

South Australia

Opal Mining Regulations 2012

under the *Opal Mining Act 1995*

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Legislative history

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Opal Mining Regulations 2012*.

3—Interpretation

In these regulations, unless the contrary intention appears—

Act means the *Opal Mining Act 1995*;

extra large precious stones claim means a precious stones claim with an area exceeding 5 000 square metres (but not exceeding 20 000 square metres);

holder of a precious stones tenement includes a person who has pegged out an area for a precious stones tenement;

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

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

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

4—Exempt land

- (a1) For the purposes of section 6(1)(a)(ii)(A) of the Act, an amount of \$2 500 is prescribed.
- (1) For the purposes of section 6(1)(h)(i) and (ii) of the Act, the following purposes are prescribed:
 - (a) sewerage treatment;
 - (b) waterworks.
- (2) For the purposes of section 6(9) of the Act, a copy of an agreement by which an exemption is waived under that section must be lodged with the Opal Mining Registrar before application is made to the Opal Mining Registrar for the registration of a precious stones tenement on account of the existence of the agreement¹ but in any event within 21 days after the agreement is made.

Note—

- 1 The agreement could be lodged immediately before the relevant application is made.

5—Major working area—Coober Pedy

- (1) For the purposes of section 13(1) of the Act, the area within the Coober Pedy Precious Stones Field defined by Filed Plan FP 37814 lodged in the Lands Titles Office in Adelaide is identified as a major working area for the purposes of that section.
- (2) The major working area is—
 - (a) marked on the ground with 1.5 metre wooden pegs set in concrete; and
 - (b) depicted (for reference purposes) by the plan in Schedule 1.

Part 2—Plates and permits

6—Identification plates

- (1) An opal mining registrar who issues or renews a precious stones prospecting permit may issue to the holder of the permit up to 3 sets of identification plates (2 sets for precious stones claims and 1 set for an opal development lease).
- (2) For the purposes of these regulations, 4 plates constitute a set.
- (3) The number of sets issued to the holder of a precious stones prospecting permit at a particular time will be determined according to the application of the holder of the permit.
- (4) The holder of a precious stones prospecting permit who does not hold 3 sets of plates may apply for an additional set or sets at any time, subject to the qualification that a person must not hold more than 3 sets of identification plates (2 sets for precious stones claims and 1 set for an opal development lease).
- (5) Each identification plate must bear the relevant permit number and date of expiry.
- (6) If a precious stones prospecting permit is renewed, the holder of the permit must ensure that new identification plates are securely fixed to the posts marking out any area for a tenement within 14 days after the renewal.

- (7) If the holder of a permit loses an identification plate, the person may apply to an opal mining registrar for the issue of a replacement.
- (8) The application—
 - (a) must be made in a manner and form determined by the Director; and
 - (b) must be accompanied by the prescribed fee.
- (9) An opal mining registrar may issue a replacement plate or plates to the holder of a permit who has made due application under subregulation (8) and paid the prescribed fee.
- (10) If a precious stones prospecting permit is cancelled or surrendered, the holder of the permit must immediately surrender to an opal mining registrar all identification plates issued in respect of that permit.

7—Replacement or surrender of permit

- (1) If—
 - (a) a person loses a precious stones prospecting permit; or
 - (b) a precious stones prospecting permit is destroyed or becomes illegible in a particular,the holder of the permit may apply to an opal mining registrar for the issue of a replacement.
- (2) The application—
 - (a) must be made in a manner and form determined by the Director; and
 - (b) if the applicant has possession of the original permit—must be accompanied by that original; and
 - (c) must be accompanied by the prescribed fee.
- (3) An opal mining registrar may issue a duplicate permit to the holder of the permit who has made due application under subregulation (2) and paid the prescribed fee.
- (4) A person who is surrendering a precious stones prospecting permit must furnish the Opal Mining Registrar with a notice in a form determined by the Director.

Part 3—Size, shape and dimensions of areas

8—Size

- (1) The maximum permissible area that can be pegged out for a precious stones claim that is not within a major working area is 20 000 square metres.
- (2) The maximum permissible area that can be pegged out for an opal development lease is 40 000 square metres.

