

South Australia

# Mining Regulations 2011

under the *Mining Act 1971*

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# Part 1—Preliminary

## 1—Short title

These regulations may be cited as the *Mining Regulations 2011*.

## 3—Interpretation

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

*Act* means the *Mining Act 1971*;

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

*company* means a company within the meaning of the *Corporations Act 2001* of the Commonwealth;

*dimension stone* means stone that is quarried in regular blocks and cut, trimmed and finished to specific dimensions and shapes and includes cut stone, ashlars, monumental stone, roofing slate and flagging stone;

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

- (a) in the case of a claim—the owner of the claim;
  - (b) in the case of a lease—the lessee;
  - (c) in the case of a licence—the licensee.
- (2) For the purposes of paragraph (ab) of the definition of **declared equipment** under the Act, a prescribed class of drilling equipment is any mechanically driven machinery that is capable of drilling to depths greater than 2.5 metres below the ground in order to recover subsurface geological samples or information.
- (3) The following are **prescribed purposes** under paragraph (a) of the definition of **extractive minerals** under the Act:
- (a) chemical, cement, lime and glass manufacture;
  - (b) metallurgical flux, refractories and industrial fillers;
  - (c) foundries, fertiliser, agricultural, jewellery and crafted ornamental uses;
  - (d) any purposes connected with the production of dimension stone.

#### **4—Ministerial approval required to enter certain land**

- (1) A person must not, for the purposes of exercising a right under the Act or the regulations, enter on land that constitutes a parkland or recreation ground under the care, control or management of a council without the written approval of the Minister.
- (2) An application for the approval of the Minister under subregulation (1) must—
  - (a) be made in writing; and
  - (b) state the name, nature and locality of the relevant land; and
  - (c) provide details concerning the proposed operation or activity on the land.

#### **5—Exercise of rights over a road, street or highway**

- (1) A person must not exercise a right under the Act or these regulations on a public road, street or highway without the written consent of the authority that has care, control or management of the road, street or highway.
- (2) However, a consent under subregulation (1) is not required to identify an area for a mineral claim on land (by pegging or in some other approved manner) consisting (partially or entirely) of a public road, street or highway.
- (3) An application to register a claim on land consisting (partially or entirely) of a public road, street or highway must be accompanied by the consent required under subregulation (1).

#### **6—Waiver of exemption**

- (1) An agreement under section 9AA of the Act to waive the benefit of an exemption—
  - (a) must set out the full names and addresses of the parties to the agreement; and
  - (b) must set out the details of the exemption provided under the agreement; and
  - (c) must set out any conditions to which the exemption is subject; and
  - (d) must set out the term of the agreement; and

- (e) must include a statement setting out the cooling-off rights of the person who is waiving the benefit of the exemption.
- (2) The holder of a mining tenement (or an applicant for a mining tenement), other than an exploration licence, who is a party to an agreement, or a person who has the benefit of an order under section 9AA of the Act, to waive the benefit of an exemption must ensure that a copy of the agreement or order (as the case may be) is lodged with the Mining Registrar—
  - (a) if the waiver is obtained prior to an application to register the tenement—at the time of making the application;
  - (b) if the waiver is negotiated at any time thereafter—within 21 days after the negotiations are completed.
- (3) In the case of an exploration licence, the holder of the licence (or an applicant for a licence) who is a party to an agreement, or a person who has the benefit of an order under section 9AA of the Act, to waive the benefit of an exemption must ensure that a copy of the agreement or order (as the case may be) is lodged with the Mining Registrar within 14 days after being requested to do so by the Mining Registrar, or by a person holding an authority issued by the Mining Registrar for the purposes of this regulation.
- (4) A person claiming for the costs of legal assistance under section 9AA(14) of the Act must provide a copy of an account, or some other reasonable evidence, relating to the incurring of those costs.

## **7—Special conditions for tenements over the sea bed**

- (1) A person who obtains a mining tenement over a part of the sea bed declared to be mineral lands under the Act is liable for, and will indemnify and keep indemnified the South Australian Government against, all actions, suits, claims and demands whatsoever resulting from the erection or placing by the person of a structure or object on or over that part of the sea bed, or the escape of a deleterious substance into the sea, while conducting mining operations associated with the mining tenement and, for this purpose, a mining tenement must not be registered or granted over a part of the sea bed unless and until the relevant person has entered into an agreement with the Minister (to the Minister's satisfaction) that complies with the requirements of subregulation (2).
- (2) An agreement complies with the requirements of this subregulation if the relevant person agrees—
  - (a) to indemnify and to keep indemnified the South Australian Government against all actions, suits, claims and demands whatsoever resulting from the erection or placing by the person of a structure or object on or over a part of the sea bed, or the escape of a deleterious substance into the sea, while conducting mining operations associated with the mining tenement; and
  - (b) to remove any such structure or object if or when directed to do so by a Minister and, in default of so removing it, to pay to the Crown all costs and expenses incurred by a Minister in undertaking its removal.
- (3) A person holding a mining tenement must not—
  - (a) permit the escape of a deleterious substance into the sea; or

- (b) fail to remove a structure or object placed on or over a part of the sea bed if directed to do so by a Minister.
- (4) In the event of a contravention of subregulation (3)(b), a Minister may take steps to ensure that the structure or object is removed and recover the reasonable costs and expenses incurred in removing it as a debt from the holder of the tenement.
- (5) A person who obtains a mining tenement over a part of the sea bed must not commence mining operations associated with the tenement unless or until the Minister for the time being administering a prescribed Act certifies that the Minister is satisfied that the operations will not contravene a prescribed Act.
- (6) A reference in this regulation to mining operations associated with a mining tenement includes any activity undertaken for the purposes of, or incidental to, the conduct of mining operation.
- (7) In this regulation—
  - prescribed Act* means—
    - (a) the *Aquaculture Act 2001*; and
    - (b) the *Fisheries Management Act 2007*;
  - South Australian Government* means the Crown in right of the State and includes all Ministers of the Crown.

## Part 2—Royalty

### 8—Prescribed costs (section 17)

For the purposes of section 17(8) of the Act, the costs of the following kinds are prescribed:

- (a) costs (including GST) genuinely incurred in transporting the minerals from the relevant tenement to a point of sale (including, for example, packaging, storage, loading, permit, fees and insurance costs);
- (b) costs genuinely incurred in shipping the minerals to a genuine purchaser in a sale at arms length;
- (c) any other costs determined by the Minister to be a cost of a prescribed kind for the purposes of that section.

### 9—Means of payment (section 17G)

For the purposes of section 17G of the Act, royalty may be paid by means of electronic funds transfer to an account nominated by the Minister.

## Part 3—Claims

### Division 1—Mineral claims

#### 10—Size (section 23)

For the purposes of section 23(1) of the Act (but subject to section 23(2)), the maximum permissible area of a mineral claim that can be pegged out is 250 hectares.

## 11—Shape of claim

- (1) Subject to these regulations, the shape of a mineral claim must, as far as practicable, approximate a rectangle, the length of the longer side of which must not exceed five times the length of the shorter side.
- (2) The length of the longest side of a mineral claim must not exceed 2 kilometres.
- (3) If it is not practicable to comply with subregulation (1) or (2) because of the position of adjoining boundaries for other areas, or natural features, an intervening or irregularly shaped piece of land may be constituted as a mineral claim.

## 12—Mode of taking possession by pegging

- (1) This regulation sets out the requirements for a valid pegging of a mineral claim under the Act.
- (2) A post must be securely placed in the ground at each corner of the relevant area.
- (3) Each post must—
  - (a) be devoid of marks or writing that refers to a previous pegging; and
  - (b) have a cross-sectional dimension equal to or exceeding 7 centimetres; and
  - (c) project at least 75 centimetres above the ground; and
  - (d) clearly show the date of pegging and the name and address of the person making the claim (either by direct markings on the post or by the secure attachment of a notice to the post), as near to the top of the post as practicable; and
  - (e) if the person is pegging out more than 1 claim on the same parcel of land on the same day, clearly show the number of the claim, as pegged out on that land on that day, using consecutive numbers starting with the number 1.
- (4) The direction of the boundaries of the claim must be clearly indicated by trenches, piles of stones, or substantial indicator markers fixed to each post.
- (5) If it is impracticable to comply with a preceding subregulation, a person may peg out a mineral claim in some other manner but, in such a case, the person must lodge a notice of the manner of pegging at the nearest office of the Mining Registrar to the area that has been pegged out.
- (6) A notice under subregulation (5) must—
  - (a) be in writing; and
  - (b) be given within 7 days after the pegging.
- (7) If the Mining Registrar, or a person authorised by the Mining Registrar for the purposes of this regulation, considers that the method of pegging out an area is unsatisfactory, he or she may order that a different method be used.
- (8) A person to whom an order is directed under subregulation (7) must immediately comply with the order.
- (9) The holder of a mineral claim established under this regulation must maintain all posts, boundary indicator markers and notices on the claim in the positions required by these regulations.



**13—Application to establish a mineral claim (section 21)**

- (1) For the purposes of section 21(7) of the Act—
  - (a) the plan delineating the location and area of the mineral claim must include coordinates in a manner or form determined by a mining registrar; and
  - (b) information concerning the ownership of the land must be provided in the form of a copy of the relevant certificate or instrument of title for the land (being a copy made within the preceding period of 3 months).
- (2) For the purposes of sections 21(10) and 24A(a)(ii) of the Act, the period of 14 days, or such longer period as a mining registrar may determine or approve, is prescribed.

**14—Registration of claim**

- (1) Subject to the Act, a mining registrar must, on the registration of a mineral claim—
  - (a) enter full particulars of the claim in the Mining Register; and
  - (b) provide to the applicant an extract of the relevant entry from the Mining Register; and
  - (c) provide notification of the registration of the claim to the owner of the land.
- (2) An extract or notification under subregulation (1) will be provided in a manner and form determined by the Mining Registrar.
- (3) If a mineral claim has been identified by pegging, the owner of the mineral claim (once registered) must ensure that the registration number for the claim is clearly displayed on each post marking out the area of the claim within 14 days after registration.

**15—Cancellation of claim**

- (1) If the Mining Registrar discovers or determines, after a mineral claim is registered, that the claim should not have been registered on account of a contravention of, or a failure to comply with, a provision or requirement of the Act or these or any other regulations made under the Act, the Mining Registrar may, by notice in writing to the owner of the claim, give notice of his or her intention to cancel the registration of the claim on a day specified in the notice (which must be at least 21 days after the date of the notice).
- (2) A person who receives a notice under subregulation (1) may apply to the Warden's Court to have the decision of the Mining Registrar reviewed.
- (3) An application for review must be made within 14 days of service of the notice (unless the Warden's Court allows an extension of time).
- (4) Pending the determination of an application for review, the Mining Registrar must not cancel the registration of the claim.
- (5) At the conclusion of the review, the Warden's Court may—
  - (a) confirm the decision of the Mining Registrar; or
  - (b) cancel the notice.
- (6) Subject to a decision of the Warden's Court under this regulation, the Mining Registrar may, after the day specified in a notice under this regulation, cancel the registration of the relevant claim.

