

SOUTH AUSTRALIA

MINING (PRECIOUS STONES) REGULATIONS 1996

SUMMARY OF PROVISIONS

PART 1 PRELIMINARY

1. Citation
2. Commencement
3. Interpretation

PART 2 PERMITS AND PLATES

4. Application for permit
5. Identification plates
6. Replacement of permit
7. Removal or surrender of permit

PART 3 SIZE, SHAPE AND DIMENSIONS OF AREA

8. Size, shape and dimensions of area

PART 4 MODE OF TAKING POSSESSION, ETC.

9. Mode of taking possession
10. Notification of pegging
11. Registration

PART 5 WORKING CONDITIONS

12. Working conditions
13. Amalgamation of working conditions
14. Suspension of working conditions
15. Exemptions

PART 6 GENERAL PROVISIONS FOR CLAIMS

16. Use of declared equipment in precious stones field
17. Removal of posts
18. Rectification of tenement boundary
19. Action to comply
20. Renewal of claim
21. Cancellation of claim
22. Surrender of claim
23. Insufficiently defined claims
24. Reduction in area of a claim
25. Roads and pipelines across claims

PART 7 MISCELLANEOUS

26. False information
27. Change of name or address
28. Forms
29. Service of documents
30. Declaration
31. Damage to posts
32. Fees
33. Operations near certain residences
34. Offences

SCHEDULE 1
Forms

SCHEDULE 2
Fees

REGULATIONS UNDER THE MINING ACT 1971

Mining (Precious Stones) Regulations 1996

being

No. 177 of 1996: *Gaz.* 1 August 1996, p. 262¹

¹ Came into operation 1 September 1996: reg. 2.

2.

**PART 1
PRELIMINARY**

Citation

1. These regulations may be cited as the *Mining (Precious Stones) Regulations 1996*.

Commencement

2. These regulations will come into operation on 1 September 1996.

Interpretation

3. (1) In these regulations, unless the contrary intention appears—

"**Act**" means the *Mining Act 1971*;

"**holder**" of a precious stones claim includes a person who has pegged out an area for a precious stones claim;

"**large precious stones claim**" means a precious stones claim with an area exceeding 2 500 square metres but not exceeding 5 000 square metres;

"**small precious stones claim**" means a precious stones claim with an area of 2 500 square metres or less;

"**working day**" means a day other than Saturday, Sunday or a public holiday.

(2) In these regulations, a reference to a form of a particular number is a reference to a form of that number set out in schedule 1.

(3) These regulations and the *Mining Regulations 1996* may be read and construed together.

3.

PART 2 PERMITS AND PLATES

Application for permit

4. (1) An application for a precious stones prospecting permit must be in the form of Form 1.

(2) The application must be made personally at an office of the Mining Registrar.

(3) A precious stones prospecting permit must not be issued in the name of more than one person.

Identification plates

5. (1) A mining registrar who issues or renews a precious stones prospecting permit must issue to the holder of the permit a set of identification plates.

(2) For the purposes of subregulation (1), four plates constitute a set.

(3) A person must not hold more than one set of identification plates.

(4) Each identification plate must bear the relevant permit number and date of expiry.

(5) If a precious stones prospecting permit is renewed, the holder of the permit must ensure that new identification plates are securely fixed to the posts marking out an area for a precious stones claim within 14 days after the renewal.

(6) If the holder of a permit loses an identification plate, the person may apply to a mining registrar for the issue of a replacement.

(7) The application—

(a) must be made by declaration in the form of Form 2; and

(b) must be accompanied by the fee specified in schedule 2.

(8) A mining registrar may issue a replacement plate or plates to the holder of a permit who has made due application under subregulation (7) and paid the appropriate fee.

(9) If a precious stones prospecting permit is cancelled or surrendered, the holder of the permit must immediately surrender to a mining registrar all identification plates issued in respect of that permit.

Replacement of permit

6. (1) If—

(a) a person loses a precious stones prospecting permit; or

(b) a precious stones prospecting permit is destroyed or becomes illegible in a particular,

the holder of the permit may apply to a mining registrar for the issue of a replacement.

4.

(2) The application—

- (a) must be made by declaration in the form of Form 3; and
- (b) if the applicant has possession of the original permit—must be accompanied by that original; and
- (c) must be accompanied by the fee specified in schedule 2.

(3) A mining registrar may issue a duplicate permit to the holder of the permit who has made due application under subregulation (2) and paid the appropriate fee.

Removal or surrender of permit

7. (1) An application for the renewal of a precious stones prospecting permit must be in the form of Form 4.

(2) A person may, by notice in the form of Form 5, surrender a permit to the Mining Registrar.

PART 3
SIZE, SHAPE AND DIMENSIONS OF AREA

Size, shape and dimensions of area

8. (1) The maximum permissible area that can be pegged out for a precious stones claim is 5 000 square metres.

