

South Australia

Opal Mining (Mineral Resources) Variation Regulations 2020

under the *Opal Mining Act 1995*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Opal Mining (Mineral Resources) Variation Regulations 2020*.

2—Commencement

These regulations come into operation on 1 January 2021.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Opal Mining Regulations 2012*

4—Variation of regulation 4—Exempt land

- (1) Before subregulation (1) insert:
 - (a1) For the purposes of section 6(1)(a)(ii)(A) of the Act, an amount of \$2 500 is prescribed.
- (2) Regulation 4(2)—before "Mining" first and second occurring insert:

Opal

5—Variation of regulation 6—Identification plates

- (1) Regulation 6(1)—delete "A mining" and substitute:

An opal mining
- (2) Regulation 6(7)—delete "a mining" and substitute:

an opal mining
- (3) Regulation 6(9)—delete "A mining" and substitute:

An opal mining
- (4) Regulation 6(10)—delete "a mining" and substitute:

an opal mining

6—Variation of regulation 7—Replacement or surrender of permit

- (1) Regulation 7(1)—delete "a mining" and substitute:

an opal mining
- (2) Regulation 7(3)—delete "A mining" and substitute:

An opal mining
- (3) Regulation 7(4)—after "furnish the" insert:

Opal

7—Variation of regulation 9—Shape, dimensions and availability

- (1) Regulation 9(2)—delete "a mining" and substitute:

an opal mining
- (2) Regulation 9(2)—before "Mining" insert:

Opal

- (3) Regulation 9(3)—delete "a mining" and substitute:
an opal mining

8—Variation of regulation 10—Mode of taking possession

- (1) Regulation 10(6)—delete "lodge a notice of the manner of pegging at the nearest office of the Mining Registrar to the area that has been pegged out" and substitute:
give notice of the manner of pegging to the Opal Mining Registrar
- (2) Regulation 10(8)—delete subregulation (8) and substitute:
(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—Variation of regulation 11—Notification of pegging

- (1) Regulation 11(1)—delete "give notice of the pegging to the Mining Registrar in accordance with this regulation" and substitute:
, 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
- (2) Regulation 11(2) and (3)—delete subregulations (2) and (3)

10—Revocation of regulation 12

Regulation 12—delete the regulation

11—Variation of regulation 14—Working conditions

- (1) Regulation 14(1)(a)—delete "on the basis of at least 20 hours of work per week"
- (2) Regulation 14(1)(b)—delete "on the basis of at least 20 hours of work per week"

12—Variation of regulation 18—Removal of posts

- (1) Regulation 18(1)(a)—delete "a mining" and substitute:
an opal mining
- (2) Regulation 18(1)(c)—before "Mining" insert:
Opal
- (3) Regulation 18(6)(b)—delete "a mining registrar, an authorised person, or a person authorised by the" and substitute:
an opal mining registrar, an authorised person, or a person authorised by the
Opal
- (4) Regulation 18(7)—before "Mining" insert:
Opal

13—Variation of regulation 22—Reduction in area of tenement

- (1) Regulation 22(1)—delete "a mining" and substitute:

an opal mining

- (2) Regulation 22(2)—before "mining" insert:

opal

14—Variation of regulation 26—Verification of membership of association

Regulation 26—delete "a mining" and substitute:

an opal mining

15—Insertion of regulation 26A

After regulation 26 insert:

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.

16—Variation of regulation 27—Amendments to opal mining register

Regulation 27(a)—before "Mining" insert:

Opal

17—Substitution of regulation 28

Regulation 28—delete the regulation and substitute:

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.

18—Insertion of regulations 33A and 33B

After regulation 33 insert:

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.

19—Variation of regulation 34—Service of documents

- (1) Regulation 34—after "than" insert:
a designated person or
- (2) Regulation 34(c)—delete paragraph (c)
- (3) Regulation 34—after its present contents as varied by this regulation (now to be designated as subregulation (1)) insert:
 - (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.

20—Insertion of Schedules 4 and 5

After Schedule 3 insert:

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
- 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

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 19 November 2020

No 302 of 2020