## **16—Surrender of claim (section 26(4))**

- (1) The owner of a registered mineral claim who wants to surrender the claim must, subject to this regulation—
  - (a) remove the posts (if any) marking out the area of the claim; and
  - (b) lodge a notice of surrender at an office of the Mining Registrar.
- (2) A person is not required to comply with subregulation (1)(a) if an authorised officer, the Mining Registrar or a person authorised in writing by the Mining Registrar issues a certificate of exemption from the requirement on the basis that it is unreasonable (for reasons of safety or otherwise) to require the posts to be removed.
- (3) A notice of surrender must be in a form determined by the Minister.
- (4) A surrender will be taken to be effective when the requirements of the Act, these regulations and any conditions attaching to the claim have been satisfied.

## **17—Insufficiently defined claims**

- (1) If a mineral claim is not defined in accordance with the requirements of these regulations or a mining registrar, a person authorised by the Director for the purposes of this regulation may, by notice in writing to the owner of the claim, require the owner to rectify the situation within a specified period (of at least 7 days).
- (2) If a notice under subregulation (1) is not complied with within the time specified by the notice, the Director may apply to the Warden's Court for an order cancelling the claim and for appropriate consequential orders (and the Warden's Court has jurisdiction to make those orders).

## **18—Reduction in area of a claim**

- (1) The owner of a mineral claim may, with the approval of a mining registrar, reduce the area of the claim.
- (2) An approval under subregulation (1) may be given subject to conditions specified by the mining registrar (and the owner of the claim must, if the area of the claim is reduced, comply with those conditions).
- (3) The requirements of these regulations relating to the shape of a claim do not apply if the area of a mineral claim is reduced under this regulation.

## **19—Continuation of claim if application made for lease**

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

## **20—Cessation of claim if lease granted**

If the Minister grants a mining lease or a retention lease over the whole or part of the area of a mineral claim—

- (a) the claim will cease to the extent to which the lease applies to the area of the claim; and

- (b) if there is no other application for a mining tenement in relation to the mineral claim under consideration under the Act and these regulations at that time, the claim will cease and determine.

## **Division 2—Access claims**

### **21—Determination of site**

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

### **22—Size**

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

### **23—Shape of claim**

- (1) The shape of an access claim must approximate a square.
- (2) The length of a side of an access claim must not exceed 50 metres in length.

### **24—Mode of taking possession**

- (1) This regulation sets out the requirements for a valid pegging of an access claim under the Act.
- (2) A post must be securely placed in the ground at each corner of the relevant area.
- (3) Each post must—
  - (a) be devoid of marks or writing that refers to a previous pegging; and
  - (b) have a cross-sectional dimension equal to or exceeding 7 centimetres; and
  - (c) project at least 75 centimetres from the ground; and
  - (d) clearly show the number and type of subsurface tenement by virtue of which the claim is pegged out, together with the date of pegging (either by direct markings on the post or by the secure attachment of a notice to the post) as near to the top as practicable; and
  - (e) if the person is pegging out more than 1 claim on the same parcel of land on the same day, clearly show the number of the claim, as pegged out on that land on that day, using consecutive numbers starting with the number 1.
- (4) The direction of the boundaries of the claim must be clearly indicated by substantial indicator markers fixed to each post.

### **25—Maintenance of claims**

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

### **26—Registration of claim**

- (1) Subject to the Act, a mining registrar must on the registration of an access claim—
  - (a) complete a certificate of registration; and
  - (b) enter full particulars of the claim in the Mining Register.

- (2) The owner of a registered access claim must ensure that the registration number for the claim is clearly displayed on each post marking out the area of the claim within 7 days after registration.

### **27—Renewal of access claims (section 63E)**

- (1) An application for the renewal of an access claim must be made on or before the day on which the registration of the claim is due to expire.
- (2) The application must be made in a form determined by the Minister.
- (3) An application must be accompanied by the appropriate fee under Schedule 1.

### **28—Surrender of claim (section 63E)**

- (1) The owner of a registered access claim who wants to surrender the claim must—
  - (a) remove the posts marking out the area of the claim; and
  - (b) lodge a notice of surrender at an office of the Mining Registrar.
- (2) A notice of surrender must be in a form determined by the Minister.

## **Part 4—Leases**

### **Division 1—Mining leases**

#### **29—Prescribed classes of lease (section 34(3))**

For the purposes of section 34(3) of the Act, the following classes of mining leases are prescribed:

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

#### **30—Mining proposals**

- (1) For the purposes of section 35(1) of the Act—
  - (a) any description or assessment relating to the environment may be limited to those aspects of the environment that may reasonably be expected to be affected by the relevant mining operations; and
  - (b) an assessment of environmental impacts referred to in section 35(1)(a)(ii) of the Act, and an outline of the measures to be taken under that provision, must include a description of the anticipated likelihood and consequences of those impacts after the relevant measures have been taken; and
  - (c) the environmental outcomes proposed under section 35(1)(a)(ii)(C) of the Act must be developed by the applicant after taking reasonable steps to consult with the owner of any land on which the mining operations are proposed to be carried out and any other person who, in the opinion of the applicant, may be directly affected by the proposed mining operations; and
  - (d) the statement of the environmental outcomes under section 35(1)(a)(ii)(C) of the Act must include a set of mine rehabilitation outcomes that at least address the following issues (assessed on a long-term basis):

- (i) external visual amenity;
    - (ii) risks to the health and safety of the public and fauna;
    - (iii) physical, ecological and chemical stability;
    - (iv) surface and groundwater quality and quantity; and
  - (e) information on the consultation undertaken in connection with the proposed mining operations must include a summary of the issues that appeared to cause concern to the persons with whom the consultation occurred and the steps (if any) that the applicant has taken, or intends to take, to address those concerns.
- (2) The information provided for the purposes of a mining proposal under section 35(1) of the Act must—
- (a) be balanced, objective and concise; and
  - (b) state any limitations that apply, or should apply, to the use of the information; and
  - (c) identify any matter in relation to which there is a significant lack of relevant information or a significant degree of uncertainty; and
  - (d) so far as is relevant, identify the sensitivity to change of any assumption that has been made and any significant risks that may arise if an assumption is later found to be incorrect.
- (3) The Minister may, for the purposes of subregulations (1) and (2), determine, by notice in the Gazette, the manner and form, amount and detail of any information that must be acquired or provided after taking into account—
- (a) whether the mining lease is—
    - (i) a mineral lease; or
    - (ii) an extractive minerals lease; and
  - (b) the nature and extent of the operations to be carried out under the lease.
- (4) The Minister may, in relation to a mining proposal under section 35(1) of the Act, require that any information provided for the purposes of the mining proposal must be accompanied by a declaration signed by a person (being the applicant or a person authorised by the applicant) who has taken reasonable steps to review the information and to ensure its accuracy.
- (5) The Minister may determine that an electronic version of a mining proposal must be provided for the purposes of the Act and these regulations.

### **31—Nature of lease**

- (1) Subject to the Act, a mineral lease entitles the lessee to carry out mining operations specified in the lease for the recovery of minerals other than extractive minerals.
- (2) Subject to the Act, an extractive minerals lease entitles the lessee to carry out mining operations specified in the lease for the recovery of extractive minerals.
- (3) For the purposes of section 39(2) and (7) of the Act, the prescribed circumstances are circumstances determined by the Minister to be appropriate in the circumstances of the particular case.

### **32—Application by trustee or manager**

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

### **33—Display of lease number**

- (1) An applicant for a lease who is notified that the Minister has approved his or her application must, within 14 days after receipt of the notification, ensure that the number and class of the lease are clearly displayed on each post marking out the relevant area.
- (2) For the purposes of subregulation (1), the class of lease must be designated by "ML" for a mineral lease or "EML" for an extractive minerals lease, as appropriate.
- (3) The person must ensure that all notices relating to the claim are removed at the time that the information is recorded on the posts under subregulation (1).
- (4) If approval is only given for a portion of the land comprised in a claim, the lessee must, within 14 days of the notification referred to in subregulation (1)—
  - (a) redefine the boundaries of the lease, either by repositioning any existing posts or by placing new posts at the corners of the area in respect of which the lease is granted; and
  - (b) remove any posts outside the area in respect of which the lease is granted.
- (5) This regulation does not apply if the relevant mineral claim has been identified in some other manner approved by a mining registrar under section 21(2)(b) of the Act.

### **34—Superimposed leases**

- (1) If a mining lease of one class is granted over land held as a mining lease of the other class and the lessee is the same person, the lessee need only maintain 1 post at each corner of the relevant area, but each post must have on it, or have on a notice attached to it, the numbers and classes of both mining leases.
- (2) If a superimposed tenement covers a part of the prior tenement, the superimposed tenement must be marked out by independent posts.
- (3) The annual rental payable on superimposed leases will be waived for all leases except the lease with the highest rental.
- (4) If a superimposed lease is held by another party, annual rent is payable for both leases.
- (5) Subregulations (1) and (2) do not apply if the relevant mineral claim has been identified in some other manner approved by a mining registrar under section 21(2)(b) of the Act.

### **35—Working conditions**

Unless otherwise determined or agreed by the Minister, the holder of a mining lease must—

- (a) commence mining operations in accordance with a program under Part 10A of the Act within 12 months after the program has been approved by the Minister; and

- (b) thereafter continue mining operations in accordance with the requirements of that program.

## **Division 2—Retention leases**

### **36—Application by trustee or manager**

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

### **37—Display of lease number**

- (1) An applicant for a lease who is notified that the Minister has approved his or her application must, within 14 days after the receipt of the notification, ensure that the number of the lease and the designation "RL" are clearly displayed on each post marking out the relevant area.
- (2) The person must ensure that all notices relating to the claim are removed at the time that the information is recorded on the posts under subregulation (1).
- (3) If approval is only given for a portion of the land comprised in a claim, the lessee must, within 14 days of the notification referred to in subregulation (1)—
  - (a) redefine the boundaries of the lease, either by repositioning any existing posts or by placing new posts at the corners of the area in respect of which the lease is granted; and
  - (b) remove any posts outside the area in respect of which the lease is granted.
- (4) This regulation does not apply if the relevant mineral claim has been identified in some other manner approved by a mining registrar under section 21(2)(b) of the Act.

