

South Australia

Mining Act 1971

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

Contents

Part 1—Preliminary

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

Part 2—Administration

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

Part 2A—Mining register and information

Division 1—Mining register

- 15AA The register
- 15AB Dealings with mineral tenements

Division 2—Mortgages

- 15AC Mortgages
- 15AD Application to court to challenge aspects of mortgages

Division 3—Caveats

15AE Caveats

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

Division 4—Other dealings

15AG Other dealings

Division 5—Protection from liability

15AH Protection from liability

Division 6—Information

15AI Interpretation

15AJ Compilation, keeping and provision of material

15AK Tests

15AL Release of material

Part 3—Reservation of minerals and royalty

16 Reservation of minerals

17 Royalty

17A Reduced royalty for new mines

17AB Royalty for private mines

17AC Notification of relevant event

17B Assessments by Treasurer

17C Recovery of royalty where appeal lodged

17CA Returns

17D When royalty falls due (general principles)

17DA Special principles relating to designated tenement holders

17E Penalty for unpaid royalty

17F Processed minerals

17G Means of payment

18 Passing of property in minerals

Part 4—Prospecting for minerals

20 General right to prospect for minerals

21 Steps to establish a mineral claim

23 Area of claim

24 Registration of claim

24A Claim may lapse

25 Rights conferred by ownership of mineral claim

26 Mineral claim not transferable etc

27 Land not to be subject to successive mineral claims

Part 5—Exploration licence

28 Preliminary

29 Nature of exploration licence

29A Application for exploration licence

29B Grant of exploration licence

30 Incidents of licence

30AAA Expenditure

30AA Area of licence

30A Term and renewals of licence

- 30AB Excise of land for public purposes
- 31 Fee
- 33A Minister may describe or delineate land in any manner
- 33B Retention status

Part 6—Mining leases

- 34 Preliminary
- 35 Nature of mining lease
- 36 Application for mining lease
- 37 Approval of application and registration
- 38 Term and renewal of mining lease

Part 7—Retention leases

- 42 Preliminary
- 43 Nature of retention lease
- 44 Application for retention lease
- 45 Approval of application and registration
- 46 Term and renewal of retention lease

Part 8—Miscellaneous purposes licences

- 47 Preliminary
- 48 Nature of miscellaneous purposes licence
- 49 Application for miscellaneous purposes licence
- 50 Approval of application and registration
- 51 Term and renewal of miscellaneous purposes licence

Part 8A—Special mining enterprises

- 56A Object of this Part
- 56B Special mining enterprises
- 56BA Concept phase
- 56BB Application phase
- 56C Power to exempt from or modify Act
- 56D Existing tenements

Part 8B—Common provisions

Division 1—Identifying areas and considering applications

- 56E Identification of areas
- 56F Related environmental legislation
- 56G Specially protected areas

Division 2—Notice

- 56H Notice

Division 3—Terms and conditions

- 56I Matters to be considered
- 56J Alteration of terms and conditions
- 56K Special term or condition relating to extractive minerals
- 56L Offence to contravene term or condition

Division 4—Rental

- 56M Rental
- 56N Debt payable to Crown

Division 5—Rectification of boundaries

- 56O Rectification of boundaries

Division 6—Amalgamation of areas

- 56P Amalgamation of areas

Division 7—Change in operations

- 56Q Preliminary
- 56R Application
- 56S Consultation
- 56T Consideration of proposal
- 56U Terms and conditions
- 56V Registration

Division 8—Cancellation, suspension and surrender

- 56W Cancellation and suspension—action by Minister
- 56X Surrender on application

Division 9—Extension of term or reinstatement of tenement

- 56Y Extension of term of tenement
- 56Z Reinstatement of tenement

Division 10—Assessment reports

- 56ZA Assessment reports

Part 9—Entry upon land, compensation and restoration

- 57 Entry on land
- 58 How entry on land may be authorised
- 58A Notice requirements
- 61 Compensation
- 62 Bond and security
- 62AA Mining Rehabilitation Fund
- 62A Right to require acquisition of land
- 63 Extractive Areas Rehabilitation Fund

Part 9B—Native title land

Division 1—Exploration

- 63F Qualification of rights conferred by exploration authority
- 63G Exploration rights to be held in escrow in certain circumstances

Division 2—Production

- 63H Limits on grant of production tenement
- 63I Applications for production tenements

Division 3—Application for declaration

63J Application for declaration

Division 4—Negotiating procedure

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

Division 5—Miscellaneous

63Y Non-application of this Part to Pitjantjatjara and Maralinga lands
63Z Compensation to be held on trust in certain cases
63ZA Non-monetary compensation
63ZB Review of compensation
63ZBA Mining Native Title Register
63ZC Saving of pre-1994 mining tenements

Part 10—Warden's Court—general provisions

64 Establishment of Warden's Court
65 Powers etc of Warden's Court
66 Rules of Warden's Court
66A Removal of cases to ERD Court
67 Jurisdiction relating to tenements and monetary claims
70 Forfeiture and transfer of mineral tenement

Part 10A—Operating approval—program for environment protection and rehabilitation

70A Object of Part
70B Preparation or application of program
70C Review of programs
70D Notice of certain programs
70DA Audit of program
70DB Publication of program
70DC Offences
70DD Development programs to be taken to be approved programs

Part 10B—Compliance and enforcement

70E Power to direct persons to take action to prevent or minimise environmental harm
70F Power to direct rehabilitation of land
70FA Compliance directions
70FB Emergency directions

- 70FC Contravention of Act
- 70G Application for review of direction
- 70H Action if non-compliance occurs
- 70HA Restriction of claims
- 70HB Self-incrimination

Part 10C—Offences and penalties

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

Part 11—Assistance to mining

- 71 Minister may assist in conduct of operations
- 72 Research and investigations
- 73 Acquisition of mining equipment

Part 11B—Private mines

- 73C Interpretation
- 73D Application of Act
- 73G Mine operations plans
- 73H General duty to avoid undue environmental damage
- 73I Compliance orders
- 73J Rectification orders
- 73K Rectification authorisations
- 73KA Emergency order
- 73KB Contravention of Act
- 73L Application for review of direction
- 73M Action if non-compliance occurs
- 73N Revocation of private mine
- 73O Evidentiary provisions
- 73R Power to correct errors in declarations

Part 12—Miscellaneous

- 74 Civil remedies
- 74AA Enforceable voluntary undertakings
- 74A Compliance orders
- 75 Provision relating to certain minerals
- 75A Avoidance of double compensation
- 78 Persons under 16 years of age
- 79 Minister may grant exemptions
- 79A False or misleading information
- 80 Conditions under which land may be simultaneously subject to more than 1 tenement
- 81 Additional provisions relating to liability
- 82 Deemed consent or agreement
- 83A Licence or other right is not personal property for the purposes of Commonwealth Act
- 85 Charge on property if debt due to Crown

86	Removal of machinery etc
88	Hindering authorised officers
89A	Offences and ERD Court
89B	Penalties and expiation fees payable into Mining Rehabilitation Fund
90	Reports and verification of information
91	Administrative penalties
92	Regulations

Schedule—Transitional provisions

Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

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

6—Interpretation

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

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

advanced exploration operations—see subsection (1a);

ancillary operations means—

- (a) ancillary operations for the carrying on of any business that may be conducive to the effective conduct of mining operations or operations associated with providing amenities for persons engaged in the conduct of mining operations; or
- (b) operations which are brought within the ambit of this definition by a determination of the Minister or by the regulations,

but does not include operations excluded from the ambit of this definition by a determination of the Minister or by the regulations;

appropriate court means—

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

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

authorised operations means—

- (a) exploration operations; or
- (b) mining operations; or
- (c) ancillary operations;

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

business day means any day except—

- (a) a Saturday, Sunday or public holiday; or
- (b) a day which falls between 25 December and 1 January in the following year;

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

declared equipment means—

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

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

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

environment—see subsection (4);

ERD Court means the Environment, Resources and Development Court established under the *Environment, Resources and Development Court Act 1993*;²

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

exploration authority means—

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

exploring or **exploration operations** means operations of any kind in the course of—

- (a) prospecting for minerals; or
- (b) exploring for minerals; or
- (c) establishing the extent of a mineral deposit; or
- (d) undertaking any other activity brought within the ambit of this definition by a determination of the Minister or by the regulations; or
- (e) providing for the rehabilitation of land on account of the impact of any operations under a preceding paragraph,

including such operations carried out at a private mine, and being operations that are classified as **low impact exploration operations** or **advanced exploration operations** under subsection (1a), and **to explore** and **exploratory** have corresponding meanings;

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

- (a) any such minerals that are mined for a prescribed purpose; or

- (b) fire clay, bentonite or kaolin; or
- (c) proppant sand;

fossicking means the gathering of minerals—

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

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

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

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

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

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

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

mineral tenement means—

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

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

minerals means—

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

but does not include—

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

mining or **mining operations** means—

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

- (b) without limiting paragraph (a), any operations by which minerals are recovered from any place or situation, including by recovering minerals from the sea or a natural water supply; or
 - (c) on-site operations undertaken to make minerals recovered from the site a commercially viable product, other operations involving such minerals, or other operations involving minerals brought on to the site of a mine for processing; or
 - (d) operations carried out at a private mine; or
 - (da) operations which are brought within the ambit of this definition by a determination of the Minister or by the regulations; or
 - (db) operations for the rehabilitation of land on account of the impact of any operations under a preceding paragraph, or on account of a mine closure; or
 - (e) operations that are directly related to any operations under a preceding paragraph,
- but does not include—
- (f) an investigation or survey under section 15; or
 - (g) fossicking; or
 - (h) the surface removal of loose rock material disturbed by agricultural operations;

mining register means the register kept by the Mining Registrar under section 15AA;

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

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

Mining Rehabilitation Fund or **fund** means the Mining Rehabilitation Fund established under section 62AA;

Murray-Darling Basin has the same meaning as in the *Water Act 2007* of the Commonwealth;

native title, native title holder and **native title land**—see *Native Title (South Australia) Act 1994*;³

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

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

owner of land means—

- (a) a person who holds a registered estate or interest in the land conferring a right to immediate possession of the land; or
- (b) a person who holds native title in the land; or
- (c) a person who has, by statute, the care, control or management of the land; or
- (d) a person who is lawfully in occupation of the land;

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

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

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

production tenement means—

- (b) a mining lease;
- (c) a retention lease (if the mining operations to which the lease relates are not limited to exploring);
- (d) an entitlement under this Act with respect to a private mine;

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

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

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

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

relevant Minister means—

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

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

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

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

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

specially protected area means—

- (a) the Adelaide Dolphin Sanctuary; or
- (b) a marine park; or
- (c) a River Murray Protection Area;

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

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

tenement holder, or **holder** in relation to a mineral tenement, means—

- (a) the registered holder of a mineral tenement; or
- (b) in relation to a private mine—
 - (i) in Part 2A Divisions 1 to 5 (inclusive)—a proprietor of a private mine; or
 - (ii) in any other case—a person carrying out mining operations in relation to a private mine,

and includes—

- (c) a person who is prospecting for minerals under section 20; and
- (d) an executor, administrator or successor at law;

warden means a magistrate nominated by the Attorney-General to exercise the jurisdiction and powers of a warden under this Act;

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

- (1a) For the purposes of this Act, exploration operations are classified—
 - (a) as **low impact exploration operations**, being exploration operations—
 - (i) which are not reasonably expected to have any significant adverse impact on the environment; or
 - (ii) which will reduce the impact of such operations on the environment; or
 - (iii) which are brought within the scope of low impact exploration operations by determination of the Minister or by the regulations, that do not fall within the scope of paragraph (b)(i) or (iii); or
 - (b) as **advanced exploration operations**, being exploration operations—
 - (i) which involve the use of declared equipment; or
 - (ii) which fall outside the scope of paragraph (a)(i) or (iii); or
 - (iii) which are brought within the scope of advanced exploration operations by determination of the Minister or by the regulations.
- (2) Where mineral land is divided into strata under this Act, a reference to land, or an area, shall, where appropriate, be construed as a reference to the surface stratum or a subsurface stratum, as the case may require.
- (3) An explanatory note to a provision of this Act forms part of the provision to which it relates.

- (4) Subject to subsections (5) and (6), **environment** includes—
- (a) land, air, water (including both surface and underground water and sea water), organisms, ecosystems, native fauna and other features or elements of the natural environment; and
 - (b) buildings, structures and other forms of infrastructure, and cultural artefacts; and
 - (c) existing or permissible land use; and
 - (d) public health, safety or amenity; and
 - (e) the geological heritage values of an area; and
 - (f) the aesthetic or cultural values of an area.
- (5) In relation to a particular mineral tenement, paragraphs (c) and (e) of subsection (4) apply according to the circumstances existing at the time that the tenement is (or was) granted.
- (6) Subsection (4) does not apply to or in relation to Parts 9B or 11B.
- (7) A reference to a private mine in a definition in this section only has effect to the extent that the defined term is used in a provision of this Act that applies to or in relation to a private mine, or to a person carrying out operations in relation to a private mine, by virtue of the operation of section 73D.
- (8) Any determination of the Minister under this section—
- (a) must be published in the Gazette; and
 - (b) may be varied or revoked by the Minister by a subsequent notice published in the Gazette.
- (9) A provision of this Act that requires a tenement holder (or prospective tenement holder)—
- (a) to obtain the agreement or consent of an owner of land; or
 - (b) to give a notice to, or to serve a notice on, an owner of land,
- will, in relation to a person who is within the ambit of paragraph (c) or (d) of the definition of **owner of land**, apply—
- (c) to the extent that the tenement holder (or prospective tenement holder) is aware of such a person; or
 - (d) to the extent that it is reasonable to expect the tenement holder (or prospective tenement holder) to be aware of such a person.

Editorial Notes—

- 1 All native title questions arising in proceedings before the Warden's Court must be referred to the ERD Court—see Part 3 *Native Title (South Australia) Act 1994*.
- 2 The *Environment, Resources and Development Court Act 1993* and the *Native Title (South Australia) Act 1994* contain provisions under which the ERD Court may refer cases to the Supreme Court, or the Supreme Court may remove cases commenced before the ERD Court into the Supreme Court.
- 3 Part 5 of the *Native Title (South Australia) Act 1994* sets out the method of service on native title holders.

7—Application of Act

- (1) Except as otherwise provided, this Act applies only in respect of mineral land.
- (2) The regulations may provide that a specified provision of this Act applies, or applies with prescribed modifications, to or in relation to land that is not mineral land.
- (2a) The regulations may provide that a specified provision of this Act does not apply, or applies with prescribed modifications, to or in relation to mining operations for the recovery of extractive minerals that are authorised under another Act.
- (2b) Royalty is payable under this Act in respect of the recovery of extractive minerals under another Act, except where the provisions of the other Act provide that royalty is not payable under this Act.
- (3) Except where the operations are being carried out in an opal development area, this Act does not regulate authorised operations for the recovery of precious stones if those operations are carried out under the authority of a permit or tenement issued under the *Opal Mining Act 1995*.

8—Declaration of mineral land etc

- (1) The Governor may, by proclamation—
 - (a) declare any land in the State or any land under coastal waters on the landward side of the baseline to be mineral land; or
 - (ba) divide mineral land into a surface stratum and one or more subsurface strata and fix the depth of the surface stratum and the depth of any subsurface stratum below which lies any further subsurface stratum resulting from the division; or
 - (c) reserve from the operation of this Act, or any provisions of this Act, any land specified in the proclamation,and the proclamation shall have effect according to its terms.
- (2) The Governor may, by subsequent proclamation, vary or revoke any proclamation made pursuant to this section.
- (3) The depth of strata into which mineral land is divided under this section may vary from place to place but, where the mineral land constitutes a precious stones field or part of a precious stones field, the depth of the surface stratum must be at least 50 metres.
- (4) Land that is subject to a mineral tenement but is on the seaward side of the baseline because of a change in the position of the baseline after the tenement was granted will be taken to be mineral land until it ceases to be subject to the tenement and to all successive tenements (if any).
- (5) This Act applies to and in relation to land referred to in subsection (4) to the exclusion of the *Offshore Minerals Act 2000*.
- (6) A mineral tenement is a successive tenement in relation to another tenement if—
 - (a) it applies to the same land or to part of the land covered by the other tenement; and

- (b) it takes effect immediately after the other tenement expires or, where there are two or more successive tenements, immediately after the tenement immediately preceding it expires; and
 - (c) it is granted to the person who held the other tenement.
- (7) A proclamation made before 29 June 1972 cannot limit or affect, and will be taken not to have limited or affected, the exercise of the power to make a proclamation under this section on or after that date, and to the extent to which there is an inconsistency between a proclamation made on or after that date and a proclamation made before that date (including, in relation to the earlier proclamation, a proclamation that reserved specific land from the operation of the repealed Act), the later proclamation will prevail.

8A—Opal development areas

- (1) The Minister may, by notice in the Gazette, declare mineral land within a precious stones field to be an opal development area for the purposes of this Act, and the declaration will have effect according to its terms.
- (2) A person must not carry out authorised operations in an opal development area except under the authority of an exploration licence or mining lease under this Act.
- (3) The Minister may, by subsequent notice in the Gazette, vary or revoke a declaration under subsection (1).

9—Exempt land

- (1) Subject to this section—
 - (a) land that is lawfully and genuinely used—
 - (i) as a yard or garden;
 - (ia) as a 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 the prescribed distance of a building or structure used as a place of residence (except a building or structure of a class excluded by regulation from the ambit of this paragraph); or
- (ii) within 150 metres of—
 - (A) a building or structure, with a value equal to or exceeding the prescribed amount, 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 authorised operations),

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

- (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 authorised operations in pursuance of this Act by reason only of a fact or circumstance occurring or arising subsequent to establishing a claim or an application for a lease or licence, that land shall not be exempt from operations in pursuance of this Act.
- (3b) The following persons will, for the purposes of this Act, be regarded as having the benefit of an exemption under this section (and subject to an order of a court under section 9AA, each person who has the benefit of an exemption must be a party to an agreement to waive the benefit before the land can cease to be exempt land):
 - (a) the owner of the exempt land;
 - (b) in the case of land that is exempt from authorised operations under subsection (1)(d) by reason of its proximity to other land on which a building, structure, spring, well, reservoir or dam is situated—the owner of that other land.
- (4) This section does not affect any provision of the *Pastoral Land Management and Conservation Act 1989* prohibiting or restricting the conduct of authorised operations on lands subject to that Act.

- (5) In this section—

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

prescribed amount means—

- (a) \$2 500; or
- (b) if a greater amount is prescribed by regulation for the purposes of this definition—that amount;

prescribed distance means—

- (a) in relation to low impact exploration operations—200 metres; and

- (b) in relation to advanced exploration operations or any operations for the recovery of extractive minerals—400 metres; and
- (c) in relation to any other authorised operations—
 - (i) a distance prescribed by the regulations (which may make different provision according to the circumstances or thing to which it is expressed to apply); or
 - (ii) if no distance is prescribed under subparagraph (i)—600 metres.

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

- (1) A tenement holder may, by written notice given to an owner of land who has the benefit of an exemption under section 9, request the owner to enter into an agreement with the tenement holder to waive the benefit of the exemption.
- (1a) If a mineral claim is registered or an application is made for a production tenement or miscellaneous purposes licence, an owner of land who has the benefit of an exemption under section 9 in respect of the land to which the claim or application relates may, by written notice given to the tenement holder, advise the tenement holder of the owner's position in relation to the waiver of the benefit of the exemption, and the conditions (if any) on which the owner may agree to waive the benefit of the exemption.
- (2) A notice under subsection (1) or (1a) must be in a form determined or approved by the Minister.
- (3) An agreement to waive the benefit of an exemption—
 - (a) must be in writing; and
 - (ab) may be made on such terms and conditions as the parties think fit; and
 - (b) takes effect on the expiry of the cooling-off period (unless earlier rescinded).
- (4) An owner of land who has entered into an agreement with a tenement holder to waive the benefit of an exemption may, by giving the tenement holder written notice before the expiration of the cooling-off period of the owner's intention not to be bound by the agreement, rescind the agreement.
- (6) If in legal proceedings the question arises whether a notice rescinding an agreement has been given in accordance with this section, the onus of proving the giving of the notice lies on the owner of land rescinding the agreement.
- (7) If a tenement holder has been unable to reach an agreement to waive the benefit of an exemption with an owner of land, the tenement holder may apply to the appropriate court for an order waiving the benefit of the exemption for the owner.
- (8) The court may refuse to determine an application by a tenement holder under subsection (7) unless the tenement holder satisfies the court that—
 - (a) a notice has been given under subsection (1) or (1a); and
 - (b) the tenement holder provided the owner of land with information prescribed by the regulations for the purposes of this section; and
 - (c) —

- (i) in the case of a notice given to the owner of land under subsection (1)—the tenement holder has made a reasonable attempt to reach agreement with the owner of land (whether before or after notice requesting the owner to enter into an agreement was given to the owner); or
 - (ii) in the case of a notice given to the tenement holder under subsection (1a)—the tenement holder has made a reasonable attempt, having regard to the matters set out in the notice, to negotiate with the owner of land.
- (8a) If an application is made for a production tenement or a miscellaneous purposes licence and the relevant consultation period in relation to the application has ended, an owner of land who—
 - (a) has the benefit of an exemption under section 9 in respect of the land to which the application relates; and
 - (b) has given notice to the tenement holder under subsection (1a),may apply to the appropriate court for orders under subsection (9).
- (9) On an application under this section, the court may make 1 or both of the following orders:
 - (a) an order confirming that the owner of land is entitled to the benefit of an exemption under section 9;
 - (b) if the tenement holder or owner of land satisfies the court that any adverse effects of the proposed authorised operations on the owner of land can be appropriately addressed by the imposition of conditions on the tenement holder (including the payment of compensation to the owner)—an order waiving the benefit of the exemption and imposing such conditions on a party to the proceedings as the court thinks fit (including a condition requiring the payment of compensation to the owner of land).
- (10) The court may not make an order for costs against the owner of land unless the court considers that it is appropriate to do so on the ground that the owner—
 - (a) has obstructed or unnecessarily delayed the proceedings; or
 - (b) has failed to attend any proceedings or failed to comply with a rule, order or direction of the court.
- (11) If an agreement or order to waive the benefit of an exemption takes effect under this section in respect of exempt land, the land ceases to be exempt land, but the exemption revives on completion of the authorised operations in respect of which the agreement or order was made or at such earlier time as may be stipulated in that agreement or order.
- (12) An agreement or order to waive the benefit of an exemption under this section 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 mineral tenement under which authorised operations (being authorised operations in respect of which the agreement or order was made) are carried out.

- (13) Subsections (11) and (12) apply to an agreement to waive an exemption under section 9 entered into before the designated day as if it were an agreement to waive the benefit of an exemption under this section.
- (14) A tenement holder is liable to indemnify an owner of land—
- (a) to whom the tenement holder gives a notice under subsection (1); or
 - (b) who gives the tenement holder a notice under subsection (1a); or
 - (c) who makes application for orders to the appropriate court under subsection (8a) in connection with an application made for a production tenement or a miscellaneous purposes licence made by the tenement holder,
- for the reasonable costs of obtaining legal assistance relating to the operation of this section up to \$2 500 or, if some other amount is prescribed by regulation, that amount.
- (14a) An application under this section may be made to the Supreme Court only with the permission of the Court.
- (14b) If an agreement is entered into under this section, the tenement holder must give notice of the agreement to the Mining Registrar for registration on the mining register.
- (14c) Nothing in this section derogates from the jurisdiction of the Warden's Court under section 67 to determine whether or not land is exempted from authorised operations under section 9.
- (15) In this section—
- business day* means a day other than a Saturday or a Sunday or other public holiday;
- cooling-off period*, in relation to an agreement with a tenement holder to waive the benefit of an exemption, means the period commencing when the agreement is made and concluding at the end of the fifth clear business day after the day on which the agreement is made;
- designated day* means a day declared by proclamation to be the designated day for the purposes of this definition;
- relevant consultation period* means the period for public consultation in relation to an application for a mineral tenement under section 56H(3).

9A—Special declared areas

- (1) The Minister may, by notice in the Gazette, declare any land to be exempt from—
- (a) mining; or
 - (b) a specified class of mining; or
 - (c) a specified provision of this Act; or
 - (d) this Act, other than any specified provision excluded from the operation of this section by the regulations,
- and the notice will (subject to this section) have effect according to its terms.
- (2) The Minister must, as soon as practicable after the publication of a notice under subsection (1), prepare a report on the matter (including an outline of the reasons for the declaration and the expected impact of the declaration) and cause copies of the report to be laid before both Houses of Parliament.

- (3) The Minister may, by subsequent notice in the Gazette, vary or revoke a notice under subsection (1).
- (4) A notice under subsection (1) will not have effect—
- (a) in relation to a mineral tenement in force at the time that the notice takes effect; or
 - (b) so as to prevent a person applying for (and being granted) a subsequent tenement on account of a right arising under a mineral tenement in force at the time that the notice takes effect; or
 - (c) so as to prevent a person establishing a mineral claim (identified in any manner allowed or approved under this Act) after the notice takes effect on account of a right to carry out exploratory operations under an exploration licence in force at the time the notice takes effect, or under a subsequent tenement under paragraph (b), where the tenement holder has reported to the Director of Mines the discovery on the relevant land of minerals that are potentially capable of economic production (including so as to allow a person to apply for (and being granted) a mineral tenement on account of the establishment of the mineral claim),
- but otherwise a person does not have a right to apply for a mineral tenement in respect of land subject to the operation of the declaration unless specifically authorised to do so by the Minister (either under the terms of the notice under subsection (1) or under a specific authorisation granted by the Minister in connection with the operation of this section).
- (5) While land is subject to the operation of a declaration under subsection (1), the land, to the extent of the exemption, may be dealt with by the Minister in accordance with this section and to that extent is not subject to the other provisions of this Act.
- (6) Without limiting subsection (5), the Minister may, while land is exempt under this section—
- (a) call for applications for the grant of such mineral tenements as the Minister determines in respect of the land or any part of the land;
 - (b) determine any matter relating to the status or priority of any claim over the land (and, as a result of any such determination, require the removal of any pegs, cancel the operation of any claim, determine not to process any application, or take such other action as the Minister thinks fit);
 - (c) provide for the management of the land, or any mining right or interest (or potential right or interest) in respect of the land, in such other manner as the Minister thinks fit.
- (7) If the Minister calls for applications under subsection (6)(a)—
- (a) a person applying to the Minister in response to the call must do so in such manner as the Minister may require; and
 - (b) the Minister may, on reviewing any application received in response to the call—
 - (i) grant a mineral tenement under this Act, subject to such terms and conditions as the Minister thinks fit; or
 - (ii) refuse the application.

- (8) A declaration under subsection (1) has effect until it is revoked under subsection (3) or until it expires under subsection (9), whichever first occurs.
- (9) A declaration under subsection (1) will expire at the end of the period of 2 years from its date of operation unless it is extended for a period or periods, not exceeding 2 years at a time, by further notice published by the Minister in the Gazette.
- (10) The Minister must cause copies of a notice of extension published under subsection (9) to be laid before both Houses of Parliament.
- (11) If either House of Parliament passes a resolution disallowing a notice laid before it under subsection (10) then the declaration under subsection (1) will immediately cease to have effect.
- (12) A resolution is not effective for the purposes of subsection (11) unless passed in pursuance of a notice of motion given within 14 sitting days (which need not fall within the same session of Parliament) after the day on which the notice under subsection (9) was laid before the House.
- (13) Where a resolution is passed under subsection (11), notice of that resolution must forthwith be published in the Gazette.

10—Mining in respect of public roads and places

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

10B—Interaction with other legislation

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

- (a) the objects and objectives of the *Adelaide Dolphin Sanctuary Act 2005*;
- (b) the objects of the *Marine Parks Act 2007*;
- (c) the objects of the *Landscape South Australia Act 2019*;
- (d) the objects of the *River Murray Act 2003* and the *Objectives for a Healthy River Murray* under that Act;
- (e) the code of management of wilderness protection areas and wilderness protection zones under the *Wilderness Protection Act 1992*.

Part 2—Administration

11—The Minister and the Director to be corporations sole

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

12—Delegation

- (1) The Minister may delegate any power or function vested in or conferred on the Minister—
 - (a) under this Act; or
 - (b) under any other Act prescribed by the regulations for the purposes of this subsection.
- (1a) The Treasurer may delegate any power or function vested in or conferred on the Treasurer under this Act.
- (2) The Director of Mines may delegate any power or function vested in or conferred on the Director of Mines—
 - (a) under this Act; or
 - (b) under any other Act.
- (2a) If the terms of an instrument of delegation allow for subdelegation, the delegate may subdelegate the power or function in accordance with the instrument (and a reference in this section to a delegation will then extend to any such subdelegation).
- (3) A delegation under this section—
 - (a) may be absolute or conditional; and
 - (b) may be made—
 - (i) to a specified person or body; or
 - (ii) to a person for the time being holding or acting in a specified office or position; and
 - (c) does not derogate from the power of the delegator to act in any matter; and
 - (d) is revocable at will by the delegator.
- (4) In any legal proceedings an apparently genuine certificate, purportedly signed by the Minister or the Director, containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

13—Mining registrars and other staff

- (1) There is to be a Mining Registrar and other mining registrars.
- (2) The Mining Registrar and the mining registrars are to be Public Service employees.
- (3) The Mining Registrar may delegate a power or function of the Mining Registrar to another mining registrar.

- (3a) If the terms of an instrument of delegation allow for subdelegation, the delegate may subdelegate the power or function in accordance with the instrument (and a reference in this section to a delegation will then extend to any such subdelegation).
- (4) A delegation under this section—
 - (a) may be absolute or conditional; and
 - (b) may be made—
 - (i) to a specified person; or
 - (ii) to a person for the time being holding or acting in a specified office or position; and
 - (c) does not derogate from the power of the delegator to act in any matter; and
 - (d) is revocable at will by the delegator.
- (5) A mining registrar may be assigned to act as the Mining Registrar—
 - (a) during a vacancy in the office of Mining Registrar; or
 - (b) when the Mining Registrar is absent from, or unable to discharge, official duties.

14—Appointment of authorised officers

- (1) The Minister may, by instrument in writing, appoint a Public Service employee to be an authorised officer under this Act.
- (2) An appointment under this section may be made subject to such conditions or limitations as the Minister thinks fit.
- (3) The Minister may vary or revoke an appointment at any time.

14A—Identity cards

- (1) The Minister must issue to each authorised officer an identity card—
 - (a) stating the name of the authorised officer; and
 - (b) containing a photograph of the authorised officer; and
 - (c) stating that the person whose name and photograph appear on the card is an authorised officer for this Act.
- (2) If an authorised officer proposes to exercise powers under this Act against a person, the authorised officer must produce the identity card for inspection on request.

14B—Authorised investigations

An investigation by an authorised officer is an *authorised investigation* if the purpose of the investigation is—

- (a) to monitor compliance with this Act; or
- (b) to gather information about a suspected offence against this Act; or
- (c) to gather information about personal injury or loss of property related to authorised operations; or
- (d) to gather information about the actual or potential environmental impact of actual or potential authorised operations; or

- (e) to gather other information relevant to the administration or enforcement of this Act; or
- (f) to undertake any inquiry relevant to the administration or enforcement of this Act; or
- (g) without limiting a preceding paragraph, to inspect any authorised operations which are creating, or are likely to create, a nuisance, or are damaging, or are likely to damage, property.

14C—Powers of entry and inspection

- (1) For the purpose of carrying out an authorised investigation, an authorised officer may—
 - (a) enter, search, inspect and examine any premises, land or vehicle that has been or is intended to be, used for, or in connection with, any operations or activity regulated by this Act and, where necessary for the purpose, break into or open a part of, or anything in, the premises, land or vehicle; or
 - (b) inspect or examine anything; or
 - (c) take photographs, films or videos; or
 - (d) carry out tests on mines, facilities and equipment; or
 - (e) take and remove samples; or
 - (f) seize and retain any thing that may be evidence of non-compliance with this Act.
- (2) A person must not, without reasonable excuse, obstruct an authorised officer in the exercise of powers under this section.
Maximum penalty: \$10 000 or imprisonment for 6 months.
- (3) A person involved in the operation of a mine must give an authorised officer such assistance as is reasonably required for the effective exercise of a power conferred by this section.
Maximum penalty: \$10 000 or imprisonment for 6 months.
- (4) An authorised officer may only exercise a power under subsection (1)(a) in respect of premises on the authority of a warrant issued by a magistrate (including as a warden) or justice.
- (5) A warrant may not be issued unless the magistrate, warden or justice (as the case may be) is satisfied that the warrant is reasonably required in the circumstances.
- (6) An application for the issue of a warrant—
 - (a) may be made either personally or by telephone; and
 - (b) must be made in accordance with any procedures prescribed by the regulations.

14D—Power to gather information

- (1) An authorised officer may require a person who may be in a position to provide information relevant to any matter subject to an authorised investigation—
 - (a) to answer a question relevant to the investigation; or

- (b) to take reasonable steps to obtain information relevant to the investigation and to pass it on to the authorised officer.
- (2) A person required to answer a question under subsection (1) must answer the question to the best of the person's knowledge, information and belief.
Maximum penalty: \$10 000 or imprisonment for 6 months.
- (3) A person of whom a requirement is made under subsection (1)(b) must comply with the requirement.
Maximum penalty: \$10 000 or imprisonment for 6 months.
- (4) A natural person is not required to answer a question or to provide information under this section if the answer to the question or the information would tend to incriminate the person of an offence and the person objects to answering the question or providing the information on that ground.
- (5) An authorised officer may require a person who the authorised officer reasonably suspects has committed, is committing or is about to commit, a contravention of this Act to state the person's full name and usual place of residence and to produce evidence of the person's identity.
- (6) A person of whom a requirement is made under subsection (5) must comply with the requirement.
Maximum penalty: \$5 000.

14E—Production of records

- (1) This section applies to records relating to authorised operations.
- (2) A person who has possession or control of a record to which this section applies must, at the request of an authorised officer—
 - (a) produce the record for inspection by the authorised officer; and
 - (b) answer any questions that the authorised officer reasonably asks about the record.Maximum penalty: \$10 000 or imprisonment for 6 months.
- (3) An authorised officer may—
 - (a) retain records produced under this section for the purpose of making copies of them; or
 - (b) if the authorised officer suspects that the records may be evidence of noncompliance with this Act, seize and retain records produced under this section.
- (4) In this section—
record includes any document or other form of material.

14F—Publication of results of investigation

- (1) The Minister may publish a report setting out the results of an authorised investigation.
- (2) A report published under this section is protected by absolute privilege.

14G—Power to give expiation notices

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

14H—Provisions relating to things seized

- (1) If a thing is seized under this Part, the following provisions apply:
- (a) the thing seized must be held pending proceedings for an offence against this Act relating to the thing seized, unless the Minister, on application, authorises its release to the person from whom it was seized or a person who had legal title to it at the time of seizure, subject to such conditions as the Minister thinks fit (including conditions as to the giving of security for satisfaction of an order under paragraph (b)(ii));
 - (b) if proceedings for an offence against this Act related to the thing seized are commenced within the prescribed period after its seizure and the defendant is found guilty of the offence, the court must consider the question of forfeiture and—
 - (i) order that it be forfeited to the Crown; or
 - (ii) if it has been released under paragraph (a), order that it be forfeited to the Crown or order that the person to whom it was released pay to the Minister an amount equal to its market value at the time of its seizure, as the court thinks fit; or
 - (iii) make no order for forfeiture;
 - (c) if proceedings for an offence against this Act related to the thing seized—
 - (i) are not commenced within the prescribed period after its seizure; or
 - (ii) are commenced within the prescribed period after its seizure and the defendant is found not guilty of the offence; or
 - (iii) are commenced within the prescribed period after its seizure and the defendant is found guilty of the offence but no order for forfeiture is made under paragraph (b),

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

- (2) In this section—
prescribed period means 12 months or such longer period as the court may, on application by the Minister, allow.

15—Power to conduct geological investigations etc

- (1) For the purpose of making any geological, geophysical or geochemical investigation or survey, the Minister or the Director of Mines, or any person authorised in writing by the Minister or the Director, may—
 - (a) enter and remain upon any land with such assistants, vehicles and equipment as may be necessary or expedient for the purposes of the investigation or survey; and
 - (b) conduct such an investigation or survey on the land; and
 - (c) take, and remove from the land, any geological specimens or samples.
- (2) A person exercising a power under this section—
 - (a) must not recover from any land more minerals than are reasonably necessary for the purpose of making the relevant investigation or survey; and
 - (b) must not unnecessarily impede or obstruct the lawful use or enjoyment of any land by an owner of the land.
- (3) A person who interferes with or obstructs any person in the exercise of any power conferred by this section shall be guilty of an offence.
Maximum penalty: \$20 000 or imprisonment for 6 months.
- (4) The Minister may publish, in such manner as he thinks fit, the results of an investigation or survey under this section.
- (5) At least 14 days before the Minister or the Director of Mines, or any authorised person, undertakes an investigation or survey under this section, the Minister may publish in the Gazette a notice—
 - (a) describing the area of land in which the investigation or survey will be undertaken; and
 - (b) setting out a completion date in respect of the investigation or survey.
- (6) The Minister may extend the completion date from time to time by publishing a further notice in the Gazette.
- (7) If a notice is published under subsection (5), the Minister may refuse to receive and consider an application for a mineral tenement in respect of the land described in the notice until the completion date set out in the notice.

Part 2A—Mining register and information

Division 1—Mining register

15AA—The register

- (1) The Mining Registrar will keep a register (the *mining register*).
- (2) The register will be a register of—
 - (a) any mineral tenement granted under this Act; and
 - (b) the terms and conditions of any mineral tenement granted under this Act; and
 - (c) instruments of transfer with respect to any mineral tenement registered under this Act; and
 - (d) any mortgage registered under Division 2; and
 - (e) any caveat registered under Division 3; and
 - (f) instruments, agreements, determinations and dealings required to be registered under any other provision of this Act; and
 - (g) determinations and dealings required to be lodged with the Mining Registrar under any other provision of this Act (or which have effect on registration under this Act); and
 - (h) the commencement and completion of proceedings before the Warden's Court under this Act; and
 - (i) decisions, determinations and orders of the Warden's Court under this Act; and
 - (j) anything registered under Division 4; and
 - (k) any cancellation, suspension or surrender relating to a mineral tenement under this Act; and
 - (l) any other interest, instrument, approval, agreement, determination, statement, notice, order, direction, bond, penalty or other document or dealing required to be registered by or under the regulations.
- (3) The register will also contain such information as the Mining Registrar thinks fit.
- (4) The register will be kept in such forms as the Mining Registrar thinks fit (including in an electronic form).
- (5) The Mining Registrar may establish requirements as to—
 - (a) the form of any instrument or document that is to be registered on the register; and
 - (b) the use of electronic files, including as to their formats; and
 - (c) the provision and certification of any instrument, document or information, or as to any other matter; and
 - (d) the recording, management, preservation, storage, archiving and (if appropriate) disposals of any instrument, document or material.

- (6) Without limiting any other provision, the Mining Registrar may amend the register—
- (a) in order to ensure that the register is kept up to date; or
 - (b) in order to ensure that the register meets standards determined to be appropriate by the Mining Registrar.
- (7) The Mining Registrar may delay the registration of any instrument, document or dealing for such period as the Mining Registrar considers appropriate in a particular case.
- (8) The Registrar who is responsible for the Warden's Court registry must, after consultation with the Mining Registrar, ensure that there is a scheme in place to ensure that information relating to the proceedings, decisions, determinations and orders of the Warden's Court that are relevant to the operation of the register is provided to the Mining Registrar for the purposes of this section.
- (9) A tenement holder or other person who is required—
- (a) to serve a notice on the Mining Registrar; or
 - (b) to provide or give a notice to the Mining Registrar; or
 - (c) to provide or give an agreement to the Mining Registrar,
- must not fail to comply with that requirement—
- (d) in accordance with any relevant provision of this Act; or
 - (e) in accordance with the regulations; or
 - (f) to the extent that paragraph (d) or (e) does not apply—within a reasonable time.

Maximum penalty: \$5 000.

- (10) Subsection (9) does not apply to—
- (a) the Minister; or
 - (b) the Registrar who is responsible for the Warden's Court registry; or
 - (c) a person prescribed by the regulations for the purposes of this subsection.

15AB—Dealings with mineral tenements

- (1) This section does not apply to or in relation to an interest if the interest is not a legal or proprietary interest in a mineral tenement.
- (2) A mineral tenement, or an interest in a mineral tenement, must not be transferred, assigned, sublet or be held subject to a trust, whether directly or indirectly, without the consent of the Minister.
- (3) A dealing to which subsection (2) applies has no effect unless or until it is—
- (a) consented to by the Minister; and
 - (b) registered on the register under this Part.
- (4) An application for the consent of the Minister under this section—
- (a) must be made in a manner and form determined by the Minister after consultation with the Mining Registrar; and

- (b) must be accompanied by the prescribed fee.
- (5) The Minister may, in connection with an application for consent, require the parties to furnish the Minister with any information specified by the Minister.
- (6) An application for the registration of an instrument giving effect to or recording a dealing under this section must be made in a manner and form determined by the Mining Registrar.

Division 2—Mortgages

15AC—Mortgages

- (1) In this section—
mortgage includes any form of charge.
- (2) A party to a mortgage over a mineral tenement may apply to the Mining Registrar to have the mortgage registered under this section.
- (3) An application for the registration of a mortgage—
 - (a) must be made in a manner and form determined by the Mining Registrar; and
 - (b) must be accompanied by the prescribed fee.
- (4) The Mining Registrar may, in connection with an application for registration, require the applicant to furnish the Mining Registrar with any information specified by the Mining Registrar.
- (5) A mortgage may be created with respect to a particular interest of a tenement holder in the mineral tenement (being an interest that may be constituted as a share in a mineral tenement (including a share expressed as a percentage), or an interest as a tenant in common, or any other interest recognised at law).
- (6) The registration of a mortgage under this Part—
 - (a) does not give the mortgage (or the interest secured by the mortgage) priority over other interests; and
 - (b) does not confer any additional status with respect to a power of enforcement.
- (7) However, if a mortgage is registered in relation to a mineral tenement with the consent of the tenement holder (or tenement holders), the Mining Registrar must not proceed to register a transfer of the mineral tenement, or an interest in the mineral tenement, under Division 1 after the registration of the mortgage unless—
 - (a) the instrument giving effect to the transfer was received by the Mining Registrar before the registration of the mortgage; or
 - (b) the transfer is expressed to be subject to the mortgage; or
 - (c) the mortgagee (or mortgagees) consent to the registration of the transfer; or
 - (d) the transfer is required by an order of a court or tribunal constituted by law; or
 - (e) the mortgage is discharged before the registration of the transfer; or
 - (f) the Mining Registrar is acting in any circumstance prescribed by the regulations.

- (8) Furthermore, if a mortgage is registered in relation to a mineral tenement with the consent of the tenement holder (or tenement holders), the mineral tenement may not be surrendered under this Act unless—
- (a) the mortgagee (or mortgagees) consent to the surrender; or
 - (b) the mortgage is discharged before the surrender; or
 - (c) the surrender is by operation of section 30AAA, 30A or 33B; or
 - (d) the surrender is happening in any circumstance prescribed by the regulations.
- (9) A mortgage registered under this section may be discharged in accordance with procedures determined by the Mining Registrar.
- (10) A discharge under subsection (9) may only be made—
- (a) on application made by the mortgagee; or
 - (b) on application made with the consent of the mortgagee.
- (11) The Mining Registrar must discharge, or partially discharge, a mortgage if the discharge is required by an order of a court or tribunal constituted by law.
- (12) An application for the discharge of a mortgage—
- (a) must be in a form determined by the Mining Registrar; and
 - (b) must be accompanied by the prescribed fee.

15AD—Application to court to challenge aspects of mortgages

- (1) A person who—
- (a) has an interest in a mineral tenement subject to a mortgage registered under this Division; or
 - (b) has an interest that is directly affected by a mortgage registered under this Division,
- may apply to the appropriate court under this section.
- (2) An application may be made for 1 or more of the following:
- (a) a declaration that a registered mortgage is defective, invalid or unenforceable, on a ground specified in the application;
 - (b) an order that a transfer of a mineral tenement, or of an interest in a mineral tenement, be registered despite the mortgage;
 - (c) an order that a registered mortgage be discharged or partially discharged;
 - (d) an order that the mortgagee (or purported mortgagee) pay compensation for any loss or damage suffered because of the registration of a mortgage under this Division, or an amount for or towards any such loss or damage.
- (3) Any compensation payable under an order under subsection (2)(d) may be recovered as if it were a debt due to the person in whose favour the order is made in a court of competent jurisdiction.
- (4) This section does not limit any other jurisdiction or power of a court.

Division 3—Caveats

15AE—Caveats

- (1) A person (a *caveator*) who has, or who is claiming, an interest in a mineral tenement may apply to the Mining Registrar to have a caveat registered under this Division.
- (2) An application for the registration of a caveat must be in a form determined by the Mining Registrar.
- (3) A caveat under subsection (1) may—
 - (a) forbid the registration of any transfer, mortgage or voluntary surrender affecting a specified interest in the mineral tenement (an *absolute caveat*); or
 - (b) forbid the registration of any transfer, mortgage or voluntary surrender affecting the mineral tenement unless the transfer, mortgage or surrender (as the case may be) expressly states that it is to be subject to the interest claimed by the caveator (a *claim caveat*).
- (4) However, if a caveat is being registered without the express consent of the tenement holder for the mineral tenement to which the caveat relates—
 - (a) if the caveator is a person who has entered into an agreement with, or is a party to an agreement with, the tenement holder—
 - (i) the agreement must relate to—
 - (A) the sale or transfer (or both) of the tenement holder's interest in the relevant mineral tenement; or
 - (B) any other matter connected with the tenement holder's interest in the relevant mineral tenement; and
 - (ii) the agreement must provide for the registration of a caveat under this Division; and
 - (iii) a copy of the agreement must accompany the application under subsection (2); or
 - (b) in any other case—the caveator must provide such information as the Mining Registrar may require regarding the nature of the interest.
- (5) A caveat may—
 - (a) set out a date of expiry (if any); or
 - (b) set out that the caveat will expire—
 - (i) on a specified transfer or mortgage of an interest in the mineral tenement; or
 - (ii) at the end of a specified period.
- (6) In connection with the preceding subsections, an application for the registration of a caveat—
 - (a) must be accompanied by—
 - (i) the prescribed fee; and

- (ii) such other documents or information as the Mining Registrar may require; and
 - (b) if the caveat is being registered without the express consent of the tenement holder for the mineral tenement to which the caveat relates—must include a statutory declaration as to the truthfulness and accuracy of any matter specified by the caveator in the application.
- (7) The Mining Registrar does not have, on the receipt of an application to register a caveat, any duty to determine whether or not—
 - (a) the caveat relates to a valid caveatable interest; or
 - (b) a caveatable interest has been sufficiently described; or
 - (c) there is sufficient evidence to support the caveat; or
 - (d) any matter specified in the application is true and accurate.
- (8) The registration of a caveat does not warrant the validity of any interest claimed in the caveat.
- (9) On the registration of a caveat under this section, a notice of the registration of the caveat must be sent by the Mining Registrar to any tenement holder whose interests are affected by the caveat, other than where the tenement holder is also the caveator.
- (10) A caveat registered under this Division—
 - (a) does not affect or prevent the renewal of a mineral tenement; and
 - (b) does not lapse on the renewal of a mineral tenement (while the caveat is registered); and
 - (c) does not affect or prevent any dealing with the mineral tenement (or any interest in the mineral tenement) that is required by an order of a court or tribunal constituted by law.
- (11) A caveat registered under this Division will lapse on—
 - (a) any order of the Warden's Court providing for the lapsing of the caveat; or
 - (b) the withdrawal of the caveat by the caveator; or
 - (c) the expiry of the caveat as contemplated by subsection (5).
- (12) If—
 - (a) a caveat is registered in respect of a mineral tenement; and
 - (b) the caveat lapses,

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

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

- (1) A person who—
 - (a) has an interest in a mineral tenement subject to a caveat registered under this Division; or

- (b) has an interest that is directly affected by a caveat registered under this Division,
- may apply to the Warden's Court under this section.
- (2) An application may be made for 1 or more of the following:
- (a) a declaration that an interest claimed by the caveator is not a valid caveatable interest;
 - (b) an order that a caveat lapse;
 - (c) an order that a transfer, mortgage or surrender relating to a mineral tenement be registered despite the registration of a caveat under this Division;
 - (d) an order that a caveator pay compensation for any loss or damage suffered because a caveat registered under this Division does not relate to a valid caveatable interest, or an amount for or towards any such loss or damage.
- (3) Any compensation payable under an order under subsection (2)(d) may be recovered as if it were a debt due to the person in whose favour the order is made in a court of competent jurisdiction.
- (4) This section does not limit any other jurisdiction or power of the Warden's Court in relation to caveats under this Division.

