

SOUTH AUSTRALIA

MINING REGULATIONS 1998

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REGULATIONS UNDER THE MINING ACT 1971

Mining Regulations 1998

being

No. 170 of 1998: *Gaz.* 21 August 1998, p. 476¹

as varied by

No. 43 of 1999: *Gaz.* 27 May 1999, p. 2779²

No. 143 of 1999: *Gaz.* 1 July 1999, p. 55²

¹ Came into operation 1 September 1998: reg. 2.

² Came into operation 1 July 1999: reg. 2.

**PART 1
PRELIMINARY**

Citation

1. These regulations may be cited as the *Mining Regulations 1998*.

Commencement

2. These regulations will come into operation on 1 September 1998.

Revocation

3. All regulations previously made under the *Mining Act 1971* are revoked.

Interpretation

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

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

"**Chief Inspector**" means the Chief Inspector of Mines;

"**claim**" means a mineral claim or an access claim;

"**company**" means a company within the meaning of the *Corporations Law*;

"**holder**", in relation to a mining tenement, means—

(a) in the case of a claim—the owner of the claim;

(b) in the case of a lease—the lessee;

(c) in the case of a licence—the licensee.

(2) The following are **prescribed purposes** under paragraph (a) of the definition of "**extractive minerals**" under the Act, namely chemical, cement, lime and glass manufacture, metallurgical flux, refractories, industrial fillers, and foundries, fertiliser, agricultural, jewellery and crafted ornamental uses.

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

Special approval required in certain cases

5. (1) A person must not, for the purpose of exercising a right under the Act or these regulations, enter on land that constitutes a parkland or recreation ground under the care of a council or on land dedicated or reserved by the Governor under the *Crown Lands Act 1929* without the written approval of the Minister.

(2) An application for the approval of the Minister under subregulation (1) must—

(a) be made in writing; and

(b) state the name, nature and locality of the relevant land; and

(c) provide details concerning the proposed operation or activity on the land.

3.

(3) A person must not exercise a right under the Act or these regulations on a public road, street or highway without the written consent of the authority that has control of the road, street or highway.

(4) However, a consent under subregulation (3) is not required to peg out an area for a claim on land consisting (partially or entirely) of a public road, street or highway.

(5) An application to register a claim on land consisting (partially or entirely) of a public road, street or highway must be accompanied by the consent required under subregulation (3).

Special conditions for tenements over the sea bed

6. (1) A person who obtains a mining tenement over a part of the sea bed declared to be mineral lands under the Act is liable for, and will indemnify and keep indemnified the South Australian Government against, all actions, suits, claims and demands whatsoever resulting from the erection or placing by the person of a structure or object on or over that part of the sea bed, or the escape of a deleterious substance into the sea, while conducting mining operations associated with the mining tenement and, for this purpose, a mining tenement must not be registered or granted over a part of the sea bed unless and until the relevant person has entered into an agreement with the Minister (to the Minister's satisfaction) that complies with the requirements of subregulation (2).

(2) An agreement complies with the requirements of this subregulation if the relevant person agrees—

(a) to indemnify and to keep indemnified the South Australian Government against all actions, suits, claims and demands whatsoever resulting from the erection or placing by the person of a structure or object on or over a part of the sea bed, or the escape of a deleterious substance into the sea, while conducting mining operations associated with the mining tenement; and

(b) to remove any such structure or object if or when directed to do so by a Minister and, in default of so removing it, to pay to the Crown all costs and expenses incurred by a Minister in undertaking its removal.

(3) A person holding a mining tenement must not—

(a) permit the escape of a deleterious substance into the sea; or

(b) fail to remove a structure or object placed on or over a part of the sea bed if directed to do so by a Minister.

(4) In the event of a contravention of subregulation (3)(b), a Minister may take steps to ensure that the structure or object is removed and recover the reasonable costs and expenses incurred in removing it as a debt from the holder of the tenement.

(5) A person who obtains a mining tenement over a part of the sea bed must not commence mining operations associated with the tenement unless or until the Minister for the time being administering the *Fisheries Act 1982* certifies that the Minister is satisfied that the operations will not contravene the *Fisheries Act 1982*.

(6) A reference in this regulation to mining operations associated with a mining tenement includes any activity undertaken for the purposes of, or incidental to, the conduct of mining operations.

4.

(7) In this regulation—

"Minister" means a Minister of the Crown;

"South Australian Government" means the Crown in right of the State and includes all Ministers of the Crown.

5.

**PART 2
MINER'S RIGHTS**

Application for a miner's right (s. 20)

7. An application for a miner's right must be in the form of Form 1.

Issue of miner's right

8. A miner's right must not be issued in the name of more than one person.

Renewal of miner's right

9. An application for the renewal of a miner's right must be in the form of Form 2.

Issue of duplicate if miner's right lost, etc.

10. If—

(a) the holder of a miner's right satisfies a mining registrar, by a declaration in the form of Form 3, that the miner's right has been lost or destroyed; or

(b) a miner's right that has become illegible in a particular is delivered to a mining registrar,

the mining registrar may, on payment of the fee specified in schedule 2, issue a duplicate of the miner's right (and the former miner's right is null and void).

Surrender of miner's right

11. A person may, by notice in the form of Form 4, surrender a miner's right to the Mining Registrar.

**PART 3
CLAIMS**

DIVISION 1—MINERAL CLAIMS

Size (s. 23)

12. The maximum permissible area of a mineral claim that can be pegged out is 250 hectares.

Shape of claim

13. (1) Subject to these regulations, the shape of a mineral claim must, as far as practicable, approximate a rectangle, the length of the longer side of which must not exceed five times the length of the shorter side.

(2) The length of the longest side of a mineral claim must not exceed 2 kilometres.

(3) If it is not practicable to comply with subregulation (1) because of the position of adjoining boundaries for other areas, or natural features, an intervening or irregularly shaped piece of land may be pegged out as a mineral claim.

Mode of taking possession

14. (1) This regulation sets out the requirements for a valid pegging of a mineral claim under the Act.

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

(3) Each 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; and

(d) clearly show the number (or numbers) of the miner's right (or rights) by virtue of which the claim is pegged out, together with the date of pegging (either by direct markings on the post or by the secure attachment of a notice to the post), as near to the top of the post as practicable; and

(e) if the person is pegging out more than one claim on the same parcel of land on the same day, clearly show the number of the claim, as pegged out on that land on that day, using consecutive numbers starting with the number 1.

(4) The direction of the boundaries of the claim must be clearly indicated by trenches, piles of stones, or substantial indicator markers fixed to each post.

(5) If it is impracticable to comply with a preceding subregulation, a person may peg out a mineral 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.

(6) A notice under subregulation (5)—

(a) must be in writing; and

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

(7) 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.

(8) A person to whom an order is directed under subregulation (7) must immediately comply with the order.

Maintenance of claims

15. The holder of a mineral claim must maintain all posts, boundary indicator markers and notices on the claim in the positions required by these regulations.

Application for registration of claim (s. 24)

16. (1) An application for registration of a mineral claim must be in the form of Form 5.

(2) The application must be accompanied by the appropriate fee prescribed by schedule 2 and such information (including a survey) as a mining registrar may require.

(3) Subject to the Act, a mining registrar must on the registration of a mineral claim—

(a) complete a certificate of registration to be given to the applicant; and

(b) enter full particulars of the claim in the Mining Register.

Display of registration number

17. The owner of a registered mineral claim must ensure that the registration number for the claim is clearly displayed on each post marking out the area of the claim within 14 days after registration.

Cancellation of claim

18. (1) If the Mining Registrar discovers or determines, after a mineral 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 intention to cancel the registration of the claim 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 subregulation (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 claim.

(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 regulation, the Mining Registrar may, after the day specified in a notice under this regulation, cancel the registration of the relevant claim.

Surrender of claim (s. 26(4))

19. (1) The owner of a registered mineral 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) 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 6.

(4) A surrender will be taken to be effective when the requirements of the Act, this regulation and any conditions attaching to the claim have been satisfied.

Insufficiently defined claims

20. (1) If a mineral 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

21. (1) The owner of a mineral 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 regulation 13 relating to the shape of a claim do not apply if the area of a mineral claim is reduced under this regulation.

Continuation of claim if application made for lease

22. A mineral claim will not lapse through the expiry of its registration if at the date on which it would otherwise expire an application has been made for a mining lease or a retention lease and the application has not been decided.

Cessation of claim if lease granted

23. If the Minister grants a mining lease or a retention lease over the whole or part of the area of a mineral claim, the claim will cease and determine.

DIVISION 2—ACCESS CLAIMS

Determination of site

24. The holder of a subsurface stratum mining tenement may prospect and carry out on the surface stratum geophysical surveys approved by the Director in order to determine the site of an access claim.

Size

25. The maximum permissible area of an access claim is 2 500 square metres.

Shape of claim

26. (1) The shape of an access claim must approximate a square.

(2) The length of a side of an access claim must not exceed 50 metres in length.

Mode of taking possession

27. (1) This regulation sets out the requirements for a valid pegging of an access claim under the Act.

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

(3) Each 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 seven centimetres; and

(c) project at least 75 centimetres from the ground; and

(d) clearly show the number and type of subsurface tenement by virtue of which the claim is pegged out, together with the date of pegging (either by direct markings on the post or by the secure attachment of a notice to the post) as near to the top as practicable; and

(e) if the person is pegging out more than one claim on the same parcel of land on the same day, clearly show the number of the claim, as pegged out on that land on that day, using consecutive numbers starting with the number 1.

(4) The direction of the boundaries of the claim must be clearly indicated by substantial indicator markers fixed to each post.

Maintenance of claims

28. The holder of an access claim must maintain all posts, boundary indicator markers and notices on the claim in the positions required by these regulations.

Application for registration of claim (s. 63C)

29. (1) An application for registration of an access claim must be in the form of Form 7.

(2) The application must be accompanied by the appropriate fee prescribed by schedule 2 and such information (including a survey) as a mining registrar may require.

(3) Subject to the Act, a mining registrar must on the registration of an access claim—

(a) complete a certificate of registration; and

(b) enter full particulars of the claim in the Mining Register.

Display of registration number

30. The owner of a registered access 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.

Renewal of access claims (s. 63E)

31. (1) An application for the renewal of an access claim must be made on or before the day on which the registration of the claim is due to expire.

(2) The application must be made in the form of Form 8.

(3) An application must be accompanied by the appropriate fee under schedule 2.

Surrender of claim (s. 63E)

32. (1) The owner of a registered access claim who wants to surrender the claim must—

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

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

(2) A notice of surrender must be in the form of Form 9.

**PART 4
LEASES**

DIVISION 1—MINING LEASES

Prescribed classes of lease (s. 34(3))

33. The following classes of mining leases are prescribed:

- (a) mineral lease;
- (b) extractive minerals lease.

Nature of lease

34. (1) Subject to the Act, a mineral lease entitles the lessee to carry out mining operations specified in the lease for the recovery of minerals other than extractive minerals.

(2) Subject to the Act, an extractive minerals lease entitles the lessee to carry out mining operations specified in the lease for the recovery of extractive minerals.

