacent to a specially protected area, the Minister must, before making his or her decision on the application, refer the application to the relevant Minister and consult with the relevant Minister in relation to the matter.

(8) If an application for the renewal of an exploration licence is referred to a relevant Minister and the Minister to whom the administration of this Act is committed and the relevant Minister cannot agree—

(a) on whether a renewal should be granted; or

(b) if a renewal is granted, on the conditions to which the exploration licence should be subject,

the Ministers must take steps to refer the matter to the Governor and the Governor will determine the matter (and any decision taken by the Governor will be taken to be a decision of the Minister under this Act).

30AB—Subsequent exploration licence

Excise of land for public purpose

(1) If, in the opinion of the Minister, any land comprised in an exploration licence is required for a public purpose, the Minister may, in a manner and form prescribed by the regulations, excise that land from the total area comprised in the licence, and the licence will then cease to apply to the land (but the land will not be considered to be open ground for the purposes of this Part).

(2) If the Minister acts under subsection (1), the tenement holder may apply to the appropriate court for an order that the Minister pay compensation to the tenement holder for the money expended by the tenement holder in prospecting for minerals in the area excised from the total area comprised in the exploration licence.

(3) The appropriate court may, on hearing an application under subsection (2), determine an amount that would fairly compensate the tenement holder to the extent referred to in that subsection and order that the amount so determined be paid by the Minister to the tenement holder (and this amount will be recoverable from the Minister).

(1) The Minister may, on the expiration of an exploration licence the term or aggregate term of which was five years, grant to the licensee an exploration licence (a subsequent exploration licence) over the area of land, or a part of the area of land, to which the former licence applied.

(1a) An application for a subsequent exploration licence must be made to the Minister in a manner and form determined by the Minister at least 3 months before the expiration of an exploration licence the term or aggregate term of which was 5 years.

(1b) If an application for a subsequent exploration licence is not decided before the date on which the immediately preceding exploration licence is due to expire or if the Minister, on application by a person entitled to apply for a subsequent exploration licence (or who would be so entitled but for the expiration of the licence) or on the Minister's own motion, in the Minister's absolute discretion, extends the date by which an application must be made, the licence continues in operation (or, in an appropriate case, is revived) until the application is decided and, if a subsequent exploration licence is granted, the granting of the subsequent exploration licence dates from the date on which the immediately preceding exploration licence would, but for this subsection, have expired.
Mining Act 1971—1.7.2011

Part 5—Exploration licence

(2) An application for a subsequent exploration licence must include the following:
   - (a) a statement outlining the exploratory operations that the licensee has carried out in pursuance of the licence since it was granted (or since it was renewed, if the licence has been renewed), showing the expenditure incurred in carrying out those operations; and
   - (b) a statement that the licensee will—
       - (i) carry out exploratory operations of a kind and to an extent agreed between the Minister and the licensee; and
       - (ii) spend an amount of money agreed between the Minister and the licensee in carrying out those operations.

(3) The holder of a subsequent exploration licence must spend (when considered on an annual basis) at least an amount of money agreed between the Minister and the licensee in carrying out operations under the licence.

(4) However—
   - (a) the Minister may, subject to any terms and conditions as the Minister thinks fit, exempt a licensee from the application of subsection (2) or (3); and
   - (b) the Minister may not, in entering into an agreement with a licensee under subsection (3) require the licensee to spend—
       - (i) if the subsequent exploration licence is granted over the area of land to which the former licence applied—more than double the amount agreed between the Minister and the licensee in relation to the last year of the former licence;
       - (ii) if the subsequent exploration licence is granted over a part of the area of land to which the former licence applied—more than an amount that bears the same proportion to double the amount agreed between the Minister and the licensee in relation to the last year of the former licence as the area of land over which the subsequent exploration licence is granted bears to the area of the former licence.

(5) To avoid doubt, section 30A extends to a subsequent exploration licence under this section.

31—Fee

(1) The holder of an exploration licence shall pay to the Minister, annually and in advance, such fee as may be prescribed.

(1a) A regulation made for the purposes of subsection (1) may—
   - (a) fix various methods for the calculation of a fee (including according to the total area of land in respect of which an exploration licence is granted);
   - (b) fix differential fees on a basis prescribed by the regulations.

(2) The Minister may reduce, remit or refund a fee under this section if, in his opinion, it is necessary or expedient so to do.

(3) The liability to pay a fee under this section is a debt due to the Crown.
### 32—Licensee to keep and, on request, furnish Director with geological records—etc

— (1) The holder of an exploration licence shall keep complete and detailed records of the surveys and other operations conducted in pursuance of the licence and shall, at the request of the Director of Mines, produce the records for the inspection of the Director or an authorised officer.

Administrative penalty.

— (2) The holder of an exploration licence shall furnish the Director of Mines with such information relating to the surveys and other operations conducted by him in pursuance of the licence, and such geological samples obtained by him in the course of those operations, as the Director may require.

Administrative penalty.

### 33—Cancellation, suspension etc of licence

— (1) Where the holder of an exploration licence has contravened, or failed to comply with, any provision of this Act or any condition of the licence, the Minister may suspend the licence (in which case the licence shall, during the period of suspension, be of no force or effect) or cancel the licence.

— (2) Where a licence is cancelled or suspended under subsection (1), the licensee may, within 28 days after the cancellation or suspension, appeal to the ERD Court and the Court may, if it is satisfied that there is no proper ground for the cancellation or suspension, declare that cancellation or suspension void.

— (3) The Minister or the ERD Court may stay the operation of the cancellation or suspension of the licence until the appeal is determined, withdrawn or struck out.

— (3a) The Minister may, as a result of an appeal to the ERD Court, reinstate an exploration licence to a date that coincides with the initial date of a cancellation or suspension, or such later date as may appear to the Minister to be appropriate in the circumstances.

— (4) Where, in the opinion of the Minister, any land comprised in an exploration licence is required for a public purpose, the Minister may, by notice published in the Gazette, excise that land from the total area comprised in the licence, and the licence shall then cease to apply to that land.

— (5) Where the Minister exercises his powers under subsection (4), the holder of the licence may apply to the ERD Court for an order that the Minister compensate him for the money expended by him in prospecting for minerals in the area excised from the total area comprised in the licence, and the ERD Court, upon the hearing of any such application, may determine what amount would fairly compensate the holder of the licence for such expenditure and order that the amount so determined be paid by the Minister to the holder of the licence.

— (6) The Minister shall pay any amount that he is ordered to pay under subsection (5) out of money provided by Parliament.

— (7) The holder of an exploration licence may, with the consent of the Minister, surrender any land comprised in the licence, and the licence shall then cease to apply to that land.
33A—Minister may describe or delineate land in any manner

(1) Subject to the requirements of this Act, the Minister may describe or delineate the land in respect of which an exploration licence is granted in such manner as the Minister deems appropriate.

(2) Section 80 does not apply to the extent that an alteration in the manner in which land is described or delineated results in part of the licence area of one exploration licence being superimposed over land comprising part of the licence area of another licence (as described or delineated immediately before the alteration).

(3) The regulations may, in connection with the operation of subsection (2), prescribe terms and conditions governing the coexistence of exploration licences that have been granted over the same land as a result of the Minister altering the manner in which the land is described or delineated.

(4) If part of the licence area of one exploration licence is superimposed over land comprising part of the licence area of another licence under this section, and rights of one of the licensees in respect of the part are suspended in accordance with the regulations, the suspension of the rights will continue until either of the following occurs:

(a) the part ceases to comprise part of the licence area of the other licence; or

(b) the other licence expires.

33B—Retention status

(1) The holder of an exploration licence may apply to the Minister for approval of retention status in relation to the licence under this section.

(2) An application—

(a) must be made in a manner and form determined by the Minister; and

(b) must identify the boundaries of the land in respect of which retention status is being sought in accordance with the requirements of section 56E; and

(c) must be accompanied by such information as may be prescribed by the regulations.

(3) The Minister may grant retention status in relation to the exploration licence—

(a) if satisfied that the tenement holder has been unable to obtain 1 or more approvals under another Act or Acts that are required before the tenement holder can commence or continue exploration operations in relation to the land to which the application relates; or

(b) if satisfied—

(i) that there is an identified mineral resource located in, on or under the land to which the application relates; and

(ii) that it is unreasonable to expect an application to be made for a mining lease or a retention lease because it is not commercially viable to spend time and money on developing the resources; and

(iii) that it is reasonably likely that mining the relevant land will become commercially viable within the next 6 years; or
(c) if satisfied (in the Minister’s absolute discretion) that there are other circumstances which justify the granting of retention status under this section.

(4) The area of land in relation to which retention status applies will be an area that the Minister considers, after consultation with the tenement holder, to be reasonable in the circumstances (and may be less than the area delineated in the application).

(5) The Minister may, in granting retention status in relation to an exploration licence, or at a subsequent time, do 1 or more of the following:
   (a) provide for a reduction in any expenditure commitment applying under section 30AAA;
   (b) provide for less reduction in the area of the licence applying in relation to a renewal of the licence under section 30A;
   (c) provide for a reduction in the fees that would otherwise be payable under section 31.

(6) Retention status is to be granted for a term determined by the Minister of up to 6 years.

(7) If retention status is granted for a term of less than 6 years, the Minister may extend the term (from time to time) so the aggregate term of retention status does not exceed 6 years.

(8) The Minister may then extend the term of retention status beyond 6 years if satisfied that the grounds on which retention status may be granted under subsection (3) still apply in relation to the matter.

(9) The Minister may, when granting retention status in relation to an exploration licence, or at a subsequent time, make it a condition of the licence that the tenement holder carry out work, in accordance with a work program approved by the Minister, in relation to land to which the retention status applies.

(10) A work program to be carried out by the tenement holder must, if the Minister so requires, be submitted with the application for retention status and from time to time as required under a condition of the licence imposed under subsection (9).

(11) The Minister may approve a proposed work program with or without addition or modification.

(12) The Minister may, on application by the tenement holder—
   (a) approve deferment of any work to be carried out under an approved work program; or
   (b) approve the variation of an approved work program; or
   (c) cancel an approved work program.

(13) The Minister may, at any time, by notice in writing accompanied by such information or evidence as required by the Minister, require the holder of an exploration licence that has retention status by virtue of the operation of subsection (3)(b) or (c) to show cause—
   (a) why 1 or more approvals required under another Act or Acts have not been obtained; or
Mining Act 1971—1.7.2011

Part 5—Exploration licence

(b) why a mining lease or retention lease should not be applied for in relation to the whole or any part of the land comprised in the exploration licence.

(14) If—

(a) the holder of the exploration licence fails to show cause (to the satisfaction of the Minister) within a period specified by the Minister in a notice under subsection (13); or

(b) the Minister considers that the holder of the exploration licence has failed to show sufficient cause,

the Minister may, by further notice to the tenement holder, require the tenement holder to apply in accordance with this Act for a mining lease or a retention lease in relation to the whole or any part of the land comprised in the exploration licence.

(15) If the tenement holder fails to comply with a notice under subsection (14) within a period specified by the Minister, or an application for a mining lease or retention lease is unsuccessful after a notice has been issued under subsection (14), any retention status applying in relation to the land to which the notice relates will expire and the land will be excised from the area of the exploration licence and become relinquished ground.

(16) If—

(a) land in relation to which retention status applies is not subject to a notice under subsection (13); and

(b) the term of retention status comes to an end while the exploration licence is still in force,

the land will return to its original status under the exploration licence.
Part 6—Mining leases

34—Grant of mining lease

Preliminary

(1) Subject to Part 9B of this Act, the Minister may grant a mining lease to the holder, or to a related body corporate of the holder, of—

(a) the holder of a registered mineral claim, in respect of the whole or part of the land comprised in the claim; or

(b) an exploration licence, in respect of the whole or part of land comprised in the licence; or

(c) to the holder of a retention lease, in respect of the whole or part of the land comprised in the lease.

(2) If a registered mineral claim or exploration licence relates to a particular stratum, the mining lease must, if granted, relate to the same stratum.

(3) A mining lease must not be granted in respect of land within a subsurface stratum except on the authority of a resolution passed by both Houses of Parliament.

(4) A mining lease is not required to be registered under the Real Property Act 1886.

35—Nature of mining lease

(1) A mining lease—

(a) confers an exclusive right on the holder of the lease to carry out mining operations subject to the provisions of this Act and the terms and conditions of the lease for the recovery of minerals from the land comprised in the lease; and

(b) authorises the holder of the lease to sell, or dispose of, minerals recovered in the course of mining operations carried out under the lease or to use any such minerals.

(2) A mining lease may be of a class prescribed by the regulations and subject to terms and conditions prescribed by the regulations in relation to that class, subject to any determination of the Minister as to the modification of any such term or condition.

(3) In addition, a mining lease is subject to—

(a) such terms and conditions as may be prescribed; and

(b) such additional terms and conditions (if any) as the Minister thinks fit and specifies in the lease.

[13.12.2016] This version is not published under the Legislation Revision and Publication Act 2002
Mining Act 1971—1.7.2011

Part 6—Mining leases

(4) A mining lease shall, in addition to such terms and conditions as may be prescribed, be subject to such additional terms and conditions (if any) as the Minister thinks fit and specifies in the lease.

(5) The maximum permissible area of the land in respect of which a mining lease may be granted shall be as prescribed.

(6) The Minister shall, in determining the terms and conditions subject to which a lease is to be granted under this Part, give proper consideration to the protection of—

(a) any aspect of the environment that may be affected by the conduct of operations in pursuance of the lease;

(b) any other lawful activities that may be affected by those operations;

(d) any Aboriginal sites or objects within the meaning of the Aboriginal Heritage Act 1988 that may be affected by those operations,

and may take into consideration such other factors as he considers appropriate in the particular case.

(7) It shall be a condition of a mining lease that the Minister may, at any time, require the holder of the lease to pay to any person an amount of compensation, stipulated by the Minister, to which that person is, in the opinion of the Minister, entitled in consequence of the conduct of mining operations in pursuance of the lease.

(8) The Minister may, under the terms of a mining lease or by conditions attached to a mining lease, limit or define the extent or scope of operations authorised under the lease.

(9) Without limiting any other provision, the Minister may add, vary or revoke a term or condition of a mining lease at any time if, in the Minister’s opinion, the addition, variation or revocation is necessary to prevent, reduce, minimise or eliminate undue damage to the environment associated with mining operations conducted pursuant to the lease.

(10) The Minister must take reasonable steps to consult with the holders of the lease before acting under subsection (9).

(11) If—

(a) the Minister takes action under subsection (9) during the term of the lease; and

(b) the Minister acts without the agreement of the holder of the lease,

the holder of the lease may appeal to the ERD Court in relation to the matter.

(12) The ERD Court may, on hearing an appeal under subsection (11)—

(a) confirm the action taken by the Minister;

(b) vary or revoke any term or condition imposed by the Minister, or impose any term or condition considered appropriate by the Court;

(c) make any consequential or ancillary order that the Court considers necessary or expedient.
1.7.2011—Mining Act 1971

Mining leases—Part 6

---

(13) A person must not contravene, or fail to comply with, a condition of a mining lease. Maximum penalty: $120,000.

365—Application for mining lease

(1) An application for a mining lease

(a) must be made in a manner and form determined by the Minister; and

(b) must identify the boundaries of the land in respect of which the lease is being sought in accordance with the requirements of section 56E; and

(c) must be accompanied by a mining proposal—

(i) specifying the mining authorised operations that the applicant propose to be carried out in pursuance of under the lease—(including details of the mining methods proposed and a description of the existing environment); and

(ii) setting out—

(A) an assessment of the environmental impacts of the proposed mining operations; and

(B) an outline of the measures that the applicant proposes to take to manage, limit or remedy those environmental impacts; and

(C) a statement of the environmental outcomes that are accordingly expected to occur; and

(iii) incorporating a draft statement of the criteria to be adopted to measure those expected environmental outcomes, in the form prescribed by the regulations; and

(iv) setting out the results of any consultation undertaken in connection with the proposed mining operations in accordance with the regulations; and

(b) must be accompanied by such other information as may be prescribed by the regulations the Minister requires; and

(c) must be accompanied by the prescribed fee.

(2) The Minister may require the applicant to furnish the Minister with any additional such information specified by the Minister (and that information must be furnished within any period specified by the Minister) and surveys as the Minister thinks fit.

(2a) If an application for a mining lease relates to an area within the Murray-Darling Basin, the Minister must, in considering the application, take into account the objects of the River Murray Act 2003 and the Objectives for a Healthy River Murray under that Act.

(2b) If an application for a mining lease relates to an area within or adjacent to a specially protected area, the Minister must, before making his or her decision on the application, refer the application to the relevant Minister and consult with the relevant Minister in relation to the matter.
Part 6—Mining leases

(2c) If an application for a mining lease is referred to a relevant Minister and the Minister—

to whom the administration of this Act is committed and the relevant Minister cannot—

--- agree---

(a) on whether a mining lease should be granted; or

(b) if a mining lease is granted, on the conditions to which the mining lease—

should be subject,

the Ministers must take steps to refer the matter to the Governor and the Governor will—

determine the matter (and any decision taken by the Governor will be taken to be a—

decision of the Minister under this Act).

37—Approval of application and registration

(1) The Minister—

(a) must--- shall--- not grant a mining lease—

(b) unless the Minister— unless he— is satisfied---

(i) that there is a reasonable prospect that the land in respect of which the lease—

is sought could be effectively and efficiently mined; and

(ii) that appropriate environmental outcomes will be able to be achieved; and

(b) must not grant a mining lease if the Minister considers that sufficient—

investigations have not been carried out in order to enable the Minister to determine—

the terms and conditions on which the lease could be granted.

(2) However, if the Minister cannot grant a mining lease by virtue of the operation of—

subsection (1), the Minister may instead, with the concurrence of the applicant for the—

mining lease (and on the basis of such further application by the applicant as the—

Minister thinks fit), grant a retention lease under Part 6A.

(3) If the Minister decides to grant a mining lease, the lease will be taken to be granted—

under this Act when the lease is registered on the mining register (and the term of the—

lease will be taken to commence from the date of registration).

35A—Representations in relation to grant of lease

(1) The Minister must not grant a mining lease unless he or she has caused to be—

published, in accordance with subsection (4), a notice—

(a) describing the land to which the application relates and, if relevant, the—

particular stratum to which a lease would relate; and

(b) specifying a place at which the application may be inspected; and

(c) inviting members of the public to make written submissions in relation to the—

application to the Minister within a period specified in the notice (which must—

be a period of at least 14 days from the date of publication of the notice).

(1a) The Minister must, within 14 days after receiving an application for a mining lease—

give written notice of the application to the owner of the land to which the application—

relates together with an invitation to submit written representations on the application—

within a specified time.
(2) Where application is made for a mining lease in respect of land within the area of a council, the Minister shall, within 14 days after receiving the application, send a copy of the application to the council and invite it to submit written representations on the application to the Minister within a time fixed in the invitation.

(3) In determining whether to grant or refuse an application for a mining lease and, if so, the terms and conditions on which it should be granted, the Minister shall have regard to any representations made in response to an invitation under this section.

(4) A notice under this section must be published—

— (a) in the Gazette; and

— (b) in a newspaper circulating generally throughout the State; and

— (c) if there is a regional or local newspaper circulating in the part of the State in which the area of the proposed lease is situated—in the regional or local newspaper; and

— (d) on a website maintained by the Department to which the public has access free of charge.

35B Notification of decision on application

As soon as practicable after determining whether to grant or refuse an application for a mining lease, the Minister must—

— (a) provide written notification of the following to each person who made a written representation in relation to the application (and whose identity and contact details are known to the Minister):

— (i) the determination;

— (ii) the date of the determination;

— (iii) if a lease has been granted—the terms and conditions of the lease; and

— (b) cause the determination to be published on a website maintained by the Department to which the public has access free of charge, together with, if a lease has been granted, a copy of the lease.

36 Approval of application

(1) Where a person has applied for a mining lease and has been notified in writing by or on behalf of the Minister that the Minister has approved the application, the applicant shall be liable for the payment of rent, and any other sum, payable by the holder of a mining lease of the kind for which approval has been granted, and shall be deemed to be the holder of such a lease comprising the land in respect of which the lease is sought as from the date of the notification.

(2) Where written notification that the Minister has approved an application for a lease is given under subsection (1), the term of the lease shall commence from the date of the notification.
Mining Act 1971—1.7.2011

Part 6—Mining leases

37—Nature of lease

(1) A mining lease must describe or delineate the land in respect of which it is granted with as much particularity as is reasonably practicable.

(2) A mining lease is not required to be registered under the Real Property Act 1886.

38—Term and renewal of mining lease

(1) A mining lease may be granted for such term, not exceeding 21 years, as may be determined by the Minister and specified in the lease.

(2) The holder of a mining lease may apply for the renewal of the lease before the expiration of the term of the lease. Subject to the terms and conditions of the mining lease, the holder of the lease shall, if he has complied with the provisions of this Act and the terms and conditions of the lease during the term for which the lease was granted or last renewed, be entitled, at the expiration of that term, to the renewal of the lease for a further term.

(3) An application for the renewal of a mining lease must be made to the Minister in a manner and form determined by the Minister before the date of expiry of the lease.

(4) Where a person who is entitled to the renewal of a mining lease under this section makes due application in a manner and form determined by the Minister for the renewal of the lease not more than 6 months, and not less than 3 months, before the date of its expiry, the Minister shall renew the lease for a term, not exceeding 21 years, determined by the Minister.

(5) An application under subsection (3) must be accompanied by any other information that the Minister may require.

(6) If an application for the renewal of a mining lease is not decided before the date on which the lease is due to expire or if the Minister, on application by a person entitled to renew a lease (or who would be so entitled but for the expiration of the lease) or on the Minister’s own motion, in the Minister’s absolute discretion, extends the date by which an application must be made, the lease continues in operation (or, in an appropriate case, is revived) until the application for the renewal is decided and, if the lease is renewed, the renewal dates from the date on which the lease would, but for this subsection, have expired.

(7) If an application for the renewal of a mining lease relates to an area within or adjacent to a specially protected area, the Minister must, before making his or her decision on the application, refer the application to the relevant Minister and consult with the relevant Minister in relation to the matter.

(8) If an application for the renewal of a mining lease is referred to a relevant Minister and the Minister to whom the administration of this Act is committed and the relevant Minister cannot agree—

(a) on whether a renewal should be granted; or

(b) if a renewal is granted, on the conditions to which the mining lease should be subject, the Ministers must take steps to refer the matter to the Governor and the Governor will determine the matter (and any decision taken by the Governor will be taken to be a decision of the Minister under this Act).
If the Minister decides to grant a renewal, the mining lease will be renewed for a term determined by the Minister and specified in the lease.

39—Rights conferred by lease

— (1) A mining lease—

__________ (a) confers an exclusive right upon the holder of the lease to conduct mining operations subject to the provisions of this Act and the terms and conditions of the lease for the recovery of minerals from the land comprised in the lease; and

__________ (b) authorises the holder of the lease to sell, or dispose of, minerals recovered in the course of mining operations conducted in pursuance of the lease or to utilise any such minerals for any commercial or industrial purpose.

— (2) A mining lease may, in prescribed circumstances, authorise the recovery, use and sale or disposal of extractive minerals produced as a result of operations conducted in pursuance of the lease.

— (3) The Minister must consult with the owner of the land where the operations are to be carried out before granting an authorisation under subsection (2) (unless the owner of the land is (or is to be) the holder of the mining lease).

— (4) If an authorisation is granted under subsection (2), the relevant extractive minerals will not be taken to constitute extractive minerals for the purposes of the operation of the other provisions of this Act subject to the operation of subsection (6).

— (5) Without limiting subsection (4), if any authorisation is granted, section 75(1) will not apply in respect of the minerals.

— (6) The royalty payable on extractive minerals within the ambit of an authorisation under subsection (2) will be imposed at the rate that applies under section 17(4)(a).

— (7) A mining lease granted in respect of extractive minerals may, in prescribed circumstances, authorise the recovery, use and sale or disposal of other minerals produced as a result of operations conducted in pursuance of the lease.

— (8) The royalty payable on minerals (not being extractive minerals) within the ambit of an authorisation under subsection (7) will be imposed at the rate that applies under section 17(4)(b).

40—Rental

— (1) A mining lease shall provide for the payment, by way of rental, of such sum as may be prescribed.

— (2) If a mining lease is granted over land consisting of, or including, land subject to a relevant interest (ie an estate of fee simple or native title conferring a right to exclusive possession of the land), the amount paid to the Minister by way of rental under the lease must, after deduction of 5% be dealt with in accordance with the following principles—

__________ (a) the proportionate entitlement of each holder of a relevant interest in the land must be worked out by determining what proportion of the total area of the land subject to the lease is represented by land in which the holder holds a relevant interest; and
Mining Act 1971—1.7.2011

Part 6—Mining leases

(b) a proportion of the net amount available for distribution, equivalent to the holder’s proportionate entitlement, must be paid to each holder of a relevant interest in land subject to the lease; and

c) if a balance remains after distribution under paragraph (b), the balance is to be retained by the Minister.

(3) If no one is registered under the law of the State or the Commonwealth as the holder of native title in native title land over which a mining lease has been granted, the Minister must establish a trust fund and pay the amount to which the holder of native title is entitled under subsection (2) into the trust fund until a determination is made of who is entitled to the payment.

(4) If no valid claim has been made on the trust fund within five years after its establishment, the Minister may dissolve the fund and pay the amount standing to its credit into the Consolidated Account but, if the fund is dissolved, any claim that might have been made against the fund assuming that it had continued in existence may be made instead against the State.

Note—
1 The net amount remaining after the 5% deduction is referred to subsequently as the net amount available for distribution.

41—Suspension or cancellation of lease

(1) The Minister may suspend or cancel a mining lease if the lessee contravenes or fails to comply with a term or condition of the lease or a provision of this Act.

(2) Before exercising powers under subsection (1), the Minister must comply with any stipulations in the lease relating to the taking of such action.

(3) If a mining lease is suspended or cancelled under this section, the lessee may, within 28 days of the suspension or cancellation, appeal to the ERD Court and the Court may, if satisfied that there is no proper ground for the suspension or cancellation, declare the suspension or cancellation void.

(4) The Minister or the ERD Court may stay the operation of the suspension or cancellation of the lease until the appeal is determined, withdrawn or struck out.

(5) The Minister may, as a result of an appeal to the ERD Court, reinstate a mining lease to a date that coincides with the initial date of a cancellation or suspension, or such later date as may appear to the Minister to be appropriate in the circumstances.
Part 6A—Retention leases

42—Preliminary

(1) Subject to this Act, the Minister may grant a retention lease to the holder, or to a related body corporate of the holder, of—

(a) a registered mineral claim, in respect of the whole or part of land comprised in the claim; or

(b) an exploration licence, in respect of the whole or part of land comprised in the licence; or

(c) a mining lease, in respect of the whole or part of land comprised in the lease.

(2) If a registered mineral claim or exploration licence relates to a particular stratum, the retention lease must, if granted, relate to the same stratum.

(3) A retention lease is not required to be registered under the Real Property Act 1886.

431A—Grant Nature of retention lease

(1) The Minister may, subject to this section and Part 9B, grant to the holder of a registered mineral claim a retention lease of the whole or part of the land comprised in the claim.

(1a) Where the registered mineral claim relates to a particular stratum, the lease shall, if granted, relate to the same stratum.

(12) A retention lease is a mineral tenement that is granted in any of the following cases:

(a) where the applicant seeks an authorisation to carry out authorised operations to obtain information required to support an application for a mining lease where those authorised operations are not suited to being conducted under an exploration licence;

(b) where the Minister is acting under section 37(2) after a mining proposal has been the subject of an application for a mining lease under Part 6;

(c) where for economic or other reasons the applicant is, in the opinion of the Minister, justified in not proceeding immediately to mine the land under in pursuance of a mining lease; or

(b) where in the opinion of the Minister sufficient investigation has not yet been carried out to enable him to determine the terms and conditions upon which a mining lease should be granted; or

(c) where the applicant seeks an authorisation to carry out mining operations for the recovery of a radioactive mineral and the Minister thinks it desirable to defer the granting of a mining lease endorsed with such an authorisation.

(2) A retention lease—

(a) confers an exclusive right on the tenement holder to prospect for minerals on the land comprised in the lease; and
Mining Act 1971—1.7.2011

Part 6A—Retention leases

(b) confers on the tenement holder such other rights to conduct authorised operations in respect of the land comprised in the lease as may be specified in the lease; and

(c) confers on the tenement holder an exclusive right to apply for a mining lease in respect of the land comprised in the lease.

(3) A retention lease is subject to—

(a) such terms and conditions as may be prescribed; and

(b) such additional terms and conditions (if any) as the Minister thinks fit and specifies in the lease.

(3a) If an application for a retention lease relates to an area within the Murray-Darling Basin, the Minister must, in considering the application, take into account the objects of the River Murray Act 2003 and the Objectives for a Healthy River Murray under that Act.

(3b) If an application for a retention lease relates to an area within or adjacent to a specially protected area, the Minister must, before making his or her decision on the application, refer the application to the relevant Minister and consult with the relevant Minister in relation to the matter.

(3c) If an application for a retention lease is referred to a relevant Minister and the Minister to whom the administration of this Act is committed and the relevant Minister cannot—

(a) on whether a retention lease should be granted; or

(b) if a retention lease is granted, on the conditions to which the retention lease should be subject,

the Ministers must take steps to refer the matter to the Governor and the Governor will determine the matter (and any decision taken by the Governor will be taken to be a decision of the Minister under this Act).

(4) A retention lease shall be subject to—

(a) such terms and conditions as may be prescribed; and

(b) such additional terms and conditions (if any) as the Minister thinks fit and specifies in the lease.

(5) The Minister shall, in determining terms and conditions subject to which a lease is to be granted under this Part, give proper consideration to the protection of—

(a) any aspect of the environment that may be affected by the conduct of operations in pursuance of the lease;

(b) any other lawful activities that may be affected by those operations;

(d) any Aboriginal sites or objects within the meaning of the Aboriginal Heritage Act 1988 that may be affected by those operations;

and may take into consideration such other factors as he considers appropriate in the particular case.
1.7.2011—Mining Act 1971
Retention leases—Part 6A

(6) Without limiting any other provision, the Minister may add, vary or revoke a term or condition of a retention lease at any time if, in the Minister's opinion, the addition, variation or revocation is necessary to prevent, reduce, minimise or eliminate undue damage to the environment associated with mining operations conducted pursuant to the lease.

(7) The Minister must take reasonable steps to consult with the holder of the lease before acting under subsection (6).

(8) If

(a) the Minister takes action under subsection (6) during the term of the lease; and

(b) the Minister acts without the agreement of the holder of the lease, the holder of the lease may appeal to the ERD Court in relation to the matter.

(9) The ERD Court may, on hearing an appeal under subsection (8)

(a) confirm the action taken by the Minister;

(b) vary or revoke any term or condition imposed by the Minister, or impose any term or condition considered appropriate by the Court;

(c) make any consequential or ancillary order that the Court considers necessary or expedient.

(10) A person must not contravene, or fail to comply with, a condition of a retention lease. Maximum penalty: $120 000.

441B—Application for retention lease

(1) An application for a retention lease—

(a) must be made in a manner and form determined by the Minister; and

(b) must identify the boundaries of the land in respect of which the lease is being sought in accordance with the requirements of section 56E; and

(c) except as provided by the regulations, must be accompanied by a retention proposal—

(i) specifying the operations or steps that are proposed to be carried out in order for the applicant to be in a position to make an application for a mining lease; and

(ii) setting out—

(A) an assessment of the environmental impacts of any the proposed authorised operations to be carried out under the lease; and

(B) an outline of the measures that the applicant intends to take to manage, limit or remedy those impacts; and

(C) a statement of the environmental outcomes that are accordingly expected to occur; and

(iii) incorporating a draft statement of the criteria to be adopted to measure those environmental outcomes, in a form prescribed by the regulations; and

[13.12.2016] This version is not published under the Legislation Revision and Publication Act 2002
Mining Act 1971—1.7.2011

Part 6A—Retention leases

(iv) setting out the results of the consultation undertaken in connection with the any proposed operations in accordance with the regulations; and

(d) must be accompanied by such other information as may be prescribed by the regulations; and

(e) must be accompanied by the prescribed fee.

(2) The Minister may require the applicant to furnish the Minister with such any additional information specified by the Minister (and that information must be furnished within any period specified by the Minister) and surveys as the Minister thinks fit.

(3) The Minister may exempt an applicant from complying with specified requirements of this section if the retention lease is to be granted under section 376B(2).

41BA—Representations in relation to grant of retention lease

45—Approval of application and registration

(1) Without limiting any other provision, and except as provided by the regulations, the Minister must not grant a retention lease unless the Minister is satisfied that appropriate environmental outcomes will be able to be achieved.

(2) If the Minister decides to grant a retention lease, the lease will be taken to be granted under this Act when the lease is registered on the mining register (and the term of the lease will be taken to commence from the date of registration).

(1) The Minister must not grant a retention lease unless he or she has caused to be published in a newspaper circulating generally throughout the State a notice—

— (a) describing the land to which the application relates and, if relevant, the particular stratum to which a lease would relate; and

— (b) specifying a place at which the application may be inspected; and

— (c) inviting members of the public to make written submissions in relation to the application to the Minister within a period specified in the notice (which must be a period of at least 14 days from the date of publication of the notice).

(2) The Minister must, within 14 days after receiving an application for a retention lease, give written notice of the application to the owner of the land to which the application relates together with an invitation to submit written representations on the application within a specified time.

(3) If an application is made for a retention lease in respect of land within the area of a council, the Minister must, within 14 days after receiving the application, send a copy of the application to the council and invite it to submit written representations on the application to the Minister within a time fixed in the invitation.

(4) In determining whether to grant or refuse an application for a retention lease and, if so, the terms and conditions on which it should be granted, the Minister must have regard to any representations made in response to an invitation under this section.

41C—Nature of lease

(1) A retention lease must describe or delineate the land in respect of which it is granted—

with as much particularity as is reasonably practicable.
46ID—Term and renewal of retention lease

(1) A retention lease may be granted for such term, not exceeding 5 years, as may be determined by the Minister and specified in the lease.

(2) The holder of a retention lease may apply for the renewal of the lease before the expiration of the term of the lease, not later than 3 months before the expiration of the term of the lease, to the Minister, in a manner and form determined by the Minister, for the renewal of the lease.

(3) An application must be made to the Minister in a manner and form determined by the Minister; and

(4) The application must be accompanied by such information as may be prescribed by the regulations.

If the application complies with this Act and with the terms and conditions to which the lease is subject, the Minister may renew the lease for a further term, not exceeding 5 years, on such terms and conditions as he thinks fit.

(4) The Minister may require the applicant to furnish the Minister with any additional information specified by the Minister (and the information must be furnished within any period specified by the Minister).

(5) If an application for the renewal of a retention lease is not decided before the date of expiry or if the Minister, on application by a person entitled to renew a lease (or who would be so entitled but for the expiration of the lease) or of the Minister’s own motion, in the Minister’s absolute discretion, extends the date by which an application must be made, the lease continues in operation (or, in an appropriate case, is revived) until the application for the renewal is decided and, if the lease is renewed, the renewal dates from the date on which the lease would, but for this subsection, have expired.

(6) If an application for the renewal of a retention lease is not decided before the date on which the lease is due to expire, the lease continues in operation until the application is decided and, if the lease is renewed, the renewal dates from the date on which the lease would, but for this subsection, have expired.

If an application for the renewal of a retention lease relates to an area within or adjacent to a specially protected area, the Minister must, before making his or her decision on the application, refer the application to the relevant Minister and consult with the relevant Minister in relation to the matter.

(6) If the Minister decides to grant a renewal, the retention lease will be renewed for a term determined by the Minister and specified in the lease.

If an application for the renewal of a retention lease is referred to a relevant Minister and the Minister to whom the administration of this Act is committed and the relevant Minister cannot agree—

—(a) on whether a renewal should be granted; or
—(b) if a renewal is granted, on the conditions to which the retention lease should be subject.
Mining Act 1971—1.7.2011

Part 6A—Retention leases

the Ministers must take steps to refer the matter to the Governor and the Governor will determine the matter (and any decision taken by the Governor will be taken to be a decision of the Minister under this Act).

41E—Rental

—(1) A retention lease shall provide for the payment, by way of rental, of such sum as may be prescribed.

—(2) If a retention lease is granted over land consisting of, or including, land subject to a relevant interest (ie an estate of fee simple or native title conferring a right to exclusive possession of the land), the amount paid to the Minister by way of rental under the lease must, after deduction of 5%, be dealt with in accordance with the following principles—

— (a) the proportionate entitlement of each holder of a relevant interest in the land must be worked out by determining what proportion of the total area of the land subject to the lease is represented by land in which the holder holds a relevant interest; and

— (b) a proportion of the net amount available for distribution, equivalent to the holder’s proportionate entitlement, must be paid to each holder of a relevant interest in land subject to the lease; and

— (c) if a balance remains after distribution under paragraph (b), the balance is to be retained by the Minister.

—(3) If no one is registered under the law of the State or the Commonwealth as the holder of native title in native title land over which a retention lease has been granted, the Minister must establish a trust fund and pay the amount to which the holder of native title is entitled under subsection (2) into the trust fund until a determination is made of who is entitled to the payment.

—(4) If no valid claim has been made on the trust fund within five years after its establishment, the Minister may dissolve the fund and pay the amount standing to its credit into the Consolidated Account but, if the fund is dissolved, any claim that might have been made against the fund assuming that it had continued in existence may be made instead against the State.

Note—

1 The net amount remaining after the 5% deduction is referred to subsequently as the net amount available for distribution.

41F—Rights conferred by lease

A retention lease shall—

— (a) confer an exclusive right upon the holder of the lease to prospect for minerals in the land comprised in the lease; and

— (b) confer on the holder of the lease such other rights to conduct mining operations in respect of the land comprised in the lease as may be stipulated in the lease; and

— (c) confer on the holder of the lease an exclusive right to apply for a mining lease in respect of the land comprised in the lease.
Part 8—Miscellaneous purposes licences

47—Preliminary

(1) The Minister may grant to any person a miscellaneous purposes licence in respect of mineral land.

(2) A miscellaneous purposes licence may not be granted over an area of land exceeding the maximum permissible area prescribed by the regulations.

48—Nature of miscellaneous purposes licence

(1) A miscellaneous purposes licence is a mineral tenement that is granted for ancillary operations.

(2) The Minister may, under the terms of a miscellaneous purposes licence or by conditions attached to a miscellaneous purposes licence, limit or define the scope of operations authorised under the licence.

(3) A miscellaneous purposes licence is subject to—

(a) such terms and conditions as may be prescribed; and

(b) such additional terms and conditions (if any) as the Minister thinks fit and specifies in the licence.

49—Application for miscellaneous purposes licence

(1) An application for a miscellaneous purposes licence—

(a) must be made in a manner and form determined by the Minister; and

(b) must identify the boundaries of the land in respect of which the licence is being sought in accordance with the requirements of section 56E of this Act; and

(c) must be accompanied by a proposal—

(i) specifying the nature and extent of the ancillary operations that are proposed to be carried out under the licence; and

(ii) setting out—

(A) an assessment of the environmental impacts of the proposed operations; and

(B) an outline of the measures that the applicant intends to take to manage, limit or remedy those impacts; and

(C) a statement of the environmental outcomes that are accordingly expected to occur; and

(iii) incorporating a draft statement of the criteria to be adopted to measure those environmental outcomes, in a form prescribed by the regulations; and

(iv) setting out the results of the consultation undertaken in connection with the proposed operations in accordance with the regulations; and

(d) must be accompanied by such information as may be prescribed by the regulations; and

(e) must be accompanied by the prescribed fee.
(2) The Minister may require the applicant to furnish the Minister with any additional information specified by the Minister (and that information must be furnished within any period specified by the Minister).

52—Grant of miscellaneous purposes licence

(1) The Minister may grant to any person a miscellaneous purposes licence under this Part in respect of mineral land.

(3) A licence may be granted for any of the following purposes:

(a) for the carrying on of any business that may conduce to the effective conduct of mining operations or provide amenities for persons engaged in the conduct of mining operations; or

(b) for establishing and operating plant for the treatment of ore recovered in the course of mining operations; or

(c) for drainage from a mine; or

(d) for the disposal of overburden or any waste produced by mining operations; or

(e) any other purpose directly relating to the conduct of mining operations, and may be granted upon such terms and conditions as may be determined by the Minister and specified in the licence.

(3a) If an application for a miscellaneous purposes licence relates to an area within the Murray-Darling Basin, the Minister must, in considering the application, take into account the objects of the River Murray Act 2003 and the Objectives for a Healthy River Murray under that Act.

(3b) If an application for a miscellaneous purposes licence relates to an area within or adjacent to a specially protected area, the Minister must, before making his or her decision on the application, refer the application to the relevant Minister and consult with the relevant Minister in relation to the matter.

(3c) If an application for a miscellaneous purposes licence is referred to a relevant Minister and the Minister to whom the administration of this Act is committed and the relevant Minister cannot agree—

(a) on whether a miscellaneous purposes lease should be granted; or

(b) if a miscellaneous purposes lease is granted, on the conditions to which the miscellaneous purposes lease should be subject;

the Ministers must take steps to refer the matter to the Governor and the Governor will determine the matter (and any decision taken by the Governor will be taken to be a decision of the Minister under this Act).

(4) The Minister shall, in determining the terms and conditions subject to which a licence is to be granted under this Part, give proper consideration to the protection of—

(a) any aspect of the environment that may be affected by the conduct of operations in pursuance of the licence;

(b) any other lawful activities that may be affected by those operations;

(d) any Aboriginal sites or objects within the meaning of the Aboriginal Heritage Act 1988 that may be affected by those operations,

and may take into consideration such other factors as he considers appropriate in the particular case.
1.7.2011—Mining Act 1971

Miscellaneous purposes licence—Part 8

(4a) The Minister may, under the terms of a miscellaneous purposes licence or by conditions attached to a miscellaneous purposes licence, limit or define the extent or scope of operations authorised under the licence.

(4b) Without limiting any other provision, the Minister may add, vary or revoke a term or condition of a miscellaneous purposes licence at any time if, in the Minister’s opinion, the addition, variation or revocation is necessary to prevent, reduce, minimise or eliminate undue damage to the environment associated with mining operations conducted pursuant to the licence.

(4c) The Minister must take reasonable steps to consult with the holder of the licence before acting under subsection (4b).

(4d) If—

(a) the Minister takes action under subsection (4b) during the term of the licence; and

(b) the Minister acts without the agreement in writing of the holder of the licence, the holder of the licence may appeal to the ERD Court in relation to the matter.

(4e) The ERD Court may, on hearing an appeal under subsection (4d)—

(a) confirm the action taken by the Minister;

(b) vary or revoke any term or condition imposed by the Minister, or impose any term or condition considered appropriate by the Court;

(c) make any consequential or ancillary order that the Court considers necessary or expedient.

(4f) A person must not contravene, or fail to comply with, a condition of a miscellaneous purposes licence.

Maximum penalty: $120,000.

(5) A miscellaneous purposes licence cannot be granted over an area of land exceeding the maximum permissible area prescribed by the regulations.

(6) A miscellaneous purposes licence must provide for the payment, by way of rental, of such sums as may be prescribed.

(7) If a miscellaneous purposes licence is granted over land consisting of, or including, land subject to a relevant interest (ie an estate of fee simple or native title conferring a right to exclusive possession of the land), the amount paid to the Minister by way of rental under the licence must, after deduction of 5%, be dealt with in accordance with the following principles—

(a) the proportionate entitlement of each holder of a relevant interest in the land must be worked out by determining what proportion of the total area of the land subject to the licence is represented by land in which the holder holds a relevant interest; and

(b) a proportion of the net amount available for distribution, equivalent to the holder’s proportionate entitlement, must be paid to each holder of a relevant interest in land subject to the licence; and

(c) if a balance remains after distribution under paragraph (b), the balance is to be retained by the Minister.
Mining Act 1971—1.7.2011

Part 8—Miscellaneous purposes licence

(8) If no one is registered under the law of the State or the Commonwealth as the holder of native title in native title land over which a miscellaneous purposes licence has been granted, the Minister must establish a trust fund and pay the amount to which the holder of native title is entitled under subsection (7) into the trust fund until a determination is made of who is entitled to the payment.

(9) If no valid claim has been made on the trust fund within five years after its establishment, the Minister may dissolve the fund and pay the amount standing to its credit into the Consolidated Account but, if the fund is dissolved, any claim that might have been made against the fund assuming that it had continued in existence may be made instead against the State.

Note—

1 The net amount remaining after the 5% deduction is referred to subsequently as the net amount available for distribution.

50—Approval of application and registration

(1) Without limiting any other provision, the Minister must not grant a miscellaneous purposes licence unless the Minister is satisfied that appropriate environmental outcomes will be able to be achieved.

(2) If the Minister decides to grant a miscellaneous purposes licence, the licence will be taken to be granted under this Act when the licence is registered on the mining register (and the term of the licence will be taken to commence from the date of registration).

53—Application for miscellaneous purposes licence

(1) An application for a miscellaneous purposes licence must be made in a manner and form determined by the Minister and must be accompanied by—

(a) a management plan—

(i) specifying the nature and extent of the operations or activity that the applicant proposes to carry out in pursuance of the licence; and

(ii) setting out—

(A) an assessment of the environmental impacts of the proposed operations or activity; and

(B) an outline of the measures that the applicant proposes to take to manage, limit or remedy those environmental impacts; and

(C) a statement of the environmental outcomes that accordingly are expected to occur; and

(iii) a draft statement of the criteria to be adopted to measure the expected environmental outcomes; and

(iv) the results of any consultation undertaken in connection with the proposed operations or activity; and

(b) such information as the Minister requires; and

(c) the prescribed fee.
(2) The Minister must not grant a miscellaneous purposes licence unless he or she has caused to be published in a newspaper circulating generally throughout the State a notice—

(a) describing the area in respect of which the licence is sought; and

(b) specifying the purpose for which the licence is sought; and

(c) inviting members of the public to make written submissions in relation to the matter to the Minister within a period specified in the notice (which must be at least 14 days from the date of publication of the notice).

(3) The Minister may require the applicant to furnish further information and surveys.

(4) The Minister must within 14 days after receiving an application for a miscellaneous purposes licence send a copy of the application—

(a) to the owner of the land over which the licence is sought; and

(b) if the land is within the area of a council—to the council, together with an invitation to submit written representations on the application within a specified time.

(5) In determining whether to grant or refuse an application for a miscellaneous purposes licence and, if so, the terms and conditions on which it should be granted, the Minister must have regard to any representations made in response to an invitation under this section.

(6) Where the Minister approves an application for a miscellaneous purposes licence, the licence will, subject to any contrary provision in the licence, take effect from the date on which the applicant is notified of the Minister’s approval.

54 Compensation

(1) The owner of any land in respect of which a miscellaneous purposes licence is granted shall be entitled to such compensation as may be mutually agreed upon by the owner and the licensee or as may, in the event of a dispute, be determined, upon the application of any interested person, by the appropriate court.

(2) The compensation may include an additional component to cover reasonable costs reasonably incurred by an owner of land in connection with any negotiation or dispute related to—

(a) the licensee gaining access to the land; and

(b) the activities to be carried out on the land; and

(c) the compensation to be paid under subsection (1).

(3) In assessing compensation under subsection (2), costs in connection with any negotiation or dispute will not be taken to be reasonably incurred if they arise during any period when a reasonable offer of compensation is open to be accepted by the relevant owner of land.

551 Term and renewal of miscellaneous purposes licence

(1) A miscellaneous purposes licence may be granted for such term, not exceeding 21 years, as may be determined by the Minister and specified in the licence.
Mining Act 1971—1.7.2011

Part 8—Miscellaneous purposes licence

(2) The holder of a miscellaneous purposes licence may apply for the renewal of the licence before the expiration of the term of the licence, if he has complied with the provisions of this Act and the terms and conditions of the licence during the term for which the licence was granted or last renewed, be entitled, at the expiration of that term, to the renewal of the licence for a further term.

(3) An application for the renewal of a miscellaneous purposes licence—
   (a) must be made to the Minister in a manner and form determined by the Minister and;
   (a)(b) must be accompanied by any such other information as may be prescribed by the regulations. Where a person who is entitled to the renewal of a miscellaneous purposes licence under this section makes due application for the renewal of the licence not more than 6 months and not less than 3 months before the date of its expiry, the Minister shall renew the licence for a term, not exceeding 21 years, determined by the Minister.

(4) The Minister may require the applicant to furnish the Minister with any additional information specified by the Minister (and the information must be furnished within any period specified by the Minister). If an application for the renewal of a miscellaneous purposes licence is not decided before the date of expiry or if the Minister, on application by a person entitled to renew a licence (or who would be so entitled but for the expiration of the licence) or of the Minister's own motion, in the Minister's absolute discretion, extends the date by which an application must be made, the licence continues in operation (or, in an appropriate case, is revived) until the application for the renewal is decided and, if the licence is renewed, the renewal dates from the date on which the licence would, but for this subsection, have expired.

(5) If an application for the renewal of a miscellaneous purposes licence relates to an area within or adjacent to a specially protected area, the Minister must, before making his or her decision on the application, refer the application to the relevant Minister and consult with the relevant Minister in relation to the matter.

(6) If the Minister decides to grant a renewal, the miscellaneous purpose licence will be renewed for a term determined by the Minister and specified in the licence.
56—Suspension and cancellation of miscellaneous purposes licence

(1) The Minister may suspend or cancel a miscellaneous purposes licence if the licensee contravenes, or fails to comply with, any term or condition of the licence or any provision of this Act.

(2) Before exercising powers under subsection (1), the Minister must comply with any stipulations in the licence relating to the taking of such action.

(3) If a licence is suspended or cancelled under this section, the licensee may, within 28 days of the suspension or cancellation, appeal to the ERD Court and the Court may, if satisfied that there is no proper ground for the suspension or cancellation, declare the suspension or cancellation void.

(4) The Minister or the ERD Court may stay the operation of the suspension or cancellation of the licence until the appeal is determined, withdrawn or struck out.

(5) The Minister may, as a result of an appeal to the ERD Court, reinstate a miscellaneous purposes licence to a date that coincides with the initial date of a suspension or cancellation, or such later date as may appear to the Minister to be appropriate in the circumstances.
Part 8A—Special mining enterprises

56A—Object of this Part

The object of this Part is to facilitate the establishment, development or expansion of mining enterprises of major significance to the economy of this State by allowing greater security and flexibility of tenure.

56B—Special mining enterprises

(1) For the purposes of this Part, a mining enterprise (whether existing or proposed) is a special mining enterprise if—

- (a) the person who conducts or proposes to establish the enterprise has made an application to the Minister for the exercise of powers under this Part; and
- (ab) the Governor is satisfied, after taking into account the advice of the Minister, that the enterprise is of major significance to the economy of this State; and
- (eb) the Minister and the person who conducts or proposes to establish the enterprise (the proponent) have entered into an agreement, ratified by the Governor, for the exercise of powers under this Part and the grant of an appropriate mining mineral tenement or tenements in relation to the enterprise, and

- (c) the Governor has ratified the agreement between the Minister and the proponent.

(2) This Part has effect subject to any guidelines issued by the Minister for the purposes of this Part.

(3) The following provisions of this Act apply in relation to an application to the Minister under this Part as if the application were an application for a mining lease:

- (a) section 56E;
- (b) section 56F;
- (c) section 56G;
- (d) section 56H;
- (e) section 56I.

(4) An application may be made under this Part in relation to an existing mineral tenement (or tenements), or for the purposes of obtaining a mineral tenement (or tenements) in relation to an enterprise.

(5) An agreement under subsection (1)(b)—

- (a) will be in a form determined by the Minister after consultation with the proponent; and
- (b) has effect when ratified by the Governor and registered on the mining register; and
- (c) subject to subsection (6), may be varied from time to time by further
agreement between the parties after complying with any process or procedure prescribed by the regulations.

(6) An agreement under subsection (5)(c) has no force or effect unless or until it is ratified by the Governor and registered on the mining register.

56BA—Concept phase

(1) The first step that a proponent who is seeking an agreement with the Minister under this Part must take is to consult with the Director of Mines about the proposal.

(2) Consultation with the Director for the purposes of subsection (1) is initiated by an application made to the Director in a manner and form determined by the Director.

(3) An application—

   (a) must incorporate or be accompanied by such information as may be prescribed by the regulations; and
   (b) must be accompanied by the prescribed fee.

(4) The Director may require the proponent—

   (a) to furnish to the Director with any additional information specified by the Director (and that information must be furnished within any period specified by the Director); and
   (b) to undertake any consultation required by the guidelines issued by the Minister or specified by the Director (and that consultation must be undertaken within a period specified by the Director); and
   (c) to take any other action specified by the Director.

(5) The Director may—

   (a) bring the consultation envisaged by subsection (1) to an end as the Director thinks fit; and
   (b) at the end of the consultation, advise the proponent—

      (i) that the matter may proceed to an application to the Minister for the purposes of this Part; or
      (ii) that the matter is not, in the opinion of the Director, suitable for further consideration under this Part.

(6) If subsection (5)(b)(i) applies, the proponent is entitled to proceed to make an application to the Minister (but otherwise the matter may not proceed further under this Part).

56BB—Application phase

(1) If a proponent is entitled to proceed to make an application to the Minister, the application—

   (a) must be made in a manner and form determined by the Minister; and
(b) must be accompanied by a proposal containing the full particulars of the mining enterprise, including—

(i) information that identifies the boundaries of the land in respect of which the proposal relates which is in accordance with the requirements of section 56E; and

An application under subsection (1) must be made in the form approved by the Minister and must be accompanied by a written proposal containing full particulars of the mining enterprise, including—

(a) a sufficient delineation of the land to which the proposal relates; and

(i)(ii) (b) a statement of the nature, extent and proposed scheduling of the mining operations and related or ancillary operations or works that the applicant carries out or proposes to carry out under the enterprise; and

(ii)(iii) (c) an economic analysis of the enterprise, including financial projections and details of the financial resources available to the proponent for the purposes of the enterprise; and

(iii)(iv) (d) an assessment of the benefits to the State derived or expected to be derived from the enterprise; and

(iv)(v) (e) an assessment of the expected social and environmental effects of the enterprise; and

(v)(vi) (f) a statement of the measures that the applicant considers appropriate to protect the environment, and to remedy environmental damage that may result on account of operations or activities carried out for the purposes of the enterprise; and

(vi)(vii) (g) a statement of the measures that the applicant considers appropriate for the protection of any Aboriginal sites or objects within the meaning of the Aboriginal Heritage Act 1988 that may be affected by the enterprise; and

(a)(c) must be accompanied by such any other information as may be prescribed by the regulations; and

(b)(d) must be accompanied by the prescribed fee.

The Minister may require the applicant to furnish the Minister with any additional information or documents, and to comply with any requirement specified by the Minister (and that information must be furnished within any period specified by the Minister).
Mining Act 1971—1.7.2011

Part 8A—Special mining enterprises

(34) An application will, in relation to any mineral tenement that may subsequently be taken to be a special mining enterprise, be taken to be an application duly made under this Act for that tenement, in accordance with the regulations, pay an application fee prescribed or determined under the regulations.

(45) The Minister may, at any time and in the Minister's absolute discretion (and without consultation with the proponent or taking any other step), by notice to the proponent, refuse an application under this Part.

An application under this section—

(a) may be made in respect of an area of land of any size, and whether or not a mineral claim has been pegged out or registered over the land in relation to the enterprise; and

(b) will, in relation to any mining tenement subsequently granted to the applicant, be taken to be an application duly made under this Act for that tenement.

(57) No mineral claim may be established by-pegged out by, or mininga mineral tenement granted to, any other person over the land to which an application under this Part relates until—

(a) 28 days after the application is refused or withdrawn; or

(b) a mining tenement, or tenements, granted to the proponent, over the land.

(6) The Minister must give notice of the approval of an application under this section in accordance with any prescribed requirements.

56C—Power to exempt from or modify Act

(1) The Minister may, in accordance with the terms of an agreement under this Part (as ratified by the Governor)—

(a) exempt a special mining enterprise from any provision of this Act; or

(b) modify the application of a requirement of this Act in relation to the enterprise.

(2) An exemption or modification cannot be granted or made to this part in respect of the following provisions of this Act:

(a) sections 9 and 9AA;

(b) section 61;

(c) Part 9B;

(d) Part 10A;
1.7.2011—Mining Act 1971

Special mining enterprises—Part 8A

---

(e) any other provision specified by the regulations. An exemption or modification may only be granted or made under subsection (1) in respect of—

(a) the requirement to peg out or register a mineral claim; or
(b) the maximum area of land over which a mining tenement may be granted; or
(c) the maximum term for which a mining tenement may be granted; or
(d) the period within which an application for renewal of a mining tenement must be made, and the term for which the renewal may be granted; or
(e) the rate of royalty required to be paid under this Act; or
(f) the rental payable under a mining tenement; or
(g) any other prescribed requirement of this Act (except a requirement under Part 9B).

(3) An exemption or modification may be subject to conditions stipulated in the agreement.

(4) An exemption or modification may not be granted or made under this section so as to discriminate against the holders of native title in land.

(5) The Minister may vary or revoke an exemption or modification in accordance with and subject to the terms of the agreement.

(6) The Minister must cause notice of an exemption or modification, and of any subsequent variation or revocation of it, to be published in the Gazette.

(7) A person who contravenes or fails to comply with a condition of an exemption or modification under this section is guilty of an offence.

Maximum penalty: $250,000.

56D—Existing tenements

(1) If land comprised in a mining tenement granted in relation to a special mining enterprise pursuant to an agreement under this Part was, immediately before the granting of the tenement, comprised in a lease or licence held under this Act in respect of the same enterprise—

(a) the lease or licence is, by force of this subsection, subsumed into the new mining tenement; and

(b) subject to a determination of the Minister or a court—

(i) an interest (whether legal or equitable) in, or affecting, the lease or licence so subsumed (being an interest in force immediately before the granting of the mining tenement) continues to have the same effect in respect of the mining tenement as it had before the tenement was granted; and

(ii) a liability of the holder of the mining tenement in existence immediately before the granting of the tenement is not affected by the granting of the tenement; and
Mining Act 1971—1.7.2011
Part 8A—Special mining enterprises

(iii) an approval, consent, licence or exemption granted under another Act or law with respect to the carrying out of an operation or activity under the lease or licence will be taken to have been granted with respect to the carrying out of the same operation or activity under the new mining tenement if the extent of the operation or activity, and the area of land over which it is to be carried out, are not to be substantially increased.

(2) If—

(a) an existing lease or licence is to be subsumed into a new mining tenement under this Part; and

(b) the existing lease or licence is subject to a term or condition that has been included to protect the environment,—

— (i) the natural beauty of a locality or place; or
— (ii) flora or fauna; or
— (iii) buildings of architectural or historical interest, or objects or features of scientific or historical interest; or
— (iv) Aboriginal sites or objects within the meaning of the Aboriginal Heritage Act 1988;

then the Minister must ensure that a comparable term or condition is included in the new tenement.
Part 8B—Common Provisions

Division 1—Identifying areas and considering applications

56E—Identification of areas

(1) This section applies in relation to—
   (a) establishing a mineral claim; and
   (b) an application for an exploration licence; and
   (c) an application by the holder of an exploration licence for retention status in relation to the licence; and
   (d) an application for—
      (i) a mining lease; or
      (ii) a retention lease; or
      (iii) a miscellaneous purposes licence; and
   (e) any mineral tenement once it is registered under this Act.

(2) An area that must be identified, delineated or defined in any case to which this section applies must be identified, delineated or defined in a manner and form determined or approved by the Mining Registrar.

(3) Without limiting the operation of subsection (2), the boundaries of such an area may be identified in a way that accurately shows where the boundaries are located on the ground or allows the boundaries' location on the ground to be accurately worked out.

(4) The holder of a mineral tenement which has an area identified by any pegs, markers or other items on the ground after the area has been identified, delineated or defined under this section must take reasonable steps to ensure that the area continues to be so identified during the term of the tenement.

Administrative penalty.

(5) Without limiting a preceding subsection, a person who holds a mineral tenement in respect of a subsurface stratum may identify a claim or tenement on land above the land comprised in the tenement in any way determined or approved by the Mining Registrar.

56F—Related environmental legislation

(1) This section applies in relation to—
   (a) an application for an exploration licence or for the renewal of an exploration licence; and
   (b) an application for a mining lease or for the renewal of a mining lease; and
   (c) an application for a retention lease or for the renewal of a retention lease; and
   (d) an application for a miscellaneous purposes licence or renewal of a miscellaneous purposes licence; and
   (e) an application for a change in operations under Division 7; and
Mining Act 1971—1.7.2011

Part 9—Entry upon land, compensation and restoration

(f) in relation to an exploration licence after it has been granted—an application for approval of a program that applies in relation to the licence under Part 10A, so as to authorise the use of declared equipment.

(2) If an application to which this section applies relates to an area within the Murray-Darling Basin, the Minister must, in considering the application, take into account the objects of the River Murray Act 2003 and the Objectives for a Healthy River Murray under that Act.

56G—Specially protected areas

(1) This section applies in relation to—

(a) an application for an exploration licence or for the renewal of an exploration licence; and

(b) an application for a mining lease or for the renewal of a mining lease; and

(c) an application for a retention lease or for the renewal of a retention lease; and

(d) an application for a miscellaneous purposes licence or for the renewal of a miscellaneous purposes licence; and

(e) an application for a change in operations under Division 7;

(f) in relation to an exploration licence after it has been granted—an application for approval of a program that applies in relation to the licence under Part 10A, so as to authorise the use of declared equipment.

(2) If an application to which this section applies relates to an area within or adjacent to a specially protected area, the Minister must, before making a decision on the application, refer the application to the relevant Minister and consult with the relevant Minister in relation to the matter.

(3) If an application is referred to a relevant Minister and the Minister to whom the administration of this Act is committed and the relevant Minister cannot agree—

(a) on the decision to be made on the application; or

(b) on any terms or conditions that should be applied if the application is approved,

the Ministers must take steps to refer the matter to the Governor and the Governor will determine the matter (and any decision made by the Governor will be taken to be a decision of the Minister under this Act).

Division 2—Notice

56H—Notice

(1) This section applies in relation to—

(a) an application for—

(i) a mining lease; or

(ii) a retention lease (unless exempt by the regulations); or

(iii) a miscellaneous purposes licence; or

(b) an application under Division 7 (to the extent that the requirements of this
Division are applied by the regulations).

(2) The Minister must, as soon as practicable after receiving an application to which this section applies, in such manner as the Minister thinks fit, give notice of the application—
   (a) to the owner of the land to which the application relates; and
   (b) if the land is within the area of a council—to the council.