9—Shape, dimensions and availability

- (1) Subject to this regulation, the shape of an area pegged out for—
 - (a) a small precious stones claim—must approximate a square, with no side exceeding 50 metres in length;

- (b) a large precious stones claim—must approximate a rectangle, with a breadth not exceeding 50 metres and a length not exceeding 100 metres;
 - (c) an extra large precious stones claim—must approximate a rectangle, with a breadth not exceeding 100 metres and a length not exceeding 200 metres;
 - (d) an opal development lease—must approximate a square, with no side exceeding 200 metres in length.
- (2) If it is impracticable to comply with subregulation (1) because of the position of adjoining boundaries for other areas, an intervening or irregularly shaped piece of land may be pegged out for a tenement but, in this case, an application to approve the pegging must be immediately made to an opal mining registrar, or to a person authorised by the Opal Mining Registrar for the purposes of this regulation.
- (3) However, the sides of an area pegged out under subregulation (2) for an opal development lease must in all cases be between 100 and 200 metres, subject to the qualification that an opal mining registrar may specifically approve a side that is less than 100 metres in a particular case.
- (4) Subject to subregulation (5), a person who has pegged out an intervening or irregularly shaped area under subregulation (2) will be taken to have effected a valid pegging (at least until the matter is determined by application under that subregulation).
- (5) A person who has pegged out an intervening or irregularly shaped area under subregulation (2) must not conduct mining operations on the land unless or until a written approval is given on application under that subregulation.

Part 4—Mode of taking possession etc

10—Mode of taking possession

- (1) This regulation sets out the requirements for a valid pegging under the Act.
- (2) A post must be securely placed in the ground at each corner of the relevant area.
- (3) The post must—
 - (a) be devoid of marks or writing that refers to a previous pegging; and
 - (b) have a cross-sectional dimension equal to or exceeding 7 centimetres; and
 - (c) project at least 75 centimetres above the ground; and
 - (d) in the case of a post for an opal development lease—be completely white.
- (4) The following provisions will then apply:
 - (a) an identification plate issued to the holder of the precious stones prospecting permit that is appropriate to the particular form of tenement must be securely attached to the post as near to the top as practicable;
 - (b) the date of pegging must then be shown on the post in clear legible characters immediately below the identification plate;
 - (c) the following letter or letters must then be shown on the post immediately below the date of pegging:
 - (i) in the case of an area for a small precious stones claim—"S";

- (ii) in the case of an area for a large precious stones claim—"L";
 - (iii) in the case of an area for an extra large precious stones claim—"X";
 - (iv) in the case of an area for an opal development lease—"ODL".
- (5) The direction of the boundaries of an area pegged out for a tenement must be clearly indicated by substantial indicator markers fixed to each post.
- (6) If it is impracticable to comply with a preceding subregulation, a person may peg out an area for a tenement in some other manner but, in such a case, the person must give notice of the manner of pegging to the Opal Mining Registrar.
- (7) A notice under subregulation (6)—
- (a) must be in a form determined by the Director; and
 - (b) must be given within 7 days after the pegging.
- (8) If an opal mining registrar, or a person authorised by the Opal Mining Registrar for the purposes of this regulation, considers that the method of pegging out an area is unsatisfactory, the registrar or authorised person may order that a different method be used.
- (9) A person to whom an order is directed under subregulation (8) must immediately comply with the order.

11—Notification of pegging

- (1) The holder of a precious stones prospecting permit who has pegged out an area for a precious stones claim within (or partly within) a precious stones field must, no later than 5 pm on the working day next following the day of pegging, give notice of the pegging to the Opal Mining Registrar in a manner and form determined by the Opal Mining Registrar.

13—Display of registration number

The holder of a registered tenement must ensure that the registration number for the tenement is clearly displayed on each post marking out the area of the tenement—

- (a) in the case of a precious stones claim—within 7 days after registration; and
- (b) in the case of an opal development lease—within 14 days after registration.

Part 5—Working conditions—precious stones claims

Note—

There are no working conditions for opal development leases.

14—Working conditions

- (1) Unless otherwise determined by the Warden's Court, a precious stones claim must, after 14 days from registration or, if the claim is over native title land, after 14 days from registration of an agreement or determination under Part 7 of the Act—
- (a) in the case of a claim within a major working area under section 13 of the Act—be diligently worked by the holder of the claim personally;
 - (b) in any other case—be diligently worked by or on behalf of the holder of the claim.

- (2) The following will be taken to be within the concept of diligently working a claim:
 - (a) the performance of mining operations on the claim;
 - (b) work associated with the extraction of, or making merchantable, precious stones located within, or recovered from, the claim where that work is carried out on the claim;
 - (c) the preparation, erection or maintenance of machinery or equipment used in connection with mining operations where that work is carried out on the claim.
- (3) The requirements of this regulation do not apply between 15 December in each year and 14 March in the following year (both dates inclusive).

