

South Australia

Offshore Minerals Regulations 2002

under the *Offshore Minerals Act 2000*

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Legislative history

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Offshore Minerals Regulations 2002*.

2—Commencement

These regulations will come into operation on 4 May 2002.

3—Interpretation

In these regulations, unless the contrary intention appears—

Act means the *Offshore Minerals Act 2000*;

Department means the department of the Minister involved in the administration of the Act and these regulations.

Part 2—Licences

4—Application for licence

For the purposes of sections 54(1)(e), 138(1)(e) and 199(1)(e) of the Act, each map that accompanies an application for an exploration licence, retention licence or mining licence must—

- (a) be in a form and scale approved by the Minister; and
- (b) show the relevant blocks by distinctive colour tinting or edging.

5—Special conditions

- (1) A person who obtains a licence is liable for, and will indemnify and keep indemnified the South Australian Government against, all actions, suits, claims and demands resulting from the erection or placing by the person of a structure or object on or over a part of the seabed, or the escape of a deleterious substance into the sea, while conducting offshore exploration or mining activities associated with the licence and, for this purpose, a licence must not be registered or granted 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 to indemnify and to keep indemnified the South Australian Government against all actions, suits, claims and demands resulting from the erection or placing by the person of a structure or object on or over a part of the seabed, or the escape of a deleterious substance into the sea, while conducting offshore exploration or mining activities associated with the licence.
- (3) A person holding a licence must not permit the escape of a deleterious substance into the sea other than in accordance with a program approved by the Minister.

- (4) A person who obtains a licence must not commence offshore exploration or mining activities associated with the licence unless or until the Minister for the time being administering the *Fisheries Act 1982* certifies that the Minister is satisfied that the operations will not contravene the *Fisheries Act 1982*.
- (5) A reference in this regulation to offshore exploration or mining activities associated with a licence includes any activity undertaken for the purposes of, or incidental to, the conduct of offshore exploration or mining activities.
- (6) In this regulation—

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

6—Obligations associated with exploration licence (section 117(1)(c))

The following obligations are associated with an exploration licence:

- (a) the licence holder must, as soon as reasonably practicable, report to the Minister the discovery in the licence area of minerals potentially capable of economic production;
- (b) the licence holder must conduct operations under the licence (including managing waste resulting from offshore exploration or mining activities) in accordance with a program approved, from time to time, by the Minister designed to—
 - (i) minimise damage to the seabed or subsoil in coastal water or resulting from the escape of deleterious substances; and
 - (ii) ensure that, in drilling or other underground investigations, no interconnection between groundwater aquifers occurs;
- (c) the licence holder must allow an inspector, at any reasonable time, to enter and remain in the licence area for the purpose of surveying the area, examining the condition of the licence area and undertaking any other activity associated with the administration of the Act or these regulations;
- (d) exploration or other reports, and geological data and samples, required to be submitted under the Act or these regulations to the Minister must be submitted by times, and in a manner and form, determined by the Minister.

7—Obligations associated with retention licence or mining licence (sections 176(1)(c) and 253(1)(c))

The following obligations are associated with a retention licence or mining licence:

- (a) the licence holder must conduct operations under the licence in an orderly and skilful manner in accordance with a program for mining and rehabilitation of the environment approved, from time to time, by the Minister;
- (b) the licence holder must submit to the Minister, from time to time at the Minister's request, a current plan of survey of the licence area in the form required by the Minister;

- (c) the licence holder must allow an inspector, at any reasonable time, to enter and remain in the licence area for the purpose of surveying the area, examining the condition of the licence area and undertaking any other activity associated with the administration of the Act or these regulations;
- (d) exploration or other reports, and geological data and samples, required to be submitted under the Act or these regulations to the Minister must be submitted by times, and in a manner and form, determined by the Minister.

8—Registration of transfer of licence (section 338)

- (1) For the purposes of section 338 of the Act, an instrument of transfer, after endorsement by the Minister under section 365 of the Act and payment of stamp duty, must be lodged, together with a copy of the instrument of transfer, the licence, and the fee prescribed by the Schedule, within 30 days after the Minister gives his or her consent to the transfer, or such later time as the Minister may allow.
- (2) The late lodgment fee prescribed by the Schedule is payable if an instrument of transfer is lodged later than 30 days after the Minister gives his or her consent to the transfer.