(3) In addition, before the Minister makes a decision on an application to which this section applies, including as to the terms and conditions (if any) that will apply or attach to the relevant mineral tenement or approval, the Minister must publish, in such manner as the Minister thinks fit, a notice—
   (a) describing the land to which the application relates and, if relevant, the particular stratum in relation to which the tenement would be, or has been, granted (as the case requires); and
   (b) specifying a place where the application may be inspected; and
   (c) inviting written submissions in relation to the application to the Minister within a time specified in the invitation.

(4) The Minister—
   (a) must give to the applicant a copy of any submission received by the Minister under subsection (3) within the relevant period specified by the Minister; and
   (b) may require the applicant to respond to any matter raised in any such submission within a period specified by the Minister.

(5) A submission under subsection (3) cannot be made on the basis that the submission (or part of the submission) will be kept confidential and a response under subsection (4) cannot be made on the basis that the response (or part of the response) will be kept confidential.

(6) In determining whether or not to grant an application to which this section applies and, if so, the terms and conditions on which it should be granted, the Minister must have regard to any submissions or response received under subsection (3) or (4).

(7) The requirement to publish a notice under subsection (3), and the requirements of subsections (4), (5) and (6), do not apply if the Minister decides to refuse the application without inviting submissions on the application.

(8) As soon as practicable after determining whether or not to grant or refuse an application to which this section applies, the Minister must cause notice of the determination to be published in accordance with the regulations.

Division 3—Terms and conditions

56I—Matters to be considered

(1) This section applies in relation to an application for—
   (a) a mining lease; or
   (b) a retention lease; or
   (c) a miscellaneous purposes licence.
Mining Act 1971—1.7.2011

Part 9—Entry upon land, compensation and restoration

(2) The Minister must, in determining the terms and conditions subject to which a mineral tenement is to be granted on an application to which this section applies, give proper consideration to—

(a) any aspect of the environment that may be affected by the conduct of authorised operations under the tenement; and

(b) any other lawful activities that may be affected by those authorised operations; and

(c) any Aboriginal sites or objects within the meaning of the Aboriginal Heritage Act 1988 that may be affected by those authorised operations,

and may take into consideration such other factors or matters as the Minister considers appropriate in the particular case.

56J—Alteration of terms and conditions

(1) This section applies in relation to—

(a) a mining lease; and

(b) a retention lease; and

(c) a miscellaneous purposes licence.

(2) Without limiting any other provision, the Minister may at any time add, vary or revoke a term or condition of a mineral tenement to which this section applies if the Minister considers that the addition, variation or revocation is necessary—

(a) to offset, stabilise, prevent, reduce, minimise or eliminate any potential, perceived or actual undue damage to the environment associated with authorised operations carried out under the tenement; or

(b) to ensure consistency with the conditions attached to the Commonwealth Minister's approval (if any) under the Environment Protection and Biodiversity Conservation Act 1999 of the Commonwealth; or

(c) taking into account any other matters prescribed by the regulations.

(3) The Minister must take reasonable steps to consult with the holder of the relevant mineral tenement before acting under subsection (2).

(4) If—

(a) the Minister acts under subsection (2) during the term of the relevant mineral tenement (compared to taking action at the time of any renewal); and

(b) the Minister acts without the agreement of the tenement holder,

the tenement holder may appeal to the ERD Court in relation to the matter.

(5) The ERD Court may, on hearing an appeal under subsection (4)—

(a) confirm the action taken by the Minister;

(b) vary or revoke any term or condition imposed by the Minister, or impose any term or condition considered appropriate by the Court;

(c) make any consequential or ancillary order that the Court considers necessary or expedient.
6. Subsection (3), (4) and (5) do not apply in any circumstances prescribed by the regulations.

56K—Special term or condition relating to extractive minerals

The terms or conditions of a mineral tenement may—

(a) make provision for the management and use of extractive minerals produced during the course of carrying out authorised operations under the tenement; and

(b) provide for the exemption of those extractive minerals from the payment of royalty.

56L—Offence to contravene terms or conditions

A person must not contravene, or fail to comply with, a term or condition of a mineral tenement.

Maximum penalty: $250,000.

Division 4—Rental

56M—Rental

(1) This section applies in relation to—

(a) a mining lease; and

(b) a retention lease; and

(c) a miscellaneous purposes licence.

(2) A mineral tenement to which this section applies must provide for the payment, by way of rental, of such sum as may be prescribed by the regulations (and different sums may be prescribed according to different classes of tenement).

(3) Subject to this section, the amount by way of rental is payable to the Minister.

(4) If a mineral tenement to which this section applies is granted over land consisting of, or including, land subject to an estate in fee simple (with the interest of any registered proprietor of such an estate being referred to as a relevant interest) then, except to the extent that subsection (5) applies, the amount paid to the Minister under this section in relation to the tenement must, after deduction of 5% (with the net amount remaining after the 5% deduction being referred to as the net amount available for distribution) be dealt with in accordance with the following principles:

(a) the proportionate entitlement of each holder of a relevant interest in the land must be by determining what proportion of the total area of the land subject to the tenement is represented by land in relation to which a relevant interest exists (with an appropriate allocation between entitlements if there is more than 1 registered proprietor in relation to any particular piece of land);

(b) a proportion of the net amount available for distribution, equivalent to the registered proprietor's proportionate entitlement, must be paid to each holder of a relevant interest in land subject to the tenement;
Part 9—Entry upon land, compensation and restoration

(c) if a balance remains after distribution under paragraph (b), the balance is to be retained by the Minister.

(5) Despite subsections (2) and (4), if a tenement holder or any related body corporate is also a registered proprietor of an estate in fee simple of land—

(a) the amount of rental is 5% of the amount that would otherwise be payable under subsection (2); and

(b) the scheme under subsection (4) will not apply in relation to the holder; and

(c) that holder’s interest in the land will be disregarded for the purposes of subsection (4) (and if there is no other registered proprietor of an estate in fee simple of the land, then the subsection will not apply).

(6) If a mineral tenement to which this section applies is granted over land consisting of, or including, land subject to native title conferring a right to exclusive possession of the land (with the interest of any holder of such native title being referred to as a relevant interest) then the amount paid to the Minister under this section in relation to the tenement must, after deduction of 5% (with the net amount remaining after the 5% deduction being referred to as the net amount available for distribution) be dealt with in accordance with the following principles:

(a) the proportionate entitlement of each holder of a relevant interest in the land must be worked out by determining what proportion of the total area of the land subject to the tenement is represented by land in relation to which a relevant interest exists (with an appropriate allocation between entitlements if there is more than 1 holder of native title in relation to any particular piece of land);

(b) a proportion of the net amount available for distribution, equivalent to each person's proportionate entitlement, must be paid to each holder of a relevant interest in land subject to the tenement;

(c) if a balance remains after distribution under paragraph (b), the balance is to be retained by the Minister.

(7) In addition, if—

(a) the Minister retains an amount paid by way of rental in relation to any land that is not subject to the operation of subsection (4) or (6); and

(b) a valid claim for native title conferring a right to exclusive possession is subsequently made in relation to the land,

then any such amount that is attributable to rental paid to the Minister in relation to the prescribed period is, after deduction of 5%, payable to the person or persons to whom native title is granted (and if there is more than 1 such person then their respective shares will be determined by applying the principles set out in subsection (6)).

(8) For the purposes of subsection (7), the prescribed period is the period of 5 years immediately preceding the registration of native title under the law of the State or the Commonwealth (as the case may be).
(9) Subsections (4) to (8) do not apply in relation to land owned by—

(a) a Minister; or

(b) the Commissioner for Highways; or

(c) any other agency or instrumentality of the Crown prescribed by the regulations.

(10) An amount paid to the holder of a relevant interest in land under this section will not be taken to be compensation for the purposes of any other section.

56N – Debt payable to Crown
The liability to pay any rental under this Division is a debt due to the Crown.

Division 5—Rectification of boundaries

56O—Rectification of boundaries

(1) This section applies in relation to any mineral tenement.

(2) The Mining Registrar may—

(a) vary the boundaries or delineation of a mineral tenement; or

(b) authorise the moving or replacement of any pegs or other items used to identify a mineral tenement; or

(c) take or authorise other action to clarify or rectify the area, location or boundaries of a mineral tenement.

(3) However—

(a) the Mining Registrar may only act under subsection (2)(a) or (b)—

(i) if the Mining Registrar is acting with the consent of the tenement holder; or

(ii) if authorised to do so by a determination of the Warden's Court made on application by the Mining Registrar; and

(b) the Mining Registrar may only act under subsection (1)(c) after consultation with the tenement holder.

Division 6—Amalgamation of areas

56P—Amalgamation of areas

(1) This section applies in relation to any mineral tenement.

(2) The Minister may, on application by a tenement holder or by agreement with a tenement holder, amalgamate the areas of 2 or more mineral tenements (and 2 or more tenement holders may make application under this section in relation to 2 or more mineral tenements).

(3) If an amalgamation proceeds under this section—

(a) the relevant mineral tenements are transformed into the 1 tenement (and if
more than 1 tenement holder has an interest in the amalgamated tenement, their respective interests will be determined according to an agreement between these parties); and

(b) the terms and conditions of the tenement will be as determined by the Minister after consultation with the tenement holder (or tenement holders); and

(c) the term of the tenement will be as determined by the Minister after consultation with the tenement holder (or tenement holders), subject to the qualification that the term cannot be less than the shortest period remaining for any of the mineral tenements being amalgamated and cannot be longer than the longest period remaining for any of the mineral tenements being amalgamated); and

(d) the Minister may make such other determinations relating to any other matter associated with the amalgamated tenement arising under this Act that are considered to be necessary or appropriate by the Minister (and any such determination will have effect according to its terms).

Division 7—Change in operations

56Q—Preliminary

(1) This Division applies if both subsections (2) and (3) apply (subject to the operation of subsection (4)).

(2) This Division applies in relation to—

(a) a mining lease; and

(b) a retention lease; and

(c) a miscellaneous purposes licence.

(3) This Division applies in relation to a proposal by the tenement holder—

(a) to make a change to the authorised operations to be carried out under a mineral tenement; or

(b) without limiting paragraph (a)—to make a change—

(i) in the mineral that is intended to be recovered; or

(ii) that may reduce the ability of the tenement holder to achieve a particular outcome, including an environmental outcome, or that is a change to the criteria to be adopted to measure a particular outcome; or

(iii) to the terms and conditions of the tenement; or

(c) to make a change of any prescribed kind.

(4) This Division does not apply in any circumstances prescribed by the regulations.

(5) A change to which this Division applies must not be made without the approval of the Minister.

Maximum penalty: $250 000.
56R—Application

(1) An application for the approval of the Minister under this Division—

(a) must be made in a manner and form determined by the Minister; and

(b) must be accompanied by—

(i) a proposal relating to the change being proposed by the tenement holder that complies with any requirements prescribed by the regulations; and

(ii) such other information prescribed by the regulations; and

(c) must be accompanied by the prescribed application fee.

(2) The Minister may require the applicant to furnish the Minister with any additional information specified by the Minister (and that information must be furnished within any period specified by the Minister).

56S—Consultation

The Minister—

(a) may undertake such consultation in relation to an application under this Division as the Minister thinks fit; and

(b) must undertake consultation under Division 2 in relation to an application under this Division if required to do so by the regulations.

56T—Consideration of proposal

(1) If—

(a) a change included in a proposal under this Division relates to extractive minerals; and

(b) the relevant mineral tenement has not previously applied in relation to extractive minerals; and

(c) the extractive minerals are on land granted in fee simple or land in respect of which native title conferring a right to exclusive possession of land exists,

the Minister must not approve the change except with the written consent of the owner of the land.

(2) Consent given by an owner of land under subsection (1) is binding on all subsequent owners of the land.

(3) Subsection (1) does not apply if the purpose of the change is to vary the terms or conditions of the mineral tenement so as to make provision for the management and use of extractive minerals produced during the course of carrying out authorised operations under the tenement.

(4) In addition, the Minister must not approve a change included in a proposal under this Division unless satisfied—

(a) in the case of a mining lease—that the change will not adversely affect the ability of the tenement holder to ensure that land comprised in the
Mining Act 1971—1.7.2011

Part 9—Entry upon land, compensation and restoration

10 This version is not published under the Legislation Revision and Publication Act 2002 [13.12.2016]

56U—Terms and conditions

(1) The Minister may, at the time of granting an approval under this Division, add, vary or revoke a term or condition of the relevant mineral tenement (to the extent that the Minister considers that the addition, variation or revocation is directly or indirectly relevant to the granting of the approval).

(2) The Minister must, in acting under subsection (1), give proper consideration to—

(a) any aspect of the environment that may be affected by the change in authorised operations under the tenement; and

(b) any other lawful activities that may be affected by the change; and

(c) any Aboriginal sites or objects within the meaning of the Aboriginal Heritage Act 1988 that may be affected by the change,

and may take into consideration such other factors or matters as the Minister considers appropriate in the particular case.

56V—Registration

(1) If the Minister decides to approve an application under this Division, the approval will be taken to be granted when the approval is registered on the mining register (and the approval will take effect from the date of registration).

(2) The Minister must give notice of the granting of an approval under this Division in the manner prescribed by the regulations.

Division 8—Cancellation, suspension and surrender

56W—Cancellation and suspension—action by Minister

(1) This section applies in relation to—

(a) an exploration licence; or

(b) a mining lease; or

(c) retention lease; or

(d) a miscellaneous purposes licence.

(2) The Minister may cancel or suspend a mineral tenement to which this section applies if the tenement holder contravenes or fails to comply with—

(a) a term or condition of the tenement; or

(b) a provision of this Act.
(3) The Minister may suspend all or some of the authorised operations under a
mineral tenement to which this section applies—
   (a) pending compliance with an obligation or requirement under this Act by
       the tenement holder; or
   (b) until the tenement holder takes some other step specified by the Minister; or
   (c) on account of any other matter that, in the opinion of the Minister,
       warrants suspension of rights under the tenement.

(4) The Minister must not take action under this section unless or until the Minister has—
   (a) taken reasonable steps to notify the tenement holder of the proposed course
       of action (including in the notification the grounds on which the Minister
       is intending to act); and
   (b) provided the tenement holder with an opportunity to make written
       submissions in relation to the matter within a period specified by the
       Minister.

(5) The Minister may, after complying with subsection (4), by instrument registered
    on the mining register, cancel or suspend a mineral tenement.

(6) The Minister must ensure that a notice of the cancellation or suspension of a
    mineral tenement under subsection (5) is given to the tenement holder.

(7) A tenement holder may, within 28 days after receiving a notice under
    subsection (6), appeal to the ERD Court in relation to the matter.

(8) The ERD Court may, on hearing an appeal under subsection (7), if satisfied that
    the ground or grounds on which the Minister acted were insufficient to justify the
    cancellation or suspension of the mineral tenement (as the case may be)—
       (a) revoke the cancellation or suspension; and
       (b) make any consequential or ancillary order that the Court considers
           necessary or appropriate.

(9) If the ERD Court makes an order under subsection (8)(a), the Minister may,
    subject to any order of the Court, reinstate the mineral tenement to a date that
    coincides with the initial date of the cancellation or suspension, or such later date
    as the Minister considers to be appropriate in the circumstances.

56X—Surrender on application

(1) A tenement holder may apply to the Minister for an approval to surrender—
    (a) the mineral tenement; or
    (b) a part of the area of the mineral tenement.

(2) An application must be—
    (a) made in a manner and form determined by the Minister; and
    (b) must be accompanied by such information as may be prescribed by the
        regulations.
Mining Act 1971—1.7.2011

Part 9—Entry upon land, compensation and restoration

(3) The Minister may, if or when satisfied that it is appropriate to so, by instrument registered on the mining register, approve the surrender.

(4) If a mineral tenement surrendered under this section is a private mine, the declaration of the relevant area as a private mine made under this Act will be taken to be revoked.

(5) If a part of the area of a private mine is surrendered under this section, the declaration of the relevant area as a private mine under this Act will be taken to be varied to exclude the area to the extent of the surrender.

Division 9—Reinstatement of tenement

56Y—Reinstatement of tenement

(1) This section applies in relation to—
   (a) if the regulations so provide—an exploration licence; or
   (b) a mining lease; or
   (c) a retention lease; or
   (d) a miscellaneous purposes licence,
   (being a tenement that has expired).

(2) This section sets out a scheme that will allow the Minister to renew a mineral tenement to which this section applies that has expired under another provision of this Act.

(3) The Minister may act under this section if the Minister considers—
   (a) that the holder of a mineral tenement to which this section applies has contravened, or failed to comply with, a provision of this Act; and
   (b) that the tenement should be reinstated so that the tenement holder will continue to be subject to the terms and conditions of the tenement and the requirements of this Act.

(4) The Minister may act under this section despite the cessation of authorised operations by the tenement holder on or before the expiration of the mineral tenement.

(5) If the Minister decides to act under this section—
   (a) the mineral tenement will be taken to have been reinstated from the date on which the tenement expired or from a later date determined by the Minister; but
   (b) any section of this Act prescribed by the regulations will not apply in relation to the mineral tenement.

(6) The Minister may, in acting under this section, renew a mineral tenement in relation to an area that is smaller than the area of the original tenement at the time of its expiry.

(7) The term of the mineral tenement, as renewed under this section, will be—
(a) a term determined by the Minister; or
(b) a term that expires at some later time on a date to be determined by the Minister.

(8) The Minister renews a mineral tenement under this section by instrument registered on the mining register.

(9) The Minister must ensure that a notice of the renewal of a mineral tenement under this section is given to the tenement holder.

**Division 10—Assessment reports**

**56Z—Assessment reports**

(1) The Minister may prepare a report (an *assessment report*) under this section that sets out or includes the Minister's assessment in respect of any of the following:

(a) an application for a mineral tenement under this Act;
(b) without limiting paragraph (a), the ranking of applications for exploration licences in relation to an exploration release area;
(c) an application for a reduced royalty rate under section 17A;
(d) an application for retention status under section 33B;
(e) an application to amalgamate the areas of 2 or more mineral tenements under Division 6;
(f) an application for a change in operations under Division 7;
(g) a decision to cancel, suspend or surrender a mineral tenement under Division 8;
(h) a decision to exempt a tenement holder from an obligation to comply with a term or condition of a mineral tenement, or from a requirement of this Act;
(i) any other matter considered to be appropriate to include in a report under this section.

(2) The Minister may, in preparing a report under this section—

(a) set out or include information about any submission that was made to the Minister in connection with a matter referred to in subsection (1); and
(b) set out or include information or material provided by an applicant or tenement holder in connection with a matter referred to in subsection (1) (including any response provided to the Minister in relation to any submission made to the Minister); and
(c) include any other information or material that the Minister thinks fit.

(3) The Minister may publish an assessment report in such manner, and to such extent, as the Minister thinks fit.

(4) No liability attaches to the Minister in connection with—

(a) a decision by the Minister to include any particular matter, information or material in an assessment report; or
Part 9—Entry upon land, compensation and restoration

57—Entry on land

Subject to this Part, a person authorised to undertake prospecting, exploration, mining for minerals or ancillary operations may enter any mineral land (except exempt restricted land) for the purpose of carrying out authorised operations prospecting, exploring or mining for minerals under this Act—

(a) may enter any mineral land (except exempt restricted land) for the purpose of carrying out authorised operations prospecting, exploring or mining for minerals in accordance with this Act the authorisation; and

(b) may enter exempt restricted land for the purpose of establishing pegging out or otherwise identifying a claim.

58—How entry on land may be authorised

A mining operator, tenement holder may enter land to carry out authorised mining operations on the land—

(a) if the tenement holder mining operator has an agreement with the owner of the land authorising the mining operator to enter the land to carry out mining authorised operations on the land; or

(ab) if the tenement holder has an agreement or order to waive the benefit of a restriction under section 9AA;

(ac) if the tenement holder has obtained the written consent of the owner of the land under section 75;

(b) if the tenement holder mining operator is authorised by a native title mining determination to enter the land to carry out mining authorised operations on the land; or

(ba) if the tenement holder mining operator is authorised by an indigenous land use agreement registered under the Native Title Act 1993 (Cwth) to enter the land to carry out mining authorised operations on the land; or

(c) if—

(i) the tenement holder mining operator has given the prescribed notice of entry any notice required under section 58A; and

(ii) the mining authorised operations will not affect native title in the land; and

(iii) the tenement holder mining operator complies with any determination made on objection to entry on the land, or the use or unconditional use of the land, or portion of the land, for mining authorised operations; or

(d) if the land to be entered is in a precious stones field and the mining authorised operations will not affect native title in the land; or

1.7.2011—Mining Act 1971

Entry upon land, compensation and restoration—Part 9

(e) if the tenement holder mining operator enters the land to continue mining-authorized operations that had been lawfully commenced on the land before the commencement of this section.

Explanatory note—

A mining operator tenement holder's right to enter land to carry out authorised mining operations on the land is contingent on the operator holding the relevant mineral tenement.

Notes—

1 If the land is native title land, the agreement is to be negotiated under Part 9B.
2 See section 58A(5).

58A—Notice requirements of entry

(1) A mining operator must, at least 21 days before first entering land to carry out mining-operations, serve on the owner of the land notice of intention to enter the land (the prescribed notice of entry) describing the nature of the operations to be carried out on the land.

(2) The notice must be served—

(a) in the case of native title land—as prescribed by the Native Title (South Australia) Act 1994; or

(b) in other cases—personally or by post.

(1) A person who is—

(a) intending to prospect for minerals under section 20; or

(b) the holder of an exploration licence or a mineral claim,

must, at least 28 days before first entering land to carry out authorised operations, serve on the owner of the land notice of intention to enter the land in accordance with this section.

Maximum penalty: $20 000

(2) A person who is intending to commence advanced exploration operations that are not within the ambit of a notice under subsection (1) must, at least 28 days before first commencing those operations, serve on the owner of the relevant land notice of intention to commence those operations.

Maximum penalty: $20 000

(3) A person who is intending to apply for a mineral lease, retention lease or miscellaneous purposes licence must, serve on the owner of the land to which the application relates notice of intention to apply for the lease or licence.

(4) A notice under subsection (3)—

(a) must inform the owner of the land of the person’s intention to enter the land to carry out authorised operations if the application is granted; and

(b) is of no effect for the purposes of this section if the person who served the notice does not apply for the lease or licence within 12 months of serving.
Mining Act 1971—1.7.2011

Part 9—Entry upon land, compensation and restoration

the notice on the owner of the land or if the application is refused.

(5) A notice must be served in accordance with the regulations.

(4)(6) A copy of a notice must be served on the Mining Registrar (for registration on the mining register) in accordance with the regulations.

(2a7) If the land is subject to a licence under the Petroleum and Geothermal Energy Act 2000, a copy of any notice required under a preceding subsection must also be served (within the time required under the subsection) of the notice must also be served (within the time required under subsection (1)) on the holder of that licence.

(8) However, a notice is not required under subsection (7) if the holder of the licence under the Petroleum and Geothermal Energy Act 2000 has waived the requirement for notice to be given under that subsection.

(398) If the land is held under a form of title (other than a pastoral lease or a licence under the Petroleum and Geothermal Energy Act 2000) that confers a right to exclusive possession of the land or under a pastoral lease—

(a) the notice must contain a statement of the owner’s rights of objection and compensation under this Act; and

(b) the owner may, within three months after service of the notice, lodge a notice of objection with the appropriate court objecting—

(i) to entry on the land by the person who served the notice; or

(ii) to the use, or the unconditional use, of the land, or a portion of the land, for mining-authorised operations.

(410) The court must send a copy of a notice of objection received under subsection (39) to the mining operator.

(11) The court may, if the court thinks fit, postpone the hearing of an objection to entry on land by a person who has given notice under subsection (3) of an intention to apply for a lease or licence until after the application has been made.

(512) If the court is satisfied on the hearing of an objection that the conduct of the mining-authorised operations on the land would be likely to result in substantial hardship or substantial damage to the land, the court may—

(a) determine that the land, or a particular part of the land, should not be used by the mining operator for the purposes of the proposed mining-authorised operations; or

(b) determine conditions on which operations may be carried out on the land by the mining operator with least detriment to the interests of the owner and least damage to the land.

(613) A person who conducts authorised operations in contravention of a determination under this section is guilty of an offence. A mining operator who contravenes or fails to comply with a determination under this section is guilty of an offence.

Maximum penalty: $150 000.
1.7.2011—Mining Act 1971

Entry upon land, compensation and restoration—Part 9

(147) The prescribed notice of entry under this section is not required if—

(a) the land to be entered is in a precious stones field; or

(b) the person who would otherwise be required to give such a notice mining operator is authorised to enter the land by agreement with the owner of the land; or

(c) the person who would otherwise be required to give such a notice mining operator is authorised to enter the land under a native title mining determination; or

(cad) the person who would otherwise be required to give such a notice mining operator is authorised to enter the land under an indigenous land use agreement registered under the Native Title Act 1993 of the Commonwealth (Cwlth); or

(e) the person who would otherwise be required to give such a notice, or a related body corporate, has previously given notice under this section as a prospective applicant under subsection (3) or as the holder of an earlier mineral tenement over the land to be entered (whether or not other land was also subject to the same application or tenement). (d) the mining operator enters the land to continue mining operations that had been lawfully commenced on the land before the commencement of this section.

(8) A notice is not required under subsection (2a) if the holder of the licence under the Petroleum and Geothermal Energy Act 2000 has waived the requirement for notice to be given under that subsection.

(915) A notice under this section must be in a form determined or approved by the Minister.

(16) Nothing in this section requires a tenement holder to serve a new notice if or when there is a change in ownership of land.

59—Use of declared equipment

— (1) Subject to this section, a mining operator shall not use declared equipment in the course of mining operations under this Act except—

— (a) upon land subject to a lease or licence granted under this Act; or

— (b) in pursuance of an authorisation granted by the Minister under a program under Part 10A; or

— (c) in pursuance of an authorisation granted by the Director of Mines under subsection (1a).

Maximum penalty: $120,000.

— (1aaa) An authorisation under subsection (1)(b) may be given subject to conditions (if any) specified in the authorisation.

— (1a) The Director of Mines may, upon the application of the holder of a claim, authorise him, subject to the provisions of this section and the conditions (if any) specified in the authorisation, to use declared equipment upon land comprised in the claim.
Mining Act 1971—1.7.2011

Part 9—Entry upon land, compensation and restoration

---

(1aa) If an application for an authorisation to use declared equipment relates to an area within the Murray-Darling Basin the Director of Mines must, in considering the application, take into account the objects of the River Murray Act 2003 and the Objectives for a Healthy River Murray under that Act.

(1ab) If an application for an authorisation to use declared equipment relates to an area within or adjacent to a specially protected area, the Director of Mines must, before making his or her decision on the application, refer the application to the relevant Minister and consult with the relevant Minister in relation to the matter.

(1ac) If an application for an authorisation is referred to a relevant Minister and the Minister to whom the administration of this Act is committed and the relevant Minister cannot agree—

   (a) on whether an authorisation should be granted; or

   (b) if an authorisation is granted, on the conditions to which the authorisation should be subject,

the Minister to whom the administration of this Act is committed and the relevant Minister must take steps to refer the matter to the Governor and the Governor will determine the matter (and any decision taken by the Governor will be taken to be a decision of the Director of Mines under this Act).

(1b) A mining operator shall not use declared equipment in the course of mining operations upon land comprised in a registered access claim within a precious stones field unless he has first served on the Director of Mines—

   (a) notice, in a manner and form determined by the Minister, of his intention to use that equipment; and

   (b) prescribed particulars of the equipment and where it will be used.

Maximum penalty: $50,000.

(2) A mining operator shall, at least 21 days before he uses declared equipment upon land (not being land comprised in a mining lease), serve personally or by post on the owner of the land, written notice, in a manner and form determined by the Minister, of his intention to use declared equipment in the course of mining operations on the land.

(2a) If the land is subject to a licence under the Petroleum and Geothermal Energy Act 2000, a copy of any notice required under subsection (2) must also be served (within the time required under that subsection) on the holder of that licence.

(3) The owner may, at any time within 3 months after the service of a notice under subsection (2), by notice in writing lodged with the Warden’s Court, object to the use, or the unconditional use, of declared equipment upon his land.

(4) A copy of a notice of objection under subsection (3) must, within 7 days after lodgment with the Warden’s Court, be served on the mining operator.

(5) Subject to subsection (6), the Warden’s Court may, upon the hearing of an objection under this section—

   (a) determine that declared equipment should not be used in the course of mining operations upon the land to which the objection relates or any part of that land; or

---
(b) determine upon what conditions declared equipment may be used upon the land with least detriment to the interests of the owner and least injury to the land.

(6) In any proceedings under this section, the objector must establish that the use of declared equipment upon the land would be likely to result in severe or unjustified hardship or substantial damage to the land.

(7) If a mining operator—

(a) fails to comply with any condition of an authorisation under this section; or

(b) uses declared equipment upon land without prior service of a notice as required by subsection (2); or

(c) fails to comply with a determination, or any condition contained in a determination, under this section,

he shall be guilty of an offence.

Maximum penalty: $50,000.

(8) Subsections (2) to (7) (other than subsection (2a)) do not apply to the use of declared equipment on land if—

(a) the land is a precious stones field; or

(b) there is an agreement between the mining operator and the owner of the land about the use of declared equipment on the land and the mining operator complies with the terms of the agreement; or

(c) the Warden’s Court or the ERD Court has determined conditions on which declared equipment may be used on the land and the mining operator complies with the terms of the determination.

(9) A notice is not required under subsection (2a) if the holder of the licence under the Petroleum and Geothermal Energy Act 2000 has waived the requirement for notice to be given under that subsection.

61—Compensation

(1) The owner of any land upon which mining—authorised operations are carried out in pursuance of under this Act shall be, entitled to receive compensation for any economic loss, hardship or and inconvenience suffered by him—the owner in consequence of authorised mining operations.

(2) In determining the compensation payable under this section, the following matters shall be considered:

(a) any damage caused to the land by the person carrying out the mining—authorised operations; and

(b) any loss of productivity or profits as a result of the mining—authorised operations; and

(c) any other relevant matters.
Mining Act 1971—1.7.2011

Part 9—Entry upon land, compensation and restoration

(2a) The compensation may include an additional component to cover reasonable costs reasonably incurred by an owner of land in connection with any negotiation or dispute related to—

(a) the licensee-tenant holder gaining access to the land; and
(b) the activities to be carried out on the land; and
(c) the compensation to be paid under subsection (1).

(3) The amount of the compensation shall be an amount determined by agreement between the owner and the mining operator-tenant holder or, in default of agreement, an amount determined, upon application by an interested party, by the appropriate court.

(4) The appropriate court, in determining compensation under this section, shall take into consideration any work that the mining operator-tenant holder has carried out, or undertakes to carry out, to rehabilitate the land.

(5) Upon the hearing of an application for compensation under this section, the appropriate court may order a mining operator-tenant holder to carry out such work to rehabilitate the land as the Court thinks fit.

(5a) In assessing compensation under subsection (2a), costs in connection with any negotiation or dispute will not be taken to be reasonably incurred if they arise during any period when a reasonable offer of compensation is open to be accepted by the relevant owner of land.

(5b) It will be a condition of a mineral tenement that the Minister may, at any time, require the tenement holder to pay to any person an amount of compensation, specified by the Minister, to which the person is, in the opinion of the Minister, entitled on account of loss or damage suffered by the person as a result of operations carried out under the tenement.

(5c) Subsection (5b) operates in addition to any other provision made by this or any other section.

(6) For the purposes of this section—

(a) a reference to mining- authorised operations will be taken to include a reference to any investigation or survey under section 15; and
(b) a reference to a mining tenant holder operator will be taken to include a reference to the Director (in relation to any investigation or survey under section 15).

62—Bond and security

(1) The Minister may, by notice in writing served on an applicant for, or the holder of, a mineral tenement, require them to enter into a bond in such sum and subject to such terms and conditions as ensure, in the opinion of the Minister, that—

(a) any civil or statutory liability likely to be incurred by that person in the course of carrying out mining- authorised operations; and
(b) the present and future obligations of that person in relation to the rehabilitation of land disturbed by mining- authorised operations,
will be satisfied.

(2) The Minister may require such security for the satisfaction of the bond as the Minister thinks fit.

(2a) If an applicant for a mineral tenement fails to comply with a requirement under this section, the Minister may refuse the application.

(3) If the holder of a mineral tenement fails to comply with a requirement under this section—

(a) the Minister may, if the requirement has not been complied with at the expiration of one month from the end of the time allowed for compliance, prohibit operations in the area of the tenement; and

(b) the Minister may, if the requirement has not been complied with at the expiration of three months from the end of the time allowed for compliance, cancel the tenement.

(4) If a person conducts mining operations in contravention of a prohibition under subsection (3), he shall be guilty of an offence.

Maximum penalty: $120,000.

(5) Where the Minister holds, or is entitled to, any money under a bond entered into by a mining operator, the Minister may, in his discretion, expend any portion of that money in compensating any person who has suffered, or is likely to suffer, financial loss as a result of mining operations carried out by that mining operator or in rehabilitating any land disturbed by any such operations.

(6) No action shall lie against the Minister in respect of the expenditure of money under this section.

(4) The liability to pay an amount under this section is a debt due to the Crown.

(5) A person must not contravene a prohibition under section (3).

Maximum penalty: $150,000.

(6) If the Minister holds, or is entitled to, any money under a bond entered into by a tenement holder, the Minister may, in the Minister's discretion, expend any portion of that money—

(a) to compensate any person who has suffered, or is likely to suffer, financial loss as a result of authorised operations carried out by that tenement holder or in rehabilitating any land disturbed by any such authorised operations; or

(b) to satisfy any liability to pay an amount that is due to the Crown under this Act.

(7) The Minister may, on application under this subsection, (in the Minister's absolute discretion) agree to the assignment of a liability or obligation under this section to a third party on terms or conditions determined by the Minister.

(8) No action lies against the Minister in respect of the expenditure of money under this section.
62AA—Mining Rehabilitation Fund

(1) The Minister must establish a fund entitled the Mining Rehabilitation Fund.

(2) The fund will consist of—

(a) amounts required to be paid under subsection (3) and (4); and

(b) amounts required to be paid into the fund under any other section; and

(c) amounts required to be paid into the fund under the regulations; and

(d) amounts required to be paid into the fund under any other Act; and

(e) any income or accretions produced by the investment of money from the fund (and the Minister is authorised to invest any amount standing to the credit of the fund in such manner as the Minister thinks fit).

(3) The Minister may, after taking into account the matters specified in subsection (4), require a tenement holder (or former tenement holder) to pay an amount determined by the Minister into the fund—

(a) before the relevant mineral tenement is cancelled, surrendered or expires under this Act; or

(b) within the prescribed period after the relevant mineral tenement is cancelled, surrendered or expires under this Act.

(4) The following matters are specified:

(a) the extent to which it appears that resources may be required to achieve appropriate environmental outcomes on the closure of authorised operations on land comprised in the relevant mineral tenement;

(b) without limiting paragraph (a), the extent and likelihood of action that may be required—

(i) to reinstate, supplement or improve rehabilitation of land that fails to establish a safe, stable and self-contained environment; and

(ii) to maintain environmental management processes; and

(iii) to take further action to restore the environment because of environmental damage or impairment resulting from authorised operations.

(5) The Minister may impose a requirement under this section even if a mineral tenement has been reinstated under Part 8B Division 9.

(6) The imposition of a requirement under this section does not limit any other action or requirement that may be taken or arise under any other section.

(7) The Minister may impose a requirement under this section by notice served on the relevant tenement holder (or former tenement holder).

(8) An amount required to be paid into the fund under subsection (3) must be paid within a period (of at least 28 days) specified by the Minister in a notice under subsection (7).

Maximum penalty: $20 000.
(9) The liability to pay an amount under this section is a debt due to the Crown.

(10) Money standing to the credit of the fund may be used by the Minister for all or any of the following purposes:

   (a) to fund monitoring and maintenance of any land in relation to which a requirement under this section has been imposed;
   (b) to fund programs, including as to the collection or provision of information and the carrying out of work, relating to the rehabilitation of any land in relation to which a requirement under this section has been imposed;
   (c) to achieve any other environmental outcomes that are related to the ceasing of authorised operations;
   (d) to fund other programs, or to achieve other outcomes, prescribed by the regulations;
   (e) to provide for the costs of administering the fund.

(11) For the purposes of carrying out any operations associated with using money for a purpose under subsection (10), the Minister or the Director of Mines, or any person authorised in writing by the Minister or the Director of Mines, may—

   (a) enter and remain on any land with such assistants, vehicles and equipment as may be necessary or expedient for any such purpose; and
   (b) carry out tests or any work.

(12) A person who interferes with or obstructs any person in the exercise of a power under subsection (11) is guilty of an offence. Maximum penalty: $20 000 or imprisonment for 6 months.

62A—Right to require acquisition of land

(1) If the activities of a mining operator on land substantially impair the owner's use and enjoyment of the land, the owner may apply to the Land and Valuation Court for an order under this section.

(2) The Court may, on an application under this section, if the Court considers it to be just and appropriate in the circumstances of the particular case—

   (a) make an order transferring the owner's land to the holder of the relevant mineral tenement; and
   (b) order the holder of the relevant mineral tenement to pay to the owner, by way of compensation, after taking into account (to such extent as the Court considers appropriate) any compensation or other amounts that have been paid to the owner under the other provisions of this Act—

      (i) an amount equivalent to the market value of the land; and
      (ii) a further amount the Court considers just by way of compensation for disturbance; and

   (c) make such other ancillary or related orders as the Court thinks fit.

(3) This section does not apply in relation to an exploration licence.
63—Extractive Areas Rehabilitation Fund

(1) The Minister shall establish a fund entitled the "Extractive Areas Rehabilitation Fund".

(2) From the royalty received or recovered by the Minister on extractive minerals, the Minister will pay the prescribed rate into the fund.

(3) Subject to subsection (4), the Minister may expend any portion of the fund for any of the following purposes:

(a) the rehabilitation of land disturbed by mining operations for the recovery of extractive minerals (or any costs associated with ensuring that such land is rehabilitated in accordance with the requirements under this Act); and

(b) the implementation of measures designed to prevent, or limit, damage to or impairment of, any aspect of the environment by mining operations for the recovery of extractive minerals (or any costs associated with ensuring that such measures are implemented or with monitoring such measures); and

(c) the promotion of research into methods of mining engineering and practice by which environmental damage or impairment resulting from mining operations for the recovery of extractive minerals may be reduced.

(4) The total expenditure in a single financial year of costs associated with ensuring that the land referred to in subsection (3)(a) is rehabilitated in accordance with the requirements under this Act must not exceed an amount equal to 4 cents per tonne for each tonne of extractive minerals on which royalty is payable into the fund for the financial year preceding that year.

(5) In this section—

prescribed rate means 25 cents per tonne of extractive minerals, or such lesser amount as may be prescribed by the regulations.
Part 9A — Access to subsurface strata

63A — Pegging out of access claim

(1) A person who holds a mining tenement in respect of a subsurface stratum may peg out an access claim, in accordance with the regulations, on land above the land comprised in the tenement.

(2) The dimensions of an access claim must conform with the requirements of the regulations.

(3) No more than 4 access claims may be held at the same time in respect of the same mining tenement.

63B — Access claim may be pegged by agreement, or by authority of the Warden’s Court, over land comprised in mining tenement

(1) Subject to subsection (2), a person is not entitled to peg out an access claim on or above land held under a mining tenement by some other person unless that other person has consented to the pegging out of the access claim or the Warden’s Court has, in pursuance of subsection (2), authorised the pegging out of the claim.

(2) Where a person desiring to peg out an access claim satisfies the Warden’s Court that there is proper cause for the Court to authorise the pegging out of the claim, notwithstanding absence of the consent of the holder of a mining tenement, the Court may, on such conditions as it thinks just, authorise the pegging out of the access claim.

63C — Registration of access claim

(1) Application for registration of an access claim —

   (a) must be in a manner and form determined by the Minister; and

   (b) must be lodged at the office of the Mining Registrar within 14 days after the day on which the claim is pegged out; and

   (c) must be accompanied by the information required by the Minister.

(2) A Mining Registrar shall, upon receipt of due application for registration of an access claim that has been lawfully pegged out, register the claim.

(3) If application for registration of an access claim is not made as required by this section, or if the Mining Registrar lawfully refuses to register the claim, the claim shall lapse.

63D — Rights conferred by access claim

(1) An access claim confers on the owner of the claim an exclusive right, subject to the provisions of this Act, to conduct mining operations of the kind authorised by the mining tenement to which the claim relates on the land comprised in the claim.

(2) The rights conferred by an access claim are exclusive of the rights of any other person to conduct mining operations on, or in respect of, the land comprised in the claim.

63E — Term etc of access claim

(1) An access claim has a renewable term of 12 months.
Mining Act 1971—1.7.2011

Part 9A—Access to subsurface strata

—(1a) If an application is made in accordance with the regulations for renewal of an access claim, the owner of the claim is entitled to renewal of the claim for a further term of 12 months.

—(2) An access claim shall lapse if, for any reason, the mining tenement to which it relates ceases to be in force.

—(3) The holder of an access claim may, subject to this Act, surrender the claim at any time.
Part 9B—Native title land

Division 1—Exploration

63F—Qualification of rights conferred by exploration authority

(1) An exploration authority confers no right to carry out mining operations on native title land unless—

(a) the mining operations do not affect native title (ie they are not wholly or partly inconsistent with the continued existence, enjoyment or exercise of rights deriving from native title); or

(b) a declaration is made under the law of the State or the Commonwealth to the effect that the land is not subject to native title; or

(c) an indigenous land use agreement registered under the Native Title Act 1993 (Cwth) provides that statutory rights to negotiate are not intended to apply in relation to the mining operations.

(2) However, a person who holds an exploration authority that would, if land were not native title land, authorise mining operations on the land may acquire the right to carry out mining operations on the land (that affect native title) from an agreement or determination authorising the operations under this Part.

(3) An agreement or determination under this Part need not be related to a particular exploration authority.

(4) However, a mining operator/tenement holder’s right to carry on mining operations that affect native title is contingent on the existence of an exploration authority that would, if the land were not native title land, authorise the mining operator/tenement holder to carry out the mining operations on the land.

Notes—

1 Cf. Native Title Act 1993 (Cwth), section 227.

2 A declaration to this effect may be made under Part 4 of the Native Title (South Australia) Act 1994 or the Native Title Act 1993 (Cwth). The effect of such a declaration is that the land ceases to be native title land.

3 Cf. Native Title Act (Cwth), section 24EB(1)(c).

63G—Exploration rights to be held in escrow in certain circumstances

(1) If an exploration authority is granted in respect of native title land, and the holder of the authority has no right or no substantial right to explore for minerals on the land because of the absence of an agreement or determination authorising mining operations on the land, the exploration authority does nevertheless, while it remains in force, prevent the grant of registration of another exploration authority for exploring for minerals of the same class within the area to which the authority relates.
Mining Act 1971—1.7.2011
Part 9B—Native title land

Division 1—Exploration

(2) The Minister may revoke an exploration authority that is granted entirely or substantially in respect of native title land if it appears to the Minister that the holder of the authority is not proceeding with reasonable diligence to obtain the agreement or determination necessary to authorise the effective conduct of mining operations on the land to which the authority relates.

Division 2—Production

63H—Limits on grant of production tenement

A production tenement may not be granted or registered over native title land unless—

(a) the mining operations to be carried out under the tenement are authorised by a pre-existing agreement or determination registered under this Part; or

(ab) an indigenous land use agreement registered under the Native Title Act 1993 (Cwth) provides that statutory rights to negotiate are not intended to apply in relation to the mining operations to be carried out under the tenement; \(^1\) or

(b) a declaration is made under the law of the State or the Commonwealth to the effect that the land is not subject to native title. \(^2\)

Notes—

1 Cf. Native Title Act (Cwth), section 24EB(1)(c).

2 A declaration to this effect may be made under Part 4 of the Native Title (South Australia) Act 1994 or the Native Title Act 1993 (Cwth). The effect of the declaration is that the land ceases to be native title land.

63I—Applications for production tenements

(1) The Minister may agree with an applicant for a production tenement over native title land that the tenement will be granted or registered contingent on the registration of an agreement or determination under this Part.

(2) The Minister may refuse an application for a production tenement over native title land if it appears to the Minister that the applicant is not proceeding with reasonable diligence to obtain the agreement or determination necessary to the grant or registration of the tenement to which the application relates (and if the application is refused, the applicant’s claim lapses).

Division 3—Application for declaration

63J—Application for declaration

A person who seeks to carry out mining operations on native title land may apply to the ERD Court for a declaration that the land is not subject to native title. \(^1\)

Note—

1 The application is to be made under the Native Title (South Australia) Act 1994.

---

\(^1\) This version is not published under the Legislation Revision and Publication Act 2002 [13.12.2016]
Division 4—Negotiating procedure

63K—Types of agreement authorising mining operations on native title land

(1) An agreement authorising mining operations on native title land (a native title mining agreement) may—

(a) authorise mining operations by a particular mining operator or tenement holder; or

(b) authorise mining operations of a specified class within a defined area by mining operator or tenement holders of a specified class who comply with the terms of the agreement.

Explanatory note—

If the authorisation relates to a particular mining operator or tenement holder it is referred to as an individual authorisation. Such an authorisation is not necessarily limited to mining operations under a particular exploration authority or production tenement but may extend also to future exploration authorities or production tenements. If the authorisation does extend to future exploration authorities or production tenements it is referred to as a conjunctive authorisation. An authorisation that extends to a specified class of mining operator or tenement holders is referred to as an umbrella authorisation.

(2) If a native title mining agreement is negotiated between a mining operator or tenement holder who does not hold, and is not an applicant for, a production tenement for the relevant land, and native title parties who are claimants to (rather than registered holders of) native title land, the agreement cannot extend to mining operations conducted on the land under a future production tenement.

(3) An umbrella authorisation can only relate to prospecting or mining for precious stones over an area of 200 square kilometres or less.

(4) If the native title parties with whom a native title mining agreement conferring an umbrella authorisation is negotiated are claimants to (rather than registered holders of) native title land, the term of the agreement cannot exceed 10 years.

(5) The existence of an umbrella authorisation does not preclude a native title mining agreement between a mining operator or tenement holder and the relevant native title parties relating to the same land, and if an individual agreement is negotiated, the agreement regulates mining operations by a mining operator or tenement holder who is bound by the agreement to the exclusion of the umbrella authorisation.

63L—Negotiation of agreements

(1) A person (the proponent) who seeks a native title mining agreement may negotiate the agreement with the native title parties.

Explanatory note—

The native title parties are the persons who are, at the end of the period of two and a half months from when notice is given under section 63M, registered under the law of the State or the Commonwealth as holders of, or claimants to, native title in the land. A person who negotiates with the registered representative of those persons will be taken to have negotiated with the native title parties. Negotiations with other persons are not precluded but any agreement reached must be signed by the registered representative on behalf of the native title parties.
Mining Act 1971—1.7.2011
Part 9B—Native title land
Division 4—Negotiating procedure

(2) The proponent must be—

   (a) if an agreement conferring an individual authorisation\(^1\) is sought—the mining operator; and
   
   (b) if an agreement conferring an umbrella authorisation\(^1\) is sought—the Minister or an association representing the interests of mining operators approved by regulation for the purposes of this section.

Note—\(^1\) See the explanatory note to section 63K(1).

63M—Notification of parties affected

(1) The proponent initiates negotiations by giving notice under this section.

(2) The notice must—

   (a) identify the land on which the proposed mining operations are to be carried out; and
   
   (b) describe the general nature of the proposed mining operations that are to be carried out on the land.

(3) The notice must be given to—

   (a) the relevant native title parties; and
   
   (b) the ERD Court; and
   
   (c) the Minister.

(4) Notice is given to the relevant native title parties as follows:

   (a) if a native title declaration establishes who are the holders of native title in the land—the notice must be given to the registered representative of the native title holders and the relevant representative Aboriginal body for the land;
   
   (b) if there is no native title declaration establishing who are the holders of native title in the land—the notice must be given to all who hold or may hold native title in the land in accordance with the method prescribed by Part 5 of the Native Title (South Australia) Act 1994.

63N—What happens when there are no registered native title parties with whom to negotiate

(1) If, two months after the notice is given to all who hold or may hold native title in the land, there are no native title parties in relation to the land to which the notice relates, the proponent may apply without notice to any person to the ERD Court for a summary determination.

(2) On an application under subsection (1), the ERD Court must make a determination authorising entry to the land for the purpose of carrying out mining operations on the land, and the conduct of mining operations on the land.

(3) The determination may be made on conditions the Court considers appropriate and specifies in the determination.

(4) The determination cannot confer a conjunctive or umbrella authorisation.\(^1\)
1.7.2011—Mining Act 1971
Native title land—Part 9B
Negotiating procedure—Division 4

Note—

1 See the explanatory note to section 63K(1).

63O—Expeditied procedure where impact of operations is minimal

(1) This section applies to mining operations that—

(a) will not directly interfere with the community life of the holders of native title in the land on which the operations are to be carried out; and

(b) will not interfere with areas or sites of particular significance, in accordance with their traditions, to the holders of native title in the land on which the operations are to be carried out; and

(c) will not involve major disturbance to the land on which the operations are to be carried out.

(2) If the proponent states in the notice given under this Division that the mining operations to which the notice relates are operations to which this section applies and that the proponent proposes to rely on this section, the proponent may apply without notice to any person to the ERD Court for a summary determination authorising mining operations in accordance with the proposals made in the notice.

(3) On an application under subsection (2), the ERD Court may make a summary determination authorising mining operations in accordance with the proposals contained in the notice.

(4) However, if within two months after notice is given, a written objection to the proponent’s reliance on this section is given by the Minister, or a person who holds, or claims to hold, native title in the land, the ERD Court must not make a summary determination under this section unless the Court is satisfied after giving the objectors an opportunity to be heard that the operations are in fact operations to which this section applies.

(5) An objection under subsection (4) must be given to the proponent and a copy given to the ERD Court.

63P—Negotiating procedure

(1) The proponent and native title parties must negotiate in good faith and accordingly explore the possibility of reaching an agreement.

(2) However, the obligation to negotiate does not arise if the case is one where a summary determination may be made.

(3) If any of the negotiating parties requests the ERD Court to do so, the Court must mediate among the parties to assist in obtaining their agreement.

(4) The Minister may (personally or by representative) intervene in negotiations under this Division.

63Q—Agreement

(1) An agreement negotiated under this Division may provide for payment to the native title parties based on profits or income derived from mining operations on the land or the quantity of minerals produced.
Mining Act 1971—1.7.2011

Part 9B—Native title land

Division 4—Negotiating procedure

(2) The basis of the payment may be fixed in the agreement or left to be decided by the ERD Court or some other nominated arbitrator.

(3) An agreement must deal with—

(a) notices to be given or other conditions to be met before the land is entered for the purposes of carrying out mining operations; and

(b) principles governing the rehabilitation of the land on completion of the mining operations.

(4) If agreement is reached between the proponent and the native title parties authorising mining operations on the native title land, the proponent must lodge a copy of the agreement with a mining registrar and the mining registrar will, subject to this section, register the agreement.

(5) If the Minister is of the opinion that there is reason to believe that the agreement may not have been negotiated in good faith, the Minister may, within two months after the copy of the agreement is lodged for registration with the mining registrar, make an order prohibiting registration of the agreement.

(6) A party to an agreement may appeal against an order under subsection (5) to the ERD Court and the Court may, on appeal—

(a) confirm or revoke the Minister’s order; and

(b) if the Court considers it appropriate, make a determination authorising entry on the land to carry out mining operations, and the conduct of mining operations on the land, on conditions determined by the Court.

63R—Effect of registered agreement

(1) A registered agreement negotiated under this Division is (subject to its terms) binding on, and enforceable by or against the original parties to the agreement and—

(a) the holders from time to time of native title in the land to which the agreement relates; and

(b) the holders from time to time of any exploration authority or production tenement under which mining operations to which the agreement relates are carried out.

(2) If a native title declaration establishes that the native title parties with whom an agreement was negotiated are not the holders of native title in the land or are not the only holders of native title in the land, the agreement continues in operation (subject to its terms) until a fresh agreement is negotiated under this Part with the holders of native title in the land, or for 2 years after the date of the declaration (whichever is the lesser).

(3) Either the holders of native title in the land or the mining operator/tenement holder may initiate negotiations for a fresh agreement by giving notice to the other.

(4) A registered agreement that authorises mining operations to be conducted under a future mining-mineral tenement is contingent on the tenement being granted or registered.
63S—Application for determination

(1) If agreement between the proponent and the native title parties is not reached within the relevant period, any party to the negotiations or the Minister may apply to the ERD Court for a determination.

In this subsection the relevant period is 6 months from when the negotiations were initiated.—

(a) if the mining operations to which the negotiations relate are merely of an exploratory nature—four months from when the negotiations were initiated; or

(b) in any other case—six months from when the negotiations were initiated.

(2) On an application under this section, the ERD Court may determine—

(a) that mining operations may not be conducted on the native title land; or

(b) that mining operations may be conducted on the native title land subject to conditions determined by the Court.

(3) If the ERD Court determines that mining operations may be conducted on native title land, the determination—

(a) must deal with the notices to be given or other conditions to be met before the land is entered for the purposes of mining operations; but

(b) cannot provide for payment to the native title parties based on profits or income derived from mining operations on the land or the quantity of minerals produced.

(4) The ERD Court must make its determination on an application under this section within the relevant period unless there are special reasons why it cannot do so.

In this subsection, the relevant period is 6 months from when the application is made.—

(a) if a determination is sought only for exploring—four months from when the application is made; or

(b) in any other case—six months from when the application is made.

(5) The representative Aboriginal body for the area in which the land is situated is entitled to be heard in proceedings under this section.

63T—Criteria for making determination

(1) In making its determination, the ERD Court must take into account the following:

(a) the effect of the proposed mining operations on—

(i) native title in the land; and

(ii) the way of life, culture and traditions of any of the native title parties; and

(iii) the development of the social, cultural and economic structures of any of those parties; and
Mining Act 1971—1.7.2011

Part 9B—Native title land

Division 4—Negotiating procedure

(iv) the freedom of access by any of those parties to the land concerned and their freedom to carry out rites, ceremonies or other activities of cultural significance on the land in accordance with their traditions; and

(v) any area or site, on the land concerned, of particular significance to the native title parties in accordance with their traditions; and

(vi) the natural environment of the land concerned;

(b) any assessment of the effect of the proposed mining operations on the natural environment of the land concerned—

(i) made by a court or tribunal; or

(ii) made, or commissioned, by the Crown in any capacity or by a statutory authority;

(c) the interests, proposals, opinions or wishes of the native title parties in relation to the management, use or control of the land concerned;

(d) the economic or other significance of the proposed mining operations to Australia and to the State;

(e) any public interest in the mining operations proceeding;

(f) any other matter the ERD Court considers relevant.

(2) This section does not affect the operation of another law of the State or the Commonwealth for the preservation or protection of areas or sites of particular significance to Aboriginal people.

63U—Limitation on powers of Court

(1) The ERD Court cannot make a determination conferring a conjunctive or umbrella authorisation unless the native title parties are represented in the proceedings and agree to the authorisation.

(2) A conjunctive authorisation conferred by determination cannot authorise mining operations under both an exploration authority and a production tenement unless the native title parties are the registered holders of (rather than claimants to) native title land.

(3) An umbrella authorisation conferred by determination—

(a) can only relate to prospecting or mining for precious stones over an area of 200 square kilometres or less; and

(b) cannot authorise mining operations for a period exceeding 10 years unless the native title parties are registered holders of (rather than claimants to) native title land.

Notes—

1 See explanatory note to section 63K(1).
2 See explanatory note to section 63L(1).
3 Section 63K(2) is of similar effect in relation to native title mining agreements.
4 Section 63K(3) and (4) are of similar effect in relation to native title mining agreements.
63V—Effect of determination

(1) A determination under this Division—
   (a) must be lodged with a mining registrar; and
   (b) must be registered two months after it was lodged for registration unless it has in the meantime been overruled by the Minister; and
   (c) takes effect on registration.

(2) A determination registered under this Division has effect as if it were a contract between the proponent and the native title parties.

(3) A registered determination is (subject to its terms) binding on, and enforceable by or against the original parties to the proceedings in which the determination was made and—
   (a) the holders from time to time of native title in the land to which the determination relates; and
   (b) the holders from time to time of any exploration authority or production tenement under which mining operations to which the determination relates are carried out.

(4) If a native title declaration establishes that the native title parties to whom the determination relates are not the holders of native title in the land or are not the only holders of native title in the land, the determination continues in operation (subject to its terms) until a fresh determination is made, or for 2 years after the date of the declaration (whichever is the lesser).

(5) A determination under this Part that authorises mining operations to be conducted under a future mining tenement is contingent on the tenement being granted or registered.

Note—

1 See section 63W.

63W—Ministerial power to overrule determinations

(1) If the Minister considers it to be in the interests of the State to overrule a determination of the ERD Court under this Part, the Minister may, by notice in writing given to the ERD Court and the parties to the proceedings before the Court, overrule the determination and substitute another determination that might have been made by the Court.

(2) However—
   (a) the Minister cannot overrule a determination—
      (i) if more than two months have elapsed since the date of the determination; or
      (ii) if the Minister was the proponent of the negotiations leading to the determination; and
Mining Act 1971—1.7.2011

Part 9B—Native title land

Division 4—Negotiating procedure

(b) the substituted determination cannot create a conjunctive or umbrella authorisation if there was no such authorisation in the original determination nor can the substituted determination extend the scope of a conjunctive or umbrella authorisation.

Explanatory note—

The scope of an authorisation is extended if the period of its operation is lengthened, the area to which it applies is increased, or the class of mining operations to which it applies is expanded in any way.

Note—

1 See the explanatory note to section 63K(1).

63X—No re-opening of issues

If an issue is decided by determination under this Part, the parties to the proceedings in which the determination was made cannot make an agreement that is inconsistent with the terms of the determination unless the ERD Court authorises the agreement.

Division 5—Miscellaneous

63Y—Non-application of this Part to Pitjantjatjara and Maralinga lands

Nothing in this Part affects the operation of—

(a) the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981; or
(b) the Maralinga Tjarutja Land Rights Act 1984.

63Z—Compensation to be held on trust in certain cases

(1) If a determination under this Part authorises mining operations on conditions requiring payment of compensation—

(a) the ERD Court must decide the amount of the compensation; and
(b) the compensation must be paid into the ERD Court to be held on trust and applied as required by this section.

(2) Compensation paid into the ERD Court under this section—

(a) must, on application by the registered representative of the native title holders, be paid out to the registered representative; or
(b) if the Court, on application by an interested person, is satisfied that it is just and equitable to pay the compensation in some other way—must be paid out as directed by the Court.

(3) However, if compensation is held on trust by the ERD Court under this section and—

(a) a native title declaration is made to the effect that no part of the land is subject to native title; or
(b) the proponent abandons the proposal to carry out mining operations on the land before exercising the right to do so and, by notice to the Minister, relinquishes the right to do so,

the compensation must be repaid to the person who paid it.
63ZA—Non-monetary compensation

(1) Compensation under this Part is to be given in the form of monetary compensation.

(2) However—

(a) if, during negotiations under this Part, a person who may be entitled to compensation requests that the whole or part of the compensation be in a form other than money, the other person who may be liable to pay compensation—

(i) must consider the request; and

(ii) must negotiate in good faith on the subject; and

(b) the ERD Court may, at the request of a person entitled to compensation, order non-monetary compensation.¹

Example—

1 The non-monetary compensation might take the form of a transfer of property or the provision of goods or services.

63ZB—Review of compensation

(1) If—

(a) mining operation tenement holders are authorised by determination under this Part on conditions requiring the payment of compensation; and

(b) a native title declaration is later made establishing who are the holders of native title in the land,

the ERD Court may, on application by the registered representative of the holders of native title in the land, or on the application of a person who is liable to pay compensation under the determination, review the provisions of the determination providing for the payment of compensation.

(2) The application must be made within three months after the date of the native title declaration.

(3) The Court may, on an application under this section—

(a) increase or reduce the amount of the compensation payable under the determination (as from the date of application or a later date fixed by the Court); and

(b) change the provisions of the determination for payment of compensation in some other way.

(4) In deciding whether to vary a determination and, if so, how, the Court must have regard to—

(a) the assumptions about the existence or nature of native title on which the determination was made and the extent to which the native title declaration has confirmed or invalidated those assumptions; and

(b) the need to ensure that the determination provides just compensation for, and only for, persons whose native title in land is affected by the mining operations; and

¹See section 63ZA.
Mining Act 1971—1.7.2011

Part 9B—Native title land

Division 5—Miscellaneous

63ZBA—Mining Native Title Register

(1) The Mining Registrar must establish a distinct part of the Mining Register (which may be referred to as the Mining Native Title Register) for the registration of agreements and determinations under this Part.

(2) The Mining Registrar must, in respect of each agreement or determination registered under this Part, include in the Mining Native Title Register details concerning—

(a) the land to which the agreement or determination relates; and
(b) if relevant—the exploration authority or production tenement to which the agreement or determination relates; and
(c) the parties who are bound by the agreement or determination; and
(d) other information prescribed by the regulations.

(3) The Mining Registrar may also note in any other part of the Mining Register any agreement or determination registered under this Part (as the Mining Registrar thinks fit).

(4) An agreement or determination registered under this Part is not available for inspection under this Act if—

(a) in the case of an agreement, the parties to the agreement specify in the agreement, or in some other manner determined by the Mining Registrar, that the contents of the agreement should be kept confidential under this section;
(b) in the case of a determination, the ERD Court specifies in the determination that the contents of the determination should be kept confidential under this section.

(5) However, subsection (4) does not prevent the inspection of an agreement or determination registered under this Part by—

(a) a person engaged in the administration of this Act acting in the course of official duties; or
(b) the Minister, or a person appointed to the Public Service acting in the course of official duties on behalf of, or with the authority of, the Minister; or
(c) a person who is bound by the agreement or determination; or
(d) a person who is acting under the joint authority of all persons who are bound by the agreement or determination (and such an authority must be given in a manner and form approved by the Mining Registrar); or
(e) a person who is acting under the authority of an order or determination of the ERD Court or the Supreme Court (for the purposes of this or another Act or law).

(6) An authority under subsection (5) may be given on conditions.

(7) A person who contravenes or fails to comply with a condition is guilty of an offence. Maximum penalty: $5,100,000.
63ZC—Saving of pre-1994 mining tenements

This Part does not apply in relation to—

(a) a claim registered before 1 January 1994; or

(b) a lease or licence granted under this Act before 1 January 1994; or

(c) a renewal of a lease or licence granted under this Act before 1 January 1994 in pursuance of a legally enforceable right created before that date.
Part 10—Warden's Court and forfeiture of mining tenements—Part 10

**general provisions**

64—Establishment of Warden's Court

1. There shall be a court entitled the "Warden's Court".

1.1 The jurisdiction of the Warden's Court will be such jurisdiction as is—

(a) conferred by or under this or any other Act; or

(b) contemplated by this or any other Act.

