

South Australia

# **Anangu Pitjantjatjara Yankunytjatjara Land Rights (Mintabie) Amendment Act 2009**

An Act to amend the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981* and to make related amendments to the *Opal Mining Act 1995* and to by-laws under the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*.

---

## **Contents**

### **Part 1—Preliminary**

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

### **Part 2—Amendment of *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981***

- 4 Amendment of section 4—Interpretation
- 5 Substitution of Part 3 Division 4
  - Division 4—Mintabie precious stones field
    - 25 Interpretation
    - 26 Expiry of Division
    - 27 Interaction of this Division with other Acts
    - 28 Delegation
    - 29 Delegation of power to permit entry to Mintabie precious stones field
    - 29A Inspection of Mintabie Township Lease Agreement
    - 29B Walatina leases not to apply to Mintabie township
    - 29C Entry to Mintabie precious stones field etc
    - 29D Minister may issue etc licence to occupy land in Mintabie township lease area
    - 29E Crown etc not required to keep premises in good repair
    - 29F Offence to reside etc on Mintabie township lease area without licence
    - 29G Review of certain decisions of Minister
    - 29H Exclusion of certain persons from the Mintabie precious stones field

### **Schedule 1—Related amendments and transitional provisions**

#### **Part 1—Amendment of the *Opal Mining Act 1995***

- 1 Insertion of section 10A
  - 10A Special provisions in relation to Mintabie precious stones field
- 2 Insertion of sections 18A and 18B
  - 18A Special conditions for tenements in relation to Mintabie precious stones field
  - 18B Cancellation of tenements on Mintabie precious stones field
- 3 Insertion of section 19A
  - 19A Special provision related to application for and registration of tenements on Mintabie precious stones field

**Part 2—Variation of *Pitjantjatjara Land Rights (Control of Alcoholic Liquor) By-Laws 1987***

- 4 Variation of by-laws
- 5 Variation of by-law 1
- 6 Substitution of by-laws 6 and 7
- 7 Variation of by-laws 8 and 9
- 8 Variation of by-law 11

**Part 3—Variation of *Pitjantjatjara Land Rights (Control of Gambling) By-Laws 1987***

- 9 Variation of by-laws
- 10 Variation of by-law 1

**Part 4—Variation of *Pitjantjatjara Land Rights (Control of Petrol) By-Laws 1987***

- 11 Variation of by-laws
- 12 Variation of by-law 1

**Part 5—Transitional provisions**

- 13 Transitional provision—*Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*
  - 14 Transitional provision—*Opal Mining Act 1995*
- 

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

**Part 1—Preliminary**

**1—Short title**

This Act may be cited as the *Anangu Pitjantjatjara Yankunytjatjara Land Rights (Mintabie) Amendment Act 2009*.

**2—Commencement**

- (1) This Act will come into operation on a day to be fixed by proclamation.
- (2) Section 7(5) of the *Acts Interpretation Act 1915* does not apply to this Act or a provision of this Act.

**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 *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*

### 4—Amendment of section 4—Interpretation

Section 4(1), definition of *Mintabie resident*—delete the definition and substitute:

*Mintabie Miners Progress Association* means the association of that name incorporated under the *Associations Incorporation Act 1985*;

*Mintabie precious stones field* means that part of the lands declared to be a precious stones field under the *Opal Mining Act 1995*;

*Mintabie precious stones prospecting permit* means a precious stones prospecting permit under the *Opal Mining Act 1995* and endorsed in accordance with section 10A of that Act;

*Mintabie Township Lease Agreement* means the agreement of that name executed by Anangu Pitjantjatjara Yankunytjatjara, the Minister and the Minister to whom the administration of *Opal Mining Act 1995* is committed (whether or not there are other parties to the agreement), as varied from time to time;

*Mintabie township lease area* means the Mintabie township lease area as set out in the Mintabie Township Lease Agreement;

### 5—Substitution of Part 3 Division 4

Part 3 Division 4—delete Division 4 and substitute:

#### Division 4—Mintabie precious stones field

##### 25—Interpretation

In this Division—

*Minister* means the Minister to whom the administration of the *Opal Mining Act 1995* is committed.

##### 26—Expiry of Division

This Division will expire on the Mintabie precious stones field ceasing to be a precious stones field for the purposes of the *Opal Mining Act 1995*.