9—Surrender of part of exploration licence (section 100)

- (1) The holder of an exploration licence seeking to surrender some of the blocks covered by the licence on application under section 100 of the Act must, within 60 days after making the application, submit to the Minister a technical report of the exploratory operations carried out in the area sought to be excluded from the licence.
- (2) The Minister may, after being satisfied that no fees are outstanding, approve an application to surrender some of the blocks covered by an exploration licence.
- (3) The Minister may, if the Minister thinks fit, waive compliance with a requirement under subregulation (1) or (2).

Part 3—Ballot procedures

10—Definitions for this Part

In this Part—

applicant includes a person authorised in writing by an applicant to represent the applicant at a drawing of lots under this Part;

delegate means an officer, employee or agent of the Department who is authorised by the Minister to conduct a drawing of lots under this Part;

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

11—Multiple applications—exploration and mining licences: time of lodgement (sections 58(2)(b) and 203(2)(b))

For the purposes of sections 58(2)(b) and 203(2)(b) of the Act, the prescribed time is the period between 9 am and 5 pm on each working day on which applications may be lodged.

12—Multiple applications—drawing of lots (sections 58(2) and 203(2))

For the purposes of sections 58(2) and 203(2) of the Act, the prescribed way of drawing lots is as follows:

- (a) not less than 7 days before the drawing of lots, the delegate must give notice in writing of the time and place of the draw to each applicant at the principal office of the applicant;
- (b) subject to paragraph (c), the draw must be carried out in the presence of all applicants;
- (c) the draw may be carried out in the absence of an applicant who has been notified of the time and place of the draw in accordance with paragraph (a) and who does not attend the draw at the notified time and place;
- (d) the delegate must write the name of each applicant on a separate paper of the same kind as the paper on which the name of each other applicant is written;
- (e) the papers and writing may be examined by each person present at the draw;
- (f) the papers must be folded in the same manner by the delegate and placed by him or her in an otherwise empty receptacle, the interior surface of which will not snag the papers;
- (g) an officer, employee or agent of the Department other than the delegate must draw the papers individually from the receptacle without looking into the receptacle;
- (h) the delegate must record—
 - (i) on each paper, the place of the paper in the order of drawing papers from the receptacle; and
 - (ii) on each application, the number that corresponds to the place in the draw of the paper relating to the application.

Part 4—Records

13—Records and samples

A licence holder must—

- (a) maintain complete and detailed records of—
 - (i) geological mapping;
 - (ii) surveys of workings;
 - (iii) logs of drill holes;
 - (iv) location and type of samples taken;
 - (v) results of analyses and testing of samples;
 - (vi) results of geophysical surveys; and
- (b) at the request of the Minister or an inspector, produce the records for examination by the Minister or an inspector; and

- (c) furnish the Minister with such information relating to the surveys and other operations conducted under the licence, and such geological samples obtained in the course of those operations, as the Minister may require.

14—Records and samples—additional requirements for mining licence (section 261)

The holder of a mining licence must, in addition to the requirements regulation 13, maintain complete and detailed records of all minerals recovered under the licence, including the following:

- (a) records of the quantity of minerals recovered during each royalty period;
- (b) records of the quantity and value of minerals disposed of, whether by sale or otherwise, during each royalty period;
- (c) records of the quantity and value of minerals held (in the form in which they are disposed of) by the holder of the licence at the beginning and the end of each royalty period;
- (d) records of all royalty that became payable during each royalty period in connection with the disposal of minerals.

15—Mining licence—returns to be made (section 261)

- (1) The holder of a mining licence must furnish a return to the Minister within one month of the last day of each royalty period.
- (2) A return must be in a form that shows—
 - (a) the quantity of each mineral recovered by the holder of the mining licence during the royalty period to which the return relates; and
 - (b) the quantity and value of each mineral disposed of, whether by sale or otherwise, during that period; and
 - (c) the quantity and value of each mineral held (in the form in which it is disposed of) by the holder of the mining licence at the beginning and end of that period; and
 - (d) the location in which each mineral was recovered with respect to the boundary of the area over which the mining licence was granted.

Part 5—Restoration of environment

16—Definition for Part 5

In this Part—

unused mining property means property (including a structure or equipment) that—

- (a) has been brought into coastal waters for use in offshore exploration or mining activities; and
- (b) is not being used and is not intended to be used in exploration or mining activities in accordance with a licence.