2. The jurisdiction of the Warden's Court shall be exercisable by any warden.

3. The Warden's Court may sit at such times and places as may be determined by a warden exercising the jurisdiction of the court and the jurisdiction of the Warden's Court may be exercised by a warden notwithstanding that another warden is simultaneously exercising the jurisdiction of the court in some other matter.

65—Powers etc of Warden's Court

1. For the purposes of any proceedings before the Warden's Court, the Warden's Court has may—

(a) the powers and authorities of the Magistrates Court of South Australia (other than a prescribed power or authority); and

(b) any additional powers or authorities prescribed by the regulations for the purposes of this subsection.

1.a A summons may be issued on behalf of the Court by—

(a) a warden; or

(b) any other officer (including an officer of another court) authorised by the rules of the Court to issue summonses.

(a) by summons signed by a warden, require the attendance before the Court of any person whom the warden thinks fit to call before the Court; or

(b) by summons signed by a warden, require the production of any books, papers or documents; or

(c) inspect any books, papers or documents produced before the Court and retain them for such reasonable period as the Court thinks fit and make copies of any of them or of any of their contents; or

(d) require any person to make an oath or affirmation that he will truly answer all questions put to him before the Court (which oath or affirmation may be administered by a warden or any other person); or

(e) require any person appearing before the Court (whether he has been summoned to appear or not) to answer any question put to him by the Court or any person appearing before the Court.

1.a Subject to subsection (1b), if any person—
Mining Act 1971—1.7.2013

Part 10—Warden's Court and forfeiture of mining tenements

---

(a) who has been served with a summons to attend before the Court neglects or fails to appear in obedience to the summons; or

(b) who has been served with a summons to produce any books, papers or documents neglects or fails to comply with the summons; or

(c) misbehaves himself before the Court, wilfully insults the Court or a warden or interrupts the proceedings of the Court; or

(d) refuses to be sworn or to affirm, or to answer any relevant question, when required to do so by the Court,

he shall be guilty of a contempt of the Warden's Court.

(1b) A person shall not be obliged to answer a question if the answer to that question would tend to incriminate him, or to produce any books, papers or documents if their contents would tend to incriminate him.

(1c) In addition to the powers and authorities conferred on the Warden's Court by this Act, the Court shall have such of the powers and authorities of a Magistrate, or the Magistrates Court of South Australia, as may be conferred on the Court by regulation.

(2) The Warden's Court shall have power to issue injunctions.

(3) An appeal shall lie against a judgment or order of the Warden's Court to the ERD Court.

(3a) The Director or the Mining Registrar may appeal against a judgment or order of the Warden's Court, whether or not he was a party to the proceedings in which the judgment or order was given or made.

(3b) An appeal against a judgment or order of the Warden's Court must be instituted within 1 month after publication of the judgment or order, but the ERD Court may, for proper cause, extend the period for instituting an appeal.

(4) Subject to any rules of the ERD Court, the practice and procedure relating to an appeal from a judgment or order of the Warden's Court shall conform as nearly as practicable to the practice and procedure applicable to an appeal under the *Magistrates Court Act 1991*.

66—Rules of Warden's Court

(1) The Governor may make rules respecting the practice and procedure of the Warden's Court.

(1a) The rules may prescribe, and provide for, the payment of fees in respect of the lodging of documents in the Court or the issuing of documents by the Court.

(2) The rules may provide for the enforcement of judgments and orders, and the punishment of contempt of the Warden's Court and, in particular, may provide that appropriate provisions of the *Magistrates Court Act 1991* and of the *District Court Act 1991* may apply, with such modifications as may be necessary or desirable and specified in the rules, in respect of judgments and orders of the Warden's Court.
66A—Removal of cases to ERD Court

(1) A case of unusual difficulty or importance in the Warden’s Court may be removed by order of the Warden’s Court or the ERD Court into the ERD Court.

(2) The ERD Court may exercise (in addition to its ordinary jurisdiction and powers) any of the powers of the Warden's Court in relation to a case removed into the ERD Court under this section.

67—Jurisdiction relating to tenements and monetary claims

(1) The Warden’s Court shall have jurisdiction to determine, in such manner as may be just, all actions concerning any right claimed in, under, or in relation to, any mining mineral tenement or purported mining mineral tenement.

(1a) The Warden's Court will have jurisdiction to determine a monetary claim for not more than $15,400,000 arising in relation to any contract, partnership or joint venture arrangement related to, or otherwise associated with—

(a) the acquisition or holding of any mining mineral tenement or purported mining mineral tenement; or

(b) the performance of any authorised operations under this Act; or

(c) the recovery of any minerals under this Act.

(2) The Warden's Court shall have jurisdiction in any matter in which it is invested with jurisdiction by regulation.

(3) The Director of Mines is entitled to appear in any proceedings before the Warden's Court.

69—Forfeiture of claim

(1) The Warden’s Court may, upon application by any interested person, make an order for the forfeiture of any mineral claim.

(2) An order shall not be made under subsection (1) unless the Court is satisfied that the requirements of this Act in relation to the claim have not been complied with in a material respect and that the matter is of sufficient gravity to justify the forfeiture of the claim.

(3) Where an order for the forfeiture of a claim is made (otherwise than upon the application of the Director) under this section, the person upon whose application the order was made shall have, for a period of 14 days after the date of the order, a preferential right to peg out a claim of the same class as the forfeited claim upon the land comprised in the forfeited claim.

(3a) After an application has been made under this section, the mineral claim to which the application relates cannot be surrendered, nor will it lapse, until the application has been determined.

(4) For the purposes of this section—

interested person means—

(a) the Director of Mines; or
Mining Act 1971—1.7.2013
Part 10—Warden's Court and forfeiture of mining tenements

— (b) a person of a class prescribed by the regulations for the purposes of this definition.

70—Forfeiture and transfer of mineral tenement lease

— (1) The Warden's Court may, upon application by any interested person, adjudge that a lease under this Act is liable to forfeiture, and recommend to the Minister that the lease be forfeited.

— (2) A recommendation shall not be made under subsection (1) unless the Court is satisfied that the requirements of this Act in relation to the lease have not been complied with in a material particular and that the matter is of sufficient gravity to justify the forfeiture of the lease.

(1) This section applies in relation to—

(a) a mineral claim; or
(b) if the regulations so provide — an exploration licence; or
(c) a mining lease; or
(d) a retention lease.

(2) Subject to this section, the Warden's Court may, on application under this section, adjudge that a mineral tenement to which this section applies is liable to forfeiture and recommend to the Minister that the tenement be forfeited.

(2a) The regulations may—

(a) provide that an applicant must satisfy any prescribed requirements before an application may be made under this section; and
(b) provide that an applicant must be able to demonstrate any prescribed capability or other requirement as part of an application under this section; and
(c) provide that an application must be supported by any evidence of a kind prescribed by the regulations; and
(d) provide for limitations on, or exclusions from, an ability to make an application under this section; and
(e) provide for other matters associated with making an application under this section.

(2b) A recommendation may not be made by the Warden's Court under this section unless the Court is satisfied that 1 or more of the following have occurred in a material respect and that the matter is of sufficient gravity to justify the forfeiture of the mineral tenement:

(a) a breach of this Act or any regulation;
(b) without limiting paragraph (a)—

(i) a breach of a term or condition of the tenement; or
(ii) a breach of a program under Part 10A;
(c) undue damage to the environment in connection with any authorised operations carried out under the tenement;
(d) a failure to carry out activities associated with holding the relevant type of
	tenement within a reasonable time or to a reasonable extent.

(3) Where the Warden's Court has recommended the forfeiture of a mineral
tenement—
	(a) the Minister may, by notice in the Gazette, forfeit the mineral tenement

to the Crown; and
	(b) the person on whose application the Court recommended forfeiture is then

titled to a transfer of the mineral tenement from the Crown for the
(balance of its term.

(3a) A right to the transfer of a mineral tenement under subsection (3)—
	(a) does not arise in any circumstance prescribed by the regulations;
	and
	(b) expires at the end of a period prescribed by the regulations.

(4) A transfer of a lease-mineral tenement under subsection (3)(b) takes effect on
publication of a notice of transfer in the Gazette.

(4a) After an application has been made under this section, the mineral tenement

to which the application relates shall not be transferred or surrendered until the
application has been determined.

(5) For the purposes of this section—

interested person means a person of a class prescribed by the regulations for the purposes of
this definition.
Part 10A—Programs for environment protection and rehabilitation

70A—Object of Part

(1) The object of this Part is to ensure that the holders of mining tenements—

(a) provide adequate information about the mining operations that will be conducted under the tenements; and

(b) ensure that mining operations that have (or potentially have) adverse environmental impacts are properly managed to reduce those impacts as far as reasonably practicable and eliminate, as far as reasonably practicable, risk of significant long term environmental harm; and

(c) ensure that land adversely affected by mining operations is properly rehabilitated.

(2) The Minister must, in acting under this Part, have regard to, and seek to further, the objects of the Natural Resources Management Act 2004.

70B—Preparation or application of program under this Part

(1) A person The holder of a mining tenement must not carry out mining operations unless a program that complies with the requirements of this Part is in force for those operations.

(2) A program under subsection (1) must—

(a) specify the mining operations that the holder of the mining tenement are proposed to carry out in pursuance of the tenement under this Act; and

(b) set out—

(i) the environmental outcomes that are expected to occur as a result of the mining operations (including after taking into account any rehabilitation proposed by the holder of the tenement and other steps to manage, limit or remedy any adverse environmental impacts); and

(ii) a statement of the criteria to be adopted to measure those environmental outcomes, in a form prescribed by the regulations; and

(c) incorporate information about the ability of the holder of the mining tenement holder (and any other person who may be acting on behalf of the tenement holder) to achieve the environmental outcomes set out under paragraph (b); and

(d) set out such other information as may be required by a condition of the tenement or by the regulations; and

(e) comply with any other requirements prescribed by the regulations.
Mining Act 1971—1.7.2011

Part 10A—Programs for environment protection and rehabilitation

(2a) A program under subsection (1) that relates to an application for a new mineral tenement must be consistent with any proposal made or provided to the Minister for the purposes of the application.

(3) The Minister may, on application by the holder or holders of 2 or more mining mineral tenements, determine that a program may relate to a group of mining mineral tenements within a particular area and, in such a case—

(a) the holder or holders of the mining tenements within the ambit of the determination may prepare and furnish a combined program for the purposes of this section; and

(b) this section will apply to the holder or holders of the mining tenements with such modifications as may be necessary for the purpose.

(4) A program under subsection (2) or (3) must be submitted to the Minister for approval.

(4a) An application for the approval of the Minister must be made in a manner and form determined by the Minister. A program under subsection (2) or (3) must be provided in a manner and form specified or approved by the Minister.

(4b) The Minister may require a person who has submitted an application to furnish the Minister with any additional information specified by the Minister (and that information must be furnished within any period specified by the Minister).

(5) The Minister may on the receipt of a program submitted for the purposes of this section—

(a) approve the program without alteration; or

(b) require alterations to the program after consultation with the tenement holder (or tenement holders) in order to ensure that the program complies with the requirements of subsection (2) (and to ensure consistency with the other provisions of this Act); or, holder of the mining tenement (or holders of the mining tenements).

(c) reject the program on the basis that the program fails to comply with the requirements of subsection (2) (and any other relevant provision of this Act).

(6) A holder of a mining tenement holder in relation to whom a decision is made by the Minister under subsection (5)(b) or (c) required to make any alterations under subsection (5) may apply to the ERD Court for a review of the requirement within 28 days after receiving notice of the requirement or such longer period as the Minister may allow in a particular case.

(7) On a review under subsection (6), the ERD Court may—

(a) confirm the requirement decision (with or without modifications); or

(b) revoke the requirement decision and give directions with respect to the approval of the program.

(7a) A program approved under this section is subject to—

(a) such conditions as may be prescribed; and

(b) such additional conditions (if any) as the Minister thinks fit and specifies by notice to the tenement holder (or tenement holders).
(8) The regulations may set out or adopt a program that may apply in relation to mining-authorized operations of a prescribed class.

(9) If—

(a) a program is in place under subsection (8); and

(b) the mining-authorized operations to be carried out by the holder of a mining-tenement under a mineral tenement fall within the ambit of that program,

the holder of the mining tenement (tenement holder (and any other person who may be acting on behalf of the tenement holder)) may, subject to complying with any requirement prescribed by the regulations for the purposes of this subsection, rely on the program prescribed by the regulations rather than a program prepared under subsection (2) or (3) (and subsections (4) to (7) will not apply).

(10) Subsection (9) does not apply in relation to mining-authorized operations carried out under a mineral tenement by the holder of a particular mining tenement if the Minister has, by notice to the holder of the tenement (tenement holder), determined that the subsection will not apply in the circumstances of the particular case.

(11) A program may be developed and approved under this section even though it may relate (wholly or in part) to restricted land (on the basis that the tenement holder will seek to gain access to the land under a waiver of the benefit of the restriction).

70C—Review of programs

(1) A program under this Part may be reviewed at any time by the holder of the relevant mining-tenement (tenement holder).

(2) A program must be reviewed—

(a) if the tenement holder is seeking approval under Part 8B Division 7 to a change in authorized operations that may be carried out under the relevant mineral tenement and the change is inconsistent with the program; or

(b) if the Minister directs that the program should be reviewed (whether on the basis of a report provided to the Minister under section 70D or for some other reason); or

(c) if a review is required by the regulations.

(3) A review must be conducted—

(a) in accordance with any requirements prescribed by the regulations; and

(b) taking into account the requirements of section 70B(2) (and so as to provide consistency with those requirements); and

(c) within a period prescribed by the regulations.

In accordance with any requirements prescribed by the regulations, and within a period prescribed by the regulations, for the purposes of this section.

(4) A copy of any program revised under this section must be furnished to the Minister in accordance with any requirements prescribed by the regulations.
Mining Act 1971—1.7.2011
Part 10A—Programs for environment protection and rehabilitation

(5) The Minister may on the receipt of a revised program submitted for the purposes of this section—
   (a) approve the revised program without alteration; or
   (b) require alterations to the revised program after consultation with the holder of the mining tenement (or holders of the mining tenements).

(6) The holder of a mining tenement required to make any alterations under subsection (5) may apply to the ERD Court for a review of the requirement within 28 days after receiving notice of the requirement or such longer period as the Minister may allow in a particular case.

(7) On a review under subsection (6), the ERD Court may—
   (a) confirm the requirement (with or without modifications); or
   (b) revoke the requirement and give directions with respect to the approval of the revised program.

(8) The Minister may, on approving a revised program under this section, add, vary or revoke a condition applying in relation to the program.

70D—Related matters

Audit of program

(1) A holder of a mining tenement must not conduct mining operations in pursuance of the mining tenement if the person is in breach of any requirement of this Part.
   Maximum penalty: $120 000.

(2) A holder of a mining tenement must not fail to comply with any requirement under this Part to review a program under this Part.
   Maximum penalty: $120 000.

(3) A person who, in connection with any mining operations, contravenes or fails to comply with a program under this Part that applies in relation to those operations is guilty of an offence.
   Maximum penalty: $120 000.

(1) A tenement holder must, at the direction of the Minister, do 1 or both of the following:
   (a) carry out specified tests, environmental monitoring or other investigations (a program audit) relating to any authorised operations carried out under the relevant mineral tenement;
   (b) comply with the requirements or outcomes of a program audit to the satisfaction of the Minister.

(2) The Minister may, in acting under subsection (1), provide directions about 1 or more of the following:
   (a) the independence, qualifications or experience of a person who will carry out a program audit;
   (b) the period within which a program audit must be completed.
(c) the provision of a report or reports to the Minister.

(3) A program audit must be carried out in accordance with any requirements prescribed by the regulations.

(4) Without limiting subsection (1)(b), the Minister may rely on any information provided in a report under this section for the purposes of requiring a review of a program under section 70C.

(5) Without limiting subsection (2)(a), the Minister may require that the audit be conducted by a person approved by the Minister.

(6) Any cost associated with a requirement under this section will be borne by the tenement holder.

70DA—Related matters

(1) A tenement holder must not carry out authorised operations under a mineral tenement if the person is in breach of a requirement of this Part.

Maximum penalty: $250 000.

(2) A tenement holder must not contravene, or fail to comply with, a condition of a program under this Part.

Maximum penalty: $250 000.

(3) A tenement holder must not fail to comply with a requirement under this Part to review a program under this Part.

Maximum penalty: $250 000.

(4) A tenement holder must not fail to comply with a requirement under this Part relating to—

(a) the conduct of a program audit; or

(b) the action to be taken as a result of a program audit.

Maximum penalty: $250 000.

(5) A person, who in connection with any authorised operations—

(a) contravenes or fails to comply with a program under this Part that applies in relation to those operations; or

(b) contravenes or fails to comply with a condition of a program under this Part that applies in relation to those operations,

is guilty of an offence.

Maximum penalty: $250 000.
Part 10B—General provisions—environmental protection Compliance and Enforcement

70E—Power to direct tenement holderspersons to take action to prevent or minimise environmental harm

(1) If, in the Minister's opinion, authorisedmining operations are being conducted in a way that results in, or that is reasonably likely to result in—

(a) undue damage to the environment; or

(b) a breach of the environmental outcomes under a program under Part 10A,

the Minister may, by written notice given to any person involved in undertaking the mining operations (an environmental direction), direct that action be taken to comply with specified requirements to prevent or minimise damage to the environment (to the extent necessary to address the relevant matter arising under paragraph (a) or (b)).

(2) If, in the opinion of an authorised officer—

(a) mining operations are being conducted in a way that results in, or that is reasonably likely to result in—

(i) undue damage to the environment; or

(ii) a breach of the environmental outcomes under a program under Part 10A; and

(b) it is urgently necessary to take action under this subsection,

the authorised officer may, by written notice given to any person involved in undertaking the mining operations (an environmental direction), direct that action be taken to comply with specified requirements to prevent or minimise damage to the environment (to the extent necessary to address the relevant matter arising under paragraph (a)).

(3) A direction under this section may impose any requirement reasonably required for the purpose for which the direction is issued including 1 or more of the following:

(a) a requirement that a person specified or identified in the direction discontinue, or not commence, a specified activity indefinitely or for a specified period or until further notice from the Minister or an authorised officer;

(b) a requirement that a person specified or identified in the direction take specified action in a specified way, and within a specified period or at specified times or in specified circumstances;

(c) a requirement that a person specified or identified in the direction take action to prevent or minimise any damage to the environment, or to control any specified activity;

(d) a requirement that a person specified or identified in the direction undertake specified tests or monitoring and, in relation to such a requirement—

(i) a requirement that the tests or monitoring be carried out by a person with specified qualifications or experience;

(ii) a requirement that a report or reports be provided to the Minister, or to any other specified person;
Part 10A—Programs for environment protection and rehabilitation

(a) a requirement that a person specified or identified in the direction undertake specified tests or monitoring;

(e) a requirement that a person specified or identified in the direction take specified action to rehabilitate or restore any land;

(ea) a requirement that a person specified or identified in the direction prepare a plan of action (that complies with any specified requirements and to the satisfaction of the Minister) to prevent or address—

(i) undue damage to the environment; or

(ii) a breach of an environmental outcome under a program under Part 10A; or

(iii) any other breach of this Act;

(f) a requirement that a person specified or identified in the direction furnish the Minister with specified results or reports.

(4) A direction under this section must allow a reasonable time for compliance with the direction.

(5) A person to whom a direction relates must comply with a direction under this section within the time allowed in the direction.

Maximum penalty: $250 000.

(6) If a direction is given under this section, the Minister may review the adequacy of any relevant program under Part 10A and, if it appears on the review that a revised program is appropriate, the Minister may take the necessary steps to have a revised program prepared and brought into force.

(7) The Director must establish a process for a person who is the subject of a direction under subsection (2) to apply for an internal review of the direction and the Director may, at the conclusion of any such review, confirm, vary or revoke the direction.

(8) For the purposes of this section, a reference to a person involved in undertaking mining—authorised operations extends (in all cases) to the holder of a mining—mineral tenement under which the authorised mining operations are conducted.

70F—Power to direct rehabilitation of land

(1) The Minister may, by written notice given to any person involved in undertaking mining—authorised operations under a mining tenement (including a former mining tenement), (a rehabilitation direction), direct that action be taken—

(a) to rehabilitate land in accordance with the requirements of a program under Part 10A; or

(b) to rehabilitate land to a standard required to secure compliance with a condition of the mining tenement.

(2) A direction under this section—

(a) must allow a reasonable time for compliance with the direction; and

(b) may require the removal of abandoned equipment and facilities.

(3) A person must comply with a direction under this section within the time allowed in the direction.

Maximum penalty: $250 000.
(4) Without limiting any other provision under this Act, the Warden's Court may order that no further claim may be established under this Act by a person named in a direction under this section until the requirements of the direction have been satisfied.

(5) If an order has been made under subsection (4), the person named in the order is not entitled to establish a claim under this Act until the requirements of the direction have been satisfied or the order has been revoked.

(6) For the purposes of this section a rehabilitation direction may be issued at any time (including after a mineral tenement has expired or been cancelled or surrendered) and a reference to a person involved in undertaking mining operations authorised operations extends (in all cases) to—

(a) the holder of the mining tenement mineral tenement under which the mining—operation authorised operations are conducted;  
(b) if relevant, the holder of a mining tenement mineral tenement that has since expired, or has been cancelled or surrendered (but, in such a case, a notice may only be given to the person who was the holder of the mining tenement mineral tenement immediately before its expiration, cancellation or surrender).

70FA—Compliance directions

(1) The Minister may issue a direction under this section (a compliance direction) for the purpose of—

(a) securing compliance with a requirement under this Act, a mineral tenement (including a term or condition of a mineral tenement) or any authorisation or direction under or in relation to a mineral tenement; or

(b) preventing or bringing to an end specified operations that are contrary to this Act or a mineral tenement (including a term or condition of a mineral tenement); or

(c) without limiting any other provision, requiring the rehabilitation of land on account of any authorised operations carried out without an authority required by this Act.

(2) A compliance direction—

(a) must be in the form of a written notice given to the person to whom the direction is issued; and

(b) must—

(i) specify the person to whom it is issued (whether by name or by description sufficient to identify the person); and

(ii) specify the grounds on which it is issued; and

(c) may impose any requirement reasonably required for the purpose for which the direction is issued including 1 or more of the following:

(i) a requirement that the person discontinue, or not commence, specified operations indefinitely or for a specified period or until further notice from the Minister;

(ii) a requirement that the person not carry on specified operations except at specified times or subject to specified conditions;

(iii) a requirement that the person take specified action within a specified period.

(3) The Minister may, by written notice given to the person to whom a compliance direction is
Mining Act 1971—1.7.2011
Part 10A—Programs for environment protection and rehabilitation

issued, vary or revoke the direction.
4. A person to whom a compliance direction relates must comply with a direction under this section within the time allowed in the direction.

Maximum penalty: $250,000.

70FB—Emergency directions

1. If, in the opinion of an authorised officer—

(a) authorised operations are being carried out in a way that results in, or that is reasonably likely to result in—

(i) undue damage to the environment; or

(ii) a breach of an environmental outcome under a program under Part 10A; or

(iii) a breach of a term or condition of a mineral tenement; and

(b) it is urgently necessary to take action under this section,

the authorised officer may, by written notice given to any person involved in undertaking the authorised operations, issue a direction under this section (an emergency direction).

2. An emergency direction—

(a) subject to subsection (3), must be in the form of a written notice given to the person to whom the direction is issued; and

(b) must specify the grounds on which it is issued; and

(c) may impose any requirement reasonably required for the purpose for which the direction is issued including 1 or more of the following:

(i) a requirement that a person specified or identified in the direction discontinue, or not commence, a specified activity indefinitely or for a specified period or until further notice from an authorised officer;

(ii) a requirement that a person specified or identified in the direction take specified action within a specified period;

(iii) a requirement that a person specified or identified in the direction furnish the Minister or a specified authorised officer with a specified report or reports.

3. An authorised officer may, if of the opinion that urgent action is required under this section, issue an emergency direction imposing requirements of a kind referred to in subsection (2)(c) orally but, in that event, the authorised officer must confirm it in writing at the earliest opportunity (and in any event within 2 business days) by written notice given to the person to whom the direction applies.

4. An emergency direction issued under this section will cease to have effect at the expiration of 3 business days after the day on which it is issued unless the Director of Mines, within that period, confirms the direction in the manner prescribed by the regulations (and then the direction will continue to have effect until a period).
Mining Act 1971—1.7.2011
Part 10B—General provisions—environmental protection

(5) An authorised officer may, with the approval of the Director, by written notice served on the person to whom an emergency direction has been issued, vary or revoke the direction.

(6) A person to whom an emergency direction relates must comply with a direction under this section within the time allowed in the direction.

Maximum penalty: $250 000.

70FC—Contravention of Act
The Minister or an authorised officer may, if of the opinion that it is reasonably necessary to do so in the circumstances, include in a direction under this Part a requirement for an act or omission that might otherwise constitute a contravention of this Act and, in that event, a person incurs no liability to a penalty under this Act for compliance with the requirement.

70G—Application for review of direction

(1) A person required to comply with an environmental direction or a rehabilitation direction under this Part may apply to the ERD Court for a review of the direction within 28 days after receiving the direction or such longer period as the Minister or the Director of Mines may allow in a particular case.

(2) Unless the Minister, the Director of Mines or the Court decides to the contrary, an application for review of an environmental direction or a rehabilitation direction does not suspend operation of the direction.

(3) On review of an environmental direction or a rehabilitation direction, the ERD Court may—

(a) confirm the direction (with or without modification); or

(b) revoke the direction.

70H—Action if non-compliance occurs

(1) If the requirements of an environmental direction or a rehabilitation direction under this Part are not complied with, the Minister or the Director of Mines may take the action required by the direction.

(2) Any action to be taken by the Minister under subsection (1) may be taken on the Minister's behalf by an authorised officer or by another person authorised by the Minister or the Director for the purpose.

(3) If a person other than an authorised officer is authorised to take action under subsection (2), the following provisions apply:

(a) the Minister or the Director must issue the person with an instrument of authority;

(b) the person must produce the instrument of authority for the inspection of any person in relation to whom the person intends to exercise powers under this section.
(4) The reasonable costs and expenses incurred by the Minister or the Director of Mines in taking action under this subsection (1) section may be recovered by the Minister as a debt from the person who failed to comply with the requirements of the relevant direction, constitutes a debt due to the Crown.

70HA—Restriction of claims

(1) Without limiting any other provision of this Act, the Warden's Court may order that no further claim may be established under this Act by a person named in a direction under this Part until the requirements of the direction have been satisfied.

(2) If an order is made under subsection (1), the person named in the order is not entitled to establish a claim under this Act until the requirements of the direction have been satisfied or the order has been revoked.

70HB—Self-incrimination

(1) It is not an excuse for a natural person to refuse to provide information required by or under a direction under this Part on the ground that to do so might tend to incriminate the person or make the person liable to a penalty.

(2) However, if compliance with a requirement to provide information might tend to incriminate the person or make the person liable to a penalty, then the fact of the provision of the information is not admissible in evidence against the person in proceedings for an offence or for the imposition of a penalty (other than proceedings in respect of making a false or misleading statement).
Part 10B—General provisions—environmental protection

**Part 10C—Offences and penalties**

**70HC—Penalty for illegal mining**

(1) A person who—

(a) carries out authorised operations without being duly authorised by or under this Act; or

(b) sells, or disposes of, minerals recovered by the person in the course of authorised operations, or utilises any such minerals, in a manner that is contrary to a provision of this Act,

is guilty of an offence.

Maximum penalty: $250 000 or imprisonment for 2 years.

(2) Subsection (1) does not apply in relation to prescribed classes of ancillary operations authorised under another Act.

**70HD—Obstruction of person authorised to mine etc**

A person must not, without lawful excuse, obstruct or hinder the tenement holder in the reasonable exercise of rights conferred under this Act.

Maximum penalty: $150 000.

**70HE—Civil penalties**

(1) Subject to this section, if the Director of Mines is satisfied that a person has committed an offence by contravening a provision of this Act, the Director may, as an alternative to criminal proceedings, recover, by negotiation or by application to the ERD Court, an amount as a civil penalty in respect of the contravention.

(2) The Director of Mines may not recover an amount under this section in respect of a contravention if the relevant offence requires proof of intention or some other state of mind, and must, in respect of any other contravention, determine whether to initiate proceedings for an offence or take action under this section, having regard to the seriousness of the contravention, the previous record of the offender and any other relevant factors.

(3) The Director of Mines may not make an application to the Court under this section to recover an amount from a person as a civil penalty in respect of a contravention—

(a) unless the Director has served on the person a notice in the prescribed form advising the person that the person may, by written notice to the Director, elect to be prosecuted for the contravention and the person has been allowed not less than 21 days after service of the Director's notice to make such an election; or

(b) if the person serves written notice on the Director, before the making of such an application, that the person elects to be prosecuted for the contravention.

(4) The maximum amount that the Director of Mines may recover by negotiation as a civil penalty in respect of a contravention is—

(a) the amount specified by this Act as the criminal penalty in relation to that contravention; or

(b) $150 000.
whichever is the lesser.

(5) If, on an application by the Director of Mines, the ERD Court is satisfied on the balance of probabilities that a person has contravened a provision of this Act, the Court may order the person to pay to the Director an amount as a civil penalty (but not exceeding the amount specified by this Act as the criminal penalty in relation to that contravention).

(6) In determining the amount to be paid by a person as a civil penalty, the Court must have regard to—

(a) the nature and extent of the contravention; and

(b) any detriment to the public interest resulting from the contravention; and

(c) any financial saving or other benefit that the person stood to gain by committing the contravention; and

(d) whether the person has previously been found, in proceedings under this Act, to have engaged in any similar conduct; and

(e) any other matter it considers relevant.

(7) The jurisdiction conferred by this section is to be part of the civil jurisdiction of the ERD Court.

(8) If conduct of a person constitutes a contravention of 2 or more provisions of this Act, an amount may be recovered from the person under this section in relation to the contravention of any 1 or more of those provisions (provided that the person is not liable to pay more than 1 amount as a civil penalty in respect of the same conduct).

(9) Proceedings for an order under this section that a person pay an amount as a civil penalty in relation to a contravention of this Act, or for enforcement of such an order, are stayed if criminal proceedings are started or have already been started against the person for an offence constituted by conduct that is substantially the same as the conduct alleged to constitute the contravention.

(10) Proceedings referred to in subsection (9) may only be resumed if the criminal proceedings do not result in a formal finding of guilt being made against the person.

(11) Evidence of information given or evidence of the production of documents by a person is not admissible in criminal proceedings against the person if—

(a) the person gave the evidence or produced the documents in the course of negotiations or proceedings under this section for the recovery of an amount as a civil penalty in relation to a contravention of this Act; and

(b) the conduct alleged to constitute the offence is substantially the same as the conduct that was alleged to constitute the contravention.

(12) However, subsection (11) does not apply to criminal proceedings in respect of the making of a false or misleading statement.

(13) Proceedings for an order under this section may be commenced at any time within 3 years after the date of the alleged contravention or, with the authorisation of the Attorney-General, at any later time within 10 years after the date of the alleged contravention.

(14) An apparently genuine document purporting to be signed by the Attorney-General
Mining Act 1971—1.7.2011
Part 10B—General provisions—environmental protection

authorising the commencement of proceedings for an order under this section will be accepted in any legal proceedings, in the absence of proof to the contrary, as proof of the authorisation.

(15) The Court may, in any proceedings under this section, make such orders in relation to the costs of the proceedings as it thinks just and reasonable.

(16) An amount recovered as a civil penalty under this section will be paid into the Mining Rehabilitation Fund.

70HF—Additional orders on conviction

(1) If a person is convicted of an offence against this Act, the court by which the conviction is recorded may, in addition to any penalty that it may impose, and to any other order that may be made under this or any other Act, make 1 or both of the following orders:

(a) an order requiring the person to take any specified action (including an order to rectify the consequences of any contravention of this Act, or to ensure that a further contravention does not occur);

(b) without limiting paragraph (a) — an order requiring the person to make good any environmental damage and, if appropriate, to take specified action to prevent or mitigate further harm to the environment;

(c) an order requiring the person to publicise the contravention of this Act and any environmental or other consequences, and the other orders (if any) made against the person;

(d) an order requiring the person to pay into the Mining Rehabilitation Fund an amount determined by the court to be equal to a fair assessment or estimate of the financial benefit that the person, or a related body corporate, has gained, or can reasonably be expected to gain, as a result of the contravention of this Act;

(e) an order requiring the person to pay to any person who has suffered loss or damage to property as a result of the acts or omissions constituting the offence, or incurred costs or expenses in taking action to prevent or mitigate such loss or damage, compensation for that loss or damage and reasonable reimbursement for those costs or expenses.

(2) For the purposes of subsection (1)(d), a financial benefit obtained by delaying or avoiding costs will be taken to be a financial benefit gained as a result of a contravention of the Act if the contravention can be attributed (in whole or in part) to that delay or avoidance.

(3) The court may, by an order under this section, fix a period for compliance and impose other requirements the court considers necessary or expedient for the enforcement of the order.

70HG—Continuing offences

(1) A person convicted of an offence against a provision of this Act in respect of a continuing act or omission—

(a) is liable, subject to any determination of a court, in addition to the penalty otherwise applicable to the offence, to a penalty for each day during which the act...
or omission continued for not more than one-tenth of the maximum penalty prescribed for that offence; and

(b) is, if the act of omission continues after the conviction, subject to any determination of a court, guilty of a further offence against the provision and liable, in addition to the penalty otherwise applicable to the further offence, to a penalty for each day during which the act or omission continued after the conviction of not more than one-tenth of the maximum penalty prescribed for the offence.

(2) If an offence consists of an omission to do something that is required to be done, the omission will be taken to continue for as long as the thing required to be done remains undone after the end of the period for compliance with the requirement.

70HH—Offences by bodies corporate

If a body corporate is guilty of an offence against this Act, each director of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence if the prosecution proves that—

(a) the director knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; and

(b) the director was in a position to influence the conduct of the body corporate in relation to the commission of such an offence; and

(c) the director failed to exercise due diligence to prevent the commission of the offence.

70HI—Time limits

(1) Criminal proceedings under this Act may be commenced at any time within 3 years after the date of the alleged offence or, with the authorisation of the Attorney-General, at any later time within 10 years after the alleged offence.

(2) An apparently genuine document purporting to be signed by the Attorney-General authorising the commencement of criminal proceedings under this Act will be accepted in any legal proceedings, in the absence of proof to the contrary, as proof of the authorisation.

70HJ—Summary offences

All offences under this Act are classified as summary offences.

70HK—Evidentiary provisions

(1) In proceedings for an offence against this Act, an apparently genuine document purporting to be a certificate signed by the Minister certifying—

(a) that a person named in the certificate was or was not at a specified time the tenement holder; or

(b) that a specified provision was a term or condition of a specified mineral tenement at a specified time; or

(c) that a specified provision was a requirement or condition of a program under Part 10A; or

(d) that a specified determination, direction, decision, order or requirement was made or given on a specified day; or
Mining Act 1971—1.7.2011

Part 10B—General provisions—environmental protection

(e) that at a specified time the Minister, the Director of Mines or the Mining Registrar gave notice of any specified matter under or in connection with the operation of this Act; or

(f) that at a specified time the Minister, the Director of Mines or the Mining Registrar had not received any notice, instrument or other document, or had not received any information of a specified kind; or

(g) that at a specified time a specified person was an authorised officer under this Act; or

(h) that a particular delegation was in force under this Act at a specified time, is, in the absence of proof to the contrary, proof of the matter so certified.

(2) In any proceedings for an offence against this Act, an allegation in the complaint that any land referred to in the complaint is mineral land, or land exempt from operations under this Act, will be taken to be proved in the absence of evidence to the contrary.

(3) In any proceedings for an offence against this Act, a document purporting to be a lease or licence under this Act will be accepted as such in the absence of evidence to the contrary.

(4) If in any proceedings for an offence against this Act in relation to any operations it is proved that there has been a contravention of, or a failure to comply with—

(a) a term or condition of a mineral tenement; or

(b) a requirement or condition of a program under Part 10A applying in respect of a mineral tenement,

it must be presumed, in the absence of evidence to the contrary, that the contravention or failure (as the case requires) occurred as a result of an act or omission of the tenement holder.

(5) In any proceedings for an offence against this Act, if it appears that an alleged fact has been determined by the use of an electronic, sonic, optical, mechanical, measuring or other device or technique by an authorised officer or a person assisting an authorised officer, the alleged fact must be accepted as proved in the absence of evidence to the contrary.
Part 11—Assistance to mining

71—Minister may assist in conduct of mining operations

(1) The Minister may assist in the conduct of mining operations by the loan of mining equipment or of money to be expended in advancing mining operations.

(2) Assistance may be provided upon such terms and conditions as may be determined by the Minister, but any money advanced under subsection (1) shall become a debt due to the Crown, to be repaid in such manner as the Minister may direct.

72—Research and investigations

The Minister may—

(a) conduct research and investigation into—

(i) the existence of native title on mineral land; and

(ii) problems affecting the conduct of mining operations or the treatment of ores; and

(b) stipulate and recover charges for any such research or investigation conducted at the request of any person; and

(c) pay the cost of any such research or investigation out of money provided by Parliament for the purpose.

73—Acquisition of mining equipment

The Minister may, out of money provided by Parliament, acquire mining equipment for the purposes of this Part.
Part 11A—Caveats

73A—Lodging of caveats

— (1) A person claiming a legal or proprietary interest in a mining tenement may lodge with a mining registrar a caveat forbidding the registration of any transfer or other instrument affecting the mining tenement or interest.

— (2) A caveat lodged under this section—

— (a) must be in a form determined by the Minister and lodged in a manner determined or approved by a mining registrar; and

— (b) shall state the full name and address of the caveator; and

— (ba) must state the nature of the interest claimed by the person lodging the caveat and the grounds on which the claim is founded; and

— (c) shall be signed by the caveator or his agent; and

— (d) shall give an address for the service of notices and proceedings in relation to the caveat; and

— (e) must be accompanied by such other information as a mining registrar may require; and

— (f) must be accompanied by the prescribed fee.

— (3) Upon the lodging of the caveat—

— (a) a memorial or copy of the caveat shall be entered in the register; and

— (b) notice of the lodging of the caveat shall be sent, by registered post or certified mail, to the holder of the mining tenement affected by the caveat.

— (4) If—

— (a) a person lodges a caveat with respect to a mining tenement; and

— (b) the caveat lapses,

the person may not lodge a second or subsequent caveat relating to the same interest that applied under subsection (1) in relation to the original caveat without the approval of the Warden’s Court.

— (5) The operation of subsection (4) does not affect the ability of a person to lodge a caveat under section 73B(3).

73B—Duration and effect of caveat

— (1) Except as provided in this section, a caveat shall lapse upon—

— (a) the order of the Warden’s Court for the removal of the caveat;

— (b) the withdrawal of the caveat by the caveator;
Mining Act 1971—1.7.2011

Part 11A—Caveats

---

(c) the expiration of 14 days after notification that application has been made for the registration of a transfer or other instrument affecting the subject matter of the caveat has been sent by, or on behalf of, a mining registrar, by registered post or certified mail, to the caveator at the address for service given in the caveat, unless, within that period, the Warden's Court otherwise orders.

(2) When a caveat lapses, a memorial of that fact shall be entered in the register.

(3) Where the holder of a mining tenement has entered into an agreement with any person relating to the sale of an interest in the tenement, then, if the agreement so provides, either party to the agreement may lodge a caveat in accordance with this Part, together with a copy of the agreement, and the caveat shall remain in force for such period as may be specified in the agreement, unless sooner withdrawn by consent of the parties to the agreement or removed by order of the Warden's Court or some other court that is competent to adjudicate upon the rights protected by the caveat.

(4) A transfer or other instrument that would operate in derogation of rights protected by a caveat shall not be registered by a mining registrar, and its operation shall be suspended, while the caveat remains in force, unless the Warden's Court, or some other court that is competent to adjudicate upon the rights protected by the caveat, otherwise orders.

(5) Any person interested in the subject matter of a caveat may apply to the Warden's Court for an order under this section.
Part 11B—Private mines

73C—Interpretation

(1) In this Part—

compliance order—see section 73I;

environment means land, air, water, organisms and ecosystems, and includes human-made or modified structures or areas;

general duty means the duty under section 73H;

mine operations plan means a mine operations plan under section 73G;

private mine means an area declared to be a private mine under section 19 as in force immediately before the commencement of this Part;

rectification authorisation—see section 73K;

rectification order—see section 73J.

(2) Without derogating from the general meaning of mining operations under this Act, mining operations includes, for the purposes of this Part, when carried out within the boundaries of a private mine—

(a) the treatment, processing or handling of any material recovered in the course of mining operations; and

(b) any activity ancillary to the conduct of mining operations.

73D—Exemption from Act

(1) Subject to this Part, and any other provisions of this Act that explicitly apply to a private mine or the operator of a private mine, a private mine is exempt from the other Parts of this Act.

(2) Land comprised within a private mine cannot be subject to a mining tenement under this Act.

73E—Royalty

(1) Subject to and in accordance with the provisions of this Act, royalty—

(a) in the case of a private mine in relation to which a relevant event has occurred—is payable on—

(i) extractive minerals recovered from the private mine; and

(ii) any other minerals recovered from the private mine on or after the day on which the relevant event occurred; or

(b) in any other case—is payable on extractive minerals recovered from the private mine, but is not payable on any other minerals so recovered.

(1a) For the purposes of subsection (1), a relevant event occurs if, on or after 19 June 2014, there is a change in—

(a) the proprietor of the private mine; or
Mining Act 1971—1.7.2014

Part 11B—Private mines

— (b) the whole or any part of the right to carry out mining operations at the private mine.

— (1b) A reference in subsection (1a)(a) to a change in the proprietor of a private mine includes a change in a person lawfully claiming under the proprietor whether the claim is of a legal or equitable kind.

— (1c) If a private mine has 2 or more proprietors, a change in any of those proprietors will be taken to be a relevant event for the purposes of subsection (1a)(a).

— (1d) Without limiting any other provision, the creation, transfer, assignment, sale or disposal of an interest in proprietary rights in minerals recovered from a private mine under a contract or other instrument or agreement will be taken to be a relevant event for the purposes of subsection (1a)(a).

— (1e) Without limiting any other provision, an event, transaction or acquisition that would give rise to liability to pay duty under Part 3 Division 6 or 8 or Part 4 of the Stamp Duties Act 1923, disregarding any exemptions from such duty applying under that Act, will be taken to be a relevant event for the purposes of subsection (1a)(a).

— (1f) Without limiting subsection (1e), the acquisition of a controlling interest in a business that—

— (a) is the proprietor of the private mine; or

— (b) holds the whole or any part of the right to carry out mining operations at the private mine,

will be taken to be a relevant event for the purposes of subsection (1a)(a).

— (1g) For the purposes of subsection (1f) —

— (a) business includes bodies and associations (corporate and unincorporate) and partnerships; and

— (b) a person has a controlling interest in a business if the person would be treated as having a controlling interest in a business for the purposes of section 72 of the Payroll Tax Act 2009 (disregarding section 72(1)).

— (2) Subject to subsection (3), the proprietor of a private mine is liable for royalty payable under this section.

— (3) If—

— (a) a person other than the proprietor is carrying out mining operations at a private mine; and

— (b) the proprietor gives notice to the Minister, in a manner and form determined by the Minister, under this section,

the person carrying out the mining operations (rather than the proprietor) is liable for royalty under this section.

— (4) If—

— (a) the proprietor of a private mine has given a notice to the Minister under subsection (3); and

— (b) the person carrying out mining operations at the private mine fails to pay royalty; and
—(c) the proprietor pays the royalty,
the proprietor may, subject to any agreement to the contrary—
—(d) recover the amount paid as a debt from the person who failed to pay the
royalty; or
—(e) set off the amount paid against a liability (if any) to the person who failed to
pay the royalty.

(5) If royalty payable on minerals recovered from a private mine is not paid on or by the
day on which it fell due—
—(a) the Minister may, by written notice served on—
    —(i) the proprietor of the mine; and
    —(ii) if the Minister has been given a notice under subsection (3)—the
    person carrying out mining operations at the private mine,
    make an order suspending mining operations at the mine; and
—(b) the person liable for the royalty is liable to pay a penalty amount, in addition to
the amount of royalty unpaid, equal to $1,000 plus $200 for each month (or part of a month) for which the royalty remains unpaid.

(6) The Minister must revoke an order under subsection (5)(a) if the royalty and any
penalty amount payable under subsection (5)(b) is subsequently paid.

(7) A person who carries out mining operations in contravention of an order under
subsection (5)(a) is guilty of an offence.
Maximum penalty: $5,000.

(8) If a person is convicted of an offence under subsection (7) and the offence continues
after the date of conviction, the person is guilty of a further offence against that
subsection and liable, in addition to the maximum penalty of $5,000, to a penalty not
exceeding $1,000 for each month (or part of a month) the offence continues after the
date of the conviction.

(9) A person who is entitled to receive a notice under subsection (5)(a) may appeal to the
Warden’s Court against an order under that subsection.

(10) An appeal must be made in a manner and form determined by the Warden’s Court.

(11) The Warden’s Court may, on hearing an appeal, revoke the order appealed against if
satisfied that the making, or the continuation, of the order is unreasonable in the
circumstances of the particular case.

(12) The Minister may, at the Minister’s discretion, remit a penalty amount payable under
subsection (5)(b) by any amount.

73EA—Notification of relevant event

(1) If a relevant event within the meaning of section 73E occurs, the person who, as a
result of the relevant event, becomes a proprietor of a private mine or acquires a right—to carry out mining operations at a private mine (as the case may be) must, within
30 days after the relevant event, notify the Minister of the relevant event.
Maximum penalty: $5,000.
Mining Act 1971—1.7.2014

Part 11B—Private mines

—(2) The notification of the relevant event must—
    —(a) be in writing in a form approved by the Minister; and
    —(b) contain the information about the relevant event and any other details required by the Minister.

73F—Passing of property in minerals

—(1) While a mine continues as a private mine under this Act, the property in any minerals recovered from the mine will pass to the person by whom the minerals are lawfully mined on, and in consideration of, payment of royalty or, if royalty is not payable in respect of the minerals, on recovery of the minerals.

—(2) Subsection (1) operates subject to any contract, agreement, assignment, mortgage, charge or other instrument relating to proprietary rights in the minerals.

—(3) An interested party may, by application to the Warden’s Court, seek the determination of any question or dispute as to the effect or enforcement of a contract, agreement, assignment, mortgage, charge or other instrument under subsection (1).

—(4) The Court may, on the hearing of an application under subsection (3), make such orders as it considers necessary or expedient to give effect, consistently with the provisions of this Act, to the intention of the contract, agreement, assignment, mortgage, charge or other instrument or to achieve a just settlement of any matters of dispute.

73G—Mine operations plans

—(1) Unless otherwise approved by the Director, a person must not, after the commencement of this Part, carry out mining operations at a private mine unless a mine operations plan that relates to the operations and complies with requirements of this section is in place.

—(2) A mine operations plan must, in order to comply with the requirements of this section—
    —(a) include, in accordance with the requirements of the regulations—
        —(i) a set of objectives approved by the Director; and
        —(ii) a set of criteria for measuring those objectives approved by the Director, that relate to the mining operations carried out at the private mine; and
    —(b) be consistent with any relevant environment improvement programme or environment protection policy under the Environment Protection Act 1993; and
    —(c) comply with any other requirement prescribed by the regulations.

—(3) Objectives under subsection (2)(a) must include specific objectives to achieve compliance with the general duty (see section 73H).

—(4) A person wishing to obtain the approval of the Director to a set of objectives and a set of criteria, or to an alteration to a set of objectives or a set of criteria, must submit a draft of the objectives and criteria, or a draft of the objectives or criteria as altered, (as the case may be) to the Director in accordance with the regulations.
(5) The Director may, on receipt of a draft under subsection (4)—

(a) accept the draft, without alteration; or

(b) require alterations to the draft after consultation with the person who has submitted the draft (and in this case the person must (subject to any appeal under subsection (6)) alter the draft in accordance with the requirements of the Director).

(6) The person who has submitted the draft may appeal to the Warden’s Court against a requirement of the Director under subsection (5)(b) and the Warden’s Court may, on hearing an appeal—

(a) confirm the requirement of the Director;

(b) vary or revoke the requirement of the Director, or impose any requirement in substitution for a requirement of the Director;

(c) make any consequential or ancillary order that it considers necessary or expedient.

(7) Subject to the outcome of any appeal under subsection (6), the Director will then, unless subsection (8) applies, be taken to have approved the objectives and criteria contained in the draft.

(8) If a draft relates to new operations to be carried out at a private mine, the draft must then be released for public consultation on the proposed objectives and criteria.

(9) The public consultation must be conducted in accordance with the regulations.

(10) The person who submitted the draft must, after complying with the public consultation requirements, prepare a report on the matters raised as a result of public consultation (insofar as they are relevant to the matters that were referred for public consultation) and, if relevant, on any recommended alterations to the objectives and criteria contained in the draft, and submit the report to the Director.

(11) The Director may then—

(a) approve the objectives and criteria (with any alterations recommended under subsection (10)); or

(b) refer the matter back to the person who submitted the draft for further consideration or report (and in this case the Director must provide written reasons for his or her action and may subsequently approve the objectives and criteria, or altered objectives and criteria, if or when the Director is satisfied that the matter has been satisfactorily resolved).

(12) The person who submitted the draft may appeal to the Warden’s Court against a decision of the Director under subsection (11)(b) (including a decision not to approve objectives and criteria) and the Warden’s Court may, on hearing an appeal—

(a) confirm the decision of the Director;

(b) vary or revoke the decision of the Director, or make any decision in substitution for a decision of the Director;

(c) make any consequential or ancillary order that it considers necessary or expedient.
Mining Act 1971—1.7.2014

Part 11B—Private mines

(13) A mine operations plan may be reviewed by a person carrying out, or intending to carry out, mining operations at the private mine at any time.

(14) A mine operations plan must be reviewed at the direction of the Director (which may be given at any time for any reasonable cause).

(15) A mine operations plan must also be reviewed—

(a) within seven years after the commencement of the plan (unless it has been reviewed sooner under subsection (13) or (14)); or

(b) in any event, within seven years after it was last reviewed.

(16) A review must be conducted in accordance with the regulations.

(17) A report must be furnished to the Director in accordance with the regulations on the completion of a review.

(18) An appeal under this section must be made in a manner and form determined by the Warden’s Court, setting out the grounds of the appeal.

73H—General duty to avoid undue environmental damage

(1) A person must, in carrying out mining operations at a private mine, take all reasonable and practicable measures to avoid undue damage to the environment.

(2) In determining what measures are required to be taken under subsection (1), regard is to be had, amongst other things, to—

(a) the nature of the mining operations and the sensitivity of the receiving environment; and

(b) the financial implications of the various measures that might be taken as those implications relate to the class of persons undertaking activities of the same or a similar kind; and

(c) the current state of technical knowledge and likelihood of successful application of the various measures that might be taken.

(3) A person will be taken to have complied with subsection (1) if the mining operations are the subject of a mine operations plan and meet objectives approved by the Director (when measured against criteria approved by the Director) contained in that plan.

(4) Subsection (1) operates in addition to, and does not limit or derogate from, the provisions of the Environment Protection Act 1993 or any other Act.

73I—Compliance orders

(1) The Director may issue an order under this section (a compliance order) for the purpose of securing compliance with—

(a) the requirement to have a mine operations plan in accordance with this Part; or

(b) the objectives contained in a mine operations plan; or

(c) the general duty.
(2) A compliance order—

(a) must be in the form of a written notice served on the person to whom the notice is issued; and

(b) must—

(i) specify the person to whom it is issued (whether by name or a description sufficient to identify the person);

(ii) if the order is issued for the purpose of securing compliance with the objectives contained in a mine operations plan, state the purpose and specify the objective that is not being met;

(iii) if the order is issued for the purpose of securing compliance with the general duty, state the purpose and specify the matters that it is directed towards; and

(c) may impose any requirement reasonably required for the purpose for which the order is issued including one or more of the following:

(i) a requirement that the person discontinue, or not commence, specified mining operations indefinitely or for a specified period or until further notice from the Director;

(ii) a requirement that the person not carry on specified mining operations except at specified times or subject to specified conditions;

(iii) a requirement that the person take specified action within a specified period; and

(d) must state that the person may, within 28 days, appeal to the Warden’s Court against the order.

(3) The Director may, by written notice served on a person to whom a compliance order has been issued, vary or revoke the order.

(4) A person to whom a compliance order is issued must comply with the order. Maximum penalty: $120,000.

(5) If the requirements of a compliance order are not complied with, the Director may take any action required by the order.

(6) Any action to be taken by the Director under subsection (5) may be taken on the Director’s behalf by authorised officers or by other persons authorised by the Director for the purpose.

(7) If a person other than an authorised officer is authorised to take action under subsection (6), the following provisions apply:

(a) the Director must issue the person with an instrument of authority;

(b) the person may exercise such powers of an authorised officer under this Part as are reasonably required for the purpose of taking action under that subsection;

(c) the provisions of this Part apply in relation to the exercise of such powers by the person in the same way as in relation to an authorised officer;
Mining Act 1971—1.7.2014

Part 11B—Private mines

---

(d) the person must produce the instrument of authority for the inspection of any person in relation to whom the person intends to exercise powers of an authorised officer.

(8) The reasonable costs and expenses incurred by the Director in taking action under subsection (5) may be recovered by the Director as a debt from the person who failed to comply with the requirements of the compliance order.

73J—Rectification orders

(1) If the Director is satisfied that a person has caused damage to the environment by a contravention of the general duty, the Director may issue an order (a rectification order) to the person requiring the person to take specified action within a specified period to make good the damage.

(2) A rectification order—

(a) must be in the form of a written notice served on the person to whom it is issued; and

(b) must specify the person to whom it is issued (whether by name or a description sufficient to identify the person); and

(c) must specify the contravention alleged to have caused the damage to the environment; and

(d) may include requirements for action to be taken to prevent or mitigate further damage to the environment; and

(e) may include requirements for monitoring and reporting to the Director the effectiveness of action taken in pursuance of the order; and

(f) must state that the person may, within 28 days, appeal to the Warden’s Court against the order.

(3) The Director may, by written notice served on a person to whom a rectification order has been issued, vary or revoke the order.

(4) A person to whom a rectification order is issued must comply with the order.

Maximum penalty: $120 000.

73K—Rectification authorisations

(1) If the Director is satisfied that a person has caused damage to the environment by a contravention of the general duty, the Director may (whether or not a rectification order has been issued to the person) issue an authorisation (a rectification authorisation) under which authorised officers or other persons authorised by the Director for the purpose may take specified action to make good the damage.

(2) A rectification authorisation—

(a) must be in the form of a written notice; and

(b) must specify the person alleged to have caused the damage to the environment (whether by name or a description sufficient to identify the person); and
1.7.2014—Mining Act 1971

Private mines—Part 11B

—(c) must specify the contravention alleged to have caused the damage to the environment; and

—(d) may include authorisation for action to be taken to prevent or mitigate further damage to the environment.

(3) The Director must, as soon as practicable after issuing a rectification authorisation, serve a copy of the authorisation on the person alleged to have caused the damage to the environment.

(4) The Director may, by notice in writing, vary or revoke a rectification authorisation and must, as soon as practicable after doing so, serve a copy of the notice on the person alleged to have caused the damage to the environment.

(5) If a person other than an authorised officer is authorised to take action under subsection (1), the following provisions apply:

—(a) the Director must issue the person with an instrument of authority;

—(b) the person may exercise such powers of an authorised officer as are reasonably required for the purpose of taking action under that subsection;

—(c) the provisions of this Part apply in relation to the exercise of such powers by the person in the same way as in relation to an authorised officer;

—(d) the person must produce the instrument of authority for the inspection of any person in relation to whom the person intends to exercise powers of an authorised officer.

(6) The reasonable costs and expenses incurred by the Director by virtue of work done under a rectification authorisation may be recovered by the Director as a debt from the person whose contravention gave rise to the issuing of the authorisation.

73L—Appeals to Warden's Court

(1) A person to whom a compliance order or a rectification order has been issued may appeal to the Warden's Court against the order or any variation of the order.

(2) An appeal must be made in a manner and form determined by the Warden's Court, setting out the grounds of the appeal.

(3) Subject to subsection (4), an appeal must be made within 28 days after the order is issued or the variation is made.

(4) The Warden's Court may, if it is satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirements that an appeal be made within the period fixed by subsection (3).

(5) Subject to subsection (6), the making of an appeal against an order does not affect the operation of the order or prevent the taking of action to implement the order.

(6) The Warden's Court may, on application by a party to an appeal, make an order—staying or otherwise affecting the operation or implementation of the whole or a part of the order appealed against if the Warden's Court is satisfied that it is appropriate to do so having regard to—

—(a) the possible environmental consequences and the interests of any persons who may be affected by the appeal; and
Mining Act 1971—1.7.2014  
Part 11B—Private mines

(7) An order under subsection (6) —
   (a) may be varied or revoked by the Warden's Court by further order; and
   (b) is subject to such conditions as are specified in the order; and
   (c) has effect until—
       (i) the end of the period of operation (if any) specified in the order; or
       (ii) the decision of the Warden's Court on the appeal comes into operation,
       whichever is the earlier.

(8) The Warden's Court may, on hearing an appeal under this section—
   (a) confirm, vary or revoke the order appealed against;
   (b) order or direct a person or body to take such action as the Warden's Court thinks fit, or to refrain (either temporarily or permanently) from such action or activity as the Warden's Court thinks fit;
   (c) make any consequential or ancillary order or direction, or impose any condition, that it considers necessary or expedient.

73M—Declaration of Warden's Court concerning variation or revocation of declaration of an area as a private mine

(1) The Warden's Court may, on the application of the Director or the proprietor of the private mine, declare that proper grounds exist for the variation or revocation of an area as a private mine under this Act.

(2) Proper grounds exist for the purposes of subsection (1) if—
   (a) in the case of an application by the Director or the proprietor—the Warden's Court is satisfied that the whole or any part of the private mine is not being effectively operated (for a reason other than the operation of an order under section 73E) and that in the circumstances it is appropriate that a declaration be made; or
   (b) in the case of an application by the proprietor—the Warden's Court is satisfied that in the circumstances of the particular case it is appropriate that a declaration be made.

(3) In the case of an application by the proprietor, the proprietor must disclose to the Warden's Court the name of any other person who appears to have an interest in the private mine and the Warden's Court may, as part of the proceedings, invite and hear submissions from any such person.
(4) If the Director satisfies the Warden's Court—

(a) that the Director, by written notice, required the proprietor of a private mine—

to furnish the Director with a report in accordance with the regulations—
demonstrating why the declaration of the area as a private mine should not be—
varied or revoked and that the proprietor failed to furnish such a report, or an—
adequate report, within a period (being not less than two months) specified by—
the Director; and

(b) that the Director, before making application under this section—

(i) took reasonable steps to give notice of the proposed application to—

(A) the proprietor of the private mine; and

(B) any other person who, from an inspection of the current title—
to the relevant land and any instrument registered under this—
Act, appears to have an interest in the private mine or any—
minerals recovered from the private mine; and

(ii) placed a notice in a manner and form determined by the Minister in a—
newspaper circulating generally throughout the State,

the Warden's Court may assume that it may make a declaration under—
subsection (2)(a).

(5) The Director may object to an application by the proprietor of a private mine for a—
declaration under this section on the grounds that a variation or revocation would—
effectively lead to the loss of the opportunity to recover minerals from the area of the—
private mine in the future.

73N—Variation or revocation of declaration of private mine

The Governor may, on the basis of a declaration of the Warden's Court under—
section 73M, by proclamation vary or revoke the declaration of an area as a private—
mine under this Act.

73O—Powers of inspectors or persons

(1) An authorised officer, or any other person authorised in writing by the Director, may—
do all or any of the following as may be reasonably required in connection with the—
administration or operation of this Part:

(a) enter and inspect any private mine;

(b) carry out, or cause to be carried out, any investigation, examination, test or—
survey;

(c) take, and remove, specimens and samples;

(d) require a person to produce documents (which may include a written record—
reproducing in an understandable form information stored by computer,—
microfilm or other process);

(e) examine, copy or take extracts from a document or information so produced—
or require a person to provide a copy of the document or information;

(f) require a person to answer questions;
Mining Act 1971—1.7.2014
Part 11B—Private mines

— (g) give directions,
— (2) In the exercise of powers under this section an authorised officer or an authorised person may be assisted by such persons as may be necessary or desirable in the circumstances,
— (3) A person exercising a power under this section must not unnecessarily impede or obstruct the lawful use or enjoyment of a private mine.
— (4) Subject to the requirements of subsection (3), the proprietor or occupier of a private mine must give an authorised officer or an authorised person, or a person assisting an authorised officer or an authorised person, such assistance as is reasonably required for the effective exercise of a power conferred by this section.
Maximum penalty: $10 000 or imprisonment for 6 months.
— (5) A person who—
— (a) without reasonable excuse, hinders or obstructs a person in the exercise of powers under this section; or
— (b) uses abusive, threatening or insulting language to a person exercising a power under this section; or
— (c) without reasonable excuse, fails to obey a requirement or direction imposed or given under this section; or
— (d) without reasonable excuse, fails to answer, to the best of the person’s knowledge, information and belief, a question put under this section,
is guilty of an offence.
Maximum penalty: $10 000 or imprisonment for 6 months.
— (6) It is not an excuse for a person to refuse or fail to answer a question or to produce, or provide a copy of, a document or information as required under this section on the ground that to do so might tend to incriminate the person or make the person liable to a penalty.
— (7) However, if compliance by a person with a requirement to answer a question or to produce, or provide a copy of, a document or information might tend to incriminate the person or make the person liable to a penalty, then—
— (a) in the case of a person who is required to produce, or provide a copy of, a document or information—the fact of production, or provision of a copy, of the document or the information (as distinct from the contents of the document or the information); or
— (b) in any other case—the answer given in compliance with the requirement, is not admissible in evidence against the person in proceedings for an offence or for the imposition of a penalty (other than proceedings in respect of the making of a false or misleading statement).
— (8) An authorised officer or an authorised person, or a person assisting an authorised officer or an authorised person, who, in the course of exercising powers under this Act—
— (a) addresses offensive language to another person; or
(b) without lawful authority, hinders or obstructs or uses or threatens to use force in relation to another person, is guilty of an offence.