Application for a lease (s. 35)

35. (1) An application for a mining lease must be in the form of Form 10.

(2) A statement of the mining operations that the applicant proposes to carry out under the lease and the measures that the applicant proposes to take to remedy damage to land that may result from the proposed mining operations must be in the form of Form 11.

(3) If the owner of a mineral claim is deceased or bankrupt or, the case of a company, is under official management or in liquidation or receivership, an application for a lease may be made by a trustee, manager, receiver or liquidator (as may be appropriate).

Display of lease number

36. (1) An applicant for a lease who is notified that the Minister has approved his or her application must, within 14 days after receipt of the notification, ensure that the number and class of the lease are clearly displayed on each post marking out the relevant area.

(2) For the purposes of subregulation (1), the class of lease must be designated by "ML" for a mineral lease or "EML" for an extractive minerals lease, as appropriate.

(3) The person must ensure that all notices relating to the claim are removed at the time that the information is recorded on the posts under subregulation (1).

(4) If approval is only given for a portion of the land comprised in a claim, the lessee must, within 14 days of the notification referred to in subregulation (1)—

- (a) redefine the boundaries of the lease, either by repositioning existing posts or by placing new posts at the corners of the area in respect of which the lease is granted; and
- (b) remove any posts outside the area in respect of which the lease is granted.

Superimposed leases

37. (1) If a mining lease of one class is granted over land held as a mining lease of the other class and the lessee is the same person, the lessee need only maintain one post at each corner of the relevant area, but each post must have on it, or have on a notice attached to it, the numbers and classes of both mining leases.

(2) If a superimposed tenement covers a part of the prior tenement, the superimposed tenement must be marked out by independent posts.

(3) The annual rental payable on superimposed leases will be waived for all leases except the lease with the highest rental.

(4) If a superimposed lease is held by another party, annual rent is payable for both leases.

DIVISION 2—RETENTION LEASES

Application for a lease (s. 41B)

38. (1) An application for a retention lease must be in the form of Form 12.

(2) If the owner of a mineral claim is deceased or bankrupt or, in the case of a company, is under official management or in liquidation or receivership, an application for a lease may be made by a trustee, manager, receiver or liquidator (as may be appropriate).

Display of lease number

39. (1) An applicant for a lease who is notified that the Minister has approved his or her application must, within 14 days after the receipt of the notification, ensure that the number of the lease and the designation "RL" are clearly displayed on each post marking out the relevant area.

(2) The person must ensure that all notices relating to the claim are removed at the time that the information is recorded on the posts under subregulation (1).

(3) If approval is only given for a portion of the land comprised in a claim, the lessee must, within 14 days of the notification referred to in subregulation (1)—

(a) redefine the boundaries of the lease, either by repositioning existing posts or by placing new posts at the corners of the area in respect of which the lease is granted; and

(b) remove any posts outside the area in respect of which the lease is granted.

Cessation if mining lease granted

40. If the Minister grants a mining lease over the whole or part of the area comprised in a retention lease, the retention lease will cease to operate in relation to the area comprised in the mining lease.

DIVISION 3—COMMON PROVISIONS

Notification of proposed terms and conditions

41. (1) If the Minister determines on application under the Act that he or she is willing to grant to the applicant a mining lease or a retention lease (subject to the operation of the Act and these regulations), the Minister must advise the applicant by notice in writing of the terms and conditions under which the Minister is prepared to do so.

(2) An applicant must, within 21 days after the date of a notice under subregulation (1) or such longer period as the Mining Registrar may allow, notify the Minister in writing as to whether the applicant is willing to accept the terms and conditions notified under subregulation (1).

(3) If an applicant notifies the Minister under subregulation (2) that the applicant accepts the terms and conditions, and pays the appropriate rental under the Act, the Minister will approve the application.

(4) If an applicant fails to provide a notification within the time allowed under subregulation (2), the Minister may assume that the application has been withdrawn.

Terms and conditions of a lease

42. A mining lease or a retention lease is subject to the following terms and conditions:

- (a) the lessee must pay all rates, taxes and other imposts that become payable in respect of the land;
- (b) —
- (i) in the case of a mining lease—the lessee must ensure that mining operations on the land are carried out in an orderly and skilful manner in accordance with a program for mining and rehabilitation of the land approved, from time to time, by the Minister;
- (ii) in the case of a retention lease—if the lease stipulates that the lessee has rights to conduct mining operations on the land, the lessee must ensure that the mining operations are carried out in an orderly and skilful manner in accordance with a program for mining and rehabilitation of the land approved, from time to time, by the Minister;
- (c) the lessee must submit to the Director, from time to time at the Director's request, a current plan of survey of the land in the form required by the Director;
- (d) if the land is subject to a pastoral lease under the *Pastoral Land Management and Conservation Act 1989*, the lessee must give the pastoral lessee access to the land for domestic purposes and for watering stock (although the lessee is not required to give the pastoral lessee access to water provided or stored by the lessee by artificial means).

Conditions to be observed after notification of approval

43. (1) If or when the applicant for a mining lease or a retention lease receives written notification that the lease has been approved by the Minister, the applicant will, during the period between the date of the notification and the execution of the lease document, be taken to be the lessee of the land in respect of which the lease is sought.

(2) A person who is taken to be a lessee by virtue of subregulation (1) must, during the period that applies under that subregulation, comply with all proposed terms and conditions of the lease as if the lease document had been executed.

(3) If a person fails to execute and return a lease document within 90 days of the document being forwarded to the person for execution as lessee, the Minister may, by notice in the *Gazette*, withdraw his or her approval of the lease, and the lease will then cease and determine.

Annual rent

44. (1) The rental payable for a mining lease or a retention lease is prescribed by schedule 3.

(2) The rent payable for a lease will be calculated according to the total amount of land in respect of which the lease is granted, and no allowance will be made for land that is not available for mining or other activities under the lease.

(3) The rent payable for a lease must be paid annually in advance to the Director at the head office of the Mineral Resources Group of the Department of the Minister.

Maintenance of leases

45. (1) The lessee under a mining lease or a retention lease must, during the term of the lease, and any extension or renewal of the lease, maintain all posts, boundary indicator markers and notices in the positions required by these regulations.

(2) However, subregulation (1) does not apply in the case of a retention lease if the lessee furnishes the Director with a survey of the area of the retention lease acceptable to the Director.

(3) A survey accepted under subregulation (2) must be registered in the Mining Register.

Transfer of leases

46. (1) The following procedures apply to the transfer of a mining lease or a retention lease:

- (a) an application for the Minister's consent to the transfer of the lease must be made in the form of Form 13 (as part of the proposed instrument of transfer);
- (b) the Minister may approve or refuse the application or may require the provision of further information, including particulars of the arrangements that will apply to ensure compliance with requirements of the lease relating to the rehabilitation of land;
- (c) the Minister's consent will operate subject to the payment of any outstanding fees or rental with respect to the lease and the resolution of any issues relating to a bond under the Act;
- (d) the instrument of transfer, after payment of stamp duty, must be lodged with a mining registrar, together with the transferor's copy of the lease, the fee prescribed by schedule 2, any other outstanding fees or rentals with respect to the lease, and any bond, within 30 days after the Minister gives his or her consent to the transfer, or such later time as the Mining Registrar may allow;
- (e) the late lodgment fee prescribed by schedule 2 is payable if an instrument of transfer is lodged with a mining registrar later than 30 days after the Minister gives his or her consent to the transfer;
- (f) on due receipt of the documents and other items required under paragraphs (d) and (e) (including evidence of the payment of stamp duty), a mining registrar must enter a memorial of the transfer in the Mining Register, endorse particulars of the transfer on the lessee's copy of the lease, and return the lease to the transferee;
- (g) a transfer does not take effect until a memorial of the transfer is entered in the Mining Register under paragraph (f).

(2) If application is made to transfer a lease for which a lease document has not yet been issued, the procedure under subregulation (1) must be carried out so far as is practicable with the lease document being issued in the name of the transferee, containing any endorsements considered necessary by the Mining Registrar.

Surrender of lease

47. (1) A lessee may apply for the surrender of all or a portion of a mining lease or a retention lease by making application for the consent of the Minister in the form of Form 14.

(2) The Minister may, after being satisfied that no issues relating to rent, royalties or rehabilitation are outstanding, approve the application.

(3) The Minister may, if the Minister thinks fit, waive compliance with a requirement under subregulation (2).

Rights of surrender

48. A right of surrender under the Act and these regulations are subject to the rights of persons claiming from or under a lessee.

Renewal of leases

49. (1) An application for the renewal of a mining lease must be made in the form of Form 15.

(2) An application for the renewal of a retention lease must be made in the form of Form 16.

(3) An application under subregulation (1) or (2) must be accompanied by the appropriate fee under schedule 2 and the rental payment required under schedule 3.

PART 5
GENERAL PROVISIONS AS TO CLAIMS AND LEASES

Working conditions

50. (1) Unless otherwise determined by the Warden's Court, a mineral claim must, within 30 days after the date of its registration or, if the claim is over native title land, within 30 days after registration of an agreement or determination under Part 9B of the Act, be diligently worked by at least one person on the basis of at least 100 hours of work per calendar month.

(2) However, the holder of a mineral claim is exempt from the operation of subregulation (1) if application is made for a mining lease or a retention lease until the application is determined.

(3) Unless otherwise determined by the Warden's Court, a mining lease must, immediately after the Minister gives notice that the lease has been approved, be diligently worked—

- (a) by at least one person on the basis of at least 100 hours of work per calendar month; or
- (b) as specified in the lease; or
- (c) as approved by the Minister from time to time.

(4) The following will be taken to be within the concept of diligently working a claim or lease—

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

(5) In the case of a lease, work carried out by the holder of an option to purchase the lease may be counted under this regulation.

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

Amalgamation of working conditions

51. (1) Subject to this regulation, the working conditions of up to four mineral claims held by the same person may be amalgamated for a period not exceeding two years at any one time under the authority of an order of the Warden's Court.

(2) Subject to this regulation, the working conditions of any number of mining leases of the same class held by the same person may be amalgamated for a period not exceeding seven years at any one time under the authority of an order of the Warden's Court.

(3) The Warden's Court may authorise the amalgamation of the working conditions of one or more claims with the working conditions of one or more leases if—

- (a) the holder of the claim or claims and the lessee is the same person; and
- (b) the number of claims included in the amalgamation does not exceed the number of leases.

(4) If the Minister grants to the owner of a registered mineral claim a mining lease over the land comprised in the claim and the Warden's Court has previously authorised the amalgamation of the claim with one or more other tenements, the authorisation will continue to apply with respect to the lease (until the date of expiry of the relevant order).

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

(6) 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.

(7) The cancellation or expiry of a tenement that has been amalgamated does not cancel an amalgamation if two or more tenements remain and those tenements are contiguous.

(8) 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.

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

Suspension of working conditions

52. (1) The owner of a mineral claim or the lessee under a lease may apply to the Warden's Court for the suspension of working conditions on the claim or lease.

(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; 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 Warden's Court may, on application by the Director or the holder of a miner's right, revoke the order.