Division 4—Other dealings

15AG—Other dealings

- (1) Subject to subsections (2) and (3), a tenement holder may apply to the Mining Registrar for the registration on the mining register of any agreement, memorandum, arrangement, instrument or other document or dealing that relates to—
- (a) the relevant mineral tenement, or an interest in the mineral tenement; or
 - (b) authorised operations carried out, or to be carried out, on the relevant mineral tenement,
- (a *registrable dealing*).
- (2) A registrable dealing does not include any agreement, memorandum, arrangement, instrument or other document or dealing—
- (a) that does not satisfy any criteria determined by the Mining Registrar for the purposes of this section; or
 - (b) that falls within a class excluded by the Mining Registrar from the operation of this section.
- (3) If a tenement holder enters into a registrable dealing under which another person is to carry out authorised operations in relation to the mineral tenement, the tenement holder—
- (a) must, within 14 days after entering into the registrable dealing—
 - (i) inform the Minister of the registrable dealing in a manner and form determined by the Minister; and
 - (ii) apply to the Mining Registrar to register the registrable dealing under this section; and

- (b) must, within 14 days after the person ceases to be responsible for carrying out those authorised operations—
 - (i) inform the Minister of the matter in a manner and form determined by the Minister; and
 - (ii) apply to the Mining Registrar to register the cessation under this section.

Maximum penalty: \$5 000.

- (4) A registrable dealing must comply with any relevant requirement of the Mining Registrar as to the form of any instrument or document that is to be registered on the register.
- (5) An application to register a registrable dealing under this section—
 - (a) must be made in a manner and form determined by the Mining Registrar; and
 - (b) must be accompanied by the prescribed fee.

Division 5—Protection from liability

15AH—Protection from liability

- (1) No act or omission undertaken or made by the Mining Registrar, or by any person acting on behalf of the Mining Registrar, in connection with the administration of the mining register, or the registration of any interest, instrument, agreement, statement, notice, order, direction, bond, penalty or other document or dealing on the mining register, subjects the Mining Registrar, or any person acting on behalf of the Mining Registrar, or the Minister, the Director of Mines or the Crown, to any liability.
- (2) Without limiting subsection (1), the registration of any interest, instrument, agreement, statement, notice, order, direction, bond, penalty or other document or dealing on the mining register—
 - (a) does not give rise to any right of action against the Mining Registrar, or any person acting on behalf of the Mining Registrar, or against the Minister, the Director of Mines or the Crown (unless the proceedings are for judicial review on the ground of jurisdictional error); and
 - (b) does not validate any instrument or dealing or provide any warranty as to the validity of any instrument or dealing.

Division 6—Information

15AI—Interpretation

- (1) In this Division—

designated material in relation to a mineral tenement means—

 - (a) records of surveys and other operations carried out under, or for the purposes of, the mineral tenement; and
 - (b) geological samples (including drill samples) and logs; and

- (c) records that evidence the quantity and value of minerals recovered from land comprised in the tenement that are liable to the payment of royalty under this Act; and
- (d) information and material prescribed by the regulations (including information that relates to a transaction); and
- (e) information and material specified by the Director from time to time in accordance with subsection (2) (either generally or in relation to a specified mineral tenement or class of mineral tenement);

designated person means—

- (a) the Minister; and
- (b) the Director of Mines; and
- (c) the Mining Registrar and other mining registrars; and
- (d) an authorised officer; and
- (e) any person acting under the authority of a person referred to in a preceding paragraph; and
- (f) any other person brought within the ambit of this definition by the regulations;

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

- (a) created under this Act; or
 - (b) provided to a designated person under this Act, or otherwise obtained by a designated person under this Act.
- (2) The Director may specify information or material as designated material—
- (a) by notice in the Gazette; or
 - (b) in the case of a notice that relates to a specified mineral tenement—by notice served on the tenement holder in the manner prescribed by the regulations.
- (3) The Director may vary or revoke a notice under subsection (2) by a further notice of a similar kind.

15AJ—Compilation, keeping and provision of material

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

Administrative penalty.

- (2) A tenement holder must keep all designated material—
- (a) in a form prescribed by the regulations or approved by the Director; and
 - (b) in a place that complies with any requirements prescribed by the regulations or that is approved by the Director; and
 - (c) for a period prescribed by the regulations or approved by the Director.

Administrative penalty.

- (3) A tenement holder must, as required by the regulations, provide to the Director any designated material of a prescribed kind.
Administrative penalty.
- (4) A tenement holder must, at the request of the Director or a person acting under the written authority of the Director, produce, at the place specified by the Director or the person acting under that written authority, any specified designated material or designated material of a specified kind.
Administrative penalty.
- (5) Any designated material provided or produced under subsection (3) or (4) must comply with any requirements—
 - (a) prescribed by the regulations; or
 - (b) specified by the Director in the manner prescribed by the regulations.Administrative penalty.
- (6) In the case of any designated material provided or produced to the Director or another person under this section, the Director or other person may—
 - (a) take extracts from, or copies of, the designated material; or
 - (b) retain the designated material.

15AK—Tests

- (1) A tenement holder must, at the request of the Director or a person acting under the written authority of the Director, permit a person nominated in the request to make tests, and take samples of minerals, in relation to or from land comprised in the mineral tenement.
Administrative penalty.
- (2) The Director may retain any material produced or taken under subsection (1).

15AL—Release of material

- (1) Subject to this section, the Minister or the Director may, in such manner as the Minister or the Director thinks fit, release any prescribed material.
- (2) The Minister or the Director must not release prescribed material that relates to a private mine.
- (3) Subsection (1) does not authorise the release of any prescribed material if—
 - (a) the release would be contrary to any other Act or law; or
 - (b) the release would be in breach of an order of a court or tribunal constituted by law; or
 - (c) the release would involve the disclosure of a trade secret; or
 - (d) the release would be contrary to any requirement or restriction prescribed by the regulations.
- (4) The Minister or Director may release any prescribed material under this section—
 - (a) in such manner as the Minister or Director thinks fit; and

- (b) subject to such conditions as the Minister or Director thinks fit.
- (5) A person who contravenes or fails to comply with a condition under subsection (4)(b) is guilty of an offence.
Maximum penalty: \$120 000.
- (6) Subsections (1), (2) and (3) do not—
 - (a) limit the ability of the Mining Registrar to publish or release, or to allow access to, any instrument, document or other item or material registered on the mining register; or
 - (b) limit the operation of any other section that provides for publication or release of any instrument, document or other item of material.
- (7) No action lies against the Minister or the Director in respect of the contents of any prescribed material released under this section (including where the release amounts to the publication of any material).

Part 3—Reservation of minerals and royalty

16—Reservation of minerals

- (1) Notwithstanding the provisions of any other Act or law, or of any land grant or other instrument, the property in all minerals is vested in the Crown.
- (2) This section applies in respect of all mineral land and in respect of all other land (including reserved land) in the State or under coastal waters on the landward side of the baseline.

17—Royalty

- (1) Subject to this Act, royalty is payable to the Crown on all minerals recovered from mineral land.
 - (1a) Royalty is not payable on extractive minerals recovered from mineral land—
 - (a) where the terms and conditions of the mineral tenement—
 - (i) make specific provision for the management and use of the extractive minerals as extractive minerals produced during the course of carrying out authorised operations under the tenement; and
 - (ii) make specific provision for the exemption of the extractive minerals from the payment of royalty; or
 - (b) by the owner of the land under section 75(2).
 - (2) Royalty is not payable on minerals recovered from mineral land that are removed from the area of a mineral tenement for the purpose of any testing of a kind approved by the Minister.
 - (3) Royalty is only payable on precious stones if the precious stones are recovered under this Act.
 - (4) Subject to this or any other relevant section, royalty will be equivalent to—
 - (a) in the case of extractive minerals—55 cents per tonne, or such lesser amount as may be prescribed by the regulations; or
 - (b) in the case of minerals other than extractive minerals—
 - (i) if the minerals are declared mineral ores or concentrates—5% of the value of the minerals, as assessed in accordance with this section;
 - (ii) if the minerals are declared refined mineral products—3.5% of the value of the refined mineral products, as assessed in accordance with this section;
 - (iii) if the minerals are declared industrial minerals or construction materials—3.5% of the value of the minerals, as assessed in accordance with this section;
 - (iv) in any other case—5% of the value of the minerals, as assessed in accordance with this section.

- (5) If minerals are sold pursuant to a contract with a genuine purchaser at arms length, the market value (excluding GST) of the minerals, for the purposes of determining royalty, will be the contract price obtained for the minerals on the day that ownership of the minerals is transferred to the purchaser.
- (6) If subsection (5) does not apply to the sale of minerals because there is no contract with a genuine purchaser at arms length, the following provisions apply:
- (a) the value of the minerals for the purposes of determining royalty will be the value that represents the market value (excluding GST) of the minerals on the day on which—
 - (i) the minerals—
 - (A) leave the mineral tenement from which the minerals were recovered; or
 - (B) are used on the tenement; or
 - (ii) if the minerals have been transported to mineral land the subject of a miscellaneous purposes licence—the minerals leave that mineral land or are used on that mineral land,
whichever occurs later;
 - (b) the market value of the minerals will be determined according to—
 - (i) any price quoted or obtained on a market recognised by the Treasurer, after consultation with the Minister, by notice in the Gazette as being a relevant industry market for the purposes of determining the market value of minerals of that kind; or
 - (ii) if subparagraph (i) does not apply—
 - (A) the price (if any) declared by the Treasurer, after consultation with the Minister, by notice in the Gazette as being an indicative price for the minerals; or
 - (B) the method (if any) declared by the Treasurer, after consultation with the Minister, by notice in the Gazette that is to be used for determining an indicative price for the minerals; or
 - (iii) if subparagraphs (i) and (ii) do not apply—
 - (A) any price obtained in relation to sales of minerals of the same kind where those sales were to genuine purchasers at arms length within the same period for which a return is required to be furnished under section 17CA; or
 - (B) if no relevant transactions have occurred in that period—any price obtained by other parties within the industry in relation to sales of minerals of the same kind on the open market within the same period for which a return is required to be furnished under section 17CA; or

- (iv) if subparagraphs (i), (ii) and (iii) do not apply—the tenement holder's estimate of the reasonable value of the minerals (to be determined in accordance with any requirements, and accompanied by any information, prescribed by the regulations).
- (7) For the purposes of subsection (5), *contract price* means—
- (a) the amount to be paid under the contract; plus
 - (b) the value of any consideration, set-off, concession or other factor otherwise taken into account by the parties to the contract in determining the amount to be paid under the contract.
- (8) Costs of a prescribed kind incurred before minerals leave—
- (a) the mineral tenement from which the minerals were recovered; or
 - (b) if the minerals have been transported to mineral land, the subject of a miscellaneous purposes licence—that mineral land,
- are not to be included for the purposes of determining the market value of those minerals.
- (8a) Costs of a prescribed kind incurred after minerals leave—
- (a) the mineral tenement from which the minerals were recovered; or
 - (b) if the minerals have been transported to mineral land, the subject of a miscellaneous purposes licence—that mineral land,
- are not to be included for the purposes of determining the market value of those minerals.
- (9) The Treasurer may, after consultation with the Minister and under an agreement between the Treasurer and the person liable to pay royalty on any minerals other than extractive minerals, determine that royalty will be payable according to the weight or volume of minerals recovered or will be payable at some other price or according to some other method, and royalty will be payable by the person in accordance with the determination.
- (10) The Treasurer may, after consultation with the Minister and on the application of a person liable to pay royalty under this section, having regard to the effect that payment of such royalty would be likely to have on the viability or profitability of authorised operations carried on by the person, waive payment of royalty wholly or in part, or reduce the rate at which royalty is payable, on minerals recovered in the course of those operations.
- (11) Royalty may be recovered by the Crown as a debt due to the Crown in any court of competent jurisdiction.
- (12) The tenement holder for the tenement from which minerals are recovered is liable to pay the royalty.
- (13) For the purposes of this section, the Treasurer may, after consultation with the Minister, from time to time—
- (a) by notice in the Gazette—
 - (i) declare specified types of mineral ores or concentrates to be declared mineral ores and concentrates; and

- (ii) declare specified types of refined mineral products to be declared refined mineral products; and
 - (iii) declare specified types of minerals to be declared industrial minerals or construction materials; and
 - (b) by subsequent notice in the Gazette, vary or revoke a declaration under paragraph (a).
- (14) A notice under subsection (13) will have effect from a date specified in the notice by the Treasurer.

17A—Reduced royalty for new mines

- (1) The Treasurer may, after consultation with the Minister and on the application of a person liable to pay royalty (other than on extractive minerals), by notice in the Gazette, declare that a mine will be taken to be a *new mine* for the purposes of this section.
- (1a) An application may not be made by a person under subsection (1) on or after 1 July 2020.
- (2) Despite section 17, for the prescribed period, royalty payable in relation to minerals (other than extractive minerals) recovered from mineral land at a new mine will be equivalent to 2 per cent of the value of the minerals (as assessed in accordance with the royalty assessment principles under section 17).
- (2a) In subsection (2), the *prescribed period* is the period commencing on the day on which the first royalty payment under this Act is due and payable and ending—
 - (a) on the day falling 5 years after that day; or
 - (b) on 30 June 2026,whichever occurs first.
- (3) The Treasurer may, after consultation with the Minister and by subsequent notice in the Gazette, vary or revoke a declaration under subsection (1).
- (4) An application under this section must be made in a manner and form determined by the Treasurer after consultation with the Minister and must be lodged with the Director of Mines.
- (5) An applicant must provide any information reasonably required by the Treasurer to determine the application.
- (6) In determining whether or not to make a declaration under this section, the Treasurer may have regard to the following matters (insofar as they may be relevant):
 - (a) the extent to which the authorised operations to be carried on at the mine can be viewed as constituting an extension of existing authorised operations, or the revival of authorised operations that have been previously carried on;
 - (b) the nature of the authorised operations to be carried on at the mine when compared to any existing operations carried on, or previously carried on, at the same tenement, or a tenement within the vicinity of the relevant mine;
 - (c) the relationship of the applicant to any other person carrying on authorised operations within the vicinity of the relevant mine (including, in the case of a body corporate, authorised operations carried on by a related body corporate);

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

17AB—Royalty for private mines

- (1) Subject to and in accordance with the provisions of this Act, royalty in respect of minerals recovered from private mines is payable as follows:
- (a) in the case of a private mine in relation to which a relevant event has occurred—royalty is payable on—
 - (i) extractive minerals recovered from the private mine; and
 - (ii) any other minerals recovered from the private mine on or after the day on which the relevant event occurred;
 - (b) in any other case—royalty is payable on extractive minerals recovered from the private mine, but is not payable on any other minerals so recovered.
- (2) For the purposes of subsection (1), a **relevant event** occurs if, on or after 19 June 2014, there is (or has been) a change in—
- (a) the proprietor of the private mine; or
 - (b) the whole or any part of the right to carry out authorised operations at the private mine.
- (3) A reference in subsection (2)(a) to a change in the proprietor of a private mine includes a change in a person lawfully claiming under the proprietor whether the claim is of a legal or equitable kind.
- (4) If a private mine has 2 or more proprietors, a change in any of those proprietors will be taken to be a relevant event for the purposes of subsection (2)(a).
- (5) Without limiting any other provision, the following will be taken to be relevant events for the purposes of subsection (2)(a):
- (a) the creation, transfer, assignment, sale or disposal of an interest in proprietary rights in minerals recovered from a private mine under a contract or other instrument or agreement;
 - (b) an event, transaction or acquisition that would give rise to liability to pay duty under Part 3 Division 6 or 8 or Part 4 of the *Stamp Duties Act 1923*, disregarding any exemptions from such duty applying under that Act;
 - (c) without limiting paragraph (b), the acquisition of a controlling interest in a business that—
 - (i) is the proprietor of the private mine; or
 - (ii) holds the whole or any part of the right to carry out authorised operations at the private mine.
- (6) For the purposes of subsection (5)(c)—
- (a) **business** includes bodies and associations (corporate and incorporated) and partnerships; and
 - (b) a person has a **controlling interest in a business** if the person would be treated as having a controlling interest in the business for the purposes of section 72 of the *Payroll Tax Act 2009* (disregarding section 72(1)).

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

(8) If—

- (a) a person other than the proprietor is carrying out authorised operations at a private mine; and
- (b) the proprietor gives notice to the Minister, in a manner and form determined by the Minister, under this section,

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

(9) If—

- (a) the proprietor of a private mine has given a notice to the Minister under subsection (8); and
- (b) the person carrying out authorised operations at the private mine fails to pay royalty; and
- (c) the proprietor pays the royalty,

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

- (d) recover the amount paid as a debt from the person who failed to pay the royalty; or
- (e) set off the amount paid against a liability (if any) to the person who failed to pay the royalty.

17AC—Notification of relevant event

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

Maximum penalty: \$20 000.

(2) The notification of the relevant event—

- (a) must be made in a manner and form determined by the Minister; and
- (b) must be accompanied by such information as may be prescribed by the regulations.

17B—Assessments by Treasurer

(1) If—

- (a) the Treasurer is of the opinion that a person liable to pay royalty—
 - (i) has not made a payment of royalty when it falls due; or
 - (ii) has not paid royalty in accordance with the royalty assessment principles (and any related provision under this Act); or
 - (iii) has not paid royalty in accordance with any agreement or determination that applies under section 17 or 17A; or

- (iv) has not paid royalty in accordance with any other relevant requirement; or
- (b) the market value of minerals has been determined, for the purposes of assessing royalty, according to a tenement holder's estimate of the reasonable value of the minerals under section 17(6)(b)(iv) and the Treasurer does not agree with the estimate; or
- (c) a person makes a default in furnishing a return; or
- (d) the Treasurer is not satisfied with a return furnished by a person; or
- (e) the Treasurer has reason to believe—
 - (i) that royalty is payable by a person who has not furnished a return; or
 - (ii) that a person who has furnished a return has made an overpayment of royalty,

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

- (2) Without limiting subsection (1), the Treasurer may, after consultation with the Minister, on application or on the Treasurer's own initiative, review and revise an earlier assessment of royalty (and the revision will then be taken to be a new assessment for the purposes of this Act).
- (3) For the purposes of making an assessment under subsection (1) or (2), the Treasurer may estimate the amount of royalty payable by a person and may base the estimate on any matter the Treasurer considers relevant.
- (4) The Treasurer must cause a copy of an assessment under this section to be served on the person liable to pay the royalty or to whom a refund is payable.
- (5) If, as a result of the Treasurer's assessment, a lower amount of royalty is payable for the relevant return period or periods, the Treasurer must—
 - (a) refund the amount of the excess to the person; or
 - (b) set off the amount against a future liability to make payments of royalty under this Act.
- (6) A person on whom a copy of an assessment is served may, within 1 month after the date of service, appeal against the assessment to the ERD Court.
- (7) On the hearing of an appeal, the ERD Court may, if satisfied on the basis of evidence provided by the appellant that the assessment of the Treasurer is incorrect, vary the assessment of the Treasurer to such extent as it thinks fit.

17C—Recovery of royalty where appeal lodged

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

17CA—Returns

- (1) A tenement holder must, not later than 31 January and 31 July in each year, furnish the Director of Mines with a return in a manner and form determined by the Director of Mines.
- (2) A return under subsection (1) must contain the information required by the Director of Mines relating to the conduct of authorised operations, the minerals recovered in the course of those operations (including, but not limited to, minerals intended for sale or utilised in some way by the tenement holder) and the sale or disposal of those minerals during the period of 6 months commencing—
 - (a) in the case of the return due on 31 January in each year—on the preceding 1 July; and
 - (b) in the case of the return due on 31 July in each year—on the preceding 1 January,and must comply with any other requirement specified by the Director of Mines.
- (3) If a mineral tenement is cancelled, suspended, transferred or forfeited, the tenement holder at the time of cancellation, suspension, transfer or forfeiture must, not later than 3 months after the occurrence of that event, furnish the Director of Mines with a return in a manner and form determined by the Director of Mines containing the information required by the regulations.
- (4) If a mineral tenement is due to expire, the tenement holder must, on or before the date of expiry, furnish the Director of Mines with a return in a manner and form determined by the Director of Mines containing the information required by the regulations.
- (5) If a tenement holder has applied for an approval to surrender the mineral tenement, the tenement holder must comply with any prescribed requirements as to the furnishing of a final return to the Director of Mines.
- (6) A return under this section must be accompanied by any information, samples or other material required by the Director of Mines.
- (7) The Director of Mines may, on application or on the Director's own initiative, extend the date or time by which or within which a return must be furnished under this section.
- (8) A person who fails to comply with this section is guilty of an offence.
Maximum penalty: \$120 000.
- (9) The regulations may exempt a person, or a class of persons, from a requirement of this section.
- (10) An exemption—
 - (a) may be granted absolutely or on conditions; and
 - (b) remains in force for the period specified in the regulations.

17D—When royalty falls due (general principles)

- (1) Subject to this Act, royalty will fall due—
 - (a) if the day on which a determination of the value of the minerals is made for the purposes of assessing royalty falls during the period between 1 January and 30 June (both dates inclusive) in any year—on 31 July of that year;
 - (b) if the day on which a determination of the value of the minerals is made for the purposes of assessing royalty falls during the period between 1 July and 31 December (both dates inclusive) in any year—on 31 January of the following year,

(but the Treasurer may, after consultation with the Minister, on application by the person liable to pay the royalty or of his or her own motion, extend the date on which the royalty will fall due).
- (1a) Subsection (1) does not apply to the extent that a designated tenement holder under section 17DA must pay royalty on a monthly basis.
- (2) Despite subsection (1), any royalty on minerals recovered from land within a mineral tenement will be due and payable (including for the purposes of the imposition of a penalty amount for unpaid royalty under this Act)—
 - (a) in the case of a mineral tenement other than a private mine—
 - (i) when the mineral tenement is being transferred, surrendered or forfeited; or
 - (ii) when the mineral tenement is suspended or cancelled; or
 - (iii) when the mineral tenement expires; or
 - (b) in the case of a private mine—when the declaration of the relevant area as a private mine is revoked; or
 - (c) at any other time in accordance with the regulations.
- (3) The Treasurer may, after consultation with the Minister, on application by a person liable to pay royalty or of his or her own motion, exempt (on such conditions as the Treasurer thinks fit) a person from the operation of subsection (1) or (2) if the Treasurer is satisfied that it is not reasonably practicable for the person to strictly comply with the requirements of this section.

17DA—Special principles relating to designated tenement holders

- (1) In this section—

designated tenement holder—see subsection (2);

half-year period means—

 - (a) 1 July to 31 December in a financial year; and
 - (b) 1 January to 30 June in a financial year.
- (2) A designated tenement holder is a tenement holder who, in relation to a particular financial year (the *relevant financial year*), is designated by the Treasurer, after consultation with the Minister, by notice served on the tenement holder, as being a tenement holder to whom this section applies.

- (3) The Treasurer may only make a designation under subsection (2) in relation to a tenement holder if—
- (a) the royalty paid by the tenement holder in relation to the financial year immediately preceding the relevant financial year exceeds \$100 000, or is expected by the Treasurer to exceed \$100 000; or
 - (b) taking into account the amount of royalty paid by the tenement holder, or expected by the Treasurer to be paid by the tenement holder, in relation to the financial year immediately preceding the relevant financial year, the Treasurer expects that the royalty to be paid by the tenement holder in relation to the relevant financial year will exceed \$100 000; or
 - (c) a mine in relation to which royalty payments are to be made was not in production during the financial year immediately preceding the relevant financial year, or is expected by the Treasurer to be subject to increased production in the relevant financial year, and the Treasurer expects that the royalty to be paid by the tenement holder in relation to the relevant financial year will exceed \$100 000; or
 - (d) the Treasurer expects that the amount of royalty to be paid by the tenement holder in relation to the relevant financial year will be within 5% of the \$100 000 threshold established by this section and accordingly determines to designate the tenement holder as being a tenement holder to whom this section applies.
- (4) For the purposes of subsection (3), the Treasurer may make or apply any estimate in order to determine whether or not it is expected that the royalty to be paid by a tenement holder in relation to a particular financial year will (or will not) reach or exceed a particular amount.
- (5) A designated tenement holder will, in relation to a relevant financial year, pay royalty on a monthly basis (rather than in accordance with section 17D(1)).
- (6) For the purposes of subsection (5)—
- (a) the Treasurer must, by 31 March immediately preceding the relevant financial year, serve a notice (a **notice of assessment**) on each designated tenement holder setting out the monthly payments of royalty that the tenement holder must make for the relevant financial year (subject to the operation of the succeeding subsections); and
 - (b) the designated tenement holder must then pay royalty on or before the last day of the month that immediately follows each month in the relevant financial year.
- (7) A monthly payment set out in a notice of assessment will be an amount which the Treasurer determines to be a reasonable amount taking into account an estimate made by the Treasurer of the amount of royalty that may be payable on account of the operation of sections 17 and 17A (as the case may require) in relation to the relevant financial year.

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- (8) Subject to subsection (9), a monthly payment in relation to the last month of both half-year periods in a relevant financial year will be the amount set out in the notice of assessment for that month adjusted to take into account any overpayment, or underpayment, of royalty that would otherwise occur over the half-year period after applying the provisions of sections 17 and 17A (as the case may require) so as to ensure that the correct amount of royalty is paid in relation to the half-year period by the end of the month that immediately follows the end of that period.
- (9) If an adjustment under subsection (8) will otherwise result in an entitlement to a refund of an amount to be paid as royalty in relation to the relevant half-year period, the Treasurer may, at the Treasurer's discretion—
- (a) refund the amount of the excess to the tenement holder who has been paying the monthly amounts; or
 - (b) set off the amount against a future liability to make payments of royalty under this Act.
- (10) The Treasurer may, after consultation with the Minister, on application by a person liable to pay royalty under this section or of his or her own motion—
- (a) by notice served on the tenement holder, vary a notice of assessment that has been issued to a designated tenement holder under this section, with the variation to have effect from a month in the relevant financial year specified by the Treasurer;
 - (b) extend the date on which royalty will fall due under this section.

17E—Penalty for unpaid royalty

- (1) If royalty payable on minerals under this Act is not paid on or by the day on which it fell due, the person liable to pay the royalty is liable to pay a penalty amount, in addition to the amount of royalty unpaid, equal to \$1 000 plus the prescribed amount for each month (or part of a month) for which the royalty remains unpaid.
- (2) The Treasurer may, at the Treasurer's discretion and after consultation with the Minister, remit a penalty amount payable under subsection (1) by any amount.
- (3) A penalty amount may be recovered by the Crown as a debt due to the Crown in any court of competent jurisdiction.
- (4) In this section—

prescribed amount is to be calculated as follows:

$$PA = R \left(\frac{MR + 8\%}{12} \right)$$

where—

PA is the prescribed amount;

R is the amount of unpaid royalty;

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

17F—Processed minerals

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

17G—Means of payment

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

18—Passing of property in minerals

- (1) Property in minerals recovered from mineral land passes to the tenement holder (including to the proprietor of a private mine), on the day on which a determination of the value of the minerals is made for the purposes of assessing royalty payable on the minerals under section 17 or, if royalty is not payable on the minerals, on recovery of the minerals.
- (2) The liability of a tenement holder (including the proprietor of a private mine) to pay royalty to the Crown in respect of minerals recovered from mineral land arises when property in the minerals passes to the tenement holder or the proprietor.
- (3) A liability under subsection (2) is a debt due to the Crown.

Part 4—Prospecting for minerals

20—General right to prospect for minerals

- (1) A person may prospect for minerals under this section (subject to complying with any relevant requirement under this Act).
- (2) Subsection (1) does not authorise the conduct of authorised operations that involve disturbance of land by machinery or explosives.

21—Steps to establish a mineral claim

- (1) A person may take steps to establish a mineral claim under this section.
- (2) The area of a mineral claim must be identified in accordance with the requirements of section 56E.
- (3) A notice relating to the claim must be served on the owner of the land if required by the regulations (and the notice must be served by a prescribed person in a manner prescribed by the regulations) (and such a notice may be taken to be a notice of entry to the owner under section 58A).
- (4) If mineral land is divided into strata, a mineral claim may relate to land within the surface stratum or a subsurface stratum.
- (5) Despite a preceding subsection, a mineral claim may not be made—
 - (a) in respect of land within a subsurface stratum except by a person who holds an exploration licence in respect of that land; or
 - (b) in respect of land within a precious stones field, except that if a precious stones field consists of land that is divided into strata a person who holds an exploration licence may make a mineral claim in respect of land within a subsurface stratum.
- (6) A person seeking to establish a mineral claim must make application to the Mining Registrar in a manner and form determined by the Mining Registrar.
- (7) An application under subsection (6) must be accompanied by—
 - (a) a plan delineating the location and area of the mineral claim that complies with any requirements determined or approved under section 56E; and
 - (b) information concerning the ownership of the land; and
 - (c) a copy of any notice of entry provided under this Act; and
 - (d) a copy of any agreement that is relevant to a mineral claim under this Act; and
 - (e) a copy of any waiver obtained under this Act; and
 - (f) such other information as may be prescribed by the regulations or as the Mining Registrar may require; and
 - (g) the prescribed application fee.

- (8) The Mining Registrar may require an applicant—
 - (a) to provide such additional documents or information as the Mining Registrar may reasonably require to deal with the application;
 - (b) to remedy any defect or deficiency in an application or in any accompanying document or information.
- (9) A plan, document or information required under subsection (7) or (8) must be provided in a manner and form determined or approved by the Mining Registrar.
- (10) An application under subsection (6) must be made within the prescribed period after the claim has been identified under subsection (2).

23—Area of claim

- (1) The area of a mineral claim must not exceed the maximum permissible area stipulated by the regulations.
- (2) Despite subsection (1), the area of a mineral claim may exceed the maximum permissible area with the approval of the Minister.

24—Registration of claim

- (1) Subject to this Act, a mining registrar will register a mineral claim if due application has been made for the claim under this Act (including by the applicant complying with any requirement under section 21).
- (2) A mining registrar must not register a mineral claim if satisfied that—
 - (a) the registration relates to land that is the subject (in whole or in part) of an application that has been lodged for an exploration licence; and
 - (b) the application for the exploration licence was lodged before the claim was identified for the purposes of this Act; and
 - (c) the application for the exploration licence has not been refused.
- (3) Subsection (2) does not apply if the mineral claim is solely for extractive minerals.
- (4) A mining registrar must not register a mineral claim if to do so would be inconsistent with an order of the Warden's Court and if the registration of a mineral claim is subsequently inconsistent with the terms of an order of the Warden's Court then the registration must be cancelled.
- (5) This section operates subject to the operation of section 80.
- (6) If a mineral claim is registered under this section, the location and area of the claim will be determined according to the coordinates specified in the plan accepted for the purposes of registration under section 21.
- (7) Without limiting any other provision or law, a mining registrar may cancel the registration of a mineral claim on a ground prescribed by the regulations.

24A—Claim may lapse

If—

- (a) an application to establish and register a mineral claim is not made—
 - (i) in accordance with the requirements of this Act; or

- (ii) within a period prescribed by the regulations; or
- (b) a mining registrar lawfully refuses to accept and register a mineral claim, the mineral claim will lapse.

25—Rights conferred by ownership of mineral claim

- (1) A mineral claim confers on the owner of the claim an exclusive right, subject to the provisions of this Act—
 - (a) to prospect for minerals in the land comprised in the claim; and
 - (b) to carry out such other exploratory operations on, or in respect of, the land comprised in the claim as are approved in writing by the Director of Mines; and
 - (c) to apply for a mining lease or a retention lease in respect of the whole or part of the land comprised in the claim.
- (2) A person shall not remove from the area of a mineral claim minerals, or soil and minerals, exceeding a mass of 1 tonne unless authorised to do so by the Director of Mines.
Administrative penalty.
- (3) The ownership of a mineral claim does not confer any right to sell or dispose of any minerals recovered in the course of authorised operations.

26—Mineral claim not transferable etc

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

27—Land not to be subject to successive mineral claims

- (1) Where a mineral claim lapses or is surrendered, cancelled or forfeited, no claim covering any of the area of that previous claim shall, without the authority of the Minister or the Warden's Court, be made by, or on behalf of, the person who held the previous claim or a related body corporate within 2 years of its lapse, surrender, cancellation or forfeiture.
- (2) If an application for the Minister to grant an authority under subsection (1) in relation to a mineral claim that is due to lapse is made to the Minister before the claim lapses, the Minister may (in the Minister's absolute discretion), determine that no other mineral claim covering any of the area of the claim may be made pending the Minister's decision on the application (and if the Minister decides to grant the authority then the applicant may make a new mineral claim under this Part within a period specified by the Minister (and no other claim may be made in relation to the relevant area during that period)).
- (3) A determination of the Minister under subsection (2) will have effect in accordance with its terms.

Part 5—Exploration licence

28—Preliminary

(1) In this Part—

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

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

open ground means land—

- (a) that—
 - (i) is not subject to an existing mineral tenement; and
 - (ii) subject to paragraph (d), is not relinquished ground; or
- (b) that has become available due to the partial surrender of a mineral tenement, other than where the Minister has determined that the land should be considered to be relinquished ground; or
- (c) that has become available due to the reduction in the size of an exploration licence on the amalgamation of an expenditure commitment or on renewal of an exploration licence under this Part (other than under section 30A(11)); or
- (d) that has been subject to an exploration release area notice and has become available because no exploration licence was granted in relation to the relevant exploration release area on account of an application made during the application period specified in the notice; or
- (e) that has been the subject of an exploration licence and is to be considered as open ground by virtue of a determination of the Minister; or
- (f) that is to be considered as open ground after the land has been the subject of a reservation order under section 8 or subject to a notice under section 15 by virtue of a determination of the Minister;

relinquished ground means land—

- (a) over which an exploration licence has applied where the exploration licence—
 - (i) has expired; or
 - (ii) has been cancelled or fully surrendered; or
 - (iii) has been the subject of an application for renewal, but the application has been withdrawn,

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

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

- (ii) has been the subject of a notice under section 15 and the completion date under that notice has expired,
 - other than where the Minister has determined that the land should be considered as open ground, or should be the subject of a mineral tenement granted to a particular person; or
 - (c) that has been the subject of retention status under section 33B and that status has expired under that section without the land becoming the subject of a mining lease or retention lease, unless the land has returned to its original status under the relevant exploration licence; or
 - (d) that is to be considered as relinquished ground by virtue of another provision of this Act; or
 - (e) that is considered as relinquished ground rather than as open ground by virtue of a determination of the Minister after the partial surrender of a mineral tenement; or
 - (f) that constitutes relinquished ground under the regulations.
- (2) An exploration licence is granted by the Minister.
- (3) An exploration licence may be granted—
 - (a) in relation to an exploration release area; or
 - (b) in relation to open ground.
- (4) If land becomes relinquished ground—
 - (a) a person may not make an application for an exploration licence in relation to any part of the land; and
 - (b) a mineral claim may not be established in relation to any part of the land, other than a mineral claim relating to extractive minerals,until the land is subject to an exploration release area notice.
- (5) An exploration release area notice will be a notice in a form determined by the Minister and will be issued by the Minister (in such manner as the Minister thinks fit) in relation to relinquished ground at a time determined by the Minister after the land becomes relinquished ground.
- (6) An exploration release area notice will specify—
 - (a) the exploration release area; and
 - (b) the application period for that exploration release area.

29—Nature of exploration licence

- (1) An exploration licence authorises the holder of the licence to carry out exploration operations of a kind described in the licence in respect of land described, or referred to, in the licence.
- (2) An exploration licence must not be granted in respect of extractive minerals.

- (3) An exploration licence does not (and cannot) authorise the holder of the licence to carry out exploration operations for precious stones on land within a precious stones field that is outside an opal development area, or on land within an exclusion zone under the *Opal Mining Act 1995*.

29A—Application for exploration licence

- (1) An application for an exploration licence—
- (a) must be made in a manner and form determined by the Minister; and
 - (b) must identify the boundaries of the land in respect of which the licence is being sought in accordance with the requirements of section 56E; and
 - (c) must be accompanied by such information as may be prescribed by the regulations; and
 - (d) must be accompanied by the prescribed application fee.
- (2) If an application relates to an exploration release area (and is lodged with the Director within the application period for that exploration release area), the following provisions will apply:
- (a) if the application is the only application received during the application period—the application will be assessed in accordance with this Act;
 - (b) if the application is 1 of 2 or more applications received during the application period—
 - (i) the applications will be ranked according to their merits after taking into account such factors as the Minister considers appropriate in the particular circumstances; and
 - (ii) the highest ranked application will be considered for the grant of an exploration licence but if 2 or more applications are assessed as being of equal merit, they will be placed in a ballot and the application selected by the ballot will be considered for the grant of an exploration licence in accordance with this Act.
- (3) An application that relates to open ground may be made at any time.
- (4) The following provisions will apply in relation to applications that relate to open ground:
- (a) if, on a particular day, the Director receives only 1 application—the application will be assessed in accordance with this Act (and the determination of the application will take priority ahead of an application for an overlapping area lodged with the Director on a later day);
 - (b) if, on a particular day, the Director receives 2 or more applications that relate to the same land (wholly or in part)—
 - (i) the applications will be ranked according to their merits after taking into account such factors as the Minister considers appropriate in the particular circumstances; and

- (ii) the highest ranked application will be considered for the grant of an exploration licence but if 2 or more applications are assessed as being of equal merit, they will be placed in a ballot and the application selected by the ballot will be considered for the grant of an exploration licence in accordance with this Act.
- (5) The Minister may require the applicant to furnish the Minister with any additional information specified by the Minister (and that information must be furnished within any period specified by the Minister).
- (6) A ranking under this section will cease to apply if the Minister cancels the ranking on the ground—
 - (a) that the application is found to be invalid; or
 - (b) that there is some other default, defect or circumstance that the Minister considers is sufficiently significant to warrant the cancellation of the ranking.
- (7) The Minister will not grant an exploration licence unless or until the fee payable under section 31 has been received and if such a fee is not paid in relation to an application that relates to an exploration release area within a period determined by the Minister, the Minister may refuse the application and proceed with the consideration of the application made in relation to the same exploration release area with the next highest ranking (if any) (and if no application is then granted the relevant land will become open ground).
- (8) Furthermore, the Minister may at any time and without consultation with the applicant or taking any other step, refuse an application at any stage of its consideration under this Act if—
 - (a) the applicant fails to comply with a requirement under this Act that is relevant to the making or consideration of the application; or
 - (b) the Minister considers—
 - (i) that the applicant has not proceeded with reasonable diligence to obtain any other permission, authorisation, consent or other form of approval under another Act or law that is relevant in the circumstances; or
 - (ii) that there are other sufficient grounds for not assessing the application further after taking into account the public interest and such other matters as the Minister thinks fit.

29B—Grant of exploration licence

- (1) If the Minister decides to grant an exploration licence, the licence will be taken to be granted under this Act when the licence is registered on the mining register (and the term of the licence will be taken to commence from the date of registration).
- (2) The Minister must give notice of the granting of an exploration licence in the manner prescribed by the regulations.

30—Incidents of licence

- (1) An exploration licence shall—
 - (a) describe or delineate the lands in respect of which it is granted; and

- (b) be subject to such terms or conditions as may be prescribed and to such additional terms or conditions as the Minister thinks fit and specifies in the licence.
- (2) The Minister shall, in determining the terms and conditions subject to which a licence is to be granted under this Part, insofar as the Minister considers to be necessary or appropriate in view of the nature and extent of the licence and any other relevant factor, give consideration to the protection of—
- (a) any aspect of the environment that may be affected by the conduct of operations in pursuance of the licence;
 - (b) any other lawful activities that may be affected by those operations;
 - (d) any Aboriginal sites or objects within the meaning of the *Aboriginal Heritage Act 1988* that may be affected by those operations,
- and may take into consideration such other factors as he considers appropriate in the particular case.
- (4) The Minister may, under the terms of an exploration licence or by conditions attached to an exploration licence, limit or define the extent or scope of operations authorised under the licence.
- (5) Without limiting any other section, the Minister may add, vary or revoke a term or condition of an exploration licence at any time during the term of the licence considered appropriate by the Minister.
- (6) However, if the Minister acts under subsection (5) without the agreement of the holder of the licence, the holder of the licence may appeal to the ERD Court in relation to the matter.
- (7) The ERD Court may, on hearing an appeal under subsection (6)—
- (a) confirm the action taken by the Minister;
 - (b) vary or revoke any term or condition imposed by the Minister, or impose any term or condition considered appropriate by the Court;
 - (c) make any consequential or ancillary order that the Court considers necessary or expedient.

30AAA—Expenditure

- (1) Subject to this section, it will be a condition of an exploration licence that the tenement holder will achieve at least a level of expenditure specified in or in relation to the licence on operations carried out under the licence in accordance with the requirements of this section (an *expenditure commitment*).
- (2) The initial expenditure commitment will be based on information furnished to the Minister as part of the application for the exploration licence (and may be varied from time to time by the Minister taking into account the operation of this section).
- (3) The tenement holder must, at such times as may be prescribed by the regulations, furnish a return in a manner and form determined by the Minister that contains—
- (a) a statement—
 - (i) outlining the exploration operations carried out under the exploration licence within a period prescribed by the regulations; and

- (ii) declaring the amount of expenditure incurred in carrying out those operations; and
 - (b) a statement—
 - (i) outlining the exploration operations that the tenement holder intends to carry out under the exploration licence over an ensuing period prescribed by the regulations; and
 - (ii) declaring the amount of expenditure that is estimated to be incurred in carrying out those operations.
- (4) A statement under subsection (3)(a)—
 - (a) must be accompanied by such information or evidence required by the Minister; and
 - (b) will be registered by the Mining Registrar on the mining register.
- (5) Any expenditure commitment under a preceding subsection must at least be at a monetary level set by or under a policy developed and published by the Minister from time to time for the purposes of this section.
- (6) A statement under subsection (3)(a), and any information or evidence required under subsection (4)(a), must, if the Minister so requires, be verified by an independent person with qualifications, and in a manner, specified by the Minister.
- (7) Any cost associated with a requirement under subsection (6) will be borne by the tenement holder.
- (8) A report provided under subsection (6) will, if the Minister so determines, be registered on the mining register.
- (9) If—
 - (a) a person fails to comply with a preceding subsection; or
 - (b) the Minister has reason to believe that an amount of expenditure that has actually been incurred is less than an expenditure commitment,the Minister may (without consultation with the tenement holder) alter the relevant exploration licence by reducing the licence area by an amount determined by the Minister.
- (10) The Minister may, on application under this subsection, allow a tenement holder or tenement holders to amalgamate their expenditure commitments in relation to 2 or more exploration licences in such manner or to such extent as the Minister may determine.
- (11) The Minister may, in assessing an application under subsection (10), take into account such matters as the Minister thinks fit, including—
 - (a) the relationship between any tenement holders who are parties to the application; and
 - (b) the proximity of the relevant exploration licences to each other.
- (12) If an amalgamation of expenditure commitments is allowed under subsection (10), the exploration licences to which the amalgamations relate will be altered by reducing their licence areas by an amount or amounts determined by the Minister after consultation with the tenement holders.

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- (13) The Minister may, on application by the tenement holder—
- (a) approve the deferment of an amount of expenditure under an expenditure commitment; or
 - (b) approve the variation of an amount of expenditure that would otherwise be required under an expenditure commitment.
- (14) This section applies subject to any variation to an expenditure commitment under section 33B.

30AA—Area of licence

- (1) The area of the land in respect of which an exploration licence is granted must not exceed 1 000 square kilometres unless, in the opinion of the Minister, circumstances exist that justify the grant of a licence in respect of a greater area.
- (2) However, if the exploration licence allows for exploratory operations for precious stones in an opal development area, the area of land in respect of which a licence is granted cannot exceed 20 square kilometres unless, in the opinion of the Minister, circumstances exist that justify the grant of a licence in respect of a greater area.
- (3) The holder of an exploration licence may apply to the Minister for approval to surrender a part of the area of the licence under an agreement that is intended to enable another party to the agreement (a *designated party*) to obtain a new exploration licence in relation to the land to be surrendered.
- (4) An application under subsection (3)—
 - (a) must be made in a manner and form determined by the Minister; and
 - (b) must be accompanied by such information as may be prescribed by the regulations; and
 - (c) must be accompanied by the prescribed fee.
- (5) An application may not be made under subsection (3)—
 - (a) if the exploration licence is due to expire within 2 years of the making of the application; or
 - (b) if the other party to the agreement is, in relation to the tenement holder, a related body corporate.
- (6) If the Minister decides to consider an application under subsection (3) (and notifies the parties accordingly)—
 - (a) the designated party has a period of 6 months to obtain an exploration licence over the land to which the application relates, or such longer period as may be allowed by the Minister; but
 - (b) if an exploration licence is not granted to the designated party within the period that applies under paragraph (a), the proposed surrender will be taken to be rejected.
- (7) The tenement holder (and the exploration licence) will continue to be subject to all the requirements of this Act in relation to the land to which an application under subsection (3) relates while the designated party seeks to obtain an exploration licence over the land.

- (8) The tenement holder may at any time withdraw an application under subsection (3) by notice given to the Minister in accordance with the regulations.
- (9) If an application is withdrawn, an exploration licence will not be granted to the designated party under this section.
- (10) If an exploration licence is granted to the designated party on application under subsection (3), the land to which the application relates will be taken to have been surrendered by the tenement holder on the date on which the new exploration licence is granted (but will not be considered to be open ground for the purposes of this Part).
- (11) In addition and without limiting any other provision of this Act, the Minister may at any time, on application by the tenement holder or with the consent of the tenement holder, reduce the area of the licence.

30A—Term and renewals of licence

- (1) An exploration licence is to be granted for a term decided by the Minister of up to 6 years.
- (2) If an exploration licence is granted for a term of less than 6 years, the licence may include a right of renewal but not so the aggregate term of the licence exceeds 6 years during this initial period.
- (3) An exploration licence that does not include in its terms a right of renewal may be renewed at the discretion of the Minister from time to time, but not so the aggregate term of the licence exceeds 6 years.
- (4) An application for renewal of an exploration licence must be made to the Minister in a manner and form determined by the Minister before the date of expiry of the licence (including an expiry after 1 or more renewals under this section).
- (4a) An application under subsection (4) must be accompanied by—
 - (a) such information as may be prescribed by the regulations; and
 - (b) any other information that the Minister may require.
- (5) If an application for the renewal of an exploration licence is not decided before the date on which the licence is due to expire, the licence continues in operation until the application is decided and, if the licence is renewed, the renewal dates from the date on which the licence would, but for this subsection, have expired.
- (6) The Minister may, on renewing an exploration licence, add, vary or revoke a term or condition of an exploration licence.
- (7) The following provisions will apply in relation to the renewal of an exploration licence:
 - (a) when the term or aggregate term of the licence has reached the period of 6 years from the grant date, the next renewal may be for a period of up to 6 years and if the renewal is granted for a period of less than 6 years then further renewals may be granted until the aggregate period of renewal is 6 years (so that the term of the licence reaches the 12th anniversary of the grant date);
 - (b) if application is made for renewal of the licence for a period beginning from the 12th anniversary of the grant date—

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- (i) the term of renewal may be for a period of up to 6 years and if the renewal is granted for a period of less than 6 years then further renewals may be granted until the aggregate period of renewal is 6 years (so that the term of the licence reaches the 18th anniversary of the grant date); and
 - (ii) the area of the licence must be reduced by 50% (being this percentage of the area of the licence at the grant date) at the time of renewal (from the 12th anniversary of the grant date);
 - (c) the result will be that the maximum period of an exploration licence with any renewals can be up to (but not exceeding) 18 years.
- (8) Subsection (7) is subject to the qualification that—
- (a) the Minister and the tenement holder may at any time agree to reduce an area by a percentage that exceeds the percentage referred to in that subsection; and
 - (b) lesser reductions may be made by the Minister if retention status has been granted in relation to the exploration licence under section 33B.
- (9) Despite a preceding subsection, the holder of an exploration licence may, before the date of expiry of the licence, apply to the Minister for the renewal of the licence pending a decision by the Minister on an application for the grant of a mining lease or a retention lease that has been made by the tenement holder under this Act.
- (10) If an application for the renewal of an exploration licence is made under subsection (9), the licence continues in operation until the application for the mining lease or retention lease (as the case may be) is decided.
- (11) Subsection (10) operates subject to the qualification that on the day on which the licence would otherwise expire—
- (a) the area of the licence is reduced, by operation of this subsection, to the area in relation to which the application for the mining lease or retention lease (as the case may be) applies; and
 - (b) the balance of the area will be taken to be relinquished ground.
- (12) This section does not limit the operation of any other section that provides for the relinquishment, excision or other reduction of land in respect of which an exploration licence is granted.
- (13) For the purposes of this section, the *grant date* is the date of the original grant of the relevant exploration licence.