15—Amalgamation of working conditions

- (1) Subject to this regulation, the working conditions of adjoining precious stones claims may be amalgamated for a period not exceeding 1 year at any 1 time under the authority of an order of the Warden's Court.
- (2) However—
 - (a) precious stones claims can only be amalgamated if they are within a precious stones field; and
 - (b) the total area of amalgamated precious stones claims cannot exceed 10 000 square metres.
- (3) A person may object to an application to amalgamate working conditions and the objection will be heard and determined by the Warden's Court.
- (4) The Warden's Court may during the currency of an amalgamation, if satisfied that it is appropriate to do so, on application, cancel an amalgamation.
- (5) The Warden's Court may determine that an order of the court under this regulation will be taken to have had effect from the date on which the relevant application was received by the court.
- (6) If the working conditions of 2 or more precious stones claims are amalgamated, the total working conditions of those claims will be taken to be complied with if the total number of hours required to be worked on the individual claims are worked anywhere within the boundaries of the amalgamated claims.

16—Suspension of working conditions

- (1) The holder of a precious stones claim may apply to the Warden's Court for the suspension of working conditions on the claim.
- (2) A person may object to an application under subregulation (1) and the objection will be heard and determined in the Warden's Court.
- (3) The Warden's Court may, after considering the application and any objection under subregulation (2)—
 - (a) by order, approve the suspension of working conditions on a claim; or
 - (b) reject the application.

- (4) An order under subregulation (3)(a)—
 - (a) may be given subject to conditions determined by the Warden's Court and specified in the order; and
 - (b) will operate for a period, not exceeding 6 months at any 1 time, specified in the order.
- (5) The Warden's Court may determine that the order will be taken to have had effect from the date on which the relevant application was received by the court.
- (6) If—
 - (a) an order under subregulation (3)(a) is given subject to conditions; and
 - (b) the person who obtained the order contravenes, or fails to comply with, a condition,the order will be taken to have been revoked.
- (7) This regulation does not affect the exemption from the requirement to work the claim between 15 December in each year and 14 March in the following year but an application for the suspension of working conditions will (insofar as is relevant to the particular time of the year) be taken to include the period running between those 2 dates (inclusive).

17—Exemptions

- (1) The holder of a precious stones claim will not be liable to a penalty, or to the forfeiture of the claim, on account of a failure to comply with the requirements of these regulations relating to working conditions if—
 - (a) the failure is due to illness, or absence on urgent work in the public interest; or
 - (b) the failure is due to flood, drought or other act of nature; or
 - (c) the failure is due to an order of a court that specifically prevents the holder of the claim working the claim.
- (2) However—
 - (a) subregulation (1)(a) or (b) will only apply for 2 months in respect of a particular event or circumstance; and
 - (b) subregulation (1)(a) and (b) do not apply in respect of a particular event or circumstance that occurred or existed before the area for the precious stones claim was pegged out.

Part 6—General provisions for tenements

18—Removal of posts

- (1) If a post is in a place that interferes with the working of a precious stones tenement, the holder of the tenement may apply to—
 - (a) an opal mining registrar; or
 - (b) an authorised person; or

- (c) a person authorised by the Opal Mining Registrar for the purposes of this subregulation,
for approval to remove the post.
- (2) A person to whom an application is made under subregulation (1) may, if satisfied that it is appropriate to do so, authorise the removal of the post.
- (3) An authorisation under subregulation (2)—
- (a) must be in a form determined by the Director; and
 - (b) may include directions to ensure the proper definition of the boundaries of the tenement while the post is removed; and
 - (c) may be given on conditions specified in the authorisation.
- (4) A person who has the benefit of an authorisation under subregulation (2) must comply with any directions or conditions under subregulation (3).
- (5) A person (other than the holder of the relevant tenement) must not remove a post placed in the ground in order to mark a precious stones tenement (or an area for a precious stones tenement).
- (6) Subregulation (5) does not apply to—
- (a) a person acting with the written permission of the holder of the tenement; or
 - (b) an opal mining registrar, an authorised person, or a person authorised by the Opal 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 Opal 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), on payment of the prescribed fee, recover the post (and, if appropriate, any identification plate or marker attached to the post).
- (9) If a post is not recovered under subregulation (8)—
- (a) the post becomes the property of the Crown; and
 - (b) the Minister may dispose of the post as the Minister thinks fit.

19—Insufficiently defined tenements

- (1) If a precious stones tenement is not defined by posts and boundary markers in accordance with the requirements of these regulations, a person authorised by the Director for the purposes of this regulation may, by notice in writing to the holder of the tenement, require the holder 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 tenement and for appropriate consequential orders (and the Warden's Court has jurisdiction to make those orders).