##### 27—Interaction of this Division with other Acts

- (1) Subject to subsection (2), this Division does not derogate from the provisions of the *Mining Act 1971* or the *Opal Mining Act 1995*.
- (2) Despite the provisions of the *Opal Mining Act 1995*, the consent of Anangu Pitjantjatjara Yankunytjatjara is not required in relation to the pegging out of a precious stones claim on the Mintabie precious stones field.

- (3) The *Retail and Commercial Leases Act 1995* and the *Residential Tenancies Act 1995* do not apply in relation to premises or land in the Mintabie township lease area.

## **28—Delegation**

- (1) The Minister may delegate a function or power of the Minister under this Division to—
- (a) the Director; or
  - (b) any other person or body (including a person for the time being holding or acting in a specified office or position).
- (2) A delegation under this section—
- (a) must be by instrument in writing; and
  - (b) may be absolute or conditional; and
  - (c) does not derogate from the power of the delegator to act in a matter; and
  - (d) is revocable at will.
- (3) A function or power delegated under this section may, if the instrument of delegation so provides, be further delegated.
- (4) In legal proceedings, an apparently genuine certificate, purportedly signed by the Minister or the Director containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.
- (5) In this section—

*Director* has the same meaning as in the *Opal Mining Act 1995*.

## **29—Delegation of power to permit entry to Mintabie precious stones field**

- (1) Despite sections 9F and 19(3), the Executive Board may delegate to any person or body (including a person for the time being holding or acting in a specified office or position) the power to grant permission under this Act in relation to entry of persons to the Mintabie precious stones field.
- (2) A delegation under this section—
- (a) must be by instrument in writing; and
  - (b) may be absolute or conditional; and
  - (c) does not derogate from the power of the delegator to act in a matter; and
  - (d) is revocable at will.
- (3) A function or power delegated under this section may, if the instrument of delegation so provides, be further delegated.

- (4) In legal proceedings, an apparently genuine certificate, purportedly signed by Anangu Pitjantjatjara Yankunytjatjara containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.
- (5) Despite section 19(3), if the Executive Board makes a delegation under this section, an application for permission to enter the Mintabie precious stones field may be made in a manner and form determined by the Executive Board.

### **29A—Inspection of Mintabie Township Lease Agreement**

- (1) A person is entitled to inspect (without charge) the Mintabie Township Lease Agreement—
  - (a) at the places on the lands, and during the times, determined by the Executive Board; and
  - (b) during ordinary office hours at—
    - (i) the principal office of Anangu Pitjantjatjara Yankunytjatjara; and
    - (ii) the office of the Department of Primary Industries and Resources SA located at Coober Pedy; and
  - (c) on a website determined by the Minister.
- (2) A person is entitled, on payment of the fee prescribed by the regulations, to a copy of the Mintabie Township Lease Agreement.

### **29B—Walatina leases not to apply to Mintabie township**

- (1) Despite any other Act or law, the Walatina leases do not apply to land in the Mintabie township lease area.
- (2) To avoid doubt, on the expiry of this Division, the land constituting the Mintabie township lease area will revert to being subject to the Walatina leases.
- (3) In this section—

*Walatina leases* means lease number 7411869 and lease number 7411869A registered on the Certificate of Title for the lands, the lessee in relation to which is the Walatina Aboriginal Corporation.

**Note—**

The Certificate of Title for the lands is Volume 4183 Folio 627.

### **29C—Entry to Mintabie precious stones field etc**

- (1) A person is not entitled to enter or remain on the Mintabie precious stones field unless he or she—
  - (a) has a right or permission under another provision of this Act to do so; or
  - (b) is a person to whom subsection (2) applies.