(7) The operation of an order for the suspension of working conditions is not affected by a transfer of the relevant claim or lease.

(8) If the Minister grants to the owner of a registered mineral claim a mining lease over the land comprised in the claim and the Warden's Court has previously approved the suspension of working conditions on the claim, the approval will continue to apply with respect to the lease (until the date of expiry of the relevant order).

(9) A person who has obtained an order approving the suspension of working conditions may place a notice on the tenement stating that the working conditions have been suspended.

(10) This regulation does not affect the exemption from the requirement to work a tenement 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

53. (1) The owner of a mineral claim or the lessee under a lease will not be liable to a penalty, or to the forfeiture of the tenement, 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 person working the claim or lease.

(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 claim or lease was pegged out.

Roads and pipelines across tenements

54. (1) The Warden's Court may, on application, approve the making, laying or use of a road or pipeline on or over a claim or lease if 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 holder of the tenement 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 6
LICENCES**

DIVISION 1—EXPLORATION LICENCES

Notification of proposed terms and conditions

55. (1) If the Minister determines on application under the Act that he or she is willing to grant to the applicant an exploration licence (subject to the operation of the Act and these regulations), the Minister must advise the applicant by notice in writing of the terms and conditions under which the Minister is prepared to do so.

(2) An applicant must, within 21 days after the date of a notice under subregulation (1) or such longer period as the Mining Registrar may allow, notify the Minister in writing as to whether the applicant is willing to accept the terms and conditions notified under subregulation (1).

(3) If an applicant notifies the Minister under subregulation (2) that the applicant accepts the terms and conditions, and pays the appropriate fee under section 31 of the Act, the Minister will approve the application.

(4) If an applicant fails to provide a notification within the time allowed under subregulation (2), the Minister may assume that the application has been withdrawn.

Conditions of an exploration licence

56. An exploration licence is subject to the following conditions:¹

- (a) the licensee must, as soon as reasonably practicable, report to the Director the discovery on the land of minerals potentially capable of economic production;
- (b) the licensee must conduct operations under the licence (including managing waste resulting from mining operations) in accordance with a program approved, from time to time, by the Minister designed to—
 - (i) prevent pollution to or contamination of surface or underground waters; and
 - (ii) minimise surface damage to the land; and
 - (iii) ensure that, in drilling or other underground investigations, no interconnection between groundwater aquifers occurs;
- (c) the licensee must obtain the approval of the Director before any of the following occurs (or begins) in connection with operations conducted under the licence:
 - (i) construction of a major campsite or new track; or
 - (ii) upgrading of a track;
- (d) the licensee must ensure that the use of vehicles in connection with operations conducted under the licence off existing roads or tracks or tracks approved by the Director, is kept to a minimum;

- (e) the licensee must give written notice of the following matters to the Director:
 - (i) a proposal to carry out an airborne survey of the land (including details of the type of survey, the area to be surveyed, flight line spacing and flight height); or
 - (ii) a proposal to investigate the use of groundwater on the land for the purpose of water supplies, de-watering, in-site leaching, waste disposal or other purpose;
- (f) the licensee must allow an inspector or authorised person under the Act, at any reasonable time, to enter and remain on the land for the purpose of surveying the land and examining the condition of the land;
- (g) the licensee must within 60 days after making a request to the Minister for a reduction in the area of the land in respect of which the licence operates submit to the Minister a technical report of the exploratory operations carried out in the area sought to be excluded from the licence;
- (h) exploration or other reports, and geological data and samples, required to be submitted under the Act to the Minister or the Director must be submitted by times, and in a manner and form, determined by the Director.

¹ Expenditure obligations will be included in conditions imposed by the Minister under section 30(1)(b) of the Act.

Annual fee

57. (1) The annual fee for an exploration licence under section 31 of the Act is prescribed by schedule 3.

(2) The fee payable will be calculated according to the nominal area of the licence, and no allowance will be made for land that is not available for exploration.

Cessation of tenement or private mine

58. If a mining tenement or private mine within the area of an exploration licence ceases to exist, the area of land within the mining tenement or private mine will be incorporated into the area of the licence.

DIVISION 2—MISCELLANEOUS PURPOSES LICENCES

Application for a licence (s. 53)

59. An application for a miscellaneous purposes licence must be in the form of Form 17.

Notification of proposed terms and conditions

60. (1) If the Minister determines on application under the Act that he or she is willing to grant to the applicant a miscellaneous purposes licence (subject to the operation of the Act and these regulations), the Minister must advise the applicant by notice in writing of the terms and conditions under which the Minister is prepared to do so.

(2) An applicant must, within 21 days after the date of a notice under subregulation (1) or such longer period as the Mining Registrar may allow, notify the Minister in writing as to whether the applicant is willing to accept the terms and conditions notified under subregulation (1).

(3) If an applicant notifies the Minister under subregulation (2) that the applicant accepts the terms and conditions, and pays the appropriate rental under the Act, the Minister will approve the application.

(4) If an applicant fails to provide a notification within the time allowed under subregulation (2), the Minister may assume that the application has been withdrawn.

Size

61. The maximum permissible area of a miscellaneous purposes licence is 250 hectares.

Mode of taking possession

62. (1) The applicant for a miscellaneous purposes licence must peg out the area of the licence in accordance with the requirements of this regulation.

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

(3) Each 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 not less than 75 centimetres above the ground; and

(d) clearly display a notice of the person's intention to apply for a miscellaneous purposes licence.

(4) The direction of the boundaries of the area must be clearly indicated by trenches, piles of stones, or substantial indicator markers fixed to each post.

(5) A person who has pegged out an area for a miscellaneous purposes licence must lodge an application for the licence within 14 days after the pegging.

Display of licence number

63. (1) An applicant for a miscellaneous purposes licence who is notified that the Minister has approved his or her application must, within 14 days after the receipt of the notification, ensure that the number of the licence and the designation "MPL" are clearly displayed on each post marking out the relevant area.

(2) The person must ensure that all notices relating to the intention to apply for the licence are removed at the time that the information is recorded on the posts under subregulation (1).

Annual rent

64. (1) The annual rental for a miscellaneous purposes licence is prescribed by schedule 3.

(2) The rent payable will be calculated according to the nominal area of the licence, and no allowance will be made for land that is not available for use under the licence.

(3) The rent payable for the licence must be paid annually in advance to the Director at the head office of the Mineral Resources Group of the Department of the Minister.

Maintenance of licence

65. The licensee under a miscellaneous purposes licence must, during the term of the licence, and any extension or renewal of the licence, maintain all posts, boundary indicator markers and notices in the positions required by these regulations.

Renewal of licence

66. (1) An application for the renewal of a miscellaneous purposes licence must be in the form of Form 18.

(2) An application under subregulation (1) must be accompanied by the appropriate fee under schedule 2 and the rental payment required under schedule 3.

DIVISION 3—COMMON PROVISIONS

Conditions to be observed after notification of approval

67. (1) If or when the applicant for an exploration licence or a miscellaneous purposes licence receives written notification that the licence has been approved by the Minister, the applicant will, during the period between the date of the notification and the execution of the licence document, be taken to be the licensee of the land in respect of which the licence is sought.

(2) A person who is taken to be a licensee by virtue of subregulation (1) must, during the period that applies under that subregulation, comply with all proposed terms and conditions of the licence as if the licence document had been executed.

(3) If a person fails to execute and return a licence document within 90 days of the document being forwarded to the person for execution as licensee, the Minister may, by notice in the *Gazette*, withdraw his or her approval of the licence, and the licence will then cease and determine.

Transfer of licences

68. (1) The following procedures apply to the transfer of an exploration licence or a miscellaneous purposes licence:

- (a) an application for the Minister's consent to the transfer of the licence must be made in the form of Form 19 (as part of the proposed instrument of transfer);
- (b) the Minister may approve or refuse the application or may require the provision of further information, including particulars of the arrangements that will apply to ensure compliance with requirements of the licence relating to the rehabilitation of land;
- (c) the Minister's consent will operate subject to the payment of any outstanding fees or rental with respect to the licence and the resolution of any issues relating to a bond under the Act;
- (d) the instrument of transfer, after payment of stamp duty, must be lodged with a mining registrar, together with the transferor's copy of the licence, the fee prescribed by schedule 2, any outstanding fees or rentals with respect to the licence, and any bond, within 30 days after the Minister gives his or her consent to the transfer, or such later time as the Mining Registrar may allow;
- (e) the late lodgment fee prescribed by schedule 2 is payable if an instrument of transfer is lodged with a mining registrar later than 30 days after the Minister gives his or her consent to the transfer;

- (f) on due receipt of the documents and other items required under paragraphs (d) and (e) (including evidence of the payment of stamp duty), a mining registrar must enter a memorial of the transfer in the Mining Register, endorse particulars of the transfer on the licensee's copy of the licence, and return the licence to the transferee;
- (g) a transfer does not take effect until a memorial of the transfer is entered in the Mining Register under paragraph (f).

(2) If application is made to transfer a licence for which a licence document has not yet been issued, the procedure under subregulation (1) must be carried out so far as is practicable with the licence document being issued in the name of the transferee, containing any endorsements considered necessary by the Mining Registrar.

Surrender of licence

69. (1) A licensee may apply for the surrender of all or a portion of an exploration licence or miscellaneous purposes licence by making application to the Minister in the form of Form 20.

(2) The Minister may, after being satisfied that no rent, royalties or fees are outstanding, approve the application.

(3) The Minister may, if the Minister thinks fit, waive compliance with a requirement under subregulation (2).

**PART 7
ENTRY ON LAND**

Notice of entry

70. (1) The notice of entry required under sections 58 and 58A of the Act must be in the form of Form 21.

(2) A mining operator must ensure that a duplicate copy of each notice of entry served under section 58A of the Act is retained by or on behalf of the operator.

(3) A person must, on serving a notice of entry under section 58A of the Act, immediately record information about the service of the notice by completing on the duplicate copy of the notice the appropriate part of the form that relates to service of the notice.

(4) An agreement between a mining operator and an owner of land that provides that a prescribed notice of entry is not required under section 58A of the Act must—

- (a) be in writing; and
- (b) be signed by the parties to the agreement.

Use of declared equipment

71. The notice of an intention to use declared equipment required under section 59(2) of the Act must be in the form of Form 22.

Lapse of notices

72. If—

- (a) notice of entry is given under section 58 and 58A or notice of an intention to use declared equipment is given under section 59; and
- (b) no objection is made; and
- (c) the mining operator does not enter the land, or does not use the declared equipment (as the case may be) within 12 months of the service of the notice,

the notice lapses (but not so as to prevent the service of a new notice).

Objection to entry or use of declared equipment

73. If the Warden's Court receives a notice of objection to entry to land, or to the use of declared equipment, under the Act, the court may order that the mining operator not enter or use the land, or not use the declared equipment, until the objection is determined.

Waiver of exemption

74. A waiver of an exemption under section 9 of the Act must be in the form of Form 23.

Copy of exemption to be lodged with Mining Registrar

75. (1) The holder of a mining tenement (or an applicant for a mining tenement) who has negotiated an exemption under section 9 of the Act must ensure that a copy of the waiver of exemption is lodged with the Mining Registrar—

- (a) if the waiver is negotiated prior to an application to register the tenement—at the time of making the application;
- (b) if the waiver is negotiated at any time thereafter—within 21 days after the negotiations are completed.