### **38—Cessation if mining lease granted**

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

## **Division 3—Common provisions**

### **39—Multiple leases over single mineral claim**

- (1) This regulation applies if the area of a mineral claim exceeds the maximum permissible area under an approval of the Minister under section 23(2) of the Act.
- (2) In a case where this regulation applies, the Minister may, subject to the Act, grant 2 or more leases (being either 1 or more mining leases or 1 or more retention leases or any combination of both) over a single mineral claim.
- (3) In connection with subregulation (2), if 2 or more applications have been made in relation to a single mineral claim and the Minister has made an offer to grant a lease over a part of the claim, the mineral claim will continue until all other applications for leases made before the acceptance of the offer by the person to whom it was made have been dealt with by the Minister.

#### **40—Notification of proposed terms and conditions**

- (1) If the Minister determines on application under the Act that he or she is willing to grant to the applicant a mining lease or a retention lease (subject to the operation of the Act and these regulations), the Minister must advise the applicant by notice in writing of the terms and conditions under which the Minister is prepared to do so.
- (2) An applicant must, within 21 days after the date of a notice under subregulation (1) or such longer period as the Mining Registrar may allow, notify the Minister in writing as to whether the applicant is willing to accept the terms and conditions notified under subregulation (1).
- (3) If an applicant notifies the Minister under subregulation (2) that the applicant accepts the terms and conditions, and pays the appropriate rental under the Act, the Minister will grant the relevant lease.
- (4) If an applicant fails to provide a notification within the time allowed under subregulation (2), the Minister may assume that the application has been withdrawn.

#### **41—Conditions to be observed after notification of approval**

- (1) If or when the applicant for a mining lease or a retention lease receives written notification that the lease has been approved by the Minister, the applicant will, during the period between the date of the notification and the execution of the lease document, be taken to be the lessee of the land in respect of which the lease is sought.
- (2) A person who is taken to be a lessee by virtue of subregulation (1) must, during the period that applies under that subregulation, comply with all proposed terms and conditions of the lease as if the lease document had been executed.
- (3) If a person fails to execute and return a lease document within 90 days of the document being forwarded to the person for execution as lessee, the Minister may, by notice in the Gazette, withdraw his or her approval of the lease, and the lease will then cease and determine.

#### **42—Annual rent**

- (1) The rental payable for a mining lease or a retention lease is prescribed by Schedule 2.
- (2) The rent payable for a lease will be calculated according to the total amount of land in respect of which the lease is granted, and no allowance will be made for land that is not available for mining or other activities under the lease.
- (3) The rent payable for a lease must be paid annually in advance to the Director at the head office of the Mineral Resources Group of the Department of the Minister.

#### **43—Maintenance of lease**

- (1) The lessee under a mining lease or a retention lease must, during the term of the lease, and any extension or renewal of the lease, maintain all posts, boundary indicator markers and notices in the positions required by these regulations.
- (2) However, subregulation (1) does not apply—
  - (a) if the relevant mineral claim has been identified in some other manner approved by a mining registrar under section 21(2)(b) of the Act; or
  - (b) in the case of a retention lease, if the lessee furnishes the Director with a survey of the area of the retention lease acceptable to the Director.



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

#### **44—Transfer of lease**

- (1) The following procedures apply to the transfer of a mining lease or a retention lease:
- (a) an application for the Minister's consent to the transfer of the lease must be made in a form determined by the Minister (as part of the proposed instrument of transfer);
  - (b) the Minister may approve or refuse the application or may require the provision of further information, including particulars of the arrangements that will apply to ensure compliance with requirements of the lease relating to the rehabilitation of land;
  - (c) the Minister's consent will operate subject to the payment of any outstanding fees or rental with respect to the lease and the resolution of any issues relating to a bond under the Act;
  - (d) the instrument of transfer, after payment of stamp duty, must be lodged with a mining registrar, together with the transferor's copy of the lease, the fee prescribed by Schedule 1, any other outstanding fees or rentals with respect to the lease, and any bond, within 30 days after the Minister gives his or her consent to the transfer, or such later time as the Mining Registrar may allow;
  - (e) the late lodgment fee prescribed by Schedule 1 is payable if an instrument of transfer is lodged with a mining registrar later than 30 days after the Minister gives his or her consent to the transfer;
  - (f) on due receipt of the documents and other items required under paragraphs (d) and (e) (including evidence of the payment of stamp duty), a mining registrar must enter a memorial of the transfer in the Mining Register, print an extract from the Mining Register that records the transfer and provides particulars of all interests registered against the lease, and furnish the extract and the lease to the transferee;
  - (g) a transfer does not take effect until a memorial of the transfer is entered in the Mining Register under paragraph (f).
- (2) If application is made to transfer a lease for which a lease document has not yet been issued, the procedure under subregulation (1) must be carried out so far as is practicable with the lease document being issued in the name of the transferee, containing any endorsements considered necessary by the Mining Registrar.

#### **45—Surrender of lease**

- (1) The Minister may approve an application for the surrender of all or a portion of a mining lease or a retention lease if the Minister is satisfied—
- (a) that all relevant rent, royalties and fees have been paid; and
  - (b) that all relevant land (being land to which the surrender relates and, if relevant, land outside the area of the tenement) has been rehabilitated—
    - (i) in accordance with the requirements of a program under Part 10A of the Act; and

- (ii) to a standard required to secure compliance with a condition of the lease; and
  - (c) that all other requirements under the Act (including by virtue of a notice, direction or order under the Act) have been complied with or satisfied.
- (2) The Minister may, if the Minister thinks fit, waive compliance with a requirement under subregulation (1).
- (3) A right of surrender under the Act and these regulations is subject to the rights of persons claiming from or under a lessee.

## **Part 5—Licences**

### **Division 1—Exploration licences**

#### **46—Notification of proposed terms and conditions**

- (1) If the Minister determines on application under the Act that he or she is willing to grant to the applicant an exploration licence (subject to the operation of the Act and these regulations), the Minister must advise the applicant by notice in writing of the terms and conditions under which the Minister is prepared to do so.
- (2) An applicant must, within 21 days after the date of a notice under subregulation (1) or such longer period as the Mining Registrar may allow, notify the Minister in writing as to whether the applicant is willing to accept the terms and conditions notified under subregulation (1).
- (3) If an applicant notifies the Minister under subregulation (2) that the applicant accepts the terms and conditions, and pays the appropriate fee under section 31 of the Act, the Minister will grant the relevant licence.
- (4) If an applicant fails to provide a notification within the time allowed under subregulation (2), the Minister may assume that the application has been withdrawn.

#### **47—Conditions of exploration licence**

An exploration licence is subject to the following conditions:<sup>1</sup>

- (a) the licensee must, as soon as reasonably practicable, report to the Director the discovery on the land of minerals potentially capable of economic production;
- (b) the licensee must give written notice of the following matters to the Director:
  - (i) a proposal to carry out an airborne survey of the land (including details of the type of survey, the area to be surveyed, flight line spacing and flight height);
  - (ii) a proposal to investigate the use of groundwater on the land for the purpose of water supplies, de-watering, in-situ leaching, waste disposal or other purpose;
- (c) the licensee must within 60 days after making a request to the Minister for a reduction in the area of the land in respect of which the licence operates submit to the Minister a technical report of the exploratory operations carried out in the area sought to be excluded from the licence.

**Note—**

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

**48—Cessation of tenement or private mine**

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

**Division 2—Miscellaneous purposes licences****49—Management plans**

- (1) For the purposes of section 53(1) of the Act—
- (a) any description or assessment relating to the environment may be limited to those aspects of the environment that may reasonably be expected to be affected by the relevant operations or activity; and
  - (b) an assessment of environmental impacts referred to in section 53(1)(a)(ii) of the Act, and an outline of the measures to be taken under that provision, must include a description of the anticipated likelihood and consequences of those impacts after the relevant measures have been taken; and
  - (c) the environmental outcomes proposed under section 53(1)(a)(ii)(C) of the Act must be developed by the applicant after taking reasonable steps to consult with the owner of any land on which the operations or activities are proposed to be carried out and any other person who, in the opinion of the applicant, may be directly affected by the proposed operations or activities; and
  - (d) the statement of the environmental outcomes under section 53(1)(a)(ii)(C) of the Act must include a set of rehabilitation outcomes that at least address the following issues (assessed on a long-term basis):
    - (i) external visual amenity;
    - (ii) risks to the health and safety of the public and fauna;
    - (iii) physical, ecological and chemical stability;
    - (iv) surface and groundwater quality and quantity; and
  - (e) information on the consultation undertaken in connection with the proposed operations or activities must include a summary of the issues that appeared to cause concern to the persons with whom the consultation occurred and the steps that the applicant has taken, or intends to take, to address those concerns.
- (2) The information provided for the purposes of a management plan under section 53(1) of the Act must—
- (a) be balanced, objective and concise; and
  - (b) state any limitations that apply, or should apply, to the use of the information; and
  - (c) identify any matter in relation to which there is a significant lack of relevant information or a significant degree of uncertainty; and

- (d) so far as is relevant, identify the sensitivity to change of any assumption that has been made and any significant risks that may arise if an assumption is later found to be incorrect.
- (3) The Minister may, for the purposes of subregulations (1) and (2), determine, by notice in the Gazette, the manner and form, amount and detail of any information that must be acquired or provided after taking into account—
  - (a) the nature of any associated tenement; and
  - (b) the nature and extent of the operations or activities to be carried out under the miscellaneous purposes licence.
- (4) The Minister may, in relation to a management plan under section 53(1) of the Act, require that any information provided for the purposes of the management plan must be accompanied by a declaration signed by a person (being the applicant or a person authorised by the applicant) who has taken reasonable steps to review the information and to ensure its accuracy.
- (5) The Minister may determine that an electronic version of a management plan must be provided for the purposes of the Act and these regulations.

#### **50—Notification of proposed terms and conditions**

- (1) If the Minister determines on application under the Act that he or she is willing to grant to the applicant a miscellaneous purposes licence (subject to the operation of the Act and these regulations), the Minister must advise the applicant by notice in writing of the terms and conditions under which the Minister is prepared to do so.
- (2) An applicant must, within 21 days after the date of a notice under subregulation (1) or such longer period as the Mining Registrar may allow, notify the Minister in writing as to whether the applicant is willing to accept the terms and conditions notified under subregulation (1).
- (3) If an applicant notifies the Minister under subregulation (2) that the applicant accepts the terms and conditions, and pays the appropriate rental under the Act, the Minister will grant the relevant licence.
- (4) If an applicant fails to provide a notification within the time allowed under subregulation (2), the Minister may assume that the application has been withdrawn.

#### **51—Size**

The maximum permissible area of a miscellaneous purposes licence is—

- (a) 250 hectares; or
- (b) an amount (greater than 250 hectares) determined by the Minister in a particular case.