20—Rectification of tenement boundary

- (1) If—
- (a) the holder of a precious stones tenement discovers that the area, shape or dimensions of the tenement do not conform with these regulations; or
 - (b) the holder of a precious stones tenement discovers that a portion of another tenement (including a tenement under the *Mining Act 1971*) has been included within the boundaries of the tenement,
- the person may apply to the Warden's Court for an order rectifying the error.
- (2) The Warden's Court may, on application under subregulation (1), if satisfied that it is appropriate to do so—
- (a) make the orders necessary to rectify the error;
 - (b) determine, or realign, the boundaries of the tenement, and determine the manner in which those boundaries are to be delineated.
- (3) However, an application cannot be made under this regulation if proceedings for forfeiture of the tenement or otherwise concerning the validity of the tenement have already been commenced (and have not been determined).

21—Action to comply

- (1) A liability to the forfeiture of a precious stones 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, 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.

22—Reduction in area of tenement

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

23—Time for renewal of tenement

For the purposes of section 22(3)(a) of the Act, an application for the renewal of a precious stones claim must be made within 60 days before the registration of the tenement is due to expire.

24—Roads and pipelines across tenements

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

Part 7—Opal mining co-operation agreements

25—Prescribed requirements

- (1) For the purposes of section 42(3) of the Act, an opal mining co-operation agreement must comply with the following requirements:
 - (a) the agreement must be in printed form; and
 - (b) the agreement must—
 - (i) identify the parties to the agreement; and
 - (ii) specify the term of the agreement; and
 - (iii) clearly identify the land affected by the agreement; and
 - (iv) be signed or executed by all parties to the agreement.
- (2) For the purposes of section 44 of the Act, an agreement to vary or revoke a registered opal mining co-operation agreement must comply with the following requirements:
 - (a) the agreement must be in printed form; and
 - (b) the agreement must—

- (i) clearly identify the opal mining co-operation agreement that is being varied or revoked; and
- (ii) in the case of a variation—clearly specify the variation; and
- (iii) be signed or executed by all parties to the opal mining co-operation agreement.

Part 8—Miscellaneous

26—Verification of membership of association

An applicant for the registration of a precious stones tenement outside (or partly outside) a precious stones field who states in the application that he or she is a member of an approved association must verify that membership to the satisfaction of an opal mining registrar.

26A—Items to be registered on opal mining register

For the purposes of section 76(2)(e) of the Act, the items set out in Schedule 4 must, unless the Opal Mining Registrar determines otherwise, be registered on the opal mining register.

27—Amendments to opal mining register

Subject to the provisions of the Act, the Warden's Court may order—

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

28—Offices of Opal Mining Registrar

The following places are, for the purposes of the Act and these regulations, offices of the Opal Mining Registrar:

- (a) the head office of the administrative unit that is, under a Minister, responsible for the administration of the Act located at Adelaide;
- (b) the head office of the administrative unit that is, under a Minister, responsible for the administration of the Act located at Coober Pedy;
- (c) the Andamooka Post Office.

29—Change of address

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

30—Forms

- (1) Unless otherwise provided, a form under the Act must be signed personally or, in the case of a body corporate by a duly authorised attorney, or by an officer of the body corporate acting under the authority of the body corporate.
- (2) A form under these regulations may be varied or modified according to the exigencies of a particular case.

31—Application for native title declaration

An application under section 52 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*.

32—Approved associations for umbrella authorisations

For the purposes of section 54 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.

33—Notice initiating negotiations with native title parties

A notice under section 55 of the Act given by a proponent initiating negotiations for a native title mining agreement under Part 7 of the Act must be in the form of Schedule 3.

33A—Applications for warrants

The following procedures in relation to an application for the issue of a warrant are prescribed for the purposes of section 77(17)(b) of the Act:

- (a) if an application for the issue of a warrant is made personally—the grounds of the application must be verified by affidavit;
- (b) if an application for the issue of a warrant is made by telephone—
 - (i) the applicant must inform the magistrate, warden or justice of the applicant's name and identify the position that they hold for the purposes of the Act, and the magistrate, warden or justice, on receiving that information, is entitled to assume, without further inquiry, that the applicant holds that position; and
 - (ii) the applicant must inform the magistrate, warden or justice of the purpose for which the warrant is required and the grounds on which it is sought; and
 - (iii) if it appears to the magistrate, warden or justice from the information given by the applicant that there are proper grounds to issue a warrant, the magistrate, warden or justice must inform the applicant of the facts that justify, in their opinion, the issue of the warrant, and must not proceed to issue the warrant unless the applicant undertakes to make an affidavit verifying those facts; and
 - (iv) if the applicant gives such an undertaking, the magistrate, warden or justice may then make out and sign a warrant, noting on the warrant the facts that justify, in their opinion, the issue of the warrant; and
 - (v) the warrant is taken to have been issued, and comes into force, when signed by the magistrate, warden or justice; and

- (vi) the magistrate, warden or justice must inform the applicant of the terms of the warrant; and
- (vii) the applicant must, as soon as practicable after the issue of the warrant, forward to the magistrate, warden or justice an affidavit verifying the facts referred to in subparagraph (iii).