- (2) Subject to this section, the following persons are entitled to enter and remain on the Mintabie precious stones field without permission under another provision of this Act:
- (a) a person who holds a Mintabie precious stones prospecting permit, or a precious stones tenement on the Mintabie precious stones field;
  - (b) a person, approved by the Minister, who is the spouse or domestic partner, or parent or child, of a person who is entitled to be on the field under paragraph (a);
  - (c) a person who holds a current licence under section 29D or a person specified on such a licence;
  - (d) a person working (whether paid or otherwise) at the Mintabie School;
  - (e) a student enrolled at the Mintabie School, or a parent or guardian of such a student, for purposes related to the attendance at the school by the student;
  - (f) a person working (whether paid or otherwise) at a school other than the Mintabie School, a student enrolled at such a school or a parent or guardian of such a student, attending the Mintabie School for education purposes;
  - (g) a person who is an employee of the Royal Flying Doctor Service Inc. and who is entering and remaining on the lands for the purposes of providing medical or dental treatment in the course of that employment;
  - (h) a person, approved by the Minister, who is entering and remaining on the lands for the purposes of providing health care, religious instruction or pastoral care or community services to, or for the benefit of, residents in the Mintabie township lease area;
  - (i) a person, approved by the Minister, who is a member of a class of persons declared by the Minister, after consultation with the Mintabie Miners Progress Association and with the approval of Anangu Pitjantjatjara Yankunytjatjara, by notice in the Gazette to be a class of persons to which this subsection applies.
- (3) An application for approval under subsection (2)(b), (h) or (i) must—
- (a) be made in a manner and form determined by the Minister; and
  - (b) be accompanied by the prescribed fee; and
  - (c) be accompanied by any other information the Minister may require (including, without limiting this paragraph—
    - (i) in the case of an applicant who is of or above 18 years of age, information in relation to the criminal history of the applicant; or

- (ii) in the case of an applicant who is a body corporate, information in relation to the criminal history of the applicant, or a director, officer or employee of the applicant).
- (4) An approval under subsection (2)(b), (h) or (i) may be subject to such conditions as the Minister thinks fit (but such conditions must not be inconsistent with the Mintabie Township Lease Agreement).
- (5) The Minister may, by notice in writing, vary or revoke an approval under subsection (2)(b), (h) or (i) on any grounds the Minister thinks fit (but such variation or revocation must not be inconsistent with the Mintabie Township Lease Agreement).
- (6) If a person proposes to enter the lands in pursuance of subsection (2)(h) or (i), reasonable notice of the time, place and purpose of the proposed entry must be given to Anangu Pitjantjatjara Yankunytjatjara.
- (7) If Anangu Pitjantjatjara Yankunytjatjara, by notice in writing to the Minister, objects to an approved person entering or remaining upon the lands under subsection (2)(h) or (i), the Minister must revoke or vary the approval in order to give effect to the objection unless the Minister is satisfied that there are sufficient reasons why the authorisation should continue despite the objection.
- (8) A person who is entitled under subsection (2) to enter and remain on the Mintabie precious stones field is entitled, without permission under this Act, to use a prescribed road for the purpose of entering and leaving the field.
- (9) In this section—

***close personal relationship*** means the relationship between 2 adult persons (whether or not related by family and irrespective of their gender) who live together as a couple on a genuine domestic basis, but does not include—

- (a) the relationship between a legally married couple; or
- (b) a relationship where 1 of the persons provides the other with domestic support or personal care (or both) for fee or reward, or on behalf of some other person or an organisation of whatever kind;

**Note—**

Two persons may live together as a couple on a genuine domestic basis whether or not a sexual relationship exists, or has ever existed, between them.

***domestic partner***—a person is the domestic partner of another if he or she lives with the other in a close personal relationship;

*prescribed road* means—

- (a) Department of Transport road 10024 (being the road from the Stuart Highway to Mintabie and commonly known as "Mintabie Road"); and
- (b) any other road declared by the regulations to be within the ambit of this definition;

*spouse*—a person is the spouse of another if they are legally married.

### **29D—Minister may issue etc licence to occupy land in Mintabie township lease area**

- (1) Subject to this section, the Minister may, on application by a person, issue or renew a licence entitling the applicant and any other person specified in the licence to occupy specified land within the Mintabie township lease area during the term of the Mintabie Township Lease Agreement.

**Note—**

The Mintabie Township Lease Agreement sets out some of the grounds on which an application may be refused.