(2) Subject to this regulation, the shape of an area pegged out for—

- (a) a small precious stones claim—must approximate a square, with no side exceeding 50 metres in length;
- (b) a large precious stones claim—must approximate a rectangle, with a breadth not exceeding 50 metres and a length not exceeding 100 metres.

(3) If it is impracticable to comply with subregulation (2) because of the position of adjoining boundaries for other areas, an intervening or irregularly shaped piece of land may be pegged out for a claim but, in this case, an application to approve the pegging must be immediately made to a mining registrar, or to a person authorised by the Mining Registrar for the purposes of this regulation.

(4) Subject to subregulation (5), a person who has pegged out an intervening or irregularly shaped area under subregulation (3) will be taken to have effected a valid pegging (at least until the matter is determined by application under that subregulation).

(5) A person who has pegged out an intervening or irregularly shaped area under subregulation (3) must not conduct mining operations on the land unless or until a written approval is given on application under that subregulation.

6.

PART 4
MODE OF TAKING POSSESSION, ETC.

Mode of taking possession

9. (1) This regulation sets out the requirements for a valid pegging of a precious stones claim under the Act.

(2) A post must be securely placed in the ground at each corner of the relevant area.

(3) The post must—

(a) be devoid of marks or writing that refers to a previous pegging; and

(b) have a cross-sectional dimension equal to or exceeding 7 centimetres; and

(c) project at least 75 centimetres above the ground.

(4) The following provisions will then apply:

(a) an identification plate issued to the holder of the precious stones prospecting permit must be securely attached to the post as near to the top as practicable;

(b) the date of pegging must then be shown on the post in clear legible characters immediately below the identification plate;

(c) the following letter or letters must then be shown on the post immediately below the date of pegging:

(i) in the case of an area for a small precious stones claim—"S";

(ii) in the case of an area for a large precious stones claim—"L".

(5) The direction of the boundaries of an area pegged out for a precious stones claim must be clearly indicated by substantial indicator markers fixed to each post.

(6) If it is impracticable to comply with a preceding subregulation, a person may peg out an area for a claim in some other manner but, in such a case, the person must lodge a notice of the manner of pegging at the nearest office of the Mining Registrar to the area that has been pegged out.

(7) A notice under subregulation (6)—

(a) must be in writing; and

(b) must be given within seven days after the pegging.

(8) If the Mining Registrar, or a person authorised by the Mining Registrar for the purposes of this regulation, considers that the method of pegging out an area is unsatisfactory, he or she may order that a different method be used.

7.

(9) A person to whom an order is directed under subregulation (8) must immediately comply with the order.

Notification of pegging

10. (1) The holder of a precious stones prospecting permit who has pegged out an area for a precious stones claim within (or partly within) a precious stones field must give notice of the pegging to the Mining Registrar in accordance with this regulation.

(2) The notice—

- (a) must be in the form of Form 6 and include information and diagrams showing the location and shape of the relevant area, including bearings from the nearest Departmental survey peg; and
- (b) subject to subregulation (3), must be lodged personally by the permit holder at the nearest office of the Mining Registrar to the field no later than 5 p.m. on the working day next following the day of pegging.

(3) If the nearest office of the Mining Registrar to the field is closed—

- (a) the notice may be lodged at the nearest office that is open; or
- (b) if the closure is for a period of more than five working days and a notice to that effect is prominently displayed at the office—the notice may be lodged personally or by pre-paid post at the Adelaide office of the Mining Registrar during the period of closure; or
- (c) if the closure is during a period when the office would normally be open (as indicated by a notice displayed at the office)—the notice may be personally lodged at the office on the first day that it reopens, or otherwise given in a manner approved or directed by the Mining Registrar.

Registration

11. (1) An application to register a precious stones claim must—

- (a) if the claim is within (or partly within) a precious stones field—must be in the form of Form 7;
- (b) if the claim is outside a precious stones field—must be in the form of Form 8.

(2) Unless otherwise determined by the Mining Registrar—

- (a) if the claim 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) if the claim is outside a precious stones field—the application must be made at either of the two nearest offices of the Mining Registrar to the area that has been pegged out.

(3) The application must be made personally by the holder of the claim.

8.

(4) The holder of a registered claim must ensure that the registration number for the claim is clearly displayed on each post marking out the area of the claim within seven days after registration.

**PART 5
WORKING CONDITIONS**

Working conditions

12. (1) Unless otherwise determined by the Warden's Court, when a precious stones claim is registered, the claim must after 14 days from registration or, if the claim is over native title land, within 14 days after registration of an agreement or determination under Part 9B of the Act, be diligently worked by the holder of the claim personally on the basis of at least 20 hours of work per week.

(2) The following will be taken to be within the concept of diligently working a claim:

- (a) the performance of mining operations on the claim; and
- (b) work associated with the extraction of, or making merchantable, precious stones located within, or recovered from, the claim where that work is carried out on the claim; and
- (c) the preparation, erection or maintenance of machinery or equipment used in connection with mining operations where that work is carried out on the claim.