17—Removal of unused mining property (section 401)

- (1) The holder or former holder of a licence must remove all unused mining property from coastal waters—
 - (a) unless paragraph (b) applies—within 3 months of the expiry, cancellation, transfer or surrender of the licence; or
 - (b) within a period determined by the Minister by notice in writing to the holder or former holder of the licence.
- (2) If the Minister gives a notice under subregulation (1)(b), the Minister may, by a further notice in writing, extend a period previously determined by the Minister.

18—Disposal of unused mining property (section 401)

- (1) If unused mining property is not removed in accordance with regulation 17, the Minister may cause the property to be removed and may direct that the property be sold by public auction.
- (2) Any unused mining property unsold after the public auction may be sold by private treaty.
- (3) The costs incurred by the Minister or a person acting under the direction of the Minister in removing or disposing of unused mining property under this regulation—
 - (a) are recoverable as a debt from the holder or former holder of the relevant licence; and
 - (b) may be deducted from the proceeds of any sale referred to in subregulations (1) and (2).
- (4) Any balance remaining following the sale of unused mining property is to be paid to the Treasurer who must, on receipt of an application by the holder or former holder of the relevant licence, pay the proceeds to the applicant.
- (5) If application under subregulation (4) is not made within 2 years of the date of the sale, the proceeds of sale must be paid into the Consolidated Account.

19—Direction to rehabilitate mining area (section 402)

- (1) The Minister may, by notice in writing, direct a person who is the holder or former holder of a licence to take specified steps, within the period specified in the notice, to rehabilitate an area in coastal waters that has been damaged or affected by offshore exploration or mining activities carried on by the person.
- (2) The Minister may, by a further notice in writing, extend the period referred to in subregulation (1).
- (3) If a person fails to comply with a direction given to the person under this regulation, the Minister may cause to be taken any of the steps specified in the notice in which the direction was given.
- (4) Any costs and expenses incurred by the Minister or a person acting under the authorisation of the Minister under subregulation (3) are to be deducted from any amount of security held by the Minister under the Act in relation to the relevant licence or former licence.

Part 6—Miscellaneous

20—Fees

The fees set out in the Schedule are prescribed for the purposes of the Act.

21—Copies of documents (section 370)

The Minister or an inspector may take a copy of any document produced to the Minister or inspector in accordance with section 370 of the Act.

22—Testing and analysis of samples (section 371)

The Minister or an inspector may test or analyse any sample given to the Minister or the inspector in accordance with section 371 of the Act.

23—Change of name and address

The holder of a licence must notify the Minister in writing of a change in name or address within 30 days of the change.

24—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 a licence area¹) may—

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

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.

25—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 is liable to a fine not exceeding \$1 000.

Schedule—Fees

1	Exploration Licence—	
	(a) Application fee	
	(i) standard block (per licence) (section 56)	\$3000
	(ii) tender block (per licence) (section 78)	\$3000
	(b) Renewal fee (per licence) (section 106)	\$ 600
2	Retention Licence—	
	(a) Application fee (per licence) (section 139)	\$3000
	(b) Renewal fee (per licence) (section 163)	\$ 600
3	Mining Licence	
	(a) Application fee	
	(i) standard block (per licence) (section 201)	\$3000
	(ii) tender block (per licence) (section 222)	\$3000
	(b) Renewal fee (per licence) (section 240)	\$ 600
4	Works Licence	
	(a) Application fee (per licence) (section 272)	\$3000
	(b) Renewal fee (per licence) (section 292)	\$ 600
5	Application for Special Purpose Consent (section 319)	\$ 300
6	Inspection of register and documents (section 332)	\$ 25
7	Application for approval of transfer (section 363)	\$ 100
8	Registration of a transfer or share in a licence (section 338)	\$ 100
9	Late lodgement of transfer for registration	\$ 30
10	Devolution of a licence (section 340)	\$ 50
11	Lodgement of caveat (section 344)	\$ 50
12	Certified copy or extract from register (section 357)	\$ 5
13	Certified copy of document from document file (section 358)	\$ 5
14	Certification of registration action (section 359)	\$ 30
15	Annual licence fees (sections 425 and 426)	
	(a) Exploration licence	
	— per block	\$ 100
	— minimum fee per annum (see section 426(1)(a) of the Act)	\$2000
	(b) Retention licence (per block)	\$1000
	(c) Mining licence (per block)	\$1000
	(d) Works licence (per hectare)	\$ 100

Legislative history

Notes

- 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.

Principal regulations

Year	No	Reference	Commencement
2002	24	<i>Gazette 2.5.2002 p1812</i>	4.5.2002: r 2