#### **52—Mode of taking possession**

- (1) An application for a miscellaneous purposes licence must identify the area of the licence—
  - (a) by pegging in accordance with this regulation; or

- 
- (b) in some other manner approved by a mining registrar on application by the person seeking to establish the licence (after complying with any conditions specified by the mining registrar when making the determination).
  - (2) The following subregulations set out the requirements for a valid pegging of a miscellaneous purposes licence.
  - (3) A post must be securely placed in the ground at each corner of the relevant area.
  - (4) Each post must—
    - (a) be devoid of marks or writing that refers to a previous pegging; and
    - (b) have a cross-sectional dimension equal to or exceeding 7 centimetres; and
    - (c) project not less than 75 centimetres above the ground; and
    - (d) clearly display a notice of the person's intention to apply for a miscellaneous purposes licence.
  - (5) The direction of the boundaries of the area must be clearly indicated by trenches, piles of stones, or substantial indicator markers fixed to each post.
  - (6) A person who has pegged out an area for a miscellaneous purposes licence must lodge an application for the licence within 14 days after the pegging.
  - (7) A person who is acting under subregulation (1)(b) must lodge an application for a miscellaneous purposes licence within 14 days after an area has been identified under that subregulation, or within such longer period as a mining registrar may determine or approve.
  - (8) Nothing in a preceding subregulation affects the validity or boundaries of a miscellaneous purposes licence as determined or recorded by a mining registrar under the Act or the other provisions of these regulations.

### **53—Display of licence number**

- (1) An applicant for a miscellaneous purposes licence who is notified that the Minister has approved his or her application must, within 14 days after the receipt of the notification, ensure that the number of the licence and the designation "MPL" are clearly displayed on each post marking out the relevant area.
- (2) The person must ensure that all notices relating to the intention to apply for the licence are removed at the time that the information is recorded on the posts under subregulation (1).
- (3) This regulation does not apply if the area of the licence has been identified in some other manner approved by a mining registrar.

### **54—Annual rent**

- (1) The annual rental for a miscellaneous purposes licence is prescribed by Schedule 2.
- (2) The rent payable will be calculated according to the nominal area of the licence, and no allowance will be made for land that is not available for use under the licence.
- (3) The rent payable for the licence must be paid annually in advance to the Director at the head office of the Mineral Resources Group of the Department of the Minister.

### **55—Maintenance of licence**

- (1) The licensee under a miscellaneous purposes licence must, during the term of the licence, and any extension or renewal of the licence, maintain all posts, boundary indicator markers and notices in the positions required by these regulations.
- (2) This regulation does not apply if the area of the licence has been identified in some other manner approved by a mining registrar.

### **56—Renewal of licence**

An application for the renewal of a miscellaneous purposes licence must be in a form determined by the Minister.

## **Division 3—Common provisions**

### **57—Conditions to be observed after notification of approval**

- (1) If or when the applicant for an exploration licence or a miscellaneous purposes licence receives written notification that the licence has been approved by the Minister, the applicant will, during the period between the date of the notification and the execution of the licence document, be taken to be the licensee of the land in respect of which the licence is sought.
- (2) A person who is taken to be a licensee by virtue of subregulation (1) must, during the period that applies under that subregulation, comply with all proposed terms and conditions of the licence as if the licence document had been executed.
- (3) If a person fails to execute and return a licence document within 90 days of the document being forwarded to the person for execution as licensee, the Minister may, by notice in the Gazette, withdraw his or her approval of the licence, and the licence will then cease and determine.

### **58—Transfer of licence**

- (1) The following procedures apply to the transfer of an exploration licence or a miscellaneous purposes licence:
  - (a) an application for the Minister's consent to the transfer of the licence must be made in a form determined by the Minister (as part of the proposed instrument of transfer);
  - (b) the Minister may approve or refuse the application or may require the provision of further information, including particulars of the arrangements that will apply to ensure compliance with requirements of the licence relating to the rehabilitation of land;
  - (c) the Minister's consent will operate subject to the payment of any outstanding fees or rental with respect to the licence and the resolution of any issues relating to a bond under the Act;
  - (d) the instrument of transfer, after payment of stamp duty, must be lodged with a mining registrar, together with the transferor's copy of the licence, the fee prescribed by Schedule 1, any outstanding fees or rentals with respect to the licence, and any bond, within 30 days after the Minister gives his or her consent to the transfer, or such later time as the Mining Registrar may allow;

- (e) the late lodgment fee prescribed by Schedule 1 is payable if an instrument of transfer is lodged with a mining registrar later than 30 days after the Minister gives his or her consent to the transfer;
  - (f) on due receipt of the documents and other items required under paragraphs (d) and (e) (including evidence of the payment of stamp duty), a mining registrar must print an extract from the Mining Register that records the transfer and provides particulars of all interests registered against the licence, and furnish the extract and the licence to the transferee;
  - (g) a transfer does not take effect until a memorial of the transfer is entered in the Mining Register under paragraph (f).
- (2) If application is made to transfer a licence for which a licence document has not yet been issued, the procedure under subregulation (1) must be carried out so far as is practicable with the licence document being issued in the name of the transferee, containing any endorsements considered necessary by the Mining Registrar.

## 59—Surrender of licence

- (1) The Minister may approve an application for the surrender of all or a portion of an exploration licence or miscellaneous purposes licence if the Minister is satisfied—
- (a) that all relevant rent, royalties and fees have been paid; and
  - (b) that all relevant land (being land to which the surrender relates and, if relevant, land outside the area of the tenement) has been properly rehabilitated; and
  - (c) that all other requirements under the Act (including by virtue of a notice, direction or order under the Act) have been complied with or satisfied.
- (2) The Minister may, if the Minister thinks fit, waive compliance with a requirement under subregulation (1).
- (3) A right of surrender under the Act and these regulations is subject to the rights of persons claiming from or under a licence.

## Part 6—Entry on land

### 60—Notice of entry

- (1) In addition to the requirements under section 58A of the Act, a notice of entry under section 58A of the Act—
- (a) must state the full name and business address of the mining operator; and
  - (b) must provide the name and telephone number of a person who may be contacted about the notice; and
  - (c) must—
    - (i) provide a reasonable description of the activities proposed to be carried out on the land; and
    - (ii) set out a process by which the owner of the land will be kept informed on an on-going basis about any such activities; and
  - (d) must—

- (i) insofar as is reasonably practicable and foreseeable, identify the place or places where activities are to be carried out on the land and indicate the proposed timing for the activities and the proposed duration of the activities; or
    - (ii) set out a process by which the owner of the land will be kept informed about these matters; and
  - (e) insofar as is relevant to the particular land—
    - (i) must provide reasonable information on the anticipated events and consequences associated with the activities to be carried out on the land, and on the action that is proposed to be taken to manage and address those events and consequences, in order to enable the owner of the land to make an informed decision about the impact or potential impact of the activities on the land; or
    - (ii) must set out a process by which the owner of the land will be kept informed about the matters outlined in subparagraph (i); and
  - (f) must inform the owner of the land that the operations and activities to which the notice relates are conducted under the Act and that any concerns or issues associated with the conduct of those operations may be raised with the Director; and
  - (g) must be accompanied by a copy of Part 9 of the Act; and
  - (h) must comply with any other requirements determined by the Minister.
- (2) A mining operator must ensure that a duplicate copy of each notice of entry served under section 58A of the Act is retained by or on behalf of the operator.
- (3) A person must, on serving a notice of entry under section 58A of the Act, immediately record information about the service of the notice by completing on the duplicate copy of the notice the appropriate part of the form that relates to service of the notice.
- (4) An agreement between a mining operator and an owner of land that provides that a prescribed notice of entry is not required under section 58A of the Act—
  - (a) must be in writing; and
  - (b) must include a statement by the owner of the land that the owner acknowledges that, by entering into the agreement, the owner will waive the ability to lodge a notice of objection with a court under section 58A of the Act; and
  - (c) must be signed by the parties to the agreement; and
  - (d) subject to subregulation (5), will continue to have effect despite any subsequent change in who constitutes the owner of the land.
- (5) If—
  - (a) an agreement between a mining operator and an owner of land is entered into under subregulation (4); and
  - (b) the mining operator does not enter the land within—
    - (i) unless subparagraph (ii) applies—12 months of the date of the agreement; or



- (ii) a period specified in the agreement,  
the agreement lapses (but not so as to prevent the entering into of a new agreement between the relevant parties).
- (6) A person who is proposing to enter, or who has entered, land to carry out mining operations must, at the request of an owner of the land, produce proof of his or her name and provide a contact address.

### **61—Lapse of notice**

If—

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

### **62—Agreement to use declared equipment**

- (1) An agreement between a mining operator and an owner of land for the purposes of section 59(8)(b) of the Act—
- (a) must be in writing; and
  - (b) must include a statement by the owner of the land that the owner acknowledges that, by entering into the agreement, the owner will waive the ability to lodge an objection under section 59 of the Act; and
  - (c) must be signed by the parties to the agreement; and
  - (d) subject to subregulation (2), will continue to have effect despite any subsequent change in who constitutes the owner of the land.
- (2) If—
- (a) an agreement between a mining operator and an owner of land is entered into under subregulation (1); and
  - (b) the mining operator does not enter the land within 12 months of the date of the agreement,

the agreement lapses (but not so as to prevent the entering into of a new agreement between the relevant parties).

### **63—Objection to entry or use of declared equipment**

- (1) Pursuant to section 67(2) of the Act, the Warden's Court has jurisdiction to determine an objection to the use, or the unconditional use, of declared equipment on any land that is subject to a licence under the *Petroleum and Geothermal Energy Act 2000*.
- (2) An objection under subregulation (1) must be lodged with the Warden's Court within 3 months after the service of a notice under section 59(2a) of the Act.
- (3) A copy of a notice of objection under subregulation (2) must, within 7 days after lodgement with the Warden's Court, be served on the mining operator.

- (4) The Warden's Court must, in determining an objection under subregulation (1), apply the same principles that apply under section 59(5) and (6) of the Act.
- (5) If the Warden's Court receives a notice of objection to entry to land, or to the use of declared equipment, (whether under the Act or these regulations), the court may order that the mining operator not enter or use the land, or not use the declared equipment, until the objection is determined.