Maximum penalty: $5,000.

(9) This section does not limit the action that an authorised officer may take in order to carry out the requirements of a compliance order or to give effect to a rectification-authorisation.

73P—Service of documents on proprietor

(1) A document required or authorised to be served on or given to the proprietor of a private mine under this Act may be served on or given to the proprietor—

(a) personally; or

(b) by leaving it at the last address of the proprietor known to the Registrar; or

(c) by post addressed to the proprietor at the last address of the proprietor known to the Registrar (including, in the case of a corporation, the registered address or a business address of the corporation); or

(d) if the name or whereabouts of the proprietor is unknown—by fixing the document in a prominent position at the private mine or by publishing a copy of the document in a newspaper circulating generally throughout the State.

(2) If the name of the proprietor of a private mine is unknown to the Registrar, then it is not necessary to name the proprietor in a document served or given under subsection (1) (and the document may be addressed in a general way).

(3) If a private mine has two or more proprietors, service of a document on one proprietor may be taken to constitute service on each proprietor.

(4) For the purposes of this Act, service of a document on the person last known to the Registrar to be the proprietor of a private mine will be taken to constitute service on the proprietor of the private mine.

73Q—Registration of mine operations plans

(1) A mine operations plan must be registered on the Mining Register.

(2) However, a mine operations plan is not available for public inspection but the following must be provided to a person on application under this section:

(a) the name of the proprietor of the mine; and

(b) the location of the mine; and

(c) an extract showing the objectives and criteria applying as part of the plan.

73R—Power to correct errors in declarations

(1) If, in the opinion of the Governor, there is an error in the declaration of an area as a private mine, the Governor may, by proclamation, correct the error.

(2) A proclamation under subsection (1) will, if it so provides, be taken to have had effect as from the making of the declaration to which it relates.
Mining Act 1971—1.7.2014
Part 11B—Private mines

—(3) A proclamation should not be made under subsection (1) except at the request of, or after consultation by the Minister with, the proprietor of the private mine.
Part 12—Miscellaneous

74—Civil remedies

(1) Applications may be made to the ERD Court for 1 or more of the following orders:

(a) if a person has engaged, is engaging or is proposing to engage in conduct in contravention of this Act—an order restraining the person from engaging in the conduct and, if the Court considers it appropriate to do so, requiring the person to take any specified action;

(b) if a person has refused or failed, is refusing or failing or is proposing to refuse or fail to take any action required by this Act—an order requiring the person to take that action;

(c) if a person has suffered injury or loss or damage to property as a result of a contravention of this Act, or incurred costs and expenses in taking action to prevent or mitigate such injury, loss or damage—an order against the person who committed the contravention for payment of compensation for the injury, loss or damage, or for payment of the reasonable costs and expenses incurred in taking that action;

(d) if the Court considers it appropriate to do so, an order against a person who has contravened this Act for payment (for the credit of the Mining Rehabilitation Fund) of an amount in the nature of exemplary damages determined by the Court.

(2) An application under this section may be made by the Minister or the Director of Mines.

(3) The power of the Court to make an order restraining a person from engaging in conduct of a particular kind may be exercised—

(a) if the Court is satisfied that the person has engaged in conduct of that kind—whether or not it appears to the Court that the person intends to engage again, or to continue to engage, in conduct of that kind; or

(b) if it appears to the Court that, in the event that an order is not made, it is likely that the person will engage in conduct of that kind—whether or not the person has previously engaged in conduct of that kind and whether or not there is an imminent danger of substantial harm or damage if the first-mentioned person engages in conduct of that kind.

(4) The power of the Court to make an order requiring a person to take specified action may be exercised—

(a) if the Court is satisfied that the person has refused or failed to take that action—whether or not it appears to the Court that the person intends to refuse or fail again, or to continue to refuse or fail, to take that action; or

(b) if it appears to the Court that, in the event that an order is not made, it is likely that the person will refuse or fail to take that action—whether or not the person has previously refused or failed to take that action and
whether or not there is an imminent danger of substantial harm or
damage if the first-mentioned person refuses or fails to take that action.

(5) In assessing an amount to be ordered in the nature of exemplary damages, the
Court must have regard to—

(a) any undue damage to the environment or detriment to the public interest
resulting from the contravention; and
(b) any financial saving or other benefit that the respondent stood to gain by
committing the contravention; and
(c) any other matter it considers relevant.

(6) The power to order payment of an amount in the nature of exemplary damages
may only be exercised by a judge of the Court.

(7) An application may be made without notice to any person and, if the Court is
satisfied on the application that the respondent has a case to answer, it may
grant permission to the applicant to serve a summons requiring the respondent
to appear before the Court to show cause why an order should not be made
under this section.

(8) An application under this section must, in the first instance, be referred to a
conference under section 16 of the Environment, Resources and Development
Court Act 1993 (and the provisions of that Act will then apply in relation to the
application).

(9) If, on an application under this section or before the determination of the
proceedings commenced by the application, the Court is satisfied that, in order
to preserve the rights or interests of parties to the proceedings or for any other
reason, it is desirable to make an interim order under this section, the Court may
make such an order.

(10) An interim order—

(a) may be made on an application without notice to any person; and
(b) may be made whether or not the proceedings have been referred to a
conference; and
(c) will be made subject to such conditions as the Court thinks fit; and
(d) will not operate after the proceedings in which it is made are finally
determined.

(11) The Court may order an applicant in proceedings under this section—

(a) to provide security for the payment of costs that may be awarded against
the applicant if the application is subsequently dismissed; or
(b) to give an undertaking as to the payment of any amount that may be
awarded against the applicant under subsection (12).

(12) If, on an application under this section alleging a contravention of this Act,
the Court is satisfied—

(a) that the respondent has not contravened this Act; and
(b) that the respondent has suffered loss or damage as a result of the actions.
of the applicant; and

(c) that in the circumstances it is appropriate to make an order under this provision,

the Court may, on the application of the respondent (and in addition to any order as to costs), require the applicant to pay to the respondent an amount, determined by the Court, to compensate the respondent for the loss or damage suffered by the respondent.

(13) The Court may, if it considers it appropriate to do so, either on its own initiative or on the application of a party, vary or revoke an order previously made under this section.

(14) Proceedings under this section based on a contravention of this Act may be commenced at any time within 3 years after the date of the alleged contravention or, with the authorisation of the Attorney-General, at any later time.

(15) An apparently genuine document purporting to be signed by the Attorney-General authorising the commencement of proceedings under this section will be accepted in any legal proceedings, in the absence of proof to the contrary, as proof of the authorisation.

(16) The Court may, in any proceedings under this section, make such orders in relation to the costs of the proceedings as it thinks just and reasonable.

74AA—Enforceable voluntary undertakings

(1) The Minister may accept (by written notice) a written undertaking given by a person in connection with a matter relating to a contravention or alleged contravention by the person of this Act.

(2) The giving of an undertaking does not constitute an admission of guilt by the person giving the undertaking in respect of the contravention or alleged contravention to which the undertaking relates.

(3) A person must not contravene an undertaking made by the person that is in effect.

Maximum penalty: $50 000.

(4) If the Minister considers that a person has contravened an undertaking accepted by the Minister, the Minister may apply to the ERD Court for enforcement of the undertaking.

(5) If the ERD Court is satisfied that the person has contravened the undertaking, the Court, in addition to the imposition of any penalty, may make any of the following orders:

(a) an order that the person must comply with the undertaking or take specified action to comply with the undertaking;

(b) an order discharging the undertaking;

(c) an order directing the person to pay to the Minister—

(i) the costs of the proceedings; and
Mining Act 1971—1.7.2011

Part 12—Miscellaneous

(ii) the reasonable costs of the Minister in monitoring compliance with the undertaking in the future;

(d) any other order that the Court considers appropriate in the circumstances.

(6) A person must not fail to comply with an order under subsection (5).

(7) A person who has made an undertaking may, at any time, with the written agreement of the Minister—

(a) vary the undertaking; or

(b) withdraw the undertaking.

(8) Subject to this section, no proceedings for a contravention or alleged contravention of this Act may be brought against a person if an undertaking is in effect in relation to that contravention.

(9) No proceedings for a contravention or alleged contravention of this Act may be brought against a person who has made an undertaking under this section in relation to that contravention and who has completely discharged the undertaking.

(10) The Minister may accept an undertaking in relation to a contravention or alleged contravention before proceedings in respect of that contravention have been finalised.

(11) If the Minister accepts an undertaking before the proceedings are finalised, the Minister must take all reasonable steps to have the proceedings discontinued as soon as possible.

74—Penalty for illegal mining

(1) A person who—

(a) mines; or

(b) sells, or disposes of, minerals recovered by him in the course of mining operations, or utilises any such minerals for a commercial or industrial purpose,

without being duly authorised by or under this Act shall be guilty of an offence.

Maximum penalty: $250,000 or imprisonment for 2 years.

(1a) A person who encourages, or procures the commission of an offence under subsection (1) shall be guilty of an offence.

Maximum penalty: $250,000 or imprisonment for 2 years.

74AA—Compliance directions

(1) The Minister may issue a direction under this section (a compliance direction) for the purpose of—

(a) securing compliance with a requirement under this Act, a mining tenement (including a condition of a mining tenement) or any authorisation under or in relation to a mining tenement; or
(b) preventing or bringing to an end specified operations that are contrary to this Act or a mining tenement (including a condition of a mining tenement); or

c) without limiting any other provision, requiring the rehabilitation of land on account of any mining operations conducted without an authority required by this Act.

(2) A compliance direction—

(a) must be in the form of a written notice served on the person to whom the notice is issued; and

(b) must—

(i) specify the person to whom it is issued (whether by name or a description sufficient to identify the person); and

(ii) specify the grounds on which it is issued; and

(c) may impose any requirement reasonably required for the purpose for which the order is issued including 1 or more of the following:

(i) a requirement that the person discontinue, or not commence, specified operations indefinitely or for a specified period or until further notice from the Minister;

(ii) a requirement that the person not carry on specified operations except at specified times or subject to specified conditions;

(iii) a requirement that the person take specified action within a specified period; and

(d) must state that the person may, within 28 days, apply to the ERD Court for a review of the direction.

(3) The Minister may, by written notice served on a person to whom a compliance direction has been issued, vary or revoke the direction.

(4) A person required to comply with a compliance direction may apply to the ERD Court for a review of the direction within 28 days after receiving the direction.

(5) Unless the Minister or the Court decides to the contrary, an application for review of a compliance direction does not suspend the operation of the direction.

(6) On review of a compliance direction, the ERD Court may—

(a) confirm the direction (with or without modification); or

(b) revoke the direction.

(7) A person to whom a compliance direction is issued must comply with the direction. Maximum penalty: $250,000.

(8) If the requirements of a compliance direction are not complied with, the Minister may take any action required by the direction.

(9) Any action to be taken by the Minister under subsection (8) may be taken on the Minister’s behalf by an authorised officer or by another person authorised by the Minister for the purpose.
Mining Act 1971—1.7.2011

Part 12—Miscellaneous

—(10) If a person other than an authorised officer is authorised to take action under subsection (9), the following provisions apply:

(a) the Minister must issue the person with an instrument of authority;

(b) the person must produce the instrument of authority for the inspection of any person in relation to whom the person intends to exercise powers under this section.

—(11) The reasonable costs and expenses incurred by the Minister in taking action under subsection (8) may be recovered by the Minister as a debt from the person who failed to comply with the requirements of the compliance direction.

74A—Compliance orders

(1) If a person carries out mining authorised operations without the authority required by this Act, the ERD Court may, on application by the owner of land on which the operations are carried out, make an order (a compliance order) requiring the person (the respondent)—

(a) to stop the operations; and

(b) if the operations have resulted in damage to land—to take specified action to rehabilitate the land.

(2) Before the Court makes a compliance order it must allow the respondent a reasonable opportunity to be heard on the application.

(3) A person against whom a compliance order is made must comply with the order. Maximum penalty: $250 000.

75—Provision relating to certain minerals

(1) No claim may be established or lease granted in respect of extractive minerals on land granted in fee simple or land in respect of which native title conferring a right to exclusive possession of land exists except with the written consent of the owner of the land.

(1a) Subsection (1) does not apply in relation to a claim or a lease in respect of extractive minerals on land described in that subsection if the terms of the mineral tenement specifically authorise (or will specifically authorise) the holder of the tenement to recover and use the extractive minerals on account of being extractive minerals produced during the course of carrying out authorised operations under the tenement.

(1b) Consent given by an owner of land under subsection (1) is binding on all subsequent owners of the land.

(2) Subject to subsection (3), the owner of land does not require a mineral tenement under this Act for the recovery of extractive minerals from the land for the owner's personal use or, if the owner is a body corporate, disposal of the minerals to a related body corporate for the related body's corporate's personal use.

(3) Subsection (2) does not apply in relation to authorised operations for the recovery of extractive minerals if—
(a) the Minister has determined that the operations should be the subject of a mineral tenement under this Act (and subject to the other provisions of this Act)—

(i) after taking into account the nature or scale of the operations; or

(ii) because the Minister believes that action has been taken to attempt to avoid the requirements of this Act through the establishment of particular ownership arrangements; or

(iii) on any other ground determined by the Minister to be a reasonable basis on which to act under this subsection;

(b) the Minister has, on the basis of the Minister's determination under paragraph (a), required the owner of the land to apply for a mineral tenement within a period (of at least 3 months) specified by the Minister; and

(c) 1 of the following has occurred:

(i) a mineral tenement has been granted in relation to the authorised operations;

(ii) the period specified by the Minister under paragraph (b) has expired without the owner of the land making the application envisaged by that paragraph;

(iii) an application for a mineral tenement made by the owner of the land to the Minister within the period specified by the Minister under paragraph (b) has been rejected by the Minister. The owner of land does not require a mining tenement under this Act for the recovery of extractive minerals from that land for his own personal use.

(4) In subsection (2), personal use of minerals does not include use of the minerals by a council.

75A—Avoidance of double compensation

In determining compensation to be paid to a body or person under a provision of this Act, compensation that has been paid to the body or person, or to which the body or person is entitled, whether under another provision of this Act or under any other law under other laws, must be taken into account.

76—Returns

(1) The holder of a mining tenement must, not later than 31 January and 31 July in each year, furnish the Director of Mines with a return in a manner and form determined by the Director of Mines.

(2) A return under subsection (1) must contain the information required by the Director of Mines relating to the conduct of mining operations, the minerals recovered in the course of those operations and the sale or disposal of those minerals during the period of 6 months commencing—

(a) in the case of the return due on 31 January in each year—on the preceding 1 July; and

(b) in the case of the return due on 31 July in each year—on the preceding 1 January, and must comply with any other requirement specified by the Director of Mines.
Mining Act 1971—1.7.2011

Part 12—Miscellaneous

(3) If a mining tenement expires or is cancelled or surrendered, the holder of the mining tenement at the time of expiration, cancellation or surrender must, not later than 3 months after the occurrence of that event, furnish the Director of Mines with a return in a manner and form determined by the Director of Mines containing the information required by the regulations.

(4) A return under this section must be accompanied by any information, samples or other material required by the Director of Mines.

(5) The Director of Mines may, on application or on his or her own motion, extend the date or time by which or within which a return must be furnished under this section.

(5a) A person who fails to comply with this section, or furnishes a return or any other information that is false or misleading in a material particular, is guilty of an offence.

Maximum penalty: $120,000.

(5b) In the case of a continuing failure to comply with this section, the person in breach is guilty of a further offence for each month for which the failure continues.

Maximum penalty: $20,000.

(6) This section applies to the operator of a private mine as if the operator were the holder of a mining tenement.

(7) The regulations may exempt a person, or a class of persons, from a requirement of this section.

(8) An exemption—

(a) may be granted absolutely or on conditions; and

(b) remains in force for the period specified in the regulations.

77—Records and samples

(1) The holder of a mining tenement shall keep such records and geological samples as may be prescribed or as the Director of Mines may, by notice served upon him, require.

Administrative penalty.

(2) A person required to keep records and geological samples under subsection (1) shall, at the request of the Director of Mines or any person acting under his written authority, produce, at the place specified by the Director of Mines or the person acting under his written authority, those records or geological samples for inspection.

Administrative penalty.

(2a) Without limiting any other power that might otherwise be exercised, the Director of Mines or a person acting under his written authority may make copies or take extracts of a record produced under this section.

(3) The holder of a mining tenement shall, at the request of the Director of Mines or any person acting under his written authority, permit a person nominated in the request to make tests and take samples of minerals, from the land comprised in the mining tenement.

Administrative penalty.
(4) The Director of Mines may, with the consent of the Minister, publish the results of—
—(a) any tests made in pursuance of this section; or
—(b) the analysis of any samples taken in pursuance of this section.

77A—Period of retention of records
(1) A person required to keep a record under section 77 must keep the record for not less than 7 years after—
—(a) the date it was made by the person or, if it was not made by the person, the date it was obtained by the person; or
—(b) if it relates to a transaction, the date of completion of the transaction, whichever is the later.
Maximum penalty: $10,000.

(2) A person may, with the written approval of the Director of Mines, destroy a record within the 7 year period.

(3) A decision to refuse approval under subsection (2) is a non-reviewable decision.

(4) This section is subject to the provisions of any other law concerning the retention or destruction of records.

77B—Other material to be provided by holder of tenement
(1) The holder of a mining tenement must, as required by the regulations, provide the Minister with any information, sample or other material required by the regulations. Administrative penalty.

(2) The holder of a mining tenement must provide the Minister with any other information, sample or other material reasonably requested by the Minister within the time specified in the request. Administrative penalty.

(3) If the Minister considers the provision of the information, sample or other material requested under subsection (2) essential in the public interest, and gives an intimation to that effect in the request, non-compliance with the request is an offence punishable on conviction by a fine not exceeding $120,000.

(4) The holder of a mining tenement the area of which is reduced under this Act must, not later than 1 month after the reduction, furnish the Director of Mines with a return in a manner and form determined by the Director of Mines. Administrative penalty.

(5) A return under subsection (4) must contain information required by the regulations relating to the conduct of mining operations and other matters relating to the land that has been excised from the mining tenement. Administrative penalty.
Mining Act 1971—1.7.2011

Part 12—Miscellaneous

77C—Expert reports

(1) The holder of a mining tenement must, if requested to do so by the Minister for any purpose connected with the operation of Part 3, provide the Minister with a report from an independent expert, within the time specified in the request, verifying information or other material provided to the Minister by the holder of the tenement under this Act.

Administrative penalty.

(2) The Minister may only act under subsection (1) on reasonable cause.

(3) A request under subsection (1) may nominate the nature of the qualifications and experience that the person who prepares the report must possess.

(4) The holder of the mining tenement is responsible for any costs associated with the preparation or provision of a report under this section.

77D—Release of matter

(1) The Director of Mines may release any report, information, sample or other material of a prescribed kind obtained from the holder or former holder of a mining tenement under this Act.

(2) The Director of Mines may act under subsection (1) —

(a) on the Director's own initiative or on application made to the Director in a manner and form determined by the Director; and

(b) whether or not the mining tenement to which the report, information, sample or other material relates is still current.

(3) However, if the mining tenement is still current, the Director of Mines must not act under subsection (1) without —

(a) the consent of the holder of the mining tenement; or

(b) the consent of the Minister.

(4) The Minister must consult with the holder of the mining tenement before deciding whether or not to grant a consent under subsection (3).

(5) Subsections (3) and (4) do not apply —

(a) to the release of information in circumstances prescribed by the regulations in connection with the operation of this section; or

(b) to the release of statistical information in connection with the general administration of this Act.

(6) The Director of Mines may release any report, information, sample or material under this section—

(a) in such manner and form as the Director thinks fit; and

(b) subject to such conditions as the Director thinks fit.
1.7.2011—Mining Act 1971

Miscellaneous—Part 12

---

(7) Without limiting subsection (6)(b), a condition under that subsection may require that a person enter into a bond in such sum, and subject to such terms and conditions, as the Director may require in connection with the release or use of any report, information, sample or material.

(8) A person who contravenes or fails to comply with a condition under subsection (6)(b) is guilty of an offence.

Maximum penalty: $120,000.

(9) A person to whom any report, information, sample or material is released must, if required by the Director of Mines, furnish to the Director specified reports or information, or reports or information of a specified kind, in accordance with any requirement specified by the Director.

Administrative penalty.

(10) The Director of Mines must, in acting under this section, comply with any other requirement or restriction prescribed by the regulations for the purposes of this section.

78—Persons under 16 years of age

(1) No person under the age of 16 years is competent to hold a mining tenement.

(2) The obligations imposed by or under this Act are binding on a minor of or above the age of 16 years who holds a mining tenement.

79—Minister may grant exemptions from certain obligations

(1) Where the Minister is satisfied that circumstances exist that justify him in so doing, he may—

(a) exempt the holder of a lease or licence under this Act from the obligation to comply with a term or condition of the lease or licence; or

(b) exempt the holder of a mining tenement from the obligation to comply with a term or provision of this Act (except Part 9B).

(2) An exemption under this section—

(a) may be granted absolutely or on conditions; and

(b) shall remain in force for a period determined by the Minister.

(3) An exemption may not be granted under this section so as to discriminate against the holders of native title in land.

79A—False or misleading information

A person who furnishes information to the Minister, the Director, the Mining Registrar or any other person involved in the administration of this Act that is false or misleading in a material particular is guilty of an offence.

Maximum penalty: $150,000.
Part 12—Miscellaneous

79A—Avoidance of duplication of procedures etc

(1) The purpose of this section is to provide for the avoidance of unnecessary duplication of procedures and compliance requirements under the Commonwealth Act and this Act where an activity requires authorisation under this Act and approval under the Commonwealth Act.

(2) Despite any other provision of this Act, the Minister or the Director of Mines may—

(a) accept a Commonwealth Act document as an application, notice or other document for the purposes of this Act if (subject to subsection (5)) the document complies with the requirements of this Act; and

(b) direct that a procedure taken under the Commonwealth Act in relation to a Commonwealth Act document that has been accepted by the Minister or Director under paragraph (a) will be taken to have fulfilled the requirement for a procedure in relation to the relevant document under this Act if the requirements of this Act in relation to the procedure have been complied with; and

(c) instead of himself or herself, or some other person, preparing a plan, report, statement, assessment or other document under this Act, adopt or accept the whole or part of a document (whether a plan, report, statement, assessment or other document of the same kind or not) used, or to be used, for the purposes of the Commonwealth Act as the document required under this Act if (subject to subsection (5)) the document has been prepared in compliance with this Act and complies with the requirements of this Act.

(3) To avoid doubt, where a controlled action under the Commonwealth Act is an activity or part of an activity, or includes an activity, for which authorisation is required under this Act, the Minister or Director may, when considering an application for a mining tenement or other authorisation for the activity, use information and other material provided to the Commonwealth Minister under the Commonwealth Act for the purpose of deciding whether to give his or her approval to the controlled action under that Act.

(4) Where a controlled action under the Commonwealth Act is an activity or part of an activity, or includes an activity, for which authorisation is required under this Act, the Minister or Director—

(a) must, if the Commonwealth Minister has given his or her approval to the controlled action, consider whether the conditions (if any) to be attached by the Minister or Director to the mining tenement or other authorisation should be consistent with the conditions (if any) attached to the Commonwealth Minister's approval under the Commonwealth Act;

(b) may attach a condition to the mining tenement or other authorisation that requires compliance with all or some of the conditions attached to the Commonwealth Minister's approval under the Commonwealth Act.

(5) A document accepted or adopted under subsection (2)—

(a) may be in a form that does not comply with the requirements of this Act; and

(b) may include information or other material that is irrelevant for the purposes of this Act.
(6) Once a document is accepted or adopted under subsection (2) or a direction has been given in relation to a procedure under subsection (2)(b), the document or procedure will not be invalid or ineffective for the purposes of this Act because a court, tribunal or other authority has decided that it is invalid or ineffective for the purposes of the Commonwealth Act.

(7) In this section—

*assessment report* means—

— (a) an assessment report as defined in the Commonwealth Act by reference to section 84(3), 95, 100 or 105 of that Act; or

— (b) a report under section 121 of the Commonwealth Act;

*Commonwealth Act* means the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth;

*Commonwealth Act document* means—

— (a) a referral under section 68, 69 or 71 of the Commonwealth Act; or

— (b) information given by a person to the Minister under the Commonwealth Act under section 86 of that Act; or

— (c) information and invitation published by a proponent under section 93 of the Commonwealth Act; or

— (d) guidelines prepared under section 97 or 102 of the Commonwealth Act; or

— (e) a draft report prepared under section 98 of the Commonwealth Act; or

— (f) a finalised report prepared under section 99 of the Commonwealth Act; or

— (g) a draft statement prepared under section 103 of the Commonwealth Act; or

— (h) a finalised statement prepared under section 104 of the Commonwealth Act; or

— (i) an assessment report.

80—Conditions under which land may be simultaneously subject to more than one mining tenement

(1) Subject to this section, land shall not be simultaneously subject to more than one *mining tenement* under this Act.

(1a) Land may be simultaneously subject to an access claim and a *mining tenement* of some other kind but, in such a case, the rights conferred by the claim are, while the claim remains in force, exclusive of the rights conferred by the other *mining tenement* in respect of lands comprised in the claim.

(1b) The Minister may grant an exploration licence that relates solely to exploration operations for precious stones in respect of land that is subject to a prior tenement under this Act that does not relate solely to precious stones.

(1c) However, the Minister must not grant an exploration licence under subsection (1b) without the written consent of the holder of the prior tenement.
Mining Act 1971—1.7.2011

Part 12—Miscellaneous

(1d) If the Minister grants an exploration licence under subsection (1b), the holders of the respective tenements must, subject to maintaining reasonable efficiencies in the conduct of their own operations, and any agreement between them or order of the Warden's Court, take all steps that are reasonably practicable to minimise interference with each others' operations.

Maximum penalty: $205,000.

(2) Where land is subject to a mining tenement, a further claim, lease or miscellaneous purposes licence may, with the consent of the holder of that mining tenement or the approval of the Warden's Court, be pegged, established, or granted, in respect of any portion of the land comprised in the prior tenement, and the rights conferred by the respective tenements shall then be modified according to the agreement of the parties or the order of the Warden's Court, as the case may require.

(2a) Where a mineral tenement and a further claim under subsection (2) would be held—

(a) by 1 person; or

(b) by related bodies corporate,

a consent under that subsection is not effective unless it is given with the approval of the Minister.

(3) The Warden's Court shall not approve the pegging of a claim or the granting of a lease or miscellaneous purposes licence under subsection (2) unless it is satisfied that the rights of the holder of the prior tenement would not be materially diminished by the granting of such an approval.

(4) The Warden's Court may, on the application of the tenement holder, make an order to regulate, restrict or prohibit authorised operations where 2 or more tenements include the same land.

(5) The holder of a mining tenement must not contravene or fail to comply with an order under subsection (4).

Maximum penalty: $5,000.

(6) The Minister must not grant a mineral tenement in relation to land which already has another mineral tenement over a different stratum unless or until the Minister is satisfied that the applicant is a party to an agreement that provides for access to each tenement.

81—Additional provisions relating to liability

(1) If there are 2 or more persons who are tenement holders in relation to the same mineral tenement, each tenement holder is jointly and severally liable for compliance with any requirement under this Act that applies in respect of the tenement.

(2) For the purposes of this Act, an act or omission of an employee or agent will be taken to be the act or omission of the employer or principal unless it is proved that the act or omission did not occur in the course of employment or agency.
82—Deemed consent or agreement

(1) If—

(a) a matter arising under this Act in relation to a mineral tenement (or proposed mineral tenement) requires the consent or agreement of an owner of land; and

(b) the owner of the land and the tenement holder (or the applicant for a proposed mineral tenement) are the same person,

it will be taken that the consent or agreement has been provided by the owner of the land (and, if relevant, it will be taken that the consent or agreement has been provided in writing).

(2) A consent or agreement taken to be provided under subsection (1) is binding on all subsequent owners of the land.

(3) This section does not apply—

(a) in a case where section 80(2a) applies; or

(b) in any circumstance prescribed by the regulations.

81—This Act not to affect Pastoral Act or Local Government Act

This Act does not derogate from any provision of the Pastoral Land Management and Conservation Act 1989 or the Local Government Act 1999 relating to the conduct of mining operations.

82—Surrender of lease or licence

The Minister may, upon receipt of an application in a manner and form determined by the Minister by the holder of a lease or licence under this Act, consent to the surrender of the lease or licence.

83—Dealing with licences

(1) A lease or licence, or an interest in a lease or licence, under this Act shall not be assigned, transferred, mortgaged, sublet, or made the subject of any trust or other dealing, whether directly or indirectly, without the consent in writing of the Minister, and any such transaction entered into without that consent shall be void.

(2) If a lease or licence is subject to a mortgage or charge, the Minister must not consent to the transfer or assignment of the lease or licence unless or until the Minister has taken reasonable steps to give notice of the proposed consent to the person in whose favour the mortgage or charge has been made (unless that person has also consented to the transfer or assignment).

(3) The Minister may, before consenting to a transaction subject to the provisions of this section, require the parties to furnish him with such information in relation to the transaction as he may require.

(4) An application for the consent of the Minister under this section shall be accompanied by the prescribed fee.
Mining Act 1971—1.7.2011
Part 12—Miscellaneous

83A—Licence or other right is not personal property for the purposes of Commonwealth Act

A right, entitlement or authority granted by or under this Act is not personal property for the purposes of the Personal Property Securities Act 2009 of the Commonwealth.

84—Duplicate copy of lease or licence

Where the Minister is satisfied, upon application by the holder of a lease or licence under this Act, that the copy of the lease or licence to the possession of which that person is entitled has been lost or destroyed, he may issue, at the expense of the applicant, a duplicate copy of the lease or licence.

84A—Safety net

(1) The Minister may enter into an agreement with the holder of a mining tenement—

(a) that, if the tenement should at some future time be found to be wholly or partially invalid due to circumstances beyond the control of the holder of the tenement, the holder of the tenement will have a preferential right to the grant of a new tenement; and

(b) dealing with the terms and conditions on which the new tenement will be provided.

(2) The Minister must consider any proposal by the holder of a mining tenement for an agreement under this section.

85—Non-payment of money due to Crown

A lease or licence shall be liable to forfeiture if any sum payable to the Minister by the holder of the lease or licence is not paid within 3 months after the day on which it fell due.

(1) This section applies to property (other than real property) if the owner of the property is liable to pay a debt due to the Crown under this Act.

(2) A charge on the property to secure payment of the debt to the crown is created by force of this section.

(3) A charge created on property under subsection (2)—

(a) has priority over any other interest in the property (including a security interest within the meaning of the Personal Property Securities Act 2009 of the Commonwealth); and

(b) has priority over all other encumbrances; and

(c) is not affected by a change in ownership of the property.

(4) Section 73(2) of the Personal Property Securities Act 2009 of the Commonwealth applies to the charge.

(5) The charge remains in force until the debt is paid in full or otherwise discharged.

86—Removal of machinery etc

(1) The owner of any machinery or goods on land—
1.7.2011—Mining Act 1971

Miscellaneous—Part 12

(a) that is within a mineral tenement that has been transferred; or
(b) that has ceased to be subject to a mineral tenement,

may, at any time within the period of 3 months after the date of the transfer or the date on which the land ceased to be subject to the tenement (as the case may be), enter the land and remove the machinery or goods from the land.

(2) The Minister may cause any machinery or goods that have been abandoned on land that has been subject to a mineral tenement (whether or not a new tenement has been granted over the land) to be seized.

(3) Any machinery or goods seized under subsection (2) are forfeited to the Crown and may be sold by the Minister.

(4) Any proceeds from a sale under subsection (3) will be paid to the Treasurer.

(5) The Treasurer may, on application under this subsection, pay an amount equal to the proceeds of a sale under subsection (3) to the person who abandoned the relevant machinery or goods, after deduction of an amount determined by the Treasurer to be reasonable costs associated with seizing, holding, maintaining, repairing, cleaning or selling the machinery or goods.

(6) An application under subsection (5) must be made within 2 years from the date of sale (and after the expiration of that period no further claim may be made in relation to the machinery or goods).

(1) The owner of any machinery or other goods upon the area of a mining tenement that has been transferred, surrendered or forfeited, or has lapsed, may, at any time within the period of 3 months after the date of the transfer, surrender, forfeiture or lapse, enter and remove the machinery or other goods from that area.

— (2) The Minister may cause any machinery or other goods that have been abandoned in the area of a mining tenement that has been forfeited, surrendered or abandoned, or has lapsed, to be sold.

— (3) The proceeds from a sale under subsection (2) shall be paid to the Treasurer who shall, upon the receipt of due application by the person by whom the machinery or other goods were abandoned, pay those proceeds to that person.

— (4) If money derived from the sale of machinery or other goods under this section is not claimed within 2 years of the date of the sale, it shall be forfeited to the Crown.

88—Obstruction etc of officers exercising powers under Act

A person shall not willfully obstruct or impede any officer appointed under this Act in the execution of his duty.

Maximum penalty: $10,000.
88—Hindering authorised officers

A person who, without reasonable excuse, hinders or obstructs an authorised officer or other person engaged in the administration or enforcement of this Act is guilty of an offence.

Maximum penalty: $10 000 or imprisonment for 6 months.

89—Obstruction etc of person authorised to mine

A person shall not, without lawful excuse, obstruct or hinder the holder of a mining tenement in the reasonable exercise of rights conferred on him under this Act.

Maximum penalty: $5 000.

89A—Offences and ERD Court

Offences constituted by this Act lie within the criminal jurisdiction of the ERD Court.

89B—Penalties and expiation fees payable into Mining Rehabilitation Fund

The following are payable into the Mining Rehabilitation Fund:

(a) penalties payable in respect of offences against this Act;
(b) expiation fees paid under this Act.

90—Evidentiary provision

—(1aa) In proceedings for an offence against this Act, an apparently genuine document purporting to be a certificate signed by the Minister certifying—

— (a) that a person named in the certificate was or was not at a specified time the holder of a mining tenement; or
— (b) that a provision set out in the certificate was at a specified time a condition of a specified mining tenement,

is, in the absence of proof to the contrary, proof of the matters certified.

— (1) In any proceedings for an offence against this Act, an allegation in the complaint that any land referred to in the complaint is mineral land, or land exempt from operations in pursuance of this Act, shall be deemed to be proved in the absence of evidence to the contrary.

— (2) In any proceedings, a document purporting to be a lease or licence under this Act shall be accepted as such in the absence of evidence to the contrary.

— (3) In any proceedings, if it appears that an alleged fact has been determined by the use of an electronic, sonic, optical, mechanical, measuring or other device or technique by an authorised officer or a person assisting an authorised officer, the alleged fact must be accepted as proved in the absence of evidence to the contrary.

90—Reports and verification of information

(1) A tenement holder must, at the request of the Minister, provide a report setting out or accompanied by any information or material that is relevant to—

(a) the operation or administration of any provision of this Act (insofar as is relevant to any operations carried out (or to be carried out) by the tenement
holder under the tenement); or

(b) without limiting paragraph (a)—

(i) an assessment of the tenement holder's capability to comply with the requirements of this Act; or

(ii) the identification, delineation or accuracy of any boundary of a mineral tenement.

(2) A tenement holder must, at the request of the Minister, provide a report verifying any information or material provided to the Minister or the Director under this Act.

(3) A report under subsection (1) or (2), and any information or material required under this section, must, if the Minister so requires, be verified by an independent person with qualifications, and in a manner, specified by the Minister.

(4) A report must be provided to the Minister within a period specified by the Minister.

(5) Any cost associated with a requirement under this section will be borne by the tenement holder.

(6) A tenement holder must not fail to comply with a requirement under this section within the period specified by the Minister.

Maximum penalty: $20 000.

(7) If a requirement under this section is not complied with, the Minister may take action to obtain the relevant information or material, or to obtain the verification, so required.

(8) The reasonable costs and expenses incurred by the Minister taking action under subsection (7) constitute a debt due to the Crown.

91—Administrative penalties

(1) This section applies to any provision of this Act (or the regulations) at the foot of which the words "Administrative penalty" appear.

(2) If a person who is a holder or former holder of a mining tenement is alleged to have contravened a provision to which this section applies, the Director of Mines may, by notice in writing to the person, impose an administrative penalty on the person (and the Director may act under this subsection without prior consultation with the person and without the need to give a warning or any prior notice in relation to the matter).

(3) The amount of an administrative penalty is an amount (not exceeding $150 000) prescribed by regulation in relation to the relevant provision.

(4) An administrative penalty may be recovered as a debt due to the Crown.

(4a) An amount recovered as an administrative penalty under this section will be paid into the Mining Rehabilitation Fund.
(5) If an administrative penalty has been imposed in relation to a particular act or default, the same act or default cannot be made the subject of proceedings for an offence against this Act and if proceedings for an offence against this Act have been brought in relation to a particular act or default, an administrative penalty cannot be imposed for the same act or default.

91A—Rectification of boundaries

(1) The Mining Registrar may, in prescribed circumstances—
   (a) vary the boundaries or delineation of any mining tenement;
   (b) authorise the moving or replacement of any pegs or other items used to identify a mining tenement;
   (c) take or authorise other action to clarify or rectify the area, location or boundaries of a mining tenement.

(2) However, the Mining Registrar may only act under subsection (1) if authorised to do so—
   (a) by an agreement between the holder of the relevant mining tenement and the Minister; or
   (b) by a determination of the Warden's Court made on application by the Mining Registrar.

91A—Revocation of private mine

(1) The Governor may, by proclamation, vary or revoke the declaration of an area as a private mine under this Act.

(2) A proclamation may only be made under subsection (1) on the recommendation of the Minister.

(3) The Minister must not make a recommendation under subsection (2) unless—
   (a) the Minister has served on the proprietor of the private mine a notice under this subsection indicating that it is considered that a declaration of a specified area as a private mine should be varied or revoked on the basis of the designated criteria set out in subsection (4); and
   (b) the Minister has provided the proprietor of the private mine an opportunity to make written submissions in relation to the matter within a period specified by the Minister in the notice; and
   (c) the Minister is satisfied, after taking into account—
      (i) any submission under paragraph (b); and
      (ii) the designated criteria set out in subsection (4); and
      (iii) such other matters as the Minister thinks fit, that such a recommendation is appropriate.

(4) The designated criteria are as follows:
   (a) that—
      (i) the whole or any part of the private mine is not being effectively
91B—Power to correct errors in private mine declarations

(1) If, in the opinion of the Governor, there is an error in the declaration of an area as a private mine, the Governor may, by proclamation, correct the error.

(2) A proclamation under subsection (1) will, if it so provides, be taken to have effect as from the making of the declaration to which it relates.

(3) A proclamation under subsection (1) should not be made under subsection (1) except at the request of, or after consultation by the Minister with, the proprietor of the private mine.

92—Regulations

(1) The Governor may make such regulations as are contemplated by this Act, or as he thinks necessary or expedient for the purposes of this Act and, without limiting the generality of the foregoing, those regulations may—

(a) regulate and control the issue of certificates of registration in respect of claims, leases and licences under this Act; and

(b) provide for the maintenance and inspection of registers; and

(c) regulate, restrict or prohibit operations of any kind upon mining tenements or mining tenements relating to land within an area specified in the regulations; and

(d) declare equipment of any kind to be declared equipment for the purposes of this Act; and

(e) prescribe any matters in relation to the nature or size of any kind of mining tenement, and the incidents attaching to, and the obligations entailed in, ownership of a mining tenement; and

(f) require that a mining tenement be worked with proper diligence, in conformity with the requirements of the regulations, as to the number of people, and the nature of the machinery, to be employed in working the mining tenement and such other matters as may be required in the regulations; and

(g) provide for the amalgamation, in accordance with the regulations, of 2 or more mining tenements, or the conditions affecting 2 or more mining tenements so that the mining tenements may be worked as if they together constituted a single mining tenement; and

(i) provide for the protection of land upon which mining operations are conducted and require the restoration, to the satisfaction of the Minister, of land disturbed by mining operations; and
Mining Act 1971—1.7.2011
Part 12—Miscellaneous

(k) restrict or prohibit mining authorised operations that may cause nuisance or inconvenience to persons in the vicinity of the mining authorised operations; and

(l) restrict or prohibit mining authorised operations that may result in the pollution of any watercourse or water supply or any natural amenities; and

(m) regulate the expenditure of money from the Extractive Areas Rehabilitation Fund; and

(n) prescribe, and regulate the performance of, the duties of authorised officers, mining registrars and other officers appointed under this Act; and

(na) provide for the provision of reports or the requirement to conduct any audit or investigation; and

(nb) provide for the service of any notice, direction, order or other document; and

(o) prescribe fees that are to be paid in respect of anything done under this Act or in connection with the administration or operation of this Act, or in respect of any matter occurring under this Act, and provide for the recovery of fees; and

(p) prescribe any form for the purposes of this Act; and

(q) prescribe a penalty, recoverable summarily, not exceeding $240 000 for breach of, or non-compliance with, any regulation; and

(r) fix an expiation fee, not exceeding $7 500, in respect of any offence against this Act or the regulations.

(2) Without limiting subsection (1), the regulations may prescribe, or provide for the imposition of—

(a) assessment fees associated with applications under this Act; and

(b) annual administration fees to be paid by the holders of mining tenements.

(3) A regulation prescribing any fees under this Act—

(a) may provide for fees based on 1 or more of the following factors:

(i) the size of a mining mineral tenement (or proposed mining mineral tenement); and

(ii) capital costs associated with any mining authorised operations (or proposed mining authorised operations); and

(iii) any other factor prescribed by the regulations; and

(b) may provide for differential fees.

(4) The regulations may adopt, wholly or partially and with or without modification—

(a) a code or standard relating to matters in respect of which regulations may be made under this Act; or

(b) an amendment to such a code or standard.
(5) Any regulations adopting a code or standard, or an amendment to a code or standard, may contain such incidental, supplementary and transitional provisions as appear to the Governor to be necessary.

(6) The regulations or a code or standard adopted by the regulations may—

(a) refer to or incorporate, wholly or partially and with or without modification, a standard or other document prepared or published by a prescribed body or person, either as in force at the time the regulations are made or as in force from time to time; and

(b) be of general or limited application; and

(c) make different provision according to the persons, things or circumstances to which they are expressed to apply; and

(d) provide that any matter or thing is to be determined, dispensed or regulated according to the discretion of the Minister, the Director or a registrar.

(7) If—

(a) a code or standard is adopted by the regulations; or

(b) the regulations, or a code or standard adopted by the regulations, refers to a standard or other document prepared or published by a prescribed body,

then—

(c) a copy of the code, standard or other document must be kept available for inspection by members of the public, without charge and during normal office hours, at an office or offices specified in the regulations; and

(d) in any legal proceedings, evidence of the contents of the code, standard or other document may be given by production of a document purporting to be certified by or on behalf of the Minister as a true copy of the code, standard or other document; and

(e) the code, standard or other document has effect as if it were a regulation made under this Act.

(8) The Governor may, by regulation, make provisions of a saving or transitional nature consequent on the amendment of this Act by another Act.

(9) A provision made by a regulation under subsection (8) may be in addition to any provision of a saving or transitional nature made by the Act that makes the amendment.

(10) A provision made by a regulation under subsection (8) may, if the regulations so provide, take effect from the commencement of the amendment or from a later day.

(11) To the extent to which a provision takes effect under subsection (10) from a day earlier than the day of the publication of the regulation in the Gazette, the provision does not operate to the disadvantage of a person by—

(a) decreasing the person's rights; or

(b) imposing liabilities on the person.
Schedule—Transitional provisions

1. Any land declared to be mineral land under the repealed Act shall, subject to this Act, be and continue to be mineral land under this Act and any land reserved from the operation of the repealed Act shall, subject to this Act, be and continue to be land reserved from the operation of this Act.

2. A gold lease, mineral lease, coal lease, or miscellaneous lease granted under the repealed Act and in force immediately before the commencement of this Act shall be deemed to be a mining lease granted under this Act and shall, subject to this Act, remain in force for the remainder of the period for which it was granted or last renewed.

3. Where a person lawfully entered upon land before the commencement of this Act for the purposes of conducting mining operations, he may, subject to this Act, continue those operations upon the land in all respects as if he had lawfully entered upon the land in pursuance of this Act.

4. A business licence or an occupation licence granted under the repealed Act and in force immediately before the commencement of this Act shall be deemed to be a miscellaneous purposes licence under this Act, and shall, subject to this Act, remain in force for the remainder of the period for which it was granted or last renewed.
Legislative history

Notes

- This version is comprised of the following:
  
  Part 1  1.7.2011—substituted
  Part 4  1.7.2011
  Part 5  1.7.2011
  Part 6  1.7.2011
  Part 6A  1.7.2011
  Part 8  1.7.2011
  Part 8A  1.7.2011
  Part 9  1.7.2011
  Part 9A  1.7.2011
  Part 9B  1.7.2011
  Part 10  1.7.2011
  Part 10A  1.7.2011
  Part 10B  1.7.2011
  Part 11  1.7.2011
  Part 11A  1.7.2011
  Part 11B  1.7.2014
  Part 12  1.7.2011
  Schedule  1.7.2011

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.

- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation repealed by principal Act

The Mining Act 1971 repealed the following:

Mining Act 1930

Mining Act Amendment Act 1941

Mining Act Amendment Act 1945

Mining Act Amendment Act 1946

Mining Act Amendment Act 1950

Legislative history

<table>
<thead>
<tr>
<th>Year</th>
<th>No</th>
<th>Title</th>
<th>Assent</th>
<th>Commencement</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>1</td>
<td>Mining Act Amendment Act 1975</td>
<td>6.3.1975</td>
<td>6.3.1975</td>
</tr>
<tr>
<td>1978</td>
<td>51</td>
<td>Mining Act Amendment Act (No. 2) 1978</td>
<td>20.7.1978</td>
<td>20.7.1978</td>
</tr>
<tr>
<td>1993</td>
<td>3</td>
<td>Mining (Precious Stones Field Ballots) Amendment Act 1993</td>
<td>4.3.1993</td>
<td>4.3.1993</td>
</tr>
<tr>
<td>1993</td>
<td>54</td>
<td>Statutes Repeal and Amendment (Development) Act 1993</td>
<td>27.5.1993</td>
<td>15.1.1994 (Gazette 27.10.1993 p1889)</td>
</tr>
</tbody>
</table>

Legislative history

<table>
<thead>
<tr>
<th>Year</th>
<th>Act Title</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>Statutes Amendment (Mining Administration) Act 1999</td>
<td>25.2.1999</td>
</tr>
<tr>
<td>1999</td>
<td>Electricity Corporations (Restructuring and Disposal) Act 1999</td>
<td>1.7.1999</td>
</tr>
<tr>
<td>1999</td>
<td>Mining (Private Mines) Amendment Act 1999</td>
<td>25.11.1999</td>
</tr>
<tr>
<td>2000</td>
<td>Mining (Royalty) Amendment Act 2000</td>
<td>11.5.2000</td>
</tr>
<tr>
<td>2000</td>
<td>Statutes Amendment (Extension of Native Title Sunset Clauses) Act 2000</td>
<td>8.6.2000</td>
</tr>
<tr>
<td>2000</td>
<td>Statutes Amendment (Avoidance of Duplication of Environmental Procedures) Act 2001</td>
<td>17.5.2001</td>
</tr>
<tr>
<td>2004</td>
<td>Natural Resources Management Act 2004</td>
<td>5.8.2004</td>
</tr>
<tr>
<td>2005</td>
<td>Mining (Royalty) Amendment Act 2005</td>
<td>2.6.2005</td>
</tr>
<tr>
<td>2005</td>
<td>Mining (Royalty No 2) Amendment Act 2005</td>
<td>11.5.2006</td>
</tr>
<tr>
<td>2007</td>
<td>Marine Parks Act 2007</td>
<td>29.11.2007</td>
</tr>
<tr>
<td>2010</td>
<td>Mining (Miscellaneous) Amendment Act 2010</td>
<td>18.11.2010</td>
</tr>
</tbody>
</table>

[13.12.2016] This version is not published under the Legislation Revision and Publication Act 2002
Provisions amended since 3 February 1976

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 7 of The Public General Acts of South Australia 1837-1975 at page 326.

- Certain textual alterations were made to this Act by the Commissioner of Statute Revision when preparing the reprint of the Act that incorporated all amendments in force as at 31 July 1986. A Schedule of these alterations was laid before Parliament on 5 August 1986.

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

<table>
<thead>
<tr>
<th>Provision</th>
<th>How varied</th>
<th>Commencement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Long title</td>
<td>amended by 44/2003 s 3(1) (Sch 1)</td>
<td>24.11.2003</td>
</tr>
<tr>
<td>Pt 1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 2</td>
<td>deleted by 44/2003 s 3(1) (Sch 1)</td>
<td>24.11.2003</td>
</tr>
<tr>
<td>s 3</td>
<td>deleted by 14/1986 s 3(1) (Sch 5)</td>
<td>31.7.1986</td>
</tr>
<tr>
<td>s 4</td>
<td>amended by 51/1978 s 3</td>
<td>20.7.1978</td>
</tr>
<tr>
<td></td>
<td>amended by 71/1981 s 3</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>deleted by 14/1986 s 3(1) (Sch 5)</td>
<td>31.7.1986</td>
</tr>
<tr>
<td>s 5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 5(1), (2), (6) and (8)—see Sch</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 5(3)—(5), (7), (9)—(11)</td>
<td>deleted by 14/1986 s 3(1) (Sch 5)</td>
<td>31.7.1986</td>
</tr>
<tr>
<td>s 6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 6(1)</td>
<td>s 6 redesignated as s 6(1) by 71/1981 s 4(i)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>Adelaide Dolphin Sanctuary</td>
<td>inserted by 5/2005 Sch 2 (cl 31(1))</td>
<td>1.7.2005</td>
</tr>
<tr>
<td>the appropriate court</td>
<td>inserted by 86/1988 s 3(a)</td>
<td>1.7.1989</td>
</tr>
</tbody>
</table>

This version is not published under the Legislation Revision and Publication Act 2002 [13.12.2016]
### Legislative history

<table>
<thead>
<tr>
<th>Term</th>
<th>Date Modified</th>
</tr>
</thead>
<tbody>
<tr>
<td>appropriate court</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>inserted by 43/1995 s 3(a)</td>
<td></td>
</tr>
<tr>
<td>amended by 69/2001 s 20(a)</td>
<td>3.2.2002</td>
</tr>
<tr>
<td>amended by 21/2010 s 4(1)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>authorised officer</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>inserted by 21/2010 s 4(1)</td>
<td></td>
</tr>
<tr>
<td>authorised person</td>
<td>23.12.1976</td>
</tr>
<tr>
<td>inserted by 105/1976 s 3(a)</td>
<td></td>
</tr>
<tr>
<td>deleted by 21/2010 s 4(2)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>baseline</td>
<td>4.5.2002</td>
</tr>
<tr>
<td>inserted by 11/2000 Sch 2</td>
<td></td>
</tr>
<tr>
<td>amended by 21/2010 Sch 2</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>council</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>substituted by 21/2010 Sch 2</td>
<td></td>
</tr>
<tr>
<td>declared equipment</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>substituted by 43/1995 s 3(b)</td>
<td></td>
</tr>
<tr>
<td>amended by 21/2010 s 4(3)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>the Director of Mines or the Director</td>
<td>20.7.1978</td>
</tr>
<tr>
<td>environment</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>inserted by 21/2010 s 4(4)</td>
<td></td>
</tr>
<tr>
<td>ERD Court</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>inserted by 43/1995 s 3(c)</td>
<td></td>
</tr>
<tr>
<td>exempt land</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>inserted by 71/1981 s 4(a)</td>
<td></td>
</tr>
<tr>
<td>exploration authority</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>inserted by 43/1995 s 3(d)</td>
<td></td>
</tr>
<tr>
<td>(a) deleted by 21/2010 s 4(5)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>amended by 11/2012 s 4</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>exploring</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>inserted by 71/1981 s 4(a)</td>
<td></td>
</tr>
<tr>
<td>extractive minerals</td>
<td>20.7.1978</td>
</tr>
<tr>
<td>substituted by 51/1978 s 4(a)</td>
<td></td>
</tr>
<tr>
<td>fossicking</td>
<td>20.7.1978</td>
</tr>
<tr>
<td>inserted by 51/1978 s 4(a)</td>
<td></td>
</tr>
<tr>
<td>substituted by 71/1981 s 4(b)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>inspector</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>deleted by 21/2010 s 4(6)</td>
<td></td>
</tr>
<tr>
<td>machinery</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>inserted by 71/1981 s 4(c)</td>
<td></td>
</tr>
<tr>
<td>marine park</td>
<td>6.11.2008</td>
</tr>
<tr>
<td>inserted by 60/2007 Sch 1 cl 30(1)</td>
<td></td>
</tr>
<tr>
<td>minerals</td>
<td>23.12.1976</td>
</tr>
<tr>
<td>amended by 105/1976 s 3(b), (c)</td>
<td></td>
</tr>
<tr>
<td>amended by 71/1981 s 4(d)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>amended by 35/2009 Sch 1 cl 2</td>
<td>1.10.2009</td>
</tr>
<tr>
<td>mining or mining operations</td>
<td>20.7.1978</td>
</tr>
<tr>
<td>amended by 51/1978 s 4(b)</td>
<td></td>
</tr>
<tr>
<td>amended by 71/1981 s 4(e)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>amended by 12/2003 s 4</td>
<td>12.6.2003</td>
</tr>
<tr>
<td>substituted by 21/2010 s 4(7)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>mining operator</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>substituted by 21/2010 s 4(8)</td>
<td></td>
</tr>
<tr>
<td>Mining Register</td>
<td>1.4.1999</td>
</tr>
<tr>
<td>inserted by 1/1999 s 4</td>
<td></td>
</tr>
<tr>
<td>a mining registrar</td>
<td>31.7.1986</td>
</tr>
<tr>
<td>inserted by 14/1986 s 3(1) (Sch 5)</td>
<td></td>
</tr>
<tr>
<td>substituted by 102/1995 Sch 2 cl 2(b)</td>
<td>21.4.1997</td>
</tr>
</tbody>
</table>

---


#### Legislative history

<table>
<thead>
<tr>
<th>Term</th>
<th>Date of Amendment</th>
<th>Date of Effect</th>
</tr>
</thead>
<tbody>
<tr>
<td>the Mining Registrar</td>
<td>inserted by 14/1986 s 3(1) (Sch 5)</td>
<td>31.7.1986</td>
</tr>
<tr>
<td>mining tenement</td>
<td>substituted by 102/1995 Sch 2 cl 2(b)</td>
<td>21.4.1997</td>
</tr>
<tr>
<td>Minister for the Adelaide Dolphin Sanctuary</td>
<td>inserted by 5/2005 Sch 2 (cl 31(2))</td>
<td>1.7.2005</td>
</tr>
<tr>
<td></td>
<td>deleted by 60/2007 Sch 1 cl 30(2)</td>
<td>6.11.2008</td>
</tr>
<tr>
<td>Minister for the River Murray</td>
<td>inserted by 35/2003 Sch cl 12(a)</td>
<td>24.11.2003</td>
</tr>
<tr>
<td></td>
<td>deleted by 60/2007 Sch 1 cl 30(2)</td>
<td>6.11.2008</td>
</tr>
<tr>
<td>Murray-Darling Basin</td>
<td>inserted by 35/2003 Sch cl 12(a)</td>
<td>24.11.2003</td>
</tr>
<tr>
<td>native title</td>
<td>substituted by 21/2010 Sch 2</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>native title holder</td>
<td>inserted by 43/1995 s 3(e)</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>native title land</td>
<td>inserted by 43/1995 s 3(e)</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>native title mining determination</td>
<td>inserted by 43/1995 s 3(e)</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>opal development area</td>
<td>inserted by 102/1995 Sch 2 cl 2(c)</td>
<td>21.4.1997</td>
</tr>
<tr>
<td>owner</td>
<td>substituted by 86/1988 s 3(b)</td>
<td>1.7.1989</td>
</tr>
<tr>
<td>precious stones</td>
<td>substituted by 43/1995 s 3(f)</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>precious stones field</td>
<td>substituted by 102/1995 Sch 2 cl 2(d)</td>
<td>21.4.1997</td>
</tr>
<tr>
<td></td>
<td>amended by 105/1976 s 3(d)</td>
<td>23.12.1976</td>
</tr>
<tr>
<td></td>
<td>amended by 51/1978 s 4(c)</td>
<td>20.7.1978</td>
</tr>
<tr>
<td></td>
<td>substituted by 71/1981 s 4(f)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>substituted by 102/1995 Sch 2 cl 2(d)</td>
<td>21.4.1997</td>
</tr>
<tr>
<td>prescribed notice of entry</td>
<td>inserted by 43/1995 s 3(g)</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>production tenement</td>
<td>inserted by 43/1995 s 3(g)</td>
<td>17.6.1996</td>
</tr>
<tr>
<td></td>
<td>(a) deleted by 102/1995 Sch 2 cl 2(e)</td>
<td>21.4.1997</td>
</tr>
<tr>
<td>proprietor</td>
<td>substituted by 73/1999 s 3</td>
<td>1.9.2000</td>
</tr>
<tr>
<td>prospecting or to prospect</td>
<td>deleted by 71/1981 s 4(g)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>prospecting</td>
<td>inserted by 71/1981 s 4(g)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>radioactive material</td>
<td>inserted by 51/1978 s 4(d)</td>
<td>20.7.1978</td>
</tr>
<tr>
<td>registered representative</td>
<td>inserted by 43/1995 s 3(h)</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>registrar or mining registrar</td>
<td>deleted by 14/1986 s 3(1) (Sch 5)</td>
<td>31.7.1986</td>
</tr>
<tr>
<td>relevant Act</td>
<td>inserted by 60/2007 Sch 1 cl 30(3)</td>
<td>6.11.2008</td>
</tr>
<tr>
<td>relevant Minister</td>
<td>inserted by 60/2007 Sch 1 cl 30(3)</td>
<td>6.11.2008</td>
</tr>
</tbody>
</table>

6 This version is not published under the Legislation Revision and Publication Act 2002 [13.12.2016]
<table>
<thead>
<tr>
<th>Section</th>
<th>Amendment</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legislative history</td>
<td></td>
<td></td>
</tr>
<tr>
<td>River Murray Protection Area</td>
<td>inserted by 35/2003 Sch cl 12(b)</td>
<td>24.11.2003</td>
</tr>
<tr>
<td></td>
<td>specially protected area</td>
<td>6.11.2008</td>
</tr>
<tr>
<td></td>
<td>inserted by 60/2007 Sch 1 cl 30(4)</td>
<td>6.11.2008</td>
</tr>
<tr>
<td></td>
<td>subsurface stratum</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>inserted by 71/1981 s 4(h)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>surface stratum</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>inserted by 71/1981 s 4(h)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>warden</td>
<td>amended by 105/1976 s 3(f)</td>
<td>23.12.1976</td>
</tr>
<tr>
<td></td>
<td>substituted by 50/1983 s 2</td>
<td>16.6.1983</td>
</tr>
<tr>
<td></td>
<td>substituted by 69/2001 s 20(b)</td>
<td>3.2.2002</td>
</tr>
<tr>
<td>s 6(2)</td>
<td>inserted by 71/1981 s 4(i)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 6(3)</td>
<td>inserted by 43/1995 s 3(i)</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 6(4)—(6)</td>
<td>inserted by 21/2010 s 4(9)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 7</td>
<td>s 7 redesignated as s 7(1) by 71/1981 s 5</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 7(1)</td>
<td>inserted by 71/1981 s 5</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 7(2)</td>
<td>substituted by 86/1988 s 4</td>
<td>1.7.1989</td>
</tr>
<tr>
<td>s 7(3)</td>
<td>inserted by 102/1995 Sch 2 cl 3</td>
<td>21.4.1997</td>
</tr>
<tr>
<td>s 8(1)</td>
<td>amended by 51/1978 s 5</td>
<td>20.7.1978</td>
</tr>
<tr>
<td></td>
<td>amended by 71/1981 s 6(a)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>amended by 11/2000 Sch 2</td>
<td>4.5.2002</td>
</tr>
<tr>
<td></td>
<td>(b) deleted by 102/1995 Sch 2 cl 4</td>
<td>21.4.1997</td>
</tr>
<tr>
<td>s 8(3)</td>
<td>inserted by 71/1981 s 6(b)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 8(4)—(6)</td>
<td>inserted by 11/2000 Sch 2</td>
<td>4.5.2002</td>
</tr>
<tr>
<td>s 8A</td>
<td>inserted by 102/1995 Sch 2 cl 5</td>
<td>21.4.1997</td>
</tr>
<tr>
<td>s 8A(2)</td>
<td>amended by 21/2010 s 5</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 9(1)</td>
<td>amended by 105/1976 s 4</td>
<td>23.12.1976</td>
</tr>
<tr>
<td></td>
<td>amended by 51/1978 s 6</td>
<td>20.7.1978</td>
</tr>
<tr>
<td></td>
<td>amended by 86/1988 s 5(a)</td>
<td>1.7.1989</td>
</tr>
<tr>
<td></td>
<td>amended by 43/1995 s 4(a)</td>
<td>17.6.1996</td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 6(1), (2)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 9(3)</td>
<td>substituted by 71/1981 s 7</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>amended by 97/1982 s 3(a)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>amended by 86/1988 s 5(b)</td>
<td>1.7.1989</td>
</tr>
<tr>
<td></td>
<td>deleted by 21/2010 s 6(3)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 9(3a)</td>
<td>inserted by 71/1981 s 7</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>amended by 86/1988 s 5(c)</td>
<td>1.7.1989</td>
</tr>
<tr>
<td></td>
<td>deleted by 21/2010 s 6(3)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 9(3b)</td>
<td>inserted by 97/1982 s 3(b)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>amended by 43/1995 s 4(b)</td>
<td>17.6.1996</td>
</tr>
</tbody>
</table>