(3) The requirements of this regulation do not apply between 15 December in each year and 14 March in the following year (both dates inclusive).

Amalgamation of working conditions

13. (1) Subject to this regulation, the working conditions of contiguous precious stones claims may be amalgamated for a period not exceeding one year at any one time under the authority of an order of the Warden's Court.

(2) However—

- (a) precious stones claims can only be amalgamated if they are within a precious stones field; and
- (b) the total area of amalgamated precious stones claims cannot exceed 10 000 square metres.

(3) A person may object to an application to amalgamate working conditions and the objection will be heard and determined by the Warden's Court.

(4) The Warden's Court may during the currency of an amalgamation, if satisfied that it is appropriate to do so, on application, cancel an amalgamation.

(5) The Warden's Court may determine that an order of the court under this regulation will be taken to have had effect from the date on which the relevant application was received by the court.

(6) If the working conditions of two or more precious stones claims are amalgamated, the total working conditions of those claims will be taken to be complied with if the total number of hours required to be worked on the individual claims are worked anywhere within the boundaries of the amalgamated claims.

Suspension of working conditions

14. (1) The holder of a precious stones claim may apply to the Warden's Court for the suspension of working conditions on the claim.

(2) A person may object to an application under subregulation (1) and the objection will be heard and determined in the Warden's Court.

(3) The Warden's Court may, after considering the application and any objection under subregulation (2)—

(a) by order, approve the suspension of working conditions on a claim; or

(b) reject the application.

(4) An order under subregulation (3)(a)—

(a) may be given subject to conditions determined by the Warden's Court and specified in the order; and

(b) will operate for a period, not exceeding six months at any one time, specified in the order.

(5) The Warden's Court may determine that the order will be taken to have had effect from the date on which the relevant application was received by the court.

(6) If—

(a) an order under subregulation (3)(a) is given subject to conditions; and

(b) the person who obtained the order contravenes, or fails to comply with, a condition,

the order will be taken to have been revoked.

(7) This regulation does not affect the exemption from the requirement to work the claim between 15 December in each year and 14 March in the following year but an application for the suspension of working conditions will (insofar as is relevant to the particular time of the year) be taken to include the period running between those two dates (inclusive).

Exemptions

15. (1) The holder of a precious stones claim will not be liable to a penalty, or to the forfeiture of the claim, on account of a failure to comply with the requirements of these regulations relating to working conditions if—

(a) the failure is due to illness, or absence on urgent work in the public interest; or

(b) the failure is due to flood, drought or other act of nature; or

(c) the failure is due to an order of a court that specifically prevents the holder of the claim working the claim.

(2) However—

- (a) subregulation (1)(a) or (b) will only apply for two months in respect of a particular event or circumstance; and
- (b) subregulation (1)(a) and (b) do not apply in respect of a particular event or circumstance that occurred or existed before the area for the precious stones claim was pegged out.

PART 6
GENERAL PROVISIONS FOR CLAIMS

Use of declared equipment in precious stones field

16. The notice of an intention to use declared equipment within a precious stones field under section 59(1b) of the Act must be in the form of Form 9.

Removal of posts

17. (1) If a post is in a place that interferes with the working of a precious stones claim, the holder of the claim may apply to—

- (a) a mining registrar; or
- (b) an authorised person; or
- (c) a person authorised by the Mining Registrar for the purposes of this subregulation,

for approval to remove the post.

(2) A person to whom an application is made under subregulation (1) may, if satisfied that it is appropriate to do so, authorise the removal of the post.

(3) An authorisation under subregulation (2)—

- (a) must be in writing; and
- (b) may include directions to ensure the proper definition of the boundaries of the claim while the post is removed; and
- (c) may be given on conditions specified in the authorisation.

(4) A person who has the benefit of an authorisation under subregulation (2) must comply with any directions or conditions under subregulation (3).

(5) A person (other than the holder of the relevant claim) must not remove a post placed in the ground in order to mark a precious stones claim.

(6) Subregulation (5) does not apply to—

- (a) a person acting with the written permission of the holder of the claim; or
- (b) a mining registrar, an authorised person, or a person authorised by the Mining Registrar for the purposes of this subregulation, removing a post from a claim if—
 - (i) it appears that there has been a failure to comply with a requirement of the Act or these regulations; or
 - (ii) it appears that the claim (or any pegging) may have lapsed, or been surrendered or cancelled.

(7) A post removed under subregulation (6)(b) must be stored at the nearest office of the Mining Registrar to the claim.

(8) The owner of a post stored under subregulation (7) may, within one month after the post was removed under subregulation (6)(b), on payment of the appropriate fee, recover the post (and, if appropriate, any identification plate or marker attached to the post).