33B—Administrative penalties

The amount of an administrative penalty fixed by Schedule 5 applies in relation to an alleged contravention of a provision of the Act specified in that Schedule.

34—Service of documents

- (1) 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 designated person or a person who holds or may hold native title in land¹) may—
 - (a) be served on the person personally; or
 - (b) be posted in an envelope addressed to the person—
 - (i) at the person's last known address; or
 - (ii) if the person has an address for service—at that address; or
 - (d) be sent by email to an email address provided by the person (in which case the notice or document will be taken to have been served at the time the email was sent).

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.

- (2) A notice or document required or authorised by or under the Act or these regulations to be provided or given to or served on a designated person must be given or served in the manner specified by the designated person by notice in the Gazette.
- (3) If a notice or document is given or served under subregulation (2)—
 - (a) by lodgment at an office of the Opal Mining Registrar—the notice or document will be taken to have been given or served at the time it is lodged at the office of the Opal Mining Registrar; or
 - (b) by email—the notice or document will be taken to have been given or served at the time of sending the email; or
 - (c) by other electronic means—the notice or document will be taken to have been given or served when the person giving or serving the notice or document receives confirmation by those electronic means that the notice or document has been received by the designated person.
- (4) Subregulation (2) operates subject to any other provision made by these regulations.
- (5) In this regulation—

designated person means—

- (a) the Minister; or
- (b) the Opal Mining Registrar or an opal mining registrar; or

(c) the Director.

35—Power of Director to waive or refund fees

- (1) The Director may, on application, in the Director's discretion, waive payment of the whole or a part of a fee, or refund a fee (in whole or in part).
- (2) In this regulation—

fee means a fee prescribed by fee notice for the purposes of the Act or these regulations;

fee notice has the same meaning as in the *Legislation (Fees) Act 2019*.

36—Validation of notice of entry

The sole purpose of a validation of a notice of entry by an authorised person under the Act is to indicate that the authorised person has seen the notice and is aware of the proposed entry on to land (and a validation does not constitute an approval or other form of official recognition related to the validity of the notice).