30AB—Excise of land for public purposes

- (1) If, in the opinion of the Minister, any land comprised in an exploration licence is required for a public purpose, the Minister may, in a manner and form prescribed by the regulations, excise that land from the total area comprised in the licence, and the licence will then cease to apply to the land (but the land will not be considered to be open ground for the purposes of this Part).
- (2) If the Minister acts under subsection (1), the tenement holder may apply to the appropriate court for an order that the Minister pay compensation to the tenement holder for the money expended by the tenement holder in prospecting for minerals in the area excised from the total area comprised in the exploration licence.

- (3) The appropriate court may, on hearing an application under subsection (2), determine an amount that would fairly compensate the tenement holder to the extent referred to in that subsection and order that the amount so determined be paid by the Minister to the tenement holder (and this amount will be recoverable from the Minister).

31—Fee

- (1) The holder of an exploration licence shall pay to the Minister, annually and in advance, such fee as may be prescribed.
- (1a) A regulation made for the purposes of subsection (1) may—
 - (a) fix various methods for the calculation of a fee (including according to the total area of land in respect of which an exploration licence is granted);
 - (b) fix differential fees on a basis prescribed by the regulations.
- (2) The Minister may reduce, remit or refund a fee under this section if, in his opinion, it is necessary or expedient so to do.
- (3) The liability to pay a fee under this section is a debt due to the Crown.

33A—Minister may describe or delineate land in any manner

- (1) Subject to the requirements of this Act, the Minister may describe or delineate the land in respect of which an exploration licence is granted in such manner as the Minister deems appropriate.
- (2) Section 80 does not apply to the extent that an alteration in the manner in which land is described or delineated results in part of the licence area of one exploration licence being superimposed over land comprising part of the licence area of another licence (as described or delineated immediately before the alteration).
- (3) The regulations may, in connection with the operation of subsection (2), prescribe terms and conditions governing the coexistence of exploration licences that have been granted over the same land as a result of the Minister altering the manner in which the land is described or delineated.
- (4) If part of the licence area of one exploration licence is superimposed over land comprising part of the licence area of another licence under this section, and rights of one of the licensees in respect of the part are suspended in accordance with the regulations, the suspension of the rights will continue until either of the following occurs:
 - (a) the part ceases to comprise part of the licence area of the other licence; or
 - (b) the other licence expires.

33B—Retention status

- (1) The holder of an exploration licence may apply to the Minister for approval of retention status in relation to the licence under this section.
- (2) An application—
 - (a) must be made in a manner and form determined by the Minister; and
 - (b) must identify the boundaries of the land in respect of which retention status is being sought in accordance with the requirements of section 56E; and

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- (c) must be accompanied by such information as may be prescribed by the regulations.
- (3) The Minister may grant retention status in relation to the exploration licence—
- (a) if satisfied that the tenement holder has been unable to obtain 1 or more approvals under another Act or Acts that are required before the tenement holder can commence or continue exploration operations in relation to the land to which the application relates; or
- (b) if satisfied—
- (i) that there is an identified mineral resource located in, on or under the land to which the application relates; and
- (ii) that it is unreasonable to expect an application to be made for a mining lease or a retention lease because it is not commercially viable to spend time and money on developing the resource; and
- (iii) that it is reasonably likely that mining the relevant land will become commercially viable within the next 6 years; or
- (c) if satisfied (in the Minister's absolute discretion) that there are other circumstances which justify the granting of retention status under this section.
- (4) The area of land in relation to which retention status applies will be an area that the Minister considers, after consultation with the tenement holder, to be reasonable in the circumstances (and may be less than the area delineated in the application).
- (5) The Minister may, in granting retention status in relation to an exploration licence, or at a subsequent time, do 1 or more of the following:
- (a) provide for a reduction in any expenditure commitment applying under section 30AAA;
- (b) provide for less reduction in the area of the licence applying in relation to a renewal of the licence under section 30A;
- (c) provide for a reduction in the fees that would otherwise be payable under section 31.
- (6) Retention status is to be granted for a term determined by the Minister of up to 6 years.
- (7) If retention status is granted for a term of less than 6 years, the Minister may extend the term (from time to time) so the aggregate term of retention status does not exceed 6 years.
- (8) The Minister may then extend the term of retention status beyond 6 years if satisfied that the grounds on which retention status may be granted under subsection (3) still apply in relation to the matter.
- (9) The Minister may, when granting retention status in relation to an exploration licence, or at a subsequent time, make it a condition of the licence that the tenement holder carry out work, in accordance with a work program approved by the Minister, in relation to land to which the retention status applies.
- (10) A work program to be carried out by the tenement holder must, if the Minister so requires, be submitted with the application for retention status and from time to time as required under a condition of the licence imposed under subsection (9).

- (11) The Minister may approve a proposed work program with or without addition or modification.
- (12) The Minister may, on application by the tenement holder—
- (a) approve deferment of any work to be carried out under an approved work program; or
 - (b) approve the variation of an approved work program; or
 - (c) cancel an approved work program.
- (13) The Minister may, at any time, by written notice accompanied by such information or evidence as required by the Minister, require the holder of an exploration licence that has retention status by virtue of the operation of subsection (3) to show cause—
- (a) why 1 or more approvals required under another Act or Acts have not been obtained; or
 - (b) why a mining lease or a retention lease should not be applied for in relation to the whole or any part of the land comprised in the exploration licence.
- (14) If—
- (a) the holder of the exploration licence fails to show cause (to the satisfaction of the Minister) within a period specified by the Minister in a notice under subsection (13); or
 - (b) the Minister considers that the holder of the exploration licence has failed to show sufficient cause,

the Minister may, by further notice to the tenement holder, require the tenement holder to apply in accordance with this Act for a mining lease or a retention lease in relation to the whole or any part of the land comprised in the exploration licence.

- (15) If the tenement holder fails to comply with a notice under subsection (14) within a period specified by the Minister, or an application for a mining lease or retention lease is unsuccessful after a notice has been issued under subsection (14), any retention status applying in relation to the land to which the notice relates will expire and the land will be excised from the area of the exploration licence and become relinquished ground.
- (16) If—
- (a) land in relation to which retention status applies is not subject to a notice under subsection (13); and
 - (b) the term of retention status comes to an end while the exploration licence is still in force,

the land will return to its original status under the exploration licence.

Part 6—Mining leases

34—Preliminary

- (1) Subject to this Act, the Minister may grant a mining lease to the holder, or to a related body corporate of the holder, of—
 - (a) a registered mineral claim, in respect of the whole or part of land comprised in the claim; or
 - (b) an exploration licence, in respect of the whole or part of land comprised in the licence; or
 - (c) a retention lease, in respect of the whole or part of land comprised in the lease.
- (2) If a registered mineral claim or exploration licence relates to a particular stratum, the mining lease must, if granted, relate to the same stratum.
- (3) A mining lease must not be granted in respect of land within a subsurface stratum except on the authority of a resolution passed by both Houses of Parliament.
- (4) A mining lease is not required to be registered under the *Real Property Act 1886*.

35—Nature of mining lease

- (1) A mining lease—
 - (a) confers an exclusive right on the holder of the lease to carry out mining operations subject to the provisions of this Act and the terms and conditions of the lease for the recovery of minerals from the land comprised in the lease; and
 - (b) authorises the holder of the lease to sell, or dispose of, minerals recovered in the course of mining operations carried out under the lease or to use any such minerals.
- (2) A mining lease may be of a class prescribed by the regulations and subject to terms and conditions prescribed by the regulations in relation to that class, subject to any determination of the Minister as to the modification of any such term or condition.
- (3) In addition, a mining lease is subject to—
 - (a) such terms and conditions as may be prescribed; and
 - (b) such additional terms and conditions (if any) as the Minister thinks fit and specifies in the lease.

36—Application for mining lease

- (1) An application for a mining lease—
 - (a) must be made in a manner and form determined by the Minister; and
 - (b) must identify the boundaries of the land in respect of which the lease is being sought in accordance with the requirements of section 56E; and
 - (c) must be accompanied by a mining proposal—

- (i) specifying the authorised operations that are proposed to be carried out under the lease; and
 - (ii) setting out—
 - (A) an assessment of the environmental impacts of the proposed operations; and
 - (B) an outline of the measures that the applicant intends to take to manage, limit or remedy those impacts; and
 - (C) a statement of the environmental outcomes that are accordingly expected to occur; and
 - (iii) incorporating a draft statement of the criteria to be adopted to measure those environmental outcomes, in a form prescribed by the regulations; and
 - (iv) setting out the results of the consultation undertaken in connection with the proposed operations in accordance with the regulations; and
 - (d) must be accompanied by such other information as may be prescribed by the regulations; and
 - (e) must be accompanied by the prescribed fee.
- (2) The Minister may require the applicant to furnish the Minister with any additional information specified by the Minister (and that information must be furnished within any period specified by the Minister).

37—Approval of application and registration

- (1) The Minister—
- (a) must not grant a mining lease unless the Minister is satisfied—
 - (i) that there is a reasonable prospect that the land in respect of which the lease is sought could be effectively and efficiently mined; and
 - (ii) that appropriate environmental outcomes will be able to be achieved; and
 - (b) must not grant a mining lease if the Minister considers that sufficient investigations have not been carried out in order to enable the Minister to determine the terms and conditions on which the lease could be granted.
- (2) However, if the Minister cannot grant a mining lease by virtue of the operation of subsection (1), the Minister may instead, with the concurrence of the applicant for the mining lease (and on the basis of such further application by the applicant as the Minister thinks fit), grant a retention lease under Part 7.
- (3) If the Minister decides to grant a mining lease, the lease will be taken to be granted under this Act when the lease is registered on the mining register (and the term of the lease will be taken to commence from the date of registration).

38—Term and renewal of mining lease

- (1) A mining lease may be granted for such term as may be determined by the Minister and specified in the lease.

- (2) The holder of a mining lease may apply for the renewal of the lease before the expiration of the term of the lease.
- (3) An application for the renewal of a mining lease must be made to the Minister in a manner and form determined by the Minister before the date of expiry of the lease.
- (4) An application under subsection (3) must be accompanied by any other information that the Minister may require.
- (5) If an application for the renewal of a mining lease is not decided before the date on which the lease is due to expire, the lease continues in operation until the application is decided and, if the lease is renewed, the renewal dates from the date on which the lease would, but for this subsection, have expired.
- (6) If the Minister decides to grant a renewal, the mining lease will be renewed for a term determined by the Minister and specified in the lease.

Part 7—Retention leases

42—Preliminary

- (1) Subject to this Act, the Minister may grant a retention lease to the holder, or to a related body corporate of the holder, of—
 - (a) a registered mineral claim, in respect of the whole or part of land comprised in the claim; or
 - (b) an exploration licence, in respect of the whole or part of land comprised in the licence; or
 - (c) a mining lease, in respect of the whole or part of land comprised in the lease.
- (2) If a registered mineral claim or exploration licence relates to a particular stratum, the retention lease must, if granted, relate to the same stratum.
- (3) A retention lease is not required to be registered under the *Real Property Act 1886*.

43—Nature of retention lease

- (1) A retention lease is a mineral tenement that is granted in 1 of the following cases:
 - (a) where the applicant seeks an authorisation to carry out authorised operations to obtain information required to support an application for a mining lease where those authorised operations are not suited to being conducted under an exploration licence;
 - (b) where the Minister is acting under section 37(2) after a mining proposal has been the subject of an application for a mining lease under Part 6;
 - (c) where for economic or other reasons the applicant for the lease is, in the opinion of the Minister, justified in not proceeding immediately to mine the land under a mining lease.
- (2) A retention lease—
 - (a) confers an exclusive right on the tenement holder to prospect for minerals on the land comprised in the lease; and
 - (b) confers on the tenement holder such other rights to conduct authorised operations in respect of the land comprised in the lease as may be specified in the lease; and
 - (c) confers on the tenement holder an exclusive right to apply for a mining lease in respect of the land comprised in the lease.
- (3) A retention lease is subject to—
 - (a) such terms and conditions as may be prescribed; and
 - (b) such additional terms and conditions (if any) as the Minister thinks fit and specifies in the lease.

44—Application for retention lease

- (1) An application for a retention lease—
 - (a) must be made in a manner and form determined by the Minister; and

- (b) must identify the boundaries of the land in respect of which the lease is being sought in accordance with the requirements of section 56E; and
 - (c) except as provided by the regulations, must be accompanied by a retention proposal—
 - (i) specifying the operations or steps that are proposed to be carried out in order for the applicant to be in a position to make an application for a mining lease; and
 - (ii) setting out—
 - (A) an assessment of the environmental impacts of any proposed authorised operations to be carried out under the lease; and
 - (B) an outline of the measures that the applicant intends to take to manage, limit or remedy those impacts; and
 - (C) a statement of the environmental outcomes that are accordingly expected to occur; and
 - (iii) incorporating a draft statement of the criteria to be adopted to measure those environmental outcomes, in a form prescribed by the regulations; and
 - (iv) setting out the results of the consultation undertaken in connection with any proposed operations in accordance with the regulations; and
 - (d) must be accompanied by such other information as may be prescribed by the regulations; and
 - (e) must be accompanied by the prescribed fee.
- (2) The Minister may require the applicant to furnish the Minister with any additional information specified by the Minister (and that information must be furnished within any period specified by the Minister).
- (3) The Minister may exempt an applicant from complying with specified requirements of this section if the retention lease is to be granted under section 37(2).

45—Approval of application and registration

- (1) Without limiting any other provision, and except as provided by the regulations, the Minister must not grant a retention lease unless the Minister is satisfied that appropriate environmental outcomes will be able to be achieved.
- (2) If the Minister decides to grant a retention lease, the lease will be taken to be granted under this Act when the lease is registered on the mining register (and the term of the lease will be taken to commence from the date of registration).

46—Term and renewal of retention lease

- (1) A retention lease may be granted for such term, not exceeding 5 years, as may be determined by the Minister and specified in the lease.
- (2) The holder of a retention lease may apply for the renewal of the lease before the expiration of the term of the lease.

- (3) An application for the renewal of a retention lease—
 - (a) must be made to the Minister in a manner and form determined by the Minister; and
 - (b) must be accompanied by such information as may be prescribed by the regulations.
- (4) The Minister may require the applicant to furnish the Minister with any additional information specified by the Minister (and the information must be furnished within any period specified by the Minister).
- (5) If an application for the renewal of a retention lease is not decided before the date on which the lease is due to expire, the lease continues in operation until the application is decided and, if the lease is renewed, the renewal dates from the date on which the lease would, but for this subsection, have expired.
- (6) If the Minister decides to grant a renewal, the retention lease will be renewed for a term determined by the Minister and specified in the lease.

Part 8—Miscellaneous purposes licences

47—Preliminary

- (1) The Minister may grant to any person a miscellaneous purposes licence in respect of mineral land.
- (2) A miscellaneous purposes licence may not be granted over an area of land exceeding the maximum permissible area prescribed by the regulations.

48—Nature of miscellaneous purposes licence

- (1) A miscellaneous purposes licence is a mineral tenement that is granted for ancillary operations.
- (2) The Minister may, under the terms of a miscellaneous purposes licence or by conditions attached to a miscellaneous purposes licence, limit or define the scope of operations authorised under the licence.
- (3) A miscellaneous purposes licence is subject to—
 - (a) such terms and conditions as may be prescribed; and
 - (b) such additional terms and conditions (if any) as the Minister thinks fit and specifies in the licence.

49—Application for miscellaneous purposes licence

- (1) An application for a miscellaneous purposes licence—
 - (a) must be made in a manner and form determined by the Minister; and
 - (b) must identify the boundaries of the land in respect of which the licence is being sought in accordance with the requirements of section 56E; and
 - (c) must be accompanied by a proposal—
 - (i) specifying the nature and extent of the ancillary operations that are proposed to be carried out under the licence; and
 - (ii) setting out—
 - (A) an assessment of the environmental impacts of the proposed operations; and
 - (B) an outline of the measures that the applicant intends to take to manage, limit or remedy those impacts; and
 - (C) a statement of the environmental outcomes that are accordingly expected to occur; and
 - (iii) incorporating a draft statement of the criteria to be adopted to measure those environmental outcomes, in a form prescribed by the regulations; and
 - (iv) setting out the results of the consultation undertaken in connection with the proposed operations in accordance with the regulations; and
 - (d) must be accompanied by such other information as may be prescribed by the regulations; and

- (e) must be accompanied by the prescribed fee.
- (2) The Minister may require the applicant to furnish the Minister with any additional information specified by the Minister (and that information must be furnished within any period specified by the Minister).

50—Approval of application and registration

- (1) Without limiting any other provision, the Minister must not grant a miscellaneous purposes licence unless the Minister is satisfied that appropriate environmental outcomes will be able to be achieved.
- (2) If the Minister decides to grant a miscellaneous purposes licence, the licence will be taken to be granted under this Act when the licence is registered on the mining register (and the term of the licence will be taken to commence from the date of registration).

51—Term and renewal of miscellaneous purposes licence

- (1) A miscellaneous purposes licence may be granted for such term as may be determined by the Minister and specified in the licence.
- (2) The holder of a miscellaneous purposes licence may apply for the renewal of the licence before the expiration of the term of the licence.
- (3) An application for the renewal of a miscellaneous purposes licence—
 - (a) must be made to the Minister in a manner and form determined by the Minister; and
 - (b) must be accompanied by such information as may be prescribed by the regulations.
- (4) The Minister may require the applicant to furnish the Minister with any additional information specified by the Minister (and the information must be furnished within any period specified by the Minister).
- (5) If an application for the renewal of a miscellaneous purposes licence is not decided before the date on which the licence is due to expire, the licence continues in operation until the application is decided and, if the licence is renewed, the renewal dates from the date on which the licence would, but for this subsection, have expired.
- (6) If the Minister decides to grant a renewal, the miscellaneous purposes licence will be renewed for a term determined by the Minister and specified in the licence.

Part 8A—Special mining enterprises

56A—Object of this Part

The object of this Part is to facilitate the establishment, development or expansion of mining enterprises of major significance to the economy of this State by allowing greater security and flexibility of tenure.

56B—Special mining enterprises

- (1) For the purposes of this Part, a mining enterprise (whether existing or proposed) is a *special mining enterprise* if—
 - (a) the Governor is satisfied, after taking into account the advice of the Minister, that the enterprise is of major significance to the economy of the State; and
 - (b) the Minister and the person who conducts or proposes to establish the enterprise (the *proponent*) have entered into an agreement for the exercise of powers under this Part and the grant of an appropriate mineral tenement or tenements in relation to the enterprise; and
 - (c) the Governor has ratified the agreement between the Minister and the proponent.
- (2) This Part has effect subject to any guidelines issued by the Minister for the purposes of this Part.
- (3) The following provisions of this Act apply in relation to an application to the Minister under this Part as if the application were an application for a mining lease:
 - (a) section 56E;
 - (b) section 56F;
 - (c) section 56G;
 - (d) section 56H;
 - (e) section 56I.
- (4) An application may be made under this Part in relation to an existing mineral tenement (or tenements), or for the purposes of obtaining a mineral tenement (or tenements) in relation to an enterprise.
- (5) An agreement under subsection (1)(b)—
 - (a) must be in a form determined by the Minister after consultation with the proponent; and
 - (b) has effect when ratified by the Governor and registered on the mining register; and
 - (c) subject to subsection (6), may be varied from time to time by further agreement between the parties after complying with any process or procedure prescribed by the regulations.
- (6) An agreement under subsection (5)(c) has no force or effect unless or until it is ratified by the Governor and registered on the mining register.

56BA—Concept phase

- (1) The first step that a proponent who is seeking an agreement with the Minister under this Part must take is to consult with the Director of Mines about the proposal.
- (2) Consultation with the Director for the purposes of subsection (1) is initiated by an application made to the Director in a manner and form determined by the Director.
- (3) An application—
 - (a) must incorporate or be accompanied by such information as may be prescribed by the regulations; and
 - (b) must be accompanied by the prescribed fee.
- (4) The Director may require the proponent—
 - (a) to furnish to the Director any additional information specified by the Director (and that information must be furnished within any period specified by the Director); and
 - (b) to undertake any consultation required by the guidelines issued by the Minister or specified by the Director (and that consultation must be undertaken within a period specified by the Director); and
 - (c) to take any other action specified by the Director.
- (5) The Director may—
 - (a) bring the consultation envisaged by subsection (1) to an end as the Director thinks fit; and
 - (b) at the end of the consultation, advise the proponent—
 - (i) that the matter may proceed to an application to the Minister for the purposes of this Part; or
 - (ii) that the matter is not, in the opinion of the Director, suitable for further consideration under this Part.
- (6) If subsection (5)(b)(i) applies, the proponent is entitled to proceed to make an application to the Minister (but otherwise the matter may not proceed further under this Part).

56BB—Application phase

- (1) If a proponent is entitled to proceed to make an application to the Minister, the application—
 - (a) must be made in a manner and form determined by the Minister; and
 - (b) must be accompanied by a proposal containing the full particulars of the mining enterprise, including—
 - (i) information that identifies the boundaries of the land in respect of which the proposal relates which is in accordance with the requirements of section 56E; and

- (ii) a statement of the nature, extent and proposed scheduling of the mining operations and related or ancillary operations or works that the proponent carries out or proposes to carry out under the enterprise; and
 - (iii) an economic analysis of the enterprise, including financial projections and details of the financial resources available to the proponent for the purposes of the enterprise; and
 - (iv) an assessment of the benefits to the State derived or expected to be derived from the enterprise; and
 - (v) an assessment of the expected environmental effects of the enterprise; and
 - (vi) a statement of the measures that the proponent considers appropriate to protect the environment, and to remedy environmental damage that may result on account of operations or activities carried out for the purposes of the enterprise; and
 - (vii) a statement of the measures that the proponent considers appropriate for the protection of any Aboriginal sites or objects within the meaning of the *Aboriginal Heritage Act 1988* that may be affected by the enterprise; and
- (c) must be accompanied by such other information as may be prescribed by the regulations; and
 - (d) must be accompanied by the prescribed fee.
- (2) The Minister may require the proponent to furnish the Minister with any additional information specified by the Minister (and that information must be furnished within any period specified by the Minister).
 - (3) An application will, in relation to any mineral tenement that may be subsequently granted under this Part (if the mining enterprise becomes a special mining enterprise), be taken to be an application duly made under this Act for that tenement.
 - (4) The Minister may, at any time and in the Minister's absolute discretion (and without consultation with the proponent or taking any other step), by notice to the proponent, refuse an application under this Part.
 - (5) No mineral claim may be established by, or a mineral tenement granted to, any other person over land to which an application under this Part relates until—
 - (a) 28 days after the application is refused or withdrawn; or
 - (b) a mineral tenement (or tenements) are granted to the proponent over the land.
 - (6) The Minister must give notice of the approval of an application under this section in accordance with any prescribed requirements.

56C—Power to exempt from or modify Act

- (1) The Minister may, in accordance with the terms of an agreement under this Part (as ratified by the Governor)—
 - (a) exempt a special mining enterprise from any provision of this Act; or

- (b) modify the application of a requirement of this Act in relation to the enterprise.
- (2) An exemption or modification cannot be granted or made to this Part in respect of the application of the following provisions of this Act:
 - (a) sections 9 and 9AA;
 - (b) section 61;
 - (c) Part 9B;
 - (d) Part 10A;
 - (e) any other provision specified by the regulations.
 - (3) An exemption or modification may be subject to conditions stipulated in the agreement.
 - (4) An exemption or modification may not be granted or made under this section so as to discriminate against the holders of native title in land.
 - (5) The Minister may vary or revoke an exemption or modification in accordance with and subject to the terms of the agreement.
 - (6) The Minister must cause notice of an exemption or modification, and of any subsequent variation or revocation of it, to be published in the Gazette.
 - (7) A person who contravenes or fails to comply with a condition of an exemption or modification under this section is guilty of an offence.

Maximum penalty: \$250 000.

56D—Existing tenements

- (1) If land comprised in a mineral tenement granted in relation to a special mining enterprise pursuant to an agreement under this Part was, immediately before the granting of the tenement, comprised in a lease or licence held under this Act in respect of the same enterprise—
 - (a) the lease or licence is, by force of this subsection, subsumed into the new mineral tenement; and
 - (b) subject to a determination of the Minister or a court—
 - (i) an interest (whether legal or equitable) in, or affecting, the lease or licence so subsumed (being an interest in force immediately before the granting of the mineral tenement) continues to have the same effect in respect of the mineral tenement as it had before the tenement was granted; and
 - (ii) a liability of the holder of the mineral tenement in existence immediately before the granting of the tenement is not affected by the granting of the tenement; and

- (iii) an approval, consent, licence or exemption granted under another Act or law with respect to the carrying out of an operation or activity under the lease or licence will be taken to have been granted with respect to the carrying out of the same operation or activity under the new mineral tenement if the extent of the operation or activity, and the area of land over which it is to be carried out, are not to be substantially increased.

(2) If—

- (a) an existing lease or licence is to be subsumed into a new mineral tenement under this Part; and
- (b) the existing lease or licence is subject to a term or condition that has been included to protect the environment,

then the Minister must ensure that a comparable term or condition is included in the new tenement.

Part 8B—Common provisions

Division 1—Identifying areas and considering applications

56E—Identification of areas

- (1) This section applies in relation to—
 - (a) establishing a mineral claim; and
 - (b) an application for an exploration licence; and
 - (c) an application by the holder of an exploration licence for retention status in relation to the licence; and
 - (d) an application for—
 - (i) a mining lease; or
 - (ii) a retention lease; or
 - (iii) a miscellaneous purposes licence; and
 - (e) any mineral tenement once it is registered under this Act.
- (2) An area that must be identified, delineated or defined in any case to which this section applies must be identified, delineated or defined in a manner and form determined or approved by the Mining Registrar.
- (3) Without limiting the operation of subsection (2), the boundaries of such an area may be identified in a way that accurately shows where the boundaries are located on the ground or allows the boundaries' location on the ground to be accurately worked out.
- (4) The holder of a mineral tenement which has an area identified by any pegs, markers or other items on the ground after the area has been identified, delineated or defined under this section must take reasonable steps to ensure that the area continues to be so identified during the term of the tenement.

Administrative penalty.
- (5) Without limiting a preceding subsection, a person who holds a mineral tenement in respect of a subsurface stratum may identify a claim or tenement on land above the land comprised in the tenement in any way determined or approved by the Mining Registrar.

56F—Related environmental legislation

- (1) This section applies in relation to—
 - (a) an application for an exploration licence or for the renewal of an exploration licence; and
 - (b) an application for a mining lease or for the renewal of a mining lease; and
 - (c) an application for a retention lease or for the renewal of a retention lease; and
 - (d) an application for a miscellaneous purposes licence or for the renewal of a miscellaneous purposes licence; and
 - (e) an application for a change in operations under Division 7; and

- (f) in relation to an exploration licence after it has been granted—an application for approval of a program that applies in relation to the licence under Part 10A so as to authorise the use of declared equipment.
- (2) If an application to which this section applies relates to an area within the Murray-Darling Basin, the Minister must, in considering the application, take into account the objects of the *River Murray Act 2003* and the *Objectives for a Healthy River Murray* under that Act.

56G—Specially protected areas

- (1) This section applies in relation to—
 - (a) an application for an exploration licence or for the renewal of an exploration licence; and
 - (b) an application for a mining lease or for the renewal of a mining lease; and
 - (c) an application for a retention lease or for the renewal of a retention lease; and
 - (d) an application for a miscellaneous purposes licence or for the renewal of a miscellaneous purposes licence; and
 - (e) an application for a change in operations under Division 7; and
 - (f) in relation to an exploration licence after it has been granted—an application for approval of a program that applies in relation to the licence under Part 10A so as to authorise the use of declared equipment.
- (2) If an application to which this section applies relates to an area within or adjacent to a specially protected area, the Minister must, before making a decision on the application, refer the application to the relevant Minister and consult with the relevant Minister in relation to the matter.
- (3) If an application is referred to a relevant Minister and the Minister to whom the administration of this Act is committed and the relevant Minister cannot agree—
 - (a) on the decision to be made on the application; or
 - (b) on any terms or conditions that should be applied if the application is approved,

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

Division 2—Notice

56H—Notice

- (1) This section applies in relation to—
 - (a) an application for—
 - (i) a mining lease; or
 - (ii) a retention lease (unless exempt by the regulations); or
 - (iii) a miscellaneous purposes licence; or

- (b) an application under Division 7 (to the extent that the requirements of that Division are applied by the regulations).
- (2) The Minister must, as soon as practicable after receiving an application to which this section applies, in such manner as the Minister thinks fit, give notice of the application—
 - (a) to the owner of the land to which the application relates; and
 - (b) if the land is within the area of a council—to the council.
- (3) In addition, before the Minister makes a decision on an application to which this section applies, including as to the terms and conditions (if any) that will apply or attach to the relevant mineral tenement or approval, the Minister must publish, in such manner as the Minister thinks fit, a notice—
 - (a) describing the land to which the application relates and, if relevant, the particular stratum in relation to which the tenement would be, or has been, granted (as the case requires); and
 - (b) specifying a place where the application may be inspected; and
 - (c) inviting written submissions in relation to the application to the Minister within a time specified in the invitation.
- (4) The Minister—
 - (a) must give to the applicant a copy of any submission received by the Minister under subsection (3) within the relevant period specified by the Minister; and
 - (b) may require the applicant to respond to any matter raised in any such submission within a period specified by the Minister.
- (5) A submission under subsection (3) cannot be made on the basis that the submission (or part of the submission) will be kept confidential and a response under subsection (4) cannot be made on the basis that the response (or part of the response) will be kept confidential.
- (6) In determining whether or not to grant an application to which this section applies and, if so, the terms and conditions on which it should be granted, the Minister must have regard to any submissions or response received under subsection (3) or (4).
- (7) The requirement to publish a notice under subsection (3), and the requirements of subsections (4), (5) and (6), do not apply if the Minister decides to refuse the application without inviting submissions on the application.
- (8) As soon as practicable after determining whether or not to grant or refuse an application to which this section applies, the Minister must cause notice of the determination to be published in accordance with the regulations.

Division 3—Terms and conditions

56I—Matters to be considered

- (1) This section applies in relation to an application for—
 - (a) a mining lease; or
 - (b) a retention lease; or

- (c) a miscellaneous purposes licence.
- (2) The Minister must, in determining the terms and conditions subject to which a mineral tenement is to be granted on an application to which this section applies, give proper consideration to—
 - (a) any aspect of the environment that may be affected by the conduct of authorised operations under the tenement; and
 - (b) any other lawful activities that may be affected by those authorised operations; and
 - (c) any Aboriginal sites or objects within the meaning of the *Aboriginal Heritage Act 1988* that may be affected by those authorised operations,

and may take into consideration such other factors or matters as the Minister considers appropriate in the particular case.

56J—Alteration of terms and conditions

- (1) This section applies in relation to—
 - (a) a mining lease; and
 - (b) a retention lease; and
 - (c) a miscellaneous purposes licence.
- (2) Without limiting any other provision, the Minister may at any time add, vary or revoke a term or condition of a mineral tenement to which this section applies if the Minister considers that the addition, variation or revocation is necessary—
 - (a) to offset, stabilise, prevent, reduce, minimise or eliminate any potential, perceived or actual undue damage to the environment associated with authorised operations carried out under the tenement; or
 - (b) to ensure consistency with the conditions attached to the Commonwealth Minister's approval (if any) under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth; or
 - (c) taking into account any other matter prescribed by the regulations.
- (3) The Minister must take reasonable steps to consult with the holder of the relevant mineral tenement before acting under subsection (2).
- (4) If—
 - (a) the Minister acts under subsection (2) during the term of the relevant mineral tenement; and
 - (b) the Minister acts without the agreement of the tenement holder,the tenement holder may appeal to the ERD Court in relation to the matter.
- (5) The ERD Court may, on hearing an appeal under subsection (4)—
 - (a) confirm the action taken by the Minister;
 - (b) vary or revoke any term or condition imposed by the Minister, or impose any term or condition considered appropriate by the Court;
 - (c) make any consequential or ancillary order that the Court considers necessary or expedient.

- (6) Subsections (3), (4) and (5) do not apply in any circumstances prescribed by the regulations.

56K—Special term or condition relating to extractive minerals

The terms or conditions of a mineral tenement may—

- (a) make provision for the management and use of extractive minerals produced during the course of carrying out authorised operations under the tenement; and
- (b) provide for the exemption of those extractive minerals from the payment of royalty.

56L—Offence to contravene term or condition

A person must not contravene, or fail to comply with, a term or condition of a mineral tenement.

Maximum penalty: \$250 000.

Division 4—Rental

56M—Rental

- (1) This section applies in relation to—
 - (a) a mining lease; and
 - (b) a retention lease; and
 - (c) a miscellaneous purposes licence.
- (2) A mineral tenement to which this section applies must provide for the payment, by way of rental, of such sum as may be prescribed by the regulations (and different sums may be prescribed according to different classes of tenement).
- (3) Subject to this section, the amount by way of rental is payable to the Minister.
- (4) If a mineral tenement to which this section applies is granted over land consisting of, or including, land subject to an estate in fee simple (with the interest of any registered proprietor of such an estate being referred to as a **relevant interest**) then, except to the extent that subsection (5) applies, the amount paid to the Minister under this section in relation to the tenement must, after deduction of 5% (with the net amount remaining after the 5% deduction being referred to as the **net amount available for distribution**) be dealt with in accordance with the following principles:
 - (a) the proportionate entitlement of each holder of a relevant interest in the land must be worked out by determining what proportion of the total area of the land subject to the tenement is represented by land in relation to which a relevant interest exists (with an appropriate allocation between entitlements if there is more than 1 registered proprietor in relation to any particular piece of land);
 - (b) a proportion of the net amount available for distribution, equivalent to the registered proprietor's proportionate entitlement, must be paid to each holder of a relevant interest in land subject to the tenement;

- (c) if a balance remains after distribution under paragraph (b), the balance is to be retained by the Minister.
- (5) Despite subsection (4), if a tenement holder or any related body corporate is also a registered proprietor of an estate in fee simple of land, the scheme under subsection (4) will not apply in relation to the holder.
- (6) If a mineral tenement to which this section applies is granted over land consisting of, or including, land subject to native title conferring a right to exclusive possession of the land (with the interest of any holder of such native title being referred to as a **relevant interest**) then the amount paid to the Minister under this section in relation to the tenement must, after deduction of 5% (with the net amount remaining after the 5% deduction being referred to as the **net amount available for distribution**) be dealt with in accordance with the following principles:
- (a) the proportionate entitlement of each holder of a relevant interest in the land must be worked out by determining what proportion of the total area of the land subject to the tenement is represented by land in relation to which a relevant interest exists (with an appropriate allocation between entitlements if there is more than 1 holder of native title in relation to any particular piece of land);
- (b) a proportion of the net amount available for distribution, equivalent to each person's proportionate entitlement, must be paid to each holder of a relevant interest in land subject to the tenement;
- (c) if a balance remains after distribution under paragraph (b), the balance is to be retained by the Minister.
- (7) In addition, if—
- (a) the Minister retains an amount paid by way of rental in relation to any land that is not subject to the operation of subsection (4) or (6); and
- (b) a valid claim for native title conferring a right to exclusive possession is subsequently made in relation to the land,
- then any such amount that is attributable to rental paid to the Minister in relation to the prescribed period is, after deduction of 5%, payable to the person or persons to whom native title is granted (and if there is more than 1 such person then their respective shares will be determined by applying the principles set out in subsection (6)).
- (8) For the purposes of subsection (7), the **prescribed period** is the period of 5 years immediately preceding the registration of native title under the law of the State or the Commonwealth (as the case may be).
- (9) Subsections (4) to (8) do not apply in relation to land owned by—
- (a) a Minister; or
- (b) the Commissioner for Highways; or
- (c) any other agency or instrumentality of the Crown prescribed by the regulations.
- (10) An amount paid to the holder of a relevant interest in land under this section will not be taken to be compensation for the purposes of any other section.

56N—Debt payable to Crown

The liability to pay any rental under this Division is a debt due to the Crown.

Division 5—Rectification of boundaries

56O—Rectification of boundaries

- (1) This section applies in relation to any mineral tenement.
- (2) The Mining Registrar may—
 - (a) vary the boundaries or delineation of a mineral tenement; or
 - (b) authorise the moving or replacement of any pegs or other items used to identify a mineral tenement; or
 - (c) take or authorise other action to clarify or rectify the area, location or boundaries of a mineral tenement.
- (3) However—
 - (a) the Mining Registrar may only act under subsection (2)(a) or (b)—
 - (i) if the Mining Registrar is acting with the consent of the tenement holder; or
 - (ii) if authorised to do so by a determination of the Warden's Court made on application by the Mining Registrar; and
 - (b) the Mining Registrar may only act under subsection (2)(c) after consultation with the tenement holder.

Division 6—Amalgamation of areas

56P—Amalgamation of areas

- (1) This section applies in relation to any mineral tenement.
- (2) The Minister may, on application by a tenement holder or by agreement with a tenement holder, amalgamate the areas of 2 or more mineral tenements (and 2 or more tenement holders may make application under this section in relation to 2 or more mineral tenements).
- (3) If an amalgamation proceeds under this section—
 - (a) the relevant mineral tenements are amalgamated into the 1 tenement (and if more than 1 tenement holder has an interest in the amalgamated tenement, their respective interests will be determined according to an agreement between these parties); and
 - (b) the terms and conditions of the tenement will be as determined by the Minister after consultation with the tenement holder (or tenement holders); and
 - (c) the term of the tenement will be as determined by the Minister after consultation with the tenement holder (or tenement holders) and after taking into account such other interests as may be relevant in the circumstances; and

- (d) the Minister may make such other determinations relating to any other matter associated with the amalgamated tenement arising under this Act that are considered to be necessary or appropriate by the Minister (and any such determination will have effect according to its terms).

Division 7—Change in operations

56Q—Preliminary

- (1) This Division applies if both subsections (2) and (3) apply (subject to the operation of subsection (4)).
- (2) This Division applies in relation to—
 - (a) a mining lease; and
 - (b) a retention lease; and
 - (c) a miscellaneous purposes licence.
- (3) This Division applies in relation to a proposal by the tenement holder—
 - (a) to make a change to the authorised operations to be carried out under the tenement; or
 - (b) without limiting paragraph (a)—to make a change—
 - (i) in the mineral that is intended to be recovered; or
 - (ii) that may reduce the ability of the tenement holder to achieve a particular outcome, including an environmental outcome, or that is a change to the criteria to be adopted to measure a particular outcome; or
 - (iii) to the terms or conditions of the tenement; or
 - (c) to make a change of any prescribed kind.
- (4) This Division does not apply in any circumstances prescribed by the regulations.
- (5) A change to which this Division applies must not be made without the approval of the Minister.

Maximum penalty: \$250 000.

56R—Application

- (1) An application for the approval of the Minister under this Division—
 - (a) must be made in a manner and form determined by the Minister; and
 - (b) must be accompanied by—
 - (i) a proposal relating to the change being proposed by the tenement holder that complies with any requirements prescribed by the regulations; and
 - (ii) such other information prescribed by the regulations; and
 - (c) must be accompanied by the prescribed fee.

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

56S—Consultation

The Minister—

- (a) may undertake such consultation in relation to an application under this Division as the Minister thinks fit; and
- (b) must undertake consultation under Division 2 in relation to an application under this Division if required to do so by the regulations.

56T—Consideration of proposal

- (1) If—
- (a) a change included in a proposal under this Division relates to extractive minerals; and
 - (b) the relevant mineral tenement has not previously applied in relation to extractive minerals; and
 - (c) the extractive minerals are on land granted in fee simple or land in respect of which native title conferring a right to exclusive possession of land exists,
- the Minister must not approve the change except with the written consent of the owner of the land.
- (2) Consent given by an owner of land under subsection (1) is binding on all subsequent owners of the land.
- (3) Subsection (1) does not apply if the purpose of the change is to vary the terms or conditions of the mineral tenement so as to make provision for the management and use of extractive minerals produced during the course of carrying out authorised operations under the tenement.
- (4) In addition, the Minister must not approve a change included in a proposal under this Division unless satisfied—
- (a) in the case of a mining lease—that the change will not adversely affect the ability of the tenement holder to ensure that land comprised in the tenement can be effectively and efficiently mined; and
 - (b) that appropriate environmental outcomes will be able to be achieved; and
 - (c) that the change will not adversely affect the ability of the tenement holder to comply with the other requirements of this Act.

56U—Terms and conditions

- (1) The Minister may, at the time of granting an approval under this Division, add, vary or revoke a term or condition of the relevant mineral tenement (to the extent that the Minister considers that the addition, variation or revocation is directly or indirectly relevant to the granting of the approval).

- (2) The Minister must, in acting under subsection (1), give proper consideration to—
- (a) any aspect of the environment that may be affected by the change in authorised operations under the tenement; and
 - (b) any other lawful activities that may be affected by the change; and
 - (c) any Aboriginal sites or objects within the meaning of the *Aboriginal Heritage Act 1988* that may be affected by the change,
- and may take into consideration such other factors or matters as the Minister considers appropriate in the particular case.

56V—Registration

- (1) If the Minister decides to approve an application under this Division, the approval will be taken to be granted when the approval is registered on the mining register (and the approval will take effect from the date of registration).
- (2) The Minister must give notice of the granting of an approval under this Division in the manner prescribed by the regulations.

Division 8—Cancellation, suspension and surrender

56W—Cancellation and suspension—action by Minister

- (1) This section applies in relation to—
- (a) an exploration licence; or
 - (b) a mining lease; or
 - (c) a retention lease; or
 - (d) a miscellaneous purposes licence.
- (2) The Minister may cancel or suspend a mineral tenement to which this section applies if the tenement holder contravenes or fails to comply with—
- (a) a term or condition of the tenement; or
 - (b) a provision of this Act.
- (3) The Minister may suspend all or some of the authorised operations under a mineral tenement to which this section applies—
- (a) pending compliance with an obligation or requirement under this Act by the tenement holder; or
 - (b) until the tenement holder takes some other step specified by the Minister; or
 - (c) on account of any other matter that, in the opinion of the Minister, warrants suspension of rights under the tenement.
- (4) The Minister must not take action under this section unless or until the Minister has—
- (a) taken reasonable steps to notify the tenement holder of the proposed course of action (including in the notification the grounds on which the Minister is intending to act); and
 - (b) provided the tenement holder with an opportunity to make written submissions in relation to the matter within a period specified by the Minister.

- (5) The Minister may, after complying with subsection (4), by instrument registered on the mining register, cancel or suspend a mineral tenement.
- (6) The Minister must ensure that a notice of the cancellation or suspension of a mineral tenement under subsection (5) is given to the tenement holder.
- (7) A tenement holder may, within 28 days after receiving a notice under subsection (6), appeal to the ERD Court in relation to the matter.
- (8) The ERD Court may, on hearing an appeal under subsection (7), if satisfied that the ground or grounds on which the Minister acted were insufficient to justify the cancellation or suspension of the mineral tenement (as the case may be)—
 - (a) revoke the cancellation or suspension; and
 - (b) make any consequential or ancillary order that the Court considers necessary or appropriate.
- (9) If the ERD Court makes an order under subsection (8)(a), the Minister may, subject to any order of the Court, reinstate the mineral tenement to a date that coincides with the initial date of the cancellation or suspension, or such later date as the Minister considers to be appropriate in the circumstances.

56X—Surrender on application

- (1) A tenement holder may apply to the Minister for an approval to surrender—
 - (a) the mineral tenement; or
 - (b) a part of the area of the mineral tenement.
- (2) An application must be—
 - (a) made in a manner and form determined by the Minister; and
 - (b) accompanied by such information as may be prescribed by the regulations.
- (3) The Minister may, if or when satisfied that it is appropriate to do so, by instrument registered on the mining register, approve the surrender.
- (4) If a mineral tenement surrendered under this section is a private mine, the declaration of the relevant area as a private mine made under this Act will be taken to be revoked.
- (5) If a part of the area of a private mine is surrendered under this section, the declaration of the relevant area as a private mine under this Act will be taken to be varied to exclude the area to the extent of the surrender.

Division 9—Extension of term or reinstatement of tenement

56Y—Extension of term of tenement

- (1) This section applies in relation to—
 - (a) a mining lease; or
 - (b) a retention lease; or
 - (c) a miscellaneous purposes licence.

- (2) Without limiting any other provision, the Minister may at any time extend the term of a mineral tenement to which this section applies if the Minister considers—
- (a) that the tenement holder to which this section applies has contravened, or failed to comply with, a provision of this Act; and
 - (b) that the term of the tenement should be extended in order to support the requirement that the tenement holder take action—
 - (i) to rehabilitate land in accordance with the requirements of a program under Part 10A; or
 - (ii) to rehabilitate land to a standard required to secure compliance with a condition of the mineral tenement; or
 - (iii) to prevent or address undue damage to the environment,
(including to land outside the area of the mineral tenement).
- (3) In connection with subsection (2), the only operations that the tenement holder may undertake during the period of the extension are operations to give effect to the requirement referred to in subsection (2)(b).
- (4) The Minister must take reasonable steps to consult with the holder of the relevant mineral tenement before acting under subsection (2).
- (5) If the Minister acts without the agreement of the tenement holder, the tenement holder may appeal to the ERD Court in relation to the matter.
- (6) The ERD Court may, on hearing an appeal under subsection (5)—
- (a) confirm the action taken by the Minister;
 - (b) impose any term or condition considered appropriate by the Court;
 - (c) make any consequential or ancillary order that the Court considers necessary or expedient.

56Z—Reinstatement of tenement

- (1) This section applies in relation to—
- (a) if the regulations so provide—an exploration licence; or
 - (b) a mining lease; or
 - (c) a retention lease; or
 - (d) a miscellaneous purposes licence,
(being a tenement that has expired).
- (2) This section sets out a scheme that will allow the Minister to reinstate a mineral tenement to which this section applies that has expired under another provision of this Act.
- (3) The Minister may act under this section if the Minister considers—
- (a) that the tenement holder to which this section applies has contravened, or failed to comply with, a provision of this Act; and
 - (b) that the tenement should be reinstated in order to support the requirement that the tenement holder take action—

- (i) to rehabilitate land in accordance with the requirements of a program under Part 10A; or
 - (ii) to rehabilitate land to a standard required to secure compliance with a condition of the mineral tenement; or
 - (iii) to prevent or address undue damage to the environment,
(including to land outside the area of the mineral tenement).
- (4) In connection with subsection (3), the only operations that the tenement holder may undertake during the period of the reinstatement are operations to give effect to the requirement referred to in subsection (3)(b).
- (5) The Minister may act under this section despite the cessation of authorised operations by the tenement holder on or before the expiration of the mineral tenement.
- (6) If the Minister decides to act under this section—
 - (a) the mineral tenement will be taken to have been reinstated from the date on which the tenement expired or from a later date determined by the Minister; but
 - (b) any section of this Act prescribed by the regulations will not apply in relation to the mineral tenement.
- (7) The Minister may, in acting under this section, reinstate a mineral tenement in relation to an area that is smaller than the area of the original tenement at the time of its expiry.
- (8) The term of the mineral tenement, as reinstated under this section, will be—
 - (a) a term determined by the Minister; or
 - (b) a term that expires at some later time on a date to be determined by the Minister.
- (9) The Minister reinstates a mineral tenement under this section by instrument registered on the mining register.
- (10) The Minister must ensure that a notice of the reinstatement of a mineral tenement under this section is given to the tenement holder and the owner of the land.
- (11) To the extent that the reinstatement of a mineral tenement under this section does not give rise to a right to mine under the *Native Title Act 1993* of the Commonwealth, Part 9B does not apply to the reinstatement of the mineral tenement under this section.