(9) If a post is not recovered under subregulation (8)—

(a) the post becomes the property of the Crown; and

(b) the Minister may dispose of the post as the Minister thinks fit.

Rectification of tenement boundary

18. (1) If—

(a) the holder of a precious stones claim discovers that the area, shape or dimensions of the claim tenement do not conform with these regulations; or

(b) the holder of a precious stones claim discovers that a portion of another tenement under the Act has been included within the boundaries of the claim,

the person may apply to the Warden's Court for an order rectifying the error.

(2) The Warden's Court may, on application under subregulation (1), if satisfied that it is appropriate to do so—

(a) make the orders necessary to rectify the error;

(b) determine, or realign, the boundaries of a tenement, and determine the manner in which those boundaries are to be delineated.

(3) However, an application cannot be made under this regulation if proceedings for forfeiture of the claim or otherwise concerning the validity of the claim have already been commenced (and have not been determined).

Action to comply

19. (1) A liability to the forfeiture of a precious stones claim on account of failure to comply with a requirement of these regulations will cease on subsequent compliance by the holder of the claim.

(2) However—

(a) the obtaining of an order for the suspension of working conditions does not constitute compliance with the regulations for the purposes of subregulation (1); and

(b) subregulation (1) does not apply if proceedings for forfeiture of the claim are commenced under the Act within one month after the liability to forfeiture arises and before the holder of the claim takes steps to rectify the non-compliance.

(3) If—

(a) a person applies to the Warden's Court for an order—

(i) cancelling a pegging; or

(ii) for the forfeiture of a claim,

on the ground that a requirement of the Act or these regulations has not been complied with; and

(b) the Warden's Court finds that there has been non-compliance with the Act or these regulations but that in the circumstances an order for cancellation or forfeiture should not be made,

the court may nevertheless order the person in default to take steps to rectify the non-compliance.

(4) A person to whom an order is directed under subregulation (3) must comply with the terms of the order.

Renewal of claim

20. An application for the renewal of a precious stones claim must be in the form of Form 10.

Cancellation of claim

21. (1) If the Mining Registrar considers, after a precious stones claim is registered, that the claim should not have been registered on account of a contravention of, or a failure to comply with, a provision or requirement of the Act or these regulations, the Mining Registrar may, by notice in writing to the owner of the claim, give notice of his or her contention setting out full particulars of the issue that has arisen.

(2) If—

(a) the owner of the claim disputes the contention of the Mining Registrar that the claim should not have been registered; or

(b) the Mining Registrar does not receive a surrender or reply from the owner of the claim within 21 days after the date of the relevant notice under subregulation (1),

the Mining Registrar may apply to the Warden's Court for a declaration that the owner of the claim is not lawfully in possession of the claim and for appropriate consequential orders for the cancellation of the claim (and the Warden's Court has jurisdiction to make those orders).

Surrender of claim

22. (1) The owner of a registered precious stones claim who wants to surrender the claim must, subject to this regulation—

(a) remove the posts marking out the area of the claim; and

(b) personally lodge a notice of surrender at an office of the Mining Registrar.

(2) A person is not required to comply with subregulation (1)(a) if an inspector, the Mining Registrar or a person authorised in writing by the Mining Registrar issues a certificate of exemption from the requirement on the basis that it is unreasonable (for reasons of safety or otherwise) to require the posts to be removed.

(3) A notice of surrender must be in the form of Form 11.

(4) A surrender will be taken to be effective when the requirements of this regulation have been satisfied.

Insufficiently defined claims

23. (1) If a precious stones claim is not defined by posts and boundary markers in accordance with the requirements of these regulations, a person authorised by the Director for the purposes of this regulation may, by notice in writing to the owner of the claim, require the owner to rectify the situation within a specified period (of at least seven days).

(2) If a notice under subregulation (1) is not complied with within the time specified by the notice, the Director may apply to the Warden's Court for an order cancelling the claim and for appropriate consequential orders (and the Warden's Court has jurisdiction to make those orders).

Reduction in area of a claim

24. (1) The owner of a precious stones claim may, with the approval of a mining registrar, reduce the area of the claim.

(2) An approval under subregulation (1) may be given subject to conditions specified by the mining registrar (and the owner of the claim must, if the area of the claim is reduced, comply with those conditions).

(3) The requirements of these regulations relating to the shape of a claim do not apply if the area of a claim is reduced under this regulation.

Roads and pipelines across claims

25. (1) The Warden's Court may, on application, approve the making, laying or use of a road or pipeline on or over a precious stones claim if—

(a) the claim is located outside a precious stones field; and

(b) the Warden's Court is satisfied that the road or pipeline is necessary for the efficient working of another tenement, or for use by the public.

(2) An approval under subregulation (1) may be given subject to directions or conditions specified by the Warden's Court (which may include provision for the payment of compensation to the owner of the claim that will be affected by the making, laying or use of the road or pipeline).