(2) Subregulation (1) does not apply with respect to an exploration licence.

Conditions of entry not affected by transfer

76. An order of the Warden's Court relating to conditions of entry to land or the occupation of a tenement will, if the tenement is transferred, bind the transferee.

PART 8
REGISTRATION OF DOCUMENTS

Caveats

77. A caveat must be in the form of Form 24 or 25 (as appropriate).

Tenement documents to be issued in duplicate

78. A lease or licence granted under the Act must be issued in duplicate, one copy being delivered by a mining registrar to the lessee or licensee and the other retained and registered in the Mining Register by a mining registrar.

Consent of Minister

79. (1) An application for the consent of the Minister under section 83 of the Act must be—

- (a) lodged with the Director; and
- (b) accompanied by the appropriate fee prescribed by schedule 2.

(2) A mining registrar must enter a memorial in the Mining Register of a consent of the Minister under section 83 of the Act and register a copy of any instrument submitted for the purposes of an application under that section specified by the Minister.

(3) Any additional copies of an instrument registered under subregulation (2) must be endorsed by a mining registrar to the effect that a copy has been registered and then the mining registrar must return the endorsed copies to the applicant.

Status of unregistered instruments

80. (1) An instrument required to be registered by the Act or these regulations has no force or effect unless or until it is registered.

(2) However, an approval of the Minister or an order of an appropriate court will be effective from the date specified in the approval or order.

Amendment of register

81. Subject to the provisions of the Act, the appropriate court may order—

- (a) that an entry in the Mining Register be made, amended or cancelled; or
- (b) that an instrument be registered or that the registration of an instrument be cancelled.

Searches

82. Subject to the Act, a person may, on payment of the appropriate fee prescribed by schedule 2, during the hours, and on the days, specified by the Director, inspect—

- (a) the Mining Register; and
- (b) all registered instruments under the Act held by the Department of the Minister; and
- (c) the tenement databases.

Divesting of right to claim royalty

83. (1) If a person divests himself or herself of an actual or potential right to claim royalty—

- (a) the person must lodge a copy of the instrument of divestment with the Director together with the appropriate fee prescribed by schedule 2; and
- (b) the parties to an instrument evidencing further dealings or charges relating to the instrument of divestment must lodge a copy of that instrument with the Director together with the appropriate fee prescribed by schedule 2.

(2) The Director must maintain a register of these instruments and a person may, on payment of the appropriate fee prescribed by schedule 2, during the hours, and on the days, specified by the Director, inspect the register and all registered instruments.

PART 9
EXTRACTIVE AREAS REHABILITATION FUND

Interpretation

84. In this Part—

"**fund**" means the Extractive Areas Rehabilitation Fund;

"**land**" means land which, or part of which, has been disturbed by mining operations for the recovery of extractive minerals.

Application

85. A person who has paid to the Minister royalty for extractive minerals—

- (a) who submits a plan for the rehabilitation of land that has been approved by the Chief Inspector in accordance with the provisions of the regulations under the *Mines and Works Inspection Act 1920*; or
- (b) on whom an order has been made by the Chief Inspector in accordance with the provisions of the regulations under the *Mines and Works Inspection Act 1920* requiring that person to rehabilitate any land; or
- (c) who, as a condition of an extractive minerals lease, has carried out rehabilitation work on the land,

may apply to the Minister for a payment from the fund.

Progressive payments

86. (1) The Minister may approve progressive payments to an applicant from the fund.

(2) However, progressive payments must not be made unless the Director has certified to the Minister—

- (a) that satisfactory rehabilitation work has been carried out; or
- (b) that rehabilitation work is proceeding in a satisfactory manner and that a progress payment is justified.

Payments to support rehabilitation of land

87. (1) The Minister may also make payments out of the fund to a person who satisfies the Minister that he or she has executed or intends to execute work which has or will, wholly or partially, rehabilitate land.

(2) A payment may be made under this regulation either in respect of all or any of the expenses incurred in the rehabilitation or by way of an advance of moneys to be used to pay all or any of the estimated expenses expected to be incurred in the rehabilitation of land.

(3) If the Minister makes an advance of moneys pursuant to this regulation and any of those moneys remain unexpended one year after the time at which the advance was made, the Minister may request the unexpended moneys to be repaid to the fund and the person to which the advance was made must immediately repay the unexpended moneys.

Conditions

88. (1) The Minister may impose conditions relating to a payment of money from the fund.

(2) A person to whom a payment is made must comply with any relevant condition.

**PART 10
MISCELLANEOUS**

Removal of posts

89. (1) If a post is in a place that interferes with the working of a mining tenement, the holder of the tenement may apply to—

- (a) a mining registrar; or
- (b) an inspector; 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) may include directions to ensure the proper definition of the boundaries of the tenement while the post is removed; and
- (b) 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 tenement) must not remove a post placed in the ground in order to mark a mining tenement (or an area for a mining tenement).

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

- (a) a person acting with the written permission of the holder of the tenement; or
- (b) a mining registrar, an inspector, or a person authorised by the Mining Registrar for the purposes of this subregulation, removing a post from a tenement (or the area for a tenement) 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 tenement (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 tenement.

(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 prescribed by schedule 2, 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 boundaries

90. (1) If—

- (a) the holder of a mining tenement discovers that the area, shape or dimensions of the tenement do not conform with these regulations; or
- (b) the holder of a mining tenement discovers that a portion of another tenement has been included within the boundaries of the tenement,

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 the 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 tenement or otherwise concerning the validity of the tenement have already been commenced (and have not been determined).

Superimposed tenements—consent

91. (1) If a class of mining tenement is granted over land already held as a tenement of a different class, and the holder of the tenement is the same person, the person need maintain only one post at each corner of the area, but each post must have on it, or on a notice attached to it, the numbers and classes of all the tenements.

(2) If the superimposed tenement covers a part of the prior tenement, the superimposed tenement must be marked out by independent posts.

(3) The annual rental payable on the tenements are to be waived except for the one with the highest rental.

(4) If a superimposed lease is held by another party, the annual rental must be payable for the superimposed tenement.

(5) If application is made to register a tenement superimposed on an existing tenement, the applicant must lodge with the application a consent in writing under section 80(2) of the Act, together with particulars in writing of the agreement of the parties.

Action to comply

92. (1) A liability to the forfeiture of a mining tenement on account of failure to comply with a requirement of these regulations will cease on subsequent compliance by the holder of the tenement.

(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);
- (b) subregulation (1) does not apply if proceedings for forfeiture of the tenement are commenced under the Act within one month after the liability to forfeiture arises and before the holder of the tenement 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 tenement,

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.

Offices of Mining Registrar

93. For the purposes of the Act, the following are offices of the Mining Registrar:

- (a) the offices of the Mineral Resources Group of the Department of the Minister at Andamooka, Coober Pedy and Mintabie; and
- (b) the head office of the Mineral Resources Group of the Department of the Minister at Adelaide.

False information

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

- (a) forfeits all rights in relation to the relevant tenement; 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

95. The holder of a miner's right or a mining tenement must notify the Mining Registrar in writing of a change in name or address within 30 days of the change.

Mining return

96. A mining return furnished in accordance with section 76 of the Act must be in the form of Form 26.

Records and samples

97. The holder of a mining tenement must maintain records of geological mapping, surveys of workings, logs of drill holes, location and type of samples taken, results of analyses and testing of samples, and results of geophysical surveys.

Duplicate tenement document

98. An application for the issue of a duplicate copy of a lease or licence under section 84 of the Act must be accompanied by the appropriate fee prescribed by schedule 2.

Due date for royalty payments

99. (1) Subject to the Act, the Minister must cause an account for the payment of royalty to be rendered to the holder of the tenement after the expiry of the period of 60 days allowed for an appeal against an assessment of royalty or, if an appeal is instituted, after the determination of the appeal.

(2) The due date for the payment of royalty is one month after the date on which the account is rendered.

Declaration

100. If application is made to the Warden's Court for a declaration of invalidity of a mining tenement on the grounds that the tenement 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.

Power of court to award costs

101. The Warden's Court is vested with jurisdiction to award reasonable costs.

Recording of proceedings

102. The Warden's Court must give written notice to the Mining Registrar of any proceedings before the Warden's Court relating to a mining tenement, and a note of the proceedings must be entered in the Mining Register against the entry of the relevant mining tenement.

Application for native title declaration

103. An application under section 63J of the Act for a declaration that land is not subject to native title is to be made as an application for a native title declaration under the *Native Title (South Australia) Act 1994*.

Approved associations for umbrella authorisations

104. For the purposes of section 63L of the Act, the following associations are approved as associations that may be proponents of native title mining agreements conferring umbrella authorisations:

- (a) South Australian Opal Miner's Association Inc.;
- (b) Coober Pedy Miner's Association Inc.;
- (c) Andamooka Progress and Opal Miners Association Inc.;
- (d) Mintabie Miners and Progress Association Inc.

Notice initiating negotiations with native title parties

105. A notice under section 63M of the Act given by a proponent initiating negotiations for a native title mining agreement under Part 9B of the Act must be in the form of Form 27.

Execution and return of renewal documents

106. If the Mining Registrar requests the holder of a tenement in writing to execute and return documents related to the renewal of the mining tenement within a specified period, the holder of the tenement must comply with the request.

Service of documents

107. A notice or document required or authorised by or under the Act or 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 correspondence or service—at that address; or
- (c) 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.

Forms

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

Execution of forms

109. (1) Unless otherwise provided, a form under the Act must be signed personally or, in the case of a body corporate, executed under seal or by a duly authorised attorney.

(2) A notice of entry or a notice to use declared equipment under the Act may be signed (and given) by an agent of a mining operator.

Fees

110. (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).

Damage to posts

111. A person must not damage or deface a post or notice under these regulations, or alter a notice or date found on a mining tenement.

Offences

112. (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.

Special mining enterprises

113. The requirements imposed by the provisions of the Act and these regulations listed in the first column of schedule 4 (a description of which is provided in the second column for convenience of reference only) are prescribed for the purposes of section 56C(2)(g) of the Act.

SCHEDULE 1
Forms

FORM 1
MINING ACT 1971

APPLICATION FOR MINER'S RIGHT

(Please use BLOCK LETTERS)

To: The Mining Registrar

I,
(Full name (please underline surname) or company name)

of
(Full address for correspondence or company registered address)

.....
.....

apply for a miner's right under the *Mining Act 1971*.

I certify that:

1. I do not hold a current miner's right 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 miner's right.

Additional information:

1. Contact telephone number:
2. Contact facsimile number (if available):
3. If the applicant is a company:
 - (1) A.C.N. No.:
 - (2) Contact person:

DATE:

SIGNATURE:

or
COMPANY SEAL¹.

.....
(Director)

.....
(Director/Secretary)

¹. If the applicant is a company, the application must bear the company's seal and be witnessed by appropriate officers.

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. (This certification is not required if the applicant is a registered company).