Division 10—Assessment reports

56ZA—Assessment reports

- (1) The Minister must prepare a report (an *assessment report*) that sets out or includes the Minister's assessment in respect of the following:
 - (a) an application for a mineral tenement under this Act;
 - (b) without limiting paragraph (a), the ranking of applications for exploration licences in relation to an exploration release area;
 - (c) an application for retention status under section 33B;

- (d) an application to amalgamate the areas of 2 or more mineral tenements under Division 6;
 - (e) an application for a change in operations under Division 7;
 - (f) a decision to cancel, suspend or surrender a mineral tenement under Division 8;
 - (g) a decision to exempt a tenement holder from an obligation to comply with a term or condition of a mineral tenement, or from a requirement of this Act;
 - (h) any other matter prescribed by the regulations.
- (2) The Minister must, in preparing a report under this section—
- (a) set out or include information about any submission that was made to the Minister in connection with a matter referred to in subsection (1); and
 - (b) set out or include information or material provided by an applicant or tenement holder in connection with a matter referred to in subsection (1) (including any response provided to the Minister in relation to any submission made to the Minister); and
 - (c) include any other information or material that the Minister thinks fit.
- (3) The Minister may publish an assessment report in such manner, and to such extent, as the Minister thinks fit.
- (4) No liability attaches to the Minister in connection with—
- (a) a decision by the Minister to include any particular matter, information or material in an assessment report; or
 - (b) a decision by the Minister to publish an assessment report.

Part 9—Entry upon land, compensation and restoration

57—Entry on land

Subject to this Part, a person authorised to undertake prospecting, exploration, mining for minerals or ancillary operations under this Act—

- (a) may enter any mineral land (except exempt land) for the purpose of carrying out authorised operations in accordance with this Act; and
- (b) may enter exempt land for the purpose of establishing or otherwise identifying a claim.

58—How entry on land may be authorised

A tenement holder may enter land to carry out authorised operations on the land—

- (a) if the tenement holder has an agreement¹ with the owner of the land authorising the tenement holder to enter the land to carry out authorised operations on the land; or
- (ab) if the tenement holder has an agreement or order to waive the benefit of an exemption under section 9AA; or
- (ac) if the tenement holder has obtained the written consent of the owner of the land under section 75; or
- (b) if the tenement holder is authorised by a native title mining determination to enter the land to carry out authorised operations on the land; or
- (ba) if the tenement holder is authorised by an indigenous land use agreement registered under the *Native Title Act 1993* (Cwth) to enter the land to carry out authorised operations on the land; or
- (c) if—
 - (i) the tenement holder has given any notice required under section 58A; and
 - (ii) the authorised operations will not affect native title in the land; and
 - (iii) the tenement holder complies with any determination made on objection to entry on the land, or the use or unconditional use of the land, or portion of the land, for authorised operations;² or
- (d) if the land to be entered is in a precious stones field and the authorised operations will not affect native title in the land; or
- (e) if the tenement holder enters the land to continue authorised operations that had been lawfully commenced on the land before the commencement of this section.

Explanatory note—

A tenement holder's right to enter land to carry out mining operations on the land is contingent on the operator holding the relevant mineral tenement.

Editorial Notes—

- 1 If the land is native title land, the agreement is to be negotiated under Part 9B.

2 See section 58A(5).

58A—Notice requirements

- (1) A person who is—
 - (a) intending to prospect for minerals under section 20; or
 - (b) the holder of an exploration licence or a mineral claim,must, at least 42 days before first entering land to carry out authorised operations, serve on the owner of the land notice of intention to enter the land in accordance with this section.
Maximum penalty: \$20 000.
- (2) A person who is intending to commence advanced exploration operations that are not within the ambit of a notice under subsection (1) must, at least 42 days before first commencing those operations, serve on the owner of the relevant land notice of intention to commence those operations.
Maximum penalty: \$20 000.
- (3) A person who is intending to apply for a mineral lease, retention lease or miscellaneous purposes licence must serve on the owner of the land to which the application relates notice of intention to apply for the lease or licence.
- (4) A notice under subsection (3)—
 - (a) must inform the owner of the land of the person's intention to enter the land to carry out authorised operations if the application is granted; and
 - (b) is of no effect for the purposes of this section if the person who served the notice does not apply for the lease or licence within 12 months of serving the notice on the owner of the land or if the application is refused.
- (5) A notice must be served in accordance with the regulations.
- (6) A copy of a notice must be served on the Mining Registrar (for registration on the mining register) in accordance with the regulations.
- (7) If the land is subject to a licence under the *Petroleum and Geothermal Energy Act 2000*, a copy of any notice required under a preceding subsection must also be served (within the time required under the subsection) on the holder of that licence.
- (8) However, a notice is not required under subsection (7) if the holder of the licence under the *Petroleum and Geothermal Energy Act 2000* has waived the requirement for notice to be given under that subsection.
- (9) If the land is held under a form of title (other than a licence under the *Petroleum and Geothermal Energy Act 2000*) that confers a right to exclusive possession of the land or under a pastoral lease—
 - (a) the notice must contain a statement of the owner's rights of objection and compensation under this Act; and
 - (b) the owner may, within 3 months after service of the notice, lodge a notice of objection with the appropriate court objecting—
 - (i) to entry on the land by the person who served the notice; or

- (ii) to the use, or the unconditional use, of the land, or a portion of the land, for authorised operations.
- (10) The court must send a copy of a notice of objection received under subsection (9) to the person who served the notice.
 - (11) The court may, if the court thinks fit, postpone the hearing of an objection to entry on land by a person who has given notice under subsection (3) of an intention to apply for a lease or licence until after the application has been made.
 - (12) If the court is satisfied on the hearing of an objection that the conduct of the authorised operations on the land would be likely to result in substantial hardship or substantial damage to the land, the court may—
 - (a) determine that the land, or a particular part of the land, should not be used for the purposes of the proposed authorised operations; or
 - (b) determine conditions on which operations may be carried out on the land with least detriment to the interests of the owner and least damage to the land.
 - (13) A person who conducts authorised operations in contravention of a determination under this section is guilty of an offence.
Maximum penalty: \$150 000.
 - (14) A notice under this section is not required if—
 - (a) the land to be entered is in a precious stones field; or
 - (b) the person who would otherwise be required to give such a notice is authorised to enter the land by agreement with the owner of the land; or
 - (c) the person who would otherwise be required to give such a notice is authorised to enter the land under a native title mining determination; or
 - (d) the person who would otherwise be required to give such a notice is authorised to enter the land under an indigenous land use agreement registered under the *Native Title Act 1993* of the Commonwealth; or
 - (e) the person who would otherwise be required to give such a notice, or a related body corporate, has previously given notice under this section as a prospective applicant under subsection (3) or as the holder of an earlier mineral tenement over the land to be entered (whether or not other land was also subject to the same application or tenement).
 - (15) A notice under this section must be in a form determined or approved by the Minister.
 - (16) Nothing in this section requires a tenement holder to serve a new notice if or when there is a change in ownership of land.

61—Compensation

- (1) The owner of any land on which authorised operations are carried out under this Act is entitled to receive compensation for any economic loss, hardship or inconvenience suffered by the owner in consequence of authorised operations.
- (2) In determining the compensation payable under this section, the following matters shall be considered:
 - (a) any damage caused to the land by the person carrying out the authorised operations; and

- (b) any loss of productivity or profits as a result of the authorised operations; and
 - (c) any other relevant matters.
- (2a) The compensation may include an additional component to cover reasonable costs reasonably incurred by an owner of land in connection with any negotiation or dispute related to—
 - (a) the tenement holder gaining access to the land; and
 - (b) the activities to be carried out on the land; and
 - (c) the compensation to be paid under subsection (1).
- (3) The amount of the compensation shall be an amount determined by agreement between the owner and the tenement holder or, in default of agreement, an amount determined, upon application by an interested party, by the appropriate court.
- (4) The appropriate court, in determining compensation under this section, shall take into consideration any work that the tenement holder has carried out, or undertakes to carry out, to rehabilitate the land.
- (5) Upon the hearing of an application for compensation under this section, the appropriate court may order a tenement holder to carry out such work to rehabilitate the land as the Court thinks fit.
- (5a) In assessing compensation under subsection (2a), costs in connection with any negotiation or dispute will not be taken to be reasonably incurred if they arise during any period when a reasonable offer of compensation is open to be accepted by the relevant owner of land.
- (5b) It will be a condition of a mineral tenement that the Minister may, at any time, require the tenement holder to pay to any person an amount of compensation, specified by the Minister, to which the person is, in the opinion of the Minister, entitled on account of loss or damage suffered by the person as a result of operations carried out under the tenement.
- (5c) Subsection (5b) operates in addition to any other provision made by this or any other section.
- (6) For the purposes of this section—
 - (a) a reference to authorised operations will be taken to include a reference to any investigation or survey under section 15; and
 - (b) a reference to a tenement holder will be taken to include a reference to the Director (in relation to any investigation or survey under section 15).

62—Bond and security

- (1) The Minister may, by notice in writing served on an applicant for, or the holder of, a mineral tenement, require them to enter into a bond in such sum and subject to such terms and conditions as ensure, in the opinion of the Minister, that—
 - (a) any civil or statutory liability likely to be incurred by that person in the course of carrying out authorised operations; and
 - (b) the present and future obligations of that person in relation to the rehabilitation of land disturbed by authorised operations,

will be satisfied.

- (2) The Minister may require such security for the satisfaction of the bond as the Minister thinks fit.
- (2a) If an applicant for a mineral tenement fails to comply with a requirement under this section, the Minister may refuse the application.
- (3) If the holder of a mineral tenement fails to comply with a requirement under this section—
 - (a) the Minister may, if the requirement has not been complied with at the expiration of one month from the end of the time allowed for compliance, prohibit authorised operations in the area of the tenement; and
 - (b) the Minister may, if the requirement has not been complied with at the expiration of three months from the end of the time allowed for compliance, cancel the tenement.
- (4) The liability to pay an amount under this section is a debt due to the Crown.
- (5) A person must not contravene a prohibition under subsection (3).
Maximum penalty: \$150 000.
- (6) If the Minister holds, or is entitled to hold, any money under a bond entered into by a tenement holder, the Minister may, in the Minister's discretion, expend any portion of that money—
 - (a) to compensate any person who has suffered, or is likely to suffer, financial loss as a result of authorised operations carried out by that tenement holder or in rehabilitating any land disturbed by any such authorised operations; or
 - (b) to satisfy any liability to pay an amount that is due to the Crown under this Act.
- (7) The Minister may, on application under this subsection, (in the Minister's absolute discretion) agree to the assignment of a liability or obligation under this section to a third party on terms or conditions determined by the Minister.
- (8) No action lies against the Minister in respect of the expenditure of money under this section.

62AA—Mining Rehabilitation Fund

- (1) The Minister must establish a fund entitled the Mining Rehabilitation Fund.
- (2) The fund will consist of—
 - (a) amounts required to be paid under subsections (3) and (4); and
 - (b) amounts required to be paid into the fund under any other section; and
 - (c) amounts required to be paid into the fund under the regulations; and
 - (d) amounts required to be paid into the fund under any other Act; and
 - (e) any income or accretions produced by the investment of money from the fund (and the Minister is authorised to invest any amount standing to the credit of the fund in such manner as the Minister thinks fit).

- (3) The Minister may, after taking into account the matters specified in subsection (4), require a tenement holder (or former tenement holder) to pay an amount determined by the Minister into the fund—
- (a) before the relevant mineral tenement is cancelled, surrendered or expires under this Act; or
 - (b) within the prescribed period after the relevant mineral tenement is cancelled, surrendered or expires under this Act.
- (4) The following matters are specified:
- (a) the extent to which it appears that resources may be required to achieve appropriate environmental outcomes on the closure of authorised operations on land comprised in the relevant mineral tenement;
 - (b) without limiting paragraph (a), the extent and likelihood of action that may be required—
 - (i) to reinstate, supplement or improve rehabilitation of land that fails to establish a safe, stable and self-contained environment; and
 - (ii) to maintain environmental management processes; and
 - (iii) to take further action to restore the environment because of environmental damage or impairment resulting from authorised operations.
- (5) The Minister may impose a requirement under this section even if a mineral tenement has been reinstated under Part 8B Division 9.
- (6) The imposition of a requirement under this section does not limit any other action or requirement that may be taken or arise under any other section.
- (7) The Minister may impose a requirement under this section by notice served on the relevant tenement holder (or former tenement holder).
- (8) An amount required to be paid into the fund under subsection (3) must be paid within a period (of at least 28 days) specified by the Minister in a notice under subsection (7).
Maximum penalty: \$20 000.
- (9) The liability to pay an amount under this section is a debt due to the Crown.
- (10) Money standing to the credit of the fund may be used by the Minister for all or any of the following purposes:
- (a) to fund monitoring and maintenance of any land in relation to which a requirement under this section has been imposed;
 - (b) to fund programs, including as to the collection or provision of information and the carrying out of work, relating to the rehabilitation of any land in relation to which a requirement under this section has been imposed;
 - (c) to achieve any other environmental outcomes that are related to the ceasing of authorised operations;
 - (d) to fund other programs, or to achieve other outcomes, prescribed by the regulations;
 - (e) to provide for the costs of administering the fund.

- (11) For the purposes of carrying out any operations associated with using money for a purpose under subsection (10), the Minister or the Director of Mines, or any person authorised in writing by the Minister or the Director of Mines, may—
- (a) enter and remain on any land with such assistants, vehicles and equipment as may be necessary or expedient for any such purpose; and
 - (b) carry out tests or any work.
- (12) A person who interferes with or obstructs any person in the exercise of a power under subsection (11) is guilty of an offence.
- Maximum penalty: \$20 000 or imprisonment for 6 months.

62A—Right to require acquisition of land

- (1) If the activities of a tenement holder on land substantially impair the owner's use and enjoyment of the land, the owner may apply to the Supreme Court for an order under this section.
- (2) The Court may, on an application under this section, if the Court considers it to be just and appropriate in the circumstances of the particular case—
- (a) make an order transferring the owner's land to the holder of the relevant mineral tenement; and
 - (b) order the holder of the relevant mineral tenement to pay to the owner, by way of compensation, after taking into account (to such extent as the Court considers appropriate) any compensation or other amounts that have been paid to the owner under the other provisions of this Act—
 - (i) an amount equivalent to the market value of the land; and
 - (ii) a further amount the Court considers just by way of compensation for disturbance; and
 - (c) make such other ancillary or related orders as the Court thinks fit.
- (3) This section does not apply in relation to an exploration licence.

63—Extractive Areas Rehabilitation Fund

- (1) The Minister shall establish a fund entitled the "Extractive Areas Rehabilitation Fund".
- (2) From the royalty received or recovered by the Minister on extractive minerals, the Minister will pay the prescribed rate into the fund.
- (3) Subject to subsection (4), the Minister may expend any portion of the fund for any of the following purposes:
- (a) the rehabilitation of land disturbed by authorised operations for the recovery of extractive minerals (or any costs associated with ensuring that such land is rehabilitated in accordance with the requirements under this Act); and
 - (b) the implementation of measures designed to prevent, or limit, damage to or impairment of, any aspect of the environment by authorised operations for the recovery of extractive minerals (or any costs associated with ensuring that such measures are implemented or with monitoring such measures); and

- (c) the promotion of research into methods of mining engineering and practice by which environmental damage or impairment resulting from authorised operations for the recovery of extractive minerals may be reduced.
- (4) The total expenditure in a single financial year of costs associated with ensuring that the land referred to in subsection (3)(a) is rehabilitated in accordance with the requirements under this Act must not exceed an amount equal to 4 cents per tonne for each tonne of extractive minerals on which royalty is payable into the fund for the financial year preceding that year.
- (5) In this section—
prescribed rate means 25 cents per tonne of extractive minerals, or such lesser amount as may be prescribed by the regulations.

Part 9B—Native title land

Division 1—Exploration

63F—Qualification of rights conferred by exploration authority

- (1) An exploration authority confers no right to carry out mining operations on native title land unless—
 - (a) the mining operations do not affect native title (ie they are not wholly or partly inconsistent with the continued existence, enjoyment or exercise of rights deriving from native title¹); or
 - (b) a declaration is made under the law of the State or the Commonwealth to the effect that the land is not subject to native title;² or
 - (c) an indigenous land use agreement registered under the *Native Title Act 1993* (Cwth) provides that statutory rights to negotiate are not intended to apply in relation to the mining operations.³
- (2) However, a person who holds an exploration authority that would, if land were not native title land, authorise mining operations on the land may acquire the right to carry out mining operations on the land (that affect native title) from an agreement or determination authorising the operations under this Part.
- (3) An agreement or determination under this Part need not be related to a particular exploration authority.
- (4) However, a tenement holder's right to carry on mining operations that affect native title is contingent on the existence of an exploration authority that would, if the land were not native title land, authorise the tenement holder to carry out the mining operations on the land.

Editorial Notes—

- 1 Cf. *Native Title Act 1993* (Cwth), section 227.
- 2 A declaration to this effect may be made under Part 4 of the *Native Title (South Australia) Act 1994* or the *Native Title Act 1993* (Cwth). The effect of such a declaration is that the land ceases to be native title land.
- 3 Cf. *Native Title Act* (Cwth), section 24EB(1)(c).

63G—Exploration rights to be held in escrow in certain circumstances

- (1) If an exploration authority is granted in respect of native title land, and the holder of the authority has no right or no substantial right to explore for minerals on the land because of the absence of an agreement or determination authorising mining operations on the land, the exploration authority does nevertheless, while it remains in force, prevent the grant of registration of another exploration authority for exploring for minerals of the same class within the area to which the authority relates.
- (2) The Minister may revoke an exploration authority that is granted entirely or substantially in respect of native title land if it appears to the Minister that the holder of the authority is not proceeding with reasonable diligence to obtain the agreement or determination necessary to authorise the effective conduct of mining operations on the land to which the authority relates.

Division 2—Production

63H—Limits on grant of production tenement

A production tenement may not be granted or registered over native title land unless—

- (a) the mining operations to be carried out under the tenement are authorised by a pre-existing agreement or determination registered under this Part; or
- (ab) an indigenous land use agreement registered under the *Native Title Act 1993* (Cwth) provides that statutory rights to negotiate are not intended to apply in relation to the mining operations to be carried out under the tenement;¹ or
- (b) a declaration is made under the law of the State or the Commonwealth to the effect that the land is not subject to native title.²

Editorial Notes—

- 1 Cf. *Native Title Act* (Cwth), section 24EB(1)(c).
- 2 A declaration to this effect may be made under Part 4 of the *Native Title (South Australia) Act 1994* or the *Native Title Act 1993* (Cwth). The effect of the declaration is that the land ceases to be native title land.

63I—Applications for production tenements

- (1) The Minister may agree with an applicant for a production tenement over native title land that the tenement will be granted or registered contingent on the registration of an agreement or determination under this Part.
- (2) The Minister may refuse an application for a production tenement over native title land if it appears to the Minister that the applicant is not proceeding with reasonable diligence to obtain the agreement or determination necessary to the grant or registration of the tenement to which the application relates (and if the application is refused, the applicant's claim lapses).

Division 3—Application for declaration

63J—Application for declaration

A person who seeks to carry out mining operations on native title land may apply to the ERD Court for a declaration that the land is not subject to native title.¹

Editorial Note—

- 1 The application is to be made under the *Native Title (South Australia) Act 1994*.

Division 4—Negotiating procedure

63K—Types of agreement authorising mining operations on native title land

- (1) An agreement authorising mining operations on native title land (a *native title mining agreement*) may—
 - (a) authorise mining operations by a particular tenement holder; or
 - (b) authorise mining operations of a specified class within a defined area by tenement holders of a specified class who comply with the terms of the agreement.

Explanatory note—

If the authorisation relates to a particular tenement holder it is referred to as an *individual authorisation*. Such an authorisation is not necessarily limited to mining operations under a particular exploration authority or production tenement but may extend also to future exploration authorities or production tenements. If the authorisation does extend to future exploration authorities or production tenements it is referred to as a *conjunctive authorisation*. An authorisation that extends to a specified class of tenement holders is referred to as an *umbrella authorisation*.

- (2) If a native title mining agreement is negotiated between a tenement holder who does not hold, and is not an applicant for, a production tenement for the relevant land, and native title parties who are claimants to (rather than registered holders of) native title land, the agreement cannot extend to mining operations conducted on the land under a future production tenement.
- (3) An umbrella authorisation can only relate to prospecting or mining for precious stones over an area of 200 square kilometres or less.
- (4) If the native title parties with whom a native title mining agreement conferring an umbrella authorisation is negotiated are claimants to (rather than registered holders of) native title land, the term of the agreement cannot exceed 10 years.
- (5) The existence of an umbrella authorisation does not preclude a native title mining agreement between a tenement holder and the relevant native title parties relating to the same land, and if an individual agreement is negotiated, the agreement regulates mining operations by a tenement holder who is bound by the agreement to the exclusion of the umbrella authorisation.

63L—Negotiation of agreements

- (1) A person (the *proponent*) who seeks a native title mining agreement may negotiate the agreement with the native title parties.

Explanatory note—

The *native title parties* are the persons who are, at the end of the period of 4 months from when notice is given under section 63M, registered under the law of the State or the Commonwealth as holders of, or claimants to, native title in the land. A person who negotiates with the registered representative of those persons will be taken to have negotiated with the native title parties. Negotiations with other persons are not precluded but any agreement reached must be signed by the registered representative on behalf of the native title parties.

- (2) The proponent must be—
 - (a) if an agreement conferring an individual authorisation¹ is sought—the tenement holder who seeks the authorisation;
 - (b) if an agreement conferring an umbrella authorisation¹ is sought—the Minister or an association representing the interests of tenement holders approved by regulation for the purposes of this section.

Editorial Note—

¹ See the explanatory note to section 63K(1).

63M—Notification of parties affected

- (1) The proponent initiates negotiations by giving notice under this section.

- (2) The notice must—
 - (a) identify the land on which the proposed mining operations are to be carried out; and
 - (b) describe the general nature of the proposed mining operations that are to be carried out on the land.
- (3) The notice must be given to—
 - (a) the relevant native title parties; and
 - (b) the ERD Court; and
 - (c) the Minister.
- (4) Notice is given to the relevant native title parties as follows:
 - (a) if a native title declaration establishes who are the holders of native title in the land—the notice must be given to the registered representative of the native title holders and the relevant representative Aboriginal body for the land;
 - (b) if there is no native title declaration establishing who are the holders of native title in the land—the notice must be given to all who hold or may hold native title in the land in accordance with the method prescribed by Part 5 of the *Native Title (South Australia) Act 1994*.

63N—What happens when there are no registered native title parties with whom to negotiate

- (1) If, 4 months after the notice is given to all who hold or may hold native title in the land, there are no native title parties in relation to the land to which the notice relates, the proponent may apply without notice to any person to the ERD Court for a summary determination.
- (2) On an application under subsection (1), the ERD Court must make a determination authorising entry to the land for the purpose of carrying out mining operations on the land, and the conduct of mining operations on the land.
- (3) The determination may be made on conditions the Court considers appropriate and specifies in the determination.
- (4) The determination cannot confer a conjunctive or umbrella authorisation.¹

Editorial Note—

- ¹ See the explanatory note to section 63K(1).

63O—Expedited procedure where impact of operations is minimal

- (1) This section applies to mining operations that—
 - (a) will not directly interfere with the community life of the holders of native title in the land on which the operations are to be carried out; and
 - (b) will not interfere with areas or sites of particular significance, in accordance with their traditions, to the holders of native title in the land on which the operations are to be carried out; and
 - (c) will not involve major disturbance to the land on which the operations are to be carried out.

- (2) If the proponent states in the notice given under this Division that the mining operations to which the notice relates are operations to which this section applies and that the proponent proposes to rely on this section, the proponent may apply without notice to any person to the ERD Court for a summary determination authorising mining operations in accordance with the proposals made in the notice.
- (3) On an application under subsection (2), the ERD Court may make a summary determination authorising mining operations in accordance with the proposals contained in the notice.
- (4) However, if within 4 months after notice is given, a written objection to the proponent's reliance on this section is given by the Minister, or a person who holds, or claims to hold, native title in the land, the ERD Court must not make a summary determination under this section unless the Court is satisfied after giving the objectors an opportunity to be heard that the operations are in fact operations to which this section applies.
- (5) An objection under subsection (4) must be given to the proponent and a copy given to the ERD Court.

63P—Negotiating procedure

- (1) The proponent and native title parties must negotiate in good faith and accordingly explore the possibility of reaching an agreement.
- (2) However, the obligation to negotiate does not arise if the case is one where a summary determination may be made.
- (3) If any of the negotiating parties requests the ERD Court to do so, the Court must mediate among the parties to assist in obtaining their agreement.
- (4) The Minister may (personally or by representative) intervene in negotiations under this Division.

63Q—Agreement

- (1) An agreement negotiated under this Division may provide for payment to the native title parties based on profits or income derived from mining operations on the land or the quantity of minerals produced.
- (2) The basis of the payment may be fixed in the agreement or left to be decided by the ERD Court or some other nominated arbitrator.
- (3) An agreement must deal with—
 - (a) notices to be given or other conditions to be met before the land is entered for the purposes of carrying out mining operations; and
 - (b) principles governing the rehabilitation of the land on completion of the mining operations.
- (4) If agreement is reached between the proponent and the native title parties authorising mining operations on the native title land, the proponent must lodge a copy of the agreement with a mining registrar and the mining registrar will, subject to this section, register the agreement.

- (5) If the Minister is of the opinion that there is reason to believe that the agreement may not have been negotiated in good faith, the Minister may, within two months after the copy of the agreement is lodged for registration with the mining registrar, make an order prohibiting registration of the agreement.
- (6) A party to an agreement may appeal against an order under subsection (5) to the ERD Court and the Court may, on appeal—
 - (a) confirm or revoke the Minister's order; and
 - (b) if the Court considers it appropriate, make a determination authorising entry on the land to carry out mining operations, and the conduct of mining operations on the land, on conditions determined by the Court.

63R—Effect of registered agreement

- (1) A registered agreement negotiated under this Division is (subject to its terms) binding on, and enforceable by or against the original parties to the agreement and—
 - (a) the holders from time to time of native title in the land to which the agreement relates; and
 - (b) the holders from time to time of any exploration authority or production tenement under which mining operations to which the agreement relates are carried out.
- (2) If a native title declaration establishes that the native title parties with whom an agreement was negotiated are not the holders of native title in the land or are not the only holders of native title in the land, the agreement continues in operation (subject to its terms) until a fresh agreement is negotiated under this Part with the holders of native title in the land, or for 2 years after the date of the declaration (whichever is the lesser).
- (3) Either the holders of native title in the land or the tenement holder may initiate negotiations for a fresh agreement by giving notice to the other.
- (4) A registered agreement that authorises mining operations to be conducted under a future mineral tenement is contingent on the tenement being granted or registered.

63S—Application for determination

- (1) If agreement between the proponent and the native title parties is not reached within the relevant period, any party to the negotiations or the Minister may apply to the ERD Court for a determination.

In this subsection, the *relevant period* is 6 months from when the negotiations were initiated.
- (2) On an application under this section, the ERD Court may determine—
 - (a) that mining operations may not be conducted on the native title land; or
 - (b) that mining operations may be conducted on the native title land subject to conditions determined by the Court.
- (3) If the ERD Court determines that mining operations may be conducted on native title land, the determination—
 - (a) must deal with the notices to be given or other conditions to be met before the land is entered for the purposes of mining operations; but

- (b) cannot provide for payment to the native title parties based on profits or income derived from mining operations on the land or the quantity of minerals produced.
- (4) The ERD Court must make its determination on an application under this section within the relevant period unless there are special reasons why it cannot do so.

In this subsection, the *relevant period* is 6 months from when the application is made.
- (5) The representative Aboriginal body for the area in which the land is situated is entitled to be heard in proceedings under this section.

63T—Criteria for making determination

- (1) In making its determination, the ERD Court must take into account the following:
 - (a) the effect of the proposed mining operations on—
 - (i) native title in the land; and
 - (ii) the way of life, culture and traditions of any of the native title parties; and
 - (iii) the development of the social, cultural and economic structures of any of those parties; and
 - (iv) the freedom of access by any of those parties to the land concerned and their freedom to carry out rites, ceremonies or other activities of cultural significance on the land in accordance with their traditions; and
 - (v) any area or site, on the land concerned, of particular significance to the native title parties in accordance with their traditions; and
 - (vi) the natural environment of the land concerned;
 - (b) any assessment of the effect of the proposed mining operations on the natural environment of the land concerned—
 - (i) made by a court or tribunal; or
 - (ii) made, or commissioned, by the Crown in any capacity or by a statutory authority;
 - (c) the interests, proposals, opinions or wishes of the native title parties in relation to the management, use or control of the land concerned;
 - (d) the economic or other significance of the proposed mining operations to Australia and to the State;
 - (e) any public interest in the mining operations proceeding;
 - (f) any other matter the ERD Court considers relevant.
- (2) This section does not affect the operation of another law of the State or the Commonwealth for the preservation or protection of areas or sites of particular significance to Aboriginal people.

63U—Limitation on powers of Court

- (1) The ERD Court cannot make a determination conferring a conjunctive or umbrella authorisation¹ unless the native title parties² are represented in the proceedings and agree to the authorisation.
- (2) A conjunctive authorisation¹ conferred by determination cannot authorise mining operations under both an exploration authority and a production tenement unless the native title parties¹ are the registered holders of (rather than claimants to) native title land.³
- (3) An umbrella authorisation¹ conferred by determination—
 - (a) can only relate to prospecting or mining for precious stones over an area of 200 square kilometres or less; and
 - (b) cannot authorise mining operations for a period exceeding 10 years unless the native title parties² are registered holders of (rather than claimants to) native title land.⁴

Editorial Notes—

- 1 See explanatory note to section 63K(1).
- 2 See explanatory note to section 63L(1).
- 3 Section 63K(2) is of similar effect in relation to native title mining agreements.
- 4 Section 63K(3) and (4) are of similar effect in relation to native title mining agreements.

63V—Effect of determination

- (1) A determination under this Division—
 - (a) must be lodged with a mining registrar; and
 - (b) must be registered two months after it was lodged for registration unless it has in the meantime been overruled by the Minister;¹ and
 - (c) takes effect on registration.
- (2) A determination registered under this Division has effect as if it were a contract between the proponent and the native title parties.
- (3) A registered determination is (subject to its terms) binding on, and enforceable by or against the original parties to the proceedings in which the determination was made and—
 - (a) the holders from time to time of native title in the land to which the determination relates; and
 - (b) the holders from time to time of any exploration authority or production tenement under which mining operations to which the determination relates are carried out.
- (4) If a native title declaration establishes that the native title parties to whom the determination relates are not the holders of native title in the land or are not the only holders of native title in the land, the determination continues in operation (subject to its terms) until a fresh determination is made, or for 2 years after the date of the declaration (whichever is the lesser).

- (5) A determination under this Part that authorises mining operations to be conducted under a future mineral tenement is contingent on the tenement being granted or registered.

Editorial Note—

- 1 See section 63W.

63W—Ministerial power to overrule determinations

- (1) If the Minister considers it to be in the interests of the State to overrule a determination of the ERD Court under this Part, the Minister may, by notice in writing given to the ERD Court and the parties to the proceedings before the Court, overrule the determination and substitute another determination that might have been made by the Court.
- (2) However—
- (a) the Minister cannot overrule a determination—
 - (i) if more than two months have elapsed since the date of the determination; or
 - (ii) if the Minister was the proponent of the negotiations leading to the determination; and
 - (b) the substituted determination cannot create a conjunctive or umbrella authorisation¹ if there was no such authorisation in the original determination nor can the substituted determination extend the scope of a conjunctive or umbrella authorisation.

Explanatory note—

The scope of an authorisation is extended if the period of its operation is lengthened, the area to which it applies is increased, or the class of mining operations to which it applies is expanded in any way.

Editorial Note—

- 1 See the explanatory note to section 63K(1).

63X—No re-opening of issues

If an issue is decided by determination under this Part, the parties to the proceedings in which the determination was made cannot make an agreement that is inconsistent with the terms of the determination unless the ERD Court authorises the agreement.

Division 5—Miscellaneous

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

Nothing in this Part affects the operation of—

- (a) the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*; or
- (b) the *Maralinga Tjarutja Land Rights Act 1984*.

63Z—Compensation to be held on trust in certain cases

- (1) If a determination under this Part authorises mining operations on conditions requiring payment of compensation—
 - (a) the ERD Court must decide the amount of the compensation; and
 - (b) the compensation must be paid into the ERD Court to be held on trust and applied as required by this section.
- (2) Compensation paid into the ERD Court under this section—
 - (a) must, on application by the registered representative of the native title holders, be paid out to the registered representative; or
 - (b) if the Court, on application by an interested person, is satisfied that it is just and equitable to pay the compensation in some other way—must be paid out as directed by the Court.
- (3) However, if compensation is held on trust by the ERD Court under this section and—
 - (a) a native title declaration is made to the effect that no part of the land is subject to native title; or
 - (b) the proponent abandons the proposal to carry out mining operations on the land before exercising the right to do so and, by notice to the Minister, relinquishes the right to do so,

the compensation must be repaid to the person who paid it.

63ZA—Non-monetary compensation

- (1) Compensation under this Part is to be given in the form of monetary compensation.
- (2) However—
 - (a) if, during negotiations under this Part, a person who may be entitled to compensation requests that the whole or part of the compensation be in a form other than money,¹ the other person who may be liable to pay compensation—
 - (i) must consider the request; and
 - (ii) must negotiate in good faith on the subject; and
 - (b) the ERD Court may, at the request of a person entitled to compensation, order non-monetary compensation.¹

Example—

- 1 The non-monetary compensation might take the form of a transfer of property or the provision of goods or services.

63ZB—Review of compensation

- (1) If—
 - (a) mining operations are authorised by determination under this Part on conditions requiring the payment of compensation; and
 - (b) a native title declaration is later made establishing who are the holders of native title in the land,

the ERD Court may, on application by the registered representative of the holders of native title in the land, or on the application of a person who is liable to pay compensation under the determination, review the provisions of the determination providing for the payment of compensation.

- (2) The application must be made within three months after the date of the native title declaration.
- (3) The Court may, on an application under this section—
 - (a) increase or reduce the amount of the compensation payable under the determination (as from the date of application or a later date fixed by the Court); and
 - (b) change the provisions of the determination for payment of compensation in some other way.
- (4) In deciding whether to vary a determination and, if so, how, the Court must have regard to—
 - (a) the assumptions about the existence or nature of native title on which the determination was made and the extent to which the native title declaration has confirmed or invalidated those assumptions; and
 - (b) the need to ensure that the determination provides just compensation for, and only for, persons whose native title in land is affected by the mining operations; and
 - (c) the interests of tenement holders and investors who have relied in good faith on the assumptions on which the determination was made.

63ZBA—Mining Native Title Register

- (1) The Mining Registrar must establish a distinct part of the Mining Register (which may be referred to as the *Mining Native Title Register*) for the registration of agreements and determinations under this Part.
- (2) The Mining Registrar must, in respect of each agreement or determination registered under this Part, include in the *Mining Native Title Register* details concerning—
 - (a) the land to which the agreement or determination relates; and
 - (b) if relevant—the exploration authority or production tenement to which the agreement or determination relates; and
 - (c) the parties who are bound by the agreement or determination; and
 - (d) other information prescribed by the regulations.
- (3) The Mining Registrar may also note in any other part of the Mining Register any agreement or determination registered under this Part (as the Mining Registrar thinks fit).
- (4) An agreement or determination registered under this Part is not available for inspection under this Act if—
 - (a) in the case of an agreement, the parties to the agreement specify in the agreement, or in some other manner determined by the Mining Registrar, that the contents of the agreement should be kept confidential under this section;

- (b) in the case of a determination, the ERD Court specifies in the determination that the contents of the determination should be kept confidential under this section.
- (5) However, subsection (4) does not prevent the inspection of an agreement or determination registered under this Part by—
 - (a) a person engaged in the administration of this Act acting in the course of official duties; or
 - (b) the Minister, or a person appointed to the Public Service acting in the course of official duties on behalf of, or with the authority of, the Minister; or
 - (c) a person who is bound by the agreement or determination; or
 - (d) a person who is acting under the joint authority of all persons who are bound by the agreement or determination (and such an authority must be given in a manner and form approved by the Mining Registrar); or
 - (e) a person who is acting under the authority of an order or determination of the ERD Court or the Supreme Court (for the purposes of this or another Act or law).
- (6) An authority under subsection (5) may be given on conditions.
- (7) A person who contravenes or fails to comply with a condition is guilty of an offence.
Maximum penalty: \$50 000.

63ZC—Saving of pre-1994 mining tenements

This Part does not apply in relation to—

- (a) a claim registered before 1 January 1994; or
- (b) a lease or licence granted under this Act before 1 January 1994; or
- (c) a renewal of a lease or licence granted under this Act before 1 January 1994 in pursuance of a legally enforceable right created before that date.

Part 10—Warden's Court—general provisions

64—Establishment of Warden's Court

- (1) There shall be a court entitled the "Warden's Court".
- (1a) The jurisdiction of the Warden's Court will be such jurisdiction as is—
 - (a) conferred by or under this or any other Act; or
 - (b) contemplated by this or any other Act.
- (2) The jurisdiction of the Warden's Court shall be exercisable by any warden.
- (3) The Warden's Court may sit at such times and places as may be determined by a warden exercising the jurisdiction of the court and the jurisdiction of the Warden's Court may be exercised by a warden notwithstanding that another warden is simultaneously exercising the jurisdiction of the court in some other matter.

65—Powers etc of Warden's Court

- (1) For the purposes of proceedings before the Warden's Court, the Court has—
 - (a) the powers and authorities of the Magistrates Court of South Australia (other than a prescribed power or authority); and
 - (b) any additional powers or authorities prescribed by the regulations for the purposes of this subsection.
- (1a) A summons may be issued on behalf of the Court by—
 - (a) a warden; or
 - (b) any other officer (including an officer of another court) authorised by the rules of the Court to issue summonses.
- (2) The Warden's Court shall have power to issue injunctions.
- (3) An appeal shall lie against a judgment or order of the Warden's Court to the ERD Court.
- (3a) The Director or the Mining Registrar may appeal against a judgment or order of the Warden's Court, whether or not he was a party to the proceedings in which the judgment or order was given or made.
- (3b) An appeal against a judgment or order of the Warden's Court must be instituted within 1 month after publication of the judgment or order, but the ERD Court may, for proper cause, extend the period for instituting an appeal.
- (4) Subject to any rules of the ERD Court, the practice and procedure relating to an appeal from a judgment or order of the Warden's Court shall conform as nearly as practicable to the practice and procedure applicable to an appeal under the *Magistrates Court Act 1991*.

66—Rules of Warden's Court

- (1) The senior warden may make rules respecting the practice and procedure of the Warden's Court.

- (1a) The rules may prescribe, and provide for, the payment of fees in respect of the lodging of documents in the Court or the issuing of documents by the Court.
- (2) The rules may provide for the enforcement of judgments and orders, and the punishment of contempt of the Warden's Court and, in particular, may provide that appropriate provisions of the *Magistrates Court Act 1991* and of the *District Court Act 1991* may apply, with such modifications as may be necessary or desirable and specified in the rules, in respect of judgments and orders of the Warden's Court.

66A—Removal of cases to ERD Court

- (1) A case of unusual difficulty or importance in the Warden's Court may be removed by order of the Warden's Court or the ERD Court into the ERD Court.
- (2) The ERD Court may exercise (in addition to its ordinary jurisdiction and powers) any of the powers of the Warden's Court in relation to a case removed into the ERD Court under this section.

67—Jurisdiction relating to tenements and monetary claims

- (1) The Warden's Court shall have jurisdiction to determine, in such manner as may be just, all actions concerning any right claimed in, under, or in relation to, any mineral tenement or purported mineral tenement.
- (1a) The Warden's Court will have jurisdiction to determine a monetary claim for not more than \$150 000 arising in relation to any contract, partnership or joint venture arrangement related to, or otherwise associated with—
 - (a) the acquisition or holding of any mineral tenement or purported mineral tenement; or
 - (b) the performance of any authorised operations under this Act; or
 - (c) the recovery of any minerals under this Act.
- (2) The Warden's Court shall have jurisdiction in any matter in which it is invested with jurisdiction by regulation.
- (3) The Director of Mines is entitled to appear in any proceedings before the Warden's Court.

70—Forfeiture and transfer of mineral tenement

- (1) This section applies in relation to—
 - (a) a mineral claim; or
 - (b) if the regulations so provide—an exploration licence; or
 - (c) a mining lease; or
 - (d) a retention lease.
- (2) Subject to this section, the Warden's Court may, on application under this section, adjudge that a mineral tenement to which this section applies is liable to forfeiture and recommend to the Minister that the tenement be forfeited.
- (2a) The regulations may—
 - (a) provide that an applicant must satisfy any prescribed requirements before an application may be made under this section; and

- (b) provide that an applicant must be able to demonstrate any prescribed capability or other requirement as part of an application under this section; and
 - (c) provide that an application must be supported by any evidence of a kind prescribed by the regulations; and
 - (d) provide for limitations on, or exclusions from, an ability to make an application under this section; and
 - (e) provide for other matters associated with making an application under this section.
- (2b) A recommendation may not be made by the Warden's Court under this section unless the Court is satisfied that 1 or more of the following have occurred in a material respect and that the matter is of sufficient gravity to justify the forfeiture of the mineral tenement:
- (a) a breach of this Act or any regulation;
 - (b) without limiting paragraph (a)—
 - (i) a breach of a term or condition of the tenement; or
 - (ii) a breach of a program under Part 10A;
 - (c) undue damage to the environment in connection with any authorised operations carried out under the tenement;
 - (d) a failure to carry out activities associated with holding the relevant type of tenement within a reasonable time or to a reasonable extent.
- (3) Where the Warden's Court has recommended the forfeiture of a mineral tenement—
- (a) the Minister may, by notice in the Gazette, forfeit the mineral tenement to the Crown; and
 - (b) the person on whose application the Court recommended forfeiture is then entitled to a transfer of the mineral tenement from the Crown for the balance of its term.
- (3a) A right to the transfer of a mineral tenement under subsection (3)—
- (a) does not arise in any circumstance prescribed by the regulations; and
 - (b) expires at the end of a period prescribed by the regulations.
- (4) A transfer of a mineral tenement under subsection (3)(b) takes effect on publication of a notice of transfer in the Gazette.
- (4a) After an application has been made under this section, the mineral tenement to which the application relates shall not be transferred or surrendered until the application has been determined.

Part 10A—Operating approval—program for environment protection and rehabilitation

70A—Object of Part

- (1) The object of this Part is to ensure that the holders of mineral tenements—
 - (aa) ensure that an operating approval in the form of a program for environment protection and rehabilitation is in force; and
 - (a) provide adequate information about the authorised operations that will be conducted under the tenements; and
 - (b) ensure that authorised operations that have (or potentially have) adverse environmental impacts are properly managed to reduce those impacts as far as reasonably practicable and eliminate, as far as reasonably practicable, risk of significant long term environmental harm; and
 - (c) ensure that land adversely affected by authorised operations is properly rehabilitated.

70B—Preparation or application of program

- (1) A person must not carry out authorised operations unless a program that complies with the requirements of this Part is in force for those operations.
- (2) A program under subsection (1) must—
 - (a) specify the authorised operations that are proposed to be carried out under this Act; and
 - (b) set out—
 - (i) the environmental outcomes that are expected to occur as a result of the authorised operations (including after taking into account any rehabilitation proposed by the tenement holder and other steps to manage, limit or remedy any adverse environmental impacts); and
 - (ii) a statement of the criteria to be adopted to measure those environmental outcomes, in a form prescribed by the regulations; and
 - (c) incorporate information about the ability of the tenement holder (and any other person who may be acting on behalf of the tenement holder) to achieve the environmental outcomes set out under paragraph (b); and
 - (d) set out such other information as may be required by a condition of the tenement or by the regulations; and
 - (e) comply with any other requirements prescribed by the regulations.
- (3) The Minister may, on application by the holder or holders of 2 or more mineral tenements, determine that a program may relate to a group of mineral tenements within a particular area and, in such a case—
 - (a) the holder or holders of the mineral tenements within the ambit of the determination may prepare and furnish a combined program for the purposes of this section; and

- (b) this section will apply to the holder or holders of the mineral tenements with such modifications as may be necessary for the purpose.
- (4) A program under subsection (2) or (3) must be submitted to the Minister for approval.
- (4a) An application for the approval of a program must be made in a manner and form determined by the Minister.
- (4b) The Minister may require a person who has submitted a program to furnish the Minister with any additional information specified by the Minister (and that information must be furnished within any period specified by the Minister).
- (4c) The submission of a program to the Minister for the purposes of this section must be accompanied by the prescribed fee.
- (5) The Minister may on the receipt of a program submitted for the purposes of this section—
 - (a) approve the program without alteration; or
 - (b) require alterations to the program after consultation with the tenement holder (or tenement holders) in order to ensure that the program complies with the requirements of subsection (2) (and to ensure consistency with the other provisions of this Act); or
 - (c) reject the program on the basis that the program fails to comply with the requirements of subsection (2) (and any other relevant provision of this Act).
- (6) A tenement holder in relation to whom a decision is made by the Minister under subsection (5)(b) or (c) may apply to the ERD Court for a review of the decision within 28 days after receiving notice of the decision or such longer period as the Minister may allow in a particular case.
- (7) On a review under subsection (6), the ERD Court may—
 - (a) confirm the decision (with or without modifications); or
 - (b) revoke the decision and give directions with respect to the approval of the program.
- (7a) A program approved under this section is subject to—
 - (a) such conditions as may be prescribed; and
 - (b) such additional conditions (if any) as the Minister thinks fit and specifies by notice to the tenement holder (or tenement holders).
- (8) The regulations may set out or adopt a program that may apply in relation to authorised operations of a prescribed class.
- (9) If—
 - (a) a program is in place under subsection (8); and
 - (b) the authorised operations to be carried out under a mineral tenement fall within the ambit of that program,

the tenement holder (and any other person who may be acting on behalf of the tenement holder) may, subject to complying with any requirement prescribed by the regulations for the purposes of this subsection, rely on the program prescribed by the regulations rather than a program prepared under subsection (2) or (3) (and subsections (4) to (7) will not apply).

- (10) Subsection (9) does not apply in relation to authorised operations carried out under a mineral tenement if the Minister has, by notice to the tenement holder, determined that the subsection will not apply in the circumstances of the particular case.
- (11) A program may be developed and approved under this section even though it may relate (wholly or in part) to exempt land (on the basis that the tenement holder will seek to gain access to the land under a waiver of the benefit of the exemption).

70C—Review of programs

- (1) A program under this Part may be reviewed at any time by the relevant tenement holder.
- (2) A program must be reviewed—
 - (a) if the tenement holder is seeking approval under Part 8B Division 7 to a change in authorised operations that may be carried out under the relevant mineral tenement and the change is inconsistent with the program; or
 - (b) if the Minister directs that the program should be reviewed (whether on the basis of a report provided to the Minister under section 70DA or for some other reason); or
 - (c) if a review is required by the regulations.
- (3) A review must be conducted—
 - (a) in accordance with any requirements prescribed by the regulations; and
 - (b) taking into account the requirements of section 70B(2) (and so as to provide consistency with those requirements); and
 - (c) within a period prescribed by the regulations.
- (4) A copy of any program revised under this section must be furnished to the Minister in accordance with any requirements prescribed by the regulations.
- (4a) The submission of a revised program to the Minister for the purposes of this section must be accompanied by the prescribed fee.
- (5) The Minister may on the receipt of a revised program submitted for the purposes of this section—
 - (a) approve the revised program without alteration; or
 - (b) require alterations to the revised program after consultation with the tenement holder (or tenement holders).
- (6) A tenement holder required to make any alterations under subsection (5) may apply to the ERD Court for a review of the requirement within 28 days after receiving notice of the requirement or such longer period as the Minister may allow in a particular case.
- (7) On a review under subsection (6), the ERD Court may—
 - (a) confirm the requirement (with or without modifications); or

- (b) revoke the requirement and give directions with respect to the approval of the revised program.
- (7a) The Minister may, on approving a revised program under this section, add, vary or revoke a condition applying in relation to the program.
- (8) If a program is reviewed at the direction of, and submitted to, the Minister but the fee prescribed under subsection (4a) is not paid, the fee is recoverable from the holder of the mineral tenement as a debt due to the Crown.