#### **64—Conditions of entry not affected by transfer**

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

### **Part 7—Programs for environment protection and rehabilitation**

#### **65—Preparation of programs**

- (1) For the purposes of section 70B(2) of the Act, a program that relates to mining operations to be carried out in pursuance of an exploration licence must, in addition to the requirements of that section—
  - (a) include a description of the features of the natural environment that are expected to be affected by the proposed operations; and
  - (b) include a description of the environmental impacts that may reasonably be expected to occur; and
  - (c) include information on any consultation undertaken in connection with the proposed operations and, insofar as any issue appeared to cause concern to the persons with whom the consultation occurred, the steps (if any) that the holder of the tenement has taken, or proposes to take, to address those concerns; and
  - (d) set out the strategies that the holder of the exploration licence proposes to adopt to manage the impacts identified under paragraph (c) and to achieve the environmental outcomes under section 70B(2)(b)(i) of the Act; and
  - (e) set out the criteria that will be used to measure the environmental and activity completion outcomes specified in the program, including details about—
    - (i) what is to be measured and the form of the measurements that are to be used; and
    - (ii) the locations where the relevant measurements are to be taken, or how such locations are to be determined; and
    - (iii) what is proposed to be taken to constitute the achievement of the outcomes (with consideration being given to any inherent errors of measurement); and
    - (iv) any background or control data that is to be used, or how any such data is to be acquired.

- (2) For the purposes of section 70B(2) of the Act, a program that relates to mining operations to be carried out in pursuance of a mining tenement other than an exploration licence or a retention lease must, in addition to the requirements of that section—
- (a) include information on any consultation undertaken in connection with the proposed operations and, insofar as any issue appeared to cause concern to the persons with whom the consultation occurred, the steps (if any) that the holder of the tenement has taken, or proposes to take, to address those concerns; and
  - (b) set out the environmental outcomes (including environmental outcomes for mine completion) that are to be achieved (as specified in the relevant lease or licence); and
  - (c) set out the strategies that the holder of the tenement proposes to adopt to achieve—
    - (i) the environmental outcomes under section 70B(2)(b)(i) of the Act; and
    - (ii) if relevant, the mine completion outcomes under paragraph (b); and
  - (d) set out the criteria that will be used to measure the outcomes specified in the program, including details about—
    - (i) what is to be measured and the form of the measurements that are to be used; and
    - (ii) the locations where the relevant measurements are to be taken, or how such locations are to be determined; and
    - (iii) what is proposed to be taken to constitute the achievement of the relevant outcomes (with consideration being given to any inherent errors of measurement); and
    - (iv) the frequency of any measuring or monitoring; and
    - (v) any background or control data that is to be used, or how any such data is to be acquired; and
  - (e) without limiting paragraph (d), to the extent (if any) that there is a high level of reliance on control strategies to reduce risk to the environment—set out criteria (*leading indicator criteria*) that will be used to give an early warning that a control strategy may fail or be failing.
- (3) Subregulation (2)(e) does not apply in relation to an extractive minerals lease.
- (4) For the purposes of section 70B(2) of the Act, a program that relates to a retention lease must, in addition to the requirements of that section, comply with any requirements determined by the Minister.
- (5) Information or material provided for the purposes of a program under section 70B of the Act must—
- (a) be balanced, objective and concise; and
  - (b) state any limitations that apply, or should apply, to the use of the information and material; and

- (c) identify any matter in relation to which there is a significant lack of relevant information or a significant degree of uncertainty; and
  - (d) so far as is relevant, identify the sensitivity to change of any assumption that has been made and any significant risks that may arise if an assumption is later found to be incorrect.
- (6) Without limiting subregulation (5), the criteria provided for the purposes of subregulation (1)(e) or (2)(d) or (e) must, insofar as is reasonably practicable and appropriate, be expressed in quantitative terms (rather than qualitative terms).
- (7) The Minister may, for the purposes the preceding subregulations, determine, by notice in the Gazette, the manner and form, amount and detail of any information that must be acquired or provided after taking into account—
  - (a) the nature of the tenement; and
  - (b) the nature and extent of the operations or activities to be carried out under the tenement.
- (8) The Minister may, in relation to a program under section 70B of the Act, require that any information or material provided for the purposes of the program must be accompanied by a declaration signed by a person (being the holder of the mining tenement or a person authorised by the holder of the mining tenement) who has taken reasonable steps to review the information or material and to ensure its accuracy.  
Administrative penalty.
- (9) The Minister may determine that an electronic version of a program must be provided for the purposes of Part 10A of the Act and these regulations.
- (10) A program required for the purposes of Part 10A of the Act must be provided to the Minister within 12 months after the grant of the relevant mining tenement or within such longer period as the Minister may determine or allow.
- (11) Subregulation (10) does not apply in relation to an exploration licence.
- (12) Without limiting any other requirement, the holder of a mining tenement subject to the operation of subregulation (1)(e) or (2)(d) must, for the purposes of those provisions, retain, for a period determined by the Minister by notice in the Gazette—
  - (a) information necessary to indicate compliance with the requirements of those provisions; and
  - (b) information comprising measurements, data or other information collected for the purposes of those provisions.

## **66—Adoption of programs**

- (1) For the purposes of section 70B(8) of the Act, any program determined by the Minister and published in the Gazette in connection with the operation of this regulation is adopted.
- (2) For the purposes of section 70B(8) of the Act, the following classes of mining operations are prescribed:
  - (a) operations under an exploration licence;
  - (b) operations for the recovery of extractive minerals.

## **67—Audits**

- (1) The holder of a mineral lease must, at the request of the Minister, cause an audit of the environmental outcomes required under a program under Part 10A of the Act to be undertaken in accordance with the requirements of this regulation.
- (2) The audit must—
  - (a) address any matter specified by the Minister as being required to be within the scope of the audit and included in an audit report; and
  - (b) be undertaken by an independent person approved by the Minister; and
  - (c) be completed within a period determined by the Minister.
- (3) The results of an audit must be—
  - (a) provided to the Minister by the holder of the relevant tenement in a manner and form determined by the Minister within 1 month after the audit is completed; and
  - (b) provided on the basis that the Minister may release the results of the audit to the public in a manner and form determined by the Minister.

Administrative penalty.

- (4) The holder of the relevant tenement is responsible for the costs of the audit.

## **68—Review of program**

For the purposes of section 70C(3) and (4) of the Act, a review must be completed and furnished to the Minister within 3 months after the direction of the Minister to review the program, or within such longer period approved by the Minister.

## **Part 8—Registration of documents**

### **69—Tenement documents to be issued in duplicate**

A lease or licence granted under the Act must be issued in duplicate, 1 copy being delivered by a mining registrar to the lessee or licensee and the other retained and registered in the Mining Register by a mining registrar.

### **70—Consent of Minister**

- (1) An application for the consent of the Minister under section 83 of the Act must be—
  - (a) lodged with the Director; and
  - (b) accompanied by the appropriate fee prescribed by Schedule 1.
- (2) A mining registrar must enter a memorial in the Mining Register of a consent of the Minister under section 83 of the Act and register a copy of any instrument submitted for the purposes of an application under that section specified by the Minister.
- (3) Any additional copies of an instrument registered under subregulation (2) must be endorsed by a mining registrar to the effect that a copy has been registered and then the mining registrar must return the endorsed copies to the applicant.

## 71—Status of unregistered instruments

- (1) An instrument required to be registered by the Act or these regulations has no force or effect unless or until it is registered.
- (2) However, an approval of the Minister or an order of an appropriate court will be effective from the date specified in the approval or order.

## 72—Amendment of register

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

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

## 73—Searches

- (1) Subject to the Act and subregulation (2), a person may, on payment of the appropriate fee prescribed by Schedule 1, during the hours, and on the days, specified by the Director, inspect or obtain an extract from—
  - (a) the Mining Register; and
  - (b) all registered instruments under the Act held by the Department of the Minister.
- (2) The Mining Registrar may determine—
  - (a) that certain information should not be released to the public on account of its confidential nature; or
  - (b) that certain information should only be released subject to conditions or restrictions specified by the Mining Registrar.

## 74—Divesting of right to claim royalty

- (1) If a person divests himself or herself of an actual or potential right to claim royalty—
  - (a) the person must lodge a copy of the instrument of divestment with the Director together with the appropriate fee prescribed by Schedule 1; and
  - (b) the parties to an instrument evidencing further dealings or charges relating to the instrument of divestment must lodge a copy of that instrument with the Director together with the appropriate fee prescribed by Schedule 1.
- (2) The Director must maintain a register of these instruments and a person may, on payment of the appropriate fee prescribed by Schedule 1, during the hours, and on the days, specified by the Director, inspect the register and all registered instruments.

## Part 9—Extractive Areas Rehabilitation Fund

### 75—Interpretation

In this Part—

*fund* means the Extractive Areas Rehabilitation Fund;

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

## 76—Application

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

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

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

## 77—Progressive payments

- (1) The Minister may approve progressive payments to an applicant from the fund.
- (2) However, progressive payments must not be made unless the Director has certified to the Minister—
  - (a) that satisfactory rehabilitation work has been carried out; or
  - (b) that rehabilitation work is proceeding in a satisfactory manner and that a progress payment is justified.

## 78—Payments to support rehabilitation of land

- (1) The Minister may also make payments out of the fund to a person who satisfies the Minister that he or she has executed or intends to execute work which has or will, wholly or partially, rehabilitate land.
- (2) A payment may be made under this regulation either in respect of all or any of the expenses incurred in the rehabilitation or by way of an advance of moneys to be used to pay all or any of the estimated expenses expected to be incurred in the rehabilitation of land.
- (3) If the Minister makes an advance of moneys pursuant to this regulation and any of those moneys remain unexpended 1 year after the time at which the advance was made, the Minister may request the unexpended moneys to be repaid to the fund and the person to which the advance was made must immediately repay the unexpended moneys.

## 79—Conditions

- (1) The Minister may impose conditions relating to a payment of money from the fund.
- (2) A person to whom a payment is made must comply with any relevant condition.

## Part 10—Private mines

### 80—Prescribed requirements for mine operations plans

- (1) This regulation sets out prescribed requirements relating to mine operations plans for the purposes of section 73G of the Act.