(3) A person must not breach, or fail to comply with, a direction or condition under subregulation (2).

**PART 7
MISCELLANEOUS**

False information

26. (1) A person who by false statement or misrepresentation, obtains or attempts to obtain registration of a precious stones claim, or an instrument or certificate under the Act or these regulations—

- (a) forfeits all rights in relation to the claim; and
- (b) is guilty of an offence.

Maximum penalty: \$1 000.

(2) A person who, in furnishing information required under the Act or these regulations, makes a statement that is false or misleading in a material particular is guilty of an offence.

Maximum penalty: \$1 000.

Change of name or address

27. The holder of a precious stones prospecting permit or precious stones claim must notify the Mining Registrar in writing of a change in name or address within 30 days of the change.

Forms

28. (1) Unless otherwise provided, a form relating to a precious stones prospecting permit or a precious stones claim must be signed personally.

(2) A form under these regulations may be varied or modified according to the exigencies of a particular case.

Service of documents

29. A notice or document required or authorised by or under these regulations to be given to or served on a person (other than a person who holds or may hold native title in land¹) may—

- (a) be served on the person personally; or
- (b) be posted in an envelope addressed to the person—
 - (i) at the person's last known address; or
 - (ii) if the person has an address for service—at that address; or
- (c) be transmitted by facsimile transmission to a facsimile number provided by the person (in which case the notice or document will be taken to have been given or served at the time of transmission).

¹ Part 5 *Native Title (South Australia) Act 1994* sets out the method of service on all who hold or may hold native title in land.

Declaration

30. If application is made to the Warden's Court for a declaration of invalidity of a precious stones claim on the grounds that the claim has not been lawfully acquired in accordance with these regulations, the declaration must not be made unless the court is satisfied that a breach of these regulations is a breach in a material respect and that the matter is of sufficient gravity to justify the making of the declaration, but the court may order the rectification of any non-compliance with these regulations.

Damage to posts

31. A person must not damage or deface a post or notice under these regulations, or alter a notice or date found on a precious stones claim.

Fees

32. (1) The fees set out in schedule 2 are payable as specified in that schedule.

(2) The Director may, on application, in his or her discretion, waive payment of the whole or a part of a fee, or refund a fee (in whole or in part).

Operations near certain residences

33. The holder of a precious stones claim is not authorised to conduct mining operations within 150 metres of a building or structure used as a place of residence situated within a part of a precious stones field comprised of a pastoral lease under the *Pastoral Land Management and Conservation Act 1989* except as authorised by a mining registrar or a person authorised by the Mining Registrar for the purposes of this regulation.

Offences

34. (1) A person who contravenes or fails to comply with a provision of these regulations is guilty of an offence.

(2) A person who is guilty of an offence against these regulations for which no penalty is specifically prescribed is liable to a fine not exceeding \$1 000.

SCHEDULE 1
Forms

FORM 1
MINING ACT 1971

(Mining (Precious Stones) Regulations 1996—Regulation 4)
APPLICATION FOR A PRECIOUS STONES PROSPECTING PERMIT

(Please use BLOCK LETTERS)

To: The Mining Registrar

I,
(Full name—underline surname)

of
(Permanent address)

.....
.....

apply for a precious stones prospecting permit under the *Mining Act 1971*.

I certify that:

1. I do not hold a current precious stones prospecting permit issued under the *Mining Act 1971*.
2. I am over the age of 16 years.
3. No order has been made by the Warden’s Court prohibiting me from holding a precious stones prospecting permit.

Additional information:

1. Address for correspondence:
2. Contact telephone number:
3. Contact facsimile number (if available):

DATE:

SIGNATURE:

CERTIFICATION

I certify that as a result of my enquiries I am satisfied that the person named in this application is the person whose signature appears above.

Signature:

Name:

Address:

.....

Status:

(Justice of the Peace, Officer of the Department
of Mines and Energy, Member of the Police Force,
Proclaimed Bank Manager or Commissioner for Taking Affidavits)

FORM 2
MINING ACT 1971
(Mining (Precious Stones) Regulations 1996—Regulation 5)
DECLARATION FOR REPLACEMENT IDENTIFICATION PLATE

(Please use BLOCK LETTERS)

To: The Mining Registrar

I,
(Full name—underline surname)

of
(Full address)

.....
.....

do solemnly and sincerely declare that I have lost identification plate(s) issued to me under the *Mining (Precious Stones) Regulations 1996* and I make this declaration conscientiously believing the same to be true.

.....
(Signature)

Declared before me at this day of 19

.....
(Justice of the Peace, Commissioner for
Taking Affidavits, Proclaimed Bank Manager)

Additional information to be provided by permit holder:

1. Permit number:
2. Contact telephone number:
3. Contact facsimile number (if available):

FORM 3
MINING ACT 1971
(Mining (Precious Stones) Regulations 1996—Regulation 6)
DECLARATION FOR REPLACEMENT PRECIOUS STONES PROSPECTING PERMIT

(Please use BLOCK LETTERS)

To: The Mining Registrar

I,
(Full name—underline surname)

of
(Full address)

.....
.....

do solemnly and sincerely swear that I have lost my **Precious Stones Prospecting Permit No. . . .**
and I make this declaration conscientiously believing the same to be true.