70D—Notice of certain programs

- (1) This section applies in relation to a program under this Part if—
 - (a) authorised operations that are proposed to be carried out constitute a controlled action within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth; and
 - (b) the controlled action is not to be assessed under Part 8 of that Act but instead assessed under a bilateral agreement in accordance with that Act.
- (2) The Minister must, before approving or reviewing a program to which this section applies, publish, in such manner as the Minister thinks fit, a notice—
 - (a) describing the land to which the program relates; and
 - (b) specifying a place where the program may be inspected; and
 - (c) inviting written submissions in relation to the program to the Minister within a time specified in the invitation.
- (3) The Minister—
 - (a) must give to the person who has submitted the program a copy of any submission received by the Minister under subsection (2) within the relevant period specified by the Minister; and
 - (b) may require the person to respond to any matter raised in any such submission within a period specified by the Minister.
- (4) A submission under subsection (2) cannot be made on the basis that the submission (or part of the submission) will be kept confidential and a response under subsection (3) cannot be made on the basis that the response (or part of the response) will be kept confidential.
- (5) In determining whether or not to approve a program under section 70B and, if so, any terms and conditions to which the program may be subject, the Minister must have regard to any submissions or response received under subsection (2) or (3).

70DA—Audit of program

- (1) A tenement holder must, at the direction of the Minister, do 1 or both of the following:
 - (a) carry out specified tests, environmental monitoring or other investigations (a **program audit**) relating to any authorised operations carried out under the relevant mineral tenement;
 - (b) comply with the requirements or outcomes of a program audit to the satisfaction of the Minister.

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- (2) The Minister may, in acting under subsection (1), provide directions about 1 or more of the following:
 - (a) the independence, qualifications or experience of a person who will carry out a program audit;
 - (b) the period within which a program audit must be completed;
 - (c) the provision of a report or reports to the Minister.
 - (3) A program audit must be carried out in accordance with any requirements prescribed by the regulations.
 - (4) Without limiting subsection (1)(b), the Minister may rely on any information provided in a report under this section for the purposes of requiring a review of a program under section 70C.
 - (5) Without limiting subsection (2)(a), the Minister may require that the audit be conducted by a person approved by the Minister.
 - (6) Any cost associated with a requirement under this section will be borne by the tenement holder.

70DB—Publication of program

The Minister may publish a program or part of a program in such manner as the Minister thinks fit.

70DC—Offences

- (1) A tenement holder must not carry out authorised operations under a mineral tenement if the person is in breach of a requirement under this Part.
Maximum penalty: \$250 000.
- (2) A tenement holder must not contravene, or fail to comply with, a condition of a program under this Part.
Maximum penalty: \$250 000.
- (3) A tenement holder must not fail to comply with a requirement under this Part to review a program under this Part.
Maximum penalty: \$250 000.
- (4) A tenement holder must not fail to comply with a requirement under this Part relating to—
 - (a) the conduct of a program audit; or
 - (b) the action to be taken as a result of a program audit.
 Maximum penalty: \$250 000.
- (5) A person, who in connection with any authorised operations—
 - (a) contravenes or fails to comply with a program under this Part that applies in relation to those operations; or
 - (b) contravenes or fails to comply with a condition of a program under this Part that applies in relation to those operations,

is guilty of an offence.

Maximum penalty: \$250 000.

70DD—Development programs to be taken to be approved programs

A development program approved under regulation 9 of the *Mines and Works Inspection Regulations 2013* and in force immediately before the commencement of this section will be taken to be an approved program under, and to be subject to the operation and requirements of, this Part.

Part 10B—Compliance and enforcement

70E—Power to direct persons to take action to prevent or minimise environmental harm

- (1) If, in the Minister's opinion, authorised operations are being conducted in a way that results in, or that is reasonably likely to result in—
 - (a) undue damage to the environment; or
 - (b) a breach of the environmental outcomes under a program under Part 10A,the Minister may, by written notice given to any person involved in undertaking the mining operations (an *environmental direction*), direct that action be taken to comply with specified requirements to prevent or minimise damage to the environment (to the extent necessary to address the relevant matter arising under paragraph (a) or (b)).
- (3) A direction under this section may impose any requirement reasonably required for the purpose for which the direction is issued including 1 or more of the following:
 - (a) a requirement that a person specified or identified in the direction discontinue, or not commence, a specified activity indefinitely or for a specified period or until further notice from the Minister or an authorised officer;
 - (b) a requirement that a person specified or identified in the direction take specified action in a specified way, and within a specified period or at specified times or in specified circumstances;
 - (c) a requirement that a person specified or identified in the direction take action to prevent or minimise any damage to the environment, or to control any specified activity;
 - (d) a requirement that a person specified or identified in the direction undertake specified tests or monitoring and, in relation to such a requirement—
 - (i) a requirement that the tests or monitoring be carried out by a person with specified qualifications or experience;
 - (ii) a requirement that a report or reports be provided to the Minister, or to any other specified person;
 - (e) a requirement that a person specified or identified in the direction take specified action to rehabilitate or restore any land;
 - (ea) a requirement that a person specified or identified in the direction prepare a plan of action (that complies with any specified requirements and to the satisfaction of the Minister) to prevent or address—
 - (i) undue damage to the environment; or
 - (ii) a breach of an environmental outcome under a program under Part 10A; or
 - (iii) any other breach of this Act;
 - (f) a requirement that a person specified or identified in the direction furnish the Minister with specified results or reports.

- (4) A direction under this section must allow a reasonable time for compliance with the direction.
- (5) A person to whom a direction relates must comply with a direction under this section within the time allowed in the direction.
Maximum penalty: \$250 000.
- (6) If a direction is given under this section, the Minister may review the adequacy of any relevant program under Part 10A and, if it appears on the review that a revised program is appropriate, the Minister may take the necessary steps to have a revised program prepared and brought into force.
- (8) For the purposes of this section, a reference to a person involved in undertaking authorised operations extends (in all cases) to the holder of a mineral tenement under which the authorised operations are conducted.

70F—Power to direct rehabilitation of land

- (1) The Minister may, by written notice given to any person involved in undertaking authorised operations under a mineral tenement (including a former mineral tenement) (a *rehabilitation direction*), direct that action be taken—
 - (a) to rehabilitate land in accordance with the requirements of a program under Part 10A; or
 - (b) to rehabilitate land to a standard required to secure compliance with a condition of the mineral tenement,
(including land outside the area of the mineral tenement).
- (2) A direction under this section—
 - (a) must allow a reasonable time for compliance with the direction; and
 - (b) may require the removal of abandoned equipment and facilities.
- (3) A person must comply with a direction under this section within the time allowed in the direction.
Maximum penalty: \$250 000.
- (6) For the purposes of this section a rehabilitation direction may be issued at any time (including after a mineral tenement has expired or been cancelled or surrendered) and a reference to a person involved in undertaking authorised operations extends (in all cases) to—
 - (a) the holder of the mineral tenement under which the authorised operations are conducted;
 - (b) if relevant, the holder of a mineral tenement that has since expired, or has been cancelled or surrendered (but, in such a case, a notice may only be given to the person who was the holder of the mineral tenement immediately before its expiration, cancellation or surrender).

70FA—Compliance directions

- (1) The Minister may issue a direction under this section (a *compliance direction*) for the purpose of—
 - (a) securing compliance with a requirement under this Act, a mineral tenement (including a term or condition of a mineral tenement) or any authorisation or direction under or in relation to a mineral tenement; or
 - (b) preventing or bringing to an end specified operations that are contrary to this Act or a mineral tenement (including a term or condition of a mineral tenement); or
 - (c) without limiting any other provision, requiring the rehabilitation of land on account of any authorised operations carried out without an authority required by this Act.
- (2) A compliance direction—
 - (a) must be in the form of a written notice given to the person to whom the direction is issued; and
 - (b) must—
 - (i) specify the person to whom it is issued (whether by name or by description sufficient to identify the person); and
 - (ii) specify the grounds on which it is issued; and
 - (c) may impose any requirement reasonably required for the purpose for which the direction is issued including 1 or more of the following:
 - (i) a requirement that the person discontinue, or not commence, specified operations indefinitely or for a specified period or until further notice from the Minister;
 - (ii) a requirement that the person not carry on specified operations except at specified times or subject to specified conditions;
 - (iii) a requirement that the person take specified action within a specified period.
- (3) The Minister may, by written notice given to the person to whom a compliance direction is issued, vary or revoke the direction.
- (4) A person to whom a compliance direction relates must comply with a direction under this section within the time allowed in the direction.

Maximum penalty: \$250 000.

70FB—Emergency directions

- (1) If, in the opinion of an authorised officer—
 - (a) authorised operations are being carried out in a way that results in, or that is reasonably likely to result in—
 - (i) undue damage to the environment; or
 - (ii) a breach of an environmental outcome under a program under Part 10A; or

- (iii) a breach of a term or condition of a mineral tenement; and
 - (b) it is urgently necessary to take action under this section,
the authorised officer may, by written notice given to any person involved in undertaking the authorised operations, issue a direction under this section (an *emergency direction*).
- (2) An emergency direction—
- (a) subject to subsection (3), must be in the form of a written notice given to the person to whom the direction is issued; and
 - (b) must specify the grounds on which it is issued; and
 - (c) may impose any requirement reasonably required for the purpose for which the direction is issued including 1 or more of the following:
 - (i) a requirement that a person specified or identified in the direction discontinue, or not commence, a specified activity indefinitely or for a specified period or until further notice from an authorised officer;
 - (ii) a requirement that a person specified or identified in the direction take specified action within a specified period;
 - (iii) a requirement that a person specified or identified in the direction furnish the Minister or a specified authorised officer with a specified report or reports.
- (3) An authorised officer may, if of the opinion that urgent action is required under this section, issue an emergency direction imposing requirements of a kind referred to in subsection (2)(c) orally but, in that event, the authorised officer must confirm it in writing at the earliest opportunity (and in any event within 2 business days) by written notice given to the person to whom the direction applies.
- (4) An emergency direction issued under this section will cease to have effect at the expiration of 3 business days after the day on which it is issued unless the Director of Mines, within that period, confirms the direction in the manner prescribed by the regulations (and then the direction will continue to have effect for a period determined by the Director or until revoked by an authorised officer).
- (5) An authorised officer may, with the approval of the Director, by written notice served on the person to whom an emergency direction has been issued, vary or revoke the direction.
- (6) A person to whom an emergency direction relates must comply with a direction under this section within the time allowed in the direction.

Maximum penalty: \$250 000.

70FC—Contravention of Act

The Minister or an authorised officer may, if of the opinion that it is reasonably necessary to do so in the circumstances, include in a direction under this Part a requirement for an act or omission that might otherwise constitute a contravention of this Act and, in that event, a person incurs no liability to a penalty under this Act for compliance with the requirement.

70G—Application for review of direction

- (1) A person required to comply with a direction under this Part may apply to the ERD Court for a review of the direction within 28 days after receiving the direction or such longer period as the Minister or the Director of Mines may allow in a particular case.
- (2) Unless the Minister, the Director of Mines or the Court decides to the contrary, an application for review of a direction does not suspend operation of the direction.
- (3) On review of a direction, the ERD Court may—
 - (a) confirm the direction (with or without modification); or
 - (b) revoke the direction.

70H—Action if non-compliance occurs

- (1) If the requirements of a direction under this Part are not complied with, the Minister or the Director of Mines may take the action required by the direction.
- (2) Any action to be taken under subsection (1) may be taken by an authorised officer or by another person authorised by the Minister or the Director for the purpose.
- (3) If a person other than an authorised officer is authorised to take action under subsection (2), the following provisions apply:
 - (a) the Minister or the Director must issue the person with an instrument of authority;
 - (b) the person must produce the instrument of authority for the inspection of any person in relation to whom the person intends to exercise powers under this section.
- (4) The reasonable costs and expenses incurred by the Minister or the Director of Mines taking action under this section constitute a debt due to the Crown.

70HA—Restriction of claims

- (1) Without limiting any other provision of this Act, the Warden's Court may order that no further claim may be established under this Act by a person named in a direction under this Part until the requirements of the direction have been satisfied.
- (2) If an order is made under subsection (1), the person named in the order is not entitled to establish a claim under this Act until the requirements of the direction have been satisfied or the order has been revoked.

70HB—Self-incrimination

- (1) It is not an excuse for a natural person to refuse to provide information required by or under a direction under this Part on the ground that to do so might tend to incriminate the person or make the person liable to a penalty.
- (2) However, if compliance with a requirement to provide information might tend to incriminate the person or make the person liable to a penalty, then the fact of the provision of the information is not admissible in evidence against the person in proceedings for an offence or for the imposition of a penalty (other than proceedings in respect of making a false or misleading statement).

Part 10C—Offences and penalties

70HC—Penalty for illegal mining

- (1) A person who—
 - (a) carries out authorised operations without being duly authorised by or under this Act; or
 - (b) sells, or disposes of, minerals recovered by the person in the course of authorised operations, or utilises any such minerals, in a manner that is contrary to a provision of this Act,is guilty of an offence.
Maximum penalty: \$250 000 or imprisonment for 2 years.
- (2) Subsection (1) does not apply in relation to prescribed classes of ancillary operations authorised under another Act.

70HD—Obstruction of person authorised to mine etc

A person must not, without lawful excuse, obstruct or hinder a tenement holder in the reasonable exercise of rights conferred under this Act.

Maximum penalty: \$150 000.

70HE—Civil penalties

- (1) Subject to this section, if the Director of Mines is satisfied that a person has committed an offence by contravening a provision of this Act, the Director may, as an alternative to criminal proceedings, recover, by negotiation or by application to the ERD Court, an amount as a civil penalty in respect of the contravention.
- (2) The Director of Mines may not recover an amount under this section in respect of a contravention if the relevant offence requires proof of intention or some other state of mind, and must, in respect of any other contravention, determine whether to initiate proceedings for an offence or take action under this section, having regard to the seriousness of the contravention, the previous record of the offender and any other relevant factors.
- (3) The Director of Mines may not make an application to the Court under this section to recover an amount from a person as a civil penalty in respect of a contravention—
 - (a) unless the Director has served on the person a notice in the prescribed form advising the person that the person may, by written notice to the Director, elect to be prosecuted for the contravention and the person has been allowed not less than 21 days after service of the Director's notice to make such an election; or
 - (b) if the person serves written notice on the Director, before the making of such an application, that the person elects to be prosecuted for the contravention.
- (4) The maximum amount that the Director of Mines may recover by negotiation as a civil penalty in respect of a contravention is—
 - (a) the amount specified by this Act as the criminal penalty in relation to that contravention; or

- (b) \$150 000,
whichever is the lesser.
- (5) If, on an application by the Director of Mines, the ERD Court is satisfied on the balance of probabilities that a person has contravened a provision of this Act, the Court may order the person to pay to the Director an amount as a civil penalty (but not exceeding the amount specified by this Act as the criminal penalty in relation to that contravention).
- (6) In determining the amount to be paid by a person as a civil penalty, the Court must have regard to—
- (a) the nature and extent of the contravention; and
 - (b) any detriment to the public interest resulting from the contravention; and
 - (c) any financial saving or other benefit that the person stood to gain by committing the contravention; and
 - (d) whether the person has previously been found, in proceedings under this Act, to have engaged in any similar conduct; and
 - (e) any other matter it considers relevant.
- (7) The jurisdiction conferred by this section is to be part of the civil jurisdiction of the ERD Court.
- (8) If conduct of a person constitutes a contravention of 2 or more provisions of this Act, an amount may be recovered from the person under this section in relation to the contravention of any 1 or more of those provisions (provided that the person is not liable to pay more than 1 amount as a civil penalty in respect of the same conduct).
- (9) Proceedings for an order under this section that a person pay an amount as a civil penalty in relation to a contravention of this Act, or for enforcement of such an order, are stayed if criminal proceedings are started or have already been started against the person for an offence constituted by conduct that is substantially the same as the conduct alleged to constitute the contravention.
- (10) Proceedings referred to in subsection (9) may only be resumed if the criminal proceedings do not result in a formal finding of guilt being made against the person.
- (11) Evidence of information given or evidence of the production of documents by a person is not admissible in criminal proceedings against the person if—
- (a) the person gave the evidence or produced the documents in the course of negotiations or proceedings under this section for the recovery of an amount as a civil penalty in relation to a contravention of this Act; and
 - (b) the conduct alleged to constitute the offence is substantially the same as the conduct that was alleged to constitute the contravention.
- (12) However, subsection (11) does not apply to criminal proceedings in respect of the making of a false or misleading statement.
- (13) Proceedings for an order under this section may be commenced at any time within 3 years after the date of the alleged contravention or, with the authorisation of the Attorney-General, at any later time within 10 years after the date of the alleged contravention.

- (14) An apparently genuine document purporting to be signed by the Attorney-General authorising the commencement of proceedings for an order under this section will be accepted in any legal proceedings, in the absence of proof to the contrary, as proof of the authorisation.
- (15) The Court may, in any proceedings under this section, make such orders in relation to the costs of the proceedings as it thinks just and reasonable.
- (16) An amount recovered as a civil penalty under this section will be paid into the Mining Rehabilitation Fund.

70HF—Additional orders on conviction

- (1) If a person is convicted of an offence against this Act, the court by which the conviction is recorded may, in addition to any penalty that it may impose, and to any other order that may be made under this or any other Act, make 1 or more of the following orders:
 - (a) an order requiring the person to take any specified action (including an order to rectify the consequences of any contravention of this Act, or to ensure that a further contravention does not occur);
 - (b) without limiting paragraph (a)—an order requiring the person to make good any environmental damage and, if appropriate, to take specified action to prevent or mitigate further harm to the environment;
 - (c) an order requiring the person to publicise the contravention of this Act and any environmental or other consequences, and the other orders (if any) made against the person;
 - (d) an order requiring the person to pay into the Mining Rehabilitation Fund an amount determined by the court to be equal to a fair assessment or estimate of the financial benefit that the person, or a related body corporate, has gained, or can reasonably be expected to gain, as a result of the contravention of this Act;
 - (e) an order requiring the person to pay to any person who has suffered loss or damage to property as a result of the acts or omissions constituting the offence, or incurred costs or expenses in taking action to prevent or mitigate such loss or damage, compensation for that loss or damage and reasonable reimbursement for those costs or expenses.
- (2) For the purposes of subsection (1)(d), a financial benefit obtained by delaying or avoiding costs will be taken to be a financial benefit gained as a result of a contravention of the Act if the contravention can be attributed (in whole or in part) to that delay or avoidance.
- (3) The court may, by an order under this section, fix a period for compliance and impose other requirements the court considers necessary or expedient for the enforcement of the order.

70HG—Continuing offences

- (1) A person convicted of an offence against a provision of this Act in respect of a continuing act or omission—
 - (a) is liable, subject to any determination of a court, in addition to the penalty otherwise applicable to the offence, to a penalty for each day during which the act or omission continued for not more than one-tenth of the maximum penalty prescribed for that offence; and
 - (b) is, if the act or omission continues after the conviction, subject to any determination of a court, guilty of a further offence against the provision and liable, in addition to the penalty otherwise applicable to the further offence, to a penalty for each day during which the act or omission continued after the conviction of not more than one-tenth of the maximum penalty prescribed for the offence.
- (2) If an offence consists of an omission to do something that is required to be done, the omission will be taken to continue for as long as the thing required to be done remains undone after the end of the period for compliance with the requirement.

70HH—Offences by bodies corporate

If a body corporate is guilty of an offence against this Act, each director of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence if the prosecution proves that—

- (a) the director knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; and
- (b) the director was in a position to influence the conduct of the body corporate in relation to the commission of such an offence; and
- (c) the director failed to exercise due diligence to prevent the commission of the offence.

70HI—Time limits

- (1) Criminal proceedings under this Act may be commenced at any time within 3 years after the date of the alleged offence or, with the authorisation of the Attorney-General, at any later time within 10 years after the alleged offence.
- (2) An apparently genuine document purporting to be signed by the Attorney-General authorising the commencement of criminal proceedings under this Act will be accepted in any legal proceedings, in the absence of proof to the contrary, as proof of the authorisation.

70HJ—Summary offences

All offences under this Act are classified as summary offences.

70HK—Evidentiary provisions

- (1) In proceedings for an offence against this Act, an apparently genuine document purporting to be a certificate signed by the Minister certifying—
 - (a) that a person named in the certificate was or was not at a specified time a tenement holder; or

- (b) that a specified provision was a term or condition of a specified mineral tenement at a specified time; or
 - (c) that a specified provision was a requirement or condition of a program under Part 10A; or
 - (d) that a specified determination, direction, decision, order or requirement was made or given on a specified day; or
 - (e) that at a specified time the Minister, the Director of Mines or the Mining Registrar gave notice of any specified matter under or in connection with the operation of this Act; or
 - (f) that at a specified time the Minister, the Director of Mines or the Mining Registrar had not received any notice, instrument or other document, or had not received any information of a specified kind; or
 - (g) that at a specified time a specified person was an authorised officer under this Act; or
 - (h) that a particular delegation was in force under this Act at a specified time,
- is, in the absence of proof to the contrary, proof of the matter so certified.
- (2) In any proceedings for an offence against this Act, an allegation in the complaint that any land referred to in the complaint is mineral land, or land exempt from operations under this Act, will be taken to be proved in the absence of evidence to the contrary.
 - (3) In any proceedings for an offence against this Act, a document purporting to be a lease or licence under this Act will be accepted as such in the absence of evidence to the contrary.
 - (4) If in any proceedings for an offence against this Act in relation to any operations it is proved that there has been a contravention of, or a failure to comply with—
 - (a) a term or condition of a mineral tenement; or
 - (b) a requirement or condition of a program under Part 10A applying in respect of a mineral tenement,it must be presumed, in the absence of evidence to the contrary, that the contravention or failure (as the case requires) occurred as a result of an act or omission of the tenement holder.
 - (5) In any proceedings for an offence against this Act, if it appears that an alleged fact has been determined by the use of an electronic, sonic, optical, mechanical, measuring or other device or technique by an authorised officer or a person assisting an authorised officer, the alleged fact must be accepted as proved in the absence of evidence to the contrary.

Part 11—Assistance to mining

71—Minister may assist in conduct of operations

- (1) The Minister may assist in the conduct of authorised operations by the loan of mining equipment or of money to be expended in advancing authorised operations.
- (2) Assistance may be provided upon such terms and conditions as may be determined by the Minister, but any money advanced under subsection (1) shall become a debt due to the Crown, to be repaid in such manner as the Minister may direct.

72—Research and investigations

The Minister may—

- (a) conduct research and investigation into—
 - (i) the existence of native title on mineral land; and
 - (ii) problems affecting the conduct of authorised operations or the treatment of ores; and
- (b) stipulate and recover charges for any such research or investigation conducted at the request of any person; and
- (c) pay the cost of any such research or investigation out of money provided by Parliament for the purpose.

73—Acquisition of mining equipment

The Minister may, out of money provided by Parliament, acquire mining equipment for the purposes of this Part.

Part 11B—Private mines

73C—Interpretation

- (1) In this Part—
 - compliance order*—see section 73I;
 - emergency order*—see section 73KA;
 - environment* includes—
 - (a) land, air, water (including both surface and underground water and sea water), organisms, ecosystems, native fauna and other features or elements of the natural environment; and
 - (b) buildings, structures and other forms of infrastructure, and cultural artefacts; and
 - (c) public health, safety or amenity;
 - general duty* means the duty under section 73H;
 - mine operations plan* means a mine operations plan under section 73G;
 - rectification authorisation*—see section 73K;
 - rectification order*—see section 73J.
- (2) Without derogating from the general meaning of mining operations under this Act, *mining operations* includes, for the purposes of this Part, when carried out within the boundaries of a private mine—
 - (a) the treatment, processing or handling of any material recovered in the course of mining operations; and
 - (b) any activity ancillary to the conduct of mining operations.

73D—Application of Act

- (1) Subject to this Part, and any other provisions of this Act that explicitly apply to a private mine or a person carrying out operations in relation to a private mine, a private mine is exempt from the other Parts of this Act.
- (2) Land comprised within a private mine cannot be subject to a mineral tenement under this Act.
- (3) Without limiting any other provision that makes explicit application as envisaged by subsection (1), the following provisions apply to or in relation to a private mine or a person carrying out operations in relation to a private mine:
 - (a) section 6 (subject to the operation of section 6(6) and (7));
 - (b) sections 7, 8, 8A, 9A and 10;
 - (c) Part 2;
 - (d) Part 2A;
 - (e) Part 3;
 - (f) section 56P;

- (g) section 56X;
- (h) section 63;
- (i) Part 10, other than section 70;
- (j) Part 10C, other than section 70HG;
- (k) sections 72 and 73;
- (l) sections 74 and 74AA;
- (m) sections 75A and 79;
- (n) sections 83A and 85;
- (o) sections 88 to 92 (inclusive);
- (p) any other provision specified by the regulations.

73G—Mine operations plans

- (1) Unless otherwise approved by the Director, a person must not, after the commencement of this Part, carry out mining operations at a private mine unless a mine operations plan that relates to the operations and complies with requirements of this section is in place.
- (2) A mine operations plan must, in order to comply with the requirements of this section—
 - (a) include, in accordance with the requirements of the regulations—
 - (i) a set of objectives approved by the Director; and
 - (ii) a set of criteria for measuring those objectives approved by the Director,that relate to the mining operations carried out at the private mine; and
 - (b) be consistent with any relevant environment improvement programme or environment protection policy under the *Environment Protection Act 1993*; and
 - (c) comply with any other requirement prescribed by the regulations.
- (3) Objectives under subsection (2)(a) must include specific objectives to achieve compliance with the general duty (see section 73H).
- (4) A person wishing to obtain the approval of the Director to a set of objectives and a set of criteria, or to an alteration to a set of objectives or a set of criteria, must submit a draft of the objectives and criteria, or a draft of the objectives or criteria as altered, (as the case may be) to the Director in accordance with the regulations.
- (4a) A submission to the Director under subsection (4) must be accompanied by the prescribed fee.
- (5) The Director may, on receipt of a draft under subsection (4)—
 - (a) accept the draft, without alteration; or

- (b) require alterations to the draft after consultation with the person who has submitted the draft (and in this case the person must (subject to any appeal under subsection (6)) alter the draft in accordance with the requirements of the Director).
- (6) The person who has submitted the draft may appeal to the Warden's Court against a requirement of the Director under subsection (5)(b) and the Warden's Court may, on hearing an appeal—
 - (a) confirm the requirement of the Director;
 - (b) vary or revoke the requirement of the Director, or impose any requirement in substitution for a requirement of the Director;
 - (c) make any consequential or ancillary order that it considers necessary or expedient.
- (7) Subject to the outcome of any appeal under subsection (6), the Director will then, unless subsection (8) applies, be taken to have approved the objectives and criteria contained in the draft.
- (8) If a draft relates to new operations to be carried out at a private mine, the draft must then be released for public consultation on the proposed objectives and criteria.
- (9) The public consultation must be conducted in accordance with the regulations.
- (10) The person who submitted the draft must, after complying with the public consultation requirements, prepare a report on the matters raised as a result of public consultation (insofar as they are relevant to the matters that were referred for public consultation) and, if relevant, on any recommended alterations to the objectives and criteria contained in the draft, and submit the report to the Director.
- (11) The Director may then—
 - (a) approve the objectives and criteria (with any alterations recommended under subsection (10)); or
 - (b) refer the matter back to the person who submitted the draft for further consideration or report (and in this case the Director must provide written reasons for his or her action and may subsequently approve the objectives and criteria, or altered objectives and criteria, if or when the Director is satisfied that the matter has been satisfactorily resolved).
- (12) The person who submitted the draft may appeal to the Warden's Court against a decision of the Director under subsection (11)(b) (including a decision not to approve objectives and criteria) and the Warden's Court may, on hearing an appeal—
 - (a) confirm the decision of the Director;
 - (b) vary or revoke the decision of the Director, or make any decision in substitution for a decision of the Director;
 - (c) make any consequential or ancillary order that it considers necessary or expedient.
- (12a) The Minister may publish a mine operations plan in such manner, and to such extent, as the Minister thinks fit.
- (13) A mine operations plan may be reviewed by a person carrying out, or intending to carry out, mining operations at the private mine at any time.

- (14) A mine operations plan must be reviewed at the direction of the Director (which may be given at any time for any reasonable cause).
- (15) A mine operations plan must also be reviewed—
 - (a) within seven years after the commencement of the plan (unless it has been reviewed sooner under subsection (13) or (14)); or
 - (b) in any event, within seven years after it was last reviewed.
- (16) A review must be conducted in accordance with the regulations.
- (17) A report must be furnished to the Director in accordance with the regulations on the completion of a review.
- (18) An appeal under this section must be made in a manner and form determined by the Warden's Court, setting out the grounds of the appeal.

73H—General duty to avoid undue environmental damage

- (1) A person must, in carrying out mining operations at a private mine, take all reasonable and practicable measures to avoid undue damage to the environment.
- (2) In determining what measures are required to be taken under subsection (1), regard is to be had, amongst other things, to—
 - (a) the nature of the mining operations and the sensitivity of the receiving environment; and
 - (b) the financial implications of the various measures that might be taken as those implications relate to the class of persons undertaking activities of the same or a similar kind; and
 - (c) the current state of technical knowledge and likelihood of successful application of the various measures that might be taken.
- (4) Subsection (1) operates in addition to, and does not limit or derogate from, the provisions of the *Environment Protection Act 1993* or any other Act.

73I—Compliance orders

- (1) The Director may issue an order under this section (a *compliance order*) for the purpose of securing compliance with—
 - (a) the requirement to have a mine operations plan in accordance with this Part; or
 - (b) the objectives contained in a mine operations plan; or
 - (c) the general duty.
- (2) A compliance order—
 - (a) must be in the form of a written notice served on the person to whom the notice is issued; and
 - (b) must—
 - (i) specify the person to whom it is issued (whether by name or a description sufficient to identify the person);

- (ii) if the order is issued for the purpose of securing compliance with the objectives contained in a mine operations plan—state the purpose and specify the objective that is not being met;
 - (iii) if the order is issued for the purpose of securing compliance with the general duty—state the purpose and specify the matters that it is directed towards; and
 - (c) may impose any requirement reasonably required for the purpose for which the order is issued including one or more of the following:
 - (i) a requirement that the person discontinue, or not commence, specified mining operations indefinitely or for a specified period or until further notice from the Director;
 - (ii) a requirement that the person not carry on specified mining operations except at specified times or subject to specified conditions;
 - (iii) a requirement that the person take specified action within a specified period; and
 - (d) must state that the person may, within 28 days, appeal to the Warden's Court against the order.
- (3) The Director may, by written notice served on a person to whom a compliance order has been issued, vary or revoke the order.
- (4) A person to whom a compliance order is issued must comply with the order.
Maximum penalty: \$250 000.
- (5) If the requirements of a compliance order are not complied with, the Director may take any action required by the order.
- (6) Any action to be taken by the Director under subsection (5) may be taken on the Director's behalf by authorised officers or by other persons authorised by the Director for the purpose.
- (7) If a person other than an authorised officer is authorised to take action under subsection (6), the following provisions apply:
 - (a) the Director must issue the person with an instrument of authority;
 - (b) the person may exercise such powers of an authorised officer under this Part as are reasonably required for the purpose of taking action under that subsection;
 - (c) the provisions of this Part apply in relation to the exercise of such powers by the person in the same way as in relation to an authorised officer;
 - (d) the person must produce the instrument of authority for the inspection of any person in relation to whom the person intends to exercise powers of an authorised officer.
- (8) The reasonable costs and expenses incurred by the Director in taking action under subsection (5) may be recovered by the Director as a debt from the person who failed to comply with the requirements of the compliance order.

73J—Rectification orders

- (1) If the Director is satisfied that a person has caused damaged to the environment by a contravention of the general duty, the Director may issue an order (a **rectification order**) to the person requiring the person to take specified action within a specified period to make good the damage.
- (2) A rectification order—
 - (a) must be in the form of a written notice served on the person to whom it is issued; and
 - (b) must specify the person to whom it is issued (whether by name or a description sufficient to identify the person); and
 - (c) must specify the contravention alleged to have caused the damage to the environment; and
 - (d) may include requirements for action to be taken to prevent or mitigate further damage to the environment; and
 - (e) may include requirements for monitoring and reporting to the Director the effectiveness of action taken in pursuance of the order; and
 - (f) must state that the person may, within 28 days, appeal to the Warden's Court against the order.
- (3) The Director may, by written notice served on a person to whom a rectification order has been issued, vary or revoke the order.
- (4) A person to whom a rectification order is issued must comply with the order.
Maximum penalty: \$250 000.

73K—Rectification authorisations

- (1) If the Director is satisfied that a person has caused damage to the environment by a contravention of the general duty, the Director may (whether or not a rectification order has been issued to the person) issue an authorisation (a **rectification authorisation**) under which authorised officers or other persons authorised by the Director for the purpose may take specified action to make good the damage.
- (2) A rectification authorisation—
 - (a) must be in the form of a written notice; and
 - (b) must specify the person alleged to have caused the damage to the environment (whether by name or a description sufficient to identify the person); and
 - (c) must specify the contravention alleged to have caused the damage to the environment; and
 - (d) may include authorisation for action to be taken to prevent or mitigate further damage to the environment.
- (3) The Director must, as soon as practicable after issuing a rectification authorisation, serve a copy of the authorisation on the person alleged to have caused the damage to the environment.

- (4) The Director may, by notice in writing, vary or revoke a rectification authorisation and must, as soon as practicable after doing so, serve a copy of the notice on the person alleged to have caused the damage to the environment.
- (5) If a person other than an authorised officer is authorised to take action under subsection (1), the following provisions apply:
 - (a) the Director must issue the person with an instrument of authority;
 - (b) the person may exercise such powers of an authorised officer as are reasonably required for the purpose of taking action under that subsection;
 - (c) the provisions of this Part apply in relation to the exercise of such powers by the person in the same way as in relation to an authorised officer;
 - (d) the person must produce the instrument of authority for the inspection of any person in relation to whom the person intends to exercise powers of an authorised officer.
- (6) The reasonable costs and expenses incurred by the Director by virtue of work done under a rectification authorisation may be recovered by the Director as a debt from the person whose contravention gave rise to the issuing of the authorisation.

73KA—Emergency order

- (1) If, in the opinion of an authorised officer—
 - (a) mining operations are being carried out in a way that results in, or that is reasonably likely to result in—
 - (i) a breach of an objective under a mine operations plan; or
 - (ii) undue damage to the environment; and
 - (b) it is urgently necessary to take action under this section,the authorised officer may, by written notice given to any person involved in undertaking the mining operations, issue an order under this section (an **emergency order**).
- (2) An emergency order—
 - (a) subject to subsection (3), must be in the form of a written notice given to the person to whom the order is issued; and
 - (b) must specify the grounds on which it is issued; and
 - (c) may impose any requirement reasonably required for the purpose for which the order is issued including 1 or more of the following:
 - (i) a requirement that a person specified or identified in the order discontinue, or not commence, a specified activity indefinitely or for a specified period or until further notice from an authorised officer;
 - (ii) a requirement that a person specified or identified in the order take specified action within a specified period;
 - (iii) a requirement that a person specified or identified in the order furnish the Minister or a specified authorised officer with a specified report or reports.

- (3) An authorised officer may, if of the opinion that urgent action is required under this section, issue an emergency order imposing requirements of a kind referred to in subsection (2)(c) orally but, in that event, the authorised officer must confirm it in writing at the earliest opportunity (and in any event within 2 business days) by written notice given to the person to whom the order applies.
- (4) An emergency order issued under this section will cease to have effect at the expiration of 3 business days after the day on which it is issued unless the Director of Mines, within that period, confirms the order in the manner prescribed by the regulations (and then the order will continue to have effect for a period determined by the Director or until revoked by an authorised officer).
- (5) An authorised officer may, with the approval of the Director, by written notice served on the person to whom an emergency order has been issued, vary or revoke the order.
- (6) A person to whom an emergency order relates must comply with an order under this section within the time allowed in the order.

Maximum penalty: \$250 000.

73KB—Contravention of Act

The Minister or an authorised officer may, if of the opinion that it is reasonably necessary to do so in the circumstances, include in an order under this Part a requirement for an act or omission that might otherwise constitute a contravention of this Act and, in that event, a person incurs no liability to a penalty under this Act for compliance with the requirement.

73L—Application for review of direction

- (1) A person to whom a compliance order, a rectification order or an emergency order has been issued may appeal to the Warden's Court against the order or any variation of the order.
- (2) An appeal must be made in a manner and form determined by the Warden's Court, setting out the grounds of the appeal.
- (3) Subject to subsection (4), an appeal must be made within 28 days after the order is issued or the variation is made.
- (4) The Warden's Court may, if it is satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirements that an appeal be made within the period fixed by subsection (3).
- (5) Subject to subsection (6), the making of an appeal against an order does not affect the operation of the order or prevent the taking of action to implement the order.
- (6) The Warden's Court may, on application by a party to an appeal, make an order staying or otherwise affecting the operation or implementation of the whole or a part of the order appealed against if the Warden's Court is satisfied that it is appropriate to do so having regard to—
 - (a) the possible environmental consequences and the interests of any persons who may be affected by the appeal; and
 - (b) the need to secure the effectiveness of the hearing and determination of the appeal.

- (7) An order under subsection (6)—
- (a) may be varied or revoked by the Warden's Court by further order; and
 - (b) is subject to such conditions as are specified in the order; and
 - (c) has effect until—
 - (i) the end of the period of operation (if any) specified in the order; or
 - (ii) the decision of the Warden's Court on the appeal comes into operation,whichever is the earlier.
- (8) The Warden's Court may, on hearing an appeal under this section—
- (a) confirm, vary or revoke the order appealed against;
 - (b) order or direct a person or body to take such action as the Warden's Court thinks fit, or to refrain (either temporarily or permanently) from such action or activity as the Warden's Court thinks fit;
 - (c) make any consequential or ancillary order or direction, or impose any condition, that it considers necessary or expedient.

73M—Action if non-compliance occurs

- (1) If the requirements of an order under this Part are not complied with, the Minister or the Director may take the action required by the order.
- (2) Any action to be taken under subsection (1) may be taken by an authorised officer or by another person authorised by the Minister or the Director for the purpose.
- (3) If a person other than an authorised officer is authorised to take action under subsection (2), the following provisions apply:
 - (a) the Minister or the Director must issue the person with an instrument of authority;
 - (b) the person must produce the instrument of authority for the inspection of any person in relation to whom the person intends to exercise powers under this section.
- (4) The reasonable costs and expenses incurred by the Minister or the Director taking action under this section constitute a debt due to the Crown.

73N—Revocation of private mine

- (1) The Governor may, by proclamation, vary or revoke the declaration of an area as a private mine under this Act.
- (2) A proclamation may only be made under subsection (1) on the recommendation of the Minister.
- (3) The Minister must not make a recommendation under subsection (2) unless—
 - (a) the Minister has served on the proprietor of the private mine a notice under this subsection indicating that it is considered that a declaration of a specified area as a private mine should be varied or revoked on the basis of the designated criteria set out in subsection (4); and

- (b) the Minister has provided the proprietor of the private mine an opportunity to make written submissions in relation to the matter within a period specified by the Minister in the notice; and
 - (c) the Minister is satisfied, after taking into account—
 - (i) any submission under paragraph (b); and
 - (ii) the designated criteria set out in subsection (4); and
 - (iii) such other matters as the Minister thinks fit,that such a recommendation is appropriate.
- (4) The designated criteria are as follows:
- (a) that—
 - (i) the whole or any part of the private mine is not being effectively operated; or
 - (ii) it is no longer possible to carry out operations on the whole or any part of the private mine;
 - (b) that the area that is relevant for the purposes of a proclamation under this section has been rehabilitated to an appropriate extent and standard.

73O—Evidentiary provisions

- (1) In proceedings for an offence against this Part, an apparently genuine document purporting to be a certificate signed by the Minister certifying that a specified provision was a requirement or condition of a mine operations plan under section 73G is, in the absence of proof to the contrary, proof of the matter so certified.
- (2) If in any proceedings for an offence against this Part in relation to any operations it is proved that there has been a contravention of, or a failure to comply with, a requirement or condition of a mine operations plan under section 73G, it must be presumed, in the absence of evidence to the contrary, that the contravention or failure (as the case requires) occurred as a result of an act or omission of the person carrying out, or intending to carry out, mining operations in relation to the private mine.

73R—Power to correct errors in declarations

- (1) If, in the opinion of the Governor, there is an error in the declaration of an area as a private mine, the Governor may, by proclamation, correct the error.
- (2) A proclamation under subsection (1) will, if it so provides, be taken to have had effect as from the making of the declaration to which it relates.
- (3) A proclamation should not be made under subsection (1) except at the request of, or after consultation by the Minister with, the proprietor of the private mine.

Part 12—Miscellaneous

74—Civil remedies

- (1) Applications may be made to the ERD Court for 1 or more of the following orders:
 - (a) if a person has engaged, is engaging or is proposing to engage in conduct in contravention of this Act—an order restraining the person from engaging in the conduct and, if the Court considers it appropriate to do so, requiring the person to take any specified action;
 - (b) if a person has refused or failed, is refusing or failing or is proposing to refuse or fail to take any action required by this Act—an order requiring the person to take that action;
 - (c) if a person has suffered injury or loss or damage to property as a result of a contravention of this Act, or incurred costs and expenses in taking action to prevent or mitigate such injury, loss or damage—an order against the person who committed the contravention for payment of compensation for the injury, loss or damage, or for payment of the reasonable costs and expenses incurred in taking that action;
 - (d) if the Court considers it appropriate to do so, an order against a person who has contravened this Act for payment (for the credit of the Mining Rehabilitation Fund) of an amount in the nature of exemplary damages determined by the Court.
- (2) An application under this section may be made by the Minister or the Director.
- (3) The power of the Court to make an order restraining a person from engaging in conduct of a particular kind may be exercised—
 - (a) if the Court is satisfied that the person has engaged in conduct of that kind—whether or not it appears to the Court that the person intends to engage again, or to continue to engage, in conduct of that kind; or
 - (b) if it appears to the Court that, in the event that an order is not made, it is likely that the person will engage in conduct of that kind—whether or not the person has previously engaged in conduct of that kind and whether or not there is an imminent danger of substantial harm or damage if the person engages in conduct of that kind.
- (4) The power of the Court to make an order requiring a person to take specified action may be exercised—
 - (a) if the Court is satisfied that the person has refused or failed to take that action—whether or not it appears to the Court that the person intends to refuse or fail again, or to continue to refuse or fail, to take that action; or
 - (b) if it appears to the Court that, in the event that an order is not made, it is likely that the person will refuse or fail to take that action—whether or not the person has previously refused or failed to take that action and whether or not there is an imminent danger of substantial harm or damage if the person refuses or fails to take that action.

- (5) In assessing an amount to be ordered in the nature of exemplary damages, the Court must have regard to—
- (a) any undue damage to the environment or detriment to the public interest resulting from the contravention; and
 - (b) any financial saving or other benefit that the respondent stood to gain by committing the contravention; and
 - (c) any other matter it considers relevant.
- (6) The power to order payment of an amount in the nature of exemplary damages may only be exercised by a judge of the Court.
- (7) An application may be made without notice to any person and, if the Court is satisfied on the application that the respondent has a case to answer, it may grant permission to the applicant to serve a summons requiring the respondent to appear before the Court to show cause why an order should not be made under this section.
- (8) An application under this section must, in the first instance, be referred to a conference under section 16 of the *Environment, Resources and Development Court Act 1993* (and the provisions of that Act will then apply in relation to the application).
- (9) If, on an application under this section or before the determination of the proceedings commenced by the application, the Court is satisfied that, in order to preserve the rights or interests of parties to the proceedings or for any other reason, it is desirable to make an interim order under this section, the Court may make such an order.
- (10) An interim order—
- (a) may be made on an application without notice to any person; and
 - (b) may be made whether or not the proceedings have been referred to a conference; and
 - (c) will be made subject to such conditions as the Court thinks fit; and
 - (d) will not operate after the proceedings in which it is made are finally determined.
- (11) The Court may order an applicant in proceedings under this section—
- (a) to provide security for the payment of costs that may be awarded against the applicant if the application is subsequently dismissed; or
 - (b) to give an undertaking as to the payment of any amount that may be awarded against the applicant under subsection (12).
- (12) If, on an application under this section alleging a contravention of this Act, the Court is satisfied—
- (a) that the respondent has not contravened this Act; and
 - (b) that the respondent has suffered loss or damage as a result of the actions of the applicant; and
 - (c) that in the circumstances it is appropriate to make an order under this provision,

the Court may, on the application of the respondent (and in addition to any order as to costs), require the applicant to pay to the respondent an amount, determined by the Court, to compensate the respondent for the loss or damage suffered by the respondent.

- (13) The Court may, if it considers it appropriate to do so, either on its own initiative or on the application of a party, vary or revoke an order previously made under this section.
- (14) Proceedings under this section based on a contravention of this Act may be commenced at any time within 3 years after the date of the alleged contravention or, with the authorisation of the Attorney-General, at any later time.
- (15) An apparently genuine document purporting to be signed by the Attorney-General authorising the commencement of proceedings under this section will be accepted in any legal proceedings, in the absence of proof to the contrary, as proof of the authorisation.
- (16) The Court may, in any proceedings under this section, make such orders in relation to the costs of the proceedings as it thinks just and reasonable.

74AA—Enforceable voluntary undertakings

- (1) The Minister may accept (by written notice) a written undertaking given by a person in connection with a matter relating to a contravention or alleged contravention by the person of this Act.
- (2) The giving of an undertaking does not constitute an admission of guilt by the person giving the undertaking in respect of the contravention or alleged contravention to which the undertaking relates.
- (3) A person must not contravene an undertaking made by the person that is in effect.
Maximum penalty: \$50 000.
- (4) If the Minister considers that a person has contravened an undertaking accepted by the Minister, the Minister may apply to the ERD Court for enforcement of the undertaking.
- (5) If the ERD Court is satisfied that the person has contravened the undertaking, the Court, in addition to the imposition of any penalty, may make any of the following orders:
 - (a) an order that the person must comply with the undertaking or take specified action to comply with the undertaking;
 - (b) an order discharging the undertaking;
 - (c) an order directing the person to pay to the Minister—
 - (i) the costs of the proceedings; and
 - (ii) the reasonable costs of the Minister in monitoring compliance with the undertaking in the future;
 - (d) any other order that the Court considers appropriate in the circumstances.
- (6) A person who has made an undertaking may, at any time, with the written agreement of the Minister—
 - (a) vary the undertaking; or

- (b) withdraw the undertaking.
- (7) Subject to this section, no proceedings for a contravention or alleged contravention of this Act may be brought against a person if an undertaking is in effect in relation to that contravention.
- (8) No proceedings for a contravention or alleged contravention of this Act may be brought against a person who has made an undertaking under this section in relation to that contravention and who has completely discharged the undertaking.
- (9) The Minister may accept an undertaking in relation to a contravention or alleged contravention before proceedings in respect of that contravention have been finalised.
- (10) If the Minister accepts an undertaking before the proceedings are finalised, the Minister must take all reasonable steps to have the proceedings discontinued as soon as possible.

74A—Compliance orders

- (1) If a person carries out authorised operations without the authority required by this Act, the ERD Court may, on application by the owner of land on which the operations are carried out, make an order (a *compliance order*) requiring the person (the *respondent*)—
 - (a) to stop the operations; and
 - (b) if the operations have resulted in damage to land—to take specified action to rehabilitate the land.
- (2) Before the Court makes a compliance order it must allow the respondent a reasonable opportunity to be heard on the application.
- (3) A person against whom a compliance order is made must comply with the order.
Maximum penalty: \$250 000.