- (2) A mine operations plan must include a description of the nature and character of the environment (including physical and biological features) that can reasonably be expected to be affected by operations carried out at the private mine<sup>1</sup>.
- (3) The objectives included as part of a mine operations plan must at least relate to each of the following matters<sup>2</sup>:
  - (a) the construction and operation of the mine and any related facilities;
  - (b) the management of potential impacts on the environment, including (insofar as is relevant) impacts relating to the following:
    - (i) erosion;
    - (ii) noise;
    - (iii) dust;
    - (iv) visual effects;
    - (v) vegetation clearance or disturbance;
    - (vi) habitat clearance or disturbance;
    - (vii) silt;
    - (viii) stormwater;
    - (ix) topsoil management;
    - (x) waste management;
  - (c) ongoing and final rehabilitation of the site, site closure, and future use of the site;
  - (d) the action to be taken in the event of an emergency situation at the site of the mine.
- (4) The following provisions apply with respect to the criteria for measuring the objectives<sup>3</sup>:
  - (a) the criteria must be described in specific terms which clearly define the outcomes upon which achievement of the objectives can be measured (including, if appropriate, timelines and sequences of events);
  - (b) outcomes may be expressed in quantitative or qualitative terms;
  - (c) if the measurement of the achievement of an objective is to be undertaken by the acquisition of field data over time, the criteria must indicate (subject to possible changes in circumstances)—
    - (i) the type of study, monitoring or other activity to be undertaken to acquire the data; and
    - (ii) the type of information to be gathered; and
    - (iii) the timelines that are to apply to acquiring, interpreting and publishing the data.
- (5) A mine operations plan must also describe, or include information about<sup>4</sup>—
  - (a) the material to be recovered at the mine; and



- (b) the geological environment, and estimated reserves, of the mine; and
  - (c) the type or types of mining operation to be carried out at the mine; and
  - (d) the sequence of operations at the mine; and
  - (e) the hours of operation that are to apply at the mine; and
  - (f) plans for the use of explosives at the mine; and
  - (g) plans for any silt retention; and
  - (h) plans for any stockpiling at the mine; and
  - (i) any processing plant located (or to be located) at the mine; and
  - (j) the services and utilities that are to be used at, or supplied to, the mine; and
  - (k) the procedures to be followed in the event of an incident or situation which gives rise to, or could adversely affect, a matter of environmental significance.
- (6) A person submitting a draft to the Director under section 73G(4) of the Act must provide—
- (a) 3 copies of the draft in written form; and
  - (b) an electronic version of the draft in a form (and format) determined or approved by the Minister.

**Notes—**

- 1 This description must constitute part of the first component of the mine operations plan.
- 2 These objectives must constitute part of the second component of the mine operations plan.
- 3 These criteria must constitute part of the second component of the mine operations plan.
- 4 The matters required under this subregulation must constitute the third component of the mine operations plan.

### **81—Consultation on mine operations plans**

- (1) For the purposes of section 73G(9) of the Act, the Director must publish a notice in a newspaper circulating generally throughout the State—
- (a) identifying the location of the mine; and
  - (b) stating that a mine operations plan has been prepared for the mine and that the relevant objectives and criteria may be inspected at a nominated address; and
  - (c) inviting written submissions from interested persons on the draft objectives and criteria within a period ending on a date at least 20 business days after publication of the notice.
- (2) The Director must also invite written submissions on the draft objectives and criteria from—
- (a) if the relevant mine is located on land vested in fee simple in a person other than the proprietor of the mine—that person; and
  - (b) if the relevant mine is located within the area of a council—that council; and

- (c) if the relevant mine is located within a part of the State described in Schedule 20 of the *Development Regulations 2008*—the Development Assessment Commission.
- (3) The period for making a written submission under subregulation (2) must be at least 20 business days after the Director has served a written notice inviting the submission.
- (4) The Director may, after consultation with the person who submitted the relevant draft to the Director, extend a period allowed under subregulation (1) or (3) for an additional period not exceeding 15 business days.
- (5) The Director must, within 15 business days after the expiration of all time periods that apply under this regulation, provide to the person who submitted the relevant draft copies of any submissions that have been received by the Director in order to enable compliance with section 73G(10) of the Act.
- (6) The report required for the purposes of section 73G(10) of the Act must be submitted to the Director within 20 business days after copies of the submissions are provided under subregulation (5), or within such longer period as the Director may allow.

## **82—Review of mine operations plans**

- (1) For the purposes of section 73G(16) of the Act, a review of a mine operations plan must consist of the preparation of a report which includes—
  - (a) an assessment of the achievement of the objectives in the mine operations plan when measured against the criteria; and
  - (b) to the extent that the objectives have not been met taking into account the assessment under paragraph (a), an analysis or explanation of what has occurred; and
  - (c) an analysis of whether the objectives and criteria are still, and will continue to be, appropriate; and
  - (d) details about any proposals for alterations to the objectives or criteria; and
  - (e) if alterations are proposed, an analysis of the impacts (if any) that those alterations may have on the environment and, if so required by the Director, any information that may be reasonably required in order to assist the Director in deciding whether the alterations are appropriate; and
  - (f) information on any action that has been taken, or is proposed to be taken, as the result of a report from an authorised officer or other authorised person concerning operations at the mine during the period to which the review relates.
- (2) A review conducted at the direction of the Director under section 73G of the Act must be completed and furnished to the Director within 3 months after the direction of the Director to review the plan, or within such longer period approved by the Director.  
Administrative penalty.
- (3) A person furnishing a report must provide—
  - (a) 3 copies of the report in written form; and
  - (b) an electronic version of the report in a form (and format) approved by the Director.

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### 83—Variation or revocation of declaration

- (1) For the purposes of section 73M(4)(a) of the Act, a report required from the proprietor of a private mine must include—
  - (a) a description of the topography and geological environment of the relevant land; and
  - (b) reasonable estimates of the quantity, quality, distribution, depth and marketability of the minerals situated within the mine; and
  - (c) details of any mining operation proposed to be carried out at the mine, including the type of operation and the anticipated date for commencement of the operation; and
  - (d) details of any agreement relating to future mining at the mine; and
  - (e) details of any agreement between the proprietor of the mine and another person concerning the future use or development of the relevant land for a purpose other than mining; and
  - (f) details of any mining or exploration operations carried out on land adjoining the mine that could be relevant to assessing the potential of the mine; and
  - (g) information on the purposes for which land adjoining the mine is used.
- (2) If the Director issues a notice under section 73M(4)(a) of the Act, the Director must send copies of the notice to—
  - (a) the South Australian Chamber of Mines and Energy Inc.; and
  - (b) *Cement, Concrete and Aggregates Australia*.

## Part 11—Provision of information and returns

### Division 1—Records and samples

#### 84—Records and samples

- (1) For the purposes of section 77(1) of the Act—
  - (a) the holder of a mining tenement must maintain records of geological mapping, surveys of workings, logs of drill holes, location and type of samples taken, results of analyses and testing of samples, and results of geophysical surveys; and
  - (b) subject to subregulation (3), the holder of a mining tenement must maintain any drill samples obtained from mining operations conducted on the tenement.
- (2) The holder of a mining tenement may give notice to the Minister, in a manner and form determined by the Minister, that the holder intends to dispose of or destroy specified drill samples maintained under subregulation (1)(b) after the expiration of the period of 3 months from the date of the provision of the notice.

- (3) If the Minister does not, within the period of 3 months referred to in subregulation (2), indicate to the holder of the tenement that the drill samples must be retained, the holder of the tenement may proceed to dispose of or destroy the relevant drill samples (but must otherwise continue to maintain them in accordance with these regulations).

## Division 2—Other material to be provided

### 85—Other material to be provided

For the purposes of section 77B(1) of the Act, the following information is prescribed:

- (a) technical data, studies and reports associated with any exploration operations;
- (b) representative samples (including drilling samples) obtained as a result of any mining operations, as determined by the Director for the purposes of this regulation;
- (c) economic, environmental or social studies or reports associated with any mining operations;
- (d) other technical data or reports, or samples, determined by the Director.

## Division 3—Compliance reports

### 86—Compliance reports

- (1) Compliance reports are required under this regulation as follows:
- (a) the holder of—
    - (i) a mineral lease; or
    - (ii) a miscellaneous purposes licence associated with a mineral lease,must furnish to the Minister, after the end of each determined by the Minister (the *reporting period*), a compliance report;
  - (b) the holder of any other kind of tenement must, if required by the Minister, furnish to the Minister after the end of each period determined by the Minister (the *reporting period*) a compliance report.

Administrative penalty.

- (2) A determination under subregulation (1)(b)—
- (a) except in the case of an extractive minerals lease—may apply in relation to a particular tenement, or a specified class of tenement;
  - (b) in the case of an extractive minerals lease—may only apply in relation to particular tenements determined by the Minister on a case-by-case basis.
- (3) A compliance report—
- (a) must be furnished within a period after the end of each reporting period determined by the Minister; and
  - (b) must be provided in a manner and form determined by the Minister.

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- (4) A compliance report may include (according to a determination of the Minister)—
- (a) a description of the activities undertaken under the tenement during the reporting period, and a description of the activities proposed to be conducted in the coming reporting period; and
  - (b) information about the areas on the mining tenement that have been disturbed by mining operations and the rehabilitation status of each area; and
  - (c) a summary of all technical data, studies and reports within the ambit of section 77B(1) of the Act generated during the reporting period; and
  - (d) a report for the reporting period on compliance with—
    - (i) the terms and conditions of the relevant lease or licence; and
    - (ii) the requirements of any program under Part 10A of the Act that applies in relation to the tenement; and
  - (e) a statement concerning any action to rectify non-compliance with any obligations that are relevant to the operation of paragraph (d), and to minimise the likelihood of the reoccurrence of any such non-compliance; and
  - (f) a report on the extent to which any leading indicator criteria became relevant to the operation of any control strategy under a program under Part 10A of the Act and a statement concerning any action to review or adjust any such criteria or strategy; and
  - (g) a summary of any management system reviews undertaken during the reporting period in order to improve or ensure compliance with the requirements of any program under Part 10A of the Act that applies in relation to the mining tenement; and
  - (h) a report on any new or emerging environmental hazards that apply, or appear to be arising, in relation to mining operations conducted in pursuance of the mining tenement; and
  - (i) a summary of any complaints relating to activities undertaken under the tenement made by members of the public and received by the holder of the tenement during the reporting period; and
  - (j) any other information determined by the Minister.
- (5) A determination under subregulation (3) or (4) must be published in the Gazette.
- (6) A report under subregulation (4)(d) must clearly identify any relevant incidents of non-compliance.
- (7) The Minister may, for the purposes of subregulation (4), determine the amount and detail of any information that must be provided after taking into account—
- (a) the nature of the tenement; and
  - (b) the nature and extent of the operations carried out under the tenement.
- (8) If or when a mining tenement subject to the operation of this regulation expires or is surrendered or cancelled, the person who is holding the relevant lease or licence at that time must furnish a final compliance report within a period, or at the conclusion of any work, specified by the Minister.

## 87—Initial incident reports

- (1) In this regulation—
- reportable incident** means a situation where the holder of a tenement has failed to achieve an outcome specified in a program for the purposes of section 70B(2)(b)(i) of the Act (as measured according to criteria adopted to measure that outcome).
- (2) If or when the holder of a mining tenement becomes aware of the occurrence of a reportable incident, the holder of the tenement must ensure that the reportable incident is reported to the Minister—
- (a) initially (and within 1 business day after the holder of the tenement becomes aware of the occurrence of the incident)—
    - (i) by telephone (using a number determined by the Minister); or
    - (ii) by email (using an email address determined by the Minister); and
  - (b) by providing a written report on the reportable incident within 3 months after the holder of the tenement becomes aware of the occurrence of the incident, or within such longer period as the Minister may determine or allow.