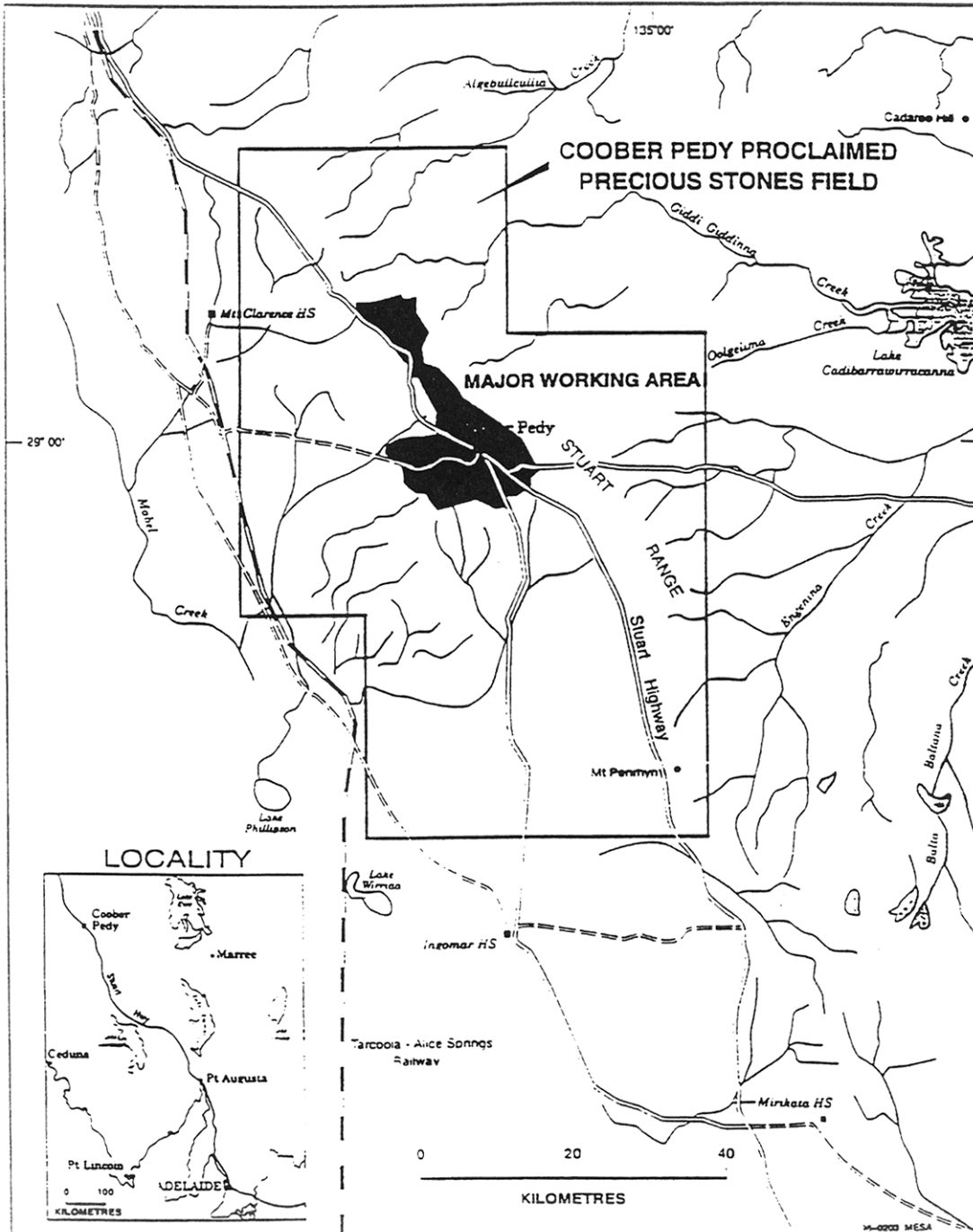
37—Warden's Court—costs

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

38—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 \$2 500.

Schedule 1—Major working area—Cooper Pedy



Schedule 3—Form of notice initiating negotiations with native title parties

(Section 55 of Act)

(Please use BLOCK LETTERS)

To:

Native title parties

Environment, Resources and Development Court

Minister for Mineral Resources and Energy

- (1) I, [*insert full name (please underline surname) or company name*] of [*insert full address or company registered address*] propose to carry out mining operations on the following land:

Section

Hundred

Pastoral Block

Other

- (2) The general nature of the proposed mining operations that are to be carried out on the land is as follows:
- (3) The proposed operations are or will be authorised by the following exploration authorities and/or tenements under the *Opal Mining Act 1995*: [*Give details and indicate whether the authority or tenement is currently held, applied for or proposed to be applied for*].
- (4) I—
- seek to negotiate a native title mining agreement under Part 7 of the *Opal Mining Act 1995*.
Note: If, 2 months after this notice is given as required by the *Opal Mining Act 1995*, there are no persons registered under the law of the State or the Commonwealth as the holders of, or claimants to, native title in the land, I may apply *ex parte* to the Environment, Resources and Development Court for a summary determination authorising entry to the land for the purpose of carrying out mining operations on the land, and the conduct of mining operations on the land.
 - propose to rely on section 57 of the *Opal Mining Act 1995* (**Expedited procedure where impact of operations is minimal**) on the grounds that the mining operations—
 - will not directly interfere with the community life of the holders of native title in the land on which the operations are to be carried out; and
 - will not interfere with areas or sites of particular significance, in accordance with their traditions, to the holders of native title in the land on which the operations are to be carried out; and
 - will not involve major disturbance to the land on which the operations are to be carried out.

Note: I may apply *ex parte* to the Environment, Resources and Development Court for a summary determination authorising mining operations in accordance with the proposals made in this notice. If, within 2 months after this notice is given, a written objection to my reliance on section 57 is given by the Minister, or a person who holds, or claims to hold, native title in the land, the Court must not make the determination unless satisfied, after giving the objectors an opportunity to be heard, that the operations are in fact operations to which section 57 applies.

Additional information

- (1) Contact telephone number:
- (2) Contact fax number (if available):
- (3) If a company:
 - (1) ACN No:
 - (2) Contact person:

Date:

Signature:

The following information about service on native title holders is provided for the convenience of the mining operator and need not be included in the notice given under section 55.

If a native title declaration establishes who are the holders of native title in the land—the notice must be given to the registered representative of the native title holders and the relevant representative Aboriginal body for the land.