- (2) A licence may be subject to such conditions as the Minister thinks fit.
- (3) The Minister may, on application by the holder of a licence or on the Minister's own motion—
  - (a) revoke a licence; or
  - (b) vary the conditions of a licence by the addition, substitution or deletion of 1 or more conditions.
- (4) A revocation or variation under subsection (3)—
  - (a) must be by notice in writing given to the holder of the licence; and
  - (b) takes effect when the notice is given to the holder of the licence (or on such later date as may be specified in the notice).
- (5) An application under subsection (1) must—
  - (a) be made in a manner and form determined by the Minister; and
  - (b) be accompanied by any relevant fee or fees set out in, or determined in accordance with, the Mintabie Township Lease Agreement; and
  - (c) be accompanied by any other information that the Minister may require (including, without limiting this paragraph—
    - (i) —

- (A) in the case of an applicant who is of or above 18 years of age, information in relation to the criminal history of the applicant; or
    - (B) in the case of an applicant who is a body corporate, information in relation to the criminal history of the applicant, or a director, officer or employee of the applicant; and
  - (ii) information in relation to the criminal history of any other person of or above 18 years of age who proposes to occupy land within the Mintabie township lease area pursuant to the licence if the application is granted).
- (6) The Minister must not issue or renew a licence unless the applicant—
- (a) —
    - (i) is entitled to enter and remain on the Mintabie precious stones field under section 29C; or
    - (ii) is carrying on, or proposes to carry on, a lawful business or activity in the Mintabie township lease area (being a business or activity that is approved in accordance with the Mintabie Township Lease Agreement); or
    - (iii) is a member of a class of persons declared by the Minister, after consultation with the Mintabie Miners Progress Association and with the approval of Anangu Pitjantjatjara Yankunytjatjara, by notice in the Gazette, to be a class of persons to whom a licence can be issued; and
  - (b) resides or proposes to reside in the Mintabie township lease area.
- (7) The Minister must not issue a licence to, or renew the licence of, a person who is prohibited under this Act from entering or remaining on the Mintabie precious stones field, and, if such an order is made against a licensee, the Minister must revoke his or her licence.
- (8) The Minister must not specify a person on a licence if the person is prohibited under this Act from entering or remaining on the Mintabie precious stones field, and, if such an order is made against a person so specified, the Minister must vary the relevant licence to remove that person from the licence.
- (9) A licence is not transferable nor may any of the rights conferred by the licence be assigned.

- (10) A person to whom a licence has been issued is entitled, without permission under this Act—
- (a) to use and maintain the bore and water distribution system by which water is provided on the Mintabie precious stones field; and
  - (b) to drill a further bore or bores (either in addition to or in substitution for the present bore) on a site to be agreed with Anangu Pitjantjatjara Yankunytjatjara (which agreement must not be unreasonably withheld) and to install and maintain such pumps, pipes and other equipment as may be necessary to connect it to the water distribution system, and to have such access to the lands as is necessary for those purposes.
- (11) The Minister must, if the Minister issues a licence, notify Anangu Pitjantjatjara Yankunytjatjara in accordance with the Mintabie Township Lease Agreement of—
- (a) the name of the licensee and any other person specified in the licence; and
  - (b) the land to which the licence relates; and
  - (c) any conditions of the licence.
- (12) For the purposes of this section, a reference to reside includes, in the case of a body corporate, a reference to occupy premises.
- (13) The Minister must not, in exercising a power or function under this section, act in a manner that is inconsistent with the Mintabie Township Lease Agreement.

### **29E—Crown etc not required to keep premises in good repair**

Despite any other Act, law, agreement or arrangement, the Crown, Anangu Pitjantjatjara Yankunytjatjara or the Mintabie Miners Progress Association are not required to keep premises in the Mintabie township lease area in good repair.

### **29F—Offence to reside etc on Mintabie township lease area without licence**

- (1) A person must not reside in the Mintabie township lease area except in accordance with a licence under section 29D.
- Maximum penalty: \$2 000 plus \$500 for each day during which the convicted person resided in the Mintabie township lease area in contravention of this subsection.
- (2) Subsection (1) does not apply to a person who is authorised to reside or remain on the lands under this Act other than under this Division.

#### **Note—**

See Part 3 Division 2.

- (3) A person must not operate a business in the Mintabie township lease area except in accordance with a licence under section 29D.

Maximum penalty: \$2 000 plus \$500 for each day during which the convicted person operated the business in contravention of this subsection.

- (4) For the purposes of this section, a reference to reside includes, in the case of a body corporate, a reference to occupy premises.
- (5) In this section—

*reside* includes to remain in the Mintabie township lease area for a period of not less than 24 hours.

### **29G—Review of certain decisions of Minister**

- (1) A person affected by a decision of the Minister under section 29C or section 29D may, by notice in writing, ask the Minister to review the decision.