75—Provision relating to certain minerals

- (1) Subject to subsection (1a), no claim may be established or lease granted in respect of extractive minerals on land granted in fee simple or land in respect of which native title conferring a right to exclusive possession of land exists except with the written consent of the owner of the land.
- (1a) Subsection (1) does not apply in relation to a claim or a lease in respect of extractive minerals on land described in that subsection if the terms of the mineral tenement specifically authorise (or will specifically authorise) the holder of the tenement to recover and use the extractive minerals on account of being extractive minerals produced during the course of carrying out authorised operations under the tenement.
- (1b) Consent given by an owner of land under subsection (1) is binding on all subsequent owners of the land.
- (2) Subject to subsection (3), the owner of land does not require a mineral tenement under this Act for the recovery of extractive minerals from the land for the owner's personal use or, if the owner is a body corporate, disposal of the minerals to a related body corporate for the related body corporate's personal use.

- (3) Subsection (2) does not apply in relation to authorised operations for the recovery of extractive minerals if—
- (a) the Minister has determined that the operations should be the subject of a mineral tenement under this Act (and subject to the other provisions of this Act)—
 - (i) after taking into account the nature or scale of the operations; or
 - (ii) because the Minister believes that action has been taken to attempt to avoid the requirements of this Act through the establishment of particular ownership arrangements; or
 - (iii) on any other ground determined by the Minister to be a reasonable basis on which to act under this subsection; and
 - (b) the Minister has, on the basis of the Minister's determination under paragraph (a), required the owner of the land to apply for a mineral tenement within a period (of at least 3 months) specified by the Minister; and
 - (c) 1 of the following has occurred:
 - (i) a mineral tenement has been granted in relation to the authorised operations;
 - (ii) the period specified by the Minister under paragraph (b) has expired without the owner of the land making the application envisaged by that paragraph;
 - (iii) an application for a mineral tenement made by the owner of the land to the Minister within the period specified by the Minister under paragraph (b) has been rejected by the Minister.
- (4) In subsection (2), *personal use* of minerals does not include use of the minerals by a council.

75A—Avoidance of double compensation

In determining compensation to be paid to a body or person under a provision of this Act, compensation that has been paid to the body or person, or to which the body or person is entitled, whether under another provision of this Act or under any other law, must be taken into account.

78—Persons under 16 years of age

- (1) No person under the age of 16 years is competent to hold a mineral tenement.
- (2) The obligations imposed by or under this Act are binding on a minor of or above the age of 16 years who holds a mineral tenement.

79—Minister may grant exemptions

- (1) Where the Minister is satisfied that circumstances exist that justify so doing, the Minister may—
 - (a) exempt the holder of a lease or licence under this Act from the obligation to comply with a term or condition of the lease or licence; or
 - (b) exempt the holder of a mineral tenement from the obligation to comply with a provision of this Act (except Part 9B).

- (2) An exemption under this section—
 - (a) may be granted absolutely or on conditions; and
 - (b) shall remain in force for a period determined by the Minister.
- (3) An exemption may not be granted under this section so as to discriminate against the holders of native title in land.

79A—False or misleading information

A person who furnishes information to the Minister, the Director, the Mining Registrar or any other person involved in the administration of this Act that is false or misleading in a material particular is guilty of an offence.

Maximum penalty: \$150 000.

80—Conditions under which land may be simultaneously subject to more than 1 tenement

- (1) Subject to this section, land shall not be simultaneously subject to more than 1 mineral tenement under this Act.
- (1b) The Minister may grant an exploration licence that relates solely to exploration operations for precious stones in respect of land that is subject to a prior tenement under this Act that does not relate solely to precious stones.
- (1c) However, the Minister must not grant an exploration licence under subsection (1b) without the written consent of the holder of the prior tenement.
- (1d) If the Minister grants an exploration licence under subsection (1b), the holders of the respective tenements must, subject to maintaining reasonable efficiencies in the conduct of their own operations, and any agreement between them or order of the Warden's Court, take all steps that are reasonably practicable to minimise interference with each others' operations.

Maximum penalty: \$20 000.

- (2) Where land is subject to a mineral tenement, a further claim, lease or miscellaneous purposes licence may, with the consent of the holder of that mineral tenement or the approval of the Warden's Court, be established, or granted, in respect of any portion of the land comprised in the prior tenement, and the rights conferred by the respective tenements shall then be modified according to the agreement of the parties or the order of the Warden's Court, as the case may require.
 - (2a) Where a mineral tenement and a further claim under subsection (2) would be held—
 - (a) by 1 person; or
 - (b) by related bodies corporate,a consent under that subsection is not effective unless it is given with the approval of the Minister.
- (3) The Warden's Court shall not approve the establishing of a claim or the granting of a lease or miscellaneous purposes licence under subsection (2) unless it is satisfied that the rights of the holder of the prior tenement would not be materially diminished by the granting of such an approval.

- (4) The Warden's Court may, on the application of a tenement holder, make an order to regulate, restrict or prohibit authorised operations where 2 or more tenements include the same land.
- (5) The holder of a mineral tenement must not contravene or fail to comply with an order under subsection (4).
Maximum penalty: \$5 000.
- (6) The Minister must not grant a mineral tenement in relation to land which already has another mineral tenement over a different stratum unless or until the Minister is satisfied that the applicant is a party to an agreement that provides for access to each tenement.

81—Additional provisions relating to liability

- (1) If there are 2 or more persons who are tenement holders in relation to the same mineral tenement, each tenement holder is jointly and severally liable for compliance with any requirement under this Act that applies in respect of the tenement.
- (2) For the purposes of this Act, an act or omission of an employee or agent will be taken to be the act or omission of the employer or principal unless it is proved that the act or omission did not occur in the course of employment or agency.

82—Deemed consent or agreement

- (1) If—
 - (a) a matter arising under this Act in relation to a mineral tenement (or proposed mineral tenement) requires the consent or agreement of an owner of land; and
 - (b) the owner of the land and the tenement holder (or the applicant for a proposed mineral tenement) are the same person,it will be taken that the consent or agreement has been provided by the owner of the land (and, if relevant, it will be taken that the consent or agreement has been provided in writing).
- (2) A consent or agreement taken to be provided under subsection (1) is binding on all subsequent owners of the land.
- (3) This section does not apply—
 - (a) in a case where section 80(2a) applies; or
 - (b) in any circumstance prescribed by the regulations.

83A—Licence or other right is not personal property for the purposes of Commonwealth Act

A right, entitlement or authority granted by or under this Act is not personal property for the purposes of the *Personal Property Securities Act 2009* of the Commonwealth.

85—Charge on property if debt due to Crown

- (1) This section applies to property (other than real property) if the owner of the property is liable to pay a debt due to the Crown under this Act.
- (2) A charge on the property to secure payment of the debt to the Crown is created by force of this section.

- (3) A charge created on property under subsection (2)—
 - (a) has priority over any other interest in the property (including a security interest within the meaning of the *Personal Property Securities Act 2009* of the Commonwealth); and
 - (b) has priority over all other encumbrances; and
 - (c) is not affected by a change in ownership of the property.
- (4) Section 73(2) of the *Personal Property Securities Act 2009* of the Commonwealth applies to the charge.
- (5) The charge remains in force until the debt is paid in full or otherwise discharged.

86—Removal of machinery etc

- (1) The owner of any machinery or goods on land—
 - (a) that is within a mineral tenement that has been transferred; or
 - (b) that has ceased to be subject to a mineral tenement,may, at any time within the period of 3 months after the date of the transfer or the date on which the land ceased to be subject to the tenement (as the case may be), enter the land and remove the machinery or goods from the land.
- (2) The Minister may cause any machinery or goods that have been abandoned on land that has been subject to a mineral tenement (whether or not a new tenement has been granted over the land) to be seized.
- (3) Any machinery or goods seized under subsection (2) are forfeited to the Crown and may be sold by the Minister.
- (4) Any proceeds from a sale under subsection (3) will be paid to the Treasurer.
- (5) The Treasurer may, on application under this subsection, pay an amount equal to the proceeds of a sale under subsection (3) to the person who abandoned the relevant machinery or goods, after deduction of an amount determined by the Treasurer to be reasonable costs associated with seizing, holding, maintaining, repairing, cleaning or selling the machinery or goods.
- (6) An application under subsection (5) must be made within 2 years from the date of sale (and after the expiration of that period no further claim may be made in relation to the machinery or goods).

88—Hindering authorised officers

A person who, without reasonable excuse, hinders or obstructs an authorised officer or other person engaged in the administration or enforcement of this Act is guilty of an offence.

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

89A—Offences and ERD Court

Offences constituted by this Act lie within the criminal jurisdiction of the ERD Court.

89B—Penalties and expiation fees payable into Mining Rehabilitation Fund

The following are payable into the Mining Rehabilitation Fund:

- (a) penalties payable in respect of offences against this Act;
- (b) expiation fees paid under this Act.

90—Reports and verification of information

- (1) A tenement holder must, at the request of the Minister, provide a report setting out or accompanied by any information or material that is relevant to—
 - (a) the operation or administration of any provision of this Act (insofar as is relevant to any operations carried out (or to be carried out) by the tenement holder under the tenement); or
 - (b) without limiting paragraph (a)—
 - (i) an assessment of the tenement holder's capability to comply with the requirements of this Act; or
 - (ii) the identification, delineation or accuracy of any boundary of a mineral tenement.
- (2) A tenement holder must, at the request of the Minister, provide a report verifying any information or material provided to the Minister or the Director under this Act.
- (3) A report under subsection (1) or (2), and any information or material required under this section, must, if the Minister so requires, be verified by an independent person with qualifications, and in a manner, specified by the Minister.
- (4) A report must be provided to the Minister within a period specified by the Minister.
- (5) Any cost associated with a requirement under this section will be borne by the tenement holder.
- (6) A tenement holder must not fail to comply with a requirement under this section within the period specified by the Minister.
Maximum penalty: \$20 000.
- (7) If a requirement under this section is not complied with, the Minister may take action to obtain the relevant information or material, or to obtain the verification, so required.
- (8) The reasonable costs and expenses incurred by the Minister taking action under subsection (7) constitute a debt due to the Crown.

91—Administrative penalties

- (1) This section applies to any provision of this Act (or the regulations) at the foot of which the words "Administrative penalty" appear.
- (2) If a person who is a holder or former holder of a mineral tenement is alleged to have contravened a provision to which this section applies, the Director of Mines may, by notice in writing to the person, impose an administrative penalty on the person (and the Director may act under this subsection without prior consultation with the person and without the need to give a warning or any prior notice in relation to the matter).
- (3) The amount of an administrative penalty is an amount (not exceeding \$15 000) prescribed by regulation in relation to the relevant provision.

- (4) An administrative penalty may be recovered as a debt due to the Crown.
- (4a) An amount recovered as an administrative penalty under this section will be paid into the Mining Rehabilitation Fund.
- (5) If an administrative penalty has been imposed in relation to a particular act or default, the same act or default cannot be made the subject of proceedings for an offence against this Act and if proceedings for an offence against this Act have been brought in relation to a particular act or default, an administrative penalty cannot be imposed for the same act or default.

92—Regulations

- (1) The Governor may make such regulations as are contemplated by this Act, or as the Governor thinks necessary or expedient for the purposes of this Act and, without limiting the generality of the foregoing, those regulations may—
 - (a) regulate and control the issue of certificates of registration in respect of claims, leases and licences under this Act; and
 - (b) provide for the maintenance and inspection of registers; and
 - (c) regulate, restrict or prohibit operations of any kind upon mineral tenements or mineral tenements relating to land within an area specified in the regulations; and
 - (d) declare equipment of any kind to be declared equipment for the purposes of this Act; and
 - (e) prescribe any matters in relation to the nature or size of any kind of mineral tenement, and the incidents attaching to, and the obligations entailed in, ownership of a mineral tenement; and
 - (f) require that a mineral tenement be worked with proper diligence, in conformity with the requirements of the regulations, as to the number of people, and the nature of the machinery, to be employed in working the mineral tenement and such other matters as may be required in the regulations; and
 - (i) provide for the protection of land upon which authorised operations are conducted and require the restoration, to the satisfaction of the Minister, of land disturbed by authorised operations; and
 - (k) restrict or prohibit authorised operations that may cause nuisance or inconvenience to persons in the vicinity of the authorised operations; and
 - (l) restrict or prohibit authorised operations that may result in the pollution of any watercourse or water supply or any natural amenities; and
 - (m) regulate the expenditure of money from the Extractive Areas Rehabilitation Fund; and
 - (n) prescribe, and regulate the performance of, the duties of authorised officers, mining registrars and other officers appointed under this Act; and
 - (na) provide for the provision of reports or the requirement to conduct any audit or investigation; and

- (nb) provide for the service of any notice, direction, order or other document under this Act; and
 - (o) prescribe fees that are to be paid in respect of anything done under this Act or in connection with the administration or operation of this Act, or in respect of any matter occurring under this Act, and provide for the recovery of fees; and
 - (p) prescribe any form for the purposes of this Act; and
 - (q) prescribe a penalty, recoverable summarily, not exceeding \$20 000 for breach of, or non-compliance with, any regulation; and
 - (r) prescribe an expiation fee, not exceeding \$7 500, in respect of any offence against this Act or the regulations.
- (2) Without limiting subsection (1), the regulations may prescribe, or provide for the imposition of—
- (a) assessment fees associated with applications under this Act; and
 - (b) annual administration fees to be paid by tenement holders.
- (3) A regulation prescribing any fees under this Act—
- (a) may provide for fees based on 1 or more of the following factors:
 - (i) the size of a mineral tenement (or proposed mineral tenement);
 - (ii) capital costs associated with any authorised operations (or proposed authorised operations);
 - (iii) any other factor prescribed by the regulations; and
 - (b) may provide for differential fees.
- (4) The regulations may adopt, wholly or partially and with or without modification—
- (a) a code or standard relating to matters in respect of which regulations may be made under this Act; or
 - (b) an amendment to such a code or standard.
- (5) Any regulations adopting a code or standard, or an amendment to a code or standard, may contain such incidental, supplementary and transitional provisions as appear to the Governor to be necessary.
- (6) The regulations or a code or standard adopted by the regulations may—
- (a) refer to or incorporate, wholly or partially and with or without modification, a standard or other document prepared or published by a prescribed body or person, either as in force at the time the regulations are made or as in force from time to time; and
 - (b) be of general or limited application; and
 - (c) make different provision according to the persons, things or circumstances to which they are expressed to apply; and
 - (d) provide that any matter or thing is to be determined, dispensed or regulated according to the discretion of the Minister, the Director or a registrar.

- (7) If—
- (a) a code or standard is adopted by the regulations; or
 - (b) the regulations, or a code or standard adopted by the regulations, refers to a standard or other document prepared or published by a prescribed body,
- then—
- (c) a copy of the code, standard or other document must be kept available for inspection by members of the public, without charge and during normal office hours, at an office or offices specified in the regulations; and
 - (d) in any legal proceedings, evidence of the contents of the code, standard or other document may be given by production of a document purporting to be certified by or on behalf of the Minister as a true copy of the code, standard or other document; and
 - (e) the code, standard or other document has effect as if it were a regulation made under this Act.
- (8) The Governor may, by regulation, make provisions of a saving or transitional nature consequent on the amendment of this Act by another Act.
- (9) A provision made by a regulation under subsection (8) may be in addition to any provision of a saving or transitional nature made by the Act that makes the amendment.
- (10) A provision made by a regulation under subsection (8) may, if the regulations so provide, take effect from the commencement of the amendment or from a later day.
- (11) To the extent to which a provision takes effect under subsection (10) from a day earlier than the day of the publication of the regulation in the Gazette, the provision does not operate to the disadvantage of a person by—
- (a) decreasing the person's rights; or
 - (b) imposing liabilities on the person.
- (12) The Governor may make regulations for the purposes of Schedule 1 clause 8 of the *Statutes Amendment (Mineral Resources) Act 2019* (including any regulation that could have been made under a repealed section of this Act as in force immediately before its repeal).

Schedule—Transitional provisions

- 2 A gold lease, mineral lease, coal lease, or miscellaneous lease granted under the repealed Act and in force immediately before the commencement of this Act shall be deemed to be a mining lease granted under this Act and shall, subject to this Act, remain in force for the remainder of the period for which it was granted or last renewed.
- 3 Where a person lawfully entered upon land before the commencement of this Act for the purposes of conducting mining operations, he may, subject to this Act, continue those operations upon the land in all respects as if he had lawfully entered upon the land in pursuance of this Act.
- 4 A business licence or an occupation licence granted under the repealed Act and in force immediately before the commencement of this Act shall be deemed to be a miscellaneous purposes licence under this Act, and shall, subject to this Act, remain in force for the remainder of the period for which it was granted or last renewed.

Legislative history

Notes

- This version is comprised of the following:

Part 1	25.2.2021 (substituted)
Part 2	1.1.2021
Part 2A	1.1.2021
Part 3	1.1.2021
Part 4	1.1.2021
Part 5	1.1.2021
Part 6	1.1.2021
Part 7	1.1.2021
Part 8	1.1.2021
Part 8A	1.1.2021
Part 8B	25.2.2021
Part 9	25.2.2021 (substituted)
Part 9B	25.2.2021 (substituted)
Part 10	1.1.2021
Part 10A	1.1.2021
Part 10B	1.1.2021
Part 10C	1.1.2021
Part 11	1.1.2021
Part 11B	1.1.2021
Part 12	1.1.2021
Schedule	1.1.2021
- Amendments of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation repealed by principal Act

The *Mining Act 1971* repealed the following:

Mining Act 1930

Mining Act Amendment Act 1941

Mining Act Amendment Act 1945

Mining Act Amendment Act 1946

Mining Act Amendment Act 1950

Mining Act Amendment Act 1951

Mining Act Amendment Act 1953

Mining Act Amendment Act 1955

Mining Act Amendment Act 1958

Mining Act Amendment Act 1962

Legislation amended by principal Act

The *Mining Act 1971* amended the following:

Crown Lands Act 1929

Petroleum Act 1940

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1971	109	<i>Mining Act 1971</i>	9.12.1971	3.7.1972 (<i>Gazette 29.6.1972 p2689</i>)
1972	142	<i>Mining Act Amendment Act 1972</i>	7.12.1972	25.1.1973 (<i>Gazette 25.1.1973 p274</i>)
1973	72	<i>Mining Act Amendment Act 1973</i>	6.12.1973	6.12.1973
1975	1	<i>Mining Act Amendment Act 1975</i>	6.3.1975	6.3.1975
1976	105	<i>Mining Act Amendment Act 1976</i>	16.12.1976	23.12.1976 (<i>Gazette 23.12.1976 p2317</i>)
1978	51	<i>Mining Act Amendment Act (No. 2) 1978</i>	20.7.1978	20.7.1978
1981	71	<i>Mining Act Amendment Act 1981</i>	5.11.1981	5.11.1981 (<i>Gazette 5.11.1981 p1431</i>)
1982	97	<i>Mining Act Amendment Act 1982</i>	23.12.1982	5.11.1981: s 2
1983	50	<i>Mining Act Amendment Act 1983</i>	16.6.1983	16.6.1983
1986	14	<i>Statute Law Revision Act 1986</i>	20.3.1986	Sch 5—31.7.1986 (<i>Gazette 17.7.1986 p269</i>)
1988	12	<i>Aboriginal Heritage Act 1988</i>	17.3.1988	1.3.1989 (<i>Gazette 9.2.1989 p354</i>)
1988	86	<i>Mining Act Amendment Act 1988</i>	1.12.1988	1.7.1989 (<i>Gazette 29.6.1989 p1755</i>)
1993	3	<i>Mining (Precious Stones Field Ballots) Amendment Act 1993</i>	4.3.1993	4.3.1993
1993	54	<i>Statutes Repeal and Amendment (Development) Act 1993</i>	27.5.1993	15.1.1994 (<i>Gazette 27.10.1993 p1889</i>)
1994	60	<i>Mining (Royalties) Amendment Act 1994</i>	27.10.1994	3.11.1994 (<i>Gazette 3.11.1994 p1442</i>)
1995	41	<i>Mining (Special Enterprises) Amendment Act 1995</i>	4.5.1995	1.6.1995 (<i>Gazette 1.6.1995 p2529</i>)
1995	43	<i>Mining (Native Title) Amendment Act 1995</i>	11.5.1995	17.6.1996 (<i>Gazette 9.5.1996 p2440</i>)
1995	102	<i>Opal Mining Act 1995</i>	14.12.1995	21.4.1997 (<i>Gazette 3.4.1997 p1386</i>)
1998	23	<i>Statutes Amendment (Native Title) Act 1998</i>	2.4.1998	Pt 2 (ss 4—8)—21.5.1998 (<i>Gazette 21.5.1998 p2199</i>)

1999	1	<i>Statutes Amendment (Mining Administration) Act 1999</i>	25.2.1999	Pt 2 (ss 4—9)—1.4.1999 (<i>Gazette 25.3.1999 p1462</i>)
1999	36	<i>Electricity Corporations (Restructuring and Disposal) Act 1999</i>	1.7.1999	Sch 4 (cll 20 & 21)—29.7.1999 (<i>Gazette 29.7.1999 p528</i>)
1999	73	<i>Mining (Private Mines) Amendment Act 1999</i>	25.11.1999	1.9.2000 except new s 73G (as inserted by s 6)—1.3.2001 (<i>Gazette 31.8.2000 p970</i>)
2000	11	<i>Offshore Minerals Act 2000</i>	4.5.2000	4.5.2002 (s 7(5) <i>Acts Interpretation Act 1915</i>)
2000	13	<i>Mining (Royalty) Amendment Act 2000</i>	11.5.2000	1.7.2000 (<i>Gazette 29.6.2000 p3414</i>)
2000	22	<i>Statutes Amendment (Extension of Native Title Sunset Clauses) Act 2000</i>	8.6.2000	8.6.2000
2001	16	<i>Statutes Amendment (Avoidance of Duplication of Environmental Procedures) Act 2001</i>	17.5.2001	Pt 4 (s 6)—14.6.2001 (<i>Gazette 14.6.2001 p2221</i>)
2001	23	<i>Statutes Amendment (Corporations) Act 2001</i>	14.6.2001	Pt 22 (s 86)—15.7.2001 being the day on which the <i>Corporations Act 2001</i> of the Commonwealth came into operation: <i>Commonwealth of Australia Gazette No. S 285, 13.7.2001 (Gazette 21.6.2001 p2270)</i>
2001	69	<i>Statutes Amendment (Courts and Judicial Administration) Act 2001</i>	6.12.2001	Pt 9 (ss 20—22)—3.2.2002 (<i>Gazette 24.1.2002 p346</i>)
2003	12	<i>Mining (Miscellaneous) Amendment Act 2003</i>	12.6.2003	Pt 2 (ss 4—18) and Sch—12.6.2003 (<i>Gazette 12.6.2003 p2497</i>)
2003	35	<i>River Murray Act 2003</i>	31.7.2003	Sch (cl 12)—24.11.2003 (<i>Gazette 20.11.2003 p4203</i>)
2003	39	<i>Statutes Amendment (Mining) Act 2003</i>	9.10.2003	Pt 3 (s 5)—30.10.2003 (<i>Gazette 23.10.2003 p3879</i>)
2003	44	<i>Statute Law Revision Act 2003</i>	23.10.2003	Sch 1—24.11.2003 (<i>Gazette 13.11.2003 p4048</i>)
2004	34	<i>Natural Resources Management Act 2004</i>	5.8.2004	Sch 4 (cl 22)—2.9.2004 (<i>Gazette 2.9.2004 p3545</i>)
2005	5	<i>Adelaide Dolphin Sanctuary Act 2005</i>	14.4.2005	Sch 2 (cll 31—41)—1.7.2005 (<i>Gazette 2.6.2005 p1684</i>)
2005	17	<i>Mining (Royalty) Amendment Act 2005</i>	2.6.2005	1.1.2006 (<i>Gazette 18.8.2005 p3058</i>)
2005	61	<i>Mining (Royalty No 2) Amendment Act 2005</i>	1.12.2005	1.1.2006: s 2
2006	17	<i>Statutes Amendment (New Rules of Civil Procedure) Act 2006</i>	6.7.2006	Pt 52 (ss 167—170)—4.9.2006 (<i>Gazette 17.8.2006 p2831</i>)
2007	60	<i>Marine Parks Act 2007</i>	29.11.2007	Sch 1 (cll 30—40)—6.11.2008 (<i>Gazette 6.11.2008 p5055</i>)
2009	35	<i>Petroleum (Miscellaneous) Amendment Act 2009</i>	23.7.2009	Sch 1 (cl 2)—1.10.2009 (<i>Gazette 1.10.2009 p4764</i>)
2009	84	<i>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</i>	10.12.2009	Pt 92 (ss 213 & 214)—1.2.2010 (<i>Gazette 28.1.2010 p320</i>)

Mining Act 1971—25.2.2021 to 31.12.2023

Legislative history

2010	21	<i>Mining (Miscellaneous) Amendment Act 2010</i>	18.11.2010	Pt 2 (ss 4—77), Sch 1 (cl 2) & Sch 2—1.7.2011 (<i>Gazette 9.6.2011 p2545</i>)
2011	11	<i>Statutes Amendment (Personal Property Securities) Act 2011</i>	14.4.2011	Pt 17 (s 48)—16.6.2011 (<i>Gazette 16.6.2011 p2610</i>)
2011	20	<i>Mining (Royalties) Amendment Act 2011</i>	16.6.2011	1.7.2011: s 2
2012	11	<i>Mining (Exploration Authorities) Amendment Act 2012</i>	10.5.2012	1.7.2011: s 2
2012	43	<i>Statutes Amendment (Courts Efficiency Reforms) Act 2012</i>	22.11.2012	Pt 9 (ss 29 & 30)—1.7.2013 (<i>Gazette 16.5.2013 p1541</i>)
2013	67	<i>Mining (Royalties) Amendment Act 2013</i>	21.11.2013	1.7.2013: s 2
2014	11	<i>Budget Measures Act 2014</i>	2.10.2014	Sch 1 (cll 19—22)—19.6.2014: s 2(3); cll 18 & 23—1.7.2014: s 2(1)
2016	57	<i>Statutes Amendment (Budget 2016) Act 2016</i>	8.12.2016	Pt 7 (ss 68—74)—8.12.2016: s 2(1)
2018	35	<i>Statutes Amendment and Repeal (Budget Measures) Act 2018</i>	22.11.2018	Pt 11 (s 117)—22.11.2018: s 2(1)
2019	24	<i>Statutes Amendment (Budget Measures) Act 2019</i>	3.10.2019	Pt 2 (ss 4 to 12)—1.1.2020: s 2(2)
2019	29	<i>Statutes Amendment (Mineral Resources) Act 2019</i>	24.10.2019	Pt 2 (ss 4 to 125) & Sch 1 (cll 1 to 16)—1.1.2021 (<i>Gazette 19.11.2020 p5079</i>); s 126—uncommenced—will not be brought into operation
2019	33	<i>Landscape South Australia Act 2019</i>	21.11.2019	Sch 5 (cll 47 & 48)—1.7.2020 (<i>Gazette 25.6.2020 p3502</i>)
2019	45	<i>Supreme Court (Court of Appeal) Amendment Act 2019</i>	19.12.2019	Sch 1 (cll 66 & 67)—1.1.2021 (<i>Gazette 10.12.2020 p5638</i>)
2021	5	<i>Statutes Amendment and Repeal (Budget Measures) Act 2021</i>	25.2.2021	Pt 8 (s 17)—25.2.2021: s 2(4)
2023	37	<i>Hydrogen and Renewable Energy Act 2023</i>	23.11.2023	Sch 1 (cll 1 to 3)—uncommenced
2023	39	<i>Public Holidays Act 2023</i>	7.12.2023	Sch 1 (cl 15)—1.1.2024: s 2

Provisions amended since 3 February 1976

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 7 of The Public General Acts of South Australia 1837-1975 at page 326.
- Certain textual alterations were made to this Act by the Commissioner of Statute Revision when preparing the reprint of the Act that incorporated all amendments in force as at 31 July 1986. A Schedule of these alterations was laid before Parliament on 5 August 1986.

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended by 44/2003 s 3(1) (Sch 1)	24.11.2003

Pt 1		
s 2	<i>deleted by 44/2003 s 3(1) (Sch 1)</i>	24.11.2003
s 3	<i>deleted by 14/1986 s 3(1) (Sch 5)</i>	31.7.1986
s 4	<i>amended by 51/1978 s 3</i>	20.7.1978
	<i>amended by 71/1981 s 3</i>	5.11.1981
	<i>deleted by 14/1986 s 3(1) (Sch 5)</i>	31.7.1986
s 5		
s 5(1), (2), (6) and (8)—see Sch		
s 5(3)—(5), (7), (9)—(11)	<i>deleted by 14/1986 s 3(1) (Sch 5)</i>	31.7.1986
s 6		
s 6(1)	s 6 redesignated as s 6(1) by 71/1981 s 4(i)	5.11.1981
Adelaide Dolphin Sanctuary	inserted by 5/2005 Sch 2 (cl 31(1))	1.7.2005
advanced exploration operations	inserted by 29/2019 s 4(1)	1.1.2021
ancillary operations	inserted by 29/2019 s 4(1)	1.1.2021
<i>the appropriate court</i>	<i>inserted by 86/1988 s 3(a)</i>	1.7.1989
	<i>deleted by 43/1995 s 3(a)</i>	17.6.1996
appropriate court	inserted by 43/1995 s 3(a)	17.6.1996
	amended by 69/2001 s 20(a)	3.2.2002
	amended by 21/2010 s 4(1)	1.7.2011
authorised officer	inserted by 21/2010 s 4(2)	1.7.2011
authorised operations	inserted by 29/2019 s 4(2)	1.1.2021
<i>authorised person</i>	<i>inserted by 105/1976 s 3(a)</i>	23.12.1976
	<i>deleted by 21/2010 s 4(2)</i>	1.7.2011
baseline	inserted by 11/2000 Sch 2	4.5.2002
	amended by 21/2010 Sch 2	1.7.2011
business day	inserted by 29/2019 s 4(3)	1.1.2021
<i>Crown lands</i>	<i>deleted by 29/2019 s 4(4)</i>	1.1.2021
council	substituted by 21/2010 Sch 2	1.7.2011
declared equipment	substituted by 43/1995 s 3(b)	17.6.1996
	amended by 21/2010 s 4(3)	1.7.2011
director	inserted by 29/2019 s 4(5)	1.1.2021
the Director of Mines or the Director	substituted by 51/1978 s 4(e)	20.7.1978
environment	inserted by 21/2010 s 4(4)	1.7.2011
ERD Court	inserted by 43/1995 s 3(c)	17.6.1996
exempt land	inserted by 71/1981 s 4(a)	5.11.1981

	amended by 29/2019 s 4(6)	1.1.2021
exploration authority	inserted by 43/1995 s 3(d)	17.6.1996
	amended by 102/1995 Sch 2 cl 2(a)	21.4.1997
	(a) deleted by 21/2010 s 4(5)	1.7.2011
	amended by 11/2012 s 4	1.7.2011
	amended by 29/2019 s 4(7)	1.1.2021
<i>exploring</i>	<i>inserted by 71/1981 s 4(a)</i>	<i>5.11.1981</i>
	<i>deleted by 29/2019 s 4(8)</i>	<i>1.1.2021</i>
exploring or exploration operations	inserted by 29/2019 s 4(8)	1.1.2021
extractive minerals	substituted by 51/1978 s 4(a)	20.7.1978
	amended by 29/2019 s 4(9)	1.1.2021
fossicking	inserted by 51/1978 s 4(a)	20.7.1978
	substituted by 71/1981 s 4(b)	5.11.1981
<i>inspector</i>	<i>deleted by 21/2010 s 4(6)</i>	<i>1.7.2011</i>
<i>the Land and Valuation Court</i>	<i>deleted by 45/2019 Sch 1 cl 66</i>	<i>1.1.2021</i>
low impact exploration operations	inserted by 29/2019 s 4(10)	1.1.2021
machinery	inserted by 71/1981 s 4(c)	5.11.1981
marine park	inserted by 60/2007 Sch 1 cl 30(1)	6.11.2008
mineral tenement	inserted by 29/2019 s 4(11)	1.1.2021
minerals	amended by 105/1976 s 3(b), (c)	23.12.1976
	amended by 71/1981 s 4(d)	5.11.1981
	amended by 35/2009 Sch 1 cl 2	1.10.2009
	amended by 29/2019 s 4(12), (13)	1.1.2021
mining or mining operations	amended by 51/1978 s 4(b)	20.7.1978
	amended by 71/1981 s 4(e)	5.11.1981
	amended by 12/2003 s 4	12.6.2003
	substituted by 21/2010 s 4(7)	1.7.2011
	amended by 29/2019 s 4(14)	1.1.2021
<i>mining operator</i>	<i>substituted by 21/2010 s 4(8)</i>	<i>1.7.2011</i>
	<i>deleted by 29/2019 s 4(15)</i>	<i>1.1.2021</i>
mining register	inserted by 1/1999 s 4	1.4.1999
	Mining Register redesignated as mining register under <i>Legislation Revision and Publication Act 2002</i>	1.1.2021
a mining registrar	inserted by 14/1986 s 3(1) (Sch 5)	31.7.1986
	substituted by 102/1995 Sch 2 cl 2(b)	21.4.1997
the Mining Registrar	inserted by 14/1986 s 3(1) (Sch 5)	31.7.1986

	substituted by 102/1995 Sch 2 cl 2(b)	21.4.1997
<i>mining tenement</i>	<i>amended by 105/1976 s 3(d)</i>	23.12.1976
	<i>deleted by 29/2019 s 4(16)</i>	1.1.2021
Mining Rehabilitation Fund or fund	inserted by 29/2019 s 4(16)	1.1.2021
<i>Minister for the Adelaide Dolphin Sanctuary</i>	<i>inserted by 5/2005 Sch 2 (cl 31(2))</i>	1.7.2005
	<i>deleted by 60/2007 Sch 1 cl 30(2)</i>	6.11.2008
<i>Minister for the River Murray</i>	<i>inserted by 35/2003 Sch cl 12(a)</i>	24.11.2003
	<i>deleted by 60/2007 Sch 1 cl 30(2)</i>	6.11.2008
Murray-Darling Basin	inserted by 35/2003 Sch cl 12(a)	24.11.2003
	substituted by 21/2010 Sch 2	1.7.2011
native title	inserted by 43/1995 s 3(e)	17.6.1996
native title holder	inserted by 43/1995 s 3(e)	17.6.1996
native title land	inserted by 43/1995 s 3(e)	17.6.1996
native title mining determination	inserted by 43/1995 s 3(e)	17.6.1996
	amended by 29/2019 s 4(17)	1.1.2021
opal development area	inserted by 102/1995 Sch 2 cl 2(c)	21.4.1997
owner	substituted by 86/1988 s 3(b)	1.7.1989
	substituted by 43/1995 s 3(f)	17.6.1996
precious stones	substituted by 102/1995 Sch 2 cl 2(d)	21.4.1997
precious stones field	amended by 105/1976 s 3(e)	23.12.1976
	amended by 51/1978 s 4(c)	20.7.1978
	substituted by 71/1981 s 4(f)	5.11.1981
	substituted by 102/1995 Sch 2 cl 2(d)	21.4.1997
<i>prescribed notice of entry</i>	<i>inserted by 43/1995 s 3(g)</i>	17.6.1996
	<i>deleted by 29/2019 s 4(18)</i>	1.1.2021
private mine	inserted by 29/2019 s 4(18)	1.1.2021
production tenement	inserted by 43/1995 s 3(g)	17.6.1996
	(a) deleted by 102/1995 Sch 2 cl 2(e)	21.4.1997
	amended by 29/2019 s 4(19), (20)	1.1.2021
proprietor	substituted by 73/1999 s 3	1.9.2000
<i>prospecting or to prospect</i>	<i>deleted by 71/1981 s 4(g)</i>	5.11.1981
prospecting	inserted by 71/1981 s 4(g)	5.11.1981
radioactive material	inserted by 51/1978 s 4(d)	20.7.1978

Mining Act 1971—25.2.2021 to 31.12.2023

Legislative history

<i>radioactive mineral</i>	<i>deleted by 29/2019 s 4(21)</i>	<i>1.1.2021</i>
registered representative	inserted by 43/1995 s 3(h)	17.6.1996
related body corporate	inserted by 24/2019 s 4	1.1.2020
	insertion by 29/2019 s 4(22) is of no effect due to existing definition	
<i>registrar or mining registrar</i>	<i>deleted by 14/1986 s 3(1) (Sch 5)</i>	<i>31.7.1986</i>
<i>relevant Act</i>	<i>inserted by 60/2007 Sch 1 cl 30(3)</i>	<i>6.11.2008</i>
	<i>deleted by 29/2019 s 4(22)</i>	<i>1.1.2021</i>
relevant Minister	inserted by 60/2007 Sch 1 cl 30(3)	6.11.2008
River Murray Protection Area	inserted by 35/2003 Sch cl 12(b)	24.11.2003
royalty assessment principles	inserted by 29/2019 s 4(23)	1.1.2021
senior warden	inserted by 29/2019 s 4(23)	1.1.2021
specially protected area	inserted by 60/2007 Sch 1 cl 30(4)	6.11.2008
subsurface stratum	inserted by 71/1981 s 4(h)	5.11.1981
surface stratum	inserted by 71/1981 s 4(h)	5.11.1981
tenement holder or holder	inserted by 29/2019 s 4(24)	1.1.2021
warden	amended by 105/1976 s 3(f)	23.12.1976
	substituted by 50/1983 s 2	16.6.1983
	substituted by 69/2001 s 20(b)	3.2.2002
s 6(1a)	inserted by 29/2019 s 4(25)	1.1.2021
s 6(2)	inserted by 71/1981 s 4(i)	5.11.1981
s 6(3)	inserted by 43/1995 s 3(i)	17.6.1996
s 6(4)	inserted by 21/2010 s 4(9)	1.7.2011
s 6(5)	inserted by 21/2010 s 4(9)	1.7.2011
	amended by 29/2019 s 4(26)	1.1.2021
s 6(6)	inserted by 21/2010 s 4(9)	1.7.2011
s 6(7)—(9)	inserted by 29/2019 s 4(27)	1.1.2021
s 7		
s 7(1)	s 7 redesignated as s 7(1) by 71/1981 s 5	5.11.1981
s 7(2)	inserted by 71/1981 s 5	5.11.1981
	substituted by 86/1988 s 4	1.7.1989
	substituted by 29/2019 s 5(1)	1.1.2021
s 7(2a) and (2b)	inserted by 29/2019 s 5(1)	1.1.2021
s 7(3)	inserted by 102/1995 Sch 2 cl 3	21.4.1997
	amended by 29/2019 s 5(2)	1.1.2021
s 8		
s 8(1)	amended by 51/1978 s 5	20.7.1978

	amended by 71/1981 s 6(a)	5.11.1981
	amended by 11/2000 Sch 2	4.5.2002
	(b) deleted by 102/1995 Sch 2 cl 4	21.4.1997
s 8(3)	inserted by 71/1981 s 6(b)	5.11.1981
s 8(4)	inserted by 11/2000 Sch 2	4.5.2002
	amended by 29/2019 s 6(1)	1.1.2021
s 8(5)	inserted by 11/2000 Sch 2	4.5.2002
s 8(6)	inserted by 11/2000 Sch 2	4.5.2002
	amended by 29/2019 s 6(2)	1.1.2021
s 8(7)	inserted by 29/2019 s 6(3)	1.1.2021
s 8A	inserted by 102/1995 Sch 2 cl 5	21.4.1997
s 8A(2)	amended by 21/2010 s 5	1.7.2011
	amended by 29/2019 s 7	1.1.2021
s 9		
s 9(1)	amended by 105/1976 s 4	23.12.1976
	amended by 51/1978 s 6	20.7.1978
	amended by 86/1988 s 5(a)	1.7.1989
	amended by 43/1995 s 4(a)	17.6.1996
	amended by 102/1995 Sch 2 cl 6	21.4.1997
	amended by 21/2010 s 6(1), (2)	1.7.2011
	amended by 29/2019 s 8(1)—(7)	1.1.2021
s 9(2)	amended by 29/2019 s 8(8), (9)	1.1.2021
s 9(3)	<i>substituted by 71/1981 s 7</i>	<i>5.11.1981</i>
	<i>amended by 97/1982 s 3(a)</i>	<i>5.11.1981</i>
	<i>amended by 86/1988 s 5(b)</i>	<i>1.7.1989</i>
	<i>deleted by 21/2010 s 6(3)</i>	<i>1.7.2011</i>
s 9(3a)	<i>inserted by 71/1981 s 7</i>	<i>5.11.1981</i>
	<i>amended by 86/1988 s 5(c)</i>	<i>1.7.1989</i>
	<i>deleted by 21/2010 s 6(3)</i>	<i>1.7.2011</i>
s 9(3b)	inserted by 97/1982 s 3(b)	5.11.1981
	amended by 43/1995 s 4(b)	17.6.1996
	amended by 21/2010 s 6(4), (5)	1.7.2011
	substituted by 29/2019 s 8(10)	1.1.2021
s 9(3c)	<i>inserted by 97/1982 s 3(b)</i>	<i>5.11.1981</i>
	<i>deleted by 21/2010 s 6(6)</i>	<i>1.7.2011</i>
s 9(4)	amended by 21/2010 Sch 2	1.7.2011
	amended by 29/2019 s 8(11)	1.1.2021
s 9(5)	inserted by 86/1988 s 5(d)	1.7.1989
<i>mining operations</i>	<i>deleted by 29/2019 s 8(12)</i>	<i>1.1.2021</i>
Minister of Public Works	inserted by 29/2019 s 8(12)	1.1.2021
prescribed amount	inserted by 29/2019 s 8(12)	1.1.2021

Mining Act 1971—25.2.2021 to 31.12.2023

Legislative history

prescribed distance	inserted by 29/2019 s 8(12)	1.1.2021
s 9AA	inserted by 21/2010 s 7	1.7.2011
s 9AA(1)	substituted by 29/2019 s 9(1)	1.1.2021
s 9AA(1a)	inserted by 29/2019 s 9(1)	1.1.2021
s 9AA(2)	amended by 29/2019 s 9(2)	1.1.2021
s 9AA(3)	amended by 29/2019 s 9(3)	1.1.2021
s 9AA(4)	substituted by 29/2019 s 9(4)	1.1.2021
s 9AA(5)	<i>deleted by 29/2019 s 9(5)</i>	<i>1.1.2021</i>
s 9AA(6)	amended by 29/2019 s 9(6)	1.1.2021
s 9AA(7)	substituted by 29/2019 s 9(7)	1.1.2021
s 9AA(8)	amended by 29/2019 s 9(8)—(11)	1.1.2021
s 9AA(8a)	inserted by 29/2019 s 9(12)	1.1.2021
s 9AA(9)	substituted by 29/2019 s 9(13)	1.1.2021
s 9AA(10)	amended by 29/2019 s 9(14)—(18)	1.1.2021
s 9AA(11) and (12)	substituted by 29/2019 s 9(19)	1.1.2021
s 9AA(13)	amended by 29/2019 s 9(20)	1.1.2021
s 9AA(14)	substituted by 29/2019 s 9(21)	1.1.2021
s 9AA(14a)—(14c)	inserted by 29/2019 s 9(21)	1.1.2021
s 9AA(15)		
cooling-off period	amended by 29/2019 s 9(22)	1.1.2021
<i>mining operations</i>	<i>deleted by 29/2019 s 9(23)</i>	<i>1.1.2021</i>
designated day	inserted by 29/2019 s 9(23)	1.1.2021
relevant consultation period	inserted by 29/2019 s 9(23)	1.1.2021
s 9A	inserted by 21/2010 s 7	1.7.2011
s 9A(4)	amended by 29/2019 s 10(1)—(6)	1.1.2021
s 9A(6)	amended by 29/2019 s 10(7)	1.1.2021
s 9A(7)	amended by 29/2019 s 10(8)	1.1.2021
<i>s 10A before deletion by 29/2019</i>	<i>inserted by 51/1978 s 7</i>	<i>20.7.1978</i>
s 10A(1)	<i>amended by 71/1981 s 8</i>	<i>5.11.1981</i>
s 10A	<i>deleted by 29/2019 s 11</i>	<i>1.1.2021</i>
s 10B	inserted by 34/2004 Sch 4 cl 22	2.9.2004
	substituted by 5/2005 Sch 2 (cl 32)	1.7.2005
	substituted by 60/2007 Sch 1 cl 31	6.11.2008
	amended by 33/2019 Sch 5 cl 47	1.7.2020
	amended by 29/2019 s 12	1.1.2021
Pt 2		
s 11	substituted by 14/1986 s 3(1) (Sch 5)	31.7.1986
s 12	substituted by 3/1993 s 2	4.3.1993

s 12(1)	substituted by 29/2019 s 13(1)	1.1.2021
s 12(1a)	inserted by 57/2016 s 68	8.12.2016
s 12(2)	substituted by 29/2019 s 13(2)	1.1.2021
s 12(2a)	inserted by 29/2019 s 13(2)	1.1.2021
s 12(3)	amended by 29/2019 s 13(3)	1.1.2021
<i>s 13 before substitution by 84/2009</i>	<i>substituted by 50/1983 s 3</i>	<i>16.6.1983</i>
	<i>substituted by 14/1986 s 3(1) (Sch 5)</i>	<i>31.7.1986</i>
s 13(3)—(7)	<i>inserted by 102/1995 Sch 2 cl 7</i>	<i>21.4.1997</i>
s 13	substituted by 84/2009 s 213	1.2.2010
s 13(3a)	inserted by 29/2019 s 14	1.1.2021
s 13(4)	substituted by 29/2019 s 14	1.1.2021
s 14	amended by 73/1999 s 7 (Sch 1 cl 1)	1.9.2000
	deleted by 39/2003 s 5	30.10.2003
	inserted by 21/2010 s 8	1.7.2011
s 14A	inserted by 21/2010 s 8	1.7.2011
s 14B	inserted by 21/2010 s 8	1.7.2011
	amended by 29/2019 s 15(1)—(3)	1.1.2021
s 14C	inserted by 21/2010 s 8	1.7.2011
s 14C(1)	amended by 29/2019 s 16(1), (2)	1.1.2021
s 14C(4)—(6)	inserted by 29/2019 s 16(3)	1.1.2021
s 14D	inserted by 21/2010 s 8	1.7.2011
s 14D(2)	amended by 29/2019 s 17(1)	1.1.2021
s 14D(4)	amended by 29/2019 s 17(2)	1.1.2021
s 14D(5) and (6)	inserted by 29/2019 s 17(3)	1.1.2021
s 14E	inserted by 21/2010 s 8	1.7.2011
s 14E(1)	amended by 29/2019 s 18(1)	1.1.2021
s 14E(3)	substituted by 29/2019 s 18(2)	1.1.2021
s 14F	inserted by 21/2010 s 8	1.7.2011
ss 14G and 14H	inserted by 29/2019 s 19	1.1.2021
s 15		
s 15(2)	substituted by 43/1995 s 5	17.6.1996
	substituted by 12/2003 s 5(1)	12.6.2003
s 15(3)	amended by 73/1999 s 7 (Sch 1 cl 2)	1.9.2000
	amended by 21/2010 s 9	1.7.2011
	amended by 29/2019 s 20(1)	1.1.2021
s 15(5)—(7)	inserted by 12/2003 s 5(2)	12.6.2003
s 15(7)	inserted by 12/2003 s 5(2)	12.6.2003
	amended by 29/2019 s 20(2)	1.1.2021
<i>s 15A before deletion by 29/2019</i>	<i>inserted by 105/1976 s 5</i>	<i>23.12.1976</i>
s 15A(1)	<i>amended by 102/1995 Sch 2 cl 8(a)</i>	<i>21.4.1997</i>
	<i>(a) deleted by 21/2010 s 10</i>	<i>1.7.2011</i>