Legislative history

amended by 21/2010 s 6(4), (5) 1.7.2011

s 9(3c) inserted by 97/1982 s 3(b) 5.11.1981
deleted by 21/2010 s 6(6) 1.7.2011

s 9(4) amended by 21/2010 Sch 2 1.7.2011

s 9(5) inserted by 86/1988 s 5(d) 1.7.1989

ss 9AA and 9A inserted by 21/2010 s 7 1.7.2011

s 10A inserted by 51/1978 s 7 20.7.1978

s 10A(1) amended by 71/1981 s 8 5.11.1981

s 10B inserted by 34/2004 Sch 4 cl 22 2.9.2004

substituted by 5/2005 Sch 2 (cl 32) 1.7.2005

substituted by 60/2007 Sch 1 cl 31 6.11.2008

Pt 2

s 11 substituted by 14/1986 s 3(1) (Sch 5) 31.7.1986

s 12 substituted by 3/1993 s 2 4.3.1993

s 12(1a) inserted by 57/2016 s 68 8.12.2016

s 13 before substitution by 84/2009 substituted by 50/1983 s 3 16.6.1983

s 13(3)—(7) substituted by 14/1986 s 3(1) (Sch 5) 31.7.1986

s 13 inserted by 102/1995 Sch 2 cl 7 21.4.1997

s 13 substituted by 84/2009 s 213 1.2.2010

s 14 amended by 73/1999 s 7 (Sch 1 cl 1) 1.9.2000

deleted by 39/2003 s 5 30.10.2003

ss 14—14F inserted by 21/2010 s 8 1.7.2011

s 15 substituted by 43/1995 s 5 17.6.1996

substituted by 12/2003 s 5(1) 12.6.2003

s 15(3) amended by 73/1999 s 7 (Sch 1 cl 2) 1.9.2000

amended by 21/2010 s 9 1.7.2011

s 15(5)—(7) inserted by 12/2003 s 5(2) 12.6.2003

s 15A inserted by 105/1976 s 5 23.12.1976

s 15A(1) amended by 102/1995 Sch 2 cl 8(a) 21.4.1997

(a) deleted by 21/2010 s 10 1.7.2011

s 15A(2) amended by 1/1999 s 5 1.4.1999

s 15A(3) inserted by 102/1995 Sch 2 cl 8(b) 21.4.1997

Pt 3

s 16

s 16(2) amended by 11/2000 Sch 2 4.5.2002

s 17 before substitution by 61/2005

s 17(2) amended by 60/1994 s 3 3.11.1994

substituted by 13/2000 s 3(a) 1.7.2000

This version is not published under the Legislation Revision and Publication Act 2002 [13.12.2016]
substituted by 17/2005 s 4(1) 1.1.2006

s 17(3) substituted by 13/2000 s 3(a) 1.7.2000

s 17(4) amended by 71/1981 s 9(a) 5.11.1981

substituted by 13/2000 s 3(a) 1.7.2000

s 17(4a)–(4d) inserted by 13/2000 s 3(a) 1.7.2000

s 17(5) amended by 73/1999 s 4(a) 1.9.2000

amended by 13/2000 s 3(b) 1.7.2000

amended by 73/1999 s 4(b) 1.9.2000

s 17(6) amended by 43/1995 s 6 17.6.1996

amended by 13/2000 s 3(b) 1.7.2000

amended by 73/1999 s 4(b) 1.9.2000

s 17(7) amended by 43/1995 s 6 17.6.1996

s 17(8) amended by 36/1999 Sch 4 (cl 21) 29.7.1999

amended by 17/2005 s 4(2) 1.1.2006

s 17(10) substituted by 102/1995 Sch 2 cl 9 21.4.1997

s 17(11) inserted by 71/1981 s 9(b) 5.11.1981

s 17(12)–(16) inserted by 13/2000 s 3(c) 1.7.2000

s 17 substituted by 61/2005 s 4 1.1.2006

s 17(1) amended by 57/2016 s 69(1) 8.12.2016

s 17(4) amended by 20/2011 s 4(1) 1.7.2011

amended by 11/2014 Sch 1 cl 18 1.7.2014

s 17(6) amended by 57/2016 s 69(2) 8.12.2016

s 17(9) amended by 57/2016 s 69(3) 8.12.2016

s 17(10) amended by 57/2016 s 69(4) 8.12.2016

s 17(13) inserted by 20/2011 s 4(2) 1.7.2011


s 17(14) inserted by 20/2011 s 4(2) 1.7.2011


s 17A inserted by 61/2005 s 4 1.1.2006

s 17A(1) amended by 57/2016 s 70(1) 8.12.2016

s 17A(2) amended by 20/2011 s 5(1), (2) 1.7.2011

s 17A(3) amended by 57/2016 s 70(2) 8.12.2016

s 17A(4) amended by 57/2016 s 70(3) 8.12.2016

s 17A(5) amended by 57/2016 s 70(4) 8.12.2016

s 17A(6) amended by 57/2016 s 70(5) 8.12.2016

s 17B inserted by 61/2005 s 4 1.1.2006

s 17B(1) amended by 57/2016 s 71(1) 8.12.2016

s 17B(2) amended by 57/2016 s 71(2) 8.12.2016

s 17B(3) amended by 57/2016 s 71(3) 8.12.2016


s 17C inserted by 61/2005 s 4 1.1.2006

s 17D inserted by 61/2005 s 4 1.1.2006

s 17D(1) amended by 57/2016 s 72(1) 8.12.2016

s 17D(1a) inserted by 67/2013 s 4 1.7.2013

[13.12.2016] This version is not published under the Legislation Revision and Publication Act 2002

Legislative history

<table>
<thead>
<tr>
<th>Section</th>
<th>Amendment Details</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>s 17D(3)</td>
<td>amended by 57/2016 s 72(2)</td>
<td>8.12.2016</td>
</tr>
<tr>
<td>s 17DA</td>
<td>inserted by 67/2013 s 5</td>
<td>1.7.2013</td>
</tr>
<tr>
<td>s 17DA(2)</td>
<td>amended by 57/2016 s 73(1)</td>
<td>8.12.2016</td>
</tr>
<tr>
<td>s 17DA(3)</td>
<td>amended by 57/2016 s 73(2)</td>
<td>8.12.2016</td>
</tr>
<tr>
<td>s 17DA(4)</td>
<td>amended by 57/2016 s 73(3)</td>
<td>8.12.2016</td>
</tr>
<tr>
<td>s 17DA(6)</td>
<td>amended by 57/2016 s 73(4)</td>
<td>8.12.2016</td>
</tr>
<tr>
<td>s 17DA(7)</td>
<td>amended by 57/2016 s 73(5)</td>
<td>8.12.2016</td>
</tr>
<tr>
<td>s 17DA(9)</td>
<td>amended by 57/2016 s 73(6), (7)</td>
<td>8.12.2016</td>
</tr>
<tr>
<td>s 17DA(10)</td>
<td>amended by 57/2016 s 73(8), (9)</td>
<td>8.12.2016</td>
</tr>
<tr>
<td>s 17E</td>
<td>inserted by 61/2005 s 4</td>
<td>1.1.2006</td>
</tr>
<tr>
<td>s 17E(1)</td>
<td>amended by 11/2014 Sch 1 cl 19</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 17E(2)</td>
<td>amended by 57/2016 s 74</td>
<td>8.12.2016</td>
</tr>
<tr>
<td>s 17F</td>
<td>inserted by 61/2005 s 4</td>
<td>1.1.2006</td>
</tr>
<tr>
<td></td>
<td>amended by 20/2011 s 6</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 17G</td>
<td>inserted by 61/2005 s 4</td>
<td>1.1.2006</td>
</tr>
<tr>
<td>s 19</td>
<td>amended by 14/1986 s 3(1) (Sch 5)</td>
<td>31.7.1986</td>
</tr>
<tr>
<td></td>
<td>amended by 86/1988 s 6</td>
<td>1.7.1989</td>
</tr>
<tr>
<td></td>
<td>amended by 43/1995 s 7</td>
<td>17.6.1996</td>
</tr>
<tr>
<td></td>
<td>deleted by 73/1999 s 5</td>
<td>1.9.2000</td>
</tr>
</tbody>
</table>

Pt 4

<table>
<thead>
<tr>
<th>Section</th>
<th>Amendment Details</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>s 20 before substitution by 21/2010</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 20(4)</td>
<td>inserted by 105/1976 s 6</td>
<td>23.12.1976</td>
</tr>
<tr>
<td></td>
<td>amended by 73/1999 s 7 (Sch 1 cl 3)</td>
<td>1.9.2000</td>
</tr>
<tr>
<td>s 20(6)</td>
<td>inserted by 71/1981 s 10</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 20</td>
<td>substituted by 21/2010 s 11</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 21 before substitution by 21/2010</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 21(1)</td>
<td>s 21 amended and redesignated as s 21(1) by 105/1976 s 7</td>
<td>23.12.1976</td>
</tr>
<tr>
<td></td>
<td>amended by 51/1978 s 8(a)</td>
<td>20.7.1978</td>
</tr>
<tr>
<td>s 21(2)</td>
<td>inserted by 105/1976 s 7(b)</td>
<td>23.12.1976</td>
</tr>
<tr>
<td></td>
<td>amended by 51/1978 s 8(b)</td>
<td>20.7.1978</td>
</tr>
<tr>
<td>s 21</td>
<td>substituted by 21/2010 s 11</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 22 before deletion by 21/2010</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 22(1)</td>
<td>amended by 102/1995 Sch 2 cl 10</td>
<td>21.4.1997</td>
</tr>
<tr>
<td>s 22(1a) and (1b)</td>
<td>inserted by 71/1981 s 11(a)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 22(3)</td>
<td>substituted by 71/1981 s 11(b)</td>
<td>5.11.1981</td>
</tr>
</tbody>
</table>
### Legislative history

<table>
<thead>
<tr>
<th>Section</th>
<th>Amendment</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>s 22</td>
<td>deleted by 21/2010 s 11</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 23</td>
<td>substituted by 21/2010 s 12</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 24(1)</td>
<td>amended by 14/1986 s 3(1) (Sch 5)</td>
<td>31.7.1986</td>
</tr>
<tr>
<td>s 24(2)</td>
<td>deleted by 105/1976 s 8</td>
<td>23.12.1976</td>
</tr>
<tr>
<td>s 24(4)</td>
<td>amended by 71/1981 s 12(a)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>substituted by 43/1995 s 8</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 24(4a)</td>
<td>inserted by 71/1981 s 12(b)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>substituted by 43/1995 s 8</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 24</td>
<td>substituted by 21/2010 s 13</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 24A</td>
<td>inserted by 21/2010 s 13</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 25(1)</td>
<td>substituted by 71/1981 s 13</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 25(2)</td>
<td>substituted by 105/1976 s 9</td>
<td>23.12.1976</td>
</tr>
<tr>
<td></td>
<td>amended by 73/1999 s 7 (Sch 1 cl 4)</td>
<td>1.9.2000</td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 14</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 26(2)</td>
<td>amended by 71/1981 s 14(a)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 26(3)</td>
<td>inserted by 51/1978 s 9</td>
<td>20.7.1978</td>
</tr>
<tr>
<td></td>
<td>amended by 71/1981 s 14(b)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 26(4)</td>
<td>inserted by 71/1981 s 14(c)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>substituted by 51/1978 s 10</td>
<td>20.7.1978</td>
</tr>
<tr>
<td></td>
<td>amended by 71/1981 s 15</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 15(1), (2)</td>
<td>1.7.2011</td>
</tr>
</tbody>
</table>

**Pt 5**

<table>
<thead>
<tr>
<th>Section</th>
<th>Amendment</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>s 28(1) and (2)</td>
<td>substituted by 71/1981 s 16</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 28(2a)</td>
<td>inserted by 102/1995 Sch 2 cl 12(a)</td>
<td>21.4.1997</td>
</tr>
<tr>
<td>s 28(3)</td>
<td>substituted by 71/1981 s 16</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>amended by 102/1995 Sch 2 cl 12(b)</td>
<td>21.4.1997</td>
</tr>
<tr>
<td>s 28(4)</td>
<td>substituted by 71/1981 s 16</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>deleted by 12/2003 s 6(1)</td>
<td>12.6.2003</td>
</tr>
<tr>
<td>s 28(4a)</td>
<td>inserted by 102/1995 Sch 2 cl 12(c)</td>
<td>21.4.1997</td>
</tr>
<tr>
<td></td>
<td>deleted by 12/2003 s 6(1)</td>
<td>12.6.2003</td>
</tr>
<tr>
<td>s 28(5)</td>
<td>deleted by 105/1976 s 11</td>
<td>23.12.1976</td>
</tr>
<tr>
<td></td>
<td>inserted by 71/1981 s 16</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>substituted by 43/1995 s 9</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 28(6)</td>
<td>deleted by 12/2003 s 6(2)</td>
<td>12.6.2003</td>
</tr>
<tr>
<td>s 28(7)</td>
<td>inserted by 102/1995 Sch 2 cl 12(d)</td>
<td>21.4.1997</td>
</tr>
<tr>
<td></td>
<td>deleted by 21/2010 s 16</td>
<td>1.7.2011</td>
</tr>
</tbody>
</table>

[13.12.2016] This version is not published under the Legislation Revision and Publication Act 2002

**Legislative history**

<table>
<thead>
<tr>
<th>Section</th>
<th>Action Details</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>s 28(8)</td>
<td>inserted by 35/2003 Sch cl 12(c)</td>
<td>24.11.2003</td>
</tr>
<tr>
<td>s 28(9) and (10)</td>
<td>inserted by 35/2003 Sch cl 12(c)</td>
<td>24.11.2003</td>
</tr>
<tr>
<td></td>
<td>substituted by 60/2007 Sch 1 cl 32</td>
<td>6.11.2008</td>
</tr>
<tr>
<td>s 28(11) and (12)</td>
<td>inserted by 5/2005 Sch 2 (cl 33)</td>
<td>1.7.2005</td>
</tr>
<tr>
<td></td>
<td>deleted by 60/2007 Sch 1 cl 32</td>
<td>6.11.2008</td>
</tr>
<tr>
<td>s 29</td>
<td>amended by 12/2003 s 7</td>
<td>12.6.2003</td>
</tr>
<tr>
<td>s 29(1)</td>
<td>inserted by 21/2010 s 17(1)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 29(2)</td>
<td>amended by 71/1981 s 17</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 29(4)—(10)</td>
<td>inserted by 21/2010 s 17(2)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 30</td>
<td>amended by 71/1981 s 18(a), (b)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 30(1)</td>
<td>(c) deleted by 71/1981 s 18(b)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 30(2)</td>
<td>amended by 105/1976 s 12</td>
<td>23.12.1976</td>
</tr>
<tr>
<td></td>
<td>amended by 71/1981 s 18(c)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>amended by 12/1988 Sch 2</td>
<td>1.3.1989</td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 18(1), (2)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td></td>
<td>(c) deleted by 21/2010 s 18(2)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 30(3)</td>
<td>amended by 71/1981 s 18(d)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 30(4)—(8)</td>
<td>inserted by 21/2010 s 18(3)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 30AA</td>
<td>inserted by 12/2003 s 8</td>
<td>12.6.2003</td>
</tr>
<tr>
<td>s 30A</td>
<td>inserted by 71/1981 s 19</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>substituted by 43/1995 s 10</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 30A(4)</td>
<td>amended by 12/2003 s 9(1)</td>
<td>12.6.2003</td>
</tr>
<tr>
<td>s 30A(4a)</td>
<td>inserted by 12/2003 s 9(2)</td>
<td>12.6.2003</td>
</tr>
<tr>
<td>s 30A(6)</td>
<td>substituted by 21/2010 s 19</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 30A(6a)</td>
<td>inserted by 21/2010 s 19</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 30A(7) and (8)</td>
<td>inserted by 35/2003 Sch cl 12(d)</td>
<td>24.11.2003</td>
</tr>
<tr>
<td></td>
<td>substituted by 60/2007 Sch 1 cl 33</td>
<td>6.11.2008</td>
</tr>
<tr>
<td>s 30A(9)</td>
<td>inserted by 5/2005 Sch 2 (cl 34)</td>
<td>1.7.2005</td>
</tr>
<tr>
<td></td>
<td>deleted by 60/2007 Sch 1 cl 33</td>
<td>6.11.2008</td>
</tr>
<tr>
<td>s 30AB</td>
<td>inserted by 12/2003 s 10</td>
<td>12.6.2003</td>
</tr>
<tr>
<td>s 30AB(1a) and (1b)</td>
<td>inserted by 21/2010 s 20</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 31</td>
<td>inserted by 1/1999 s 6</td>
<td>1.4.1999</td>
</tr>
<tr>
<td>s 32</td>
<td>amended by 73/1999 s 7 (Sch 1 cl 5(a))</td>
<td>1.9.2000</td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 21(1), (2)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 32(2)</td>
<td>amended by 73/1999 s 7 (Sch 1 cl 5(b))</td>
<td>1.9.2000</td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 21(3)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 33</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

---

This version is not published under the *Legislation Revision and Publication Act 2002* [13.12.2016]
### 8.12.2016—Mining Act 1971

#### Legislative history

<table>
<thead>
<tr>
<th>Section</th>
<th>Amending Section(s)</th>
<th>Amended/Deleted Date(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>s 33(2)</td>
<td>amended by 43/1995 s 11</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 33(3)</td>
<td>deleted by 71/1981 s 20(a)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 33(3) and (3a)</td>
<td>inserted by 21/2010 s 22</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 33(4)</td>
<td>amended by 14/1986 s 3(1) (Sch 5)</td>
<td>31.7.1986</td>
</tr>
<tr>
<td>s 33(5)</td>
<td>amended by 43/1995 s 11</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 33(7)</td>
<td>amended by 14/1986 s 3(1) (Sch 5)</td>
<td>31.7.1986</td>
</tr>
<tr>
<td>s 33(8)</td>
<td>deleted by 71/1981 s 20(b)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 33A</td>
<td>inserted by 12/2003 s 11</td>
<td>12.6.2003</td>
</tr>
<tr>
<td>Pt 6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 34</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 34(1)</td>
<td>amended by 71/1981 s 21(a)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>amended by 43/1995 s 12</td>
<td>17.6.1996</td>
</tr>
<tr>
<td></td>
<td>substituted by 1/1999 s 7</td>
<td>1.4.1999</td>
</tr>
<tr>
<td>s 34(1a) and (1b)</td>
<td>inserted by 71/1981 s 21(b)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 34(2)</td>
<td>substituted by 71/1981 s 21(c)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>deleted by 54/1993 s 10(a)</td>
<td>15.1.1994</td>
</tr>
<tr>
<td>s 34(5)</td>
<td>substituted by 71/1981 s 21(d)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>amended by 71/1981 s 21(e)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>amended by 12/1988 Sch 2</td>
<td>1.3.1989</td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 23(1)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td></td>
<td>(c) deleted by 21/2010 s 23(1)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 34(8)—(13)</td>
<td>inserted by 21/2010 s 23(2)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 35</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 35(1)</td>
<td>substituted by 71/1981 s 22(a)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>substituted by 21/2010 s 24</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 35(2a)</td>
<td>inserted by 35/2003 Sch cl 12(e)</td>
<td>24.11.2003</td>
</tr>
<tr>
<td>s 35(2b) and (2c)</td>
<td>inserted by 35/2003 Sch cl 12(e)</td>
<td>24.11.2003</td>
</tr>
<tr>
<td></td>
<td>substituted by 60/2007 Sch 1 cl 34</td>
<td>6.11.2008</td>
</tr>
<tr>
<td>s 35(2d) and (2e)</td>
<td>inserted by 5/2005 Sch 2 (cl 35)</td>
<td>1.7.2005</td>
</tr>
<tr>
<td></td>
<td>deleted by 60/2007 Sch 1 cl 34</td>
<td>6.11.2008</td>
</tr>
<tr>
<td>s 35(3)</td>
<td>inserted by 71/1981 s 22(b)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 35A</td>
<td>inserted by 71/1981 s 23</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 35A(1)</td>
<td>substituted by 54/1993 s 10(b)</td>
<td>15.1.1994</td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 25(1)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 35A(1a)</td>
<td>inserted by 54/1993 s 10(b)</td>
<td>15.1.1994</td>
</tr>
<tr>
<td></td>
<td>substituted by 43/1995 s 13</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 35A(4)</td>
<td>inserted by 21/2010 s 25(2)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 35B</td>
<td>inserted by 21/2010 s 26</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 37</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 37(2)</td>
<td>amended by 43/1995 s 14</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 37(3) and (4)</td>
<td>deleted by 105/1976 s 14</td>
<td>23.12.1976</td>
</tr>
</tbody>
</table>

[13.12.2016] This version is not published under the *Legislation Revision and Publication Act 2002*
### Legislative history

<table>
<thead>
<tr>
<th>Section</th>
<th>Amendments</th>
<th>Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td>s 38(2)</td>
<td>amended by 105/1976 s 15(a)</td>
<td>23.12.1976</td>
</tr>
<tr>
<td></td>
<td>amended by 71/1981 s 24</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 38(3)</td>
<td>amended by 105/1976 s 15(b)</td>
<td>23.12.1976</td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 27(1)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 38(4)</td>
<td>inserted by 43/1995 s 15</td>
<td>17.6.1996</td>
</tr>
<tr>
<td></td>
<td>substituted by 21/2010 s 27(2)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 38(5) and (6)</td>
<td>inserted by 35/2003 Sch cl 12(f)</td>
<td>24.11.2003</td>
</tr>
<tr>
<td></td>
<td>substituted by 60/2007 Sch 1 cl 35</td>
<td>6.11.2008</td>
</tr>
<tr>
<td>s 38(7)</td>
<td>inserted by 5/2005 Sch 2 (cl 36)</td>
<td>17.7.2005</td>
</tr>
<tr>
<td></td>
<td>deleted by 60/2007 Sch 1 cl 35</td>
<td>6.11.2008</td>
</tr>
<tr>
<td>s 39(1)</td>
<td>s 39 amended by 71/1981 s 25</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>s 39 redesignated as s 39(1) by 21/2010 s 28</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 39(2)</td>
<td>inserted by 21/2010 s 28</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 40(2)</td>
<td>substituted by 43/1995 s 16</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 40(3) and (4)</td>
<td>inserted by 43/1995 s 16</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 41</td>
<td>deleted by 71/1981 s 26</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>inserted by 41/1995 s 3</td>
<td>1.6.1995</td>
</tr>
<tr>
<td>s 41(4) and (5)</td>
<td>inserted by 21/2010 s 29</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>Pt 6A</td>
<td>inserted by 51/1978 s 11</td>
<td>20.7.1978</td>
</tr>
<tr>
<td>s 41A(1)</td>
<td>amended by 71/1981 s 27(a)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>amended by 43/1995 s 17</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 41A(1a)</td>
<td>inserted by 71/1981 s 27(b)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 41A(3)</td>
<td>deleted by 21/2010 s 30(1)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 41A(3a)</td>
<td>inserted by 35/2003 Sch cl 12(g)</td>
<td>24.11.2003</td>
</tr>
<tr>
<td>s 41A(3b) and (3c)</td>
<td>inserted by 35/2003 Sch cl 12(g)</td>
<td>24.11.2003</td>
</tr>
<tr>
<td></td>
<td>substituted by 60/2007 Sch 1 cl 36</td>
<td>6.11.2008</td>
</tr>
<tr>
<td>s 41A(3d) and (3e)</td>
<td>inserted by 5/2005 Sch 2 (cl 37)</td>
<td>17.7.2005</td>
</tr>
<tr>
<td></td>
<td>deleted by 60/2007 Sch 1 cl 36</td>
<td>6.11.2008</td>
</tr>
<tr>
<td>s 41A(5)</td>
<td>amended by 71/1981 s 27(c)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>amended by 12/1988 Sch 2</td>
<td>1.3.1989</td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 30(2)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>(c) deleted by 21/2010 s 30(2)</td>
<td>1.7.2011</td>
<td></td>
</tr>
<tr>
<td>s 41A(6)—(10)</td>
<td>inserted by 21/2010 s 30(3)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 41B</td>
<td>amended by 21/2010 s 31</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 41BA</td>
<td>inserted by 21/2010 s 32</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 41C</td>
<td>amended by 43/1995 s 18</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>Section</td>
<td>Action Details</td>
<td>Date</td>
</tr>
<tr>
<td>---------</td>
<td>----------------</td>
<td>------</td>
</tr>
<tr>
<td>41D</td>
<td>substituted by 71/1981 s 28</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>41D(2)</td>
<td>amended by 21/2010 s 33(1)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>41D(4)</td>
<td>inserted by 43/1995 s 19</td>
<td>17.6.1996</td>
</tr>
<tr>
<td></td>
<td>substituted by 21/2010 s 33(2)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>41D(5)</td>
<td>inserted by 35/2003 Sch cl 12(h)</td>
<td>24.11.2003</td>
</tr>
<tr>
<td>(6)</td>
<td>substituted by 60/2007 Sch 1 cl 37</td>
<td>6.11.2008</td>
</tr>
<tr>
<td>41D(7)</td>
<td>inserted by 5/2005 Sch 2 (cl 38)</td>
<td>1.7.2005</td>
</tr>
<tr>
<td></td>
<td>deleted by 60/2007 Sch 1 cl 37</td>
<td>6.11.2008</td>
</tr>
<tr>
<td>41E(2)</td>
<td>substituted by 43/1995 s 20</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>41E(3)</td>
<td>inserted by 43/1995 s 20</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>41F</td>
<td>substituted by 71/1981 s 29</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>amended by 51/1978 ss 12, 13</td>
<td>20.7.1978</td>
</tr>
<tr>
<td></td>
<td>amended by 14/1986 s 3(1) (Sch 5)</td>
<td>31.7.1986</td>
</tr>
<tr>
<td></td>
<td>amended by 86/1988 ss 7—9</td>
<td>1.7.1989</td>
</tr>
<tr>
<td></td>
<td>amended by 3/1993 s 3</td>
<td>4.3.1993</td>
</tr>
<tr>
<td></td>
<td>amended by 43/1995 ss 21, 22</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>Pt 8</td>
<td>s 52(2)</td>
<td>substituted by 51/1978 s 14</td>
</tr>
<tr>
<td></td>
<td></td>
<td>deleted by 86/1988 s 10(a)</td>
</tr>
<tr>
<td></td>
<td>s 52(3)</td>
<td>substituted by 51/1978 s 14</td>
</tr>
<tr>
<td></td>
<td></td>
<td>amended by 21/2010 s 34(1)</td>
</tr>
<tr>
<td></td>
<td>s 52(3a)</td>
<td>inserted by 35/2003 Sch cl 12(i)</td>
</tr>
<tr>
<td></td>
<td>s 52(3b)</td>
<td>inserted by 35/2003 Sch cl 12(i)</td>
</tr>
<tr>
<td></td>
<td>s 52(3c)</td>
<td>substituted by 60/2007 Sch 1 cl 38</td>
</tr>
<tr>
<td></td>
<td>s 52(3d)</td>
<td>inserted by 5/2005 Sch 2 (cl 39)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>deleted by 60/2007 Sch 1 cl 38</td>
</tr>
<tr>
<td></td>
<td>s 52(4)</td>
<td>amended by 105/1976 s 22</td>
</tr>
<tr>
<td></td>
<td></td>
<td>amended by 71/1981 s 37</td>
</tr>
<tr>
<td></td>
<td></td>
<td>amended by 12/1988 Sch 2</td>
</tr>
<tr>
<td></td>
<td></td>
<td>amended by 21/2010 s 34(2)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(c) deleted by 21/2010 s 34(2)</td>
</tr>
<tr>
<td></td>
<td>s 52(4a)</td>
<td>inserted by 21/2010 s 34(3)</td>
</tr>
<tr>
<td>s 52(5)</td>
<td>inserted by 86/1988 s 10(b)</td>
<td>1.7.1989</td>
</tr>
<tr>
<td>s 52(7)</td>
<td>inserted by 86/1988 s 10(b)</td>
<td>1.7.1989</td>
</tr>
<tr>
<td>s 52(8)</td>
<td>substituted by 43/1995 s 23</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>(9)</td>
<td>inserted by 43/1995 s 23</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 53</td>
<td>substituted by 86/1988 s 11</td>
<td>1.7.1989</td>
</tr>
</tbody>
</table>

[13.12.2016] This version is not published under the Legislation Revision and Publication Act 2002

#### Legislative history

<table>
<thead>
<tr>
<th>Section</th>
<th>Amendment Details</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>s 53(1)</td>
<td>substituted by 21/2010 s 35</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 53(2)</td>
<td>substituted by 54/1993 s 10(c)</td>
<td>15.1.1994</td>
</tr>
<tr>
<td>s 53(4)</td>
<td>amended by 54/1993 s 10(d)</td>
<td>15.1.1994</td>
</tr>
<tr>
<td>(ab) deleted by 43/1995 s 24</td>
<td>17.6.1996</td>
<td></td>
</tr>
<tr>
<td>s 53(5)</td>
<td>amended by 54/1993 s 10(e)</td>
<td>15.1.1994</td>
</tr>
<tr>
<td>s 54</td>
<td>s 54 substituted by 43/1995 s 25</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 54(1)</td>
<td>substituted by 21/2010 s 36</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 54(2) and (3)</td>
<td>inserted by 21/2010 s 36</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 55</td>
<td>s 55(2)</td>
<td>amended by 105/1976 s 23(a)</td>
</tr>
<tr>
<td>s 55(3)</td>
<td>amended by 105/1976 s 23(b)</td>
<td>23.12.1976</td>
</tr>
<tr>
<td>s 55(4)</td>
<td>inserted by 43/1995 s 26</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>substituted by 21/2010 s 37</td>
<td>1.7.2011</td>
<td></td>
</tr>
<tr>
<td>s 55(5) and (6)</td>
<td>inserted by 35/2003 Sch cl 12(j)</td>
<td>24.11.2003</td>
</tr>
<tr>
<td>substituted by 60/2007 Sch 1 cl 39</td>
<td>6.11.2008</td>
<td></td>
</tr>
<tr>
<td>s 55(7)</td>
<td>inserted by 5/2005 Sch 2 (cl 40)</td>
<td>1.7.2005</td>
</tr>
<tr>
<td>deleted by 60/2007 Sch 1 cl 39</td>
<td>6.11.2008</td>
<td></td>
</tr>
<tr>
<td>s 56</td>
<td>s 56(1)</td>
<td>s 56 substituted by 41/1995 s 4</td>
</tr>
<tr>
<td>s 56(2) and (3)</td>
<td>inserted by 41/1995 s 4</td>
<td>1.6.1995</td>
</tr>
<tr>
<td>s 56(4) and (5)</td>
<td>inserted by 21/2010 s 38</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>Pt 8A</td>
<td>inserted by 41/1995 s 5</td>
<td>1.6.1995</td>
</tr>
<tr>
<td>s 56C</td>
<td>s 56C(7)</td>
<td>amended by 73/1999 s 7 (Sch 1 cl 6)</td>
</tr>
<tr>
<td>Pt 9</td>
<td>s 57</td>
<td>amended by 71/1981 s 38</td>
</tr>
<tr>
<td>substituted by 86/1988 s 12</td>
<td>1.7.1989</td>
<td></td>
</tr>
<tr>
<td>amended by 21/2010 s 39</td>
<td>1.7.2011</td>
<td></td>
</tr>
<tr>
<td>amended by 71/1981 s 39</td>
<td>5.11.1981</td>
<td></td>
</tr>
<tr>
<td>substituted by 43/1995 s 27</td>
<td>17.6.1996</td>
<td></td>
</tr>
<tr>
<td>substituted by 12/2003 s 12</td>
<td>12.6.2003</td>
<td></td>
</tr>
<tr>
<td>s 58A</td>
<td>inserted by 71/1981 s 40</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>substituted by 43/1995 s 27</td>
<td>17.6.1996</td>
<td></td>
</tr>
<tr>
<td>s 58A(2a)</td>
<td>inserted by 21/2010 s 40(1)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 58A(3)</td>
<td>amended by 21/2010 s 40(2)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 58A(6)</td>
<td>amended by 73/1999 s 7 (Sch 1 cl 7)</td>
<td>1.9.2000</td>
</tr>
<tr>
<td>amended by 21/2010 s 40(3)</td>
<td>1.7.2011</td>
<td></td>
</tr>
<tr>
<td>s 58A(7)</td>
<td>amended by 12/2003 s 13</td>
<td>12.6.2003</td>
</tr>
<tr>
<td>s 58A(8) and (9)</td>
<td>inserted by 21/2010 s 40(4)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 59</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Section</td>
<td>Legislative History</td>
<td></td>
</tr>
<tr>
<td>---------</td>
<td>--------------------</td>
<td></td>
</tr>
<tr>
<td>s 59(1)</td>
<td>substituted by 51/1978 s 15(a) 20.7.1978</td>
<td></td>
</tr>
<tr>
<td></td>
<td>amended by 71/1981 s 41(a), (b) 5.11.1981</td>
<td></td>
</tr>
<tr>
<td></td>
<td>amended by 73/1999 s 7 (Sch 1 cl 8(a)) 1.9.2000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) deleted by 102/1995 Sch 2 cl 14(b) 21.4.1997</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) inserted by 21/2010 s 41(1) 1.7.2011</td>
<td></td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 41(2) 1.7.2011</td>
<td></td>
</tr>
<tr>
<td>s 59(1aa)</td>
<td>inserted by 21/2010 s 41(3) 1.7.2011</td>
<td></td>
</tr>
<tr>
<td>s 59(1a)</td>
<td>inserted by 51/1978 s 15(a) 20.7.1978</td>
<td></td>
</tr>
<tr>
<td>s 59(1aa)</td>
<td>inserted by 35/2003 Sch cl 12(k) 24.11.2003</td>
<td></td>
</tr>
<tr>
<td>s 59(1ab) and (1ac)</td>
<td>inserted by 35/2003 Sch cl 12(k) 24.11.2003</td>
<td></td>
</tr>
<tr>
<td></td>
<td>substituted by 60/2007 Sch 1 cl 40 6.11.2008</td>
<td></td>
</tr>
<tr>
<td>s 59(1ad) and (1ae)</td>
<td>inserted by 5/2005 Sch 2 (cl 41) 1.7.2005</td>
<td></td>
</tr>
<tr>
<td></td>
<td>deleted by 60/2007 Sch 1 cl 40 6.11.2008</td>
<td></td>
</tr>
<tr>
<td>s 59(1b)</td>
<td>inserted by 71/1981 s 41(c) 5.11.1981</td>
<td></td>
</tr>
<tr>
<td></td>
<td>amended by 102/1995 Sch 2 cl 14(c) 21.4.1997</td>
<td></td>
</tr>
<tr>
<td></td>
<td>amended by 73/1999 s 7 (Sch 1 cl 8(b)) 1.9.2000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 41(4), (5) 1.7.2011</td>
<td></td>
</tr>
<tr>
<td>s 59(2)</td>
<td>amended by 71/1981 s 41(d) 5.11.1981</td>
<td></td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 41(6) 1.7.2011</td>
<td></td>
</tr>
<tr>
<td>s 59(2a)</td>
<td>inserted by 21/2010 s 41(7) 1.7.2011</td>
<td></td>
</tr>
<tr>
<td>s 59(6)</td>
<td>amended by 43/1995 s 28(a) 17.6.1996</td>
<td></td>
</tr>
<tr>
<td>s 59(7)</td>
<td>amended by 73/1999 s 7 (Sch 1 cl 8(c), (d)) 1.9.2000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 41(8), (9) 1.7.2011</td>
<td></td>
</tr>
<tr>
<td>s 59(8)</td>
<td>amended by 51/1978 s 15(b) 20.7.1978</td>
<td></td>
</tr>
<tr>
<td></td>
<td>amended by 71/1981 s 41(e) 5.11.1981</td>
<td></td>
</tr>
<tr>
<td></td>
<td>substituted by 43/1995 s 28(b) 17.6.1996</td>
<td></td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 41(10) 1.7.2011</td>
<td></td>
</tr>
<tr>
<td>s 59(9)</td>
<td>inserted by 21/2010 s 41(11) 1.7.2011</td>
<td></td>
</tr>
<tr>
<td>s 60</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 60(1)</td>
<td>amended by 105/1976 s 25 23.12.1976</td>
<td></td>
</tr>
<tr>
<td></td>
<td>amended by 71/1981 s 42(a) 5.11.1981</td>
<td></td>
</tr>
<tr>
<td></td>
<td>substituted by 43/1995 s 29 17.6.1996</td>
<td></td>
</tr>
<tr>
<td>s 60(2)</td>
<td>amended by 73/1999 s 7 (Sch 1 cl 9) 1.9.2000</td>
<td></td>
</tr>
<tr>
<td>s 60(5)</td>
<td>deleted by 71/1981 s 42(b) 5.11.1981</td>
<td></td>
</tr>
<tr>
<td>s 60</td>
<td>deleted by 21/2010 s 42 1.7.2011</td>
<td></td>
</tr>
<tr>
<td>s 61</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 61(1)</td>
<td>amended by 43/1995 s 30 17.6.1996</td>
<td></td>
</tr>
<tr>
<td>s 61(2)</td>
<td>amended by 12/2003 s 14(1) 12.6.2003</td>
<td></td>
</tr>
<tr>
<td>s 61(2a)</td>
<td>inserted by 21/2010 s 43(1) 1.7.2011</td>
<td></td>
</tr>
<tr>
<td>s 61(3)</td>
<td>—(5) amended by 86/1988 s 13 1.7.1989</td>
<td></td>
</tr>
<tr>
<td>s 61(5a)</td>
<td>inserted by 21/2010 s 43(2) 1.7.2011</td>
<td></td>
</tr>
</tbody>
</table>

### Legislative history

<table>
<thead>
<tr>
<th>Section</th>
<th>Amendment Details</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>s 61(6)</td>
<td>inserted by 12/2003 s 14(2)</td>
<td>12.6.2003</td>
</tr>
<tr>
<td>s 62</td>
<td>amended by 71/1981 s 43(a)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>amended by 86/1988 s 14(a)</td>
<td>1.7.1989</td>
</tr>
<tr>
<td>s 62(2)</td>
<td>amended by 86/1988 s 14(b)</td>
<td>1.7.1989</td>
</tr>
<tr>
<td>s 62(3)</td>
<td>substituted by 71/1981 s 43(b)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>substituted by 86/1988 s 14(c)</td>
<td>1.7.1989</td>
</tr>
<tr>
<td>s 62(4)</td>
<td>amended by 73/1999 s 7 (Sch 1 cl 10)</td>
<td>1.9.2000</td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 44</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 62A</td>
<td>inserted by 21/2010 s 45</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 63</td>
<td>amended by 60/1994 s 4</td>
<td>3.11.1994</td>
</tr>
<tr>
<td></td>
<td>substituted by 17/2005 s 5(1)</td>
<td>1.1.2006</td>
</tr>
<tr>
<td>s 63(3)</td>
<td>amended by 17/2005 s 5(2)—(4)</td>
<td>1.1.2006</td>
</tr>
<tr>
<td>s 63(4)</td>
<td>inserted by 17/2005 s 5(5)</td>
<td>1.1.2006</td>
</tr>
<tr>
<td></td>
<td>(b) deleted by 21/2010 s 46</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 63(5)</td>
<td>inserted by 17/2005 s 5(5)</td>
<td>1.1.2006</td>
</tr>
<tr>
<td>Pt 9A</td>
<td>inserted by 71/1981 s 44</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 63C</td>
<td>amended by 14/1986 s 3(1) (Sch 5)</td>
<td>31.7.1986</td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 47(1), (2)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 63C(2)</td>
<td>amended by 14/1986 s 3(1) (Sch 5)</td>
<td>31.7.1986</td>
</tr>
<tr>
<td>s 63E</td>
<td>substituted by 43/1995 s 31</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 63E(1)</td>
<td>inserted by 43/1995 s 31</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>Pt 9B</td>
<td>inserted by 43/1995 s 32</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 63F</td>
<td>amended by 12/2003 s 15</td>
<td>12.6.2003</td>
</tr>
<tr>
<td>s 63K</td>
<td>amended by 23/1998 s 5</td>
<td>21.5.1998</td>
</tr>
<tr>
<td>s 63N</td>
<td>amended by 17/2006 s 167</td>
<td>4.9.2006</td>
</tr>
<tr>
<td>s 63O(2)</td>
<td>amended by 17/2006 s 168</td>
<td>4.9.2006</td>
</tr>
<tr>
<td>s 63O(4)</td>
<td>amended by 23/1998 s 6(a)</td>
<td>21.5.1998</td>
</tr>
<tr>
<td>s 63O(5)</td>
<td>inserted by 23/1998 s 6(b)</td>
<td>21.5.1998</td>
</tr>
<tr>
<td>s 63S</td>
<td>amended by 44/2003 s 3(1) (Sch 1)</td>
<td>24.11.2003</td>
</tr>
<tr>
<td>s 63Y</td>
<td>amended by 21/2010 Sch 2</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 63ZBA</td>
<td>inserted by 1/1999 s 8</td>
<td>1.4.1999</td>
</tr>
<tr>
<td>s 63ZBA(7)</td>
<td>amended by 73/1999 s 7 (Sch 1 cl 11)</td>
<td>1.9.2000</td>
</tr>
</tbody>
</table>
### Legislative history

<table>
<thead>
<tr>
<th>Section</th>
<th>Amendment Details</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>s 63ZD</td>
<td>amended by 23/1998 s 7</td>
<td>21.5.1998</td>
</tr>
<tr>
<td></td>
<td>amended by 22/2000 s 3</td>
<td>8.6.2000</td>
</tr>
<tr>
<td></td>
<td>deleted by 12/2003 s 17</td>
<td>12.6.2003</td>
</tr>
<tr>
<td><strong>Pt 10</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 65</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 65(1a)</td>
<td>amended by 105/1976 s 26</td>
<td>23.12.1976</td>
</tr>
<tr>
<td>s 65(1c)</td>
<td>amended by 21/2010 Sch 2</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 65(3)</td>
<td>amended by 43/1995 s 33</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 65(3a)</td>
<td>inserted by 71/1981 s 45</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 65(3b)</td>
<td>inserted by 71/1981 s 45</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>amended by 43/1995 s 33</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 65(4)</td>
<td>amended by 23/1998 s 8</td>
<td>21.5.1998</td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 Sch 2</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 66</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 66(1a)</td>
<td>inserted by 71/1981 s 46</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 66(2)</td>
<td>amended by 105/1976 s 27</td>
<td>23.12.1976</td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 Sch 2</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 66A</td>
<td>inserted by 86/1988 s 15</td>
<td>1.7.1989</td>
</tr>
<tr>
<td></td>
<td>amended by 43/1995 s 34</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 67</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 67(1)</td>
<td>amended by 105/1976 s 28(a)</td>
<td>23.12.1976</td>
</tr>
<tr>
<td></td>
<td>amended by 17/2006 s 169</td>
<td>4.9.2006</td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 48(1)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 67(1a)</td>
<td>inserted by 69/2001 s 21</td>
<td>3.2.2002</td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 48(2)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td></td>
<td>amended by 43/2012 s 29</td>
<td>1.7.2013</td>
</tr>
<tr>
<td>s 67(3)</td>
<td>inserted by 105/1976 s 28(b)</td>
<td>23.12.1976</td>
</tr>
<tr>
<td>s 68</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 68(1)</td>
<td>substituted by 51/1978 s 16(a)</td>
<td>20.7.1978</td>
</tr>
<tr>
<td></td>
<td>amended by 71/1981 s 47</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 68(2)</td>
<td>amended by 105/1976 s 29</td>
<td>23.12.1976</td>
</tr>
<tr>
<td></td>
<td>amended by 51/1978 s 16(b)</td>
<td>20.7.1978</td>
</tr>
<tr>
<td>s 68</td>
<td>deleted by 21/2010 s 49</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 69</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 69(1)</td>
<td>amended by 102/1995 Sch 2 cl 17(a)</td>
<td>21.4.1997</td>
</tr>
<tr>
<td>s 69(3)</td>
<td>amended by 105/1976 s 30(a)</td>
<td>23.12.1976</td>
</tr>
<tr>
<td>s 69(3a)</td>
<td>inserted by 71/1981 s 48</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>substituted by 86/1988 s 16</td>
<td>1.7.1989</td>
</tr>
<tr>
<td></td>
<td>amended by 102/1995 Sch 2 cl 17(b)</td>
<td>21.4.1997</td>
</tr>
<tr>
<td>s 69(4)</td>
<td>substituted by 105/1976 s 30(b)</td>
<td>23.12.1976</td>
</tr>
</tbody>
</table>

Legislative history

<table>
<thead>
<tr>
<th>interested person</th>
<th>amended by 102/1995 Sch 2 cl 17(c)</th>
<th>21.4.1997</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>amended by 21/2010 s 50</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 70</td>
<td>substituted by 86/1988 s 17</td>
<td>1.7.1989</td>
</tr>
<tr>
<td>s 70(3) and (4)</td>
<td>inserted by 71/1981 s 49</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 70(5)</td>
<td>substituted by 21/2010 s 51</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 71</td>
<td>substituted by 71/1981 s 50</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 72</td>
<td>amended by 43/1995 s 35</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 71</td>
<td>replaced by 71/1981 s 51</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 73A(1)</td>
<td>amended by 21/2010 s 53(1)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 73A(2)</td>
<td>amended by 21/2010 s 53(2)—(5)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 73A(4)</td>
<td>amended by 17/2006 s 170</td>
<td>4.9.2006</td>
</tr>
<tr>
<td>s 73A(5)</td>
<td>substituted by 21/2010 s 53(6)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 73B(1)</td>
<td>amended by 86/1988 s 3(1) (Sch 5)</td>
<td>31.7.1986</td>
</tr>
<tr>
<td>s 73B(1)</td>
<td>substituted by 71/1981 s 50</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 71</td>
<td>substituted by 71/1981 s 50</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 72</td>
<td>amended by 43/1995 s 35</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 73A(1)</td>
<td>substituted by 21/2010 s 53(1)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 73A(2)</td>
<td>substituted by 21/2010 s 53(2)—(5)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 73A(4)</td>
<td>amended by 17/2006 s 170</td>
<td>4.9.2006</td>
</tr>
<tr>
<td>s 73A(5)</td>
<td>substituted by 21/2010 s 53(6)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 73B(1)</td>
<td>amended by 14/1986 s 3(1) (Sch 5)</td>
<td>31.7.1986</td>
</tr>
<tr>
<td>s 73B(1)</td>
<td>amended by 14/1986 s 3(1) (Sch 5)</td>
<td>31.7.1986</td>
</tr>
<tr>
<td>s 73E(1)</td>
<td>substituted by 11/2014 Sch 1 cl 21</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73E(1a)—(1g)</td>
<td>inserted by 11/2014 Sch 1 cl 20(1)</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73E(3)</td>
<td>amended by 21/2010 s 54</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 73E(5)</td>
<td>amended by 61/2005 s 5(1), (2)</td>
<td>1.1.2006</td>
</tr>
<tr>
<td>s 73E(5)</td>
<td>amended by 11/2014 Sch 1 cl 20(2)</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73EA</td>
<td>inserted by 11/2014 Sch 1 cl 21</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73F(1)</td>
<td>substituted by 11/2014 Sch 1 cl 22</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73F(1)</td>
<td>substituted by 11/2014 Sch 1 cl 22</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73E(1)</td>
<td>substituted by 11/2014 Sch 1 cl 20(1)</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73E(1a)—(1g)</td>
<td>inserted by 11/2014 Sch 1 cl 20(1)</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73E(3)</td>
<td>amended by 21/2010 s 54</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 73E(5)</td>
<td>amended by 61/2005 s 5(1), (2)</td>
<td>1.1.2006</td>
</tr>
<tr>
<td>s 73E(5)</td>
<td>amended by 11/2014 Sch 1 cl 20(2)</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73E(5)</td>
<td>amended by 11/2014 Sch 1 cl 20(2)</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73F</td>
<td>substituted by 11/2014 Sch 1 cl 22</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73F</td>
<td>substituted by 11/2014 Sch 1 cl 22</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73F(1)</td>
<td>substituted by 11/2014 Sch 1 cl 22</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73F(1)</td>
<td>substituted by 11/2014 Sch 1 cl 22</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73E(1)</td>
<td>substituted by 11/2014 Sch 1 cl 20(1)</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73E(1a)—(1g)</td>
<td>inserted by 11/2014 Sch 1 cl 20(1)</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73E(3)</td>
<td>amended by 21/2010 s 54</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 73E(5)</td>
<td>amended by 61/2005 s 5(1), (2)</td>
<td>1.1.2006</td>
</tr>
<tr>
<td>s 73E(5)</td>
<td>amended by 11/2014 Sch 1 cl 20(2)</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73F(1)</td>
<td>substituted by 11/2014 Sch 1 cl 22</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73F</td>
<td>substituted by 11/2014 Sch 1 cl 22</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73F(1)</td>
<td>substituted by 11/2014 Sch 1 cl 22</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73E(1)</td>
<td>substituted by 11/2014 Sch 1 cl 20(1)</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73E(1a)—(1g)</td>
<td>inserted by 11/2014 Sch 1 cl 20(1)</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73E(3)</td>
<td>amended by 21/2010 s 54</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 73E(5)</td>
<td>amended by 61/2005 s 5(1), (2)</td>
<td>1.1.2006</td>
</tr>
<tr>
<td>s 73E(5)</td>
<td>amended by 11/2014 Sch 1 cl 20(2)</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73F(1)</td>
<td>substituted by 11/2014 Sch 1 cl 22</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73F</td>
<td>substituted by 11/2014 Sch 1 cl 22</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73F(1)</td>
<td>substituted by 11/2014 Sch 1 cl 22</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73E(1)</td>
<td>substituted by 11/2014 Sch 1 cl 20(1)</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73E(1a)—(1g)</td>
<td>inserted by 11/2014 Sch 1 cl 20(1)</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73E(3)</td>
<td>amended by 21/2010 s 54</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 73E(5)</td>
<td>amended by 61/2005 s 5(1), (2)</td>
<td>1.1.2006</td>
</tr>
<tr>
<td>s 73E(5)</td>
<td>amended by 11/2014 Sch 1 cl 20(2)</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73F</td>
<td>substituted by 11/2014 Sch 1 cl 22</td>
<td>19.6.2014</td>
</tr>
<tr>
<td>s 73F</td>
<td>substituted by 11/2014 Sch 1 cl 22</td>
<td>19.6.2014</td>
</tr>
</tbody>
</table>


Legislative history

<table>
<thead>
<tr>
<th>Section</th>
<th>Amendments</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>s 73O(2)</td>
<td>amended by 21/2010 s 58(2)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 73O(4)</td>
<td>amended by 21/2010 s 58(3), (4)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 73O(5)</td>
<td>amended by 21/2010 s 58(5)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 73O(8)</td>
<td>amended by 21/2010 s 58(6), (7)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 73O(9)</td>
<td>amended by 21/2010 s 58(8)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>Pt 12</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 74</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 74(1)</td>
<td>amended by 105/1976 s 31(a), (b) amended by 51/1978 s 17 amended by 73/1999 s 7 (Sch 1 cl 12(a), (b)) amended by 21/2010 s 59(1)</td>
<td>23.12.1976 20.7.1978 1.9.2000 1.7.2011</td>
</tr>
<tr>
<td>s 74(1a)</td>
<td>inserted by 71/1981 s 52(a) amended by 73/1999 s 7 (Sch 1 cl 12(c), (d)) amended by 21/2010 s 59(2)</td>
<td>5.11.1981 1.9.2000 1.7.2011</td>
</tr>
<tr>
<td>s 74(2) and (3)</td>
<td>deleted by 102/1995 Sch 2 cl 18 substituted by 105/1976 s 31(c)</td>
<td>21.4.1997 23.12.1976</td>
</tr>
<tr>
<td>s 74(4)</td>
<td>substituted by 105/1976 s 31(c) amended by 71/1981 s 52(b) deleted by 102/1995 Sch 2 cl 18</td>
<td>21.4.1997 5.11.1981</td>
</tr>
<tr>
<td>s 74(5)</td>
<td>amended by 71/1981 s 52(c), (d) amended by 14/1986 s 3(1) (Sch 5) deleted by 102/1995 Sch 2 cl 18</td>
<td>31.7.1986 21.4.1997</td>
</tr>
<tr>
<td>s 74(6) and (7)</td>
<td>deleted by 102/1995 Sch 2 cl 18 substituted by 105/1976 s 31(c)</td>
<td>21.4.1997 23.12.1976</td>
</tr>
<tr>
<td>s 74AA</td>
<td>inserted by 21/2010 s 60</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 74A</td>
<td>inserted by 43/1995 s 36 amended by 21/2010 s 61(1) amended by 73/1999 s 7 (Sch 1 cl 13)</td>
<td>17.6.1996 1.7.2011 1.9.2000</td>
</tr>
<tr>
<td>s 74A(1)</td>
<td>amended by 21/2010 s 61(1)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 74A(3)</td>
<td>amended by 73/1999 s 7 (Sch 1 cl 13) amended by 21/2010 s 61(2)</td>
<td>1.9.2000 1.7.2011</td>
</tr>
<tr>
<td>s 75</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 75(1)</td>
<td>amended by 14/1986 s 3(1) (Sch 5) substituted by 43/1995 s 37 amended by 21/2010 s 62</td>
<td>31.7.1986 17.6.1996 1.7.2011</td>
</tr>
<tr>
<td>s 75(2)</td>
<td>substituted by 105/1976 s 32</td>
<td>23.12.1976</td>
</tr>
<tr>
<td>s 75A</td>
<td>inserted by 43/1995 s 38</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 76 before substitution by 61/2005</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 76(1)</td>
<td>amended by 51/1978 s 18(a)</td>
<td>20.7.1978</td>
</tr>
<tr>
<td>s 76(2)</td>
<td>amended by 13/2000 s 4(a) amended by 73/1999 s 7 (Sch 1 cl 14)</td>
<td>1.7.2000 1.9.2000</td>
</tr>
<tr>
<td>s 76(2a)</td>
<td>inserted by 13/2000 s 4(b)</td>
<td>1.7.2000</td>
</tr>
<tr>
<td>s 76(3a)</td>
<td>inserted by 86/1988 s 18</td>
<td>1.7.1989</td>
</tr>
<tr>
<td>s 76(4)</td>
<td>inserted by 51/1978 s 18(b)</td>
<td>20.7.1978</td>
</tr>
</tbody>
</table>
### Legislative history

<table>
<thead>
<tr>
<th>Section</th>
<th>Amendment Details</th>
<th>Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td>s 76</td>
<td>substituted by 61/2005 s 6</td>
<td>1.1.2006</td>
</tr>
<tr>
<td>s 76(1)</td>
<td>amended by 21/2010 s 63(1)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 76(2)</td>
<td>amended by 21/2010 s 63(2)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 76(3)—(5)</td>
<td>substituted by 21/2010 s 63(3)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 76(5a) and (5b)</td>
<td>inserted by 21/2010 s 63(3)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 76(7)</td>
<td>amended by 21/2010 s 63(4)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 77</td>
<td>substituted by 51/1978 s 19</td>
<td>20.7.1978</td>
</tr>
<tr>
<td></td>
<td>amended by 71/1981 s 54</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>amended by 73/1999 s 7 (Sch 1 cl 15(a))</td>
<td>1.9.2000</td>
</tr>
<tr>
<td></td>
<td>amended by 61/2005 s 7(1)</td>
<td>1.1.2006</td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 64(1)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 77(2)</td>
<td>substituted by 51/1978 s 19</td>
<td>20.7.1978</td>
</tr>
<tr>
<td></td>
<td>amended by 73/1999 s 7 (Sch 1 cl 15(b))</td>
<td>1.9.2000</td>
</tr>
<tr>
<td></td>
<td>amended by 61/2005 s 7(2)</td>
<td>1.1.2006</td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 64(2)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 77(2a)</td>
<td>inserted by 61/2005 s 7(3)</td>
<td>1.1.2006</td>
</tr>
<tr>
<td>s 77(3)</td>
<td>inserted by 105/1976 s 33</td>
<td>23.12.1976</td>
</tr>
<tr>
<td></td>
<td>amended by 73/1999 s 7 (Sch 1 cl 15(c))</td>
<td>1.9.2000</td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 64(3)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 77(4)</td>
<td>inserted by 105/1976 s 33</td>
<td>23.12.1976</td>
</tr>
<tr>
<td>s 77A</td>
<td>inserted by 61/2005 s 8</td>
<td>1.1.2006</td>
</tr>
<tr>
<td>s 77A(1)</td>
<td>amended by 21/2010 s 65</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>ss 77B—77D</td>
<td>inserted by 21/2010 s 66</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 78</td>
<td>substituted by 71/1981 s 55</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>amended by 14/1986 s 3(1) (Sch 5)</td>
<td>31.7.1986</td>
</tr>
<tr>
<td></td>
<td>amended by 43/1995 s 39(a)</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 79(2)</td>
<td>inserted by 51/1978 s 20</td>
<td>20.7.1978</td>
</tr>
<tr>
<td>s 79(3)</td>
<td>inserted by 43/1995 s 39(b)</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 79A</td>
<td>inserted by 16/2001 s 6</td>
<td>14.6.2001</td>
</tr>
<tr>
<td>s 80</td>
<td>substituted by 71/1981 s 56(a)</td>
<td>5.11.1981</td>
</tr>
</tbody>
</table>
### Legislative history

<table>
<thead>
<tr>
<th>Section</th>
<th>Amended/Inserted By</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>s 80(1a)</td>
<td>inserted by 71/1981 s 56(b)</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 80(1b) and (1c)</td>
<td>inserted by 102/1995 Sch 2 cl 22(a)</td>
<td>21.4.1997</td>
</tr>
<tr>
<td>s 80(1d)</td>
<td>inserted by 102/1995 Sch 2 cl 22(a)</td>
<td>21.4.1997</td>
</tr>
<tr>
<td></td>
<td>amended by 73/1999 s 7 (Sch 1 cl 16(a))</td>
<td>1.9.2000</td>
</tr>
<tr>
<td>s 80(2)</td>
<td>amended by 86/1988 s 19(a)</td>
<td>1.7.1989</td>
</tr>
<tr>
<td>s 80(3)</td>
<td>amended by 86/1988 s 19(b)</td>
<td>1.7.1989</td>
</tr>
<tr>
<td>s 80(4)</td>
<td>inserted by 102/1995 Sch 2 cl 22(b)</td>
<td>21.4.1997</td>
</tr>
<tr>
<td>s 80(5)</td>
<td>inserted by 102/1995 Sch 2 cl 22(b)</td>
<td>21.4.1997</td>
</tr>
<tr>
<td></td>
<td>amended by 73/1999 s 7 (Sch 1 cl 16(b))</td>
<td>1.9.2000</td>
</tr>
<tr>
<td>s 81</td>
<td>amended by 21/2010 Sch 2</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 82</td>
<td>amended by 21/2010 s 68</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 83</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 83(1)</td>
<td>amended by 14/1986 s 3(1) (Sch 5)</td>
<td>31.7.1986</td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 69(1), (2)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 83(2)</td>
<td>substituted by 21/2010 s 69(3)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 83A</td>
<td>inserted by 11/2011 s 48</td>
<td>16.6.2011</td>
</tr>
<tr>
<td>s 84A</td>
<td>inserted by 43/1995 s 40</td>
<td>17.6.1996</td>
</tr>
<tr>
<td>s 86</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 86(1)</td>
<td>amended by 105/1976 s 34(a), (b)</td>
<td>23.12.1976</td>
</tr>
<tr>
<td></td>
<td>amended by 71/1981 s 57</td>
<td>5.11.1981</td>
</tr>
<tr>
<td>s 86(2)</td>
<td>amended by 105/1976 s 34(c)</td>
<td>23.12.1976</td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 70</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 87</td>
<td>amended by 14/1986 s 3(1) (Sch 5)</td>
<td>31.7.1986</td>
</tr>
<tr>
<td></td>
<td>amended by 73/1999 s 7 (Sch 1 cl 17)</td>
<td>1.9.2000</td>
</tr>
<tr>
<td></td>
<td>amended by 23/2001 s 86</td>
<td>15.7.2001</td>
</tr>
<tr>
<td></td>
<td>deleted by 12/2003 s 18</td>
<td>12.6.2003</td>
</tr>
<tr>
<td>s 87A</td>
<td>inserted by 105/1976 s 35</td>
<td>23.12.1976</td>
</tr>
<tr>
<td></td>
<td>deleted by 21/2010 s 71</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 88</td>
<td>amended by 71/1981 s 58</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>amended by 73/1999 s 7 (Sch 1 cl 18)</td>
<td>1.9.2000</td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 72</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 89</td>
<td>amended by 14/1986 s 3(1) (Sch 5)</td>
<td>31.7.1986</td>
</tr>
<tr>
<td></td>
<td>amended by 73/1999 s 7 (Sch 1 cl 19)</td>
<td>1.9.2000</td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 73(1), (2)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 89A</td>
<td>inserted by 43/1995 s 41</td>
<td>17.6.1996</td>
</tr>
<tr>
<td></td>
<td>deleted by 84/2009 s 214</td>
<td>1.2.2010</td>
</tr>
<tr>
<td>s 89A</td>
<td>inserted by 21/2010 s 74</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 90</td>
<td>inserted by 21/2010 s 75(1)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td></td>
<td>amended by 21/2010 s 75(2)</td>
<td>1.7.2011</td>
</tr>
</tbody>
</table>

Legislative history

<table>
<thead>
<tr>
<th>Section</th>
<th>Action</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>s 90(3)</td>
<td>inserted by 21/2010 s 75(3)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 91</td>
<td>deleted by 44/2003 s 3(1) (Sch 1)</td>
<td>24.11.2003</td>
</tr>
<tr>
<td>ss 91 and 91A</td>
<td>inserted by 21/2010 s 76</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 92</td>
<td>s 92 amended by 105/1976 s 36</td>
<td>23.12.1976</td>
</tr>
<tr>
<td></td>
<td>s 92 amended by 51/1978 s 21</td>
<td>20.7.1978</td>
</tr>
<tr>
<td></td>
<td>s 92 amended by 1/1999 s 9</td>
<td>1.4.1999</td>
</tr>
<tr>
<td></td>
<td>s 92 amended by 73/1999 s 7 (Sch 1 cl 20)</td>
<td>1.9.2000</td>
</tr>
<tr>
<td></td>
<td>s 92(h) deleted by 71/1981 s 59</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>s 92(j) deleted by 71/1981 s 59</td>
<td>5.11.1981</td>
</tr>
<tr>
<td></td>
<td>s 92 amended and redesignated as s 92(1) by 21/2010 s 77(1)—(5)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>s 92(2)—(7)</td>
<td>inserted by 21/2010 s 77(5)</td>
<td>1.7.2011</td>
</tr>
<tr>
<td>Sch</td>
<td>deleted by 14/1986 s 3(1) (Sch 5)</td>
<td>31.7.1986</td>
</tr>
<tr>
<td></td>
<td>s 5(1), (2), (6) and (8) redesignated as Sch under Acts Republication Act 1967</td>
<td>31.7.1986</td>
</tr>
<tr>
<td>heading</td>
<td>substituted by 44/2003 s 3(1) (Sch 1)</td>
<td>24.11.2003</td>
</tr>
</tbody>
</table>

Transitional etc provisions associated with Act or amendments

Statutes Amendment (Mining Administration) Act 1999

11—Transitional provisions

(1) An agreement registered under Part 9B of the Mining Act 1971 before the commencement of this Act will be taken to be an agreement that is to be kept confidential under section 63ZBA of that Act (as enacted by this Act) unless or until all parties to the agreement notify the Mining Registrar otherwise.