Signature:

Name:

Address:

.....

Status:

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

**FORM 2
MINING ACT 1971**

APPLICATION TO RENEW MINER'S RIGHT

(Please use BLOCK LETTERS)

To: The Mining Registrar

I,
(Full name (please underline surname) or company name)

of
(Full address for correspondence or company registered address)

.....
.....

apply to renew **Miner's Right No.**

I certify that no order has been made by the Warden's Court prohibiting me from holding a miner's right.

Additional information:

- 1. Contact telephone number:
- 2. Contact facsimile number (if available):
- 3. If the applicant is a company:
 - (1) A.C.N. No.:
 - (2) Contact person:

DATE:

SIGNATURE:

or
COMPANY SEAL¹

.....
(Director)

.....
(Director/Secretary)

¹ If the applicant is a company, the application must bear the company's seal and be witnessed by appropriate officers.

**FORM 3
MINING ACT 1971**

DECLARATION OF LOSS OF MINER'S RIGHT

(Please use BLOCK LETTERS)

To: The Mining Registrar

I,
(Full name—please underline surname)

of
(Full address)

.....
.....

do solemnly and sincerely swear—

· that I have lost my **Miner's Right No.**

· that has lost its Miner's Right No.
(Name of company)

(· Strike out whichever is inapplicable)

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 Manager)

Additional information to be provided by holder of miner's right:

1. Contact telephone number:
2. Contact facsimile number (if available):
3. If a company is the holder of the miner's right:
 - (1) A.C.N. No.:
 - (2) Position held by the person making the declaration:

**FORM 4
MINING ACT 1971**

SURRENDER OF MINER'S RIGHT

(Please use BLOCK LETTERS)

I,
(Full name (please underline surname) or company name)

of
(Full address for correspondence or company registered address)

.....
.....

being the holder of **Miner's Right No.**
surrender this miner's right.

- The miner's right is attached
 - It is declared that the miner's right has been, thus preventing its presentation.
- (· Strike out whichever is inapplicable)

Additional information:

1. Contact telephone number:
2. Contact facsimile number (if available):
3. If a company:
 - (1) A.C.N. No.:
 - (2) Contact person:

DATE:

SIGNATURE:

or
COMPANY SEAL¹

.....
(Director)

.....
(Director/Secretary)

¹ If the party is a company, the surrender must bear the company's seal and be witnessed by appropriate officers.

**FORM 5
MINING ACT 1971**

APPLICATION FOR REGISTRATION OF MINERAL CLAIM

(Please use BLOCK LETTERS)

To: The Mining Registrar

1. Applicant

I,
(Full name (please underline surname) or company name)

of
(Full address for correspondence or company registered address)

.....
.....

apply for registration of the mineral claim described below.

2. Miner's right under which claim pegged

My miner's right number is

3. Mineral being sought

I am seeking
(Mineral being sought)

4. Location of claim

The claim is located on Section
Hundred
Pastoral Block
Other

· which is within the council area.
(· Strike out if inapplicable)

A sketch plan delineating the location of the claim must be attached.

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.

5. Details of pegging of claim

The claim was properly pegged out under the *Mining Act 1971* on

by

6. Ownership of land within area of claim

The following searches¹ have been conducted to establish ownership (or claims to ownership) of land within the area of the claim with the following results:

.....
¹ Include LTO searches.

A copy of each title evidencing ownership of the land (if any) must be attached.

7. 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*²:

.....
² 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.

8. 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 in accordance with the requirements of Part 7 of the Mining Regulations—see also Form 21) must be attached.

· 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.

9. Additional information:

- 1. Contact telephone number:
- 2. Contact facsimile number (if available):
- 3. If the applicant is a company:
 - (1) A.C.N. No.:
 - (2) Contact person:

DATE:

SIGNATURE³:

or
COMPANY SEAL⁴

.....
(Director)

.....
(Director/Secretary)

³ This application must be executed by the holder of the relevant miner's right.

⁴ If the applicant is a company, the application must bear the company's seal and be witnessed by appropriate officers.

CHECK LIST

Do not forget to attach the following items:

- A sketch plan delineating the location of the claim (*see* item 4)
- A copy of each title evidencing ownership of the land (if any)
- A copy of any waiver of exemption (*see* item 7)
- A copy of each notice of entry to land (*see* item 8)
- A copy of any agreement waiving notice of entry (*see* item 8).

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. 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 6
MINING ACT 1971**

SURRENDER OF A REGISTERED MINERAL CLAIM

(Please use BLOCK LETTERS)

To: The Mining Registrar

I,
(Full name (please underline surname) or company name)

of
(Full address for correspondence or company registered address)

.....
.....

being the holder of **Mineral Claim Registered No.**

pegged out under **Miner's Right No.** surrender this claim.

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

on

Additional information:

- 1. Contact telephone number:
- 2. Contact facsimile number (if available):
- 3. If a company:
 - (1) A.C.N. No.:
 - (2) Contact person:

DATE:

SIGNATURE:

or
COMPANY SEAL¹

.....
(Director)

.....
(Director/Secretary)

¹ If the claim holder is a company, the surrender must bear the company's seal and be witnessed by appropriate officers.

**FORM 7
MINING ACT 1971**

APPLICATION FOR REGISTRATION OF ACCESS CLAIM

(Please use BLOCK LETTERS)

To: The Mining Registrar

1. Application

I,
(Full name (please underline surname) or company name)

of
(Full address for correspondence or company registered address)

.....
.....

apply for registration of the access claim described below.

2. Details of tenement

I am the holder of
(Describe tenement)

being a sub-surface stratum tenement immediately below the area of the access claim.

The claim is located at
.....

3. Details of pegging of claim

The claim was properly pegged out under Part 9A of the *Mining Act 1971* on

by

4. A sketch plan delineating the location of the claim is attached.

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.

Additional information:

- 1. Contact telephone number:
- 2. Contact facsimile number (if available):
- 3. If the applicant is a company:
 - (1) A.C.N. No.:
 - (2) Contact person:

DATE:

SIGNATURE:

or
COMPANY SEAL¹.

.....
(Director)

.....
(Director/Secretary)

¹. If the applicant is a company, the application must bear the company's seal and be witnessed by appropriate officers.

**FORM 8
MINING ACT 1971**

APPLICATION FOR RENEWAL OF ACCESS CLAIM

(Please use BLOCK LETTERS)

To: The Mining Registrar

I,
(Full name (please underline surname) or company name)

of
(Full address for correspondence or company registered address)

.....
.....

being the holder of **Access Claim Registered No.** apply to renew that claim.

Additional information:

- 1. Contact telephone number:
- 2. Contact facsimile number (if available):
- 3. If the applicant is a company:
 - (1) A.C.N. No.:
 - (2) Contact person:

DATE:

SIGNATURE:

or
COMPANY SEAL¹

.....
(Director)

.....
(Director/Secretary)

¹. If the applicant is a company, the application must bear the company's seal and be witnessed by appropriate officers.

**FORM 9
MINING ACT 1971**

SURRENDER OF REGISTERED ACCESS CLAIM

(Please use BLOCK LETTERS)

To: The Mining Registrar

I,
(Full name (please underline surname) or company name)

of
(Full address for correspondence or company registered address)

.....
.....

being the holder of **Access Claim Registered No.** surrender this claim.

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

Additional information:

- 1. Contact telephone number:
- 2. Contact facsimile number (if available):
- 3. If a company:
 - (1) A.C.N. No.:
 - (2) Contact person:

DATE:

SIGNATURE:

or
COMPANY SEAL¹

.....
(Director)

.....
(Director/Secretary)

¹. If the claimholder is a company, the surrender must bear the company's seal and be witnessed by appropriate officers.

**FORM 10
MINING ACT 1971**

APPLICATION FOR MINING LEASE

(Please use BLOCK LETTERS)

1. Applicant

I,
(Full name (please underline surname) or company name)

of
(Full address for correspondence or company registered address)

.....
.....

apply for—

- a mineral lease
- an extractive minerals lease

[tick one box]

over—

- the whole of the land comprised in mineral claim number
- or
- that portion of the land comprised in mineral claim number
shown on the attached sketch plan.

· The area applied for as a lease is within the council area.

(· Strike out if inapplicable)

2. Ownership of land¹ (including native title claims and declarations) within area of proposed lease

The following searches² have been conducted to establish ownership (or claims to ownership) of land within the area of the proposed lease 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).

3. Potential native title land within area of proposed lease³

At the time of application, 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 proposed lease (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.

4. Negotiations with native title parties

If native title land is within the area of the proposed lease, *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 lease will be granted contingent on the registration of an agreement or determination under Part 9B of the *Mining Act 1971*. I understand that the lease cannot be granted until the agreement or determination is registered.

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

5. Exempt land within area of proposed lease

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

.....

⁵ Please identify exempt land in a sketch plan. 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 proposed lease:

.....

A copy of each waiver not previously forwarded to the Mining Registrar must be attached.

6. 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 not previously forwarded to the Mining Registrar (including appropriate details about the service of the notice in accordance with the requirements of Part 7 of the Mining Regulations—see also Form 21) must be attached.

- 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 not previously forwarded to the Mining Registrar 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*

7. Attached plans and statements

The following must be attached:

- a plan showing the area of the mineral claim and the area of the proposed lease; and
- a statement of the mining operations proposed to be carried out under the lease and the measures proposed to be taken to remedy damage to land that may result from the proposed mining operations (in the form of Form 11 of schedule 1 of the *Mining Regulations 1998* together with the plan required by that form).

8. Additional information:

1. Contact telephone number:
2. Contact facsimile number (if available):
3. If the applicant is a company:
 - (1) A.C.N. No.:
 - (2) Contact person:

DATE:

SIGNATURE⁶:

or
COMPANY SEAL⁷:

.....
(Director)

.....
(Director/Secretary)

⁶ This application must be executed by the holder of the relevant mineral claim.

⁷ If the applicant is a company, the application must bear the company's seal and be witnessed by appropriate officers.

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 11
MINING ACT 1971**

**STATEMENT OF PROPOSED MINING OPERATIONS AND
MEASURES TO REMEDY DAMAGE TO LAND**

(Please use BLOCK LETTERS)

Pursuant to my application for a mining lease over mineral claim number
I submit the following statement in accordance with section 35 of the *Mining Act 1971*.

- 1. (a) The mineral(s)* to be mined* is/are
- (b) Extraction will be* open cut/underground
- (c) Mining operations will be conducted* throughout the year/only between the months of and.....
- (d) Hours of operation are expected to be from a.m. to p.m. on.....days per week.
- (e) Explosives* will/will not be used.
- (f) The *open cut/underground operation is expected to extend over an area of metres by.....metres and metres deep.
- (g) The screening measures shown on the plan consist of
- (h) The present land use is
- (i) The proposed after use is and will be achieved by
- (j) Access will be gained from road as shown on the accompanying plan.
- (k) Products will be transported to and it is expected that trucks* per day/week will use public roads.
- (l) The following measures are proposed to remedy damage to land that may result from the mining operations

*Strike out whichever is not applicable.