.....
(Signature)

Declared before me atthis day of 19

.....
(Justice of the Peace, Commissioner for
Taking Affidavits, Proclaimed Bank Manager)

Additional information to be provided by permit holder:

1. Contact telephone number:
2. Contact facsimile number (if available):

FORM 4
MINING ACT 1971
(Mining Regulations 1996—Regulation 7(1))
APPLICATION TO RENEW PRECIOUS STONES PROSPECTING PERMIT

(Please use BLOCK LETTERS)

To: The Mining Registrar

I,
(Full name—underline surname)

of
(Full address for correspondence)

.....
.....

apply to renew **Precious Stones Prospecting Permit No.**

I certify that no order has been made by the Warden's Court prohibiting me from holding a precious stones prospecting permit.

Additional information:

- 1. Contact telephone number:
- 2. Contact facsimile number (if available):

DATE:

SIGNATURE:

FORM 5
MINING ACT 1971
(Mining Regulations 1996—Regulation 7(2))
SURRENDER OF PRECIOUS STONES PROSPECTING PERMIT

(Please use BLOCK LETTERS)

I,
(Full name—underline surname)

of
(Full address for correspondence)

.....
.....

being the holder of **Precious Stones Prospecting Permit No.** surrender this permit.

- The permit is attached.
- It is declared that the permit has been, thus preventing its presentation.
(· Strike out whichever is inapplicable)
- I declare that the relevant identification plates have/have not been presented because ...
.....

Additional information:

1. Contact telephone number:
2. Contact facsimile number (if available):

DATE:

SIGNATURE:

FORM 6
MINING ACT 1971
(Mining (Precious Stones) Regulations 1996—Regulation 10)
NOTICE OF PEGGING

(Please use BLOCK LETTERS)

To: The Mining Registrar

I,
(Full name—underline surname)

of
(Full address for correspondence)

.....
.....

give notice that a *Large/Small Precious Stones Claim was pegged on / / ,

atam/pm under my Precious Stones Prospecting Permit No.

The claim is located ondiggings field.

The sketch below gives the dimensions of the claim, bearings of the claim boundaries and the bearing and distance of one of the pegs in relation to a Departmental survey peg. Any other claim either registered or unregistered held by me has been surrendered and the pegs removed from the area(s) as required by the Mining Act and regulations.

(* Delete whichever is inapplicable)

DATE:

SIGNATURE:

SKETCH

FORM 7
MINING ACT 1971
(Mining (Precious Stones) Regulations 1996—Regulation 11(1)(a))
APPLICATION TO REGISTER A PRECIOUS STONES CLAIM
WITHIN A PRECIOUS STONES FIELD

Application for registration of a precious stones claim.
(For use where claim is pegged in a proclaimed precious stones field.)

Date of Application

I hereby apply for registration of the *large/small precious stones claim pegged under my Precious
Stones Prospecting Permit No. on . . . / . . . /
(Signature of the claim owner)

FORM 8
MINING ACT 1971
(Mining (Precious Stones) Regulations 1996—Regulation 11(1)(b))
APPLICATION TO REGISTER A PRECIOUS STONES CLAIM
OUTSIDE A PRECIOUS STONES FIELD

(Please use BLOCK LETTERS)

To: The Mining Registrar

1. Applicant

I,
(Full name—underline surname)

of
(Full address for correspondence)

.....
.....

apply for registration of the precious stones claim described below.

2. Permit under which claim pegged

My precious stones prospecting permit number is

3. Location of claim

The claim is located within diggings
on Pastoral Lease
Other

A sketch plan delineating the location of the claim must be attached (unless otherwise approved by a mining registrar).

The plan must show—

- dimensions and bearings of claim boundaries; and
- bearings and distances from land boundaries or other known points; and
- the proposed means of access from a public road.

All measurements taken for the purposes of the plan must be taken with tape and compass or other survey equipment.

4. Size of claim

The claim covers—

- an area of 2 500 square metres or less (a small precious stones claim);
- an area greater than 2 500 square metres but not greater than 5 000 square metres (a large precious stones claim)

[tick one box]

5. Details of pegging of claim

The claim was properly pegged out by me under the *Mining Act 1971* and regulations on

6. Ownership of land¹ (including native title claims and declarations) within area of claim

The following searches² have been conducted to establish ownership (or claims to ownership) of land within the area of the claim with the following results:

.....

¹ See notes at end of document for information on the "owner" of land.
² Include LTO searches and searches of the State Native Title Register and the Register of Native Title Claims kept under the *Native Title Act 1993* of the Commonwealth.