Administrative penalty.

- (3) The initial report under subregulation (2)(a) must include the following information:
- (a) the full name and business address of the holder of the mining tenement;
  - (b) the name and telephone number of a person who may be contacted about the matter;
  - (c) the circumstances constituting the reportable incident;
  - (d) the steps that have been taken to address or rectify the effects of the reportable incident.
- (4) The written report under subregulation (2)(b) must include the following information:
- (a) the results of any assessment of the conditions or circumstances that caused or contributed to the occurrence of the reportable incident;
  - (b) the nature and extent of any damage to the environment that has occurred on account of the reportable incident;
  - (c) the steps that have been taken, or are proposed to be taken, to rehabilitate any area affected by the reportable incident or to address the effect of the incident;
  - (d) the steps that have been taken, or are proposed to be taken, to prevent a reoccurrence of the incident.
- (5) A report under subregulation (2)(b) must be signed by a person (being the holder of the mining tenement or a person authorised by the holder of the mining tenement) who has taken reasonable steps to review the report to ensure the accuracy of the information contained in the report.
- (6) A report under subregulation (2)(b) must be furnished in a manner and form determined by the Minister.

## **Division 4—Release of matter**

### **88—Release of matter**

- (1) For the purposes of section 77D of the Act, the following material is prescribed:
  - (a) any program under Part 10A of the Act;
  - (b) any statistical information provided by the holder (or former holder) of a mining tenement;
  - (c) without limiting paragraph (b)—
    - (i) any information provided under sections 76, 77 or 77B of the Act; or
    - (ii) any report under Division 3.
- (2) The Director of Mines may, before releasing any information or report under subregulation (1), take steps to ensure that commercially sensitive information is not disclosed to the public.
- (3) For the purposes of section 77D(5)(a) of the Act, the following circumstances are prescribed:
  - (a) the release of any plan under Part 10A of the Act, where the Minister determines that the information should be released in the public interest;
  - (b) the release of any information, drill cores or other material that has been provided to the Minister or the Director under section 77 or 77B of the Act and that has been held by the Department for a period of at least 5 years.

## **Part 12—Miscellaneous**

### **89—Requirement to provide information to assess or verify capabilities**

- (1) The Minister may, at any time determined to be appropriate by the Minister, in connection with assessing a person's capabilities for the purposes of this Act (and without limiting any other provision), by notice in writing, require the person to provide 1 or more of the following:
  - (a) the person's corporate or operational policies that address the achievement of regulatory requirements and relevant environmental outcomes under the Act;
  - (b) information about the person's procedures or practices to achieve compliance with regulatory requirements and relevant environmental outcomes under the Act;
  - (c) information about the extent to which the person has adopted and implemented a comprehensive and effective risk management system for the purposes of operations carried out under the Act;
  - (d) information about the extent to which the person has established systems to monitor, evaluate, audit and review compliance against regulatory requirements and relevant environmental outcomes under the Act;
  - (e) information about the person's systems to identify and report any non-compliance with regulatory requirements or relevant environmental outcomes under the Act;

- (f) information about the extent to which the person has established a comprehensive and effective emergency response plan;
  - (g) information about the person's practices and procedures to provide appropriate communication of regulatory requirements to employees, contractors and visitors (including site induction, on-going training and supervision);
  - (h) information about the person's practices and procedures to respond to, and communicate with, external parties on compliance matters under the Act;
  - (i) information about the person's record in achieving regulatory requirements and objectives under the Act;
  - (j) information about the extent to which the person has allocated resources to compliance systems for the purposes of the Act.
- (2) In the case of an extractive minerals lease, subregulation (1) is limited in its application to paragraphs (b) and (i).
- (3) A person must provide any information required under subregulation (1) within a period determined by the Minister.

Administrative penalty.

## **90—Public liability insurance**

- (1) The holder of a mining tenement must, before commencing operations under the tenement and for the duration of the tenement, maintain a policy of public liability insurance indemnifying the holder of the tenement, in an amount that is reasonable taking into account the kind of tenement, the nature and extent of the operations carried out under the tenement, and relevant industry standards, in relation to any action arising out of the operations carried out under the tenement and complying with any other requirement (if any) determined by the Minister.
- (2) The holder of a mining tenement must, at the request of the Minister, furnish to the Minister a copy of the cover note for the insurance required under subregulation (1), or a copy of the policy of insurance, or both.
- (3) Nothing in this regulation is intended to give rise to any liability on the part of the Minister for the adequacy (or otherwise) of any insurance required or provided under this regulation.
- (4) This regulation will apply in relation to a mining tenement from 1 July 2012, or from such later date as the Minister may determine in any particular case.

## **91—Land subject to pastoral lease**

The holder of a tenement over land subject to a pastoral lease under the *Pastoral Land Management and Conservation Act 1989* must give the pastoral lessee access to the land for domestic purposes and for watering stock (although the holder of the tenement is not required to give the pastoral lessee access to water provided or stored by the lessee by artificial means).



## 92—Roads and pipelines across tenements

- (1) The Warden's Court may, on application, approve the making, laying or use of a road or pipeline on or over a claim or lease if the Warden's Court is satisfied that the road or pipeline is necessary for the efficient working of another tenement, or for use by the public.
- (2) An approval under subregulation (1) may be given subject to directions or conditions specified by the Warden's Court (which may include provision for the payment of compensation to the holder of the tenement that will be affected by the making, laying or use of the road or pipeline).
- (3) A person must not breach, or fail to comply with, a direction or condition under subregulation (2).

## 93—Removal of posts

- (1) If a post is in a place that interferes with the working of a mining tenement, the holder of the tenement may apply to—
  - (a) a mining registrar; or
  - (b) an authorised officer; or
  - (c) a person authorised by the Mining Registrar for the purposes of this subregulation,for approval to remove the post.
- (2) A person to whom an application is made under subregulation (1) may, if satisfied that it is appropriate to do so, authorise the removal of the post.
- (3) An authorisation under subregulation (2)—
  - (a) may include directions to ensure the proper definition of the boundaries of the tenement while the post is removed; and
  - (b) may be given on conditions specified in the authorisation.
- (4) A person who has the benefit of an authorisation under subregulation (2) must comply with any directions or conditions under subregulation (3).
- (5) A person (other than the holder of the relevant tenement) must not remove a post placed in the ground in order to mark a mining tenement (or an area for a mining tenement).
- (6) Subregulation (5) does not apply to—
  - (a) a person acting with the written permission of the holder of the tenement; or
  - (b) a mining registrar, an authorised officer, or a person authorised by the Mining Registrar for the purposes of this subregulation, removing a post from a tenement (or the area for a tenement) if—
    - (i) it appears that there has been a failure to comply with a requirement of the Act or these regulations; or
    - (ii) it appears that the tenement (or any pegging) may have lapsed, or been surrendered or cancelled.

- (7) A post removed under subregulation (6)(b) must be stored at the nearest office of the Mining Registrar to the tenement.
- (8) The owner of a post stored under subregulation (7) may, within 1 month after the post was removed under subregulation (6)(b), recover the post (and, if appropriate, any identification plate or marker attached to the post).
- (9) If a post is not recovered under subregulation (8)—
  - (a) the post becomes the property of the Crown; and
  - (b) the Minister may dispose of the post as the Minister thinks fit.

#### **94—Rectification of boundaries**

For the purposes of section 91A of the Act, the following circumstances are prescribed:

- (a) the Mining Registrar believes that there is insufficient certainty about the location or boundaries of a mining tenement due to lack of information, or an error, at the time that the tenement was granted;
- (b) it appears to the Mining Registrar that a peg or pegs have been moved, removed or displaced;
- (c) it is discovered that—
  - (i) the area, shape or dimensions of a mining tenement do not conform with the Act or these regulations; or
  - (ii) a portion of another tenement has been included within the boundaries of the mining tenement;
- (d) the Mining Registrar considers that the boundaries or delineation of a mining tenement should be varied on account of new technology or updated datums that are available for use by the Mining Registrar.

#### **95—Superimposed tenements—consent**

- (1) If a class of mining tenement is granted over land already held as a tenement of a different class, and the holder of the tenement is the same person, the person need maintain only 1 post at each corner of the area, but each post must have on it, or on a notice attached to it, the numbers and classes of all the tenements.
- (2) If the superimposed tenement covers a part of the prior tenement, the superimposed tenement must be marked out by independent posts.
- (3) The annual rental payable on the tenements are to be waived except for the one with the highest rental.
- (4) If a superimposed lease is held by another party, the annual rental must be payable for the superimposed tenement.
- (5) If application is made to register a tenement superimposed on an existing tenement, the applicant must lodge with the application a consent in writing under section 80(2) of the Act, together with particulars in writing of the agreement of the parties.

## 96—Action to comply

- (1) A liability to the forfeiture of a mining tenement on account of failure to comply with a requirement of these regulations will cease on subsequent compliance by the holder of the tenement.
- (2) However—
  - (a) the obtaining of an order for the suspension of working conditions does not constitute compliance with the regulations for the purposes of subregulation (1);
  - (b) subregulation (1) does not apply if proceedings for forfeiture of the tenement are commenced under the Act within 1 month after the liability to forfeiture arises and before the holder of the tenement takes steps to rectify the non-compliance.
- (3) If—
  - (a) a person applies to the Warden's Court for an order—
    - (i) cancelling a pegging; or
    - (ii) for the forfeiture of a tenement,on the ground that a requirement of the Act or these regulations has not been complied with; and
  - (b) the Warden's Court finds that there has been non-compliance with the Act or these regulations but that in the circumstances an order for cancellation or forfeiture should not be made,the court may nevertheless order the person in default to take steps to rectify the non-compliance.
- (4) A person to whom an order is directed under subregulation (3) must comply with the terms of the order.

## 97—False information

- (1) A person who by false statement or misrepresentation, obtains or attempts to obtain registration of a mining tenement, or an instrument or certificate under the Act or these regulations—
  - (a) forfeits all rights in relation to the relevant tenement; and
  - (b) is guilty of an offence.Maximum penalty: \$1 250.
- (2) A person who, in furnishing information required under the Act or these regulations, makes a statement that is false or misleading in a material particular is guilty of an offence.  
Maximum penalty: \$1 250.

## **98—Change of address or other details**

- (1) The holder of a mining tenement must, by notice in a manner and form determined by the Mining Registrar, furnish to the Mining Registrar information about any of the following:
  - (a) a change in the name of the holder of the tenement;
  - (b) a change in the registered or business address of the holder of the tenement, or a change in any other address provided for correspondence or service;
  - (c) a declaration of bankruptcy in relation to the holder of the tenement or, in the case of a company, the placing of the company under official management or in liquidation or receivership.
- (2) The information required under subregulation (1) must be provided within 14 days after the requirement to furnish the information arises.