- (2) An application under subregulation (1)—

(a) must be made within 14 days after the person was notified of the decision; and

(b) must be made in a manner and form determined by the Minister; and

(c) must be accompanied by a statement—

(i) outlining the decision that the person requests be reviewed; and

(ii) setting out the outcome sought by the person as a result of the review; and

(iii) setting out any information the person wishes the Minister to take into account in reviewing the decision.

- (3) The Minister may, in his or her discretion, extend the time fixed for making an application for review of a decision.

- (4) The Minister must, before reviewing a decision—

(a) advise Anangu Pitjantjatjara Yankunytjatjara and the Mintabie Miners Progress Association of the application; and

(b) have regard to any recommendation made in relation to the application by Anangu Pitjantjatjara Yankunytjatjara and the Mintabie Miners Progress Association within 14 days (or such later time as may be specified by the Minister) of being so advised.

- (5) The Minister must, as soon as is reasonably practicable after receiving an application under subsection (1), review the initial decision and—

(a) confirm the initial decision; or

- (b) vary the initial decision; or
- (c) set aside the initial decision and substitute a new decision.

**29H—Exclusion of certain persons from the Mintabie precious stones field**

- (1) A Magistrates Court may, on the application of the Minister, Anangu Pitjantjatjara Yankunytjatjara, or the Mintabie Miners Progress Association, make an order prohibiting a person from entering or remaining on the Mintabie precious stones field.
- (2) An order must not be made against a person under subsection (1) unless the person—
  - (a) has, after 2 October 1981, been found guilty of—
    - (i) an offence of a sexual nature; or
    - (ii) an offence involving wilful interference with an Aboriginal sacred site; or
  - (b) has, in the 10 years preceding the date on which the application is made, been found guilty of—
    - (i) an offence involving violence or a breach of the peace; or
    - (ii) an offence involving the unlawful sale of a motor vehicle; or
    - (iii) larceny; or
    - (iv) an offence involving the unlawful sale of liquor or a regulated substance; or
    - (v) an offence against Part 5 of the *Controlled Substances Act 1984*; or
  - (c) has acted in a manner prejudicial to—
    - (i) the welfare of an Aboriginal individual or group; or
    - (ii) the welfare of those who are lawfully on the Mintabie precious stones field under this Act.
- (3) A person who contravenes an order under subsection (1) is guilty of an offence.  
Maximum penalty: Imprisonment for 2 years or \$10 000.
- (4) The court that made an order under subsection (1), or any court that could have made the order, may, on the application of the person against whom the order was made, revoke the order, but it must not do so unless it has first given the Minister, Anangu Pitjantjatjara Yankunytjatjara and the Mintabie Miners Progress Association a reasonable opportunity to be heard on the matter.

## Schedule 1—Related amendments and transitional provisions

### Part 1—Amendment of the *Opal Mining Act 1995*

#### 1—Insertion of section 10A

After section 10 insert:

#### **10A—Special provisions in relation to Mintabie precious stones field**

- (1) Despite any other provision of this Act, a precious stones prospecting permit does not authorise a person to prospect for precious stones on the Mintabie precious stones field unless the permit has been endorsed by a mining registrar as authorising such prospecting.
- (2) The holder of a precious stones prospecting permit may apply for endorsement of his or her precious stones prospecting permit to authorise prospecting for precious stones on the Mintabie precious stones field.
- (3) An application under subsection (2)—
  - (a) must be made in a form determined by the Director; and
  - (b) must be accompanied by the prescribed application fee; and
  - (c) be accompanied by any other information that the Director may require (including, without limiting this paragraph—
    - (i) in the case of an applicant who is of or above 18 years of age, information in relation to the criminal history of the applicant; or
    - (ii) in the case of an applicant who is a body corporate, information in relation to the criminal history of the applicant, or a director, officer or employee of the applicant).
- (4) If a mining registrar refuses to endorse a precious stones prospecting permit under this section, the mining registrar must, by notice in writing, inform the applicant of that fact.
- (5) A precious stones prospecting permit that authorises prospecting for precious stones on the Mintabie precious stones field is subject to the following conditions:
  - (a) the holder of the permit (being a holder who is a natural person) must not reside on the Mintabie precious stones field other than in the Mintabie township lease area in accordance with a licence issued under section 29D of the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*, or as otherwise allowed under that Act;
  - (b) any other condition specified by the mining registrar by notice in writing given to the holder of the permit.