A copy of each of the following must be attached:

- each title evidencing ownership of the land (if any); and
- an extract from the State Native Title Register relating to the land (if any entry exists); and
- an extract from the Register of Native Title Claims (Cwth) relating to claims to native title in the land (if any entry exists).

7. Potential native title land within area of claim³

At the time of pegging out of the claim, native title (within the meaning of the *Native Title (South Australia) Act 1994*) exists or might exist in the following land within the area of the claim (even though there is currently no registered claim to, or declaration of, native title in the land)⁴:

.....
.....
.....

³ See notes at end of document for information on relevant definitions under the Act.
⁴ Include all areas in respect of which native title has not been extinguished.

8. Negotiations with native title parties

If native title land is within the area of the claim, *tick one box and give details:*

- A native title mining agreement was registered under Part 9B of the *Mining Act 1971*
on
- A native title mining determination was registered under Part 9B of the *Mining Act 1971*
on
- An agreement or determination has not been registered but the following steps have been taken towards negotiations with native title parties:
.....

Tick following box if the Minister is requested to process the application while a native title mining agreement is negotiated:

- I seek an agreement with the Minister that the claim will be registered contingent on the registration of an agreement or determination under Part 9B of the *Mining Act 1971*. I understand that the claim cannot be registered until the agreement or determination is registered.

Note: The Minister may refuse an application for a registration of a claim 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 registration of the claim.

9. Exempt land within area of claim

- The following land within the area of the claim is exempt land under section 9 of the *Mining Act 1971*⁵:

.....

⁵ Please identify exempt land in the sketch plan that accompanies this application. Do not include land that has ceased to be exempt land because of a waiver of exemption or a court determination about compensation payable to the owner.

- Waivers of exemption have been negotiated in relation to the following land within the area of the claim:

.....

A copy of each waiver must be attached.

10. Notice of entry to land

Give details, attach copies or tick box as appropriate:

- Notice of entry was given to the following owners of the land under section 58A of the *Mining Act 1971* on the following dates:

Owners:

Date:

.....

.....

A copy of each notice (including appropriate details about the service of the notice must be attached. This notice is prescribed by the Mining Regulations 1996—Form 20.

- Notice of entry has not been given to the following owners of the land because entry is authorised by an agreement with those owners:

Owners:

.....

.....

A copy of each agreement must be attached.

- Notice of entry has not been given to the holders of native title in the land because entry is authorised by—

- a native title mining agreement under Part 9B of the *Mining Act 1971*

- a native title mining determination under Part 9B of the *Mining Act 1971*

11. Additional information:

- 1. Contact telephone number:
- 2. Contact facsimile number (if available):

DATE:

SIGNATURE:

CHECK LIST

Do not forget to attach the following items:

- A sketch plan delineating the location of the claim (*see* item 3)
- A copy of:
 - each title evidencing ownership of the land (if any); and
 - an extract from the State Native Title Register relating to the land (if any entry exists); and
 - an extract from the Register of Native Title Claims (Cwth) relating to claims to native title in the land (if any entry exists) (*see* item 6)
- A copy of any waiver of exemption (*see* item 9)
- A copy of each notice of entry to land (*see* item 10)
- A copy of any agreement waiving notice of entry (*see* item 10).

RELEVANT PROVISIONS FROM THE MINING ACT 1971

1. **"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.

2. **"Native title land"** means land in respect of which native title exists or might exist but does not include—
 - (a) land found or declared by the Supreme Court or the Environment, Resources and Development Court not to be subject to native title; or
 - (b) land found or declared by a competent authority under a law of the Commonwealth not to be subject to native title.

3. **Native title**
 - (1) The expression **"native title"** means the communal, group or individual rights and interests of Aboriginal peoples in relation to land or waters where—
 - (a) the rights and interests are possessed under the traditional laws acknowledged, and the traditional customs observed, by the Aboriginal peoples; and
 - (b) the Aboriginal peoples, by those laws and customs, have a connection with the land or waters; and
 - (c) the rights and interests are recognised by the common law; and
 - (d) the rights and interests have not been extinguished or have revived.¹
 - (2) Without limiting subsection (1), **"rights and interests"** in that subsection includes hunting, gathering, or fishing, rights and interests.
 - (3) Subject to subsection (4), if native title rights and interests as defined by subsection (1) are, or have been at any time in the past, compulsorily converted into, or replaced by, statutory rights and interests in relation to the same land or waters that are held by or on behalf of Aboriginal peoples, those statutory rights and interests are also covered by the expression **"native title"**.
 - (4) To avoid doubt, subsection (3) does not apply to rights and interests created by a reservation or condition (and which are not native title):
 - (a) in a pastoral lease granted before 1 January 1994; or
 - (b) in legislation made before 1 July 1993, where the reservation or condition applies because of the grant of a pastoral lease before 1 January 1994.
 - (5) To avoid doubt, native title in land was extinguished by an act occurring before 31 October 1975 that was inconsistent with the continued existence, enjoyment or exercise of native title in the land.