## **99—Duplicate tenement document**

An application for the issue of a duplicate copy of a lease or licence under section 84 of the Act must be accompanied by the appropriate fee prescribed by Schedule 1.

## **100—Declaration**

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

## **101—Power of court to award costs**

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

## **102—Recording of proceedings**

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

## **103—Application for native title declaration**

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

## **104—Approved associations for umbrella authorisations**

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

- (a) South Australian Opal Miner's Association Inc.;
- (b) Coober Pedy Miner's Association Inc.;

- (c) Andamooka Progress and Opal Miners Association Inc.;
- (d) Mintabie Miners and Progress Association Inc.

### **105—Notice initiating negotiations with native title parties**

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

### **106—Service of documents**

A notice or document required or authorised by or under the Act or these regulations to be given to or served on a person (other than a person who holds or may hold native title in land<sup>1</sup>) may—

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

**Note—**

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

### **107—Execution of notice of entry**

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

### **108—Lapse of owner's consent**

If—

- (a) an owner of land gives a consent under section 75 of the Act; and
  - (b) the person who has the benefit of the consent does not take action to establish a claim or apply for a lease within 12 months of the provision of the consent,
- the consent lapses (but not so as to prevent the granting of a new consent).

### **109—Fees**

- (1) The fees set out in Schedule 1 are payable as specified in that Schedule.
- (2) The Director may, on application, in his or her discretion, waive payment of the whole or a part of a fee, or refund a fee (in whole or in part).

### **110—Damage to posts**

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

## 111—Offences

- (1) A person who contravenes or fails to comply with a provision of these regulations is guilty of an offence.
- (2) A person who is guilty of an offence against these regulations for which no penalty is specifically prescribed is liable to a fine not exceeding \$1 250.

## 112—Administrative penalties

- (1) The amount of an administrative penalty that is to apply in relation to a relevant provision of the Act is fixed by Schedule 3.
- (2) The amount of an administrative penalty that is to apply in relation to a provision of these regulations is fixed as \$1 000.

## 113—Special mining enterprises

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

## 114—Transitional provisions

- (1) In this regulation—  
*1998 regulations* means the *Mining Regulations 1998*;  
*EWA* means an exploration work approval under regulation 56(b) of the 1998 regulations;  
*DEF* means a declaration of environmental factors imposed under regulation 56(b) of the 1998 regulations or by a condition attached to an exploration licence (or both);  
*MARP* means a program for mining and rehabilitation of land under regulation 42(b) of the 1998 regulations;  
*PEPR* means a program under Part 10A of the Act;  
*relevant day* means the day on which these regulations commence.
- (2) An EWA, DEF or MARP in force immediately before the relevant day will, on the commencement of these regulations, continue in operation and be taken to constitute a PEPR for the purposes of the Act and these regulations.
- (3) If a mining tenement in force immediately before the relevant day does not become subject to a PEPR by virtue of the operation of subregulation (2) (including by virtue of the fact that a MARP is in force in relation to the tenement immediately before that day), then the holder of the mining tenement must provide a PEPR to the Minister within 12 months after the commencement of these regulations or within such longer period as the Minister may determine or allow.
- (4) Subregulation (3) does not apply in relation to an exploration licence.
- (5) If, before the relevant day, a person has lodged an application for a mining tenement under the Act but that application has not been determined by that day, the Minister may determine that an EWA, DEF or MARP will be suitable to constitute a PEPR in relation to the tenement for the purposes of the Act and these regulations if or when the tenement is granted.

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- (6) If, before the relevant day, a person has lodged an EWA, DEF or MARP for the purposes of the Act, the Minister may determine that the EWA, DEF or MARP will be suitable to constitute a PEPR for the purposes of the Act and these regulations.
- (7) If, on or after the relevant day, a person who is the holder of an exploration licence undertakes new activities under the tenement, the Minister may determine that an EWA or DEF will be suitable to constitute a PEPR in relation to those activities under the tenement.
- (8) Subregulation (7) will expire on the third anniversary of the commencement of these regulations.
- (9) Despite a preceding subregulation, the Minister may at any time—
- (a) determine that additional information must be provided in relation to an EWA, DEF, MARP or PEPR within the ambit of this regulation (including in connection with any review or other step to be conducted or taken with respect to any such document after the relevant day); or
  - (b) determine that an EWA, DEF, MARP or PEPR within the ambit of this regulation must be reviewed; or
  - (c) vary an EWA, DEF, MARP or PEPR within the ambit of this regulation in order to provide greater consistency with the requirements for a PEPR under the Act or these regulations.
- (10) The holder of a mining tenement in relation to which a determination under subregulation (9) applies must comply with the requirements of the determination within a period specified by the Minister.
- (11) Unless otherwise determined or agreed by the Minister, a person holding a mining lease immediately before the relevant day must ensure that the lease is worked in accordance with any mining plan that applies in relation to that lease as if the mining plan formed part of a PEPR (and the 2 year period applying under regulation 35 will not apply).
- (12) The first compliance report required under Part 11 Division 3 in relation to a mining tenement in force immediately before the relevant day cannot apply in relation to any period that occurs earlier than the anniversary date of the lease or licence that occurs during the period of 12 months commencing on the relevant day.

## Schedule 1—Fees

1	Application for registration of mineral claim	\$405.00
2	Exploration licence—	
	(a) application fee—the sum of the following components:	
	(i) base component	\$675.00
	(ii) advertising component	\$728.00
	(b) annual fee—the sum of the following components:	
	(i) administration component	\$135.00

(ii)	regulation component  The fee payable will be calculated according to the nominal area of the licence, and no allowance will be made for land that is not available for exploration.	\$445.00 or \$10.30 per km <sup>2</sup> or part of a km <sup>2</sup> in the area of the licence, whichever is the greater
3	Mining lease or miscellaneous purposes licence—	
(a)	application fee—the sum of the following components:	
(i)	base component	\$1 350.00
(ii)	advertising component	\$728.00
(iii)	assessment component	\$610.00
(b)	annual fee—the sum of the following components:	
(i)	administration component	\$135.00
(ii)	regulation component (other than for an extractive minerals lease)	\$268.00
4	Retention lease—	
(a)	application fee—the sum of the following components:	
(i)	base component	\$675.00
(ii)	advertising component	\$728.00
(iii)	assessment component	\$610.00
(b)	annual fee—the sum of the following components:	
(i)	administration component	\$135.00
(ii)	regulation component	\$268.00
5	Application for registration or renewal of access claim	\$76.00
6	Late lodgment of transfer of mining lease, retention lease, exploration licence or miscellaneous purposes licence	\$135.00
7	Lodgment of an agreement (including an indigenous land use agreement) or determination with the Mining Registrar under Part 9B of Act	\$476.00
8	Lodgment of caveat—per tenement	\$135.00
9	Late lodgment of mining return under section 76 of Act (administration fee)	\$232.00
10	Application for—	
(a)	variation of condition of tenement, working conditions or special approval to undertake particular work program	\$476.00
(b)	Ministerial consent under Act	\$476.00
11	Proposal for a safety net agreement under section 84A of Act	\$91.50
12	Application for issue of duplicate lease or licence	\$114.00
13	Inspection of Mining Register	\$46.25
14	Extract from Mining Register comprising copy of mining tenement	\$11.70
15	Extract from Mining Register comprising results of standard search query	\$45.75 plus \$1.40 per page
16	Extract from Mining Register comprising results of customised search query	\$91.50 plus \$1.40 per page



## Schedule 2—Annual rents

1	Mining lease	\$202.00 or \$53.00 for each hectare or part of a hectare in the area of the lease, whichever is the greater
2	Mining lease—Extractives	\$171.00 or \$44.75 for each hectare or part of a hectare in the area of the lease, whichever is the greater
3	Retention lease	\$202.00 or \$26.75 for each hectare or part of a hectare in the area of the lease, whichever is the greater
4	Miscellaneous purposes licence	\$202.00 or \$53.00 for each hectare or part of a hectare in the area of the licence, whichever is the greater

## Schedule 3—Administrative penalties

Section of Act	Administrative penalty
Section 25(2)	\$1 000
Section 32(1)	\$1 000
Section 32(2)	\$1 000
Section 77(1)	\$1 000
Section 77(2)	\$1 000
Section 77(3)	\$1 000
Section 77B(1)	\$1 000
Section 77B(2)	\$1 000
Section 77B(4)	\$1 000
Section 77B(5)	\$1 000
Section 77C(1)	\$5 000
Section 77D(9)	\$1 000

## Schedule 4—Prescribed requirements

Section of Act	Description
Section 35A	Representations in relation to grant of lease
Section 53	Application for licence
Section 54	Compensation
Section 58	How entry on land may be authorised
Section 58A	Notice of entry
Section 61	Compensation

**Mining Regulations 2011—1.12.2012 to 30.6.2013**

Schedule 4—Prescribed requirements

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<b>Regulation</b>	<b>Description</b>
Regulation 35	Working conditions
Regulation 52	Mode of taking possession
Regulation 53	Display of licence number
Regulation 55	Maintenance of licence
Regulation 91	Land subject to pastoral lease

## Legislative history

### Notes

- Variations 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 these regulations (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](http://www.legislation.sa.gov.au).

### Legislation revoked by principal regulations

The *Mining Regulations 2011* revoked the following:

*Mining Regulations 1998*

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2011	158	<i>Gazette 9.6.2011 p2432</i>	1.7.2011: r 2
2012	3	<i>Gazette 27.1.2012 p397</i>	1.2.2012: r 2
2012	44	<i>Gazette 31.5.2012 p2217</i>	1.7.2012: r 2
<b>2012</b>	<b>242</b>	<b><i>Gazette 29.11.2012 p5275</i></b>	<b>1.12.2012: r 2</b>
2013	79	<i>Gazette 6.6.2013 p2174</i>	1.7.2013: r 2

### Provisions varied

New entries appear in bold.

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

Provision	How varied	Commencement
Pt 1		
r 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.2.2012</i>
Pt 12		
r 114		
r 114(7)	will expire: r 114(8)	(1.7.2014)
Sch 1	substituted by 3/2012 r 4	1.2.2012
	substituted by 44/2012 r 4	1.7.2012
	<b>substituted by 242/2012 r 4</b>	<b>1.12.2012</b>
Sch 2	substituted by 44/2012 r 4	1.7.2012
	<b>substituted by 242/2012 r 4</b>	<b>1.12.2012</b>

Sch 5

*omitted under Legislation Revision and  
Publication Act 2002*

1.2.2012

## **Historical versions**

1.2.2012

1.7.2012