- (6) A condition under subsection (5)(b) has effect when the notice under that subsection is given to the holder of the permit.
- (7) A condition under subsection (5) is in addition to, and does not derogate from, any other condition or qualification applicable to a precious stones prospecting permit under this Act.
- (8) The holder of a precious stones prospecting permit that authorises prospecting for precious stones on the Mintabie precious stones field must not contravene or fail to comply with a condition of his or her permit.
- (9) A mining registrar must revoke an endorsement under this section if the holder of the relevant precious stones prospecting permit has been excluded from the Mintabie precious stones field under section 29H of the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*.
- (10) A mining registrar may, by notice in writing, on any reasonable grounds—
  - (a) revoke an endorsement under this section; or
  - (b) vary the conditions of a precious stones prospecting permit that authorises prospecting for precious stones on the Mintabie precious stones field by the addition, substitution or deletion of 1 or more conditions.
- (11) A revocation or variation under subsection (10) has effect when the notice under that subsection is given to the holder of the permit (or on such later date as may be specified in the notice).
- (12) An endorsement under this section expires on the day on which the precious stones prospecting permit to which the endorsement relates expires or is renewed, whichever occurs first.
- (13) A holder of a precious stones prospecting permit—
  - (a) whose application for endorsement of his or her precious stones prospecting permit under this section is refused by a mining registrar; or
  - (b) who receives a notice under subsection (5)(b) imposing a condition on the endorsement; or
  - (c) who receives a notice under subsection (10) revoking an endorsement, or varying the conditions, of the precious stones prospecting permit,may apply to the Warden's Court to have the relevant decision or decisions of the mining registrar reviewed.
- (14) An application for review must, unless the Warden's Court allows an extension of time, be made within 28 days after the relevant notice is given to the person.

- (15) At the conclusion of the review, the Warden's Court may, if satisfied that there were no reasonable grounds for a particular decision, do 1 or both of the following:
- (a) —
    - (i) in the case of a review of a decision of a mining registrar to refuse to endorse a precious stones prospecting permit under this section—quash the mining registrar's decision; or
    - (ii) in the case of a review in respect of a notice under subsection (5)(b) or (10)—cancel the revocation or the imposition or variation of the relevant condition (as the case requires);
  - (b) remit the subject matter of the review to a mining registrar for reconsideration.
- (16) A mining registrar must not, in exercising a power or function under this section, act in a manner that is inconsistent with the Mintabie Township Lease Agreement.
- (17) In this section—
- Mintabie Township Lease Agreement* and *Mintabie township lease area* have the same meaning as in the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*.

## 2—Insertion of sections 18A and 18B

Before section 19 insert:

### **18A—Special conditions for tenements in relation to Mintabie precious stones field**

- (1) Each precious stones tenement on the Mintabie precious stones field is subject to the following conditions:
- (a) the holder of the tenement (being a holder who is a natural person) must not reside on the Mintabie precious stones field other than in the Mintabie township lease area in accordance with a licence issued under section 29D of the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*, or as otherwise allowed under that Act;
  - (b) any other condition specified by the Director by notice in writing given to the holder of the tenement.
- (2) A condition under subsection (1)(b) has effect when the notice under that subsection is given to the holder of the tenement.
- (3) A condition under subsection (1) is in addition to, and does not derogate from, any other condition or qualification applicable to a precious stones tenement under this Act.

- (4) The holder of a precious stones tenement on the Mintabie precious stones field must not contravene or fail to comply with a condition of his or her tenement.
- (5) The Director may, by notice in writing, on any reasonable grounds, vary the conditions of a precious stones tenement on the Mintabie precious stones field by the addition, substitution or deletion of 1 or more conditions.
- (6) A variation of a condition under subsection (5) has effect when the notice under that subsection is given to the holder of the tenement (or on such later date as may be specified in the notice).
- (7) A holder of a precious stones tenement on the Mintabie precious stones field—
  - (a) who receives a notice under subsection (1)(b) imposing a condition on the precious stones tenement; or
  - (b) who receives a notice under subsection (5) varying the conditions of the precious stones tenement,may apply to the Warden's Court to have the relevant decision or decisions of the Director reviewed.
- (8) An application for review must, unless the Warden's Court allows an extension of time, be made within 28 days after the relevant notice is given to the person.
- (9) At the conclusion of the review, the Warden's Court may, if satisfied that there were no reasonable grounds for a particular decision, do 1 or both of the following:
  - (a) cancel the imposition or variation of the relevant condition (as the case requires);
  - (b) remit the subject matter of the review to the Director for reconsideration.
- (10) The Director must not, in exercising a power or function under this section, act in a manner that is inconsistent with the Mintabie Township Lease Agreement.
- (11) In this section—

*Mintabie Township Lease Agreement* and *Mintabie township lease area* have the same meaning as in the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*.