Mining Act 1971—25.2.2021 to 31.12.2023

Legislative history

<i>s 15A(2)</i>	<i>amended by 1/1999 s 5</i>	<i>1.4.1999</i>
<i>s 15A(3)</i>	<i>inserted by 102/1995 Sch 2 cl 8(b)</i>	<i>21.4.1997</i>
<i>s 15A</i>	<i>deleted by 29/2019 s 21</i>	<i>1.1.2021</i>
Pt 2A	inserted by 29/2019 s 22	1.1.2021
Pt 3		
<i>s 16</i>		
<i>s 16(2)</i>	amended by 11/2000 Sch 2	4.5.2002
<i>s 17 before substitution by 61/2005</i>		
<i>s 17(2)</i>	<i>amended by 60/1994 s 3</i>	<i>3.11.1994</i>
	<i>substituted by 13/2000 s 3(a)</i>	<i>1.7.2000</i>
	<i>substituted by 17/2005 s 4(1)</i>	<i>1.1.2006</i>
<i>s 17(3)</i>	<i>substituted by 13/2000 s 3(a)</i>	<i>1.7.2000</i>
<i>s 17(4)</i>	<i>amended by 71/1981 s 9(a)</i>	<i>5.11.1981</i>
	<i>substituted by 13/2000 s 3(a)</i>	<i>1.7.2000</i>
<i>s 17(4a)—(4d)</i>	<i>inserted by 13/2000 s 3(a)</i>	<i>1.7.2000</i>
<i>s 17(5)</i>	<i>amended by 73/1999 s 4(a)</i>	<i>1.9.2000</i>
<i>s 17(6)</i>	<i>amended by 43/1995 s 6</i>	<i>17.6.1996</i>
	<i>amended by 13/2000 s 3(b)</i>	<i>1.7.2000</i>
	<i>amended by 73/1999 s 4(b)</i>	<i>1.9.2000</i>
<i>s 17(7)</i>	<i>amended by 43/1995 s 6</i>	<i>17.6.1996</i>
<i>s 17(8)</i>	<i>amended by 36/1999 Sch 4 (cl 21)</i>	<i>29.7.1999</i>
	<i>amended by 17/2005 s 4(2)</i>	<i>1.1.2006</i>
<i>s 17(10)</i>	<i>substituted by 102/1995 Sch 2 cl 9</i>	<i>21.4.1997</i>
<i>s 17(11)</i>	<i>inserted by 71/1981 s 9(b)</i>	<i>5.11.1981</i>
<i>s 17(12)—(16)</i>	<i>inserted by 13/2000 s 3(c)</i>	<i>1.7.2000</i>
<i>s 17</i>	substituted by 61/2005 s 4	1.1.2006
<i>s 17(1)</i>	amended by 57/2016 s 69(1)	8.12.2016
	substituted by 29/2019 s 23(1)	1.1.2021
<i>s 17(1a)</i>	inserted by 29/2019 s 23(1)	1.1.2021
<i>s 17(4)</i>	amended by 20/2011 s 4(1)	1.7.2011
	amended by 11/2014 Sch 1 cl 18	1.7.2014
	substituted by 29/2019 s 23(2)	1.1.2021
<i>s 17(5)</i>	substituted by 29/2019 s 23(2)	1.1.2021
<i>s 17(6)</i>	amended by 57/2016 s 69(2)	8.12.2016
	substituted by 29/2019 s 23(2)	1.1.2021
<i>s 17(7)</i>	amended by 29/2019 s 23(3)	1.1.2021
<i>s 17(8)</i>	substituted by 29/2019 s 23(4)	1.1.2021
<i>s 17(8a)</i>	inserted by 29/2019 s 23(4)	1.1.2021
<i>s 17(9)</i>	amended by 57/2016 s 69(3)	8.12.2016
	amended by 29/2019 s 23(5)	1.1.2021
<i>s 17(10)</i>	amended by 57/2016 s 69(4)	8.12.2016

	amended by 29/2019 s 23(6)	1.1.2021
s 17(12)	amended by 29/2019 s 23(7)	1.1.2021
s 17(13)	inserted by 20/2011 s 4(2)	1.7.2011
	amended by 57/2016 s 69(5)	8.12.2016
s 17(14)	inserted by 20/2011 s 4(2)	1.7.2011
	amended by 57/2016 s 69(6)	8.12.2016
s 17A	inserted by 61/2005 s 4	1.1.2006
s 17A(1)	amended by 57/2016 s 70(1)	8.12.2016
s 17A(1a)	inserted by 35/2018 s 117(1)	22.11.2018
s 17A(2)	amended by 20/2011 s 5(1), (2)	1.7.2011
	amended by 35/2018 s 117(2)	22.11.2018
s 17A(2a)	inserted by 35/2018 s 117(3)	22.11.2018
s 17A(3)	amended by 57/2016 s 70(2)	8.12.2016
s 17A(4)	amended by 57/2016 s 70(3)	8.12.2016
s 17A(5)	amended by 57/2016 s 70(4)	8.12.2016
s 17A(6)	amended by 57/2016 s 70(5)	8.12.2016
	amended by 29/2019 s 24(1), (2)	1.1.2021
ss 17AB and 17AC	inserted by 29/2019 s 25	1.1.2021
<i>s 17B before substitution by 29/2019</i>	<i>inserted by 61/2005 s 4</i>	<i>1.1.2006</i>
s 17B(1)	<i>amended by 57/2016 s 71(1)</i>	<i>8.12.2016</i>
s 17B(2)	<i>amended by 57/2016 s 71(2)</i>	<i>8.12.2016</i>
s 17B(3)	<i>amended by 57/2016 s 71(3)</i>	<i>8.12.2016</i>
s 17B(5)	<i>amended by 57/2016 s 71(4)</i>	<i>8.12.2016</i>
s 17B	substituted by 29/2019 s 26	1.1.2021
s 17C	inserted by 61/2005 s 4	1.1.2006
s 17CA	inserted by 29/2019 s 27	1.1.2021
s 17D	inserted by 61/2005 s 4	1.1.2006
s 17D(1)	amended by 57/2016 s 72(1)	8.12.2016
	amended by 29/2019 s 28(1)—(3)	1.1.2021
s 17D(1a)	inserted by 67/2013 s 4	1.7.2013
	amended by 29/2019 s 28(4)	1.1.2021
s 17D(2)	amended by 29/2019 s 28(5), (6)	1.1.2021
s 17D(3)	amended by 57/2016 s 72(2)	8.12.2016
s 17D(4)	<i>deleted by 29/2019 s 28(7)</i>	<i>1.1.2021</i>
s 17DA	inserted by 67/2013 s 5	1.7.2013
s 17DA(1)		
<i>designated mining operator</i>	<i>deleted by 29/2019 s 29(1)</i>	<i>1.1.2021</i>
designated tenement holder	inserted by 29/2019 s 29(1)	1.1.2021
s 17DA(2)	amended by 57/2016 s 73(1)	8.12.2016
	substituted by 29/2019 s 29(2)	1.1.2021

Mining Act 1971—25.2.2021 to 31.12.2023

Legislative history

s 17DA(3)	amended by 57/2016 s 73(2)	8.12.2016
	amended by 29/2019 s 29(3)	1.1.2021
s 17DA(4)	amended by 57/2016 s 73(3)	8.12.2016
	amended by 29/2019 s 29(4)	1.1.2021
s 17DA(5)	amended by 29/2019 s 29(5)	1.1.2021
s 17DA(6)	amended by 57/2016 s 73(4)	8.12.2016
	amended by 29/2019 s 29(6)	1.1.2021
s 17DA(7)	amended by 57/2016 s 73(5)	8.12.2016
s 17DA(9)	amended by 57/2016 s 73(6), (7)	8.12.2016
	amended by 29/2019 s 29(7)	1.1.2021
s 17DA(10)	amended by 57/2016 s 73(8), (9)	8.12.2016
	amended by 29/2019 s 29(8)	1.1.2021
s 17E	inserted by 61/2005 s 4	1.1.2006
s 17E(1)	amended by 11/2014 Sch 1 cl 19	19.6.2014
	amended by 29/2019 s 30(1)	1.1.2021
s 17E(2)	amended by 57/2016 s 74	8.12.2016
s 17E(4)	amended by 29/2019 s 30(2)	1.1.2021
CLRR	<i>deleted by 29/2019 s 30(3)</i>	<i>1.1.2021</i>
MR	inserted by 29/2019 s 30(3)	1.1.2021
s 17F	inserted by 61/2005 s 4	1.1.2006
	amended by 20/2011 s 6	1.7.2011
s 17G	inserted by 61/2005 s 4	1.1.2006
s 18	substituted by 29/2019 s 31	1.1.2021
s 19	<i>amended by 14/1986 s 3(1) (Sch 5)</i>	<i>31.7.1986</i>
	<i>amended by 86/1988 s 6</i>	<i>1.7.1989</i>
	<i>amended by 43/1995 s 7</i>	<i>17.6.1996</i>
	<i>amended by 23/1998 s 4</i>	<i>21.5.1998</i>
	<i>deleted by 73/1999 s 5</i>	<i>1.9.2000</i>
Pt 4		
<i>s 20 before substitution by 21/2010</i>		
s 20(4)	<i>inserted by 105/1976 s 6</i>	<i>23.12.1976</i>
s 20(5)	<i>inserted by 105/1976 s 6</i>	<i>23.12.1976</i>
	<i>amended by 73/1999 s 7 (Sch 1 cl 3)</i>	<i>1.9.2000</i>
s 20(6)	<i>inserted by 71/1981 s 10</i>	<i>5.11.1981</i>
s 20	substituted by 21/2010 s 11	1.7.2011
s 20(2)	amended by 29/2019 s 32	1.1.2021
<i>s 21 before substitution by 21/2010</i>		
s 21(1)	<i>s 21 amended and redesignated as s 21(1) by 105/1976 s 7</i>	<i>23.12.1976</i>
	<i>amended by 51/1978 s 8(a)</i>	<i>20.7.1978</i>

<i>s 21(2)</i>	<i>inserted by 105/1976 s 7(b)</i>	23.12.1976
	<i>amended by 51/1978 s 8(b)</i>	20.7.1978
s 21	substituted by 21/2010 s 11	1.7.2011
s 21(2) and (3)	substituted by 29/2019 s 33(1)	1.1.2021
s 21(6)	amended by 29/2019 s 33(2)	1.1.2021
s 21(7)	amended by 29/2019 s 33(3), (4)	1.1.2021
s 21(8)	amended by 29/2019 s 33(5), (6)	1.1.2021
s 21(9)	amended by 29/2019 s 33(7)	1.1.2021
<i>s 22 before deletion by 21/2010</i>		
s 22(1)	<i>amended by 102/1995 Sch 2 cl 10</i>	21.4.1997
s 22(1a) and (1b)	<i>inserted by 71/1981 s 11(a)</i>	5.11.1981
s 22(3)	<i>substituted by 71/1981 s 11(b)</i>	5.11.1981
s 22	<i>deleted by 21/2010 s 11</i>	1.7.2011
s 23		
s 23(2)	substituted by 21/2010 s 12	1.7.2011
s 24		
s 24(1)	amended by 14/1986 s 3(1) (Sch 5)	31.7.1986
s 24(2)	<i>deleted by 105/1976 s 8</i>	23.12.1976
s 24(4)	amended by 71/1981 s 12(a)	5.11.1981
	substituted by 43/1995 s 8	17.6.1996
s 24(4a)	inserted by 71/1981 s 12(b)	5.11.1981
	substituted by 43/1995 s 8	17.6.1996
s 24	substituted by 21/2010 s 13	1.7.2011
s 24A	inserted by 21/2010 s 13	1.7.2011
s 25		
s 25(1)	substituted by 71/1981 s 13	5.11.1981
s 25(2)	substituted by 105/1976 s 9	23.12.1976
	amended by 73/1999 s 7 (Sch 1 cl 4)	1.9.2000
	amended by 21/2010 s 14	1.7.2011
s 25(3)	substituted by 29/2019 s 34	1.1.2021
s 25(4)	<i>deleted by 102/1995 Sch 2 cl 11</i>	21.4.1997
s 26		
s 26(2)	amended by 71/1981 s 14(a)	5.11.1981
s 26(3)	inserted by 51/1978 s 9	20.7.1978
	amended by 71/1981 s 14(b)	5.11.1981
s 26(4)	<i>inserted by 71/1981 s 14(c)</i>	5.11.1981
	<i>deleted by 29/2019 s 35</i>	1.1.2021
s 27	amended by 105/1976 s 10	23.12.1976
	substituted by 51/1978 s 10	20.7.1978
	amended by 71/1981 s 15	5.11.1981
	amended by 21/2010 s 15(1), (2)	1.7.2011

Mining Act 1971—25.2.2021 to 31.12.2023

Legislative history

s 27(1)	s 27 amended and redesignated as s 27(1) by 29/2019 s 36(1)—(4)	1.1.2021
s 27(2) and (3)	inserted by 29/2019 s 36(4)	1.1.2021
Pt 5		
<i>s 28 before substitution by 29/2019</i>		
s 28(1) and (2)	<i>substituted by 71/1981 s 16</i>	5.11.1981
s 28(2a)	<i>inserted by 102/1995 Sch 2 cl 12(a)</i>	21.4.1997
s 28(3)	<i>substituted by 71/1981 s 16</i>	5.11.1981
	<i>amended by 102/1995 Sch 2 cl 12(b)</i>	21.4.1997
s 28(4)	<i>substituted by 71/1981 s 16</i>	5.11.1981
	<i>deleted by 12/2003 s 6(1)</i>	12.6.2003
s 28(4a)	<i>inserted by 102/1995 Sch 2 cl 12(c)</i>	21.4.1997
	<i>deleted by 12/2003 s 6(1)</i>	12.6.2003
s 28(5)	<i>deleted by 105/1976 s 11</i>	23.12.1976
	<i>inserted by 71/1981 s 16</i>	5.11.1981
	<i>substituted by 43/1995 s 9</i>	17.6.1996
s 28(6)	<i>deleted by 12/2003 s 6(2)</i>	12.6.2003
s 28(7)	<i>inserted by 102/1995 Sch 2 cl 12(d)</i>	21.4.1997
	<i>deleted by 21/2010 s 16</i>	1.7.2011
s 28(8)	<i>inserted by 35/2003 Sch cl 12(c)</i>	24.11.2003
s 28(9) and (10)	<i>inserted by 35/2003 Sch cl 12(c)</i>	24.11.2003
	<i>substituted by 60/2007 Sch 1 cl 32</i>	6.11.2008
s 28(11) and (12)	<i>inserted by 5/2005 Sch 2 (cl 33)</i>	1.7.2005
	<i>deleted by 60/2007 Sch 1 cl 32</i>	6.11.2008
<i>s 29 before substitution by 29/2019</i>		
s 29(1)	<i>amended by 12/2003 s 7</i>	12.6.2003
s 29(1a)	<i>inserted by 21/2010 s 17(1)</i>	1.7.2011
s 29(2)	<i>amended by 71/1981 s 17</i>	5.11.1981
s 29(4)—(10)	<i>inserted by 21/2010 s 17(2)</i>	1.7.2011
ss 28 and 29	substituted by 29/2019 s 37	1.1.2021
ss 29A and 29B	inserted by 29/2019 s 37	1.1.2021
s 30		
s 30(1)	amended by 71/1981 s 18(a), (b)	5.11.1981
	(c) deleted by 71/1981 s 18(b)	5.11.1981
	amended by 29/2019 s 38(1)	1.1.2021
s 30(2)	amended by 105/1976 s 12	23.12.1976
	amended by 71/1981 s 18(c)	5.11.1981
	amended by 12/1988 Sch 2	1.3.1989
	amended by 21/2010 s 18(1), (2)	1.7.2011
	(c) deleted by 21/2010 s 18(2)	1.7.2011

	amended by 29/2019 s 38(2)	1.1.2021
<i>s 30(3)</i>	<i>amended by 71/1981 s 18(d)</i>	<i>5.11.1981</i>
	<i>deleted by 29/2019 s 38(3)</i>	<i>1.1.2021</i>
<i>s 30(4)—(7)</i>	inserted by 21/2010 s 18(3)	1.7.2011
<i>s 30(8)</i>	<i>inserted by 21/2010 s 18(3)</i>	<i>1.7.2011</i>
	<i>deleted by 29/2019 s 38(4)</i>	<i>1.1.2021</i>
<i>s 30AAA</i>	inserted by 29/2019 s 39	1.1.2021
<i>s 30AA</i>	inserted by 12/2003 s 8	12.6.2003
<i>s 30AA(3)—(11)</i>	inserted by 29/2019 s 40	1.1.2021
<i>s 30A</i>	inserted by 71/1981 s 19	5.11.1981
	substituted by 43/1995 s 10	17.6.1996
<i>s 30A(1)</i>	amended by 29/2019 s 41(1)	1.1.2021
<i>s 30A(2)</i>	amended by 29/2019 s 41(2), (3)	1.1.2021
<i>s 30A(3)</i>	amended by 29/2019 s 41(4)	1.1.2021
<i>s 30A(4)</i>	amended by 12/2003 s 9(1)	12.6.2003
	substituted by 29/2019 s 41(5)	1.1.2021
<i>s 30A(4a)</i>	inserted by 12/2003 s 9(2)	12.6.2003
	substituted by 29/2019 s 41(5)	1.1.2021
<i>s 30A(6)</i>	substituted by 21/2010 s 19	1.7.2011
<i>s 30A(6a)</i>	<i>inserted by 21/2010 s 19</i>	<i>1.7.2011</i>
	<i>deleted by 29/2019 s 41(6)</i>	<i>1.1.2021</i>
<i>s 30A(7) and (8)</i>	inserted by 35/2003 Sch cl 12(d)	24.11.2003
	substituted by 60/2007 Sch 1 cl 33	6.11.2008
	substituted by 29/2019 s 41(6)	1.1.2021
<i>s 30A(9)</i>	inserted by 5/2005 Sch 2 (cl 34)	1.7.2005
	deleted by 60/2007 Sch 1 cl 33	6.11.2008
	inserted by 29/2019 s 41(6)	1.1.2021
<i>s 30A(10)—(13)</i>	inserted by 29/2019 s 41(6)	1.1.2021
<i>s 30AB before substitution by 29/2019</i>	<i>inserted by 12/2003 s 10</i>	<i>12.6.2003</i>
<i>s 30AB(1a) and (1b)</i>	<i>inserted by 21/2010 s 20</i>	<i>1.7.2011</i>
<i>s 30AB</i>	substituted by 29/2019 s 42	1.1.2021
<i>s 31</i>		
<i>s 31(1a)</i>	inserted by 1/1999 s 6	1.4.1999
<i>s 31(3)</i>	inserted by 29/2019 s 43	1.1.2021
<i>s 32 before deletion by 29/2019</i>		
<i>s 32(1)</i>	<i>amended by 73/1999 s 7 (Sch 1 cl 5(a))</i>	<i>1.9.2000</i>
	<i>amended by 21/2010 s 21(1), (2)</i>	<i>1.7.2011</i>
<i>s 32(2)</i>	<i>amended by 73/1999 s 7 (Sch 1 cl 5(b))</i>	<i>1.9.2000</i>
	<i>amended by 21/2010 s 21(3)</i>	<i>1.7.2011</i>
<i>s 32</i>	<i>deleted by 29/2019 s 44</i>	<i>1.1.2021</i>

<i>s 33 before deletion by 29/2019</i>		
<i>s 33(2)</i>	<i>amended by 43/1995 s 11</i>	<i>17.6.1996</i>
<i>s 33(3)</i>	<i>deleted by 71/1981 s 20(a)</i>	<i>5.11.1981</i>
<i>s 33(3) and (3a)</i>	<i>inserted by 21/2010 s 22</i>	<i>1.7.2011</i>
<i>s 33(4)</i>	<i>amended by 14/1986 s 3(1) (Sch 5)</i>	<i>31.7.1986</i>
<i>s 33(5)</i>	<i>amended by 43/1995 s 11</i>	<i>17.6.1996</i>
<i>s 33(7)</i>	<i>amended by 14/1986 s 3(1) (Sch 5)</i>	<i>31.7.1986</i>
<i>s 33(8)</i>	<i>deleted by 71/1981 s 20(b)</i>	<i>5.11.1981</i>
<i>s 33</i>	<i>deleted by 29/2019 s 44</i>	<i>1.1.2021</i>
<i>s 33A</i>	<i>inserted by 12/2003 s 11</i>	<i>12.6.2003</i>
<i>s 33B</i>	<i>inserted by 29/2019 s 45</i>	<i>1.1.2021</i>
Pt 6		
<i>s 34 before substitution by 29/2019</i>		
<i>s 34(1)</i>	<i>amended by 71/1981 s 21(a)</i>	<i>5.11.1981</i>
	<i>amended by 43/1995 s 12</i>	<i>17.6.1996</i>
	<i>substituted by 1/1999 s 7</i>	<i>1.4.1999</i>
<i>s 34(1a) and (1b)</i>	<i>inserted by 71/1981 s 21(b)</i>	<i>5.11.1981</i>
<i>s 34(2)</i>	<i>substituted by 71/1981 s 21(c)</i>	<i>5.11.1981</i>
	<i>deleted by 54/1993 s 10(a)</i>	<i>15.1.1994</i>
<i>s 34(5)</i>	<i>substituted by 71/1981 s 21(d)</i>	<i>5.11.1981</i>
<i>s 34(6)</i>	<i>amended by 105/1976 s 13</i>	<i>23.12.1976</i>
	<i>amended by 71/1981 s 21(e)</i>	<i>5.11.1981</i>
	<i>amended by 12/1988 Sch 2</i>	<i>1.3.1989</i>
	<i>amended by 21/2010 s 23(1)</i>	<i>1.7.2011</i>
	<i>(c) deleted by 21/2010 s 23(1)</i>	<i>1.7.2011</i>
<i>s 34(8)—(13)</i>	<i>inserted by 21/2010 s 23(2)</i>	<i>1.7.2011</i>
<i>s 34</i>	<i>substituted by 29/2019 s 46</i>	<i>1.1.2021</i>
<i>s 35 before substitution by 29/2019</i>		
<i>s 35(1)</i>	<i>substituted by 71/1981 s 22(a)</i>	<i>5.11.1981</i>
	<i>substituted by 21/2010 s 24</i>	<i>1.7.2011</i>
<i>s 35(2a)</i>	<i>inserted by 35/2003 Sch cl 12(e)</i>	<i>24.11.2003</i>
<i>s 35(2b) and (2c)</i>	<i>inserted by 35/2003 Sch cl 12(e)</i>	<i>24.11.2003</i>
	<i>substituted by 60/2007 Sch 1 cl 34</i>	<i>6.11.2008</i>
<i>s 35(2d) and (2e)</i>	<i>inserted by 5/2005 Sch 2 (cl 35)</i>	<i>1.7.2005</i>
	<i>deleted by 60/2007 Sch 1 cl 34</i>	<i>6.11.2008</i>
<i>s 35(3)</i>	<i>inserted by 71/1981 s 22(b)</i>	<i>5.11.1981</i>
<i>s 35</i>	<i>substituted by 29/2019 s 46</i>	<i>1.1.2021</i>
<i>s 35A before deletion by 29/2019</i>	<i>inserted by 71/1981 s 23</i>	<i>5.11.1981</i>

<i>s 35A(1)</i>	<i>substituted by 54/1993 s 10(b)</i>	<i>15.1.1994</i>
	<i>amended by 21/2010 s 25(1)</i>	<i>1.7.2011</i>
<i>s 35A(1a)</i>	<i>inserted by 54/1993 s 10(b)</i>	<i>15.1.1994</i>
	<i>substituted by 43/1995 s 13</i>	<i>17.6.1996</i>
<i>s 35A(4)</i>	<i>inserted by 21/2010 s 25(2)</i>	<i>1.7.2011</i>
<i>s 35A</i>	<i>deleted by 29/2019 s 46</i>	<i>1.1.2021</i>
<i>s 35B before deletion by 29/2019</i>	<i>inserted by 21/2010 s 26</i>	<i>1.7.2011</i>
<i>s 35B</i>	<i>deleted by 29/2019 s 46</i>	<i>1.1.2021</i>
<i>s 36</i>	<i>substituted by 29/2019 s 46</i>	<i>1.1.2021</i>
<i>s 37 before substitution by 29/2019</i>		
<i>s 37(2)</i>	<i>amended by 43/1995 s 14</i>	<i>17.6.1996</i>
<i>s 37(3) and (4)</i>	<i>deleted by 105/1976 s 14</i>	<i>23.12.1976</i>
<i>s 37</i>	<i>substituted by 29/2019 s 46</i>	<i>1.1.2021</i>
<i>s 38</i>		
<i>s 38(1)</i>	<i>amended by 29/2019 s 47(1)</i>	<i>1.1.2021</i>
<i>s 38(2)</i>	<i>amended by 105/1976 s 15(a)</i>	<i>23.12.1976</i>
	<i>amended by 71/1981 s 24</i>	<i>5.11.1981</i>
	<i>substituted by 29/2019 s 47(2)</i>	<i>1.1.2021</i>
<i>s 38(3)</i>	<i>amended by 105/1976 s 15(b)</i>	<i>23.12.1976</i>
	<i>amended by 21/2010 s 27(1)</i>	<i>1.7.2011</i>
	<i>substituted by 29/2019 s 47(2)</i>	<i>1.1.2021</i>
<i>s 38(4)</i>	<i>inserted by 43/1995 s 15</i>	<i>17.6.1996</i>
	<i>substituted by 21/2010 s 27(2)</i>	<i>1.7.2011</i>
	<i>substituted by 29/2019 s 47(2)</i>	<i>1.1.2021</i>
<i>s 38(5) and (6)</i>	<i>inserted by 35/2003 Sch cl 12(f)</i>	<i>24.11.2003</i>
	<i>substituted by 60/2007 Sch 1 cl 35</i>	<i>6.11.2008</i>
	<i>substituted by 29/2019 s 47(2)</i>	<i>1.1.2021</i>
<i>s 38(7)</i>	<i>inserted by 5/2005 Sch 2 (cl 36)</i>	<i>1.7.2005</i>
	<i>deleted by 60/2007 Sch 1 cl 35</i>	<i>6.11.2008</i>
<i>s 39 before deletion by 29/2019</i>		
<i>s 39(1)</i>	<i>s 39 amended by 71/1981 s 25</i>	<i>5.11.1981</i>
	<i>s 39 redesignated as s 39(1) by 21/2010 s 28</i>	<i>1.7.2011</i>
<i>s 39(2)—(8)</i>	<i>inserted by 21/2010 s 28</i>	<i>1.7.2011</i>
<i>s 39</i>	<i>deleted by 29/2019 s 48</i>	<i>1.1.2021</i>
<i>s 40 before deletion by 29/2019</i>		
<i>s 40(2)</i>	<i>substituted by 43/1995 s 16</i>	<i>17.6.1996</i>
	<i>amended by 24/2019 s 5(1)</i>	<i>1.1.2020</i>
<i>s 40(3) and (4)</i>	<i>inserted by 43/1995 s 16</i>	<i>17.6.1996</i>
<i>s 40(5)</i>	<i>inserted by 24/2019 s 5(2)</i>	<i>1.1.2020</i>

Mining Act 1971—25.2.2021 to 31.12.2023

Legislative history

<i>s 40</i>	<i>deleted by 29/2019 s 48</i>	<i>1.1.2021</i>
<i>s 41 before deletion by 29/2019</i>	<i>deleted by 71/1981 s 26</i>	<i>5.11.1981</i>
	<i>inserted by 41/1995 s 3</i>	<i>1.6.1995</i>
<i>s 41(4) and (5)</i>	<i>inserted by 21/2010 s 29</i>	<i>1.7.2011</i>
<i>s 41</i>	<i>deleted by 29/2019 s 48</i>	<i>1.1.2021</i>
<i>Pt 6A before deletion by 29/2019</i>	<i>inserted by 51/1978 s 11</i>	<i>20.7.1978</i>
<i>s 41A</i>		
<i>s 41A(1)</i>	<i>amended by 71/1981 s 27(a)</i>	<i>5.11.1981</i>
	<i>amended by 43/1995 s 17</i>	<i>17.6.1996</i>
<i>s 41A(1a)</i>	<i>inserted by 71/1981 s 27(b)</i>	<i>5.11.1981</i>
<i>s 41A(3)</i>	<i>deleted by 21/2010 s 30(1)</i>	<i>1.7.2011</i>
<i>s 41A(3a)</i>	<i>inserted by 35/2003 Sch cl 12(g)</i>	<i>24.11.2003</i>
<i>s 41A(3b) and (3c)</i>	<i>inserted by 35/2003 Sch cl 12(g)</i>	<i>24.11.2003</i>
	<i>substituted by 60/2007 Sch 1 cl 36</i>	<i>6.11.2008</i>
<i>s 41A(3d) and (3e)</i>	<i>inserted by 5/2005 Sch 2 (cl 37)</i>	<i>1.7.2005</i>
	<i>deleted by 60/2007 Sch 1 cl 36</i>	<i>6.11.2008</i>
<i>s 41A(5)</i>	<i>amended by 71/1981 s 27(c)</i>	<i>5.11.1981</i>
	<i>amended by 12/1988 Sch 2</i>	<i>1.3.1989</i>
	<i>amended by 21/2010 s 30(2)</i>	<i>1.7.2011</i>
	<i>(c) deleted by 21/2010 s 30(2)</i>	<i>1.7.2011</i>
<i>s 41A(6)—(10)</i>	<i>inserted by 21/2010 s 30(3)</i>	<i>1.7.2011</i>
<i>s 41B</i>		
<i>s 41B(1)</i>	<i>amended by 21/2010 s 31</i>	<i>1.7.2011</i>
<i>s 41BA</i>	<i>inserted by 21/2010 s 32</i>	<i>1.7.2011</i>
<i>s 41C</i>		
<i>s 41C(2)</i>	<i>amended by 43/1995 s 18</i>	<i>17.6.1996</i>
<i>s 41D</i>	<i>substituted by 71/1981 s 28</i>	<i>5.11.1981</i>
<i>s 41D(2)</i>	<i>amended by 21/2010 s 33(1)</i>	<i>1.7.2011</i>
<i>s 41D(4)</i>	<i>inserted by 43/1995 s 19</i>	<i>17.6.1996</i>
	<i>substituted by 21/2010 s 33(2)</i>	<i>1.7.2011</i>
<i>s 41D(5) and (6)</i>	<i>inserted by 35/2003 Sch cl 12(h)</i>	<i>24.11.2003</i>
	<i>substituted by 60/2007 Sch 1 cl 37</i>	<i>6.11.2008</i>
<i>s 41D(7)</i>	<i>inserted by 5/2005 Sch 2 (cl 38)</i>	<i>1.7.2005</i>
	<i>deleted by 60/2007 Sch 1 cl 37</i>	<i>6.11.2008</i>
<i>s 41E</i>		
<i>s 41E(2)</i>	<i>substituted by 43/1995 s 20</i>	<i>17.6.1996</i>
	<i>amended by 24/2019 s 6(1)</i>	<i>1.1.2020</i>
<i>s 41E(3) and (4)</i>	<i>inserted by 43/1995 s 20</i>	<i>17.6.1996</i>
<i>s 41E(5)</i>	<i>inserted by 24/2019 s 6(2)</i>	<i>1.1.2020</i>
<i>s 41F</i>	<i>substituted by 71/1981 s 29</i>	<i>5.11.1981</i>
<i>Pt 6A</i>	<i>deleted by 29/2019 s 49</i>	<i>1.1.2021</i>

Pt 7	amended by 105/1976 ss 16—21	23.12.1976
	amended by 51/1978 ss 12, 13	20.7.1978
	amended by 71/1981 ss 30—36	5.11.1981
	amended by 14/1986 s 3(1) (Sch 5)	31.7.1986
	amended by 86/1988 ss 7—9	1.7.1989
	amended by 3/1993 s 3	4.3.1993
	amended by 43/1995 ss 21, 22	17.6.1996
	deleted by 102/1995 Sch 2 cl 13	21.4.1997
	substituted by 29/2019 s 49	1.1.2021
<i>Pt 8 before substitution by 29/2019</i>		
<i>s 52</i>		
<i>s 52(2)</i>	<i>substituted by 51/1978 s 14</i>	<i>20.7.1978</i>
	<i>deleted by 86/1988 s 10(a)</i>	<i>1.7.1989</i>
<i>s 52(3)</i>	<i>substituted by 51/1978 s 14</i>	<i>20.7.1978</i>
	<i>amended by 21/2010 s 34(1)</i>	<i>1.7.2011</i>
<i>s 52(3a)</i>	<i>inserted by 35/2003 Sch cl 12(i)</i>	<i>24.11.2003</i>
<i>s 52(3b) and (3c)</i>	<i>inserted by 35/2003 Sch cl 12(i)</i>	<i>24.11.2003</i>
	<i>substituted by 60/2007 Sch 1 cl 38</i>	<i>6.11.2008</i>
<i>s 52(3d) and (3e)</i>	<i>inserted by 5/2005 Sch 2 (cl 39)</i>	<i>1.7.2005</i>
	<i>deleted by 60/2007 Sch 1 cl 38</i>	<i>6.11.2008</i>
<i>s 52(4)</i>	<i>amended by 105/1976 s 22</i>	<i>23.12.1976</i>
	<i>amended by 71/1981 s 37</i>	<i>5.11.1981</i>
	<i>amended by 12/1988 Sch 2</i>	<i>1.3.1989</i>
	<i>amended by 21/2010 s 34(2)</i>	<i>1.7.2011</i>
	<i>(c) deleted by 21/2010 s 34(2)</i>	<i>1.7.2011</i>
<i>s 52(4a)—(4f)</i>	<i>inserted by 21/2010 s 34(3)</i>	<i>1.7.2011</i>
<i>s 52(5) and (6)</i>	<i>inserted by 86/1988 s 10(b)</i>	<i>1.7.1989</i>
<i>s 52(7)</i>	<i>inserted by 86/1988 s 10(b)</i>	<i>1.7.1989</i>
	<i>substituted by 43/1995 s 23</i>	<i>17.6.1996</i>
	<i>amended by 24/2019 s 7(1)</i>	<i>1.1.2020</i>
<i>s 52(8) and (9)</i>	<i>inserted by 43/1995 s 23</i>	<i>17.6.1996</i>
<i>s 52(10)</i>	<i>inserted by 24/2019 s 7(2)</i>	<i>1.1.2020</i>
<i>s 53</i>	<i>substituted by 86/1988 s 11</i>	<i>1.7.1989</i>
<i>s 53(1)</i>	<i>substituted by 21/2010 s 35</i>	<i>1.7.2011</i>
<i>s 53(2)</i>	<i>substituted by 54/1993 s 10(c)</i>	<i>15.1.1994</i>
<i>s 53(4)</i>	<i>amended by 54/1993 s 10(d)</i>	<i>15.1.1994</i>
	<i>(ab) deleted by 43/1995 s 24</i>	<i>17.6.1996</i>
<i>s 53(5)</i>	<i>amended by 54/1993 s 10(e)</i>	<i>15.1.1994</i>
<i>s 54</i>		
<i>s 54(1)</i>	<i>s 54 amended by 43/1995 s 25</i>	<i>17.6.1996</i>
	<i>s 54 redesignated as s 54(1) by 21/2010 s 36</i>	<i>1.7.2011</i>
<i>s 54(2) and (3)</i>	<i>inserted by 21/2010 s 36</i>	<i>1.7.2011</i>

s 55		
s 55(2)	<i>amended by 105/1976 s 23(a)</i>	23.12.1976
s 55(3)	<i>amended by 105/1976 s 23(b)</i>	23.12.1976
s 55(4)	<i>inserted by 43/1995 s 26</i>	17.6.1996
	<i>substituted by 21/2010 s 37</i>	1.7.2011
s 55(5) and (6)	<i>inserted by 35/2003 Sch cl 12(j)</i>	24.11.2003
	<i>substituted by 60/2007 Sch 1 cl 39</i>	6.11.2008
s 55(7)	<i>inserted by 5/2005 Sch 2 (cl 40)</i>	1.7.2005
	<i>deleted by 60/2007 Sch 1 cl 39</i>	6.11.2008
s 56		
s 56(1)	<i>s 56 redesignated as s 56(1) by 41/1995 s 4</i>	1.6.1995
s 56(2) and (3)	<i>inserted by 41/1995 s 4</i>	1.6.1995
s 56(4) and (5)	<i>inserted by 21/2010 s 38</i>	1.7.2011
Pt 8	<i>substituted by 29/2019 s 49</i>	1.1.2021
Pt 8A	<i>inserted by 41/1995 s 5</i>	1.6.1995
s 56B	<i>substituted by 29/2019 s 50</i>	1.1.2021
s 56BA and 56BB	<i>inserted by 29/2019 s 50</i>	1.1.2021
s 56C		
s 56C(2)	<i>substituted by 29/2019 s 51(1)</i>	1.1.2021
s 56C(7)	<i>amended by 73/1999 s 7 (Sch 1 cl 6)</i>	1.9.2000
	<i>amended by 29/2019 s 51(2)</i>	1.1.2021
s 56D		
s 56D(1)	<i>amended by 29/2019 s 52(1)</i>	1.1.2021
s 56D(2)	<i>amended by 29/2019 s 52(1), (2)</i>	1.1.2021
Pt 8B	<i>inserted by 29/2019 s 53</i>	1.1.2021
s 56M		
s 56M(5)	substituted by 5/2021 s 17	25.2.2021
Pt 9		
s 57	<i>amended by 71/1981 s 38</i>	5.11.1981
	<i>substituted by 86/1988 s 12</i>	1.7.1989
	<i>amended by 21/2010 s 39</i>	1.7.2011
	<i>amended by 29/2019 s 54(1)—(3)</i>	1.1.2021
s 58	<i>amended by 105/1976 s 24</i>	23.12.1976
	<i>amended by 71/1981 s 39</i>	5.11.1981
	<i>substituted by 43/1995 s 27</i>	17.6.1996
	<i>substituted by 12/2003 s 12</i>	12.6.2003
	<i>amended by 29/2019 s 55(1)—(6)</i>	1.1.2021
<i>s 58A before substitution by 29/2019</i>	<i>inserted by 71/1981 s 40</i>	5.11.1981
	<i>substituted by 43/1995 s 27</i>	17.6.1996
s 58A(2a)	<i>inserted by 21/2010 s 40(1)</i>	1.7.2011
s 58A(3)	<i>amended by 21/2010 s 40(2)</i>	1.7.2011

s 58A(6)	amended by 73/1999 s 7 (Sch 1 cl 7)	1.9.2000
	amended by 21/2010 s 40(3)	1.7.2011
s 58A(7)	amended by 12/2003 s 13	12.6.2003
s 58A(8) and (9)	inserted by 21/2010 s 40(4)	1.7.2011
s 58A	substituted by 29/2019 s 56	1.1.2021
s 59 before deletion by 29/2019		
s 59(1)	substituted by 51/1978 s 15(a)	20.7.1978
	amended by 71/1981 s 41(a), (b)	5.11.1981
	amended by 102/1995 Sch 2 cl 14(a)	21.4.1997
	amended by 73/1999 s 7 (Sch 1 cl 8(a))	1.9.2000
	(b) deleted by 102/1995 Sch 2 cl 14(b)	21.4.1997
	(b) inserted by 21/2010 s 41(1)	1.7.2011
	amended by 21/2010 s 41(2)	1.7.2011
s 59(1aaa)	inserted by 21/2010 s 41(3)	1.7.2011
s 59(1a)	inserted by 51/1978 s 15(a)	20.7.1978
s 59(1aa)	inserted by 35/2003 Sch cl 12(k)	24.11.2003
s 59(1ab) and (1ac)	inserted by 35/2003 Sch cl 12(k)	24.11.2003
	substituted by 60/2007 Sch 1 cl 40	6.11.2008
s 59(1ad) and (1ae)	inserted by 5/2005 Sch 2 (cl 41)	1.7.2005
	deleted by 60/2007 Sch 1 cl 40	6.11.2008
s 59(1b)	inserted by 71/1981 s 41(c)	5.11.1981
	amended by 102/1995 Sch 2 cl 14(c)	21.4.1997
	amended by 73/1999 s 7 (Sch 1 cl 8(b))	1.9.2000
	amended by 21/2010 s 41(4), (5)	1.7.2011
s 59(2)	amended by 71/1981 s 41(d)	5.11.1981
	amended by 21/2010 s 41(6)	1.7.2011
s 59(2a)	inserted by 21/2010 s 41(7)	1.7.2011
s 59(6)	amended by 43/1995 s 28(a)	17.6.1996
s 59(7)	amended by 73/1999 s 7 (Sch 1 cl 8(c), (d))	1.9.2000
	amended by 21/2010 s 41(8), (9)	1.7.2011
s 59(8)	amended by 51/1978 s 15(b)	20.7.1978
	amended by 71/1981 s 41(e)	5.11.1981
	substituted by 43/1995 s 28(b)	17.6.1996
	amended by 21/2010 s 41(10)	1.7.2011
s 59(9)	inserted by 21/2010 s 41(11)	1.7.2011
s 59	deleted by 29/2019 s 57	1.1.2021
s 60		
s 60(1)	amended by 105/1976 s 25	23.12.1976
	amended by 71/1981 s 42(a)	5.11.1981
	substituted by 43/1995 s 29	17.6.1996
s 60(2)	amended by 73/1999 s 7 (Sch 1 cl 9)	1.9.2000

Mining Act 1971—25.2.2021 to 31.12.2023

Legislative history

s 60(5)	<i>deleted by 71/1981 s 42(b)</i>	5.11.1981
s 60	<i>deleted by 21/2010 s 42</i>	1.7.2011
s 61		
s 61(1)	amended by 43/1995 s 30	17.6.1996
	substituted by 29/2019 s 58(1)	1.1.2021
s 61(2)	amended by 12/2003 s 14(1)	12.6.2003
	amended by 29/2019 s 58(2)	1.1.2021
s 61(2a)	inserted by 21/2010 s 43(1)	1.7.2011
	amended by 29/2019 s 58(3)	1.1.2021
s 61(3)	amended by 86/1988 s 13	1.7.1989
	amended by 29/2019 s 58(4)	1.1.2021
s 61(4)	amended by 86/1988 s 13	1.7.1989
	amended by 29/2019 s 58(5)	1.1.2021
s 61(5)	amended by 86/1988 s 13	1.7.1989
	amended by 29/2019 s 58(6)	1.1.2021
s 61(5a)	inserted by 21/2010 s 43(2)	1.7.2011
s 61(5b) and (5c)	inserted by 29/2019 s 58(7)	1.1.2021
s 61(6)	inserted by 12/2003 s 14(2)	12.6.2003
	amended by 29/2019 s 58(8), (9)	1.1.2021
s 62		
s 62(1)	amended by 71/1981 s 43(a)	5.11.1981
	amended by 86/1988 s 14(a)	1.7.1989
	amended by 29/2019 s 59(1), (2)	1.1.2021
s 62(2)	amended by 86/1988 s 14(b)	1.7.1989
s 62(2a)	inserted by 29/2019 s 59(3)	1.1.2021
s 62(3)	substituted by 71/1981 s 43(b)	5.11.1981
	substituted by 86/1988 s 14(c)	1.7.1989
	amended by 29/2019 s 59(4), (5)	1.1.2021
s 62(4)	amended by 73/1999 s 7 (Sch 1 cl 10)	1.9.2000
	amended by 21/2010 s 44	1.7.2011
	substituted by 29/2019 s 59(6)	1.1.2021
s 62(5) and (6)	substituted by 29/2019 s 59(6)	1.1.2021
s 62(7) and (8)	inserted by 29/2019 s 59(6)	1.1.2021
s 62AA	inserted by 29/2019 s 60	1.1.2021
s 62A	inserted by 21/2010 s 45	1.7.2011
s 62A(1)	amended by 29/2019 s 61(1)	1.1.2021
	amended by 45/2019 Sch 1 cl 67	1.1.2021
s 62A(2)	amended by 29/2019 s 61(2)	1.1.2021
s 63		
s 63(2)	amended by 60/1994 s 4	3.11.1994
	substituted by 17/2005 s 5(1)	1.1.2006
s 63(3)	amended by 17/2005 s 5(2)—(4)	1.1.2006
	amended by 29/2019 s 62	1.1.2021

s 63(4)	inserted by 17/2005 s 5(5)	1.1.2006
	(b) deleted by 21/2010 s 46	1.7.2011
s 63(5)	inserted by 17/2005 s 5(5)	1.1.2006
<i>Pt 9A before deletion by 29/2019</i>	<i>inserted by 71/1981 s 44</i>	<i>5.11.1981</i>
<i>s 63C</i>		
s 63C(1)	<i>amended by 14/1986 s 3(1) (Sch 5)</i>	<i>31.7.1986</i>
	<i>amended by 21/2010 s 47(1), (2)</i>	<i>1.7.2011</i>
s 63C(2)	<i>amended by 14/1986 s 3(1) (Sch 5)</i>	<i>31.7.1986</i>
<i>s 63E</i>		
s 63E(1)	<i>substituted by 43/1995 s 31</i>	<i>17.6.1996</i>
s 63E(1a)	<i>inserted by 43/1995 s 31</i>	<i>17.6.1996</i>
<i>Pt 9A</i>	<i>deleted by 29/2019 s 63</i>	<i>1.1.2021</i>
<i>Pt 9B</i>	<i>inserted by 43/1995 s 32</i>	<i>17.6.1996</i>
<i>s 63F</i>		
s 63F(1)	amended by 12/2003 s 15	12.6.2003
s 63F(4)	amended by 29/2019 s 64(1), (2)	1.1.2021
s 63H	amended by 12/2003 s 16	12.6.2003
<i>s 63K</i>		
s 63K(1)	amended by 29/2019 s 65(1), (2)	1.1.2021
s 63K(2)	amended by 23/1998 s 5	21.5.1998
	amended by 29/2019 s 65(1)	1.1.2021
s 63K(5)	amended by 29/2019 s 65(1)	1.1.2021
s 63L	amended by 29/2019 s 66(1)	1.1.2021
s 63L(2)	amended by 29/2019 s 66(2), (3)	1.1.2021
<i>s 63N</i>		
s 63N(1)	amended by 17/2006 s 167	4.9.2006
	amended by 29/2019 s 67	1.1.2021
<i>s 63O</i>		
s 63O(2)	amended by 17/2006 s 168	4.9.2006
s 63O(4)	amended by 23/1998 s 6(a)	21.5.1998
	amended by 29/2019 s 68	1.1.2021
s 63O(5)	inserted by 23/1998 s 6(b)	21.5.1998
<i>s 63R</i>		
s 63R(3)	amended by 29/2019 s 69(1)	1.1.2021
s 63R(4)	amended by 29/2019 s 69(2)	1.1.2021
<i>s 63S</i>		
s 63S(1)	amended by 44/2003 s 3(1) (Sch 1)	24.11.2003
	amended by 29/2019 s 70(1)	1.1.2021
s 63S(4)	amended by 44/2003 s 3(1) (Sch 1)	24.11.2003
	amended by 29/2019 s 70(2)	1.1.2021
<i>s 63V</i>		
s 63V(5)	amended by 29/2019 s 71	1.1.2021