- 2. The attached plan shows with reasonable accuracy—
 - (a) the physical features of the area including high and low ground, the location of creeks, drainage channels, dams, roads, fences, power lines, existing workings, dumps and tailings dams, standing trees and shrubs and any other relevant features within or adjacent to the claim area;
 - (b) the location and extent of proposed open cut workings, shafts, adits, overburden dumps, mullock dumps, tailings dams, stockpiles, buildings and treatment plant, proposed access tracks to be constructed and silt dams to prevent stream pollution and siltation.

3. Additional information:

- 1. Full name:
- 2. Address:
- 3. Contact telephone number:
- 4. Contact facsimile number (if available):
- 5. If a company:
 - (1) A.C.N. No.:
 - (2) Contact person:

DATE:

SIGNATURE:

or
COMPANY SEAL¹

.....
(Director)

.....
(Director/Secretary)

¹. If a company, the document must bear the company's seal and be witnessed by appropriate officers.

**FORM 12
MINING ACT 1971**

APPLICATION FOR RETENTION LEASE

(Please use BLOCK LETTERS)

1. Applicant

I,
(Full name (please underline surname) or company name)

of
(Full address for correspondence or company registered address)

.....
.....

apply for a retention lease for a term of years
over—

[tick one box and give details]

- the whole of the land comprised in mineral claim number
- that portion of land comprised in mineral claim number shown on the attached sketch plan.

2. Mineral being sought

I am seeking
(Mineral being sought)

3. Grounds of application

Pursuant to section 41A(2) of the *Mining Act 1971*, the following statement details the reasons why a retention lease has been applied for:

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

4. Statement of operations conducted

The following activities or operations have already been conducted on the land, and a summary of the results is attached:

.....
.....

5. Statement of proposed operations

· Certain activities or operations are proposed to be carried out under the lease, and a statement detailing these is attached. **Attach statement.**

[· Strike out if inapplicable]

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

The following searches² have been conducted to establish ownership (or claims to ownership) of land within the area of the proposed lease 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 proposed lease³

At the time of application, 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 proposed lease (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. 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 proposed lease:

.....

A copy of each waiver not previously forwarded to the Mining Registrar must be attached.

9. 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 not previously forwarded to the Mining Registrar (including appropriate details about the service of the notice) must be attached.

- 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 not previously forwarded to the Mining Registrar 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*

Item 10 must be completed if the applicant seeks rights to conduct mining operations that are not limited to exploratory operations

10. 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 lease cannot be granted until the agreement or determination is registered.

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

11. Additional information:

- 1. Contact telephone number:
- 2. Contact facsimile number (if available):
- 3. If the applicant is a company:
 - (1) A.C.N. No.:
 - (2) Contact person:

DATE:

SIGNATURE⁶:

or

COMPANY SEAL⁷:

.....
(Director)

.....
(Director/Secretary)

⁶. This application must be executed by the holder of the relevant mineral claim.

⁷. If the applicant is a company, the application must bear the company's seal and be witnessed by appropriate officers.

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 13
MINING ACT 1971**

INSTRUMENT OF TRANSFER—LEASE

(Please use BLOCK LETTERS)

I,
(Full name (please underline surname) or company name)

of
(Full address or company registered address)

.....
.....

subject to the consent of the Minister under the *Mining Act 1971*, transfer my
Lease No. relating to land situated at
.....
to
(Full name (please underline surname) or company name)

of
(Full address or company registered address)

.....
.....

The consideration paid to me in respect of this transfer is \$

The conditions (if any) of the transfer are as follows:
.....
.....
.....

DATE:

SIGNATURE: **WITNESS:**
or
COMPANY SEAL¹

.....
(Director)

.....
(Director/Secretary)

¹. If the transferor is a company, the transfer must bear the company's seal and be witnessed by appropriate officers.

To be completed by the transferee:

I, the abovenamed accept the conditions of transfer described above and agree to hold the Lease No. subject to the conditions of the lease.

DATE:

SIGNATURE: **WITNESS:**

or
COMPANY SEAL²

.....
(Director)

.....
(Director/Secretary)

² If the transferee is a company, the transfer must bear the company's seal and be witnessed by appropriate officers.

Additional information relating to the transferee:

- 1. Contact telephone number:
- 2. Contact facsimile number (if available):
- 3. If a company:
 - (1) A.C.N. No.:
 - (2) Contact person:

Consent is given to this transfer.

.....
(Minister or delegate under Act)
...../...../.....

**FORM 14
MINING ACT 1971**

SURRENDER (OR PARTIAL SURRENDER) OF LEASE

(Please use BLOCK LETTERS)

I,
(Full name (please underline surname) or company name)

of
(Full address for correspondence or company registered address)

.....
.....

being the lessee under the *Mining Act 1971* of the lands comprised in
Lease No. situated at

do, subject to the consent of the Minister under the *Mining Act 1971*—

- surrender the lease and the lands comprised in the lease, and all my rights and title under the lease
- surrender the portion of the lands comprised in the lease delineated in the attached plan, and all my rights and title under the lease to the extent of the surrender.

(· Strike out whichever is inapplicable)

Additional information:

1. Contact telephone number:
2. Contact facsimile number (if available):
3. If the applicant is a company:
 - (1) A.C.N. No.:
 - (2) Contact person:

DATE:

SIGNATURE: **WITNESS¹:**

or
COMPANY SEAL²

.....
(Director)

.....
(Director/Secretary)

¹ The witness must be a Justice of the Peace, Officer of the Department, Member of the Police Force, Proclaimed Manager or Commissioner for Taking Affidavits.

² If the lessee is a company, the surrender must bear the company's seal and be witnessed by appropriate officers.

Consent is given to this surrender.

.....
(Minister or delegate under Act)
...../...../.....

**FORM 15
MINING ACT 1971**

APPLICATION FOR RENEWAL OF MINING LEASE

(Please use BLOCK LETTERS)

I,
(Full name (please underline surname) or company name)

of
(Full address for correspondence or company registered address)

.....
.....
apply to renew **Lease No.** under the *Mining Act 1971*
for a period of years, from the date of expiry of the current lease.

Additional information:

- 1. Contact telephone number:
- 2. Contact facsimile number (if available):
- 3. If the applicant is a company:
 - (1) A.C.N. No.:
 - (2) Contact person:

DATE:

SIGNATURE:

or
COMPANY SEAL¹

.....
(Director)

.....
(Director/Secretary)

¹ If the lessee is a company, the application must bear the company's seal and be witnessed by appropriate officers.

**FORM 16
MINING ACT 1971**

APPLICATION FOR RENEWAL OF RETENTION LEASE

(Please use BLOCK LETTERS)

I,
(Full name (please underline surname) or company name)

of
(Full address for correspondence or company registered address)

.....
.....
apply to renew **Retention Lease No.** under the *Mining Act 1971* for a period of
..... years, from the date of expiry of the current lease.

The reasons for this application are as follows:

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

Additional information:

1. Contact telephone number:
2. Contact facsimile number (if available):
3. If the applicant is a company:
 - (1) A.C.N. No.:
 - (2) Contact person:

DATE:

SIGNATURE:

or
COMPANY SEAL¹

.....
(Director)

.....
(Director/Secretary)

¹. If the lessee is a company, the application must bear the company's seal and be witnessed by appropriate officers.

**FORM 17
MINING ACT 1971**

APPLICATION FOR MISCELLANEOUS PURPOSES LICENCE

(Please use BLOCK LETTERS)

1. Applicant

I,
(Full name (please underline surname) or company name)

of
(Full address for correspondence or company registered address)

.....
.....
apply for a miscellaneous purpose licence over the land delineated in Plan 1 (attached) for the purpose of

2. Location of land

The land is located on Section
Hundred
Pastoral Block
Other

· which is within the council area.
(· Strike out if inapplicable)

3. Details of pegging

The land was properly pegged out under the *Mining Act 1971* on
by

4. Ownership of land¹

The following searches have been conducted to establish ownership (or claims to ownership) of land within the area to which the licence will relate with the following results:

.....
¹ Include LTO searches, including a copy of each title evidencing ownership of the land (if any).

5. Exempt land

· The following land within the relevant area is exempt land under section 9 of the *Mining Act 1971*²:
.....

² Please identify exempt land in Plan 1 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 relevant area:
.....

A copy of each waiver must be attached.

6. Land use and environmental issues

The present land use is

The proposed after use is

Protection of the environment and rehabilitation will be achieved by

7. Plan requirements

- Plan 1 must delineate the land sought to be included in the licence. The plan must show—
 - dimensions and bearings of 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.
- It is also necessary to submit a second plan, designated as Plan 2. This plan must show with reasonable accuracy—
 - (a) the physical features of the area including high and low ground, the location of creeks, drainage channels, dams, roads, houses, fences, power lines, existing workings, dumps and tailings dams, standing trees and shrubs and any other relevant features within or adjacent to the licence area;
 - (b) the location of proposed buildings, treatment plant, tailings or other disposal areas, road and tracks and other features of the proposal.

8. Additional information:

1. Contact telephone number:
2. Contact facsimile number (if available):
3. If the applicant is a company:
 - (1) A.C.N. No.:
 - (2) Contact person:

DATE:

SIGNATURE:

or
COMPANY SEAL³.

.....
(Director)

.....
(Director/Secretary)

³. If the applicant is a company, the application must bear the company's seal and be witnessed by appropriate officers.

**FORM 18
MINING ACT 1971**

APPLICATION FOR RENEWAL OF MISCELLANEOUS PURPOSES LICENCE

(Please use BLOCK LETTERS)

I,
(Full name (please underline surname) or company name)

of
(Full address for correspondence or company registered address)

.....
.....
apply to renew **Miscellaneous Purposes Licence No.** under the *Mining Act 1971*
for a period of years, from the date of expiry of the current licence.

Additional information:

- 1. Contact telephone number:
- 2. Contact facsimile number (if available):
- 3. If the applicant is a company:
 - (1) A.C.N. No.:
 - (2) Contact person:

DATE:

SIGNATURE:

or
COMPANY SEAL¹.

.....
(Director)

.....
(Director/Secretary)

¹ If the holder of the licence is a company, the application must bear the company's seal and be witnessed by appropriate officers.

**FORM 19
MINING ACT 1971**

**INSTRUMENT OF TRANSFER—EXPLORATION LICENCE OR
MISCELLANEOUS PURPOSES LICENCE**

(Please use BLOCK LETTERS)

I,
(Full name (please underline surname) or company name)

of
(Full address or company registered address)

.....
.....
subject to the consent of the Minister under the *Mining Act 1971*, transfer my
..... Licence No. relating to land situated at
.....
to
(Full name (please underline surname) or company name)

of
(Full address or company registered address)

The consideration paid to me in respect of this transfer is \$

The conditions (if any) of the transfer are as follows:
.....
.....
.....

DATE:

SIGNATURE: **WITNESS:**
or
COMPANY SEAL¹

.....
(Director)

.....
(Director/Secretary)

¹. If the transferor is a company, the transfer must bear the company's seal and be witnessed by appropriate officers.

To be completed by the transferee:

I, the abovenamed accept the conditions of transfer described above and agree to hold Licence No. subject to the conditions of the licence.