### **18B—Cancellation of tenements on Mintabie precious stones field**

- (1) The Director must cancel the registration of a tenement or tenements of a person on the Mintabie precious stones field if the person has been excluded from the Mintabie precious stones field under section 29H of the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*.

- (2) Subject to this section, the Director may cancel the registration of a tenement or tenements of a person on the Mintabie precious stones field if—
- (a) the Director is satisfied on reasonable grounds that the person has acted in a manner prejudicial to—
    - (i) the welfare of *Anangu* (whether individually or as a group); or
    - (ii) the welfare of those who are lawfully on the Mintabie precious stones field under the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*; or
  - (b) the person has contravened, or failed to comply with, a condition under section 18A in relation to the tenement or tenements; or
  - (c) an endorsement of a precious stones prospecting permit under section 10A held by the person has been revoked under that section.
- (3) If the registration of a tenement or tenements on the Mintabie precious stones field is cancelled under subsection (2)(a), the holder of the tenement or tenements may apply to the Warden's Court to have the relevant decision of the Director reviewed.
- (4) An application for review must, unless the Warden's Court allows an extension of time, be made within 28 days of the cancellation.
- (5) At the conclusion of the review, the Warden's Court may, if satisfied that there were no reasonable grounds for the cancellation, do 1 or both of the following:
- (a) quash the Director's decision;
  - (b) remit the subject matter of the review to the Director for reconsideration.
- (6) If—
- (a) an endorsement of a precious stones prospecting permit is revoked under section 10A; and
  - (b) the holder of the precious stones prospecting permit has applied under that section for a review of the decision to revoke the endorsement,
- the Director may not cancel the registration of a tenement of the person under subsection (2)(c) until the review has been finally determined.
- (7) This section is in addition to, and does not derogate from, any other provision of this Act.
- (8) In this section—
- Anangu* has the same meaning as in the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*.

### 3—Insertion of section 19A

After section 19 insert:

#### **19A—Special provision related to application for and registration of tenements on Mintabie precious stones field**

- (1) Without limiting section 19 or 22, an application for registration of, or renewal of the registration of, a precious stones tenement on the Mintabie precious stones field must be accompanied by any other information the Director may require (including, without limiting this subsection—
  - (a) in the case of an applicant who is of or above 18 years of age, information in relation to the criminal history of the applicant; or
  - (b) in the case of an applicant who is a body corporate, information in relation to the criminal history of the applicant, or a director, officer or employee of the applicant).
- (2) Despite any other provision of this Act, the Mining Registrar must refuse to register, or refuse to renew the registration of, a precious stones tenement on the Mintabie precious stones field if the applicant has been excluded from the Mintabie precious stones field under section 29H of the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*.
- (3) Despite any other provision of this Act, the Mining Registrar may refuse to register, or refuse to renew the registration of, a precious stones tenement on the Mintabie precious stones field if—
  - (a) the Mining Registrar is satisfied on reasonable grounds that the person has acted in a manner prejudicial to—
    - (i) the welfare of Anangu (whether individually or as a group); or
    - (ii) the welfare of those who are lawfully on the Mintabie precious stones field under the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*; or
  - (b) the person has contravened, or failed to comply with, a condition under section 18A in relation to the tenement or a similar tenement; or
  - (c) an endorsement of a kind contemplated by section 10A on a precious stones prospecting permit held by the person has been cancelled under that section.
- (4) If the Mining Registrar refuses to register, or refuses to renew the registration of, a precious stones tenement on the Mintabie precious stones field under this section, the Mining Registrar must, by notice in writing, inform the applicant of that fact.