Mining (Private Mines) Amendment Act 1999, Sch 2

1—Existing rights and proceedings

(1) Subject to this clause, the repeal of section 19 of the principal Act by this Act does not affect—

   (a) the effect of an application under section 19 of the principal Act before the commencement of this Act;

   (b) the declaration of an area as a private mine under the principal Act;

   (c) any other process commenced before the commencement of this Act.

Legislative history

(2) Subject to this clause, section 19 of the principal Act, as in existence immediately before the commencement of this Act, will continue in force and effect as if this Act had not been enacted for the purpose of—

(a) determining any application for a declaration under that section (including by making an application to the Environment, Resources and Development Court in the event of a difference between the Minister and the applicant);

(b) making any declaration of an area as a private mine;

(c) any right to the payment of royalty pursuant to an application under subsection (17) of that section before 1 March 1980.

(3) The general duty under section 73H of the principal Act (as enacted by this Act) applies from the commencement of this Act (including to mining operations commenced before the commencement of this Act).

(4) The Director may take action under section 73I, 73J or 73K of the principal Act (as enacted by this Act) in relation to circumstances arising after the commencement of this Act (even if those circumstances are attributable to mining operations commenced before the commencement of this Act).

(5) Sections 73M and 73N of the principal Act (as enacted by this Act) extend to grounds in existence before the commencement of this Act (and to any declaration of a private mine before the commencement of this Act).

2—Mine operation plans

(1) The following provisions apply with respect to mine operations plans under Part 11B of the principal Act (as enacted by this Act):

(a) subject to paragraph (b), section 73G of the principal Act (as enacted by this Act) does not apply to mining operations being carried out at a private mine immediately before the commencement of this Act until six months after that commencement; and

(b) a development programme approved by the Chief Inspector under the Mines and Works Inspection Act 1920 before the commencement of section 73G of the principal Act (as enacted by this Act) will be taken to be a mine operations plan for the purposes of that Part to the extent that it relates to mining operations being carried out at a private mine at a particular time (and may be reviewed and amended from time to time under section 73G of the principal Act (as enacted by this Act) as if it were a mine operations plan under that section).

(2) A mine operations plan to which subclause (1)(b) applies must be reviewed in accordance with section 73G of the principal Act (as enacted by this Act) within seven years after the commencement of that section (and will not be subject to the operation of subsection (15)(a) of that section).

3—Additional matters

(1) The Governor may, by regulation, make provision for other matters of a savings or transitional nature consequent on the enactment of this Act.

Legislative history

(2) The Acts Interpretation Act 1915 will, except to the extent of any inconsistency with the provisions of this Act, apply to any repeal or amendment effected by this Act.

Statutes Amendment (Courts and Judicial Administration) Act 2001

22—Transitional provisions

(1) The amendments made to the principal Act by section 20—

(a) do not apply in respect of proceedings commenced before the commencement of that section (and those proceedings may continue as if this Act had not been enacted); and

(b) apply in respect of proceedings commenced after the commencement of that section (including proceedings in respect of a claim arising before the commencement of that section).

(2) The amendments made to the principal Act by section 21 apply in respect of proceedings commenced after the commencement of that section (including proceedings in respect of a claim arising before the commencement of that section).

Mining (Miscellaneous) Amendment Act 2003, Sch 1

1—Interpretation

In this Schedule—

commencement date means the date on which sections 6(1) and 8 of this Act come into operation;

pre-amendment application means an application under the principal Act lodged with the Director of Mines before the commencement date;

principal Act means the Mining Act 1971.

2—Transitional provision

The amendments made by sections 6(1) and 8 of this Act do not apply with respect to—

(a) an exploration licence granted on the basis of a pre-amendment application; or

(b) the renewal of an exploration licence if the licence was granted before the commencement date, or on the basis of a pre-amendment application; or

(c) a subsequent exploration licence under section 30AB of the principal Act (as enacted by this Act) if the former licence was granted before the commencement date, or on the basis of a pre-amendment application.

Mining (Royalty No 2) Amendment Act 2005, Sch 1

1—Interpretation

In this Schedule—

Minister means the Minister to whom the administration of the principal Act is committed;

principal Act means the Mining Act 1971.
2—Continuation of existing arrangements

(1) Subject to clause 3, in the case of a mine in existence immediately before the commencement of this Act, the ex-mine gate value of any minerals—

(a) subject to royalty under section 17(5) of the principal Act, as enacted by this Act; and

(b) listed in Column 1 of the following table,

will be determined according to the values set out in Column 3 of the following table:

<table>
<thead>
<tr>
<th>Mineral</th>
<th>Grade</th>
<th>Value ($/unit)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agricultural Limestone</td>
<td></td>
<td>4/tonne</td>
</tr>
<tr>
<td>Barite</td>
<td>1st</td>
<td>24/tonne</td>
</tr>
<tr>
<td></td>
<td>2nd</td>
<td>14/tonne</td>
</tr>
<tr>
<td>Clay</td>
<td>1st</td>
<td>8/tonne</td>
</tr>
<tr>
<td></td>
<td>2nd</td>
<td>4/tonne</td>
</tr>
<tr>
<td>Dolomite</td>
<td>1st</td>
<td>10/tonne</td>
</tr>
<tr>
<td></td>
<td>2nd</td>
<td>5/tonne</td>
</tr>
<tr>
<td>Feldspar</td>
<td></td>
<td>20/tonne</td>
</tr>
<tr>
<td>Gold</td>
<td></td>
<td>12/gram</td>
</tr>
<tr>
<td>Granites &amp; Granitic Rocks</td>
<td></td>
<td>50/metre¹</td>
</tr>
<tr>
<td>Gypsum</td>
<td>Categories 1-3 (super premium grade, plaster board, cement)</td>
<td>8/tonne</td>
</tr>
<tr>
<td></td>
<td>Categories 4-8 (agricultural premium, grade 1, 2 &amp; 3 and other)</td>
<td>4/tonne</td>
</tr>
<tr>
<td>Jade (Nephrite)</td>
<td></td>
<td>5000/tonne</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5/kilogram</td>
</tr>
<tr>
<td>Kaolin</td>
<td></td>
<td>8/tonne</td>
</tr>
<tr>
<td>Limesand</td>
<td></td>
<td>4/tonne</td>
</tr>
<tr>
<td>Limestone (including Marble)</td>
<td>1st</td>
<td>8/tonne</td>
</tr>
<tr>
<td></td>
<td>2nd</td>
<td>4/tonne</td>
</tr>
<tr>
<td>Magnesite</td>
<td></td>
<td>8/tonne</td>
</tr>
<tr>
<td>Phosphate</td>
<td></td>
<td>4/tonne</td>
</tr>
<tr>
<td>Salt</td>
<td></td>
<td>8/tonne</td>
</tr>
<tr>
<td>Silica Sand/Rock Silica</td>
<td></td>
<td>4/tonne</td>
</tr>
<tr>
<td>Shell Grit</td>
<td></td>
<td>4/tonne</td>
</tr>
<tr>
<td>Talc</td>
<td>1st</td>
<td>20/tonne</td>
</tr>
<tr>
<td></td>
<td>2nd</td>
<td>10/tonne</td>
</tr>
</tbody>
</table>

Legislative history

(2) The Governor may, by regulation, prescribe principles that may be taken into account to determine whether or not a mine falls within the ambit of subclause (1).

(3) This clause will expire on 31 December 2008.

3—Agreements

(1) Unless otherwise agreed by the parties, any agreement under the principal Act relating to royalty on any minerals between the Minister and a person liable to pay the royalty in force immediately before the commencement of this Act will continue to have effect after the commencement of this Act, subject to any modifications that may be necessary in the circumstances or that may be prescribed (and on the basis that the agreement will cease to have effect in any event when the agreement expires, or is brought to an end in accordance with its terms or otherwise by agreement between the parties).

(2) Nothing in this Schedule prevents or limits the ability of the Minister to enter into an agreement under the principal Act as amended by this Act (including an agreement that has the effect of modifying or excluding the operation of clause 2 in the relevant case).

Mining (Miscellaneous) Amendment Act 2010, Sch 1

2—Transitional provision

(1) In this clause—

principal Act means the Mining Act 1971.

(2) The Minister may, after the commencement of this clause, vary the terms and conditions of a mining lease in existence at that commencement so as to authorise the recovery, use and sale or disposal of extractive minerals in the manner contemplated by section 39(2) of the principal Act or the recovery, use and sale or disposal of other minerals in the manner contemplated by section 39(7) of the principal Act (as enacted by this Act) (and this authorisation will then be taken to be an authorisation under that section).

Mining (Royalties) Amendment Act 2011, Sch 1

1—Transitional provisions

(1) In this clause—

new rate means the rate of royalty applying to new mines under section 17A of the principal Act on account of the amendment effected by section 5(2) of this Act;

principal Act means the Mining Act 1971.

(2) The amendments made by this Act to section 17 of the principal Act apply in relation to minerals recovered on or after 1 July 2011.

(3) The amendments made by this Act to section 17A of the principal Act apply in relation to any mine under that section that comes within the ambit of that section on account of an application lodged with the Director of Mines on or after 16 September 2010 (including a mine declared to be a new mine before the commencement of this clause).
(4) If a mine to which subclause (3) applies is declared to be a new mine before 1 July 2011, the new rate will be taken to have applied in relation to the mine from the date on which the mine was declared to be a new mine for the purposes of section 17A of the principal Act (and any royalty that becomes payable on account of the operation of this subclause must be paid in accordance with any determination of the Minister made for the purposes of this subclause).

(5) The amendments made by this Act to section 17A of the principal Act do not apply in relation to any mine that comes within the ambit of that section on account of an application lodged with the Director of Mines before 16 September 2010 (and section 17A, as in existence immediately before the commencement of this clause, will continue to apply in relation to such a mine as if section 5 of this Act had not been enacted).

Statutes Amendment (Courts Efficiency Reforms) Act 2012

30—Transitional provision

The amendment made to the Mining Act 1971 by this Part—

(a) does not apply in respect of proceedings commenced before the commencement of this Part (and those proceedings may continue as if this Act had not been enacted); and

(b) applies in respect of proceedings commenced after the commencement of this Part (including proceedings in respect of a claim arising before the commencement of this Part).

Mining (Royalties) Amendment Act 2013, Sch 1

1—Transitional provision

(1) The Minister may, in relation to the 2013/2014 financial year—

(a) make any determination or estimate required for the purposes of section 17DA, as inserted into the Mining Act 1971 by this Act, and serve any notice for the purposes of that section, at any time during the 2013/2014 financial year; and

(b) if a notice referred to in paragraph (a) is served on a mining operator, require the mining operator to make a payment of royalty under the scheme established by section 17DA, as inserted into the Mining Act 1971 by this Act, with respect to a period specified by the Minister, according to an estimate made by the Minister, with the payment to be made by a date specified by the Minister (and thereafter monthly payments will apply); and

(c) by notice served on a mining operator, make any other provision of a transitional nature so that section 17DA of the Mining Act 1971, as inserted into that Act by this Act, may operate effectively (including so as to modify the operation of that section in relation to the 2013/2014 financial year).

(2) Any determination, estimate or notice made or served by the Minister under subclause (1) will have effect according to its terms and despite the provisions of the Mining Act 1971.
Budget Measures Act 2014, Sch 1

23—Transitional provision

The amendment made by clause 18 of this Part to section 17 of the Mining Act 1971 applies in relation to extractive minerals recovered on or after 1 July 2014.

Statutes Amendment (Leading Practice in Mining) Bill 2017

Schedule 1—Transitional provisions

1—Interpretation

In this Schedule—

principal Act means the Mining Act 1971.

2—References

On and after the day on which section 4 comes into operation, a reference in any Act, statutory instrument or other document or instrument to a mining tenement under the principal Act will, unless the context otherwise requires, be taken to include a reference to a mineral tenement.

3—Waiver of exemption

(1) In this clause—

mining operator has the same meaning as in the principal Act, as in force immediately before the day on which section 4 comes into operation.

(2) Section 9AA of the principal Act, as in force immediately before day on which section 9 comes into operation, will continue to apply where a mining operator has given a notice to a person under subsection (1) of that section before the day on which section 22 comes into operation.

4—Registers

All registers kept under section 15A of the principal Act immediately before the repeal of that section by this Act will, on that repeal, be taken to form part of the mining register under section 15AA of the principal Act as enacted by this Act.

5—Mortgages

(1) A mortgage may be registered under section 15AC of the principal Act, as enacted by this Act, whether it was created before or after the commencement of that section.

(2) An application may be made under section 15AD of the principal Act, as enacted by this Act, in relation to a mortgage—

(a) registered on a register under the principal Act before the commencement of that section; or

(b) created before the commencement of that section and registered on the mining register on or after that commencement.
6—Registered documents and dealings

Section 15AH of the principal Act, as enacted by this Act, extends to the registration of any interest, instrument, agreement, statement, notice, order, direction, bond, penalty or other document or dealing on the mining register before the commencement of section 22 of this Act.

7—Royalty

(1) The principal Act, as in force immediately before the commencement of section 23 of this Act, applies for the purposes of the first return required to be furnished by a tenement holder following that commencement and to the calculation of royalty in respect of minerals recovered during the period to which the return relates.

(2) If a relevant event has occurred under section 73E of the principal Act, as in force immediately before the commencement of section 23 of this Act, that event will be taken to be a relevant event for the purposes of section 17AB of the principal Act as enacted by this Act.

8—Exploration licences

(1) In this clause—

relevant day means the day on which section 38 comes into operation.

(2) Subject to subclause (3), an exploration licence in existence immediately before the relevant day—

(a) will be subject to the operation of section 30A of the principal Act as amended by this Act; and

(b) will be taken to have been granted for a term of 6 years commencing on the day on which it was granted (irrespective of any renewal that has occurred before the relevant day); and

(c) will, if or when renewed, be renewed for a period that extends the operation of the licence to a total term of up to 18 years.

(3) An exploration licence in existence immediately before the relevant day that is a subsequent licence under section 30AB of the principal Act (as in existence immediately before the relevant day)—

(a) will become subject to the operation of section 30A of the principal Act as amended by this Act; and

(b) will be taken to have been granted for a term of 6 years commencing on the day on which it was granted (irrespective of any renewal that has occurred before the relevant day); and

(c) will, if or when renewed, be renewed on the basis—

(i) that the term of the renewal may be for a period of up to 6 years (and if the renewal is granted for a period of less than 6 years then further renewals may be granted until the aggregate period of renewal is 6 years); and

(ii) that the area of the licence must be reduced by 50% at the time of renewal.
9—Expenditure

(1) An expenditure obligation imposed under section 30(1)(b) of the principal Act as a condition of an exploration licence in existence immediately before the relevant day will be taken to set out the level of expenditure that applies in relation to the licence for the purposes of section 30AAA of the principal Act as enacted by this Act.

(2) The Minister may exercise a power under section 30AAA of the principal Act, as enacted by this Act, in relation to any exploration licence in existence immediately before the commencement of that section.

10—Reinstatement of tenements

Section 56Y of the principal Act, as enacted by this Act, cannot apply in relation to a mineral tenement that expired before the commencement of that section.

11—Mining Rehabilitation Fund

The Minister may impose a requirement under section 62AA of the principal Act, as enacted by this Act, in relation to a mining tenement (or mineral tenement) granted before the enactment of that section.

12—Jurisdiction relating to tenements and monetary claims

The amendment to section 67(1a) of the principal Act by section 7—

(a) does not apply in respect of proceedings commenced before the commencement of that section (and those proceedings may continue as if this Act had not been enacted); and

(b) apply in respect of proceedings commenced after the commencement of that section (including proceedings in respect of a claim arising before the commencement of that section).

13 - Programs for environment protection and rehabilitation

(1) In this clause—

_relevant day_ means the day of which section 824 comes into operation;

_PEPR_ means a program under Part 10A of the principal Act;

_prescribed item_ means—

(a) an exploration work program; or

(b) a declaration of environmental factors; or

(c) a program for mining and rehabilitation of land, within the meaning of regulation 114 of the _Mining Regulations 2011_ as in force immediately before the relevant day.

(2) A prescribed item—

(a) continues as a PEPR for the purposes of the principal Act; and

(b) insofar as it is relevant to authorised operations conducted under the principal Act on or after the designated day, will be taken to be an approved program under Part 10A of the principal Act and to be subject to the operation and
requirements of—

(i) regulation 114 of the Mining Regulations 2011; and

(ii) Part 10A of the principal Act (including so as to require the prescribed item, as a PEPR, to be reviewed under that Part as required and to be relevant to the operation of section 70D of the principal Act as in force immediately before the relevant day and section 70DA of the principal Act as enacted by this Act on or after the relevant day).

(3) The Minister may, on or after the enactment of paragraph (c) of section 70C(5) of the principal Act, reject a program that has been submitted under section 70B of the principal Act before that enactment.

(4) The Minister may require a program audit to be conducted under section 70D of the principal Act, as enacted by this Act, in relation to a PEPR that has been approved before the relevant day.

14—Caveats

If a caveat lodged under Part 11A of the principal Act is in force immediately before the repeal of that Part by this Act—

(a) the provisions of that Part will continue to apply in relation to the caveat as if the repeal had not been effected; and

(b) Division 3 of Part 2A of the principal Act, as enacted by this Act, will not apply in relation to the caveat.

15—Private mines

(1) In this clause—

Class A private mine means a private mine—

(a) that is contiguous to land subject to a mineral tenement (whether granted under the principal Act before or after the relevant day); or

(b) in relation to which the use, sale or disposal of a metal or metalliferous ore is authorised;

Class B private mine means a private mine that is not a Class A private mine;

prescribed day means the day falling 10 years after the relevant day;

relevant day means the day on which section 95 comes into operation.

(2) The repeal of Part 11B of the principal Act does not affect the declaration of an area as a private mine in force immediately before the relevant day.

(3) In connection with the repeal of Part 11B of the principal Act—

(a) the exemption under section 73D of the principal Act will cease and a private mine in existence immediately before the relevant day will continue as a mineral tenement under the principal Act on or after that relevant day (subject to the amendment of the principal Act by this Act); and

(b) a mine operations plan under section 73G of the principal Act, as in force
immediately before the relevant day, will, if it applies to a Class A private mine, be taken to be an approved program under Part 10A of the principal Act (as amended by this Act); and

(c) section 73G of the principal Act, as in force immediately before the relevant day, will continue to apply in relation to a Class B private mine until the prescribed day (irrespective of whether there is, immediately before the relevant day, a mine operations plan under that section in force that applies to the mine); accordingly, a mine operations plan under that section that applies to a Class B private mine immediately before the relevant day—

(i) will continue to apply to the mine, under that section, until the prescribed day; but

(ii) will be taken to be an approved program under Part 10A of the principal Act (as amended by this Act)—

(A) on and from the prescribed day; or

(B) if the mine ceases to be a Class B private mine before the prescribed day—

on which the mine thereby becomes a Class A private mine; and

(d) any operations carried out at a Class A private mine on or after the relevant day (including such operations commenced before the relevant day) will, if relevant, become subject to the operation of section 70E of the principal Act (as amended by this Act); and

(e) sections 73H, 73I, 73J, 73K and 73L of the principal Act, as in force immediately before the relevant day, continue to apply (to the exclusion of Part 10B of the principal Act) to a Class B private mine until the day (if any) on which—the mine ceases to be a Class B private mine and thereby becomes a Class A private mine (and the mine will then become subject to the operation of Part 10B of the principal Act (including section 70E) on and from the day on which those sections cease to apply); and

(f) the repeal of Part 11B does not affect the operation of any order or authorisation made or given under that Part before the relevant day (and that Part will continue to apply in relation to any such order or authorisation as if it had not been repealed by this Act); and

(g) to avoid doubt, section 56X of the principal Act, as enacted by this Act, extends to a private mine.

16—Safety net

The repeal of section 84A of the principal Act does not affect the operation of any agreement in force under that section before the repeal.

Historical versions

Reprint—31.7.1986
Reprint No 1—1.10.1991
Reprint No 2—4.3.1993
Reprint No 3—15.1.1994
Reprint No 4—3.11.1994
Reprint No 5—1.6.1995
Reprint No 6—17.6.1996
Reprint No 7—21.4.1997
Reprint No 8—21.5.1998
Reprint No 9—1.4.1999
Reprint No 10—29.7.1999
Reprint No 11—8.6.2000
Reprint No 12—1.7.2000
Reprint No 13—1.9.2000
Reprint No 14—1.3.2001
Reprint No 15—14.6.2001
Reprint No 16—15.7.2001
Reprint No 17—3.2.2002
Reprint No 18—4.5.2002
Reprint No 19—12.6.2003
Reprint No 20—30.10.2003
Reprint No 21—24.11.2003
2.9.2004
1.7.2005
1.1.2006
4.9.2006
6.11.2008
1.10.2009
1.2.2010
16.6.2011
1.7.2011
1.7.2013
19.6.2014 (electronic only)
1.7.2014
South Australia

Opal Mining Act 1995

An Act to regulate prospecting and mining for opals and other precious stones.

Contents

Part 1—Preliminary

1 Short title
2 Interpretation
3 Declaration of precious stones field or reserved land
4 Declaration of designated area or exclusion zone
5 Exempt/Restricted land

Part 2—Precious stones prospecting permits

6 Application for permit
7 Nature of permit
8 Terms and renewal of permit
9 Rights of holder of permit
10 Special provisions in relation to Mintabie precious stones field
10A Qualifications to permits
11 Area to be pegged out etc
12 Major working areas—Coober Pedy
13 Notice of pegging
14 Effect of pegging an area
15 Ballot may be conducted in certain cases
16 Pegging may lapse
17 Offence to contravene this Part

Part 3—Precious stones tenements

18 Special conditions for tenements in relation to Mintabie precious stones field
18B Cancellation of tenements on Mintabie precious stones field
19 Application for registration of tenement
19A Special provision related to application for and registration of tenements on Mintabie precious stones field
20 Registration of tenement
21 Maximum number of tenements
22 Term and renewal of tenement
23 Rights conferred by a tenement
24 Tenement non-transferable
25 Unlawful entry on tenement
26 Caveats
26A Application to Warden’s Court to lapse caveat or obtain compensation
27 Power of Mining Registrar to cancel tenement
Opal Mining Act 1995—1.7.2013

Contents

27A Cancellation and suspension
28 Surrender of tenement, removal of posts etc
29 Removal of machinery
30 Maintenance of posts

Part 4—Entry on land and declared equipment

Division 1—Entry on land
31 Entry on land
32 Notice of entry
33 Duration of notice of entry

Division 2—Declared equipment
34 Use of declared equipment

Part 5—Rehabilitation and compensation
35 Rehabilitation of land
35A Compliance directions
35B Contravention of Act
36 Bonds
37 Application of bonds
38 Compensation

Part 6—Opal mining co-operation agreements
39 Interpretation
40 Nature of agreement
41 Parties to an agreement
42 Content of an agreement
43 Registration of agreement
44 Agreement may be varied or revoked
45 Appeal to Warden's Court
46 Persons bound by agreement
47 Enforcement of agreement
48 Restriction on mining operations by third parties

Part 7—Native title land

Division 1—Prospecting
49 Qualification of rights conferred by permit

Division 2—Production
50 Limits on grant of tenement
51 Applications for tenements

Division 3—Application for declaration
52 Application for declaration

Division 4—Negotiating procedure
53 Types of agreement authorising mining operations on native title land
54 Negotiation of agreements
55 Notification of parties affected

This version is not published under the Legislation Revision and Publication Act 2002 [1.7.2013]
1.7.2013—Opal Mining Act 1995

Contents

56 What happens when there are no registered native title parties with whom to negotiate
57 Expedited procedure where impact of operations is minimal
58 Negotiating procedure
59 Agreement
60 Effect of registered agreement
61 Application for determination
62 Criteria for making determination
63 Limitation on powers of Court
64 Effect of determination
65 Ministerial power to overrule determinations
66 No re-opening of issues

Division 5—Miscellaneous

67 Non-application of this Part to Pitjantjatjara and Maralinga lands
68 Compensation to be held on trust in certain cases
69 Non-monetary compensation
70 Review of compensation
70A Opal Mining Native Title Register

Part 8—Special powers of Warden's Court

72 Jurisdiction relating to tenements and monetary claims
73 Cancellation of permit
74 Cancellation of pegging
75 Forfeiture of tenement
75A Opal mining registrar

Part 9—Miscellaneous

76 Opal The Mining Register
77 Appointment of authorised persons
78 Delegations
79 Exemptions
80 Passing of property
81 Acts of officers, employees and agents
82 Offences
83 Proceedings for offences
84 Prohibition orders
85 Power of Mining Registrar to require pegs to be removed
86 Compliance orders
87 Evidentiary provision
88 Avoidance of double compensation
89 Disposal of waste
90 Persons under 18
91 Safety net
92 Land subject to more than one tenement
93 Interaction with Mining Act
94 Interaction with other Acts
95 Public roads and access routes
96 Approval of associations
98 Powers of attorney
98A Administrative penalties
98B Penalties payable into Mining Rehabilitation Fund
99 Regulations

[1.7.2013] This version is not published under the Legislation Revision and Publication Act 2002
Opal Mining Act 1995—1.7.2013

Contents

Schedule 1—Transitional provisions

1. Precious stones fields; reserved land
2. Existing permits, tenements etc—Precious stones
3. Exploration licences
4. Appointments

Legislative history
The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Opal Mining Act 1995*.

3—Interpretation

(1) In this Act, unless the contrary intention appears—

*appropriate court* means—

(a) the Supreme Court; or

(b) the ERD Court; or

(c) if proceedings do not involve a monetary claim, or a claim for more than $150 000—the Warden's Court;¹

*approved association* means an association granted an approval under section 96;

*authorised person* means a person appointed as an authorised person under section 77;

*Chief Inspector* means the Chief Inspector of Mines;

*corporation* means a body corporate;

*council* has the same meaning as in the *Local Government Act 1999* and includes a body corporate that is, by virtue of any Act, deemed to be, or vested with the powers of, a council; means a council or controlling authority under the *Local Government Act 1934* and includes a body corporate that is, by virtue of an Act, taken to be vested with the powers of a council;

*declared equipment* means—

(a) a trench digger or excavator; or

(b) mechanically driven equipment, equipped with a blade or bucket of a width exceeding 750 mm, capable of ripping, gouging, scooping or digging earth or rock material; or

(c) equipment that is capable of digging, boring or tunnelling underground, generally in a horizontal plane, with a cross sectional dimension greater than 750 mm; or

(d) equipment of a kind prescribed by the regulations for the purposes of this definition,

but does not include surface drilling equipment;

*designated area* means an area within a precious stones field declared by the Minister under section 5 to be a designated area;

*Director* means the Director of Mines under the Mining Act;

¹ Guide only. Refer to Statutes Amendment (Leading Practice in Mining) Bill 2017 on www.legislation.sa.gov.au for official Bill.
director of a company includes a person occupying or acting in the position of a director or member of the governing body of the company, by whatever name called and whether or not validly appointed to occupy or duly authorised to act in the position, and includes any person in accordance with whose directions or instructions the directors or members of the governing body are accustomed to act;

ERD Court means the Environment, Resources and Development Court established under the *Environment, Resources and Development Court Act 1993*;

exclusion zone means land declared by the Minister under section 5 to be an exclusion zone for the purposes of this Act;

exempt land means land that is exempt from mining operations under section 6;

exploration licence means an exploration licence under the Mining Act;

fossicking means the gathering of precious stones—

(a) as a recreation; or

(b) without the intention to sell the stones or to utilise them for a commercial or industrial purpose,

but does not include the gathering of precious stones through the disturbance of land by machinery or explosives;

holder of a tenement means the person who is registered as the holder of the tenement under this Act;

machinery means a device operated other than solely by muscular force exerted by the operator;

marine waters means the coastal waters of the State (see the *Coastal Waters (State Powers) Act 1980 (Cwth)*) or that part of the sea that is within the limits of the State, and includes estuaries and tidal waters;

minerals has the same meaning as under the Mining Act;

Mining Act means the *Mining Act 1971*;

mining operations means operations carried out in the course of prospecting or mining for precious stones, or rehabilitation operations, but does not include fossicking;

mining operator or operator means a person by whom, or on whose behalf, mining operations are carried out under this Act;

Mining Register means the register kept by the Mining Registrar under the Mining Act;

a mining registrar means a mining registrar under the Mining Act;

the Mining Registrar means the Mining Registrar under the Mining Act;

*Mintabie Township Lease Agreement* and *Mintabie township lease area* have the same meaning as in the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*;

native title, native title holder and native title land—see *Native Title (South Australia) Act 1994*;

native title mining determination means a determination authorising a mining operator to enter land and carry out mining operations on the land under Part 7;
opal development lease means an opal development lease registered under section 20;

Opal Mining Register means the register kept by the Opal Mining Registrar under section 76;

an opal mining registrar means a person appointed as an opal mining registrar under section 75A and includes the Opal Mining Registrar;

the Opal Mining Registrar means a person appointed as the Opal Mining Registrar under section 75A and includes a person who is acting in the position of the Opal Mining Registrar;

owner of land means—

(a) a person who holds a registered estate or interest in the land conferring a right to immediate possession of the land; or

(b) a person who holds native title in the land; or

(c) a person who has, by statute, the care, control or management of the land; or

(d) a person who is lawfully in occupation of the land;

precious stones means opal and other minerals declared by regulation to be precious stones for the purposes of this Act;

precious stones claim means a precious stones claim registered under section 20;

precious stones prospecting permit or permit means a precious stones prospecting permit issued under section 7;

precious stones field means land declared to be a precious stones field by proclamation under section 4;

precious stones tenement or tenement means—

(a) a precious stones claim; or

(b) an opal development lease;

prescribed exempt land means exempt land under section 6(1)(a);

prescribed notice of entry—see section 32;

prescribed restricted land means restricted land under section 6(1)(a);

prospecting means operations carried out in the course of exploring for precious stones, including the pegging out of an area for a tenement, other than operations that involve disturbance of land by declared equipment or explosives, and to prospect has a corresponding meaning;

registered representative of native title holders—see Part 4 Native Title (South Australia) Act 1994;

rehabilitation of land includes the filling in or sealing of an excavation (including an open-cut excavation), the reinstatement, levelling, contouring and revegetation of land, and the erection of signs and fences, and to rehabilitate has a corresponding meaning;

restricted land means land that is restricted from mining operations under section 6;

River Murray Protection Area means a River Murray Protection Area under the River Murray Act 2003;
Warden's Court means the Warden's Court established under the Mining Act.

(2) The division of land under the Mining Act into strata will also have effect for the purposes of this Act and, accordingly, a reference in this Act to land, or an area, will, where appropriate, be taken to be a reference to the surface stratum or a subsurface stratum, as the case requires.

(3) In this Act, a reference to mining operations over land includes a reference to mining operations involving land covered by water and a reference to the disturbance of land includes a reference to the disturbance of water.

(4) A note to a provision of this Act forms part of the provision to which it relates.

1 All native title questions arising in proceedings before the Warden's Court must be referred to the ERD Court—see Part 3 Native Title (South Australia) Act 1994.

2 The Environment, Resources and Development Court Act 1993 and the Native Title (South Australia) Act 1994 contain provisions under which the ERD Court may refer cases to the Supreme Court, or the Supreme Court may remove cases commenced before the ERD Court into the Supreme Court.

3 Part 5 of the Native Title (South Australia) Act 1994 sets out the method of service on native title holders.

4—Declaration of precious stones field or reserved land

(1) The Governor may, by proclamation—

(a) declare land in the State (including land within the marine waters of the State) to be a precious stones field; or

(b) reserve from the operation of this Act, or a specified provision of this Act, land specified in the proclamation,

and the proclamation will have effect according to its terms.

(2) The Governor may, by subsequent proclamation, vary or revoke a proclamation under subsection (1).

(3) A precious stones field over mineral land under the Mining Act that has been divided into strata will consist only of the surface stratum (as defined by that Act).

5—Declaration of designated area or exclusion zone

(1) The Minister may, by notice in the Gazette—

(a) declare an area within a precious stones field to be a designated area for the purposes of this Act;

(b) declare land in the State to be an exclusion zone for the purposes of this Act, and the declaration will have effect according to its terms.

(2) The Minister may, by subsequent notice in the Gazette, vary or revoke a declaration under subsection (1).

(3) The Minister must consult with such approved associations as the Minister thinks fit before the Minister makes a declaration under this section.

(3a) If a declaration under this section applies to any part of a River Murray Protection Area, the Minister must first consult with the Minister to whom the administration of the River Murray Act 2003 is committed.
(4) If the Minister makes a declaration under this section, the Minister must ensure that a copy of the declaration is published in a newspaper circulating generally throughout the State.

(5) If an area ceases to be part of a precious stones field, the declaration of a designated area within that area ceases to have effect.

6—**Exempt-Restricted** land

(1) The following land is **exempt-restricted** from mining operations under this Act if it is outside a precious stones field:

- (a) land that is situated—
  - (i) within 400 metres of a building or structure used as a place of residence (except a building or structure of a class excluded by regulation from the ambit of this paragraph); or
  - (ii) within 150 metres of—
    - (A) a building or structure, with a value of equal to or exceeding the prescribed amount $200 or more, used for an industrial or commercial purpose; or
    - (B) a spring, well, reservoir or dam that has some commercial value or use,

- (b) land that constitutes a distinct allotment of less than 2,000 square metres in a city, town or township;
- (c) land that is genuinely used as a yard, garden, plantation, orchard or vineyard;
- (d) land that is under crop;
- (e) land that is genuinely used as an airfield, railway, tramway or busway;
- (f) the grounds of a church, chapel, school, hospital or institution;
- (g) parklands or recreation grounds under the control of a council;
- (h) land—
  - (i) that is dedicated or reserved by or under a prescribed Act, or by or under an Act for a prescribed purpose; or
  - (ii) that is vested in a Minister for a prescribed purpose; or
  - (iii) that is comprised within an easement in favour of a Minister;
- (i) land that is constituted as a forest reserve under the *Forestry Act 1950*.

(2) While land is **exempt-restricted** land—

- (a) a person is not authorised under a precious stones prospecting permit to prospect for precious stones on the land; and
- (b) a precious stones tenement must not be registered over the land (or a part of the land).
(3) However—
   (a) a person may peg out an area for a precious stones tenement on exempt restricted land, other than prescribed exempt restricted land (see subsection (4)); and
   (b) a precious stones tenement may be registered over exempt restricted land (or a part of exempt restricted land) if—
      (i) the land was not exempt restricted land at the time the area of the tenement was pegged out; or
      (ii) the tenement is registered in the name of the owner of the land.

(4) In the case of prescribed exempt restricted land, a person must not enter or peg out an area within the land except with the written permission (which may be given subject to conditions) of the person who has the benefit of the relevant exempt restriction under this section.

(5) If—
   (a) a person who has the benefit of an exempt restriction under this section, by agreement with a mining operator, waives the exempt restriction on terms and conditions set out in the agreement; or
   (b) the appropriate court, on the application of a mining operator, waives the exempt restriction on terms and conditions (which should include provision for payment of compensation to the person or persons who have the benefit of the exempt restriction),

the land ceases to be exempt restricted land.

(6) Land that ceases to be exempt restricted land under subsection (5) will revert to being exempt restricted land on completion of the mining operations for which the agreement or determination is made, or at an earlier time specified in the agreement or determination.

(7) The following persons will be regarded as having the benefit of an exempt restriction under this section:
   (a) the owner of the exempt restricted land; and
   (b) in the case of land that is exempt restricted under subsection (1)(a) by reason of its proximity to other land on which a building, structure, spring, well, reservoir or dam is situated—the owner of the other land.

(8) An agreement or determination is binding on, and enforceable by or against, the original parties to the agreement or determination and—
   (a) successors in title to the owner of the land who originally had the benefit of the exempt restriction; and
   (b) the holders from time to time of precious stones tenements authorised under the terms of the agreement or determination.

(9) An agreement by which an exempt restriction is waived must comply with requirements determined by the Director and a copy of the agreement must be lodged with the Opal Mining Registrar in accordance with the regulations.
1 A person may peg out an area for a tenement with a view to negotiating a waiver, or to obtaining a determination of a court, under subsection (5).
Part 2—Precious stones prospecting permits

7—Application for permit

(1) A person may apply for a precious stones prospecting permit.

(2) The application—

(a) must be made in a manner and form determined by the Director; and

(b) must be made personally or, in the case of a corporation, by an officer of the corporation who is authorised to make the application, at an office of the Mining Registrar; and

(b) must be accompanied by the prescribed application fee.

(3) The applicant (in the case of a natural person) must be at least 16 years of age.

(4) An mining registraropal mining registrar may issue a precious stones prospecting permit to a person who has made due application for the permit and paid the appropriate fee.

(5) A person is not eligible to be issued, or to hold, a precious stones prospecting permit if the person is disqualified from holding a permit under this Act or the regulations.

8—Nature of permit

(1) A person must not hold more than one precious stones prospecting permit.

(2) A precious stones prospecting permit cannot be held jointly by two or more persons.

(3) A precious stones prospecting permit is not transferable.

(4) A person must not—

(a) lend a precious stones prospecting permit to another person; or

(b) permit another person to use, or to take the benefit, of his or her precious stones prospecting permit.

Maximum penalty: $2,500. Administrative Penalty

9—Terms and renewal of permit

(1) A precious stones prospecting permit will, subject to this Act, remain in operation for a term of one year from the date of issue.

(2) A person may from time to time apply for the renewal of a precious stones prospecting permit.

(3) The application—

(a) must be made any time after one month before the day on which the precious stones prospecting permit is due to expire; and

(b) must be made in a manner and form determined by the Director; and

(c) must be made personally or, in the case of a corporation, by an officer of the corporation who is authorised to make the application, at an office of the Mining Registrar; and

(d) must be accompanied by the prescribed application fee.
Part 2—Precious stones prospecting permits

(4) A renewal will be issued by an mining registrar.Opal mMining rRegistrar.

(5) The period of renewal will be one year.

(6) A precious stones prospecting permit may, subject to this Act and in accordance with the regulations, be surrendered.

10—Rights of holder of permit

(1) A precious stones prospecting permit authorises the holder to prospect for precious stones and to peg out an area for a precious stones tenement in accordance with this Act.

(2) However, the authority conferred by subsection (1) is subject to various qualifications prescribed by this Act.¹

(3) The holder of a precious stones prospecting permit (other than a corporation) must carry out any pegging of an area under the permit personally.

(4) In the case of a corporation, any pegging out under the permit must be carried out by a person who holds a specific authority from the corporation to act on its behalf.

(5) The pegging must comply with requirements prescribed by the regulations.

¹ See especially section 11.

(6) It is a condition of every precious stones prospecting permit that the holder of the permit (being a holder who is a natural person) must not reside on the precious stones field other than in the Mintabie township lease area in accordance with a licence issued under section 29D of the Anangu Pitiyamtjatjara Yankunytjatjara Land Rights Act 1981, or as otherwise allowed under that Act.

10A—Special provisions in relation to Mintabie precious stones field

(1) Despite any other provision of this Act, a precious stones prospecting permit does not authorise a person to prospect for precious stones on the Mintabie precious stones field unless the permit has been endorsed by an mining registrar.Opal mining registrar as authorising such prospecting.

(2) the holder of a precious stones prospecting permit may apply for endorsement of his or her precious stones prospecting permit to authorise prospecting for precious stones on the Mintabie precious stones field.

(3) An application under subsection (2)—

(a) must be made in a form determined by the Director; and

(b) must be accompanied by the prescribed application fee; and

(c) must be accompanied by any other information that the Director may require (including, without limiting this paragraph—

(i) in the case of an applicant who is of or above 18 years of age, information in relation to the criminal history of the applicant; or

(ii) in the case of an applicant who is a body corporate, information in relation to the criminal history of the applicant, or a director, officer or employee of the applicant).
(4) If a mining registrar refuses to endorse a precious stones prospecting permit under this section, the mining registrar must, by notice in writing, inform the applicant of that fact.

(5) A precious stones prospecting permit that authorises prospecting for precious stones on the Mintabie precious stones field is subject to conditions specified by the mining registrar by notice in writing given to the holder of the permit. A precious stones prospecting permit that authorises prospecting for precious stones on the Mintabie precious stones field is subject to the following conditions:

(a) the holder of the permit (being a holder who is a natural person) must not reside on the Mintabie precious stones field other than in the Mintabie township lease area in accordance with a licence issued under section 29D of the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981, or as otherwise allowed under that Act;
(b) any other condition specified by the mining registrar by notice in writing given to the holder of the permit.

(6) A condition under subsection (5)(b) has effect when the notice under that subsection is given to the holder of the permit.

(7) A condition under subsection (5) is in addition to, and does not derogate from, any other condition or qualification applicable to a precious stones prospecting permit under this Act.

(8) The holder of a precious stones prospecting permit that authorises prospecting for precious stones on the Mintabie precious stones field must not contravene or fail to comply with a condition of his or her permit.

(9) An mining registrar must revoke an endorsement under this section if the holder of the relevant precious stones prospecting permit has been excluded from the Mintabie precious stones field under section 29H of the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981.

(10) An mining registrar may, by notice in writing, on any reasonable grounds—

(a) revoke an endorsement under this section; or
(b) vary the conditions of a precious stones prospecting permit that authorises prospecting for precious stones on the Mintabie precious stones field by the addition, substitution or deletion of 1 or more conditions.

(11) A revocation or variation under subsection (10) has effect when the notice under that subsection is given to the holder of the permit (or on such later date as may be specified in the notice).

(12) An endorsement under this section expires on the day on which the precious stones prospecting permit to which the endorsement relates expires or is renewed, whichever occurs first.

(13) A holder of a precious stones prospecting permit—

(a) whose application for endorsement of his or her precious stones prospecting permit under this section is refused by an mining registrar; or
(b) who receives a notice under subsection (5)(b) imposing a condition on the endorsement; or
Part 2—Precious stones prospecting permits

(14) An application for review must, unless the Warden's Court allows an extension of time, be made within 28 days after the relevant notice is given to the person.

(15) At the conclusion of the review, the Warden's Court may, if satisfied that there were no reasonable grounds for a particular decision, do 1 or both of the following:

(a) —

(i) in the case of a review of a decision of an mining registraropal mining registrar to refuse to endorse a precious stones prospecting permit under this section—quash the mining registraropal mining registrar's decision; or

(ii) in the case of a review in respect of a notice under subsection (5)(b) or (10)—cancel the revocation or the imposition or variation of the relevant condition (as the case requires);

(b) remit the subject matter of the review to an mining registraropal mining registrar for reconsideration.

(16) A mining registraropal mining registrar must not, in exercising a power or function under this section, act in a manner that is inconsistent with the Mintabie Township Lease Agreement.

(17) In this section

Mintabie Township Lease Agreement and Mintabie township lease area have the same meaning as in the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981.

11—Qualifications to permits

(1) A precious stones prospecting permit does not authorise a person to prospect for precious stones on exemptrestricted land.¹

(2) A precious stones prospecting permit does not authorise the conduct of operations that involve the disturbance of land by declared equipment or explosives, other than where explosives are used to assist in sinking a prospecting shaft.

(3) A precious stones prospecting permit does not authorise the pegging out of an area for a precious stones tenement on land that has been granted in fee simple, or is subject to native title conferring an exclusive right to possession of the land, except with the written consent of the owner of the land.

(4) If the holder of a precious stones prospecting permit is a corporation, the precious stones prospecting permit does not authorise the pegging out of an area for a precious stones tenement—

(a) on land that is within a precious stones field unless—

(i) the land is within a designated area; or

(ii) the land is not within 500 metres of a registered tenement at the time of pegging;² or
Precious stones prospecting permits—Part 2

(iii) the corporation was lawfully prospecting on land within the precious stones field at the time the precious stones field was declared and the pegging occurs during the course of that prospecting, or within three months of a cessation of that prospecting; or

(b) on land that is within an exclusion zone.

(5) A precious stones prospecting permit does not authorise the pegging out of an area for an opal development lease on land that is within a precious stones field unless—

(a) the land is within a designated area; or

(b) the land is not within 500 metres of a registered tenement at the time of pegging and is not over ground that has been previously disturbed by mining operations.

(6) A precious stones prospecting permit does not authorise the pegging out of an area for a precious stones tenement on land that is within an opal development area under the Mining Act.3

(6a) A precious stones prospecting permit does not authorise the pegging out of an area that is not either wholly within, or wholly outside, a precious stones field.

(7) A precious stones prospecting permit does not authorise the pegging out of an area for a precious stones tenement on land—

(a) that is within an area that has been pegged out by another person (that pegging out not having lapsed or been cancelled); or

(b) that is within an existing precious stones tenement.4

(8) If a precious stones tenement lapses or is cancelled under this Act—

(a) if the tenement is an opal development lease—

(i) the holder of the lease must not peg an area for another opal development lease on land that was within the previous lease; and

(ii) no other person may peg an area for another opal development lease on land within the previous lease unless at least 30 days have elapsed since the previous lease came to an end; and

(b) if the tenement is a precious stones claim—the holder of the claim must not, without the written approval of the Mining RegistrarOpal Mining Registrar, peg an area for another tenement on land within the previous tenement unless at least 12 months have elapsed since the previous tenement came to an end.

(9) A person may appeal against a decision of the Mining RegistrarOpal Mining Registrar not to grant an approval under subsection (8)(b) to the Warden’s Court and the court may, on appeal—

(a) confirm the Mining RegistrarOpal Mining Registrar’s decision; or

(b) reverse the Mining RegistrarOpal Mining Registrar’s decision.

(10) A person must not have pegged out at the same time—

(a) more than one area for an opal development lease;
Part 2—Precious stones prospecting permits

(b) more than one area for a precious stones claim in a part of a precious stones field that is not within a designated area, subject to the qualification that a person may peg out two areas for precious stones claims in such a case if one or both of the claims are within the area (or former area) of an opal development lease;

(c) more than two areas for precious stones claims.

(11) A person must not peg out an area if to do so would be contrary to the regulations.

1 Detailed provisions about exempt restricted land appear in section 6.

2 There is one exception to this provision, namely, the holder of an opal development lease can peg out an area for a precious stones claim within the area of the lease.

3 See section 8A of the Mining Act.

4 There is one exception to this provision, namely, the holder of an opal development lease can peg out an area for a precious stones claim within the area of the lease.

5 Section 23(2)(b) provides that a person can only peg out one area for a precious stones claim within the area of an opal development lease during the term of registration. However, once the registration of the lease has come to an end, a person could peg out and register another opal development lease and, subsequently, another precious stones claim.

12—Area to be pegged out etc

(1) The size, shape and dimensions of an area pegged out under a precious stones prospecting permit must conform with the regulations.

(2) The person who pegs out an area must ensure that all posts, boundary indicators and notices are maintained in accordance with requirements prescribed by the regulations.

13—Major working areas—Coober Pedy

(1) The regulations must, after the Minister has consulted with such approved associations as the Minister thinks fit, identify an area or areas within the Coober Pedy Precious Stones Field as a major working area or major working areas for the purposes of this section.

(2) A major working area identified under subsection (1) must include a buffer zone around all extensively worked areas within the major working area (as determined according to circumstances in existence at the time that the regulation establishing the major working area is made).

(3) The buffer zone under subsection (2) must (at the time that the buffer zone is established) be at least 500 metres wide at any particular point.

(4) The following provisions apply with respect to a major working area identified under subsection (1), and to a person who has pegged out an area for a tenement within such an area, despite the other provisions of this Act:

(a) a person may only peg out an area for a precious stones claim within a major working area, and a corporation cannot peg out any area within a major working area; and

(b) the maximum permissible area that can be pegged out for a precious stones claim within a major working area is 5 000 square metres; and
Precious stones prospecting permits—Part 2

(c) a person who has pegged out an area for a precious stones claim within a major working area cannot simultaneously have another area pegged out within the precious stones field and, if or when the tenement is registered, the person cannot simultaneously hold more than one tenement within the precious stones field.

(5) The regulations under subsection (1) may, by subsequent regulation, after the Minister has consulted with such approved associations as the Minister thinks fit, be varied from time to time.

14—Notice of pegging
If an area (or part of an area) pegged out under a precious stones prospecting permit is within a precious stones field, notice of the pegging must be given in accordance with the regulations.

15—Effect of pegging an area
(1) The holder of a precious stones prospecting permit who pegs out an area for a precious stones claim that is wholly within a precious stones field has, subject to this Act—

(a) an exclusive right to conduct mining operations, other than by the use of declared equipment, for the recovery of precious stones from the area, and to sell, use, or dispose of precious stones recovered in the course of those operations, from the day of the pegging; and

(b) an exclusive right to apply for the registration of a precious stones claim within 14 days after the day on which the area is pegged out.

(2) The holder of a precious stones prospecting permit who pegs out—

(a) an area for a precious stones claim that is not wholly within a precious stones field; or

(b) an area for an opal development lease,

has an exclusive right to apply for the registration of the relevant tenement within 14 days after the day on which the area is pegged out (but does not have a right to conduct mining operations on the land until a tenement is registered).

16—Ballot may be conducted in certain cases
(1) If—

(a) it is proposed that the Governor, by proclamation, declare land to be a precious stones field; and

(b) the Minister considers that it is appropriate that this section apply in order to facilitate orderly prospecting and pegging of areas for precious stones tenements on the land,

the Minister may, by notice published in the Gazette at the time that the Governor makes the proclamation, declare that this section applies in relation to the land.
(2) If the Minister makes a declaration under subsection (1)—

(a) the holder of a precious stones prospecting permit cannot prospect for precious stones or peg out an area on the land to which the declaration relates until a day specified by the Minister in the notice in the Gazette (the declared day); and

(b) a person appointed by the Minister for the purpose will carry out a ballot on the declared day in accordance with the Minister's directions to determine who may have the first opportunity to prospect for precious stones and peg out areas on the land.

(3) For the purposes of subsection (2), the Minister must—

(a) in the notice in the Gazette—

(i) set out the conditions that are to apply to the ballot; and

(ii) invite interested persons (being the holders of precious stones prospecting permits) to register for inclusion in the ballot before a specified day in a manner and form determined by the Minister; and

(b) cause the land to be divided into blocks, of dimensions determined by the Minister, and ensure that each block is allocated an identifying number for the purposes of the ballot; and

(c) cause a plan of the land that clearly delineates those blocks with their identifying numbers to be made available for public inspection at the principal office of the Director, or at another appropriate place specified by the Minister by notice in the Gazette, at least seven days before the declared day.

(4) The holder of a precious stones prospecting permit who is registered for inclusion in the ballot in accordance with subsection (3) may participate in the ballot by attending in person on the declared day at a place and time specified by the Minister in the notice under subsection (1).

(5) A person who is allocated a block by virtue of participation in the ballot—

(a) may, no later than 5 p.m. on the day immediately following the day of allocation, peg out the block for a precious stones tenement in accordance with directions issued by the Minister at the time of the allocation of the block; and

(b) must, if the person has pegged out the block under paragraph (a), give notice of the pegging in accordance with the regulations; and

(c) may apply to the nearest office of the Mining RegistrarOpal Mining Registrar to the land for registration of the tenement no later than 14 days after the declared day.

(6) A mining registraropal mining registrar must not, for 14 days immediately following the declared day, register a precious stones tenement in respect of a part of the land unless the application is made by a person under subsection (5).

(7) A person must not, for 14 days immediately following the declared day, prospect for precious stones or peg out an area for a precious stones tenement on land to which this section applies except on a block allocated to the person by virtue of his or her participation in the ballot.
(8) If—

(a) a person who has been allocated a block—

(i) fails to peg out an area for a precious stones tenement on the block within the time set by subsection (5)(a); or

(ii) fails to give notice of a pegging in accordance with the regulations; or

(iii) fails to apply for registration of a tenement within the time set by subsection (5)(c); or

(b) a block is not taken up through the ballot,

the land comprised in the block may, at any time after 14 days from the declared day, be pegged out by another person in accordance with the provisions of this Act (other than this section).

(9) A person must not prospect for precious stones in contravention of this section.

Maximum penalty: $5 000.

(9a) A person must not peg out an area for a precious stones tenement in contravention of this section.

—Administrative penalty.

(9b) A pegging purportedly made by a person in contravention of this section is of no effect.

(9) If a person prospects for precious stones or pegs out an area for a precious stones tenement in contravention of this section—

(a) the person is guilty of an offence and liable to a penalty not exceeding $5 000; and

(b) a pegging purportedly made by the person has no effect.

(10) The Minister may, by notice in the Gazette, fix a fee for participation in the ballot, and a person who pays the fee but is not successful in the ballot will, on application in a manner and form determined by the Minister, be refunded the fee.

(11) A person is not entitled to obtain more than one block through participation in the ballot.

(12) A right to peg out a block awarded to a person through participation in the ballot is not transferable.

(13) The Minister must ensure that a copy of a notice published in the Gazette for the purposes of this section is also—

(a) published in a newspaper circulating generally throughout the State; and

(b) displayed, for a reasonable period of time, in the nearest office of the Mining Registrar Opal to the land.

(14) This section applies despite the other provisions of this Act.
17—Pegging may lapse

If—

(a) an application for registration of a tenement is not made in accordance with Part 3 within 14 days after the day on which an area is pegged out; or

(b) an application for registration of a tenement is refused under Part 3,

the pegging ceases to have effect (and the entitlements that arise from the pegging lapse).

18—Offence to contravene

Contravention of this Part

(1) A person must not—

(a) purport to peg out an area for a precious stones tenement if not authorised to do so under a valid precious stones prospecting permit; or

(b) while being the holder of a precious stones prospecting permit, peg out an area in contravention of this Act or otherwise than in accordance with an authority conferred by this Act.

Administrative penalty.

(2) A person must not, having pegged out an area, carry out operations within the area unless those operations are authorised under this Act.

Maximum penalty: $5,000.

(3) A pegging purportedly made by a person in contravention of this section is of no effect.

If a person—

(a) purports to peg out an area for a precious stones tenement while not being authorised to do so under a valid precious stones prospecting permit; or

(b) while being the holder of a precious stones prospecting permit, pegs out an area in contravention of this Act or otherwise than in accordance with an authority conferred by this Act; or

(c) having pegged out an area, carries out unauthorised mining operations within the area,

then—

(d) the person is guilty of an offence and liable to a penalty not exceeding $5,000; and

(e) a pegging purportedly made by the person has no effect.
Part 3—Precious stones tenements

18A—Special conditions for tenements in relation to Mintabie precious stones field

(1) Each precious stones tenement on the Mintabie precious stones field is subject to the conditions specified by the Director by notice in writing given to the holder of the tenement. Each precious stones tenement on the Mintabie precious stones field is subject to the following conditions:

(a) the holder of the tenement (being a holder who is a natural person) must not reside on the Mintabie precious stones field other than in the Mintabie township lease area in accordance with a licence issued under section 29D of the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981, or as otherwise allowed under that Act;

(b) any other condition specified by the Director by notice in writing given to the holder of the tenement.

(2) A condition under subsection (1)(b) has effect when the notice under that subsection is given to the holder of the tenement.

(3) A condition under subsection (1) is in addition to, and does not derogate from, any other condition or qualification applicable to a precious stones tenement under this Act.

(4) The holder of a precious stones tenement on the Mintabie precious stones field must not contravene or fail to comply with a condition of his or her tenement.

(5) The Director may, by notice in writing, on any reasonable grounds, vary the conditions of a precious stones tenement on the Mintabie precious stones field by the addition, substitution or deletion of 1 or more conditions.

(6) A variation of a condition under subsection (5) has effect when the notice under that subsection is given to the holder of the tenement (or on such later date as may be specified in the notice).

(7) A holder of a precious stones tenement on the Mintabie precious stones field—

(a) who receives a notice under subsection (1)(b) imposing a condition on the precious stones tenement; or

(b) who receives a notice under subsection (5) varying the conditions of the precious stones tenement,

may apply to the Warden's Court to have the relevant decision or decisions of the Director reviewed.

(8) An application for review must, unless the Warden's Court allows an extension of time, be made within 28 days after the relevant notice is given to the person.

(9) At the conclusion of the review, the Warden's Court may, if satisfied that there were no reasonable grounds for a particular decision, do 1 or both of the following:

(a) cancel the imposition or variation of the relevant condition (as the case requires);

(b) remit the subject matter of the review to the Director for reconsideration.
Part 3—Precious stones tenements

(10) The Director must not, in exercising a power or function under this section, act in a manner that is inconsistent with the Mintabie Township Lease Agreement.

(11) In this section—

Mintabie Township Lease Agreement and Mintabie township lease area have the same meaning as in the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981.

18B—Cancellation of tenements on Mintabie precious stones field

(1) The Director must cancel the registration of a tenement or tenements of a person on the Mintabie precious stones field if the person has been excluded from the Mintabie precious stones field under section 29H of the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981.

(2) Subject to this section, the Director may cancel the registration of a tenement or tenements of a person on the Mintabie precious stones field if—

(a) the Director is satisfied on reasonable grounds that the person has acted in a manner prejudicial to—

(i) the welfare of Anangu (whether individually or as a group); or

(ii) the welfare of those who are lawfully on the Mintabie precious stones field under the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981; or

(b) the person has contravened, or failed to comply with, a condition under section 18A in relation to the tenement or tenements; or

(c) an endorsement of a precious stones prospecting permit under section 10A held by the person has been revoked under that section.

(3) If the registration of a tenement or tenements on the Mintabie precious stones field is cancelled under subsection (2)(a), the holder of the tenement or tenements may apply to the Warden's Court to have the relevant decision of the Director reviewed.

(4) An application for review must, unless the Warden's Court allows an extension of time, be made within 28 days of the cancellation.

(5) At the conclusion of the review, the Warden's Court may, if satisfied that there were no reasonable grounds for the cancellation, do 1 or both of the following:

(a) quash the Director's decision;

(b) remit the subject matter of the review to the Director for reconsideration.

(6) If—

(a) an endorsement of a precious stones prospecting permit is revoked under section 10A; and

(b) the holder of the precious stones prospecting permit has applied under that section for a review of the decision to revoke the endorsement,

the Director may not cancel the registration of a tenement of the person under subsection (2)(c) until the review has been finally determined.

(7) This section is in addition to, and does not derogate from, any other provision of this Act.
(8) In this section—

*Anangu* has the same meaning as in the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*.

19—Application for registration of tenement

(1) The holder of a precious stones prospecting permit who has pegged out an area for a precious stones tenement may apply for registration of the tenement within 14 days after the day on which the area is pegged out.

(2) The application—

— (a) must be made in a form determined by the Director; and

— (b) must be made in a manner and form determined by the Director or as otherwise determined by the Opal Mining Registrar; and personally by the holder of the permit or, in the case of a corporation, by a person who holds an authority from the corporation to make the application; and

— (c) must be accompanied by the prescribed application fee.

(3) Unless otherwise determined by the Mining Registrar—

— (a) if the area is within (or partly within) a precious stones field—the application must be made at the nearest office of the Mining Registrar to the field;

— (b) in other cases—the application must be made at either of the two nearest offices of the Mining Registrar to the area that has been pegged out.

(4) If the area is not wholly within or wholly outside a precious stones field, the applicant must serve on the owner of the land notice of the application within 14 days after making the application.

(5) A notice under subsection (4) must be in a form determined by the Director and, if relevant, must include information about declared equipment that the mining operator proposes to use on the land.

(6) A notice need not be given under subsection (4) if it is not required under an agreement under this Act.

19A—Special provision related to application for and registration of tenements on Mintabie precious stones field

(1) Without limiting section 19 or 22, an application for registration of, or renewal of the registration of, a precious stones tenement on the Mintabie precious stones field must be accompanied by any other information the Director may require (including, without limiting this subsection—

— (a) in the case of an applicant who is of or above 18 years of age, information in relation to the criminal history of the applicant; or

— (b) in the case of an applicant who is a body corporate, information in relation to the criminal history of the applicant, or a director, officer or employee of the applicant).
Part 3—Precious stones tenements

(2) Despite any other provision of this Act, the Mining Registrar must refuse to register, or refuse to renew the registration of, a precious stones tenement on the Mintabie precious stones field if the applicant has been excluded from the Mintabie precious stones field under section 29H of the Anangu Pitjantjatjara Yankuntjatjara Land Rights Act 1981.

(3) Despite any other provision of this Act, the Mining Registrar may refuse to register, or refuse to renew the registration of, a precious stones tenement on the Mintabie precious stones field if—

(a) the Mining Registrar is satisfied on reasonable grounds that the person has acted in a manner prejudicial to—

(i) the welfare of Anangu (whether individually or as a group); or

(ii) the welfare of those who are lawfully on the Mintabie precious stones field under the Anangu Pitjantjatjara Yankuntjatjara Land Rights Act 1981; or

(b) the person has contravened, or failed to comply with, a condition under section 18A in relation to the tenement or a similar tenement; or

(c) an endorsement of a kind contemplated by section 10A on a precious stones prospecting permit held by the person has been cancelled under that section.

(4) If the Mining Registrar refuses to register, or refuses to renew the registration of, a precious stones tenement on the Mintabie precious stones field under this section, the Mining Registrar must, by notice in writing, inform the applicant of that fact.

(5) A person whose application to register, or to renew the registration of, a precious stones tenement on the Mintabie precious stones is refused by the Mining Registrar under subsection (3)(a) may apply to the Warden's Court to have the relevant decision of the Mining Registrar reviewed.

(6) An application for review must, unless the Warden's Court allows an extension of time, be made within 28 days after the notice under subsection (4) is given to the person.

(7) At the conclusion of the review, the Warden's Court may, if satisfied that there were no reasonable grounds for the Mining Registrar's decision, do 1 or both of the following:

(a) quash the Mining Registrar's decision;

(b) remit the subject matter of the review to the Mining Registrar for reconsideration.

20—Registration of tenement

(1) If due application is made for the registration of a precious stones claim, the Mining Registrar must, subject to Part 7 and the other provisions of this Act, register the precious stones claim on the opal mining registrar.

(2) If the precious stones claim is wholly within a precious stones field, a registration under subsection (1) will be taken to have occurred at the time that the application was lodged at the appropriate office of the Mining Registrarmade.
(3) If due application is made for the registration of an opal development lease, the Mining Registrar must refer the application to the Director for an inspection of the area and the preparation of a report on the suitability of the area for an opal development lease.

(4) The Director must, on receipt of the report, determine whether an opal development lease should be granted or refused and then give notice of his or her decision to the Mining Registrar and to the applicant.

(5) If the Director determines that it is appropriate for an opal development lease to be granted, the Mining Registrar must, on receipt of the notice under subsection (4), subject to this Act, grant and register an opal development lease.

(6) The Mining Registrar may refuse to register a precious stones tenement if it appears that the applicant has contravened, or failed to comply with, a provision or requirement of this Act.¹

(7) The Mining Registrar may refuse to register a precious stones tenement if satisfied that—
   (a) before the area for the tenement was pegged out, an application had been lodged under the Mining Act for an exploration licence to carry out exploratory operations for precious stones (or various minerals including precious stones) in an area comprising the area that has been pegged out, or a portion of that area; and
   (b) the application has not been refused.