If the transferee is acting on behalf of a trust, the name of the trust is [In this case, the transferee must attach all relevant documentation.]

DATE:

SIGNATURE: **WITNESS:**

or
COMPANY SEAL².

.....
(Director)

.....
(Director/Secretary)

². If the transferee is a company, the transfer must bear the company's seal and be witnessed by appropriate officers.

Additional information relating to the transferee:

- 1. Contact telephone number:
- 2. Contact facsimile number (if available):
- 3. If a company:
 - (1) A.C.N. No.:
 - (2) Contact person:

Consent is given to this transfer.

.....
(Minister or delegate under Act)
...../...../.....

**FORM 20
MINING ACT 1971**

SURRENDER (OR PARTIAL SURRENDER) OF LICENCE

(Please use BLOCK LETTERS)

I,
(Full name (please underline surname) or company name)

of
(Full address for correspondence or company registered address)

.....
being the licensee under the *Mining Act 1971* of the lands comprised in
Licence No. situated at

do, subject to the consent of the Minister under the *Mining Act 1971*—
· surrender the licence and the lands comprised in the licence, and all my rights and title under the licence
· surrender the portion of the lands comprised in the licence delineated in the attached plan, and all my rights and title under the licence to the extent of the surrender.

(· Strike out whichever is inapplicable)

Additional information:

- 1. Contact telephone number:
- 2. Contact facsimile number (if available):
- 3. If the applicant is a company:
 - (1) A.C.N. No.:
 - (2) Contact person:

DATE:

SIGNATURE: **WITNESS¹:**

or
COMPANY SEAL²

.....
(Director)

.....
(Director/Secretary)

¹. The witness must be a Justice of the Peace, Officer of the Department, Member of the Police Force, Proclaimed Manager or Commissioner for Taking Affidavits.

². If the licensee is a company, the surrender must bear the company's seal and be witnessed by appropriate officers.

Consent is given to this surrender.

.....
(Minister or delegate under Act)
...../...../.....

**FORM 21
MINING ACT 1971**

NOTICE OF ENTRY

(Please use BLOCK LETTERS)

To
(Name of owner¹ of land)

of
(Address of owner)

.....
being the
(Description of owner—see note 1.)

of the following land
.....
being more particularly described as follows:

- Section
- Hundred
- Pastoral Block
- Other

1. I,
(Full name (please underline surname) or company name)

of
(Full address for correspondence or company registered address)

.....
give notice of an intention to enter, after the expiry of 21 days from the service of this notice, the land described above, pursuant to sections 58 and 58A of the *Mining Act 1971*.

2. It is intended to enter the land for the purpose of
.....
.....
.....
(Describe proposed operations in reasonable detail)

3. The operations are authorised by the following exploration authorities and/or production tenements under the *Mining Act 1971*:
.....

4. Rights of objection

If you hold the land under a form of title (other than a pastoral lease) that confers a right to exclusive possession of the land, you have the following rights of objection under section 58A of the *Mining Act 1971*:

- Within 3 months after service of this notice, you may lodge a notice of objection with the Wardens' Court, Environment, Resources and Development Court or Supreme Court objecting—
 - to entry on the land by the mining operator; or
 - to the use, or the unconditional use, of the land, or a portion of the land, for mining operations.
- 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—
 - 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
 - determine conditions on which operations may be carried out on the land by the mining operator with least detriment to the interest of the owner and least damage to the land.

5. Rights of compensation

As the owner¹ of land, you have the following rights of compensation under section 61 of the *Mining Act 1971*:

- The owner of land on which mining operations are carried out under the *Mining Act 1971* is entitled to receive compensation for any economic loss, hardship and inconvenience suffered by the owner in consequence of mining operations.
- In determining the compensation payable, the following matters are considered:
 - any damage caused to the land by the mining operator; and
 - any loss of productivity or profits as a result of the mining operations; and
 - any other relevant matters.
- The amount of compensation is the amount determined by agreement between the owner and the mining operator or, in default of agreement, an amount determined, on application by an interested party, by the appropriate court (the Supreme Court, the Environment, Resources and Development Court or, if proceedings do not involve a native title question, a monetary claim, or a claim for more than \$100 000, the Warden's Court).
- The court, in determining compensation, must take into consideration any work that the mining operator has carried out, or undertakes to carry out, to rehabilitate the land.
- On the hearing of an application for compensation, the court may order a mining operator to carry out such work to rehabilitate the land as the court thinks fit.

6. Land exempt from mining operations

Generally, under section 9 of the *Mining Act 1971* mining operations (apart from pegging out a claim) may not be conducted on the following land:

- (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).

However—

- this does not apply if the land only falls into one of the above categories subsequent to the pegging out, or granting of a claim, lease or licence over the land;
- a person who has the benefit of the exemption (including the owner of the land) may, by agreement with the mining operator, waive the exemption until the mining operations are completed or a specified earlier time;
- a court may, on application of the mining operator, determine compensation to be paid by the mining operator to the person who has the benefit of the exemption and the land would then cease to be exempt until the mining operations are completed or a specified earlier time.

For further details see section 9 of the *Mining Act 1971*.

7. The following information is provided about the person giving the notice:

1. Contact telephone number:
2. Contact facsimile number (if available):
3. If the mining operator is a company:
 - (1) A.C.N. No.:
 - (2) Contact person:

DATE:

***SIGNATURE:**

***This form may be signed by an agent**

NOTES:

- ^{1.} Under the *Mining Act 1971*, **owner** of land means—
 - a person who holds a registered estate or interest in the land conferring a right to immediate possession of the land; or
 - a person who holds native title in the land; or
 - a person who has, by statute, the care, control or management of the land; or
 - a person who is lawfully in occupation of the land.

Native title land

This notice of entry may only be given in relation to native title land if the operations will not affect native title: see section 58(c) of the *Mining Act 1971*.

A mining operator cannot enter native title land to carry out mining operations on the land that may affect the native title unless the operations are authorised by a native title mining agreement or determination under Part 9B of the *Mining Act 1971*. The agreement or determination will deal with notices to be given or other conditions to be met before the land is entered for the purposes of carrying out mining operations.

RECORD OF SERVICE OF NOTICE

(This information must be recorded on a duplicate copy of the Notice of Entry. It need not appear on the copy served on the owner of land.)

- 1. The original of this notice was served on the owner on
 - 2. The method of service was as follows
 - 3. The person who undertook, or who was responsible for, the service is
- (Full name)

DATE:

SIGNATURE²:

² An agent may sign here, if relevant.

The following information about service on native title holders is provided for the convenience of the mining operator and need not be included in the notice given to the owner of the land.

Part 5 of the *Native Title (South Australia) Act 1994* sets out how a notice may be served on a person who holds or may hold native title in the land as follows:

- 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.
- If there is no native title declaration establishing who are the holders of native title in the land—
 - the notice must be given personally or by post to—
 - all registered representatives of holders of native title in the land (see the State Native Title Register kept by the Registrar of the ERD Court); and
 - all registered representatives of persons who are registered under the law of the Commonwealth or the State as claimants to native title in the land (see the State Native Title Register kept by the Registrar of the ERD Court and the Commonwealth Register of Native Title Claims); and
 - the relevant representative Aboriginal body (under the regulations this is the Aboriginal Legal Rights Movement Inc. except on lands of the Maralinga Tjarutja or Anangu Pitjantjatjara); and
 - the Commonwealth Minister (under the regulations this is the Attorney-General of the Commonwealth); and
 - the State Minister (under the regulations this is the Attorney-General of the State); and
 - notice of the nature and effect of the notice (including a description of the land concerned) must be given—
 - by publishing a notice (at least 4cm x 4cm) in each of the following:
 - a newspaper circulating generally throughout the State;
 - if there is a local or regional newspaper that is published at least weekly and circulated generally in the area in which the land, or part of the land, concerned is situated—that newspaper; and
 - if there is a newspaper or magazine that caters mainly or exclusively to the interests of Aboriginal people and is published at least monthly and circulated generally in the area in which the land, or part of the land, concerned is situated—that newspaper or magazine; and
 - by informing each of the following broadcasting services of the fact that the notice has been published and where it has been published:
 - a general broadcasting service that serves the area within which the land, or part of the land, is situated;
 - if there is a broadcasting service that caters mainly or exclusively to the interests of Aboriginal people and serves the area within which the land, or part of the land, is situated—that broadcasting service.

**FORM 22
MINING ACT 1971**

NOTICE OF USE OF DECLARED EQUIPMENT

(Please use BLOCK LETTERS)

To
(Name of owner¹ of land)

of
(Address of owner)

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

I,
(Full name (please underline surname) or company name)

of
(Full address for correspondence or company registered address)

.....

.....
give notice of an intention, after the expiry of 21 days from the service of this notice, to use **declared equipment** on the following mining tenements:

.....

.....
situated at

.....
pursuant to the provisions of section 59 of the *Mining Act 1971*.

Additional information:

- 1. Contact telephone number:
- 2. Contact facsimile number (if available):
- 3. If the mining operator is a company:
 - (1) A.C.N. No.:
 - (2) Contact person:

DATE:

***SIGNATURE:**

***This form may be signed by an agent**

NOTES:

- ^{1.} Under the *Mining Act 1971*, **owner** of land means—
- a person who holds a registered estate or interest in the land conferring a right to immediate possession of the land; or
 - a person who holds native title in the land; or
 - a person who has, by statute, the care, control or management of the land; or
 - a person who is lawfully in occupation of the land.

"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 23
MINING ACT 1971**

WAIVER OF EXEMPTION

(Please use BLOCK LETTERS)

I,
(Full name (please underline surname) or company name of **landowner**)

of
(Full address or company registered address)

.....
being the
(Insert class of owner)

of Section
Hundred
Pastoral Block
Other

which, under the provisions of section 9 of the *Mining Act 1971* is exempt land by virtue of
.....
(State specific reasons for land being exempt—See accompanying extract from Act)

have entered into an agreement with:

.....
(Full name (please underline surname) or company name of **mining operator**)

of
(Full address or company registered address)

.....
thereby allowing mining operations to be carried out on
.....
(Describe the lands where the operations are to be carried out)

The agreement provides for the following operations to be carried out

.....

The agreement is *as per attached copy
as follows

.....

.....

I hereby waive the exemption in relation to the land from . . . / . . . / . . . to . . . / . . . / . . . or until such time as the mining operations described above have been completed.

DATE:

SIGNATURE OF OWNER:

or
COMPANY SEAL¹

.....
(Director)

.....
(Director/Secretary)

¹ If the owner is a company, the waiver must bear the company's seal and be witnessed by appropriate officers.

CERTIFICATE FROM MINING OPERATOR

I certify that the statements above are the matters agreed between the owner and myself as a mining operator.

DATE:

SIGNATURE:

or
COMPANY SEAL²

.....
(Director)

.....
(Director/Secretary)

² If the mining operator is a company, the certificate must bear the company's seal and be witnessed by appropriate officers.

Mining Act 1971—Section 9—Exempt land

Exempt land

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).