If there is no native title declaration establishing who are the holders of native title in the land—the notice must be given to all who hold or may hold native title in the land in accordance with the method set out in Part 5 of the *Native Title (South Australia) Act 1994* as follows:

- the notice must be given personally or by post to—
 - all registered representatives of holders of native title in the land (see the State Native Title Register kept by the Registrar of the ERD Court); and
 - all registered representatives of persons who are registered under the law of the Commonwealth or the State as claimants to native title in the land (see the State Native Title Register kept by the Registrar of the ERD Court and the Commonwealth Register of Native Title Claims); and
 - the relevant representative Aboriginal body (under the regulations this is the Aboriginal Legal Rights Movement Inc. except on lands of the Maralinga Tjarutja or Anangu Pitjantjatjara); and
 - the Commonwealth Minister; and
 - the State Minister (the Attorney-General); and
- notice of the nature and effect of the notice (including a description of the land concerned) must be given—
 - by publishing a notice (at least 4cm x 4cm) in each of the following:
 - a newspaper circulating generally throughout the State;

- if there is a local or regional newspaper that is published at least weekly and circulated generally in the area in which the land, or part of the land, concerned is situated—that newspaper; and
 - if there is a newspaper or magazine that caters mainly or exclusively to the interests of Aboriginal people and is published at least monthly and circulated generally in the area in which the land, or part of the land, concerned is situated—that newspaper or magazine; and
- by informing each of the following broadcasting services of the fact that the notice has been published and where it has been published:
- a general broadcasting service that serves the area within which the land, or part of the land, is situated;
 - if there is a broadcasting service that caters mainly or exclusively to the interests of Aboriginal people and serves the area within which the land, or part of the land, is situated—that broadcasting service.

Subject to Part 7 of the Act, a person may carry out mining operations under this Act on native title land if authorised by an agreement (a *native title mining agreement*) under Part 7. The agreement is negotiated with the native title parties. A person initiates negotiations by use of this form.

If an agreement is not sought, or if agreement cannot be reached in accordance with Part 7 of the Act, mining operations cannot proceed on native title land unless—

- (a) in the case of prospecting—the operations do not affect native title; or
- (b) a declaration is made by a court to the effect that the land is not subject to native title; or
- (c) a determination is made by a court that the mining operations can proceed.

You cannot proceed to carry out mining operations on native title land unless you comply with the requirements of Part 7.

Schedule 4—Items to be registered on opal mining register

- 1 An instrument of renewal of a precious stones prospecting permit by an opal mining registrar under section 9 of the Act
- 2 A notice of pegging under section 14 of the Act
- 3 The conditions applying to a precious stones tenement specified by the Director under section 18A of the Act
- 4 A notice of application for registration of a tenement under section 19 of the Act
- 5 An instrument indicating that registration of a tenement of a person on the Mintabie precious stones field has been cancelled under section 18B(2) of the Act
- 6 A notice of cancellation of registration of precious stones tenement by the Opal Mining Registrar under section 28(1) of the Act
- 7 A notice of seizure machinery or goods abandoned on land that has been subject to a tenement under section 29 of the Act
- 8 An instrument recording the existence of an agreement with an owner of land authorising a person to enter the land to carry out mining operations under section 31(a) of the Act
- 9 An instrument recording a consent or an agreement as to access under section 32 of the Act

Opal Mining Regulations 2012—1.1.2021

Schedule 4—Items to be registered on opal mining register

- 10 An authorisation for use of declared equipment under section 34 of the Act
- 11 A notice directing the holder of a tenement to rehabilitate land under section 35 of the Act
- 12 A compliance direction issued under section 35A of the Act
- 13 The amount of a bond under section 36 of the Act
- 14 An instrument providing for an exemption issued by the Minister under section 79 of the Act
- 15 If the holder of a precious stones tenement is in arrears for a payment for which they are liable under the Act—an instrument indicating that fact and the amount that remains unpaid
- 16 Proceedings in the ERD Court or the Supreme Court where the Minister, the Director or the Opal Mining Registrar was a party to the relevant proceedings
- 17 Decisions, determinations and orders of the Warden's Court, ERD Court or Supreme Court that relate to tenements under the Act
- 18 An instrument recording or evidencing the imposition of a criminal penalty under the Act

Schedule 5—Administrative penalties

	Section of Act	Administrative penalty
1	section 8(4)	\$5 000.00
2	section 16(9a)	\$5 000.00
3	section 18(1)	\$5 000.00
4	section 30	\$5 000.00

Legislative history

Notes

- 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.