(8) The Mining Registrar cannot register a precious stones tenement if to do so would be inconsistent with a public undertaking by the Minister to the mining industry responsible for the administration of the Mining Act 1971.

Note—
Except as provided by subsection (2), the registration of a tenement takes effect from the time of registration.

¹ For example, if the applicant did not, as the holder of a precious stones prospecting permit, give a valid notice of entry under section 32 for land outside a precious stones field.

21—Maximum number of tenements
A person must not hold at the same time—
   (a) more than one opal development lease;
   (b) more than one precious stones claim that is in a precious stones field, subject to the qualification that a person may hold two precious stones claims in such a case if one or both of the claims arise from an opal development lease;¹
   (c) more than two precious stones claims.

¹ Section 23(2)(b) provides that a person can only peg out one area for a precious stones claim during the term of registration. However, once the registration of the lease has come to an end, a person could peg out and register another opal development lease and, subsequently, another precious stones claim.
22—Term and renewal of tenement

(1) The period of registration of a precious stones tenement will be three months.

(2) A person may from time to time apply for the renewal of the registration of a precious stones claim.

(3) The application—
   (a) must be made within the period prescribed by the regulations; and
   (b) must be made in a form determined by the Director; and
   (c) must be made in a manner and form determined by the Director or as otherwise determined by the Opal Mining Registrar; and
   (d) must be made personally by the holder of the tenement or, in the case of a corporation, by a person who holds an authority from the corporation to make the application; and
   (e) must be accompanied by the prescribed application fee.

(4) Unless otherwise determined by the Mining Registrar—
   (a) if the tenement is within (or partly within) a precious stones field—the application must be made at the nearest office of the Mining Registrar to the tenement;
   (b) in other cases—the application must be made at either of the two nearest offices of the Mining Registrar to the tenement.

(5) The period of renewal for the registration of a precious stones claim is 12 months.

(6) If the registration of a precious stones claim is not renewed as required by or under this section, the claim lapses.

(7) However, if an application for renewal of the registration of a precious stones claim is not decided before the date on which the registration is due to expire, the registration continues until the application is decided.

(8) The Mining Registrar may refuse to renew a registration if the applicant has failed to comply with a requirement under this Act.

(9) The registration of an opal development lease is not renewable (and the lease lapses at the end of the period of registration).

23—Rights conferred by a tenement

(1) The holder of a registered precious stones claim has, subject to this Act, an exclusive right to conduct mining operations for the recovery of precious stones from the land comprised in the claim during the term of registration, and to sell, use or dispose of precious stones recovered in the course of those operations.

(2) The holder of a registered opal development lease has, subject to this Act—
   (a) an exclusive right to conduct mining operations for the recovery of precious stones from the land comprised in the lease during the term of registration, and to sell, use or dispose of precious stones recovered in the course of those operations; and
(b) an exclusive right to peg out an area (and only one area) for a precious stones claim within the area of the lease during the term of registration.

(3) It is a condition of every registered precious stones claim and every registered opal development lease that the holder of the claim or lease (being a holder who is a natural person) must not reside on the land comprising the claim or lease, other than in the Mintabie township lease area in accordance with a licence issued under section 20-29D of the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981, or as otherwise allowed under that Act.

24—Tenement non-transferable

A precious stones tenement is not transferable.

25—Unlawful entry on tenement

(1) A person must not, without lawful authority or excuse, enter or remain on land comprised in a registered precious stones tenement without first obtaining the permission of the holder of the tenement.

Maximum penalty: $102,050.

(2) However, this section—

(a) does not apply—

(i) to a police officer acting in the course of official duties; or

(ii) to a person appointed under an Act acting in the course of official duties; and

(b) does not affect any civil liability.

26—Caveats

(1) A person (a caveator) who has, or who is claiming, an interest in a matter relevant to the registration of a tenement may apply to the Opal Mining Registrar to have a caveat registered under this section.

(2) An application for the registration of a caveat must be in a form determined by the Opal Mining Registrar.

(3) A caveat under subsection (1) may—

(a) forbid the registration of any transfer, mortgage or voluntary surrender affecting a specified interest in the tenement (an absolute caveat); or

(b) forbid the registration of any transfer, mortgage or voluntary surrender affecting the tenement unless the transfer or mortgage expressly states that it is to be subject to the interest claimed by the caveator (a claim caveat).

(4) However, if a caveat is being registered without the express consent of the tenement holder for the tenement to which the caveat relates—

(a) the caveator must be a person who has entered into an agreement with the tenement holder relating to—

(i) the sale or transfer (or both) of the tenement holder's interest in the relevant tenement; or
(ii) any other matter connected with the tenement holder's interest in the relevant tenement; and

(b) the agreement must provide for the registration of a caveat under this section; and

(c) a copy of the agreement must accompany the application under subsection (2).

(5) A caveat may—

(a) set out a date of expiry (if any); or

(b) set out that the caveat will expire—

(i) on a specified transfer or mortgage of an interest in the tenement; or

(ii) at the end of a specified period.

(6) In connection with the preceding subsections, an application for the registration of a caveat—

(a) must be accompanied by—

(i) the prescribed fee; and

(ii) such other documents or information as the Opal Mining Registrar may require; and

(b) if the caveat is being registered without the express consent of the tenement holder for the tenement to which the caveat relates—must include a statutory declaration as to the truthfulness and accuracy of any matter specified by the caveator in the application.

(7) The Opal Mining Registrar does not have, on the receipt of an application to register a caveat, any duty to determine whether or not—

(a) the caveat relates to a valid caveatable interest; or

(b) a caveatable interest has been sufficiently described; or

(c) there is sufficient evidence to support the caveat; or

(d) any matter specified in the application is true and accurate.

(8) The registration of a caveat does not warrant the validity of any interest claimed in the caveat.

(9) On the registration of a caveat under this section, a notice of the registration of the caveat must be sent by the Opal Mining Registrar to any tenement holder whose interests are affected by the caveat, other than where the tenement holder is also the caveator.

(10) A caveat registered under this section—

(a) does not affect or prevent the renewal of a tenement; and

(b) does not lapse on the renewal of a tenement (while the caveat is registered); and

(c) does not affect or prevent any dealing with the tenement (or any interest in the
tenement) that is required by an order of a court or tribunal constituted by law.

(11) A caveat registered under this section will lapse on—

(a) any order of the Warden's Court providing for the lapsing of the caveat; or

(b) the withdrawal of the caveat by the caveator; or

(c) the expiry of the caveat as contemplated by subsection (5).

(12) If—

(a) a caveat is registered in respect of a tenement; and

(b) the caveat lapses,

the caveator or any related corporation may not apply to register a second or subsequent caveat relating to the same interest in the tenement to which the original caveat related without the approval of the Warden's Court, or unless that second or subsequent caveat is being registered with the express consent of the tenement holder for the tenement to which the caveat relates.

(13) In this section—

related corporation, in relation to a particular entity (being a corporation), is a corporation that is related to the entity under section 50 of the Corporations Act 2001 of the Commonwealth.

26A—Application to Warden's Court to lapse caveat or obtain compensation

(1) A person who—

(a) has an interest in a tenement subject to a caveat registered under section 26; or

(b) has an interest that is directly affected by a caveat registered under section 26,

may apply to the Warden's Court under this section.

(2) An application may be made for 1 or more of the following:

(a) a declaration that an interest claimed by the caveator is not a valid caveatable interest;

(b) an order that a caveat lapse;

(c) an order that a transfer, mortgage or surrender relating to a tenement be registered despite the registration of a caveat under section 26;

(d) an order that a caveator pay compensation for any loss or damage suffered because a caveat registered under section 26 does not relate to a valid caveatable interest, or an amount for or towards any such loss or damage.

(3) Any compensation payable under an order under subsection (2)(d) may be recovered as if it were a debt due to the person in whose favour the order is made in a court of competent jurisdiction.

(4) This section does not limit any other jurisdiction or power of the Warden's Court in relation to caveats under section 26.
Part 3—Precious stones tenements

(1) A person claiming an interest in a matter relevant to the registration of a tenement, or in a registered tenement, may lodge at an office of the Mining Registrar a caveat forbidding the registration of the tenement or an instrument affecting the tenement or interest.

(2) A caveat lodged under this section must—

(a) be in a form determined by the Director and accompanied by the prescribed fee; and

(b) state the full name and address of the caveator; and

(c) state in detail the interest claimed by the caveator; and

(d) be signed by the caveator or an agent of the caveator; and

(e) give an address within the State for service of notices and proceedings relating to the caveat.

(3) A mining registrar may reject a caveat—

(a) if the caveator fails to comply with a requirement of subsection (2); or

(b) if the mining registrar considers that an interest claimed by the caveator is not valid.

(4) Unless the caveat is rejected, a mining registrar must, on the lodging of a caveat—

(a) enter a memorial or copy of the caveat in the Mining Register; and

(b) send notice of the lodging of the caveat to the holder of the relevant tenement and to any other person who, in the opinion of the mining registrar, should have notice of the caveat.

(5) Successive caveats must not be lodged in respect of the same subject matter except with the permission of the Warden's Court.

(6) A caveat will lapse if—

(a) the Warden's Court orders its removal; or

(b) the caveat is withdrawn by the caveator; or

(c) a person who has an interest in the matter challenges the caveat in the manner prescribed by the regulations and the caveator does not obtain an order of the Warden's Court confirming the caveat within 14 days after notice of the challenge is served on the caveator.

(7) The withdrawal of a caveat must be undertaken in a manner determined by the Director.

(8) A mining registrar must enter a memorial of the withdrawal of a caveat in the Mining Register.

(9) An instrument that would operate in derogation of rights protected by a caveat must not be registered by a mining registrar, and the operation of such an instrument will be suspended, while the caveat remains in force, unless the Warden's Court, or some other court that is competent to adjudicate on the rights protected by the caveat, otherwise orders.

(10) A person who has an interest in the matter may apply to the Warden's Court for an order under this section.
27—Power of **Mining Registrar** to cancel tenement

(1) If the **Mining Registrar** discovers or determines, after a tenement is registered, that the tenement should not have been registered under this Act on account of a contravention of, or failure to comply with, a provision or requirement of this Act on the part of the holder of the tenement, the **Mining Registrar** may, by notice in writing to the holder of the tenement, give notice of his or her intention to cancel the registration of the tenement on a day specified in the notice (which must be at least 21 days after the date of the notice).

(2) A person who receives a notice under subsection (1) may apply to the Warden's Court to have the decision of the **Mining Registrar** reviewed.

(3) An application for review must be made within 14 days of service of the notice (unless the Warden's Court allows an extension of time).

(4) Pending the determination of an application for review, the **Mining Registrar** must not cancel the registration of the tenement.

(5) At the conclusion of the review, the Warden's Court may—

(a) confirm the decision of the **Mining Registrar**; or

(b) cancel the notice.

(6) Subject to a decision of the Warden's Court under this section, the **Mining Registrar** may, after the day specified in a notice under this section, cancel the registration of the relevant tenement.

27A—Cancellation and suspension

(1) The **Opal Mining Registrar** may cancel or suspend a precious stones tenement if the tenement holder contravenes or fails to comply with—

(a) a term or condition of the tenement; or

(b) a provision of this Act.

(2) The **Opal Mining Registrar** may suspend all or some of the operations under a tenement—

(a) pending compliance with an obligation or requirement under this Act by the tenement holder; or

(b) until the tenement holder takes some other step specified by the Minister; or

(c) on account of any other matter that, in the opinion of the Minister, warrants suspension of rights under the tenement.

(3) The **Opal Mining Registrar** must not take action under this section unless or until the **Opal Mining Registrar** has—

(a) taken reasonable steps to notify the tenement holder of the proposed course of action (including in the notification the grounds on which the **Opal Mining Registrar** is intending to act); and

(b) provided the tenement holder with an opportunity to make written submissions in
relation to the matter within a period specified by the Opal Mining Registrar.

(4) The Opal Mining Registrar may, after complying with subsection (34), by instrument registered on the opal mining register, cancel or suspend a tenement.

(5) The Opal Mining Registrar must ensure that a notice of the cancellation or suspension of a tenement under subsection (4) is given to the tenement holder.

(6) A tenement holder may, within 28 days after receiving a notice under subsection (5), appeal to the ERD Court in relation to the matter.

(7) The ERD Court may, on hearing an appeal under subsection (6), if satisfied that the ground or grounds on which the Opal Mining Registrar acted were insufficient to justify the cancellation or suspension of the tenement (as the case may be)—

(a) revoke the cancellation or suspension; and

(b) make any consequential or ancillary order that the Court considers necessary or appropriate.

(8) If the ERD Court makes an order under subsection (7), the Opal Mining Registrar may, subject to any order of the Court, reinstate the tenement to a date that coincides with the initial date of the cancellation or suspension, or such later date as the Opal Mining Registrar considers to be appropriate in the circumstances.

28—Surrender of tenement, removal of posts etc

(1) The Mining Registrar may, on receipt of an application in a manner and form determined by the Director from the holder of the tenement, cancel the registration of a precious stones tenement.

(2) An application under subsection (1)—

(a) must be made in a form determined by the Director; and

(b) must be made personally by the holder of the tenement or, in the case of a corporation, by an officer of the corporation who is authorised to make the application.

(3) If the land comprised in the tenement is outside (or partly outside) a precious stones field, the Mining Registrar must not cancel the registration of the tenement unless or until advised by an authorised person that the land has been rehabilitated in accordance with the requirements of this Act.

(4) If the registration of a tenement lapses or is cancelled under this Act, the holder of the tenement must—

(a) in the case of a tenement that is wholly within a precious stones field—immediately remove all posts, boundary indicators and markers unless exempted from the requirement to do so by an mining registrar or authorised person on the basis that it is unreasonable (for reasons of safety or otherwise) to require the posts, indicators or markers to be removed;
Precious stones tenements—Part 3

(b) in the case of a tenement that is wholly outside a precious stones field—leave all posts, boundary indicators and markers in place until authorised by a mining registrar or authorised person to remove them and then, on receiving that authorisation, subject to any direction to the contrary, immediately remove them.

(45) In this section—

authorised person includes a person who is authorised by the Mining Registrar to exercise the powers of an authorised person under this section.

29—Removal of machinery

(1) The owner of any machinery or goods on land that has ceased to be subject to a tenement may, at any time within the period of 3 months after the date on which the land ceased to be subject to the tenement, enter the land and remove the machinery or goods from the land.

(2) The Minister may cause any machinery or goods that have been abandoned on land that has been subject to a tenement (whether or not a new tenement has been granted over the land) to be seized.

(3) Any machinery or goods seized under subsection (2) are forfeited to the Crown and may be sold by the Minister.

(4) Any proceeds from a sale under subsection (3) will be paid to the Treasurer.

(5) The Treasurer may, on application under this subsection, pay an amount equal to the proceeds of a sale under subsection (3) to the person who abandoned the relevant machinery or goods, after deduction of an amount determined by the Treasurer to be reasonable costs associated with seizing, holding, maintaining, repairing, cleaning or selling the machinery or goods.

(6) An application under subsection (5) must be made within 2 years from the date of sale (and after the expiration of that period no further claim may be made in relation to the machinery or goods).

(1) If the registration of a precious stones tenement lapses or is cancelled under this Act, the owner of machinery or goods on land comprised in the tenement (not being the owner of the land) must ensure that the machinery or goods are removed from the land within 28 days after the day in which the registration lapses or is cancelled.

Maximum penalty: $5,000.

(2) A person may, at any reasonable time within the period of 28 days referred to in subsection (1), enter and remain on land for the purposes of removing machinery or goods from the land under subsection (1).

(3) If machinery or goods remain on the land after the expiration of the 28 days referred to in subsection (1), the Chief Inspector may take possession of the machinery or goods.

(4) The Chief Inspector must, within seven days after taking possession of machinery or goods under this section—

(a) give notice of his or her actions to any person who has, to the knowledge of the Chief Inspector, an interest in the machinery or goods and whose address is known to the Chief Inspector; and

[1.7.2013] This version is not published under the Legislation Revision and Publication Act 2002
Part 3—Precious stones tenements

—(b) publish notice of the taking of possession of the machinery or goods in a newspaper circulating within the local area.

—(5) A notice must be in a form approved by the Director for the purposes of this section.

—(6) A person who is entitled to possession of the machinery or goods may reclaim them—by paying to the Chief Inspector the reasonable costs associated with the Chief Inspector taking possession of the machinery or goods and storing them.

—(7) If the machinery or goods are not reclaimed under subsection (6) within 28 days after publication of the notice under subsection (4)(b), the Chief Inspector may sell or dispose of them as the Chief Inspector thinks fit.

—(8) If the machinery or goods are sold, the Chief Inspector—

(a) may retain out of the proceeds of sale an amount equal to, and to be applied in relation to, the reasonable costs associated with taking possession, storing and selling the machinery or goods; and

(b) must pay the balance to the Treasurer.

—(9) The purchaser of the machinery or goods acquires a good title to the machinery or goods in defeasance of—

(a) the previous owner’s interest in the machinery or goods; and

(b) the interests of others unless the purchaser has actual notice of the interest before purchasing the machinery or goods.

—(10) The previous owner of machinery or goods that have been sold under this section may, within three months after the day of sale, on application to the Chief Inspector, claim some or all of the balance paid to the Treasurer under subsection (8)(b).

—(11) If the Chief Inspector is satisfied, on application under subsection (10), that it is fair and reasonable that the amount of the claim be satisfied, the Chief Inspector will request payment from the Treasurer (who must then release the appropriate amount).

—(12) If—

(a) a claim is not made under subsection (10) within the time specified by that subsection; or

(b) a claim is made but rejected,

the amount held by the Treasurer is forfeited to the Crown.

30—Maintenance of posts

The holder of a registered precious stones tenement must ensure that all posts, boundary indicators and notices are maintained in accordance with requirements prescribed by the regulations.

Administrative Penalty
Part 4—Entry on land and declared equipment

Division 1—Entry on land

31—Entry on land

Subject to this Act, a person authorised under this Act to conduct prospecting or other mining operations on land may enter land for the purposes of those operations—

(a) if the person has an agreement with the owner of the land authorising the person to enter the land to carry out mining operations on the land; or

(b) if the person is authorised by a native title mining determination to enter the land to carry out mining operations on the land; or

(c) if—

(i) the person has given the prescribed notice of entry; and

(ii) the operations will not affect native title in the land; and

(iii) the person complies with any determination made on objection to entry on the land, or the use or unconditional use of the land, or portion of the land, for mining operations; or

(d) if the land to be entered is in a precious stones field and the operations will not affect native title in the land; or

(e) if the person enters the land to continue operations that had been lawfully commenced on the land before the commencement of this Act.

1 If the land is native title, the agreement is to be negotiated under Part 7. In any other case, see Part 6.

2 See section 32(6).

32—Notice of entry

(1) A mining operator must, at least 21 days before first entering land to carry out mining operations, serve on the owner of the land notice of intention to enter the land (the prescribed notice of entry) describing the nature of the operations to be carried out on the land.

(2) The notice—

(a) must be in a form determined by the Director; and

(b) must contain a statement of the owner’s right of objection and compensation under this Act; and

(c) must have been validated by an authorised person.

(3) The notice must be served—

(a) in the case of native title land—as prescribed by the Native Title (South Australia) Act 1994; or

(b) in other cases—personally or by post.
(4) If the land is held under a form of title (other than a pastoral lease) that confers a right to exclusive possession of the land, the owner may, within three months after service of the notice, lodge a notice of objection with the appropriate court objecting—
  (a) to entry on the land by the mining operator; or
  (b) to the use, or the unconditional use, of the land, or a portion of the land, for mining operations.

(5) The court must send a copy of a notice of objection to the mining operator and to the 
  Mining Registrar [Opal Mining Registrar].

(6) If the court is satisfied on the hearing of an objection that the conduct of the mining operations on the land would be likely to result in substantial hardship or substantial damage to the land, the court may—
  (a) determine that the land, or a particular part of the land, should not be used by the mining operator for the purpose of mining operations; or
  (b) determine conditions on which operations may be carried out on the land by the mining operator with least detriment to the interests of the owner and least damage to the land.

(7) A mining operator who—
  (a) contravenes or fails to comply with a requirement under subsections (1)—(4); or
  (b) contravenes or fails to comply with a determination under subsection (6),
  is guilty of an offence.

Maximum penalty: $500 000.

(8) The prescribed notice of entry is not required if—
  (a) the land to be entered is in a precious stones field; or
  (b) the mining operator is authorised to enter the land by or under an agreement with the owner of the land and, under that agreement, notice is not required; or
  (c) the mining operator is authorised to enter the land under a native title mining determination; or
  (d) the mining operator enters the land to continue mining operations that had been lawfully commenced on the land before the commencement of this Act.

33—Duration of notice of entry

(1) A notice of entry remains in force—
  (a) for six 12 months from the date of validation (see section 32(2)); and
  (b) for the duration of a tenement (including any renewal) that is pegged out on the land to which the notice relates within six 12 months from the date of validation.

(2) A mining operator who desires to enter land after a notice of entry has lapsed must serve a new, validated notice of entry, subject to the qualification that if the new notice is served within 28 days after the previous notice lapsed, the mining operator does not need to give at least 21 days notice before re-entering the land.
Division 2—Declared equipment

34—Use of declared equipment

(1) A mining operator must not use declared equipment in the course of mining operations under this Act except—
   (a) on land comprised in a registered tenement within a precious stones field; or
   (b) with the written authorisation of the Director (for land outside a precious stones field).

   Maximum penalty:
   — (a) In the case of a breach of paragraph (a) — $5,000;
   — (b) In the case of a breach of paragraph (b) — $10,000–$120,000

(2) An application for an authorisation of the Director to use declared equipment outside a precious stones field must be made in a manner and form determined by the Director and accompanied by the prescribed application fee.

(3) An authorisation may be given subject to conditions.

(4) The Director may, by notice in writing to the mining operator, add, substitute or delete one or more conditions to an authorisation.

(5) A mining operator must not contravene or fail to comply with a condition.

   Maximum penalty: $5–120,000.

(6) A mining operator must, at least 21 days before first using declared equipment on land, serve on the owner of the land notice of the intention to use the declared equipment in the course of mining operations carried out on the land.

(7) The notice must be in a form determined by the Director.

(8) The owner may, within three months after service of a notice, lodge a notice of objection with the Warden's Court objecting to the use, or the unconditional use, of declared equipment on the land.

(9) The court must send a copy of a notice of objection to the mining operator and to the Mining Registrar.

(10) If the court is satisfied on the hearing of an objection that the use of declared equipment on the land would be likely to result in severe or unjustifiable hardship or substantial damage to the land, the court may—
   (a) determine that declared equipment should not be used in the course of mining operations on the land or a part of the land; or
   (b) determine the conditions under which declared equipment may be used on the land with least detriment to the interests of the owner and least damage to the land.

(11) A mining operator who—
   (a) uses declared equipment on land without prior service of a notice under subsection (6); or
   (b) fails to comply with a determination or condition under subsection (10),
is guilty of an offence.

Maximum penalty: $120,000.

(12) Subsections (6)—(11) do not apply to the use of declared equipment on land if—

(a) the land is within a precious stones field; or

(b) the Warden's Court or the ERD Court has determined conditions on which declared equipment may be used on the land and the mining operator complies with the terms of the determination.

(13) This section does not apply to the use of declared equipment on land if there is an agreement with the owner of the land about the use of declared equipment and the mining operator complies with the terms of the agreement.
Part 5—Rehabilitation and compensation

35—Rehabilitation of land

(1) An authorised person may, by notice in writing to the holder of a precious stones tenement that is outside (or partly outside) a precious stones field, direct the holder of the tenement to rehabilitate land within the tenement that has been disturbed by mining operations to a condition that is, in the opinion of an authorised person, satisfactory.

(2) A notice under subsection (1)—
   (a) may specify the action to be taken by the person, and specify the period within which it must be taken; and
   (b) may relate or extend to mining operations carried out on the land before the tenement was pegged out or registered; and
   (c) may relate or extend to mining operations carried out by another person on the land; and
   (d) may be given before or after the tenement has come to an end may be issued at any time (including after a tenement has come to an end).

(3) A person to whom a notice is issued under this section must comply with the notice. Maximum penalty: $120,000.

(4) The Minister may order that no other area may be pegged out for a tenement by a person named in a notice until the person has complied with the notice.

(5) A person must not contravene an order under subsection (4). Maximum penalty: $120,000.

(6) If the requirements of a notice are not carried out, an authorised person may cause the requirements to be carried out.

(7) The Director may recover the costs and expenses reasonably incurred in taking action under subsection (6) from the person who failed to comply with the notice, as a debt.

(8) A person may, at any reasonable time, enter and remain on land for the purposes of rehabilitating the land under this section, and may take appropriate action on the land in order to comply with an order under this section.

(9) An authorised person may, with the approval of the Director, vary a notice previously given under this section.

(10) An obligation on the holder of a tenement to rehabilitate land is not affected by the tenement lapsing or being cancelled.

(11) In this section—

   holder of a mining tenement includes a former holder of a tenement;

   precious stones tenement includes a tenement the registration of which has lapsed or been cancelled.

35A—Compliance directions

(1) The Minister may issue a direction under this section (a compliance direction) for the...
Part 5—Rehabilitation and compensation

purpose of—

(a) securing compliance with a requirement under this Act, a tenement (including a
term or condition of a tenement) or any authorisation or direction under or in
relation to a tenement; or
(b) preventing or bringing to an end specified operations that are contrary to this Act or
a tenement (including a term or condition of a tenement); or
(c) without limiting any other provision, requiring the rehabilitation of land on account
of any operations carried out without an authority required by this Act; or
(d) require the taking of any action that, in the opinion of the Minister, is required to
ensure public safety.

(2) A compliance direction—

(a) must be in the form of a written notice given to the person to whom the direction is
issued; and
(b) must—
(i) specify the person to whom it is issued (whether by name or by description
sufficient to identify the person); and
(ii) specify the grounds on which it is issued; and
(c) may impose any requirement reasonably required for the purpose for which the
direction is issued including 1 or more of the following:
(i) a requirement that the person discontinue, or not commence, specified
operations indefinitely or for a specified period or until further notice
from the Minister;
(ii) a requirement that the person not carry on specified operations except at
specified times or subject to specified conditions;
(iii) a requirement that the person take specified action within a specified
period.

(3) The Minister may, by written notice given to the person to whom a compliance
direction is issued, vary or revoke the direction.

(4) A person to whom a compliance direction relates must comply with a direction under
this section within the time allowed in the direction.

Maximum penalty: $250,000.

35B—Contravention of Act

The Minister or an authorised officer may, if of the opinion that it is reasonably necessary to
do so in the circumstances, include in a direction under this Part a requirement for an act or
omission that might otherwise constitute a contravention of this Act and, in that event, a
person incurs no liability to a penalty under this Act for compliance with the requirement.

36—Bonds

(1) The Minister may, by notice in writing to an applicant for the registration of, or the
holder of, a precious stones tenement that is outside (or partly outside) a precious
stones field, require the person to enter into a bond under this section.

This version is not published under the Legislation Revision and Publication Act 2002 [1.7.2013]
Rehabilitation and compensation—Part 5

(2) The Minister may determine the amount, form and terms of the bond taking into account—
(a) liabilities that the relevant person may incur in the course of mining operations; and
(b) the present or future obligations that the relevant person may incur for the rehabilitation of land.

(3) The Minister may require security for the satisfaction of the bond in accordance with a determination of the Minister.

(4) The Minister may, by notice in writing to the holder of a tenement, require that the amount, form or terms of a bond, or the security for a bond, be varied.

(5) A variation under subsection (4) may include the addition or substitution of terms.

(6) A person to whom a notice is issued under this section must comply with the notice within 30 days after service of the notice.

(7) A bond must be lodged with the Mining Registrar.

(8) The prescribed fee is payable when the bond is lodged.

(9) The Mining Registrar may delay the registration of a tenement until a bond is lodged.

(10) A person who has been required to enter into a bond must not carry out mining operations on the relevant land, or must cease mining operations on the relevant land, until the bond is lodged with the Mining Registrar.

Maximum penalty: $120,000.

(11) The Minister or an authorised person may prohibit mining operations on land until a person complies with a requirement under this section.

Maximum penalty: $5,120,000.

37—Application of bonds

(1) If a person fails to fulfil an obligation under a tenement, fails to rehabilitate land within a tenement (or former tenement), or acts (or omits to act) so as to breach a term of a bond, the Minister may determine that an amount under a bond entered into by the person is forfeited under this section.

(2) The amount is forfeited to the Crown (to be held by the Minister).

(3) The forfeited amount may, at the discretion of the Minister, be applied—
(a) towards the rehabilitation of land in the relevant tenement;
(b) in respect of liabilities incurred on account of mining operations on the land.

(4) If—
(a) a tenement in respect of which a bond has been lodged lapses or is cancelled; and
(b) the Mining Registrar is satisfied that it is appropriate to do so,
the Mining Registrar may return the bond to the holder of the tenement.

38—Compensation

(1) The owner of land on which mining operations are carried out is entitled to receive compensation for economic loss, hardship or inconvenience suffered on account of the mining operations.

(2) The compensation will be payable by—
   (a) if the land is subject to a tenement at the time of the mining operations—the holder of the tenement (even if the holder of the tenement did not carry out the mining operations); and
   (b) in all cases—the person who carries out the mining operations.

(3) The holder of a tenement who is required to pay compensation on account of mining operations carried out by another person is entitled, subject to an agreement between the parties, to recover from the other person an amount equal to the amount of the compensation.

(4) In determining the compensation payable under this section, the following matters must be considered:
   (a) damage caused to the land by the mining operations; and
   (b) loss of productivity or profits as a result of the mining operations; and
   (c) other relevant matters.

(5) The amount of the compensation will be an amount determined by agreement between the owner and the person by whom the compensation is payable or, in default of agreement, an amount determined, on application by an interested party, by the appropriate court.

(6) The appropriate court, in determining compensation under this section, must take into consideration any work that a mining operator has carried out, or undertakes to carry out, to rehabilitate the land.

(7) On the hearing of an application for compensation under this section, the appropriate court may order a mining operator to carry out specified work to rehabilitate the land.
Part 6—Opal mining co-operation agreements

39—Interpretation
In this Part—

*mining operator* includes a person who seeks to carry out mining operations on land;

*registered agreement* means an opal mining co-operation agreement registered under this Part.

40—Nature of agreement
(1) An opal mining co-operation agreement may be made about mining operations carried out under this Act on land.

(2) However, an opal mining co-operation agreement cannot relate to—

(a) native title land; or

(b) land within a precious stones field.

41—Parties to an agreement
An opal mining co-operation agreement may be made between—

(a) the owner of land; and

(b) —

(i) a mining operator; or

(ii) an approved association.

42—Content of an agreement
(1) An opal mining co-operation agreement may—

(a) provide that land that would otherwise be exempt restricted land will not be taken to be exempt restricted land under this Act for the purposes of mining operations authorised by the agreement;

(b) prohibit or restrict the pegging out of an area for a precious stones tenement by a person bound by the agreement;

(c) provide—

(i) that the owner of the land will not object to a notice of entry to the land; or

(ii) that a notice of entry to the land does not need to be given (or does not need to be given in specified circumstances, or only needs to be given in specified circumstances);

(d) restrict or regulate the circumstances or conditions under which a person covered by the agreement may enter, or remain on, the land;

(e) permit, prohibit, restrict or regulate the use of declared equipment on the land, or provide that notice of the use of declared equipment need not be given;
Part 6—Opal mining co-operation agreements

(f) provide for any other permission that the owner of the land may give under this Act;

(g) provide for the care, management or rehabilitation of land;

(h) provide for the payment of compensation to the owner of the land on account of mining operations on the land;

(i) make other provisions about carrying out of mining operations on the land;

(j) identify camp sites or temporary residences on the land;

(k) provide for other matters agreed between the parties to the agreement.

(2) An agreement may provide for payments to the owner of the land that are based on profits or income derived from mining operations on the land or the quantity of precious stones produced.

(3) An agreement must comply with requirements prescribed by the regulations.

43—Registration of agreement

(1) The parties to an opal mining co-operation agreement must submit the agreement to the Mining Registrar for registration within 21 days after the agreement is signed by or on behalf of the parties to the agreement.

(2) The prescribed fee is payable when the agreement is submitted for registration.

(3) The Mining Registrar must register the agreement unless—

(a) the agreement relates to land that is within a precious stones field or is native title land; or

(b) the Mining Registrar believes—

(i) that the agreement has not been negotiated in good faith; or

(ii) that the agreement is inconsistent with the objects of this Act or is not in the best interests of opal mining in the State; or

(iii) that there is some other good reason why the agreement should not be registered.

(4) The Mining Registrar must make a decision on the registration of an agreement within one month after the agreement is submitted for registration.

(5) However, despite subsections (2) and (3), the Mining Registrar must not register an agreement over pastoral land within the meaning of the Pastoral Land Management and Conservation Act 1989 unless or until the Mining Registrar has consulted with the Pastoral Board about proposals for the rehabilitation of land under the agreement (and the Minister may, on the basis of the time that is required to complete that consultation process, grant an extension of time under subsection (4)).

(6) An agreement has no force or effect under this Act until it is registered.

44—Agreement may be varied or revoked

(1) The parties to a registered opal mining co-operation agreement may, by agreement, vary or revoke the agreement.
(2) A variation to a registered agreement must be submitted by the parties to the agreement to the Mining Registrar for registration within 21 days after the variation is made and the Mining Registrar must register the variation unless the Mining Registrar believes—

(a) that the variation is inconsistent with the objects of this Act or is not in the best interests of opal mining in the State; or

(b) that there is some other good reason why the variation should not be registered.

(3) A party to a registered agreement may, by notice in writing to the other parties to the agreement, withdraw from the agreement.

(4) However, a notice under subsection (3)—

(a) cannot be given without the approval of the Mining Registrar; and

(b) must be given at least 60 days before the withdrawal is to take effect.

(5) If an approved association is withdrawing from an agreement, the association must give notice of the withdrawal to each member who is covered by the agreement in accordance with any requirements specified by the Mining Registrar.

45—Appeal to Warden's Court

A party to an opal mining co-operation agreement may appeal to the Warden's Court against a decision of the Mining Registrar under this Part and the court may, on appeal, confirm or reverse the Mining Registrar’s decision.

46—Persons bound by agreement

A registered agreement is binding on, and enforceable by or against, the original parties to the agreement and—

(a) the successors in title to the owner of the land; and

(b) a person who carries out mining operations on the land on behalf of a party to the agreement; and

(c) if an approved association is a party to the agreement—the members of the association who are covered by the agreement; and

(d) the holders from time to time of mining tenements covered by the agreement.

47—Enforcement of agreement

A person who is entitled to enforce a registered agreement who believes that another person bound by the agreement has contravened, or failed to comply with, a term of the agreement may apply to the appropriate court and the court may, if satisfied that the other person is in default—

(a) order the other person to take specified action to comply with the agreement or to rectify a situation caused by the other person;

(b) order the other person to pay compensation for loss or damage caused by a breach or a failure to comply with the agreement;
(c) vary or revoke a term of the agreement;
(d) revoke the agreement;
(e) make other orders that the court considers to be appropriate in the circumstances.

48—Restriction on mining operations by third parties

(1) If an approved association is a party to a registered agreement, a person who is not a member of that association must not conduct mining operations on land that is subject to the agreement unless—
   (a) the person is a party to another agreement with the owner of the land registered before the agreement with the association; or
   (b) the person has entered into a separate opal mining co-operation agreement with the owner of the land and an agreement of that kind is not specifically excluded under the terms of the agreement with the association; or
   (c) the person pegged out an area for a tenement before the agreement with the association was entered into and the mining operations are carried out in that area in accordance with this Act; or
   (d) the person is acting under the authority of a mining tenement under the Mining Act; or
   (e) the person is acting under an authority granted by the Warden's Court.

(2) For the purposes of subsection (1)(e), a person who desires to carry out mining operations on land that is subject to a registered agreement with an approved association (and who is not authorised to carry out mining operations under the agreement) may apply to the Warden's Court for an authority to conduct mining operations on the land (including to peg out an area for a tenement) despite the agreement and the court may, on the application—
   (a) if it considers that it would be reasonable to allow the person to carry out mining operations on the land and that to do so would not unfairly disadvantage the parties to the registered agreement—grant the application, on conditions (if any) determined by the court; or
   (b) reject the application.
Part 7—Native title land

Division 1—Prospecting

49—Qualification of rights conferred by permit

(1) A precious stones prospecting permit confers no right to carry out mining operations on native title land unless—

(a) the mining operations do not affect native title (i.e., they are not wholly or partly inconsistent with the continued existence, enjoyment or exercise of rights deriving from native title); or

(b) a declaration is made under the law of the State or the Commonwealth to the effect that the land is not subject to native title; or

(c) an indigenous land use agreement registered under the Native Title Act 1993 of the Commonwealth provides that statutory rights to negotiate are not intended to apply in relation to the mining operations.

(2) However, a person who holds a precious stones prospecting permit that would, if land were not native title land, authorise various operations on the land may acquire the right to carry out those operations on the land (that affect native title) from an agreement or determination authorising the operations under this Part.

(3) An agreement or determination under this Part need not be related to a particular precious stones prospecting permit.

(4) However, a mining operator's right to carry on mining operations under this Act that affect native title is contingent on the existence of a permit that would, if the land were not native title land, authorise the mining operator to carry out the mining operations on the land.

1 Cf. Native Title Act 1993 (Cth), s. 227.

2 A declaration to this effect may be made under Part 4 of the Native Title (South Australia) Act 1994 or the Native Title Act 1993 (Cth). The effect of such a declaration is that the land ceases to be native title land.

3 Cf. Native Title Act 1993 (Cth), section 24EB(1)(c).

Division 2—Production

50—Limits on grant of tenement

A precious stones tenement may not be registered over native title land unless—

(a) the mining operations to be carried out under the tenement are authorised by a pre-existing agreement or determination registered under this Part; or

(b) a declaration is made under the law of the State or the Commonwealth to the effect that the land is not subject to native title; or

(c) an indigenous land use agreement registered under the Native Title Act 1993 of the Commonwealth provides that statutory rights to negotiate are not intended to apply in relation to the mining operations.
Opal Mining Act 1995—4.9.2006
Part 7—Native title land
Division 2—Production

1. A declaration to this effect may be made under Part 4 of the Native Title (South Australia) Act 1994 or the Native Title Act 1993 (Cwth). The effect of the declaration is that the land ceases to be native title land.

2. Cf. Native Title Act 1993 (Cwth), section 24EB(1)(c).

51—Applications for tenements

(1) The Minister may agree with an applicant for a precious stones tenement over native title land that the tenement will be registered contingent on the registration of an agreement or determination under this Part.

(2) The Mining Registrar may refuse an application for a precious stones tenement over native title land if it appears to the Mining Registrar that the applicant is not proceeding with reasonable diligence to obtain the agreement or determination necessary to the registration of the tenement to which the application relates (and if the application is refused, the applicant's claim lapses).

Division 3—Application for declaration

52—Application for declaration

A person who seeks to carry out mining operations under this Act on native title land may apply to the ERD Court for a declaration that the land is not subject to native title.

1. The application is to be made under the Native Title (South Australia) Act 1994.

Division 4—Negotiating procedure

53—Types of agreement authorising mining operations on native title land

(1) An agreement authorising mining operations on native title land (a native title mining agreement) may—

(a) authorise mining operations by a particular mining operator; or

(b) authorise mining operations of a specified class within a defined area by mining operators of a specified class who comply with the terms of the agreement.

Note—

If the authorisation relates to a particular mining operator it is referred to as an individual authorisation. Such an authorisation is not necessarily limited to mining operations under a particular permit or tenement but may extend also to future permits or tenements. If the authorisation does extend to future permits or tenements it is referred to as a conjunctive authorisation. An authorisation that extends to a specified class of mining operators is referred to as an umbrella authorisation.

(2) If a native title mining agreement is negotiated between a mining operator who does not hold, and is not an applicant for, a tenement for the relevant land, and native title parties who are claimants to (rather than registered holders of) native title land, the agreement cannot extend to mining operations conducted on the land under a future tenement.

(3) An umbrella authorisation can only relate to prospecting or mining for precious stones over an area of 200 square kilometres or less.
(4) If the native title parties with whom a native title mining agreement conferring an umbrella authorisation is negotiated are claimants to (rather than registered holders of) native title land, the term of the agreement cannot exceed 10 years.

(5) The existence of an umbrella authorisation does not preclude a native title mining agreement between a mining operator and the relevant native title parties relating to the same land, and if an individual agreement is negotiated, the agreement regulates mining operations by a mining operator who is bound by the agreement to the exclusion of the umbrella authorisation.

54—Negotiation of agreements

(1) A person (the proponent) who seeks a native title mining agreement may negotiate the agreement with the native title parties.

Note—

The native title parties are the persons who are, at the end of the period of two months from when notice is given under section 55, registered under the law of the State or the Commonwealth as holders of, or claimants to, native title in the land. A person who negotiates with the registered representative of those persons will be taken to have negotiated with the native title parties. Negotiations with other persons are not precluded but any agreement reached must be signed by the registered representative on behalf of the native title parties.

(2) The proponent must be—

(a) if an agreement conferring an individual authorisation is sought—the mining operator who seeks the authorisation;

(b) if an agreement conferring an umbrella authorisation is sought—the Minister or an association representing the interests of mining operators approved by regulation for the purposes of this section.

1 See the note to section 53(1).

55—Notification of parties affected

(1) The proponent initiates negotiations by giving notice under this section.

(2) The notice must—

(a) identify the land on which the proposed mining operations are to be carried out; and

(b) describe the general nature of the proposed mining operations that are to be carried out on the land.

(3) The notice must be given to—

(a) the relevant native title parties; and

(b) the ERD Court; and

(c) the Minister.

(4) Notice is given to the relevant native title parties as follows:

(a) if a native title declaration establishes who are the holders of native title in the land—the notice must be given to the registered representative of the native title holders and the relevant representative Aboriginal body for the land;
Opal Mining Act 1995—4.9.2006
Part 7—Native title land
Division 4—Negotiating procedure

(b) if there is no native title declaration establishing who are the holders of native title in the land—the notice must be given to all who hold or may hold native title in the land in accordance with the method prescribed by Part 5 of the Native Title (South Australia) Act 1994.

56—What happens when there are no registered native title parties with whom to negotiate

(1) If, two months after the notice is given to all who hold or may hold native title in the land, there are no native title parties in relation to the land to which the notice relates, the proponent may apply without notice to any person to the ERD Court for a summary determination.

(2) On an application under subsection (1), the ERD Court must make a determination authorising entry to the land for the purpose of carrying out mining operations on the land, and the conduct of mining operations on the land.

(3) The determination may be made on conditions the Court considers appropriate and specifies in the determination.

(4) The determination cannot confer a conjunctive or umbrella authorisation. ¹

¹ See the note to section 53(1).

57—Expedited procedure where impact of operations is minimal

(1) This section applies to mining operations that—

(a) will not directly interfere with the community life of the holders of native title in the land on which the operations are to be carried out; and

(b) will not interfere with areas or sites of particular significance, in accordance with their traditions, to the holders of native title in the land on which the operations are to be carried out; and

(c) will not involve major disturbance to the land on which the operations are to be carried out.

(2) If the proponent states in the notice given under this Division that the mining operations to which the notice relates are operations to which this section applies and that the proponent proposes to rely on this section, the proponent may apply without notice to any person to the ERD Court for a summary determination authorising mining operations in accordance with the proposals made in the notice.

(3) On an application under subsection (2), the ERD Court may make a summary determination authorising mining operations in accordance with the proposals contained in the notice.

(4) However, if within two months after notice is given, a written objection to the proponent's reliance on this section is given by the Minister, or a person who holds, or claims to hold, native title in the land, the Court must not make a summary determination under this section unless the Court is satisfied after giving the objectors an opportunity to be heard that the operations are in fact operations to which this section applies.
58—Negotiating procedure

(1) The proponent and native title parties must negotiate in good faith and accordingly explore the possibility of reaching an agreement.

(2) However, the obligation to negotiate does not arise if the case is one where a summary determination may be made.

(3) If any of the negotiating parties requests the ERD Court to do so, the Court must mediate among the parties to assist in obtaining their agreement.

(4) The Minister may (personally or by representative) intervene in negotiations under this Division.

59—Agreement

(1) An agreement negotiated under this Division may provide for payment to the native title parties based on profits or income derived from mining operations on the land or the quantity of precious stones produced.

(2) The basis of the payment may be fixed in the agreement or left to be decided by the ERD Court or some other nominated arbitrator.

(3) An agreement must deal with—
   (a) notices to be given or other conditions to be met before the land is entered for the purposes of carrying out mining operations; and
   (b) principles governing the rehabilitation of the land on completion of the mining operations.

(4) If agreement is reached between the proponent and the native title parties authorising mining operations on the native title land, the proponent must lodge a copy of the agreement with the Mining Registrar and the Mining Registrar will, subject to this section, register the agreement.

(5) If the Minister is of the opinion that there is reason to believe that the agreement may not have been negotiated in good faith, the Minister may, within two months after the copy of the agreement is lodged for registration with the Mining Registrar, make an order prohibiting registration of the agreement.

(6) A party to an agreement may appeal against an order under subsection (5) to the ERD Court and the Court may, on appeal—
   (a) confirm or revoke the Minister's order; and
   (b) if the Court considers it appropriate, make a determination authorising entry on the land to carry out mining operations, and the conduct of mining operations on the land, on conditions determined by the Court.

60—Effect of registered agreement

(1) A registered agreement negotiated under this Division is (subject to its terms) binding on, and enforceable by or against the original parties to the agreement and—
   (a) the holders from time to time of native title in the land to which the agreement relates; and
   (b) the holders from time to time of any permit or tenement under which mining operations to which the agreement relates are carried out.
Opal Mining Act 1995—4.9.2006
Part 7—Native title land
Division 4—Negotiating procedure

(2) If a native title declaration establishes that the native title parties with whom an agreement was negotiated are not the holders of native title in the land or are not the only holders of native title in the land, the agreement continues in operation (subject to its terms) until a fresh agreement is negotiated under this Part with the holders of native title in the land, or for two years after the date of the declaration (whichever is the lesser).

(3) Either the holders of native title in the land or the mining operator may initiate negotiations for a fresh agreement by giving notice to the other.

(4) A registered agreement that authorises mining operations to be conducted under a future mining tenement is contingent on the tenement being granted or registered.

61—Application for determination

(1) If agreement between the proponent and the native title parties is not reached within the relevant period, any party to the negotiations or the Minister may apply to the ERD Court for a determination.

[In this subsection, the relevant period is—

(a) if the mining operations to which the negotiations relate are merely of an exploratory nature—four months from when the negotiations were initiated; or

(b) in any other case—six months from when the negotiations were initiated.]

(2) On an application under this section, the ERD Court may determine—

(a) that mining operations may not be conducted on the native title land; or

(b) that mining operations may be conducted on the native title land subject to conditions determined by the Court.

(3) If the ERD Court determines that mining operations may be conducted on native title land, the determination—

(a) must deal with the notices to be given or other conditions to be met before the land is entered for the purposes of mining operations; but

(b) cannot provide for payment to the native title parties based on profits or income derived from mining operations on the land or the quantity of precious stones produced.

(4) The ERD Court must make its determination on an application under this section within the relevant period unless there are special reasons why it cannot do so.

[In this subsection, the relevant period is—

(a) if a determination is sought only for exploring—four months from when the application is made; or

(b) in any other case—six months from when the application is made.]

(5) The representative Aboriginal body for the area in which the land is situated is entitled to be heard in proceedings under this section.
62—Criteria for making determination

(1) In making its determination, the ERD Court must take into account the following:

(a) the effect of the proposed mining operations on—

(i) native title in the land; and

(ii) the way of life, culture and traditions of any of the native title parties; and

(iii) the development of the social, cultural and economic structures of any of those parties; and

(iv) the freedom of access by any of those parties to the land concerned and their freedom to carry out rites, ceremonies or other activities of cultural significance on the land in accordance with their traditions; and

(v) any area or site, on the land concerned, of particular significance to the native title parties in accordance with their traditions; and

(vi) the natural environment of the land concerned;

(b) any assessment of the effect of the proposed mining operations on the natural environment of the land concerned—

(i) made by a court or tribunal; or

(ii) made, or commissioned, by the Crown in any capacity or by a statutory authority;

(c) the interests, proposals, opinions or wishes of the native title parties in relation to the management, use or control of the land concerned;

(d) the economic or other significance of the proposed mining operations to Australia and to the State;

(e) any public interest in the mining operations proceeding;

(f) any other matter the ERD Court considers relevant.

(2) This section does not affect the operation of another law of the State or the Commonwealth for the preservation or protection of areas or sites of particular significance to Aboriginal people.

63—Limitation on powers of Court

(1) The ERD Court cannot make a determination conferring a conjunctive or umbrella authorisation unless the native title parties are represented in the proceedings and agree to the authorisation.

(2) A conjunctive authorisation conferred by determination cannot authorise mining operations under both a permit and a tenement unless the native title parties are the registered holders of (rather than claimants to) native title land.

(3) An umbrella authorisation conferred by determination—

(a) can only relate to prospecting or mining for precious stones over an area of 200 square kilometres or less; and

[1.7.2013] This version is not published under the Legislation Revision and Publication Act 2002
Opal Mining Act 1995—4.9.2006
Part 7—Native title land
Division 4—Negotiating procedure

(b) cannot authorise mining operations for a period exceeding 10 years unless the native title parties
are registered holders of (rather than claimants to) native title land.¹

1 See note to section 53(1).
2 See note to section 54(1).
3 Section 53(2) is of similar effect in relation to native title mining agreements.
4 Section 53(3) and (4) are of similar effect in relation to native title mining agreements.

64—Effect of determination

(1) A determination under this Division—
(a) must be lodged with the Mining Registrar; and
(b) must be registered two months after it was lodged for registration unless it has in the meantime been overruled by the Minister;¹ and
(c) takes effect on registration.

(2) A determination registered under this Division has effect as if it were a contract between the proponent and the native title parties.

(3) A registered determination is (subject to its terms) binding on, and enforceable by or against the original parties to the proceedings in which the determination was made and—
(a) the holders from time to time of native title in the land to which the determination relates; and
(b) the holders from time to time of any permit or tenement under which mining operations to which the determination relates are carried out.

(4) If a native title declaration establishes that the native title parties to whom the determination relates are not the holders of native title in the land or are not the only holders of native title in the land, the determination continues in operation (subject to its terms) until a fresh determination is made, or for two years after the date of the declaration (whichever is the lesser).

(5) A determination under this Part that authorises mining operations to be conducted under a future mining tenement is contingent on the tenement being granted or registered.

1 See section 65.

65—Ministerial power to overrule determinations

(1) If the Minister considers it to be in the interests of the State to overrule a determination of the ERD Court under this Part, the Minister may, by notice in writing given to the ERD Court and the parties to the proceedings before the Court, overrule the determination and substitute another determination that might have been made by the Court.

(2) However—
(a) the Minister cannot overrule a determination—
(i) if more than two months have elapsed since the date of the determination; or
(ii) if the Minister was the proponent of the negotiations leading to the determination; and

(b) the substituted determination cannot create a conjunctive or umbrella authorisation\(^1\) if there was no such authorisation in the original determination nor can the substituted determination extend the scope of a conjunctive or umbrella authorisation.

Note—

The scope of an authorisation is extended if the period of its operation is lengthened, the area to which it applies is increased, or the class of mining operations to which it applies is expanded in any way.

\(^1\) See the note to section 53(1).

**66—No re-opening of issues**

If an issue is decided by determination under this Part, the parties to the proceedings in which the determination was made cannot make an agreement that is inconsistent with the terms of the determination unless the ERD Court authorises the agreement.

**Division 5—Miscellaneous**

**67—Non-application of this Part to Pitjantjatjara and Maralinga lands**

Nothing in this Part affects the operation of—

(a) the *Pitjantjatjara Land Rights Act 1981*; or

(b) the *Maralinga Tjarutja Land Rights Act 1984*.

**68—Compensation to be held on trust in certain cases**

(1) If a determination under this Part authorises mining operations on conditions requiring payment of compensation—

(a) the ERD Court must decide the amount of the compensation; and

(b) the compensation must be paid into the ERD Court to be held on trust and applied as required by this section.

(2) Compensation paid into the ERD Court under this section—

(a) must, on application by the registered representative of the native title holders, be paid out to the registered representative; or

(b) if the Court, on application by an interested person, is satisfied that it is just and equitable to pay the compensation in some other way—must be paid out as directed by the Court.

(3) However, if compensation is held on trust by the ERD Court under this section and—

(a) a native title declaration is made to the effect that no part of the land is subject to native title; or

(b) the proponent abandons the proposal to carry out mining operations on the land before exercising the right to do so and, by notice to the Minister, relinquishes the right to do so,

the compensation must be repaid to the person who paid it.
69—Non-monetary compensation

(1) Compensation under this Part is to be given in the form of monetary compensation.

(2) However—

(a) if, during negotiations under this Part, a person who may be entitled to compensation requests that the whole or part of the compensation be in a form other than money, the other person who may be liable to pay compensation—

(i) must consider the request; and

(ii) must negotiate in good faith on the subject; and

(b) the ERD Court may, at the request of a person entitled to compensation, order non-monetary compensation.

Example—

The non-monetary compensation might take the form of a transfer of property or the provision of goods or services.

70—Review of compensation

(1) If—

(a) mining operations are authorised by determination under this Part on conditions requiring the payment of compensation; and

(b) a native title declaration is later made establishing who are the holders of native title in the land,

the ERD Court may, on application by the registered representative of the holders of native title in the land, or on the application of a person who is liable to pay compensation under the determination, review the provisions of the determination providing for the payment of compensation.

(2) The application must be made within three months after the date of the native title declaration.

(3) The Court may, on an application under this section—

(a) increase or reduce the amount of the compensation payable under the determination (as from the date of application or a later date fixed by the Court); and

(b) change the provisions of the determination for payment of compensation in some other way.

(4) In deciding whether to vary a determination and, if so, how, the Court must have regard to—

(a) the assumptions about the existence or nature of native title on which the determination was made and the extent to which the native title declaration has confirmed or invalidated those assumptions; and

(b) the need to ensure that the determination provides just compensation for, and only for, persons whose native title in land is affected by the mining operations; and
(c) the interests of mining operators and investors who have relied in good faith on the assumptions on which the determination was made.

70A—Opal Mining Native Title Register

(1) The Opal Mining Registrar must establish a distinct part of the opal mining register (which may be referred to as the Opal Mining Native Title Register) for the registration of agreements and determinations under this Part. The Mining Registrar must establish a distinct part of that part of the Mining Register established under section 76 (which may be referred to as the Opal Mining Native Title Register) for the registration of agreements and determinations under this Part.

(2) The Opal Mining Registrar must, in respect of each agreement or determination registered under this Part, include in the Opal Mining Native Title Register details concerning—

   (a) the land to which the agreement or determination relates; and

   (b) if relevant—the permit or tenement to which the agreement or determination relates; and

   (c) the parties who are bound by the agreement or determination; and

   (d) other information prescribed by the regulations.

(3) The Opal Mining Registrar may also note in any other part of the opal mining register any agreement or determination registered under this Part (as the Opal Mining Registrar thinks fit). The Mining Registrar may also note in any other part of the Mining Register any agreement or determination registered under this Part (as the Mining Registrar thinks fit).

(4) An agreement or determination registered under this Part is not available for inspection under this Act if—

   (a) in the case of an agreement, the parties to the agreement specify in the agreement, or in some other manner determined by the Mining Registrar, that the contents of the agreement should be kept confidential under this section; and

   (b) in the case of a determination, the ERD Court specifies in the determination that the contents of the determination should be kept confidential under this section.

(5) However, subsection (4) does not prevent the inspection of an agreement or determination registered under this Part by—

   (a) a person engaged in the administration of this Act acting in the course of official duties; or

   (b) the Minister, or a person appointed to the Public Service acting in the course of official duties on behalf of, or with the authority of, the Minister; or

   (c) a person who is bound by the agreement or determination; or

   (d) a person who is acting under the joint authority of all persons who are bound by the agreement or determination (and such an authority must be given in a manner and form approved by the Mining Registrar).
Opal Mining Act 1995—4.9.2006
Part 7—Native title land
Division 5—Miscellaneous

(e) a person who is acting under the authority of an order or determination of the ERD Court or the Supreme Court (for the purposes of this or another Act or law).

(6) An authority under subsection (5) may be given on conditions.

(7) A person who contravenes or fails to comply with a condition is guilty of an offence. Maximum penalty: $540 000.
Part 8—Special powers of Warden's Court

72—Jurisdiction relating to tenements and monetary claims

(1) The Warden's Court has jurisdiction to determine, in the manner it thinks just, all actions concerning a right claimed in, under, or in relation to, a tenement, or a purported tenement, or a precious stones prospecting permit, or otherwise arising under this Act.

(2) The Warden's Court may make a declaration as to the validity (or invalidity) of a permit or tenement under this Act.

(2a) The Warden's Court will have jurisdiction to determine a monetary claim for not more than $250,000 arising in relation to any contract, partnership or joint venture arrangement related to, or otherwise associated with—

(a) the acquisition or holding of any tenement, or purported tenement, or a precious stones prospecting permit; or

(b) the performance of any mining operations under this Act; or

(c) the recovery of any precious stones under this Act.

(3) The Warden's Court will also have jurisdiction in any matter in which it is vested with jurisdiction by regulation.

(4) If proceedings relating to a matter under this Act are commenced in the Warden's Court—

(a) the Warden's Court must give written notice of the proceedings to the Opal Mining Registrar; and

(b) the Opal Mining Registrar must make a note of the proceedings in the Opal Mining Register.

(5) The Director is entitled to appear in any proceedings before the Warden's Court under this Act.

(6) Sections 65 to 66A of the Mining Act apply to the jurisdiction and proceedings of the Warden's Court under this Act.

73—Cancellation of permit

(1) The Warden's Court may, on the application of the Director, make one or both of the following orders:

(a) an order cancelling a precious stones prospecting permit;

(b) an order prohibiting a person from holding or obtaining a precious stones prospecting permit for a period specified in the order or until further order of the Warden's Court.

(2) An order must not be made under subsection (1) unless the Warden's Court is satisfied that the person against whom the order is made has contravened, or failed to comply with, a provision of this or another Act or regulations regulating mining operations (including mining operations that do not involve precious stones), and that the matter is of sufficient gravity to justify the making of the order.
74—Cancellation of pegging

(1) The Warden's Court may, on the application of an interested person, make an order cancelling a pegging under Part 2.

(2) An order must not be made under subsection (1) unless the Warden's Court is satisfied that a requirement of this Act has not been complied with in a material respect, and that the matter is of sufficient gravity to justify the cancellation of the pegging.

(3) If an order for cancellation is made (otherwise than on the application of the Director), the person on whose application the order was made has, for a period of 14 days immediately following the date of the order, an exclusive right to peg out an area for a precious stones tenement of the same kind on the land.

(4) After an application has been made under this section, the pegging to which the application relates cannot be altered, nor will it lapse, until the application is determined.

(5) In this section—

interested person means—

(a) the Director; or

(b) the holder of a precious stones prospecting permit; or

(c) the owner of the land on which the pegging has occurred.

75—Forfeiture of tenement

(1) The Warden's Court may, on the application of an interested person, make an order for the forfeiture of a tenement registered under Part 3.

(2) An order must not be made under subsection (1) unless the Warden's Court is satisfied that a requirement of this Act has not been complied with in a material respect, and that the matter is of sufficient gravity to justify the cancellation of the tenement.

(3) If an order for the forfeiture of a tenement is made under this section, the registration of the tenement is, by force of the order, cancelled.

(4) If an order is made under this section, a person must not peg out an area for a precious stones tenement on a part of the land comprised in the tenement that has been forfeited—

(a) until the time within which a person may appeal against the decision of the Warden's Court has lapsed; and

(b) if an appeal is commenced—

(i) until the appeal is dismissed, struck out or withdrawn; or

(ii) until the questions raised by the appeal have been finally determined.

(5) If the forfeiture remains in force at the conclusion of the period referred to in subsection (4), the person on whose application the order for forfeiture was made (not being the Director) has, for a period of 14 days immediately following the conclusion of the period referred to in subsection (4), an exclusive right to peg out an area for a precious stones tenement of the same kind on the land.
(6) After an application has been made under this section—

(a) the tenement to which the application relates cannot be surrendered, nor will it lapse; and

(b) a person must not, without the permission of the Warden's Court—

(i) otherwise deal with the tenement, or an interest in, or associated with, the tenement; or

(ii) take action to enforce a right claimed in, under or in relation to the tenement,

until the matter is finally determined.

(7) However, if the tenement would have lapsed except for the operation of subsection (6), the holder of the tenement must not carry out mining operations on the land after the day on which the tenement would otherwise have lapsed until the matter is finally determined.

(8) In this section—

interested person means—

(a) the Director; or

(b) the holder of a precious stones prospecting permit; or

(c) the owner of land comprised in the tenement.
Part 9—Miscellaneous

75A—Opal mining registrar

(1) There is to be an Opal Mining Registrar and other opal mining registrars.
(2) The Opal Mining Registrar and the opal mining registrars are to be Public Service employees.
(3) The Opal Mining Registrar may delegate a power or function of the Opal Mining Registrar to another opal mining registrar.
(4) If the terms of an instrument of delegation allows for subdelegation, the delegate may subdelegate the power or function in accordance with the instrument (and a reference in this section to a delegation will then extend to any such subdelegation).
(5) A delegation under this section—
   (a) may be absolute or conditional; and
   (b) may be made—
      (i) to a specified person; or
      (ii) to a person for the time being holding or acting in a specified office or position; and
      (iii) does not derogate from the power of the delegator to act in any matter; and
      (iv) is revocable at will by the delegator.
(6) An opal mining registrar may be assigned to act as the Opal Mining Registrar—
   (a) during a vacancy in the office of Opal Mining Registrar; or
   (b) when the Opal Mining Registrar is absent from, or unable to discharge, official duties.

76—Opal The Mining Register

(1) The Opal Mining Registrar will keep a register (the opal mining register). The Mining Registrar must establish a distinct part of the Mining Register for the purposes of this Act.
(2) The Mining Registrar must, in that part of the Mining Register, keep a register of—
   (a) precious stones prospecting permits issued under this Act; and
   (b) tenements registered under this Act; and
   (c) agreements registered under this Act; and
   (d) proceedings in the Warden's Court that relate to tenements under this Act; and
   (e) other instruments or determinations that require registration under this Act or the regulations,
   and may include in the register any other information he or she thinks fit any other information the Opal Mining Registrar thinks fit.
Part 9—Miscellaneous

(3) The Mining Registrar must note in the relevant part of the opal mining register any agreement or instrument registered under the Mining Act that is relevant to the operation of this Act.