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

(3) Where—

- (a) the person who has the benefit of an exemption under this section, by agreement with a mining operator, waives the exemption; or
- (b) the appropriate court, on the application of a mining operator, determines compensation to be paid by the mining operator to the person or persons who have the benefit of the exemption,

the land shall cease to be exempt land, but the exemption shall revive upon completion of the mining operations in respect of which the agreement or determination was made or at such earlier time as may be stipulated in that agreement or determination.

(3a) An agreement or determination under subsection (3) may be made upon such terms and conditions as the parties or the appropriate court thinks fit.

(3b) The following persons shall, for the purposes of this section, be regarded as having the benefit of an exemption under this section:

- (a) the owner of the exempt land; and
- (b) in the case of land that is exempt from mining 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.

(3c) An agreement or determination under subsection (3) is binding on—

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

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

(4) This section does not affect any provision of the *Pastoral Act 1936* prohibiting or restricting the conduct of mining operations on lands subject to that Act.

(5) In this section—

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

**FORM 24
MINING ACT 1971**

CAVEAT AGAINST A MINING TENEMENT

(Please use BLOCK LETTERS)

To: The Mining Registrar

TAKE NOTICE that I,
(Full name (please underline surname) or company name)

of
(Full address or company registered address)

.....
by virtue of
(Insert reasons)

.....
claim an interest in (describe tenement)
No. and I forbid the registration of any transfer, mortgage, lien or surrender
affecting the tenement and I appoint
..... as the place at which notices and proceedings relating to this caveat may be served.

Additional information:

- 1. Contact telephone number:
- 2. Contact facsimile number (if available):
- 3. If a company:
 - (1) A.C.N. No.:
 - (2) Contact person:

DATE:

SIGNATURE¹: **WITNESS²:**

¹. This caveat may be signed by an agent.

². The witness must be a Justice of the Peace, Officer of the Department, Member of the Police Force, Proclaimed Manager or Commissioner for Taking Affidavits.

The above caveat was received at am/pm on the day of 19
with fee of

.....
Mining Registrar

**FORM 25
MINING ACT 1971**

CAVEAT BY CONSENT

(Please use BLOCK LETTERS)

To: The Mining Registrar

WHEREAS
(Full name (please underline surname) or company name)

of
(Full address or company registered address)

.....
is the holder of (type of tenement) No.

AND WHEREAS
(Full name (please underline surname) or company name)

of
(Full address or company registered address)

.....
has agreed to purchase the right, title and interest of the first named person in and to the said tenement on the terms stated in the annexed copy agreement IT IS AGREED between the parties that, pending the completion of the purchase and final registration of the transfer of the tenement to
.....
this caveat will be an effectual bar to the transfer or assignment of the tenement during that period (and no longer).

DATE:
(BOTH PARTIES TO SIGN AS FOLLOWS)

SIGNATURE: **WITNESS:**

or
COMPANY SEAL¹

.....
(Director)

.....
(Director/Secretary)

SIGNATURE: **WITNESS:**

or
COMPANY SEAL¹

.....
(Director)

.....
(Director/Secretary)

¹ If a party is a company, the caveat must bear the company's seal and be witnessed by appropriate officers.

Do not forget to attach a copy of the relevant agreement

The above caveat was received at am/pm on theday of19
with fee of

.....
Mining Registrar

90.

FORM 26

[Form appears in *Gaz.* 21 August 1998, p. 476]

FORM 27
MINING ACT 1971

NOTICE INITIATING NEGOTIATIONS WITH NATIVE TITLE
PARTIES—SECTION 63M

(Please use BLOCK LETTERS)

To: NATIVE TITLE PARTIES
ENVIRONMENT, RESOURCES AND DEVELOPMENT COURT
MINISTER UNDER THE MINING ACT 1971

1. I,
(Full name (please underline surname) or company name)

of
(Full address or company registered address)

.....
.....

propose to carry out mining operations on the following land:

- Section
- Hundred
- Pastoral Block
- Other

2. The general nature of the proposed mining operations that are to be carried out on the land is as follows:

.....

3. The proposed operations are or will be authorised by the following exploration authorities and/or production tenements under the *Mining Act 1971*:

.....

[Give details and indicate whether the authority or tenement is currently held, applied for or proposed to be applied for.]

4. I—
 seek to negotiate a native title mining agreement under Part 9B of the *Mining Act 1971*.

Note: If, two months after this notice is given as required by the *Mining Act 1971*, there are no persons registered under the law of the State or the Commonwealth as the holders of, or claimants to, native title in the land, I may apply *ex parte* to the Environment, Resources and Development Court for a summary 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.

- propose to rely on section 63O of the *Mining Act 1971* (**Expedited procedure where impact of operations is minimal**) on the grounds that the mining operations—
 - 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
 - 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
 - will not involve major disturbance to the land on which the operations are to be carried out.

Note: I may apply *ex parte* to the Environment, Resources and Development Court for a summary determination authorising mining operations in accordance with the proposals made in this notice. If, within two months after this notice is given, a written objection to my reliance on section 63O is given by the Minister, or a person who holds, or claims to hold, native title in the land, the Court must not make the determination unless satisfied, after giving the objectors an opportunity to be heard, that the operations are in fact operations to which section 63O applies.

Additional information:

1. Contact telephone number:
2. Contact facsimile number (if available):
3. If a company:
 - (1) A.C.N. No.:
 - (2) Contact person:

DATE:

SIGNATURE:

or
COMPANY SEAL¹

.....
(Director)

.....
(Director/Secretary)

¹ If a company, the notice must bear the company’s seal and be witnessed by appropriate officers.

The following information about service on native title holders is provided for the convenience of the mining operator and need not be included in the notice given under section 63M.

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.

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 set out in Part 5 of the *Native Title (South Australia) Act 1994* as follows:

- the notice must be given personally or by post to—
 - all registered representatives of holders of native title in the land (see the State Native Title Register kept by the Registrar of the ERD Court); and
 - all registered representatives of persons who are registered under the law of the Commonwealth or the State as claimants to native title in the land (see the State Native Title Register kept by the Registrar of the ERD Court and the Commonwealth Register of Native Title Claims); and
 - the relevant representative Aboriginal body (under the regulations this is the Aboriginal Legal Rights Movement Inc. except on lands of the Maralinga Tjarutja or Anangu Pitjantjatjara); and
 - the Commonwealth Minister; and
 - the State Minister (under the regulations this is the Attorney-General of the State); and
- notice of the nature and effect of the notice (including a description of the land concerned) must be given—
 - by publishing a notice (at least 4cm x 4cm) in each of the following:
 - a newspaper circulating generally throughout the State;
 - if there is a local or regional newspaper that is published at least weekly and circulated generally in the area in which the land, or part of the land, concerned is situated—that newspaper; and
 - if there is a newspaper or magazine that caters mainly or exclusively to the interests of Aboriginal people and is published at least monthly and circulated generally in the area in which the land, or part of the land, concerned is situated—that newspaper or magazine; and
 - by informing each of the following broadcasting services of the fact that the notice has been published and where it has been published:
 - a general broadcasting service that serves the area within which the land, or part of the land, is situated;
 - if there is a broadcasting service that caters mainly or exclusively to the interests of Aboriginal people and serves the area within which the land, or part of the land, is situated—that broadcasting service.

SCHEDULE 2*Fees*

1.	Application for issue or renewal of miner's right	\$ 41.00
2.	Declaration of loss	\$ 9.50
3.	Application for registration of mineral claim	\$ 23.50
4.	Application for registration or renewal of access claim	\$ 41.00
5.	Mining Lease—	
	(a) Application fee (per lease)	\$ 61.50
	(b) Preparation fee (per lease)	\$ 61.50
	(c) Renewal fee (per lease)	\$ 61.50
6.	Miscellaneous Purposes Licence—	
	(a) Application fee (per licence)	\$ 61.50
	(b) Preparation fee (per licence)	\$ 61.50
	(c) Renewal fee (per licence)	\$ 61.50
7.	Retention Lease—	
	(a) Application fee (per lease)	\$ 61.50
	(b) Preparation fee (per lease)	\$ 61.50
	(c) Renewal fee (per lease)	\$ 61.50
8.	Exploration Licence—	
	(a) Application fee (per licence)	\$177.00
	PLUS, in respect of the cost of advertising the application under section 28(5) of the Act—	
	(i) if the proposed area of the licence is not more than 1 000 square kilometres	\$300.00
	(ii) if the proposed area of the licence is more than 1 000 square kilometres but not more than 2 000 square kilometres	\$400.00
	(iii) if the proposed area of the licence is more than 2 000 square kilometres	\$500.00
	(b) Renewal fee (per licence)	\$ 60.00
9.	Application for variation of condition of a tenement, working conditions or special approval to undertake a particular work program	\$100.00
10.	Inspection of register	\$ 25.50
	(a) Extract of lease or licence	\$ 6.50
	(b) Extract of claim	\$ 4.00
11.	Search of tenement database—	
	(a) Standard report	\$ 25.00 plus 25 cents per page
	(b) Non-standard report	\$ 50.00 plus 25 cents per page
12.	Application for Ministerial consent to dealing with the following—	
	(a) Exploration licence	\$257.00
	(b) Mining Lease	\$ 51.50
	(c) Retention lease	\$ 51.50
	(d) Miscellaneous purposes licence	\$ 51.50
13.	Registration of Ministerial consent (in respect of each tenement affected by the instrument)	\$ 9.50

14. Application for issue of duplicate lease	\$ 62.50
15. Application for issue of duplicate licence	\$ 62.50
16. Late lodgment of transfer	\$ 23.50
17. Further fee for late lodgment of transfer, if lodged more than 90 days late	\$ 6.50
18. Lodgment of an agreement or determination with the Mining Registrar under Part 9B of Act	\$100.00
19. Lodgment of caveat	\$ 41.00
20. Withdrawal of caveat	\$ 41.00
21. Registration of any other document	\$ 9.50
22. Application for a safety net agreement under section 84A of Act	\$ 50.00
23. Exemption from removing posts	\$ 6.50

SCHEDULE 3*Rents and other annual fees*

Rental (per annum)—

(a)	Mining lease (per hectare)	\$ 23.90
(b)	Retention lease (per hectare)	\$ 11.90
(c)	Minimum rental in respect of any lease	\$ 61.50
(d)	Miscellaneous purposes licence (per hectare)	\$ 11.90
	Minimum rental	\$ 57.50
(e)	Exploration licence (per square kilometre)	\$ 3.30
	Minimum annual fee	\$241.00

SCHEDULE 4
Prescribed requirements

Section of Act	Description
Section 35A	Representations in relation to grant of lease
Section 53	Application for licence
Section 54	Compensation
Section 58	How entry on land may be authorised
Section 58A	Notice of entry
Section 61	Compensation
Regulation	Description
Regulation 5	Special approval required in certain cases
Regulation 42	Terms and conditions of a lease
Regulation 50	Working conditions
Regulation 62	Mode of taking possession
Regulation 63	Display of licence number
Regulation 65	Maintenance of licence

APPENDIX

LEGISLATIVE HISTORY

Schedule 1:
Schedules 2 and 3:

varied by 143, 1999, reg. 3 (Sched. cl. 16)
substituted by 43, 1999, reg. 3