Explanatory note—

This subsection is intended to be consistent with principles governing the extinguishment of native title as stated in *Mabo v Queensland (No. 2)* (1992) 175 C.L.R. 1. Examples of this principle of major public importance are—

- (a) the valid grant, before 31 October 1975, of a freehold interest in land;
- (b) the valid grant, before 31 October 1975, of a lease (including a pastoral lease but not a mining lease);
- (c) the valid grant, assumption or exercise by the Crown, before 31 October 1975, of a right to exclusive possession of land.

However, if the grant of a freehold interest, a lease or a right of exclusive possession was made to or for the benefit of Aboriginal people, this subsection is not intended to apply to the grant unless it is a category A past act within the meaning of section 229, or a category B past act within the meaning of section 230, of the Commonwealth Act and, if it is a category B past act, this subsection only applies to the extent that the grant is inconsistent with the continued existence of native title in the land.

¹ If section 47 of the *Native Title Act 1993* (Cwth) is a valid enactment of the Commonwealth Parliament, it is possible that native title may revive in certain circumstances under that section.

4. Exempt land (Section 9)

(1) Subject to this section—

(a) land that is lawfully and genuinely used—

- (i) as a yard, garden, cultivated field, plantation, orchard or vineyard;
- (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 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 \$200 or more, used for an industrial or commercial purpose; or
- (B) a spring, well, reservoir or dam,

(but not if it is an improvement made for the purposes of mining operations),

shall be exempt from mining operations in pursuance of this Act and, unless the land ceases to be so exempt, no miner's right, precious stones prospecting permit, claim, lease or licence shall authorise prospecting, exploring or mining upon such land (but this section does not prevent the pegging out of a claim upon such land).

FORM 9
MINING ACT 1971
(Mining (Precious Stones) Regulations 1996—Regulation 16)
NOTICE OF USE OF DECLARED EQUIPMENT
WITHIN A PRECIOUS STONES FIELD

(Please use BLOCK LETTERS)

TO: THE DIRECTOR OF MINES

I,
of
.....

hereby give notice of my intention to use declared equipment on *Precious Stones/Access Claim
No

ondiggings on precious stones field.

The equipment to be used is
(Describe)

and the operations will be carried out by
(Name of operator)

The operations are proposed to commence on or about the day of 19 ..
(*Strike out whichever is inapplicable.)

Additional information:

- 1. Contact telephone number:
- 2. Contact facsimile number (if available):

DATE:

SIGNATURE:

NOTE:

Under the *Mining Act 1971*, "**declared equipment**" means—

- (a) a trench digger or excavator; or
- (b) mechanically driven equipment, equipped with a blade or bucket of a width exceeding 750mm, 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 plan, with a cross sectional dimension greater than 750mm.

FORM 10
MINING ACT 1971
(Mining (Precious Stones) Regulations 1996—Regulation 20)
RENEWAL OF A PRECIOUS STONES CLAIM

(Please use BLOCK LETTERS)

I,
(Full name—underline surname)

of
(Full address)

.....
.....

being the holder of **Precious Stones Claim No.** apply to renew that claim.

Additional information:

- 1. Precious stones prospecting permit number:
- 2. Contact telephone number:
- 3. Contact facsimile number (if available):

DATE:

SIGNATURE:

If the claim is located on a proclaimed precious stones field this form must be personally lodged at the nearest office of the Mining Registrar.

FORM 11
MINING ACT 1971
(Mining (Precious Stones) Regulations 1996—Regulation 22)
NOTICE OF SURRENDER OF A PRECIOUS STONES CLAIM

(Please use BLOCK LETTERS)

To: The Mining Registrar

I,
(Full name—underline surname)

of
(Full address)

.....
.....

being the holder of **Precious Stones Claim No.** pegged out under
Precious Stones Prospecting Permit No. surrender this claim.

I declare that the posts marking out the area of the claim were removed by me

on
or

I attach a copy of an authorisation that exempts me from the requirement to remove the posts marking out the area of the claim.

Additional information:

- 1. Contact telephone number:
- 3. Contact facsimile number (if available):

DATE:

SIGNATURE:

SCHEDULE 2*Fees*

The following fees are payable:

1. Application for issue or renewal of a precious stones prospecting permit \$38
2. Application for issue of a replacement identification plate (per plate) \$4
3. Application for issue of a replacement permit \$9
4. Precious stones claims
 - (a) Application for registration of a small precious stones claim \$16
 - (b) Application for registration of a large precious stones claim \$32
 - (c) Application for renewal of a small precious stones claim \$59
 - (d) Application for renewal of a large precious stones claim \$118
5. Recovering a post stored at an office of the Mining Registrar \$12