Legislation revoked by principal regulations

The *Opal Mining Regulations 2012* revoked the following:

Opal Mining Regulations 1997

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2012	197	<i>Gazette 30.8.2012 p3962</i>	1.9.2012: r 2
2013	81	<i>Gazette 6.6.2013 p2179</i>	1.7.2013: r 2
2014	102	<i>Gazette 19.6.2014 p2559</i>	1.7.2014: r 2
2015	117	<i>Gazette 18.6.2015 p2698</i>	1.7.2015: r 2
2016	145	<i>Gazette 23.6.2016 p2381</i>	1.7.2016: r 2
2017	166	<i>Gazette 22.6.2017 p2446</i>	1.7.2017: r 2
2018	92	<i>Gazette 21.6.2018 p2227</i>	1.7.2018: r 2
2019	28	<i>Gazette 21.3.2019 p945</i>	1.4.2019: r 2
2020	170	<i>Gazette 4.6.2020 p3025</i>	1.7.2020: r 2
2020	302	<i>Gazette 19.11.2020 p5197</i>	1.1.2021: 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>1.7.2013</i>
r 4		
r 4(a1)	inserted by 302/2020 r 4(1)	1.1.2021
r 4(2)	varied by 302/2020 r 4(2)	1.1.2021
Pt 2		

r 6		
r 6(1)	varied by 302/2020 r 5(1)	1.1.2021
r 6(7)	varied by 302/2020 r 5(2)	1.1.2021
r 6(8)	varied by 28/2019 r 4(1)	1.4.2019
r 6(9)	varied by 28/2019 r 4(2)	1.4.2019
r 6(10)	varied by 302/2020 r 5(3)	1.1.2021
r 6(10)	varied by 302/2020 r 5(4)	1.1.2021
r 7		
r 7(1)	varied by 302/2020 r 6(1)	1.1.2021
r 7(2)	varied by 28/2019 r 5(1)	1.4.2019
r 7(3)	varied by 28/2019 r 5(2)	1.4.2019
r 7(4)	varied by 302/2020 r 6(2)	1.1.2021
r 7(4)	varied by 302/2020 r 6(3)	1.1.2021
Pt 3		
r 9		
r 9(2)	varied by 302/2020 r 7(1), (2)	1.1.2021
r 9(3)	varied by 302/2020 r 7(3)	1.1.2021
Pt 4		
r 10		
r 10(6)	varied by 302/2020 r 8(1)	1.1.2021
r 10(8)	substituted by 302/2020 r 8(2)	1.1.2021
r 11		
r 11(1)	varied by 302/2020 r 9(1)	1.1.2021
r 11(2) and (3)	deleted by 302/2020 r 9(2)	1.1.2021
r 12	deleted by 302/2020 r 10	1.1.2021
Pt 5		
r 14		
r 14(1)	varied by 302/2020 r 11(1), (2)	1.1.2021
Pt 6		
r 18		
r 18(1)	varied by 302/2020 r 12(1), (2)	1.1.2021
r 18(6)	varied by 302/2020 r 12(3)	1.1.2021
r 18(7)	varied by 302/2020 r 12(4)	1.1.2021
r 18(8)	varied by 28/2019 r 6	1.4.2019
r 22		
r 22(1)	varied by 302/2020 r 13(1)	1.1.2021
r 22(2)	varied by 302/2020 r 13(2)	1.1.2021
Pt 8		
r 26	varied by 302/2020 r 14	1.1.2021
r 26A	inserted by 302/2020 r 15	1.1.2021
r 27	varied by 302/2020 r 16	1.1.2021
r 28	substituted by 302/2020 r 17	1.1.2021
rr 33A and 33B	inserted by 302/2020 r 18	1.1.2021

r 34	r 34 varied by 302/2020 r 19(1)	1.1.2021
	(c) deleted by 302/2020 r 19(2)	1.1.2021
r 34(1)	r 34 redesignated as r 34(1) by 302/2020 r 19(3)	1.1.2021
r 34(2)—(5)	inserted by 302/2020 r 19(3)	1.1.2021
r 35	deleted by 28/2019 r 7	1.4.2019
	inserted by 170/2020 r 4	1.7.2020
Sch 2	<i>substituted by 81/2013 r 4</i>	<i>1.7.2013</i>
	<i>substituted by 102/2014 r 4</i>	<i>1.7.2014</i>
	<i>substituted by 117/2015 r 4</i>	<i>1.7.2015</i>
	<i>substituted by 145/2016 r 4</i>	<i>1.7.2016</i>
	<i>substituted by 166/2017 r 4</i>	<i>1.7.2017</i>
	<i>substituted by 92/2018 r 4</i>	<i>1.7.2018</i>
	<i>deleted by 28/2019 r 8</i>	<i>1.4.2019</i>
Sch 4	omitted under <i>Legislation Revision and Publication Act 2002</i>	1.7.2013
	inserted by 302/2020 r 20	1.1.2021
Sch 5	inserted by 302/2020 r 20	1.1.2021

Historical versions

1.7.2013
1.7.2014
1.7.2015
1.7.2016
1.7.2017
1.7.2018
1.4.2019
1.7.2020