- (5) A person whose application to register, or to renew the registration of, a precious stones tenement on the Mintabie precious stones is refused by the Mining Registrar under subsection (3)(a) may apply to the Warden's Court to have the relevant decision of the Mining Registrar reviewed.
- (6) An application for review must, unless the Warden's Court allows an extension of time, be made within 28 days after the notice under subsection (4) is given to the person.
- (7) At the conclusion of the review, the Warden's Court may, if satisfied that there were no reasonable grounds for the Mining Registrar's decision, do 1 or both of the following:
  - (a) quash the Mining Registrar's decision;
  - (b) remit the subject matter of the review to the Mining Registrar for reconsideration.

## **Part 2—Variation of *Pitjantjatjara Land Rights (Control of Alcoholic Liquor) By-Laws 1987***

### **4—Variation of by-laws**

By-laws—delete "Pitjantjatjara Land Rights Act, 1981" (wherever occurring) and substitute in each case:

*Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*

### **5—Variation of by-law 1**

By-law 1—delete "Pitjantjatjara" and substitute:

*Anangu Pitjantjatjara Yankunytjatjara*

### **6—Substitution of by-laws 6 and 7**

By-laws 6 and 7—delete by-laws 6 and 7 and substitute:

- 6 Despite the provisions of by-laws 3 and 4, a person who is entitled to be on the Mintabie precious stones field under section 19 of the Act, or under section 29C of the Act and who does not have any other right to be on the lands under the Act, may (in accordance with any relevant licence) possess or consume liquor at premises on the Mintabie precious stones field licensed under the *Liquor Licensing Act 1997*.
- 7 The provisions of by-laws 3 and 4 do not apply to a person who holds a licence under the *Liquor Licensing Act 1997* in relation to premises on the Mintabie precious stones field, or a person employed or otherwise engaged by such a person, if the person—
  - (a) is acting in accordance with the licence; or
  - (b) —

- (i) is delivering liquor to the relevant premises by the Mintabie to Stuart Highway Road (commonly known as the "Mintabie Road") for sale or supply in accordance with the licence; and
- (ii) has notified a police officer stationed at the Marla police station of the delivery not less than 24 hours before the liquor enters the lands; and
- (iii) complies with any reasonable direction in relation to the delivery given by a police officer stationed at the Marla police station.

### **7—Variation of by-laws 8 and 9**

By-laws 8 and 9—delete "Anangu Pitjantjatjara" wherever occurring and substitute in each case:

*Anangu Pitjantjatjara Yankunytjatjara*

### **8—Variation of by-law 11**

By-law 11—delete "Anangu Pitjantjatjara" and substitute:

*Anangu Pitjantjatjara Yankunytjatjara*

## **Part 3—Variation of *Pitjantjatjara Land Rights (Control of Gambling) By-Laws 1987***

### **9—Variation of by-laws**

By-laws—delete "Pitjantjatjara Land Rights Act, 1981" (wherever occurring) and substitute in each case:

*Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*

### **10—Variation of by-law 1**

By-law 1—delete "Pitjantjatjara" and substitute:

*Anangu Pitjantjatjara Yankunytjatjara*

## **Part 4—Variation of *Pitjantjatjara Land Rights (Control of Petrol) By-Laws 1987***

### **11—Variation of by-laws**

- (1) By-laws—delete "Pitjantjatjara Land Rights Act, 1981" (wherever occurring) and substitute in each case:

*Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*

- (2) By-laws—delete "Anangu Pitjantjatjara" wherever occurring and substitute in each case:

*Anangu Pitjantjatjara Yankunytjatjara*

## 12—Variation of by-law 1

By-law 1—delete "Pitjantjatjara" and substitute:

*Anangu Pitjantjatjara Yankunytjatjara*

## Part 5—Transitional provisions

### 13—Transitional provision—*Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*

- (1) A person who, immediately before the commencement of section 5 of this Act, was entitled to enter and remain on the Mintabie precious stones field under section 25(2)(c) of the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*, is entitled to enter and remain on the precious stones field until the expiry of the precious stones prospecting permit on which the entitlement is based.
- (2) Despite section 29D(6) of the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981* (as enacted by this Act), the Minister may issue a licence under subsection (1) of that section to a person who was, in the 6 months immediately preceding the commencement of section 5 of this Act, entitled (whether under that Act or otherwise) to occupy land that would, on the commencement of that section, be within the Mintabie township lease area.

### 14—Transitional provision—*Opal Mining Act 1995*

A precious stones prospecting permit in force immediately before the commencement of clause 1 of this Schedule will be taken to be endorsed by a mining registrar as authorising a person to prospect for precious stones on the Mintabie precious stones field.