(4) A person may, on payment of the prescribed fee, inspect the opal mining register during normal office hours.

(5) An instrument that requires registration under this Act has no force or effect until it is registered.

(6) However, subsection (5) does not apply to—
   (a) an order or determination of a court; or
   (b) an order or approval of the Minister, or of an officer acting under this Act; or
   (c) an instrument of a prescribed class.

77—Appointment of authorised persons

(1) The Director may appoint suitable persons to be authorised persons for the purposes of this Act.

(2) An appointment may be subject to conditions or limitations specified by the Director.

(3) A person appointed under this section must be issued with an identity card—
   (a) containing a photograph of the person; and
   (b) stating any limitations on the authorised person's authority.

(4) An authorised person must, at the request of a person in relation to whom the authorised person intends to exercise a power under this Act, produce for the inspection of the person his or her identity card.

(5) An authorised person may, as may reasonably be required in connection with the administration, operation or enforcement of this Act—
   (a) enter, search, inspect and examine any premises, land or vehicle that has been or is intended to be, used for, or in connection with, any operations or activity regulated by this Act and, where necessary for the purpose, break into or open a part of, or anything in, the premises, land or vehicle; or
   (b) inspect or examine anything; or
   (c) enter and inspect any place; or
   (d) carry out, or cause to be carried out, any investigation, examination, test or survey; or
   (e) take, and remove from land, seize and retain specimens or samples; or
   (f) require a person to produce documents (which may include a written record reproducing in an understandable form information stored by computer, microfilm or other process); or
   (g) examine, copy or take extracts from a document or information so produced or require a person to provide a copy of the document or information; or
   (h) require a person to answer questions; or
   (i) give directions.

(6) In the exercise of powers under this section an authorised person may be assisted by such persons as may be necessary or desirable in the circumstances.
(7) A person exercising a power under this section must not unnecessarily impede or obstruct the lawful use or enjoyment of the land by an owner of the land.

(8) Subject to the requirements of subsection (7), the owner or occupier of land must give an authorised person or a person assisting an authorised person such assistance as is reasonably required for the effective exercise of a power conferred by this section.

Maximum penalty: $10 000 or imprisonment for 6 months $2 500.

(9) A person who—

(a) without reasonable excuse, hinders or obstructs an authorised person, or a person assisting an authorised person, in the exercise of powers under this Act; or

(b) uses abusive, threatening or insulting language to an authorised person, or a person assisting an authorised person; or

(c) without reasonable excuse, fails to obey a requirement or direction of an authorised person under this Act; or

(d) without reasonable excuse, fails to answer, to the best of the person's knowledge, information and belief, a question put by an authorised person; or

(e) falsely represents, by words or conduct, that he or she is an authorised person, is guilty of an offence.

Maximum penalty: $10 000 or imprisonment for 6 months $2 500.

(10) It is not an excuse for a natural person to refuse to answer a question or to provide information under a preceding subsection on the ground that to do so might tend to incriminate the person or make the person liable to a penalty.

(11) However, if compliance with a requirement to answer a question or to provide information might tend to incriminate the person or make the person liable to a penalty, then—

(a) in the case of a person who is required to provide information, including by the production of a document—the fact of the provision of the information or document (as distinct from the information itself or the contents of a document); or

(b) in any other case—the answer given in compliance with the requirement, is not admissible in evidence against the person in proceedings for an offence or for the imposition of a penalty (other than proceedings in respect of the making of a false or misleading statement).

(12) An authorised person may require a person who the authorised officer reasonably suspects has committed, is committing or is about to commit, a contravention of this Act to state the person's full name and usual place of residence and to produce evidence of the person's identity.

(13) A person of whom a requirement is made under subsection (12) must comply with the requirement.

Maximum penalty: $5 000.
(10) However, a person, not being a corporation, is not obliged to answer a question or to produce, or provide a copy of, a document or information as required under this section that to do so might tend to incriminate the person or make the person liable to a penalty.

(11) An authorised person, or a person assisting an authorised person, who, in the course of exercising powers under this Act—

(a) addresses offensive language to another person; or

(b) without lawful authority, hinders or obstructs or uses or threatens to use force in relation to another person,

is guilty of an offence.

Maximum penalty: $2,500.

(12) An authorised person may only exercise a power under subsection (5)(a) in respect of premises on the authority of a warrant issued by a magistrate (including as a warden) or justice.

An inspector under the Mining Act will be taken to be an authorised person under this Act.

(15) However, a warrant is not required to exercise a power under subsection (5)(a) in relation to non-residential premises if—

(a) the premises are used by a tenement holder for, or in connection with, operations under this Act; or

(b) the authorised person has reason to believe that, in the circumstances, urgent action is required.

(16) A warrant may not be issued unless the magistrate, warden or justice (as the case may be) is satisfied that the warrant is reasonably required in the circumstances.

(17) An application for the issue of a warrant—

(a) may be made personally, electronically or by telephone; and

(b) must be made in accordance with any procedures prescribed by the regulations.

78—Delegations

(1) The Director may delegate a power or function under this Act—

(a) to a specified person or body; or

(b) to a person occupying a specified office or position.

(2) A delegation—

(a) may be made subject to conditions and limitations specified in the instrument of delegation; and

(b) if the instrument of delegation so provides, may be further delegated by the delegate; and

(c) is revocable at will and does not prevent the Director from acting personally in a matter.
79—Exemptions
(1) If the Minister is satisfied that it is justifiable to do so, the Minister may—
   (a) exempt the holder of a tenement from the obligation to comply with a term or
       condition of the tenement; or
   (b) exempt the holder of a tenement from the obligation to comply with a provision of
       this Act (except Part 7). If the Minister is satisfied that it is justifiable to do so, the
       Minister may exempt a person from the obligation to comply with a provision of this
       Act (except Part 7).
(2) An exemption may be granted on conditions determined by the Minister.
(3) An exemption will remain in force for a period specified by the Minister or, if no
    period is specified, until revoked by the Minister.
(4) The Minister may, at any time, vary, revoke or impose a condition of an exemption.
(5) A person who contravenes or fails to comply with a condition imposed under this
    section is guilty of an offence.
    Maximum penalty: $50 000.
(6) An exemption may not be granted under this section so as to discriminate against the
    holders of native title in land.

80—Passing of property
(1) The property in precious stones is vested in the Crown.
(2) However, subject to this Act, the Mining Act, and other laws, the property in precious
    stones will pass to the person by whom the precious stones are lawfully mined on
    recovery of the precious stones.

81—Acts of officers, employees and agents
For the purposes of this Act, an act or default of an officer, employee or agent of a
person who is the holder of a permit or tenement under this Act, or who is otherwise
engaged in mining operations, will be taken to be an act or default of the person unless
it is proved that the officer, employee or agent acted outside the scope of his or her
actual, usual and ostensible authority.

82—Offences
(1) A person who—
   (a) mines for precious stones; or
   (b) sells, uses or disposes of precious stones recovered in the course of mining
       operations,
without being duly authorised by or under this Act or the Mining Act is guilty of an
offence.
    Maximum penalty: $10 000 or imprisonment for 2 years, $150 000 or imprisonment for
    2 years
(2) A person who is on land comprised in a tenement for the purpose of mining in
contravention of subsection (1) is guilty of an offence and liable to the same penalty as
prescribed by that subsection.
Part 9—Miscellaneous

(3) A person must not, without lawful excuse, obstruct or hinder the holder of a permit or tenement under this Act in the reasonable exercise of a right conferred by this Act.

Maximum penalty: $425010 000.

(4) A person who—

(a) by a false statement or information, obtains or attempts to obtain a permit or tenement under this Act; or

(b) forges or fraudulently alters or uses a permit or tenement under this Act, is guilty of an offence.

Maximum penalty: $250010 000.

(5) A person who, in furnishing information for the purposes of this Act, makes a statement that is false or misleading in a material particular is guilty of an offence.

Maximum penalty: $250010 000.

(6) A person who contravenes or fails to comply with a provision of this Act (other than provision to which an administrative penalty applies) is guilty of an offence and, if no penalty is specifically provided, is liable to a fine not exceeding $250010 000.

83—Proceedings for offences

(1) Offences constituted by this Act lie within the jurisdiction of the Warden's Court.

(2) A prosecution for an offence against this Act that is commenced in the Warden's Court will be heard and determined summarily.

(3) The Warden's Court will, for the purposes of proceedings for an offence against this Act, have the powers and authorities of a court of summary jurisdiction, and such other powers and authorities as may be conferred by regulation.

(4) A prosecution for an offence against this Act may be commenced at any time within two years after the date of the alleged commission of the offence or, with the authorisation of the Attorney-General, at a later time within three years after the date of the alleged commission of the offence.

(5) An apparently genuine document purporting to be signed by the Attorney-General and to authorise the commencement of proceedings for an offence against this Act will be accepted in any legal proceedings, in the absence of proof to the contrary, as proof of the authorisation.

(6) The conferral of jurisdiction on the Warden's Court in respect of offences does not limit the jurisdiction of any other court.

84—Prohibition orders

(1) The Director may apply to the Warden's Court for an order prohibiting a person from entering or remaining on a precious stones field.

(2) The Warden's Court may make an order against a person under this section if satisfied that the order is necessary to restore, or to safeguard, good order on a precious stones field.

(3) An order may be made in the absence of the person if the Warden's Court is satisfied that a copy of the application was served on the person and the person was given reasonable notice of the hearing of the matter.
(4) An order under this section must be served on the person personally and is not binding until it has been so served.

(5) A person bound by an order who enters, or remains on, a precious stones field in contravention of the order is guilty of an offence.

Maximum penalty: $150,000 or imprisonment for 2 years, $5,000 or imprisonment for 1 year.

(6) The Warden's Court may revoke an order under this section on application—

(a) by the Director; or

(b) by the person bound by the order.

85—Power of **Mining Registrar** **Opal Mining Registrar** to require pegs to be removed

If the **Mining Registrar** **Opal Mining Registrar** is satisfied on reasonable grounds that an area has been pegged out in contravention of this Act or otherwise than in accordance with an authority conferred by this Act, the **Mining Registrar** **Opal Mining Registrar** may cause the pegs to be removed.

86—Compliance orders

(1) If a person carries out mining operations without the authority required by this Act, the ERD Court may, on application by the Director or the owner of the land on which the operations are carried out, make an order (a compliance order) requiring the person (the respondent)—

(a) to stop the operations; and

(b) if the operations have resulted in damage to land—to take specified action to restore the land to its former condition.

(2) Before the Court makes a compliance order it must allow the respondent a reasonable opportunity to be heard on the application.

(3) A person against whom a compliance order is made must comply with the order.

Maximum penalty: $100,000.

87—Evidentiary provision

(1) In proceedings for an offence against this Act, an allegation in a complaint that land referred to in the complaint—

(a) comprises, or is within, a precious stones field; or

(b) is reserved from the operation of this Act; or

(c) is a designated area; or

(d) is an exclusion zone; or

(e) is exempt**restricted** land; or

(f) is prescribed exempt**restricted** land,

will be taken to be proved in the absence of proof to the contrary.
In proceedings, a certificate purporting to be given by the Mining Registrar certifying as to a matter relating to—

(a) as to a matter relating to a permit or tenement under this Act; or

(b) as to a matter relating to a notice or requirement under this Act; or

(c) that a person named in the certificate was or was not at a specified time the holder of a tenement; or

(d) that a specified provision was a term or condition of a specified tenement at a specified time; or

(e) that a specified determination, decision, order or requirement was made or given on a specified day; or

(f) that at a specified time the Minister, the Director of Mines or the Opal Mining Registrar gave notice of any specified matter under or in connection with the operation of this Act; or

(g) that at a specified time the Minister, the Director of Mines or the Opal Mining Registrar had not received any notice, instrument or other document, or had not received any information of a specified kind; or

(h) that at a specified time a specified person was an authorised officer under this Act; or

(i) that a particular delegation was in force under this Act at a specified time; (a) a permit or tenement under this Act; or

(b) a notice or requirement under this Act,

constitutes proof, in the absence of proof to the contrary, of the matters so certified.

In proceedings a document purporting to be a precious stones prospecting permit or a certificate of registration of a precious stones tenement will be accepted as such in the absence of proof to the contrary.

**Avoidance of double compensation**

In determining compensation to be paid to a body or person under this Act, compensation that has been paid to the body or person, or to which the body or person is entitled under other laws, must be taken into account.

**Disposal of waste**

In this section—

*relevant area* means—

(a) an area pegged out for a precious stones claim; or

(b) an area within a registered tenement (and, for the purposes of this paragraph, if a registered precious stones claim is within a registered opal development lease, the relevant area for the claim will be taken to include the area of the lease while the lease is in force).
(2) A person must not deposit, or allow to be deposited, soil, overburden or other material from a relevant area, or extend an open cut, beyond the boundaries of a relevant area, without the written authority of an authorised person.

Maximum penalty: $2,500,000.

(3) If the relevant area is outside a precious stones field, an authorised person must not give an authority under subsection (2) without the written permission of the owner of the land.

(4) An authority may be given subject to conditions specified by the authorised person.

(5) A person must not contravene or fail to comply with a condition.

Maximum penalty: $2,500,000.

(6) If a person acts in contravention of subsection (2), or of a condition under subsection (4), an authorised person may, by notice in writing, require the person to take specified action (immediately or within a period specified in the notice) to remedy the situation.

(7) A person to whom a notice is addressed under subsection (6) must not, without reasonable excuse, fail to comply with the notice.

(8) If the requirements of a notice are not complied with, an authorised person may cause the requirements to be carried out.

(9) The Director may recover the costs and expenses reasonably incurred in taking action under subsection (8) from the person who failed to comply with the notice, as a debt.

90—Persons under 18

The obligations imposed by or under this Act are binding on a minor of or above the age of 16 who holds a permit or tenement as if the person were an adult.

91—Safety net

(1) The Minister may enter into an agreement with the holder of a tenement—

(a) that, if the tenement should at some future time be found to be wholly or partially invalid due to circumstances beyond the control of the holder of the tenement, the holder of the tenement will have a preferential right to the grant of a new tenement; and

(b) dealing with the terms and conditions on which the new tenement will be provided.

(2) The Minister must consider any proposal by the holder of a tenement for an agreement under this section.

92—Land subject to more than one tenement

(1) Land must not be simultaneously subject to more than one tenement under this Act.

(2) However, subsection (1) does not apply to a precious stones claim within an area of an opal development lease where the holder of the lease is the holder of the claim.
93—Interaction with Mining Act

(1) Except where express provision is otherwise made, and subject to this section, this Act does not regulate mining operations carried out under the authority of a mining mineral tenement issued under the Mining Act.

(2) Subject to this Act and the Mining Act, land may be simultaneously subject to a registered precious stones tenement under this Act and a mining mineral tenement under the Mining Act—
   (a) if the holder of the tenement that is first registered (whether under this Act or the Mining Act) gives written approval to the registration of the second tenement; or
   (b) if the Warden's Court approves the registration of the second tenement (whether under this Act or the Mining Act).

(3) In a situation referred to in subsection (2), the holders of the respective tenements must, subject to maintaining reasonable efficiencies in the conduct of their own operations, and any order of the Warden's Court, take all steps that are reasonably practicable to minimise interference with each others' operations.
   Maximum penalty: $520,000.

(4) The holders of the respective tenements may agree to the modification of their rights under this Act or the Mining Act (or both) and, subject to an order of the Warden's Court (made on the application of any interested person), that agreement will have effect according to its terms.

(5) The Warden's Court may, on the application of the holder of a tenement (whether under this Act or the Mining Act), make an order to regulate, restrict or prohibit mining operations where two or more tenements include the same land.

(6) The holder of a tenement (whether under this Act or the Mining Act) must not contravene or fail to comply with an order of the Warden's Court under this section.
   Maximum penalty: $510,000.

94—Interaction with other Acts

(1) This Act does not derogate from the following Acts (as they relate to the conduct of mining operations):
   (a) the Local Government Act 1934;
   (b) the Pastoral Land Management and Conservation Act 1989.

(2) A person must, in carrying out mining operations under this Act, give proper consideration to the protection of any Aboriginal sites or objects within the meaning of the Aboriginal Heritage Act 1988 that may be affected by those operations.

95—Public roads and access routes

(1) The rights conferred by this Act may only be exercised with respect to a public road, street or highway, or a public access route under section 45 of the Pastoral Land Management and Conservation Act 1989, with the written approval of the authority that has control of that road, street, highway or route.

(2) However, an approval is not required to peg out an area for a precious stones tenement.
96—Approval of associations

(1) The Director may, on the application of an association that represents the interests of mining operators, grant an approval to the association to act as an approved association for the purposes of this Act.

(2) The Director may, at any time, by written notice to the association, revoke the approval of an association under this section.

(3) If the Director—
   (a) refuses to grant an approval to an association under subsection (1); or
   (b) revokes the approval of an association under subsection (2),
the association may apply to the Minister for a review of that decision.

(4) The Minister may determine the application as the Minister thinks fit and, if the Minister finds in favour of the applicant, grant or preserve the approval (as appropriate).

98—Powers of attorney

A person cannot do the following for or on behalf of another (other than a corporation) under a power of attorney:

   (a) apply for a precious stones prospecting permit; or
   (b) prospect, or peg out an area for a tenement; or
   (c) give notice of a pegging; or
   (d) apply for the registration or renewal of a tenement.

98A—Administrative penalties

(1) This section applies to any provision of this Act (or the regulations) at the foot of which the words "Administrative penalty" appear.

(2) If a person who is a holder or former holder of a tenement is alleged to have contravened a provision to which this section applies, the Director may, by notice in writing to the person, impose an administrative penalty on the person (and the Director may act under this subsection without prior consultation with the person and without the need to give a warning or any prior notice in relation to the matter).

(3) The amount of an administrative penalty is an amount (not exceeding $15,000) prescribed by regulation in relation to the relevant provision.

(4) An administrative penalty may be recovered as a debt due to the Crown.

(5) If an administrative penalty has been imposed in relation to a particular act or default, the same act or default cannot be made the subject of proceedings for an offence against this Act and if proceedings for an offence against this Act have been brought in relation to a particular act or default, an administrative penalty cannot be imposed for the same act or default.

98B—Penalties payable into Mining Rehabilitation Fund

The following are payable into the Mining Rehabilitation Fund established under the Mining Act 1971:
Part 9—Miscellaneous

1.1.2012

a. penalties payable in respect of offences against this Act; 35

b. administrative penalties paid under this Act.

99—Regulations

(1) The Governor may make regulations that are contemplated by, or are necessary or expedient for the purposes of, this Act.

(2) Without limiting the generality of subsection (1), the regulations may—

(a) regulate and control the issue of permits, certificates of registration and other instruments under this Act; and

(b) prescribe categories of persons who are disqualified from holding a permit or tenement under this Act; and

(c) provide for the maintenance and inspection of registers; and

(d) regulate, restrict or prohibit specified kinds of operations on land, or land within a specified area, or land of a specified class; and

(e) provide that an activity must not be carried out under this Act, or a permit, tenement or other instrument issued under this Act, unless or until a prescribed authority has been consulted and, if the regulations so provide, approved the activity or concurred in the issuing of the permit, tenement or instrument; and

(f) require that mining operations be worked with proper diligence, in conformity with the requirements of the regulations, as to the number of personnel, and the nature of machinery, to be employed in carrying out operations and such other matters as may be required in the regulations; and

(g) provide for the amalgamation of two or more tenements, or conditions affecting two or more tenements, so that the tenements may be worked as if they constituted a single tenement; and

(h) provide for the protection, management, rehabilitation and restoration of land; and

(i) restrict or prohibit operations that may cause nuisance or inconvenience to persons in the vicinity of mining operations; and

(j) restrict or prohibit operations that may result in pollution or harm to any watercourse, water supply or natural amenity; and

(k) prescribe the action that must be taken if a permit, pegging or tenement lapses or is cancelled under this Act, or otherwise ceases to have effect; and

(l) provide for the form and service of notices and other documents under this Act; and

(m) prescribe fees and charges to be paid in respect of a matter under this Act and provide for the recovery of those fees; and

(n) authorise the release or publication of information of a specified kind obtained in the administration of this Act; and

(o) prescribed fines (not exceeding $210.00) for contravention of a regulation.
(3) The regulations may—

(a) refer to or incorporate, wholly or partially and with or without modification, a code, standard or other document prepared or published by a prescribed body, either as in force at the time the regulations are made or as in force from time to time; and

(b) be of general or limited application; and

(c) make different provision according to the persons, things or circumstances to which they are expressed to apply; and

(d) provide that a specified provision of this Act does not apply, or applies with prescribed variations, in any circumstance or situation (or circumstance or situation of a prescribed class) specified by the regulations, subject to any condition to which the regulations are expressed to be subject; and

(e) provide that a matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister, the Director, the Opal Mining Registrar or a prescribed authority.

(4) The Governor may, by regulation, make provisions of a saving or transitional nature consequent on the amendment of this Act by another Act.

(5) A provision made by a regulation under subsection (4) may be in addition to any provision of a saving or transitional nature made by the Act that makes the amendment.

(6) A provision made by a regulation under subsection (4) may, if the regulations so provide, take effect from the commencement of the amendment or from a later day.

(7) To the extent to which a provision takes effect under subsection (6) from a day earlier than the day of the publication of the regulation in the Gazette, the provision does not operate to the disadvantage of a person by—

(a) decreasing the person's rights; or

(b) imposing liabilities on the person.
Schedule 1—Transitional provisions

1—Precious stones fields; reserved land

(1) A precious stones field under the Mining Act immediately before the commencement of this clause will be taken to have been declared as a precious stones field under this Act.

(2) Land reserved from the operation of the Mining Act immediately before the commencement of this clause will be taken to have been reserved from the operation of this Act.

2—Existing permits, tenements etc—Precious stones

(1) A precious stones prospecting permit in force under the Mining Act immediately before the commencement of this clause will be taken to be a precious stones prospecting permit issued under this Act (and, subject to this Act, will continue in force for the balance of its term).

(2) A precious stones claim registered under the Mining Act immediately before the commencement of this clause will be taken to be a precious stones claim registered under this Act (and, subject to this Act, the registration will continue for the balance of the term of the claim).

(3) A valid pegging for precious stones under the Mining Act in existence immediately before the commencement of this clause will continue to have effect under this Act.

(4) An application made under the Mining Act that had not been determined before the commencement of this clause may, if so determined by the Mining Registrar, be dealt with under this Act.

3—Exploration licences

(1) An exploration licence in force under the Mining Act immediately before the commencement of this clause will not be taken to include an authority to carry out exploratory operations for precious stones.

(2) However, the Minister may, on the application of the holder of an exploration licence made after the commencement of this clause and subject to the Mining Act (as amended by this Act), if the Minister in his or her absolute discretion thinks fit, vary the terms of an exploration licence to authorise exploratory operations for precious stones under the licence.

4—Appointments

A mining registrar holding office immediately before the commencement of this clause will be taken to have been appointed to that office by the Minister under section 13 of the Mining Act (as amended by this Act), and will continue to hold that office until the appointment is revoked by the Minister.
Legislative history

Notes

- This version is comprised of the following:
  Part 1 24.11.2003 (Reprint No 6)
  Part 2 1.7.2012
  Part 3 1.7.2012
  Part 4 12.6.2003 (Reprint No 5)
  Part 5 12.6.2003 (Reprint No 5)
  Part 6 12.6.2003 (Reprint No 5)
  Part 7 4.9.2006
  Part 8 1.7.2013
  Part 9 1.1.2012
  Schedules 12.6.2003 (Reprint No 5)

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.

- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation amended by principal Act

The Opal Mining Act 1995 amended the following:

Mining Act 1971

Principal Act and amendments

New entries appear in bold.

<table>
<thead>
<tr>
<th>Year</th>
<th>No</th>
<th>Title</th>
<th>Assent</th>
<th>Commencement</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>1</td>
<td>Statutes Amendment (Mining Administration) Act 1999</td>
<td>25.2.1999</td>
<td>Pt 3 (s 10)—1.4.1999 (Gazette 25.3.1999 p1462)</td>
</tr>
</tbody>
</table>
### Opal Mining Act 1995—1.7.2013

#### Legislative history

<table>
<thead>
<tr>
<th>Year</th>
<th>Provisions amended</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>River Murray Act 2003</td>
</tr>
<tr>
<td>2009</td>
<td>Anangu Pitjantjatjara Yankunytjatjara Land Rights (Mintabie) Amendment Act 2009</td>
</tr>
<tr>
<td>2009</td>
<td>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</td>
</tr>
<tr>
<td>2011</td>
<td>Statutes Amendment (Directors’ Liability) Act 2011</td>
</tr>
<tr>
<td>2012</td>
<td>Statutes Amendment (Courts Efficiency Reforms) Act 2012</td>
</tr>
</tbody>
</table>

#### Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

<table>
<thead>
<tr>
<th>Provision</th>
<th>How varied</th>
<th>Commencement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pt 1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 3(1)</td>
<td>appropriate court amended by 69/2001 s 23</td>
<td>3.2.2002</td>
</tr>
<tr>
<td></td>
<td>River Murray Protection Area inserted by 35/2003 Sch cl 16(a)</td>
<td>24.11.2003</td>
</tr>
<tr>
<td>s 5</td>
<td>inserted by 35/2003 Sch cl 16(b)</td>
<td>24.11.2003</td>
</tr>
<tr>
<td>Pt 2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 10A</td>
<td>inserted by 83/2009 Sch 1 cl 1</td>
<td>1.7.2012</td>
</tr>
<tr>
<td>Pt 3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ss 18A and 18B</td>
<td>inserted by 83/2009 Sch 1 cl 2</td>
<td>1.7.2012</td>
</tr>
<tr>
<td>s 19A</td>
<td>inserted by 83/2009 Sch 1 cl 3</td>
<td>1.7.2012</td>
</tr>
<tr>
<td>s 26</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 26(5)</td>
<td>amended by 17/2006 s 177</td>
<td>4.9.2006</td>
</tr>
<tr>
<td>Pt 7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 53</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 53(2)</td>
<td>amended by 23/1998 s 12</td>
<td>21.5.1998</td>
</tr>
<tr>
<td>s 56</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 56(1)</td>
<td>amended by 17/2006 s 178</td>
<td>4.9.2006</td>
</tr>
<tr>
<td>s 57</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 57(2)</td>
<td>amended by 17/2006 s 179</td>
<td>4.9.2006</td>
</tr>
</tbody>
</table>

2 This version is not published under the *Legislation Revision and Publication Act 2002* [1.7.2013]
Transitional etc provisions associated with Act or amendments

Statutes Amendment (Mining Administration) Act 1999

11—Transitional provisions

(2) An agreement registered under Part 7 of the Opal Mining Act 1995 before the commencement of this Act will be taken to be an agreement that is to be kept confidential under section 70A of that Act (as enacted by this Act) unless or until all parties to the agreement notify the Mining Registrar otherwise.

Statutes Amendment (Courts and Judicial Administration) Act 2001

25—Transitional provisions

(1) The amendments made to the principal Act by section 23—

(a) do not apply in respect of proceedings commenced before the commencement of that section (and those proceedings may continue as if this Act had not been enacted); and

(b) apply in respect of proceedings commenced after the commencement of that section (including proceedings in respect of a claim arising before the commencement of that section).

(2) The amendments made to the principal Act by section 24 apply in respect of proceedings commenced after the commencement of that section (including proceedings in respect of a claim arising before the commencement of that section).
Opal Mining Act 1995—1.7.2013
Legislative history

Anangu Pitjantjatjara Yankunytjatjara Land Rights (Mintabie) Amendment Act 2009, Sch 1

14—Transitional provision—Opal Mining Act 1995

A precious stones prospecting permit in force immediately before the commencement of clause 1 of this Schedule will be taken to be endorsed by a mining registrar as authorising a person to prospect for precious stones on the Mintabie precious stones field.

Statutes Amendment (Courts Efficiency Reforms) Act 2012

32—Transitional provision

The amendment made to the Opal Mining Act 1995 by this Part—

(a) does not apply in respect of proceedings commenced before the commencement of this Part (and those proceedings may continue as if this Act had not been enacted); and

(b) applies in respect of proceedings commenced on or after the commencement of this Part (including proceedings in respect of a claim arising before the commencement of this Part).


17—Interpretation

In this Part—

principal Act means the Opal Mining Act 1995.

18—Opal Mining Register

The distinct part of the Mining Register kept under section 76 of the principal Act by the Mining Registrar under the Mining Act, will on the commencement of this Act, be taken to form part of the Opal Mining Register under section 76 as amended by this Act.

19—Caveats

If a caveat lodged under section 26 of the principal Act is in force immediately before the repeal of that section by this Act—

(a) the provisions of that section will continue to apply in relation to the caveat as if the repeal had not been effected; and

(b) section 26 of the principal Act, as enacted by this Act, will not apply in relation to the caveat.

20—Safety net

The repeal of section 91 of the principal Act does not affect the operation or validity of any agreement in force under that section immediately before the repeal.

21—Jurisdiction relating to tenements and monetary claims

The amendment of section 72(2a) by section 157—
(a) does not apply in respect of proceedings commenced before the commencement of that section (and those proceedings may continue as if this Act had not been enacted); and

(b) apply in respect of proceedings commenced after the commencement of that section (including proceedings in respect of a claim arising before the commencement of that section).

**Historical versions**

- Reprint No 1—21.5.1998
- Reprint No 2—1.4.1999
- Reprint No 3—8.6.2000
- Reprint No 4—3.2.2002
- Reprint No 5—12.6.2003
- Reprint No 6—24.11.2003
- 4.9.2006
- 1.2.2010
- 1.1.2012
- 1.7.2012
South Australia

Mines and Works Inspection Act 1920

An Act to make better provision for the regulation and inspection of mines and works, and for other purposes.

Contents

1 Short title
4 Interpretation
5 Application of Act
6 Appointment of inspectors
7 Inspection for official purposes
8 Disqualification for office of inspector
9 Confidentiality
10 Powers of inspector on inspection
10A Appeals
10B Establishment of appeal board
10C Quorum etc
12 Miners' inspectors
13 Obstructing or refusing to assist inspector
14 Agreement not to preclude or exempt
15 Special inquiry may be directed
16 Notices, how given
17 Employment underground of certain persons prohibited
18 Regulations
19 Proceedings in respect of offences
20 Imprisonment for wilful neglect endangering life or limb
21 Application of fines
22 General provisions as to proceedings for offences
23 Saving of proceedings under other Acts or at common law
24A Default penalties
27 Protection of officers

Schedule—Subject matter of regulations

1 Inspectors
2 Inspections
3 Agents
4 Mine managers
5 Responsibilities and duties of owners and persons employed
6 Plans
7 Discipline, prevention of accidents etc
8 Accidents
9 Returns
10 Forms

[2.1.2013] This version is not published under the Legislation Revision and Publication Act 2002
The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the Mines and Works Inspection Act 1920.

4—Interpretation

(1) In this Act—

agent means the agent or representative of the owner of the mine;

default penalty means a default penalty provided for by section 24A of this Act;

inspector means an inspector of mines appointed under this Act, and includes the chief inspector of mines;

machinery means any machinery, plant, equipment, implement, or device used or designed or adapted for use in the course of any mining operation;

manager means the person for the time being having the immediate charge or direction of the mining operations on any mine;

mine means any place in, on, or under which any mining operation has been or is being carried on, and includes works;

mineral means—

(a) any—

(i) metal; or

(ii) metalliferous ore; or

(iii) coal; or

(iv) guano; or

(v) precious or other stone; or
(vi) salt; or
(vii) gypsum; or
(viii) gravel; or
(ix) shale; or
(x) shell; or
(xi) sand; or
(xii) clay; or
(xiii) soil; or
(xiv) earthy substance,

occurring, whether naturally or otherwise, in, on or under the ground or in the sea or any other waters; or

(b) any substance declared by proclamation under this section to be a mineral;

mining or mining operation means in respect of operations to which this Act applies,

(a) any operation carried on in the course of searching for or recovering any mineral; or
(b) any operation carried on at any works; or
(c) any operation declared by proclamation under this section to be a mining operation,

but does not include any operation declared by proclamation under this section not to be a mining operation;

owner means any person who is the immediate proprietor or lessee or occupier of a mine, or any part thereof, and includes a contractor or tributor working therein, but does not include a person who merely receives a royalty, rent, or fine from a mine, or is merely the proprietor of a mine which is subject to any lease, grant, or licence for the working thereof, or is merely the owner of the soil and not interested in the products of the mine;

the appeal board means the Mines and Works Appeal Board established under section 10B of this Act;

works means—

(a) any—

(i) battery; or
(ii) crushing plant; or
(iii) ore concentrating works; or
(iv) cyanide or chlorination works; or
(v) leaching plant; or
(vi) smelting or metal refining works; or
(vii) pellet plant; or
(viii) salt works; or
(ix) pre-mix concrete works; or
(x) road-base plant,
that is situated on or adjacent to the place at which a mining operation referred to in paragraph (a) of the definition of mining operation in this section is carried on; or
(b) any works declared by regulation to be works,
but does not include any works declared by regulation not to be works.

(2) The Governor may by proclamation—
(a) declare any substance to be a mineral; or
(b) declare any operation or class of operations to be or not to be a mining operation or operations;
and may by proclamation from time to time revoke, alter or amend such proclamation.

5—Application of Act

This Act shall apply to every mine under whatsoever tenure held and wheresoever situated within the State.

This Act applies in respect of operations undertaken—
(a) under the Indenture under the Roxby Downs (Indenture Ratification) Act 1982; and
(b) under the Indenture under the Whyalla Steel Works Act 1958; and
(c) by a person to whom a sale or lease of any seam of coal vested in the Crown at or near Leigh Creek has been made or granted by or on behalf of the Crown (including any successors at law of such a person) as authorised under section 48(1) of the Electricity Corporations Act 1994; and
(d) by a person authorised under section 48(2) or (3) of the Electricity Corporations Act 1994 to mine any seam of coal vested in the Crown or SAGC, at or near Leigh Creek.

6—Appointment of inspectors

The Governor may appoint a chief inspector of mines and such other inspectors of mines as he deems necessary for the purposes of carrying out the provisions of this Act.

7—Inspection for official purposes

(1) Any Public Service employee authorised by the Minister may, with such assistants as the Public Service employee deems necessary, at any reasonable time, enter and inspect any mine for official purposes.

(3) For the purposes of every such inspection every such person shall have all the powers and authorities conferred on inspectors by this Act.
8—Disqualification for office of inspector

(1) Any person shall be disqualified from being appointed or acting as an inspector who, without the authority of the Minister—

(a) practises or acts, either alone or in partnership with any person, as a land agent, mining engineer, manager, viewer, agent, or valuer of mines, or as an arbitrator in any difference or dispute arising between owners, or agents, or managers of mines; or

(b) is otherwise employed in or about any mine within the State; or

(c) knowingly holds, directly or indirectly, any interest in any mine within the State.

(2) Any person who acts as an inspector whilst disqualified as aforesaid shall be liable to a penalty not exceeding one thousand dollars.

9—Confidentiality

A person must not divulge any information relating to trade processes or financial information obtained (whether by that person or some other person) in the administration of this Act except—

(a) as authorised by this Act or a regulation under this Act; or

(b) with the consent of the person from whom the information was obtained or to whom the information relates; or

(c) to the Minister, or an officer or employee of the Crown in connection with the administration or enforcement of this Act or a prescribed Act; or

(d) for the purpose of any legal proceedings arising out of the administration or enforcement of this Act or a prescribed Act.

Maximum penalty: $10 000.

10—Powers of inspector on inspection

(1) An inspector shall have power to do any or all of the following things, namely:

(a) he may, without previous notice, enter, inspect and examine any mine, and every part thereof, at all times by day or night, but so as not unnecessarily to impede or obstruct the working of the mine; and

(b) he may make examination or inquiry to ascertain whether in respect of any mine the provisions of this Act are being complied with; and

(c) he may examine into and make inquiry respecting—

(i) the state and condition of any mine, or any part thereof; and

(ii) the state and condition of the machinery in or about any mine; and

(iii) the ventilation and the air of the mine; and

(iv) any accident in or about any mine causing loss of life or personal injury; and

(v) all matters and things connected with or relating to the safety, health, or well-being of the persons employed in or about the mine or any mine contiguous the reto, or of the general public; and
Mines and Works Inspection Act 1920—1.1.2013

(vi) any mining operations which are creating or are likely to create a nuisance, or are damaging or likely to damage property; and

(vii) the effect of any mine, mining operation or practice, or operation or practice incidental or ancillary thereto, upon the amenity of any area or place; and

(d) he may order to be discontinued in or about any mine—

(i) the use of any machinery which he considers unsafe or defective until such machinery is made safe or the defect remedied; and

(ii) any practice which he considers liable to affect the safety or health of the persons employed in or about any mine, or of the general public; and

(iii) any mining operations or practices which are likely to create a nuisance or damage property; and

(e) he may order the cessation of any mining operation or practice, or any operation or practice incidental or ancillary thereto, that in his opinion, has impaired unduly or is likely to impair unduly the amenity of any area or place and he may give such other directions as he considers necessary or desirable to prevent or reduce undue impairment of the amenity of any area or place; and

(f) he may order the immediate cessation of work in and the departure of all persons from any mine, or any part thereof, which he considers unsafe, or he may allow persons to continue to work in such mine or part, only on such precautions being taken or such things being done as he considers necessary; and

(g) he may inspect the storage and use of explosives in or about any mine; and

(h) he may give such directions as to any practice, or as to the doing of any matter or thing, not provided for by regulations made under this Act, as he considers necessary in the interests of the health and safety of any person or for the purpose of preventing nuisances or damage to property; and

(i) he may exercise such other powers as are necessary for carrying this Act into effect.

(2) An order or direction by an inspector under this section shall be sufficiently given—

(a) to any owner, or agent, or manager of a mine, if given orally or by notice in writing; or

(b) to any other person, if given orally or by notice in writing, or if a written notice thereof is posted up in some conspicuous position on the mine, or part thereof, to which the order or direction relates.

(3) If—

(a) any owner, agent, or manager, or any other person, fails to comply with or acts in contravention of any order or direction given by an inspector under this Act; or
(b) any owner or agent, agent, or manager of a mine permits or suffers any
person employed in such mine to act in contravention of any order or
direction given by an inspector under this Act,
he shall be liable to a penalty not exceeding, for a first offence, two thousand dollars,
and for any subsequent offence, four thousand dollars and liable to a default penalty
not exceeding two hundred dollars.

(3a) It shall be a defence to any proceeding for an offence under this section (except an
offence arising from contravention of, or failure to comply with, an order or direction
that is appealable under section 10A of this Act) if it is proved to the satisfaction of
the court that such order or direction was not justified by the purpose for which such
order or direction was given.

(4) Where an order or direction is given by an inspector under this section to the owner of
a mine to carry out any work and the owner is found guilty of an offence against
subsection (3) of this section for failing to comply with the order or direction, the
inspector, with the approval of the Minister, may, with such assistants as the inspector
considers necessary, enter and cause that work to be carried out.

(5) The cost of carrying out the requirements of an order or direction of an inspector
under subsection (4) of this section may be recovered from the owner of the mine in a
summary manner as a debt due to the Crown.

(6) A document purporting to be signed by the chief inspector of mines stating the cost
referred to in subsection (5) of this section shall, in the absence of proof to the
contrary, be accepted as proof of that cost in any proceedings for its recovery.

10A—Appeals

(1) A person who is required to comply with an order or direction under paragraph (e) of
subsection (1) of section 10 of this Act, may, by notice in writing addressed to the
secretary to the appeal board, appeal against the order or direction.

(2) The appeal board shall consider any appeal under subsection (1) of this section and
may affirm, vary or revoke the order or direction subject to appeal.

(3) The appeal board may inform itself in such manner as it thinks fit concerning the
subject matter of the appeal.

(4) An appellant to the appeal board who is aggrieved by a decision of the board may, by
notice in writing, appeal to the Minister.

(5) The Minister may, upon consideration of an appeal, affirm, vary or revoke the order or
direction subject to appeal.

10B—Establishment of appeal board

(1) There shall be a board entitled the Mines and Works Appeal Board.

(2) The appeal board shall consist of three members appointed by the Governor of
whom—

(a) one shall be a person who is in the opinion of the Governor qualified and
experienced in mining engineering; and

(b) one shall be a person who has had, in the opinion of the Governor, extensive
experience in the conduct of mining operations; and

[2.1.2013] This version is not published under the Legislation Revision and Publication Act 2002
Mines and Works Inspection Act 1920—1.1.2013

(c) one shall be a person who is, in the opinion of the Governor, qualified to assess the aesthetic effect of mining operations and practices upon the environment in which they are carried out.

(3) The Governor may appoint one of the members of the appeal board to be chairman of the appeal board.

(4) A person who is an employee of an administrative unit of the Public Service that is, under the Minister, responsible for the administration of this Act or who has a direct or indirect financial interest in the conduct of mining operations in this State may not be a member of the appeal board.

(5) The members of the appeal board shall hold office for such term, and upon such terms and conditions, as may be determined by the Governor.

(6) The Governor may make such appointments as are necessary to fill any vacancy occurring in the membership of the appeal board, and may appoint a person to be a deputy of a member if the member is unable to perform his duties as a member because of illness or any other cause, or if it is otherwise expedient so to do, and a person so appointed to be a deputy of the chairman shall be deemed to be the chairman while so appointed.

(7) Subject to subsection (4), a member of the appeal board may, but need not, be a Public Service employee.

(9) A suitable person shall be appointed by the Governor to be secretary to the appeal board.

10C—Quorum etc

(1) Two members of the appeal board shall constitute a quorum of the appeal board and no business shall be transacted unless a quorum is present.

(2) A decision concurred in by two members of the appeal board shall be a decision of the board.

12—Miners' inspectors

(1) The miners employed in any mine may appoint two of their number, or any two persons who are practical miners, to inspect the mine, and the persons so appointed shall, on giving notice to the ownermanager, be allowed to inspect every part of the mine and all its machinery.

(2) If at any time the workings, or any part of the workings, of any mine are considered unsafe by any of the miners working therein, the miners working therein may, in like manner, appoint two of their number, or any two persons who are practical miners, to inspect, such workings, and the persons so appointed shall, on giving notice to the ownermanager, be allowed to inspect such workings.

(3) The owner or agent must take steps to facilitate an inspection, and the owner or agent may, if the owner thinks fit, accompany the persons making the inspection. Every facility shall be afforded by the owner, agent, or manager for any such inspection, and the manager or one or more officers of the mine may, if the owner, agent, or manager thinks fit, accompany the persons making any such inspection.
(4) The persons so inspecting shall record and sign a true report of the result of every such inspection in the record book, and, if the report states the existence or apprehended existence of any danger, they shall forthwith cause a true copy of the report to be sent to the chief inspector, and shall notify the owner manager of such danger.

(5) The persons so appointed shall be designated miners’ inspectors, and shall, while making any inspection for the purposes of this section, be deemed to be workmen employed by the owner of the mine within the meaning of the Workmen’s Compensation Act 1971.

(6) The Minister may, at any time, terminate any appointment made under this section if it appear to him for any reason necessary or desirable so to do.

13—Obstructing or refusing to assist inspector

(1) A person must not wilfully obstruct, hinder, or interfere with, or use insulting language to, an inspector, or any person having the powers and authorities of an inspector, in the execution of his or her duty.

Maximum penalty: $1 000.

(2) An owner, or agent, or manager of a mine must not refuse or neglect to furnish an inspector, or any person having the powers and authorities of an inspector, with the means necessary for making any entry, inspection, examination, or inquiry under this Act in relation to that mine.

Maximum penalty: $1 000.

14—Agreement not to preclude or exempt

No person shall be precluded or exempted by any contract or agreement from doing such acts as may be necessary to comply with the provisions of this Act, or be liable under any contract or agreement to any penalty or forfeiture for doing such acts.

15—Special inquiry may be directed

The Minister may direct an inspector to make a special inquiry and report with respect to any accident in or about a mine causing loss of life or personal injury, and may cause such report to be made public at such time and in such manner as he thinks expedient.

16—Notices, how given

A notice or document required to be given to or served on a person under this Act may be given or served—

(a) by giving it to the person personally; or

(b) by posting it by registered post to the person’s last known residential, business or (in the case of a corporation) registered address; or

(c) by leaving it for the person at the person’s last known residential, business or (in the case of a corporation) registered address with someone apparently over the age of 16 years; or

(d) by transmitting it by fax or email to a fax number or email address provided by the person (in which case the notice will be taken to have been given or served at the time of transmission).
Mines and Works Inspection Act 1920—1.1.2013

All notices and documents required by this Act to be given to or served upon the owner, agent, or manager of any mine, or to or upon any person employed in any mine, may be given or served upon him personally, or may be given or served by post by a registered letter, addressed to his usual or last known address, or to the mine of which he is the owner, agent, or manager or in which he is employed, and the giving or service of such notice by post shall be deemed to have been effected at the time at which the letter would be delivered in the ordinary course of post.

17—Employment underground of certain persons prohibited

A person shall not, except with the written consent of the Minister, employ, or suffer or permit to be employed, underground in any mine, any person under the age of eighteen years.

Maximum penalty: $500.

18—Regulations

(1) The Governor may make regulations for the purpose of ensuring the safety and health of all persons who are employed in or about any mine and of the general public who may be affected by mining operations, and for the carrying on of all mining with due regard to the health and safety of the general public and for the prevention of nuisances and damage to property caused by mining operations and for preserving the amenity of any area or place from impairment by mining operations and practices, and operations and practices incidental or ancillary thereto, including, though without in any way limiting the general power of making regulations hereby conferred, regulations with respect to all or any of the matters mentioned in the Schedule.

(2) It may be provided by any such regulation that all or any of the regulations made under this Act shall apply to the whole State or only to any specified part thereof, or to all mines or only to any specified mine or specified class or classes of mines.

(2a) Regulations made under this Act may incorporate, adopt, apply or make prescriptions by reference to, with or without modification—

(a) any code of practice approved by the relevant Minister under Part 14 Division 2 of the Work Health and Safety Act 2012;

(b) any other document prepared or published by any body or authority as in force at the time that the regulations are made or as in force from time to time.

(3) The regulations may provide for the imposition of penalties not exceeding in each case one thousand dollars for a breach of any provision of a regulation and in addition the regulations may provide for the imposition of a default penalty for a breach of any provision of a regulation.

19—Proceedings in respect of offences

(1) No proceedings in respect of any offence against this Act shall be taken except by an inspector or by some person authorised by the Minister.

(2) All proceedings in respect of offences against this Act shall be commenced within six months from the time when the matter of the information or complaint came to the knowledge of the inspector or person taking proceedings but in no case later than twelve months after the commission of the offence.
(3) All costs incurred by or awarded against any inspector in connection with any such proceedings shall be payable out of moneys from time to time appropriated by Parliament, and the inspector shall not be personally responsible for the same.

20—Imprisonment for wilful neglect endangering life or limb

Where any owner, or agent, or manager of any mine, or any person employed in or about any mine, is guilty of any offence against this Act which, in the opinion of the court which tries the case, is one which was—

(a) reasonably calculated to endanger the safety of the persons employed in or about the mine, or to cause serious personal injury to any of such persons, or to cause a dangerous accident; and

(b) committed wilfully by the personal act, personal default, or personal negligence of the person accused,

the court, if of the opinion that a fine will not meet the circumstances of the case, may, in lieu of imposing a monetary penalty, impose a sentence of imprisonment for any period not exceeding six months.

21—Application of fines

(1) Where a fine is imposed under this Act for any offence against this Act which has occasioned loss of life or personal injury, the Minister may direct such fine to be paid to, or distributed in such manner as he thinks fit among, the persons injured and the relatives of any person whose death may have been occasioned by the offence, or among such of them as the Minister thinks fit: Provided that the Minister shall not make any such direction unless he is of opinion that such persons did not occasion, or contribute to occasion, the offence, or did not commit and were not parties to committing the offence.

(2) The fact of any such payment or distribution as aforesaid shall not in any way affect, or be receivable as evidence in, any legal proceeding relative to, or consequential on, the accident or offence.

(3) Save as aforesaid, all fines recovered under this Act shall be paid to the Treasurer for the public uses of the State.

22—General provisions as to proceedings for offences

In any proceedings in respect of any offence against this Act—

(a) the onus shall be on the defendant to prove—

(i) that any person alleged in the information to be an inspector, or a person authorised to take proceedings in respect of an offence against this Act, is not an inspector or such person; or

(ii) that any person alleged in the information to be an owner, or agent, or manager of any mine, is not an owner, or agent in relation to, or manager of the mine in question; or

(iii) that any person alleged in the information to be employed in any mine, is not employed in the mine in question;
(b) the authorisation by the Minister of any person to take proceedings, may be proved by the production of any document to that effect purporting to be signed by the Minister.

23—Saving of proceedings under other Acts or at common law

(1) Nothing in this Act shall prevent any person from being indicted for any act or omission constituting an offence against this Act, or from being liable for any such act or omission under any other Act, or otherwise, to any other or higher penalty or punishment than that provided by this Act: Provided that no person shall be punished twice for the same offence.

(2) If the court before which a person is charged with an offence under this Act is of opinion that proceedings ought to be taken against such person for such offence under some other Act, or otherwise, such court may adjourn the hearing of the case to enable such proceedings to be taken, and such proceedings may thereupon be taken.

24A—Default penalties

(1) Where in or at the foot of any provision of this Act there appears the expression default penalty, the expression indicates—

(a) that a person convicted of an offence against that provision in respect of a continuing act or omission is liable, in addition to the penalty otherwise applicable to that offence, to a penalty for each day during which the act or omission continued of not more than the amount stipulated as the amount of the default penalty, or if no amount is stipulated, of not more than one hundred dollars; and

(b) that if the act or omission continues after he is convicted, he shall be guilty of a further offence against that provision and liable, in addition to the penalty otherwise applicable to that further offence, to a penalty for each day during which the act or omission continued after that conviction of not more than the amount stipulated as the amount of the default penalty, or if no amount is stipulated, of not more than one hundred dollars.

(2) Where an offence against a provision of this Act consists of an omission to do something that is required or directed to be done, the omission shall, for the purposes of subsection (1) of this section, be deemed to continue for so long as the thing required or directed to be done remains undone after the expiration of the period for compliance with the requirement or direction.

27—Protection of officers

No action shall be brought against any inspector or other person for or on account of any matter or thing done or committed by him in the execution, or intended execution, of his duty or office under this Act, unless such action is commenced within six months after the cause of action arises.

Schedule—Subject matter of regulations

1—Inspectors

The powers and duties of inspectors.
2—Inspections
The inspection of mines and of machinery in or about mines.

3—Agents
The appointment by mine owners of agents, and the registration of such appointments with the Minister.

4—Mine managers
The appointment by mine owners and agents of mine managers and temporary mine managers, and the registration of such appointments with the Minister.

5—Responsibilities and duties of owners and persons employed
The responsibilities and duties of owners and agents, and of mine managers and of other persons employed in or about or in connection with mines.

6—Plans
Plans and sections of underground and surface workings of mines, including—
(a) the keeping of such plans and sections by the owner, or agent, or manager of the mine;
(b) the furnishing from time to time of copies of such plans and sections to the Minister, and the terms on which such copies will be accepted as satisfactory;
(c) the manner in which surveys of the underground or surface workings for the purposes of such plans and sections shall be effected, and the scale to which such plans and sections shall be drawn.

7—Discipline, prevention of accidents etc
The maintenance of order and discipline, and the prevention of accidents.

8—Accidents
Accidents in or about mines, including—
(a) the notification of accidents;
(b) the steps to be taken on the occurrence of an accident; the supply and maintenance of appliances for use in rescue work, and the formation and training of rescue brigades; the supply and maintenance of ambulance appliances and the training of men in ambulance work;
(c) the procedure at inquiries into accidents, and the evidence receivable at such inquiries as to any particular matter.

9—Returns
Returns from mines for statistical purposes.

10—Forms
The form of records, returns, notices, and other writings and documents to be used for the purposes of this Act.
11—Ventilation

The ventilation of mines, including—

(a) standards of purity, temperature, and humidity of the air; the quantity of air which shall be made to circulate in the mine or the airways; methods by which the air shall be tested as to its adequacy in quantity, purity, temperature, humidity, and efficiency of circulation;

(b) recording the state of ventilation in all parts of the mine; showing upon the plans the position of all airdoors and ventilating devices and appliances, and the direction of the air currents;

(c) the conditions under which disused portions of the mine may or shall be shut off from the ventilation system, and when and in what manner they shall be ventilated;

(d) the conditions under which the use of mechanical appliances to assist ventilation shall be compulsory;

(e) the use of compressed air;

(f) the conditions under which tailings from cyanide or other chemical or metallurgical processes may be used for the filling of stopes;

(g) the prevention of the escape of deleterious gases and fumes from any chemical or metallurgical process.

12—Connections for ventilation purposes

The connection of workings for ventilation purposes, including—

(a) the making of other excavations concurrently with shaft sinking;

(b) the connection of adjoining mines;

(c) the connection of workings in the same mine;

(d) any other matter relating to the ventilation of mines.

13—Health and sanitation

The protection of health in mines and the sanitary conditions in mines, including—

(a) the prevention and laying of dust; the prevention of the escape of poisonous or deleterious gases and fumes from any chemical or metallurgical process in use on mines; the use of water sprays, atomisers, and other damping appliances;

(b) the use of apparatus for collecting, filtering, and preventing the inhalation of dust;

(c) the prevention of nuisances, and the cleansing and keeping clean of the mine; the construction and position of all sanitary conveniences, and the condition in which they shall be kept;

(d) the provision and construction of change houses and their accommodation, baths, washing appliances, the destruction of old clothes, and drying of clothes; pure water supply;
14—Safety
The safety of all persons working in or about mines, including the provision of refuges and manholes.

15—Safe handling of material
The safe handling of materials.

16—Explosives
The storage and use of explosives and highly inflammable substances, including—

(a) the construction of magazines;
(b) storage and handling;
(c) lights and smoking;
(d) the removal and destruction of fumes by mechanical or artificial means;
(e) the persons who may charge or fire charges, and the methods and implements that may or may not be employed in doing so;
(f) charges that have missed fire, and holes which have been charged, or in which a charge has been previously fired or attempted to be fired;
(g) the time that must elapse before men return to a hole where a charge has been fired, or has missed fire;
(h) the notification of charges that have missed fire;
(i) the use of fuse.

17—Winding and testing of ropes and other appliances
The winding of persons and materials, including—

(a) the strength and efficiency of ropes, chains, brakes, and cages, and all winding appliances, gear, and machinery, and the tests, from time to time or otherwise, of such strength and efficiency;
(b) the maintenance of ropes, chains, brakes, and cages, and all winding appliances, gear, and machinery;
(c) the persons who may have charge of winding machinery and their periodical medical examination.

18—Shafts
The fencing, lining, dividing, and otherwise securing of shafts and other openings.

19—Ladders and travelling ways
Ladders and travelling ways.

20—Signals
Signals.
Mines and Works Inspection Act 1920—1.1.2013
Schedule—Subject matter of regulations

21—Use of electricity
The use of electricity and electrical machinery, and the rules and precautions to be observed.

22—Machinery
Machinery, including—
(a) the persons who may work or have charge of machinery;  
(b) the maintenance and safeguarding of machinery;  
(c) the fitting, cleaning, working, and testing of machinery, whether in accordance with any Act or otherwise.

23—Fees
The fees payable in respect of—
(a) witnesses’ expenses and the remuneration of persons holding inquiries:  
(b) the testing of ropes, chains, brakes, cages, and other winding appliances, gear, and machinery:  
(c) any other service rendered by any person under this Act.

24—Abandonment
Abandonment of mines, including the protection of abandoned mines.

25—Preservation of the amenity
The preservation of the amenity of any area or place from impairment by mining operations or practices, or any operations or practices incidental or ancillary thereto, and without limiting the generality of the foregoing, the regulations made under this paragraph may—
(a) regulate, restrict or prohibit any such operations that interfere with the surface of any land; and  
(b) regulate the position in which any excavations or other mining operations may be made or conducted; and  
(c) regulate the treatment and disposal of overburden and waste products; and  
(d) regulate, restrict or prohibit the treatment or disposal of overburden or waste products in prescribed areas or places, or in areas or places of a prescribed kind; and  
(e) require that any plant or mining operations be screened from view in a prescribed manner; and  
(f) require the restoration of the surface of the land in a prescribed manner; and  
(g) regulate the positioning, installation and removal of mining equipment and buildings used in connection with mining operations.

26—Certification
The medical certification of employees and the certification of persons in charge of certain declared types of machinery.
27—Waste

The disposal or overburden or other waste from mining operations.
Mines and Works Inspection Act 1920—1.1.2013
Legislative history

Notes

• Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.

• Earlier versions of this Act (historical versions) are listed at the end of the legislative history.

• For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation repealed by principal Act

The Mines and Works Inspection Act 1920 repealed the following:

The Mining Act Amendment Act 1904
Mining Act Further Amendment Act 1919

Legislation amended by principal Act

The Mines and Works Inspection Act 1920 amended the following:

The Mining Act 1893

Principal Act and amendments

New entries appear in bold.

<table>
<thead>
<tr>
<th>Year</th>
<th>No</th>
<th>Title</th>
<th>Assent</th>
<th>Commencement</th>
</tr>
</thead>
</table>
Provisions amended since 3 February 1976

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 7 of The Public General Acts of South Australia 1837-1975 at page 312.

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

<table>
<thead>
<tr>
<th>Provision</th>
<th>How varied</th>
<th>Commencement</th>
</tr>
</thead>
<tbody>
<tr>
<td>ss 2 and 3</td>
<td>deleted by 44/2003 s 3(1) (Sch 1)</td>
<td>24.11.2003</td>
</tr>
<tr>
<td>s 4</td>
<td>s 4 redesignated as s 4(1) by 66/1978 s 3(e)</td>
<td>18.1.1979</td>
</tr>
<tr>
<td>s 4(1)</td>
<td>default penalty inserted by 66/1978 s 3(a)</td>
<td>18.1.1979</td>
</tr>
<tr>
<td>machinery</td>
<td>substituted by 66/1978 s 3(b)</td>
<td>18.1.1979</td>
</tr>
<tr>
<td>mineral</td>
<td>inserted by 66/1978 s 3(c)</td>
<td>18.1.1979</td>
</tr>
<tr>
<td>mining or to mine</td>
<td>deleted by 66/1978 s 3(c)</td>
<td>18.1.1979</td>
</tr>
<tr>
<td>mining or mining operation</td>
<td>inserted by 66/1978 s 3(c)</td>
<td>18.1.1979</td>
</tr>
<tr>
<td>works</td>
<td>substituted by 66/1978 s 3(d)</td>
<td>18.1.1979</td>
</tr>
<tr>
<td>s 4(2)</td>
<td>inserted by 66/1978 s 3(e)</td>
<td>18.1.1979</td>
</tr>
<tr>
<td>s 5A</td>
<td>deleted by 66/1978 s 4</td>
<td>18.1.1979</td>
</tr>
<tr>
<td>s 7</td>
<td>substituted by 66/1978 s 5</td>
<td>18.1.1979</td>
</tr>
<tr>
<td>amended by 84/2009 s 211</td>
<td>1.2.2010</td>
<td></td>
</tr>
<tr>
<td>s 7(2)</td>
<td>deleted by 66/1978 s 5</td>
<td>18.1.1979</td>
</tr>
<tr>
<td>s 8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 8(1)</td>
<td>amended by 66/1978 s 6(a)</td>
<td>18.1.1979</td>
</tr>
<tr>
<td>s 8(2)</td>
<td>amended by 66/1978 s 6(b)</td>
<td>18.1.1979</td>
</tr>
<tr>
<td>s 9</td>
<td>amended by 66/1978 s 7</td>
<td>18.1.1979</td>
</tr>
<tr>
<td>amended by 125/1986 s 71(2) (Sch 3 Pt 2)</td>
<td>30.11.1987</td>
<td></td>
</tr>
<tr>
<td>substituted by 39/2003 s 4</td>
<td>30.10.2003</td>
<td></td>
</tr>
<tr>
<td>s 10</td>
<td></td>
<td></td>
</tr>
<tr>
<td>s 10(1)</td>
<td>amended by 66/1978 s 8(a)</td>
<td>18.1.1979</td>
</tr>
</tbody>
</table>
Mines and Works Inspection Act 1920—1.1.2013
Legislative history

amended by 44/2003 s 3(1) (Sch 1) 24.11.2003
s 10(3) amended by 66/1978 s 8(b) 18.1.1979
s 10(3a) s 10(3) second sentence designated as s 10(3a) 24.11.2003
by 44/2003 s 3(1) (Sch 1)
s 10(4)—(6) inserted by 66/1978 s 8(c) 18.1.1979
s 10B
s 10B(4) substituted by 84/2009 s 212(1) 1.2.2010
s 10B(7) substituted by 84/2009 s 212(2) 1.2.2010
s 10B(8) deleted by 84/2009 s 212(2) 1.2.2010
s 11 deleted by 66/1978 s 9 18.1.1979
s 12
s 12(1) amended by 66/1978 s 10(a) 18.1.1979
s 12(2) amended by 66/1978 s 10(b) 18.1.1979
s 13 amended by 66/1978 s 11 18.1.1979
substituted by 44/2003 s 3(1) (Sch 1) 24.11.2003
s 17 substituted by 66/1978 s 12 18.1.1979
s 18
s 18(1) amended by 44/2003 s 3(1) (Sch 1) 24.11.2003
s 18(2a) inserted by 125/1986 s 71(2) (Sch 3 Pt 2) 30.11.1987
amended by 40/2012 Sch 6 cl 6 1.1.2013
s 18(3) substituted by 66/1978 s 13(a) 18.1.1979
s 18(4) deleted by 66/1978 s 13(b) 18.1.1979
s 22 amended by 44/2003 s 3(1) (Sch 1) 24.11.2003
s 24 deleted by 44/2003 s 3(1) (Sch 1) 24.11.2003
s 24A inserted by 66/1978 s 14 18.1.1979
ss 25 and 26 deleted by 17/2006 s 166 4.9.2006
Sch 1 deleted by 44/2003 s 3(1) (Sch 1) 24.11.2003
Sch Sch 2 redesignated as Sch by 44/2003 s 3(1)
(Sch 1)
cll 6, 8, 11—13, 16, 17 and 22 amended by 44/2003 s 3(1) (Sch 1) 24.11.2003
cll 26 and 27 inserted by 66/1978 s 15 18.1.1979
Sch 3 deleted by 66/1978 s 16 18.1.1979

Historical versions

Reprint No 1—1.10.1991
Reprint No 2—30.10.2003
Reprint No 3—24.11.2003
4.9.2006
1.2.2010

This version is not published under the Legislation Revision and Publication Act 2002 [2.1.2013]