

South Australia

## **Mining (Miscellaneous) Amendment Act 2003**

An Act to amend the *Mining Act 1971* and the *Opal Mining Act 1995*.

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**The Parliament of South Australia enacts as follows:**

## **Part 1—Preliminary**

### **1—Short title**

This Act may be cited as the *Mining (Miscellaneous) Amendment Act 2003*.

### **2—Commencement**

This Act will come into operation on a day to be fixed by proclamation.

### **3—Amendment provisions**

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

## **Part 2—Amendment of *Mining Act 1971***

### **4—Amendment of section 6—Interpretation**

Section 6(1), definition of *mining* or *mining operations*—after "does not include" insert:

any investigation or survey under section 15, or

### **5—Amendment of section 15—Powers of Minister, Director and authorised persons**

- (1) Section 15(2)—delete subsection (2) and substitute:
  - (2) A person exercising a power under this section—
    - (a) must not recover from any land more minerals than are reasonably necessary for the purpose of making the relevant investigation or survey; and
    - (b) must not unnecessarily impede or obstruct the lawful use or enjoyment of any land by an owner of the land.
- (2) Section 15—after subsection (4) insert:
  - (5) At least 14 days before the Minister or the Director of Mines, or any authorised person, undertakes an investigation or survey under this section, the Minister may publish in the Gazette a notice—
    - (a) describing the area of land in which the investigation or survey will be undertaken; and
    - (b) setting out a completion date in respect of the investigation or survey.
  - (6) The Minister may extend the completion date from time to time by publishing a further notice in the Gazette.

- (7) If a notice is published under subsection (5), the Minister may refuse to receive and consider an application for a mining tenement in respect of the land described in the notice until the completion date set out in the notice.

#### **6—Amendment of section 28—Grant of exploration licence**

- (1) Section 28(4) and (4a)—delete subsections (4) and (4a)  
(2) Section 28(6)—delete subsection (6)

#### **7—Amendment of section 29—Application for exploration licence**

Section 29(1)—delete "in writing" and substitute:

made in a manner and form determined by the Minister

#### **8—Insertion of section 30AA**

After section 30 insert:

##### **30AA—Area of licence**

- (1) The area of the land in respect of which an exploration licence is granted must not exceed 1000 square kilometres unless, in the opinion of the Minister, circumstances exist that justify the grant of a licence in respect of a greater area.
- (2) However, if the exploration licence allows for exploratory operations for precious stones in an opal development area, the area of land in respect of which a licence is granted cannot exceed 20 square kilometres unless, in the opinion of the Minister, circumstances exist that justify the grant of a licence in respect of a greater area.

#### **9—Amendment of section 30A—Term of licence**

- (1) Section 30A(4)—delete "in the prescribed form" and substitute:  
in a manner and form determined by the Minister
- (2) Section 30A—after subsection (4) insert:  
(4a) An application under subsection (4) must be accompanied by—  
(a) the prescribed application fee; and  
(b) any information that the Minister may require.

#### **10—Insertion of section 30AB**

After section 30A insert:

##### **30AB—Subsequent exploration licence**

- (1) The Minister may, on the expiration of an exploration licence the term or aggregate term of which was five years, grant to the licensee an exploration licence (a *subsequent exploration licence*) over the area of land, or a part of the area of land, to which the former licence applied.

- (2) An application for a subsequent exploration licence must include the following:
  - (a) a statement outlining the exploratory operations that the licensee has carried out in pursuance of the licence since it was granted (or since it was renewed, if the licence has been renewed), showing the expenditure incurred in carrying out those operations; and
  - (b) a statement that the licensee will—
    - (i) carry out exploratory operations of a kind and to an extent agreed between the Minister and the licensee; and
    - (ii) spend an amount of money agreed between the Minister and the licensee in carrying out those operations.
- (3) The holder of a subsequent exploration licence must spend (when considered on an annual basis) at least an amount of money agreed between the Minister and the licensee in carrying out operations under the licence.
- (4) However—
  - (a) the Minister may, subject to any terms and conditions as the Minister thinks fit, exempt a licensee from the application of subsection (2) or (3); and
  - (b) the Minister may not, in entering into an agreement with a licensee under subsection (3) require the licensee to spend—
    - (i) if the subsequent exploration licence is granted over the area of land to which the former licence applied—more than double the amount agreed between the Minister and the licensee in relation to the last year of the former licence;
    - (ii) if the subsequent exploration licence is granted over a part of the area of land to which the former licence applied—more than an amount that bears the same proportion to double the amount agreed between the Minister and the licensee in relation to the last year of the former licence as the area of land over which the subsequent exploration licence is granted bears to the area of the former licence.
- (5) To avoid doubt, section 30A extends a subsequent exploration licence under this section.

## 11—Insertion of section 33A

After section 33 insert:

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

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

## 12—Amendment of section 58—How entry on land may be authorised

Section 58—after paragraph (b) insert:

- (ba) if the mining operator is authorised by an indigenous land use agreement registered under the *Native Title Act 1993* (Cwth) to enter the land to carry out mining operations on the land;

## 13—Amendment of section 58A—Notice of entry

Section 58A(7)—after paragraph (c) insert:

- (ca) the mining operator is authorised to enter the land under an indigenous land use agreement registered under the *Native Title Act 1993* (Cwth); or

## 14—Amendment of section 61—Compensation

- (1) Section 61(2)(a)—delete "the mining operator" and substitute:  
the person carrying out the mining operations

(2) Section 61—after subsection (5) insert:

- (6) For the purposes of this section—
- (a) a reference to mining operations will be taken to include a reference to any investigation or survey under section 15; and
  - (b) a reference to a mining operator will be taken to include a reference to the Director (in relation to any investigation or survey under section 15).

### **15—Amendment of section 63F—Qualification of rights conferred by exploration authority**

Section 63F(1)—after paragraph (b) insert:

- (c) an indigenous land use agreement registered under the *Native Title Act 1993* (Cwth) provides that statutory rights to negotiate are not intended to apply in relation to the mining operations.<sup>3</sup>

**Note—**

3 Cf. *Native Title Act* (Cwth), section 24EB(1)(c).

### **16—Amendment of section 63H—Limits on grant of production tenement**

Section 63H—after paragraph (a) insert:

- (ab) an indigenous land use agreement registered under the *Native Title Act 1993* (Cwth) provides that statutory rights to negotiate are not intended to apply in relation to the mining operations to be carried out under the tenement; or<sup>1</sup>

**Note—**

1 Cf. *Native Title Act* (Cwth), section 24EB(1)(c).

### **17—Repeal of section 63ZD**

Section 63ZD—delete the section

### **18—Repeal of section 87**

Section 87—delete the section

## **Part 3—Amendment of *Opal Mining Act 1995***

### **19—Repeal of section 71**

Section 71—delete the section

## **Schedule—Transitional provision**

### **1—Interpretation**

In this Schedule—

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

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

*principal Act* means the *Mining Act 1971*.

## **2—Transitional provision**

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

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