Mining Act 1971—25.2.2021 to 31.12.2023

Legislative history

s 63Y	amended by 21/2010 Sch 2	1.7.2011
s 63ZB		
s 63ZB(4)	amended by 29/2019 s 72	1.1.2021
s 63ZBA	inserted by 1/1999 s 8	1.4.1999
s 63ZBA(7)	amended by 73/1999 s 7 (Sch 1 cl 11)	1.9.2000
	amended by 29/2019 s 73	1.1.2021
s 63ZD	<i>amended by 23/1998 s 7</i>	<i>21.5.1998</i>
	<i>amended by 22/2000 s 3</i>	<i>8.6.2000</i>
	<i>deleted by 12/2003 s 17</i>	<i>12.6.2003</i>
Pt 10		
heading	substituted by 29/2019 s 74	1.1.2021
s 64		
s 64(1a)	inserted by 29/2019 s 75	1.1.2021
s 65		
s 65(1)	substituted by 29/2019 s 76	1.1.2021
s 65(1a)	amended by 105/1976 s 26	23.12.1976
	substituted by 29/2019 s 76	1.1.2021
s 65(1b)	<i>deleted by 29/2019 s 76</i>	<i>1.1.2021</i>
s 65(1c)	<i>amended by 21/2010 Sch 2</i>	<i>1.7.2011</i>
	<i>deleted by 29/2019 s 76</i>	<i>1.1.2021</i>
s 65(3)	amended by 43/1995 s 33	17.6.1996
s 65(3a)	inserted by 71/1981 s 45	5.11.1981
s 65(3b)	inserted by 71/1981 s 45	5.11.1981
	amended by 43/1995 s 33	17.6.1996
s 65(4)	amended by 23/1998 s 8	21.5.1998
	amended by 21/2010 Sch 2	1.7.2011
s 66		
s 66(1)	amended by 29/2019 s 77	1.1.2021
s 66(1a)	inserted by 71/1981 s 46	5.11.1981
s 66(2)	amended by 105/1976 s 27	23.12.1976
	amended by 21/2010 Sch 2	1.7.2011
s 66A	inserted by 86/1988 s 15	1.7.1989
	amended by 43/1995 s 34	17.6.1996
s 67		
s 67(1)	amended by 105/1976 s 28(a)	23.12.1976
	amended by 102/1995 Sch 2 cl 15	21.4.1997
	amended by 17/2006 s 169	4.9.2006
	amended by 21/2010 s 48(1)	1.7.2011
	amended by 29/2019 s 78(1)	1.1.2021
s 67(1a)	inserted by 69/2001 s 21	3.2.2002
	amended by 21/2010 s 48(2)	1.7.2011
	amended by 43/2012 s 29	1.7.2013
	amended by 29/2019 s 78(2)—(4)	1.1.2021

s 67(3)	inserted by 105/1976 s 28(b)	23.12.1976
s 68		
s 68(1)	substituted by 51/1978 s 16(a)	20.7.1978
	amended by 71/1981 s 47	5.11.1981
	amended by 102/1995 Sch 2 cl 16	21.4.1997
s 68(2)	amended by 105/1976 s 29	23.12.1976
	amended by 51/1978 s 16(b)	20.7.1978
s 68	deleted by 21/2010 s 49	1.7.2011
s 69 before deletion by 29/2019		
s 69(1)	amended by 102/1995 Sch 2 cl 17(a)	21.4.1997
s 69(3)	amended by 105/1976 s 30(a)	23.12.1976
s 69(3a)	inserted by 71/1981 s 48	5.11.1981
	substituted by 86/1988 s 16	1.7.1989
	amended by 102/1995 Sch 2 cl 17(b)	21.4.1997
s 69(4)	substituted by 105/1976 s 30(b)	23.12.1976
interested person	amended by 102/1995 Sch 2 cl 17(c)	21.4.1997
	amended by 21/2010 s 50	1.7.2011
s 69	deleted by 29/2019 s 79	1.1.2021
s 70		
s 70(1) and (2)	substituted by 29/2019 s 80(1)	1.1.2021
s 70(2a) and (2b)	inserted by 29/2019 s 80(1)	1.1.2021
s 70(3)	substituted by 86/1988 s 17	1.7.1989
	amended by 29/2019 s 80(2)	1.1.2021
s 70(3a)	inserted by 29/2019 s 80(3)	1.1.2021
s 70(4)	substituted by 86/1988 s 17	1.7.1989
	amended by 29/2019 s 80(4)	1.1.2021
s 70(4a)	inserted by 71/1981 s 49	5.11.1981
	amended by 29/2019 s 80(5)	1.1.2021
s 70(5) before deletion by 29/2019		
interested person	substituted by 21/2010 s 51	1.7.2011
s 70(5)	deleted by 29/2019 s 80(6)	1.1.2021
Pt 10A	inserted by 21/2010 s 52	1.7.2011
heading	amended by 29/2019 s 81	1.1.2021
s 70A		
s 70A(1)	amended by 29/2019 s 82(1)—(3)	1.1.2021
s 70A(2)	amended by 33/2019 Sch 5 cl 48	1.7.2020
	deleted by 29/2019 s 82(4)	1.1.2021
s 70B		
s 70B(1)	amended by 29/2019 s 83(1)	1.1.2021
s 70B(2)	amended by 29/2019 s 83(2)—(6)	1.1.2021
s 70B(3)	amended by 29/2019 s 83(7)	1.1.2021

Mining Act 1971—25.2.2021 to 31.12.2023

Legislative history

s 70B(4)	substituted by 29/2019 s 83(8)	1.1.2021
s 70B(4a) and (4b)	inserted by 29/2019 s 83(8)	1.1.2021
s 70B(4c)	inserted by 24/2019 s 8	1.1.2020
	s 70B(4a) redesignated as s 70B(4c) under <i>Legislation Revision and Publication Act 2002</i>	1.1.2021
s 70B(5)	amended by 29/2019 s 83(9)	1.1.2021
s 70B(6)	substituted by 29/2019 s 83(10)	1.1.2021
s 70B(7)	amended by 29/2019 s 83(11), (12)	1.1.2021
s 70B(7a)	inserted by 29/2019 s 83(13)	1.1.2021
s 70B(8)	amended by 29/2019 s 83(14)	1.1.2021
s 70B(9)	amended by 29/2019 s 83(15), (16)	1.1.2021
s 70B(10)	substituted by 29/2019 s 83(17)	1.1.2021
s 70B(11)	inserted by 29/2019 s 83(17)	1.1.2021
s 70C		
s 70C(1)	amended by 29/2019 s 84(1)	1.1.2021
s 70C(2) and (3)	substituted by 29/2019 s 84(2)	1.1.2021
s 70C(4a)	inserted by 24/2019 s 9(1)	1.1.2020
s 70C(5)	amended by 29/2019 s 84(3)	1.1.2021
s 70C(6)	amended by 29/2019 s 84(4)	1.1.2021
s 70C(7a)	inserted by 29/2019 s 84(5)	1.1.2021
s 70C(8)	inserted by 24/2019 s 9(2)	1.1.2020
s 70D	substituted by 29/2019 s 85	1.1.2021
s 70DA	inserted by 29/2019 s 85	1.1.2021
ss 70DB and 70DC	inserted by 29/2019 s 85	1.1.2021
s 70DD	inserted by 24/2019 s 10	1.1.2020
	s 70DA redesignated as s 70DD under <i>Legislation Revision and Publication Act 2002</i>	1.1.2021
Pt 10B	inserted by 21/2010 s 52	1.7.2011
heading	substituted by 29/2019 s 86	1.1.2021
s 70E		
s 70E(1)	amended by 29/2019 s 87(1)	1.1.2021
s 70E(2)	<i>deleted by 29/2019 s 87(2)</i>	<i>1.1.2021</i>
s 70E(3)	amended by 29/2019 s 87(3), (4)	1.1.2021
s 70E(7)	<i>deleted by 29/2019 s 87(5)</i>	<i>1.1.2021</i>
s 70E(8)	amended by 29/2019 s 87(6), (7)	1.1.2021
s 70F		
s 70F(1)	amended by 29/2019 s 88(1), (2)	1.1.2021
s 70F(4) and (5)	<i>deleted by 29/2019 s 88(3)</i>	<i>1.1.2021</i>
s 70F(6)	amended by 29/2019 s 88(4)—(6)	1.1.2021
ss 70FA—70FC	inserted by 29/2019 s 89	1.1.2021
s 70G		
s 70G(1)	amended by 29/2019 s 90(1), (2)	1.1.2021
s 70G(2)	substituted by 29/2019 s 90(3)	1.1.2021

s 70G(3)	amended by 29/2019 s 90(4)	1.1.2021
s 70H		
s 70H(1)	amended by 29/2019 s 91(1), (2)	1.1.2021
s 70H(2)	substituted by 29/2019 s 91(3)	1.1.2021
s 70H(3)	amended by 29/2019 s 91(4)	1.1.2021
s 70H(4)	substituted by 29/2019 s 91(5)	1.1.2021
ss 70HA and 70HB	inserted by 29/2019 s 92	1.1.2021
Pt 10C	inserted by 29/2019 s 93	1.1.2021
Pt 11		
Heading preceding s 71	substituted by 71/1981 s 50	5.11.1981
s 71		
s 71(1)	amended by 29/2019 s 94	1.1.2021
s 72	amended by 43/1995 s 35	17.6.1996
	amended by 29/2019 s 95	1.1.2021
<i>Pt 11A before deletion by 29/2019</i>	<i>inserted by 71/1981 s 51</i>	<i>5.11.1981</i>
s 73A		
s 73A(1)	amended by 21/2010 s 53(1)	1.7.2011
s 73A(2)	amended by 21/2010 s 53(2)—(5)	1.7.2011
s 73A(4)	amended by 17/2006 s 170	4.9.2006
	substituted by 21/2010 s 53(6)	1.7.2011
s 73A(5)	inserted by 21/2010 s 53(6)	1.7.2011
s 73B		
s 73B(1)	amended by 14/1986 s 3(1) (Sch 5)	31.7.1986
Pt 11A	deleted by 29/2019 s 96	1.1.2021
Pt 11B	inserted by 73/1999 s 6	1.9.2000 except s 73G—1.3.2001
s 73C		
s 73C(1)		
emergency order	inserted by 29/2019 s 97(1)	1.1.2021
environment	substituted by 29/2019 s 97(2)	1.1.2021
private mine	deleted by 29/2019 s 97(3)	1.1.2021
s 73D		
s 73D(1)	amended by 29/2019 s 98(1)	1.1.2021
s 73D(2)	amended by 29/2019 s 98(2)	1.1.2021
s 73D(3)	inserted by 29/2019 s 98(3)	1.1.2021
<i>s 73E before deletion by 29/2019</i>		
s 73E(1)	substituted by 11/2014 Sch 1 cl 20(1)	19.6.2014
s 73E(1a)—(1g)	inserted by 11/2014 Sch 1 cl 20(1)	19.6.2014
s 73E(3)	amended by 21/2010 s 54	1.7.2011
s 73E(5)	amended by 61/2005 s 5(1), (2)	1.1.2006
	amended by 11/2014 Sch 1 cl 20(2)	19.6.2014

Mining Act 1971—25.2.2021 to 31.12.2023

Legislative history

<i>s 73E</i>	<i>deleted by 29/2019 s 99</i>	<i>1.1.2021</i>
<i>s 73EA</i>	<i>inserted by 11/2014 Sch 1 cl 21</i>	<i>19.6.2014</i>
	<i>deleted by 29/2019 s 99</i>	<i>1.1.2021</i>
<i>s 73F before deletion by 29/2019</i>		
<i>s 73F(1)</i>	<i>substituted by 11/2014 Sch 1 cl 22</i>	<i>19.6.2014</i>
<i>s 73F</i>	<i>deleted by 29/2019 s 99</i>	<i>1.1.2021</i>
<i>s 73G</i>		
<i>s 73G(4a)</i>	<i>inserted by 24/2019 s 11</i>	<i>1.1.2020</i>
<i>s 73G(12a)</i>	<i>inserted by 29/2019 s 100</i>	<i>1.1.2021</i>
<i>s 73H</i>		
<i>s 73H(3)</i>	<i>deleted by 29/2019 s 101</i>	<i>1.1.2021</i>
<i>s 73I</i>		
<i>s 73I(4)</i>	<i>amended by 29/2019 s 102</i>	<i>1.1.2021</i>
<i>s 73I(6)</i>	<i>amended by 21/2010 s 55(1)</i>	<i>1.7.2011</i>
<i>s 73I(7)</i>	<i>amended by 21/2010 s 55(2)</i>	<i>1.7.2011</i>
<i>s 73J</i>		
<i>s 73J(4)</i>	<i>amended by 29/2019 s 103</i>	<i>1.1.2021</i>
<i>s 73K</i>		
<i>s 73K(1)</i>	<i>amended by 21/2010 s 56(1)</i>	<i>1.7.2011</i>
<i>s 73K(5)</i>	<i>amended by 21/2010 s 56(2)</i>	<i>1.7.2011</i>
<i>ss 73KA and 73KB</i>	<i>inserted by 29/2019 s 104</i>	<i>1.1.2021</i>
<i>s 73L</i>		
<i>s 73L(1)</i>	<i>amended by 29/2019 s 105</i>	<i>1.1.2021</i>
<i>s 73M before substitution by 29/2019</i>		
<i>s 73M(4)</i>	<i>amended by 21/2010 s 57</i>	<i>1.7.2011</i>
<i>s 73M</i>	<i>substituted by 29/2019 s 106</i>	<i>1.1.2021</i>
<i>s 73N</i>	<i>substituted by 29/2019 s 106</i>	<i>1.1.2021</i>
<i>s 73O before substitution by 29/2019</i>		
<i>s 73O(1)</i>	<i>amended by 21/2010 s 58(1)</i>	<i>1.7.2011</i>
<i>s 73O(2)</i>	<i>amended by 21/2010 s 58(2)</i>	<i>1.7.2011</i>
<i>s 73O(4)</i>	<i>amended by 21/2010 s 58(3), (4)</i>	<i>1.7.2011</i>
<i>s 73O(5)</i>	<i>amended by 21/2010 s 58(5)</i>	<i>1.7.2011</i>
<i>s 73O(8)</i>	<i>amended by 21/2010 s 58(6), (7)</i>	<i>1.7.2011</i>
<i>s 73O(9)</i>	<i>amended by 21/2010 s 58(8)</i>	<i>1.7.2011</i>
<i>s 73O</i>	<i>substituted by 29/2019 s 106</i>	<i>1.1.2021</i>
<i>ss 73P and 73Q</i>	<i>deleted by 29/2019 s 106</i>	<i>1.1.2021</i>
Pt 12		
<i>s 74 before substitution by 29/2019</i>		

<i>s 74(1)</i>	<i>amended by 105/1976 s 31(a), (b)</i>	23.12.1976
	<i>amended by 51/1978 s 17</i>	20.7.1978
	<i>amended by 73/1999 s 7 (Sch 1 cl 12(a), (b))</i>	1.9.2000
	<i>amended by 21/2010 s 59(1)</i>	1.7.2011
<i>s 74(1a)</i>	<i>inserted by 71/1981 s 52(a)</i>	5.11.1981
	<i>amended by 73/1999 s 7 (Sch 1 cl 12(c), (d))</i>	1.9.2000
	<i>amended by 21/2010 s 59(2)</i>	1.7.2011
<i>s 74(2) and (3)</i>	<i>deleted by 102/1995 Sch 2 cl 18</i>	21.4.1997
<i>s 74(4)</i>	<i>substituted by 105/1976 s 31(c)</i>	23.12.1976
	<i>amended by 71/1981 s 52(b)</i>	5.11.1981
	<i>deleted by 102/1995 Sch 2 cl 18</i>	21.4.1997
<i>s 74(5)</i>	<i>amended by 71/1981 s 52(c), (d)</i>	5.11.1981
	<i>amended by 14/1986 s 3(1) (Sch 5)</i>	31.7.1986
	<i>deleted by 102/1995 Sch 2 cl 18</i>	21.4.1997
<i>s 74(6) and (7)</i>	<i>deleted by 102/1995 Sch 2 cl 18</i>	21.4.1997
<i>s 74</i>	<i>substituted by 29/2019 s 107</i>	1.1.2021
<i>s 74AA</i>	<i>inserted by 21/2010 s 60</i>	1.7.2011
	<i>substituted by 29/2019 s 107</i>	1.1.2021
<i>s 74A</i>	<i>inserted by 43/1995 s 36</i>	17.6.1996
<i>s 74A(1)</i>	<i>amended by 21/2010 s 61(1)</i>	1.7.2011
	<i>amended by 29/2019 s 108</i>	1.1.2021
<i>s 74A(3)</i>	<i>amended by 73/1999 s 7 (Sch 1 cl 13)</i>	1.9.2000
	<i>amended by 21/2010 s 61(2)</i>	1.7.2011
<i>s 75</i>		
<i>s 75(1)</i>	<i>amended by 14/1986 s 3(1) (Sch 5)</i>	31.7.1986
	<i>substituted by 43/1995 s 37</i>	17.6.1996
	<i>amended by 21/2010 s 62</i>	1.7.2011
	<i>amended by 29/2019 s 109(1)</i>	1.1.2021
<i>s 75(1a) and (1b)</i>	<i>inserted by 29/2019 s 109(2)</i>	1.1.2021
<i>s 75(2)</i>	<i>substituted by 105/1976 s 32</i>	23.12.1976
	<i>substituted by 29/2019 s 109(3)</i>	1.1.2021
<i>s 75(3) and (4)</i>	<i>inserted by 29/2019 s 109(3)</i>	1.1.2021
<i>s 75A</i>	<i>inserted by 43/1995 s 38</i>	17.6.1996
	<i>amended by 29/2019 s 110(1), (2)</i>	1.1.2021
<i>s 76 before substitution by 61/2005</i>		
<i>s 76(1)</i>	<i>amended by 51/1978 s 18(a)</i>	20.7.1978
<i>s 76(2)</i>	<i>amended by 13/2000 s 4(a)</i>	1.7.2000
	<i>amended by 73/1999 s 7 (Sch 1 cl 14)</i>	1.9.2000
<i>s 76(2a)</i>	<i>inserted by 13/2000 s 4(b)</i>	1.7.2000
<i>s 76(3a)</i>	<i>inserted by 86/1988 s 18</i>	1.7.1989
<i>s 76(4)</i>	<i>inserted by 51/1978 s 18(b)</i>	20.7.1978

	<i>amended by 71/1981 s 53</i>	5.11.1981
	<i>(a) deleted by 102/1995 Sch 2 cl 19</i>	21.4.1997
<i>s 76 before deletion by 29/2019</i>	<i>substituted by 61/2005 s 6</i>	1.1.2006
<i>s 76(1)</i>	<i>amended by 21/2010 s 63(1)</i>	1.7.2011
<i>s 76(2)</i>	<i>amended by 21/2010 s 63(2)</i>	1.7.2011
<i>s 76(3)—(5)</i>	<i>substituted by 21/2010 s 63(3)</i>	1.7.2011
<i>s 76(5a) and (5b)</i>	<i>inserted by 21/2010 s 63(3)</i>	1.7.2011
<i>s 76(7)</i>	<i>amended by 21/2010 s 63(4)</i>	1.7.2011
<i>s 76</i>	<i>deleted by 29/2019 s 111</i>	1.1.2021
<i>s 77 before deletion by 29/2019</i>		
<i>s 77(1)</i>	<i>substituted by 51/1978 s 19</i>	20.7.1978
	<i>amended by 71/1981 s 54</i>	5.11.1981
	<i>amended by 102/1995 Sch 2 cl 20</i>	21.4.1997
	<i>amended by 73/1999 s 7 (Sch 1 cl 15(a))</i>	1.9.2000
	<i>amended by 61/2005 s 7(1)</i>	1.1.2006
	<i>amended by 21/2010 s 64(1)</i>	1.7.2011
<i>s 77(2)</i>	<i>substituted by 51/1978 s 19</i>	20.7.1978
	<i>amended by 73/1999 s 7 (Sch 1 cl 15(b))</i>	1.9.2000
	<i>amended by 61/2005 s 7(2)</i>	1.1.2006
	<i>amended by 21/2010 s 64(2)</i>	1.7.2011
<i>s 77(2a)</i>	<i>inserted by 61/2005 s 7(3)</i>	1.1.2006
<i>s 77(3)</i>	<i>inserted by 105/1976 s 33</i>	23.12.1976
	<i>amended by 73/1999 s 7 (Sch 1 cl 15(c))</i>	1.9.2000
	<i>amended by 21/2010 s 64(3)</i>	1.7.2011
<i>s 77(4)</i>	<i>inserted by 105/1976 s 33</i>	23.12.1976
<i>s 77</i>	<i>deleted by 29/2019 s 111</i>	1.1.2021
<i>s 77A before deletion by 29/2019</i>	<i>inserted by 61/2005 s 8</i>	1.1.2006
<i>s 77A(1)</i>	<i>amended by 21/2010 s 65</i>	1.7.2011
<i>s 77A</i>	<i>deleted by 29/2019 s 111</i>	1.1.2021
<i>ss 77B—77D</i>	<i>inserted by 21/2010 s 66</i>	1.7.2011
	<i>deleted by 29/2019 s 111</i>	1.1.2021
<i>s 78</i>		
<i>s 78(1)</i>	<i>amended by 102/1995 Sch 2 cl 21</i>	21.4.1997
	<i>amended by 21/2010 s 67(1)</i>	1.7.2011
	<i>amended by 29/2019 s 112(1)</i>	1.1.2021
<i>s 78(2)</i>	<i>amended by 102/1995 Sch 2 cl 21</i>	21.4.1997
	<i>amended by 21/2010 s 67(2)</i>	1.7.2011
	<i>amended by 29/2019 s 112(2)</i>	1.1.2021
<i>s 79</i>		
<i>s 79(1)</i>	<i>s 79 redesignated as s 79(1) by 51/1978 s 20</i>	20.7.1978
	<i>substituted by 71/1981 s 55</i>	5.11.1981

	amended by 14/1986 s 3(1) (Sch 5)	31.7.1986
	amended by 43/1995 s 39(a)	17.6.1996
	amended by 29/2019 s 113(1)—(3)	1.1.2021
s 79(2)	inserted by 51/1978 s 20	20.7.1978
s 79(3)	inserted by 43/1995 s 39(b)	17.6.1996
s 79A	inserted by 16/2001 s 6	14.6.2001
	substituted by 29/2019 s 114	1.1.2021
s 80		
s 80(1)	amended by 71/1981 s 56(a)	5.11.1981
	amended by 29/2019 s 115(1)	1.1.2021
s 80(1a)	<i>inserted by 71/1981 s 56(b)</i>	<i>5.11.1981</i>
	<i>deleted by 29/2019 s 115(2)</i>	<i>1.1.2021</i>
s 80(1b) and (1c)	inserted by 102/1995 Sch 2 cl 22(a)	21.4.1997
s 80(1d)	inserted by 102/1995 Sch 2 cl 22(a)	21.4.1997
	amended by 73/1999 s 7 (Sch 1 cl 16(a))	1.9.2000
	amended by 29/2019 s 115(3)	1.1.2021
s 80(2)	amended by 86/1988 s 19(a)	1.7.1989
	amended by 29/2019 s 115(4), (5)	1.1.2021
s 80(2a)	inserted by 29/2019 s 115(6)	1.1.2021
s 80(3)	amended by 86/1988 s 19(b)	1.7.1989
	amended by 29/2019 s 115(7)	1.1.2021
s 80(4)	inserted by 102/1995 Sch 2 cl 22(b)	21.4.1997
	substituted by 29/2019 s 115(8)	1.1.2021
s 80(5)	inserted by 102/1995 Sch 2 cl 22(b)	21.4.1997
	amended by 73/1999 s 7 (Sch 1 cl 16(b))	1.9.2000
s 80(6)	inserted by 29/2019 s 115(9)	1.1.2021
s 81	amended by 21/2010 Sch 2	1.7.2011
	substituted by 29/2019 s 116	1.1.2021
s 82	amended by 21/2010 s 68	1.7.2011
	substituted by 29/2019 s 116	1.1.2021
<i>s 83 before deletion by 29/2019</i>		
s 83(1)	<i>amended by 14/1986 s 3(1) (Sch 5)</i>	<i>31.7.1986</i>
	<i>amended by 21/2010 s 69(1), (2)</i>	<i>1.7.2011</i>
s 83(2)	<i>substituted by 21/2010 s 69(3)</i>	<i>1.7.2011</i>
s 83	<i>deleted by 29/2019 s 116</i>	<i>1.1.2021</i>
s 83A	inserted by 11/2011 s 48	16.6.2011
s 84	<i>deleted by 29/2019 s 117</i>	<i>1.1.2021</i>
s 84A	<i>inserted by 43/1995 s 40</i>	<i>17.6.1996</i>
	<i>deleted by 29/2019 s 117</i>	<i>1.1.2021</i>
s 85	substituted by 29/2019 s 118	1.1.2021
<i>s 86 before substitution by 29/2019</i>		

Mining Act 1971—25.2.2021 to 31.12.2023

Legislative history

s 86(1)	<i>amended by 105/1976 s 34(a), (b)</i>	23.12.1976
	<i>amended by 71/1981 s 57</i>	5.11.1981
s 86(2)	<i>amended by 105/1976 s 34(c)</i>	23.12.1976
	<i>amended by 21/2010 s 70</i>	1.7.2011
s 86	substituted by 29/2019 s 118	1.1.2021
s 87	<i>amended by 14/1986 s 3(1) (Sch 5)</i>	31.7.1986
	<i>amended by 73/1999 s 7 (Sch 1 cl 17)</i>	1.9.2000
	<i>amended by 23/2001 s 86</i>	15.7.2001
	<i>deleted by 12/2003 s 18</i>	12.6.2003
s 87A	<i>inserted by 105/1976 s 35</i>	23.12.1976
	<i>deleted by 21/2010 s 71</i>	1.7.2011
s 88	amended by 71/1981 s 58	5.11.1981
	amended by 73/1999 s 7 (Sch 1 cl 18)	1.9.2000
	amended by 21/2010 s 72	1.7.2011
	substituted by 29/2019 s 119	1.1.2021
s 89	<i>amended by 14/1986 s 3(1) (Sch 5)</i>	31.7.1986
	<i>amended by 102/1995 Sch 2 cl 23</i>	21.4.1997
	<i>amended by 73/1999 s 7 (Sch 1 cl 19)</i>	1.9.2000
	<i>amended by 21/2010 s 73(1), (2)</i>	1.7.2011
	<i>deleted by 29/2019 s 119</i>	1.1.2021
s 89A	<i>inserted by 43/1995 s 41</i>	17.6.1996
	<i>deleted by 84/2009 s 214</i>	1.2.2010
s 89A	inserted by 21/2010 s 74	1.7.2011
s 89B	inserted by 29/2019 s 120	1.1.2021
s 90 before substitution by 29/2019		
s 90(1aa)	<i>inserted by 21/2010 s 75(1)</i>	1.7.2011
s 90(2)	<i>amended by 102/1995 Sch 2 cl 24</i>	21.4.1997
	<i>amended by 21/2010 s 75(2)</i>	1.7.2011
s 90(3)	<i>inserted by 21/2010 s 75(3)</i>	1.7.2011
s 90	substituted by 29/2019 s 121	1.1.2021
s 91	deleted by 44/2003 s 3(1) (Sch 1)	24.11.2003
	inserted by 21/2010 s 76	1.7.2011
s 91(2)	amended by 29/2019 s 122(1)—(3)	1.1.2021
s 91(3)	amended by 29/2019 s 122(4)	1.1.2021
s 91(4a)	inserted by 29/2019 s 122(5)	1.1.2021
s 91A	inserted by 21/2010 s 76	1.7.2011
	deleted by 29/2019 s 123	1.1.2021
s 92		
s 92(1)	s 92 amended by 105/1976 s 36	23.12.1976
	s 92 amended by 51/1978 s 21	20.7.1978
	s 92 amended by 102/1995 Sch 2 cl 25	21.4.1997

	s 92 amended by 1/1999 s 9	1.4.1999
	s 92 amended by 73/1999 s 7 (Sch 1 cl 20)	1.9.2000
	s 92(h) deleted by 71/1981 s 59	5.11.1981
	s 92(j) deleted by 71/1981 s 59	5.11.1981
	s 92 amended and redesignated as s 92(1) by 21/2010 s 77(1)—(5)	1.7.2011
	amended by 20/2011 s 7	1.7.2011
	amended by 29/2019 s 124(1)—(5), (7)—(9)	1.1.2021
	(g) deleted by 29/2019 s 124(6)	1.1.2021
s 92(2)	inserted by 21/2010 s 77(5)	1.7.2011
	amended by 29/2019 s 124(2), (10)	1.1.2021
s 92(3)	inserted by 21/2010 s 77(5)	1.7.2011
	amended by 29/2019 s 124(1)—(3)	1.1.2021
s 92(4)—(7)	inserted by 21/2010 s 77(5)	1.7.2011
s 92(8)—(12)	inserted by 29/2019 s 124(11)	1.1.2021
Sch	deleted by 14/1986 s 3(1) (Sch 5)	31.7.1986
	s 5(1), (2), (6) and (8) redesignated as Sch under <i>Acts Republication Act 1967</i>	31.7.1986
heading	substituted by 44/2003 s 3(1) (Sch 1)	24.11.2003
cl 1	deleted by 29/2019 s 125	1.1.2021

Transitional etc provisions associated with Act or amendments

Statutes Amendment (Mining Administration) Act 1999

11—Transitional provisions

- (1) An agreement registered under Part 9B of the *Mining Act 1971* before the commencement of this Act will be taken to be an agreement that is to be kept confidential under section 63ZBA of that Act (as enacted by this Act) unless or until all parties to the agreement notify the Mining Registrar otherwise.

Mining (Private Mines) Amendment Act 1999, Sch 2

1—Existing rights and proceedings

- (1) Subject to this clause, the repeal of section 19 of the principal Act by this Act does not affect—
- (a) the effect of an application under section 19 of the principal Act before the commencement of this Act;
 - (b) the declaration of an area as a private mine under the principal Act;
 - (c) any other process commenced before the commencement of this Act.

- (2) Subject to this clause, section 19 of the principal Act, as in existence immediately before the commencement of this Act, will continue in force and effect as if this Act had not been enacted for the purpose of—
 - (a) determining any application for a declaration under that section (including by making an application to the Environment, Resources and Development Court in the event of a difference between the Minister and the applicant);
 - (b) making any declaration of an area as a private mine;
 - (c) any right to the payment of royalty pursuant to an application under subsection (17) of that section before 1 March 1980.
- (3) The general duty under section 73H of the principal Act (as enacted by this Act) applies from the commencement of this Act (including to mining operations commenced before the commencement of this Act).
- (4) The Director may take action under section 73I, 73J or 73K of the principal Act (as enacted by this Act) in relation to circumstances arising after the commencement of this Act (even if those circumstances are attributable to mining operations commenced before the commencement of this Act).
- (5) Sections 73M and 73N of the principal Act (as enacted by this Act) extend to grounds in existence before the commencement of this Act (and to any declaration of a private mine before the commencement of this Act).

2—Mine operation plans

- (1) The following provisions apply with respect to mine operations plans under Part 11B of the principal Act (as enacted by this Act):
 - (a) subject to paragraph (b), section 73G of the principal Act (as enacted by this Act) does not apply to mining operations being carried out at a private mine immediately before the commencement of this Act until six months after that commencement; and
 - (b) a development programme approved by the Chief Inspector under the *Mines and Works Inspection Act 1920* before the commencement of section 73G of the principal Act (as enacted by this Act) will be taken to be a mine operations plan for the purposes of that Part to the extent that it relates to mining operations being carried out at a private mine at a particular time (and may be reviewed and amended from time to time under section 73G of the principal Act (as enacted by this Act) as if it were a mine operations plan under that section).
- (2) A mine operations plan to which subclause (1)(b) applies must be reviewed in accordance with section 73G of the principal Act (as enacted by this Act) within seven years after the commencement of that section (and will not be subject to the operation of subsection (15)(a) of that section).

3—Additional matters

- (1) The Governor may, by regulation, make provision for other matters of a savings or transitional nature consequent on the enactment of this Act.
- (2) The *Acts Interpretation Act 1915* will, except to the extent of any inconsistency with the provisions of this Act, apply to any repeal or amendment effected by this Act.

Statutes Amendment (Courts and Judicial Administration) Act 2001

22—Transitional provisions

- (1) The amendments made to the principal Act by section 20—
 - (a) do not apply in respect of proceedings commenced before the commencement of that section (and those proceedings may continue as if this Act had not been enacted); and
 - (b) apply in respect of proceedings commenced after the commencement of that section (including proceedings in respect of a claim arising before the commencement of that section).
- (2) The amendments made to the principal Act by section 21 apply in respect of proceedings commenced after the commencement of that section (including proceedings in respect of a claim arising before the commencement of that section).

Mining (Miscellaneous) Amendment Act 2003, Sch

1—Interpretation

In this Schedule—

commencement date means the date on which sections 6(1) and 8 of this Act come into operation;

pre-amendment application means an application under the principal Act lodged with the Director of Mines before the commencement date;

principal Act means the *Mining Act 1971*.

2—Transitional provision

The amendments made by sections 6(1) and 8 of this Act do not apply with respect to—

- (a) an exploration licence granted on the basis of a pre-amendment application; or
- (b) the renewal of an exploration licence if the licence was granted before the commencement date, or on the basis of a pre-amendment application; or
- (c) a subsequent exploration licence under section 30AB of the principal Act (as enacted by this Act) if the former licence was granted before the commencement date, or on the basis of a pre-amendment application.

Mining (Royalty No 2) Amendment Act 2005, Sch 1

1—Interpretation

In this Schedule—

Minister means the Minister to whom the administration of the principal Act is committed;

principal Act means the *Mining Act 1971*.

2—Continuation of existing arrangements

- (1) Subject to clause 3, in the case of a mine in existence immediately before the commencement of this Act, the ex-mine gate value of any minerals—
- (a) subject to royalty under section 17(5) of the principal Act, as enacted by this Act; and
- (b) listed in Column 1 of the following table,
- will be determined according to the values set out in Column 3 of the following table:

Mineral	Grade	Value (\$/unit)
Agricultural Limestone		4/tonne
Barite	1st	24/tonne
	2nd	14/tonne
Clay	1st	8/tonne
	2nd	4/tonne
Dolomite	1st	10/tonne
	2nd	5/tonne
Feldspar		20/tonne
Gold		12/gram
Granites & Granitic Rocks		50/metre ³
		16.67/tonne
Gypsum	Categories 1-3 (super premium grade, plaster board, cement)	8/tonne
	Categories 4-8 (agricultural premium, grade 1, 2 & 3 and other)	4/tonne
Jade (Nephrite)		5000/tonne
		5/kilogram
Kaolin		8/tonne
Limesand		4/tonne
Limestone (including Marble)	1st	8/tonne
	2nd	4/tonne
Magnesite		8/tonne
Phosphate		4/tonne
Salt		8/tonne
Silica Sand/Rock Silica		4/tonne
Shell Grit		4/tonne
Talc	1st	20/tonne
	2nd	10/tonne

- (2) *The Governor may, by regulation, prescribe principles that may be taken into account to determine whether or not a mine falls within the ambit of subclause (1).*
- (3) *This clause will expire on 31 December 2008.*

3—Agreements

- (1) Unless otherwise agreed by the parties, any agreement under the principal Act relating to royalty on any minerals between the Minister and a person liable to pay the royalty in force immediately before the commencement of this Act will continue to have effect after the commencement of this Act, subject to any modifications that may be necessary in the circumstances or that may be prescribed (and on the basis that the agreement will cease to have effect in any event when the agreement expires, or is brought to an end in accordance with its terms or otherwise by agreement between the parties).
- (2) Nothing in this Schedule prevents or limits the ability of the Minister to enter into an agreement under the principal Act as amended by this Act (including an agreement that has the effect of modifying or excluding the operation of clause 2 in the relevant case).

Mining (Miscellaneous) Amendment Act 2010, Sch 1

2—Transitional provision

- (1) In this clause—
principal Act means the *Mining Act 1971*.
- (2) The Minister may, after the commencement of this clause, vary the terms and conditions of a mining lease in existence at that commencement so as to authorise the recovery, use and sale or disposal of extractive minerals in the manner contemplated by section 39(2) of the principal Act or the recovery, use and sale or disposal of other minerals in the manner contemplated by section 39(7) of the principal Act (as enacted by this Act) (and this authorisation will then be taken to be an authorisation under that section).

Mining (Royalties) Amendment Act 2011, Sch 1

1—Transitional provisions

- (1) In this clause—
new rate means the rate of royalty applying to new mines under section 17A of the principal Act on account of the amendment effected by section 5(2) of this Act;
principal Act means the *Mining Act 1971*.
- (2) The amendments made by this Act to section 17 of the principal Act apply in relation to minerals recovered on or after 1 July 2011.
- (3) The amendments made by this Act to section 17A of the principal Act apply in relation to any mine under that section that comes within the ambit of that section on account of an application lodged with the Director of Mines on or after 16 September 2010 (including a mine declared to be a new mine before the commencement of this clause).

- (4) If a mine to which subclause (3) applies is declared to be a new mine before 1 July 2011, the new rate will be taken to have applied in relation to the mine from the date on which the mine was declared to be a new mine for the purposes of section 17A of the principal Act (and any royalty that becomes payable on account of the operation of this subclause must be paid in accordance with any determination of the Minister made for the purposes of this subclause).
- (5) The amendments made by this Act to section 17A of the principal Act do not apply in relation to any mine that comes within the ambit of that section on account of an application lodged with the Director of Mines before 16 September 2010 (and section 17A, as in existence immediately before the commencement of this clause, will continue to apply in relation to such a mine as if section 5 of this Act had not been enacted).

Statutes Amendment (Courts Efficiency Reforms) Act 2012

30—Transitional provision

The amendment made to the *Mining Act 1971* by this Part—

- (a) does not apply in respect of proceedings commenced before the commencement of this Part (and those proceedings may continue as if this Act had not been enacted); and
- (b) applies in respect of proceedings commenced after the commencement of this Part (including proceedings in respect of a claim arising before the commencement of this Part).

Mining (Royalties) Amendment Act 2013, Sch 1

1—Transitional provision

- (1) The Minister may, in relation to the 2013/2014 financial year—
 - (a) make any determination or estimate required for the purposes of section 17DA, as inserted into the *Mining Act 1971* by this Act, and serve any notice for the purposes of that section, at any time during the 2013/2014 financial year; and
 - (b) if a notice referred to in paragraph (a) is served on a mining operator, require the mining operator to make a payment of royalty under the scheme established by section 17DA, as inserted into the *Mining Act 1971* by this Act, with respect to a period specified by the Minister, according to an estimate made by the Minister, with the payment to be made by a date specified by the Minister (and thereafter monthly payments will apply); and
 - (c) by notice served on a mining operator, make any other provision of a transitional nature so that section 17DA of the *Mining Act 1971*, as inserted into that Act by this Act, may operate effectively (including so as to modify the operation of that section in relation to the 2013/2014 financial year).
- (2) Any determination, estimate or notice made or served by the Minister under subclause (1) will have effect according to its terms and despite the provisions of the *Mining Act 1971*.

Budget Measures Act 2014, Sch 1

23—Transitional provision

The amendment made by clause 18 of this Part to section 17 of the *Mining Act 1971* applies in relation to extractive minerals recovered on or after 1 July 2014.

Statutes Amendment (Budget Measures) Act 2019, Pt 2

12—Transitional provision

The amendments made to sections 40, 41E and 52 of the *Mining Act 1971* by this Part apply in relation to rent paid under those sections following the commencement of this Part.

Statutes Amendment (Mineral Resources) Act 2019, Sch 1 Pt 1—Transitional provisions

1—Interpretation

In this Schedule—

principal Act means the *Mining Act 1971*.

2—References

On and after the day on which section 4 comes into operation, a reference in any Act, statutory instrument or other document or instrument to a mining tenement under the principal Act will, unless the context otherwise requires, be taken to include a reference to a mineral tenement.

3—Waiver of exemption

(1) In this clause—

mining operator has the same meaning as in the principal Act, as in force immediately before the day on which section 4 comes into operation.

(2) Section 9AA of the principal Act, as in force immediately before the day on which section 9 comes into operation, will continue to apply where a mining operator has given a notice to a person under subsection (1) of that section before the day on which section 22 comes into operation.

4—Registers

All registers kept under section 15A of the principal Act immediately before the repeal of that section by this Act will, on that repeal, be taken to form part of the mining register under section 15AA of the principal Act as enacted by this Act.

5—Mortgages

(1) A mortgage may be registered under section 15AC of the principal Act, as enacted by this Act, whether it was created before or after the commencement of that section.

(2) An application may be made under section 15AD of the principal Act, as enacted by this Act, in relation to a mortgage—

(a) registered on a register under the principal Act before the commencement of that section; or

- (b) created before the commencement of that section and registered on the mining register on or after that commencement.

6—Registered documents and dealings

Section 15AH of the principal Act, as enacted by this Act, extends to the registration of any interest, instrument, agreement, statement, notice, order, direction, bond, penalty or other document or dealing on the mining register before the commencement of section 22 of this Act.

7—Royalty

- (1) The principal Act, as in force immediately before the commencement of section 23 of this Act, applies for the purposes of the first return required to be furnished by a tenement holder following that commencement and to the calculation of royalty in respect of minerals recovered during the period to which the return relates.
- (2) If a relevant event has occurred under section 73E of the principal Act, as in force immediately before the commencement of section 23 of this Act, that event will be taken to be a relevant event for the purposes of section 17AB of the principal Act as enacted by this Act.

8—Exploration licences

- (1) In this clause—
grant date is the date of the original grant of an exploration licence;
relevant day means the day on which section 41 comes into operation.
- (2) An exploration licence in existence immediately before the relevant day, other than a licence that has been granted under section 30AB of the principal Act, will continue to be subject to the operation of section 30A of the principal Act, as in existence immediately before the relevant day, until the expiration of 5 years from the date on which the licence was granted, and then will be subject to the operation of section 30A of the principal Act, as amended by this Act, as if the term or aggregate term of the licence had reached the period of 6 years, rather than 5 years, and with the grant date for the licence being taken to be 1 year earlier than the actual grant date.
- (3) If—
 - (a) an exploration licence in existence immediately before the relevant day has been granted under section 30AB of the principal Act; and
 - (b) immediately before the relevant day, the term of that licence when aggregated with the term of the former licence under section 30A of the principal Act, as in existence immediately before the relevant day, has not reached a period of 10 years,

the licence will be subject to the operation of section 30A of the principal Act as in force immediately before the relevant day until the expiration of 10 years from the date on which the former licence was granted, and will then be subject to the operation of section 30A(7)(a) of the principal Act, as amended by this Act, as if the term or aggregate term of the licence had reached the period of 6 years.

- (4) If—
- (a) an exploration licence in existence immediately before the relevant day has been granted under section 30AB of the principal Act; and
 - (b) that licence is a successor to a former licence granted under section 30AB of the principal Act; and
 - (c) immediately before the relevant day, the term of the licence when aggregated with the terms of the former licence or licences under section 30A and 30AB of the principal Act, as in existence immediately before the relevant day, has reached a period of 10 years or more,

the licence will be subject to the operation of section 30A of the principal Act as in force immediately before the relevant day until the expiry of the 5 year aggregate term of the licence and—

- (d) the aggregate period of the licence and any former licence will be taken to be 12 years (with the grant date for the licence being adjusted accordingly); and
- (e) if the holder of the licence seeks a further renewal of the licence, they will be required to make an application for the renewal of the licence under section 30A of the principal Act, as amended by this Act, and will then be subject to the operation of section 30A(7)(b) (other than subparagraph (ii) of that paragraph) and the licence may continue in force pending the outcome of the application.

9—Expenditure

- (1) An expenditure obligation imposed under section 30(1)(b) of the principal Act as a condition of an exploration licence in existence immediately before the relevant day will be taken to set out the level of expenditure that applies in relation to the licence for the purposes of section 30AAA of the principal Act as enacted by this Act.
- (2) The Minister may exercise a power under section 30AAA of the principal Act, as enacted by this Act, in relation to any exploration licence in existence immediately before the commencement of that section.

10—Reinstatement of tenements

Section 56Z of the principal Act, as enacted by this Act, cannot apply in relation to a mineral tenement that expired before the commencement of that section.

11—Mining Rehabilitation Fund

The Minister may impose a requirement under section 62AA of the principal Act, as enacted by this Act, in relation to a mining tenement (or mineral tenement) granted before the enactment of that section.

12—Jurisdiction relating to tenements and monetary claims

The amendment to section 67(1a) of the principal Act by section 78—

- (a) does not apply in respect of proceedings commenced before the commencement of that section (and those proceedings may continue as if this Act had not been enacted); and

- (b) apply in respect of proceedings commenced after the commencement of that section (including proceedings in respect of a claim arising before the commencement of that section).

13—Programs for environment protection and rehabilitation

- (1) In this clause—

ADP means a development program approved under regulation 9 of the *Mines and Works Inspection Regulations 2013*;

relevant day means the day on which section 83 comes into operation;

PEPR means a program under Part 10A of the principal Act;

prescribed item means—

- (a) an exploration work program; or
- (b) a declaration of environmental factors; or
- (c) a program for mining and rehabilitation of land,

within the meaning of regulation 114 of the *Mining Regulations 2011* as in force immediately before the relevant day.

- (2) A prescribed item—

- (a) continues as a PEPR for the purposes of the principal Act; and
- (b) insofar as it is relevant to authorised operations conducted under the principal Act on or after the relevant day, will be taken to be an approved program under Part 10A of the principal Act and to be subject to the operation and requirements of—
 - (i) regulation 114 of the *Mining Regulations 2011*; and
 - (ii) Part 10A of the principal Act (including so as to require the prescribed item, as a PEPR, to be reviewed under that Part as required and to be relevant to the operation of section 70D of the principal Act as in force immediately before the relevant day and section 70DA of the principal Act as enacted by this Act on or after the relevant day).

- (3) An ADP in force immediately before the relevant day—

- (a) will be taken to be a PEPR for the purposes of the principal Act; and
- (b) insofar as it is relevant to authorised operations conducted under the principal Act on or after the relevant day, will be taken to be an approved program under Part 10A of the principal Act and to be subject to the operation and requirements of Part 10A of the principal Act (including so as to require the ADP, as a PEPR, to be reviewed under that Part as required and to be subject to the operation of sections 70D and 70DA of the principal Act as enacted by this Act on or after the relevant day).

- (4) Subclause (3) does not apply in relation to operations within the ambit of section 5 of the *Mines and Works Inspection Act 1920*, as enacted by this Act.

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- (5) The Minister may, on or after the enactment of paragraph (c) of section 70C(5) of the principal Act, reject a program that has been submitted under section 70B of the principal Act before that enactment.
 - (6) The Minister may require a program audit to be conducted under section 70D of the principal Act, as enacted by this Act, in relation to a PEPR that has been approved before the relevant day.
 - (7) If a person who has applied for a mineral tenement before the commencement of this Act submits a program for approval under section 70B(4) of the principal Act as substituted by this Act, the program must be consistent with any proposal provided to the Minister during the relevant mineral tenement application process.

14—Caveats

If a caveat lodged under Part 11A of the principal Act is in force immediately before the repeal of that Part by this Act—

- (a) the provisions of that Part will continue to apply in relation to the caveat as if the repeal had not been effected; and
- (b) Division 3 of Part 2A of the principal Act, as enacted by this Act, will not apply in relation to the caveat.

15—Private mines

- (1) In this clause—

prescribed day means the day falling 15 years after the day on which this clause comes into operation.

- (2) On and after the prescribed day—
 - (a) a mine operations plan in force under section 73G of the principal Act immediately before that day will be taken to be an approved program under Part 10A of the principal Act; and
 - (b) Part 10A of the principal Act will apply to and in relation to a private mine and a person carrying out mining operations in relation to a private mine; and
 - (c) section 73G of the principal Act will cease to apply to and in relation to a private mine (and that section will be taken to have been repealed on that day); and
 - (d) sections 73I and 73KA of the principal Act will apply—
 - (i) as if a reference to a mine operations plan included a reference to a program under Part 10A of the principal Act; and
 - (ii) as if a reference to objectives contained in a mine operations plan included a reference to environmental outcomes under a program under Part 10A of the principal Act.

16—Safety net

The repeal of section 84A of the principal Act does not affect the operation of any agreement in force under that section before the repeal.

Historical versions

Reprint—31.7.1986
Reprint No 1—1.10.1991
Reprint No 2—4.3.1993
Reprint No 3—15.1.1994
Reprint No 4—3.11.1994
Reprint No 5—1.6.1995
Reprint No 6—17.6.1996
Reprint No 7—21.4.1997
Reprint No 8—21.5.1998
Reprint No 9—1.4.1999
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Reprint No 11—8.6.2000
Reprint No 12—1.7.2000
Reprint No 13—1.9.2000
Reprint No 14—1.3.2001
Reprint No 15—14.6.2001
Reprint No 16—15.7.2001
Reprint No 17—3.2.2002
Reprint No 18—4.5.2002
Reprint No 19—12.6.2003
Reprint No 20—30.10.2003
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2.9.2004
1.7.2005
1.1.2006
4.9.2006
6.11.2008
1.10.2009
1.2.2010
16.6.2011
1.7.2011
1.7.2013
19.6.2014 (electronic only)
1.7.2014
8.12.2016
22.11.2018
1.1.2020
1.7.2020
1.1.2021