



New South Wales

# Mining Amendment Regulation 2005

under the

Mining Act 1992

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Mining Act 1992*.

KERRY ARTHUR HICKEY, M.P.,  
Minister for Mineral Resources

## Explanatory note

The object of this Regulation is to amend the *Mining Regulation 2003*, in relation to rights of way, access management plans and permits, as a consequence of the commencement of certain provisions of the *Mining Amendment (Miscellaneous Provisions) Act 2004*.

This Regulation is made under the *Mining Act 1992*, including section 388 (the general power to make regulations) and sections 164, 211, 235C, 236E, 236F and 254.

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Clause 1            Mining Amendment Regulation 2005

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## **Mining Amendment Regulation 2005**

under the

Mining Act 1992

### **1 Name of Regulation**

This Regulation is the *Mining Amendment Regulation 2005*.

### **2 Commencement**

This Regulation commences on 17 June 2005.

### **3 Amendment of Mining Regulation 2003**

The *Mining Regulation 2003* is amended as set out in Schedule 1.

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## Schedule 1 Amendments

(Clause 3)

**[1] Clause 24 Rights of way**

Insert after clause 24 (2):

- (2A) Alternatively, a right of way may be marked out with steel star pickets fixed into the ground, and projecting at least one metre above the ground:
  - (a) in the case of a right of way which follows the route of an existing road or track:
    - (i) at the start and finish of the right of way, and
    - (ii) at the midpoint of the right of way, or
  - (b) in the case of a right of way which does not follow the route of an existing road or track:
    - (i) at the start and finish of the right of way, and
    - (ii) at intervals of not more than 500 metres and at each point where the route of the right of way changes direction.
- (2B) A star picket referred to in subclause (2A) must bear a tag showing:
  - (a) the co-ordinates of the picket's position, and
  - (b) the serial number of the authority, and
  - (c) the name of the holder of the authority.
- (2C) For the purposes of subclause (2B) (a), it is sufficient for the co-ordinates of a picket to be established by means of a Global Positioning System device.
- (2D) If a right of way is marked out in accordance with subclause (2A), the holder of the authority must prepare a map of the right of way and cause copies of the map to be given to the mining registrar and to each landholder affected by the right of way.
- (2E) A map referred to in subclause (2D) must describe the route of the right of way (which must be no more than 10 metres wide) and must indicate the co-ordinates of the position of each picket that bears a tag referred to in subclause (2B).

**[2] Clause 24 (4)**

Omit "164 (5)". Insert instead "164 (6)".

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### [3] Clause 34 Rights of way

Insert after clause 34 (2):

- (2A) Alternatively, a right of way may be marked out with steel star pickets fixed into the ground, and projecting at least one metre above the ground:
  - (a) in the case of a right of way which follows the route of an existing road or track:
    - (i) at the start and finish of the right of way, and
    - (ii) at the midpoint of the right of way, or
  - (b) in the case of a right of way which does not follow the route of an existing road or track:
    - (i) at the start and finish of the right of way, and
    - (ii) at intervals of not more than 500 metres and at each point where the route of the right of way changes direction.
- (2B) A star picket referred to in subclause (2A) must bear a tag showing:
  - (a) the co-ordinates of the picket's position, and
  - (b) the serial number of the mineral claim, and
  - (c) the name of the holder of the mineral claim.
- (2C) For the purposes of subclause (2B) (a), it is sufficient for the co-ordinates of a picket to be established by means of a Global Positioning System device.
- (2D) If a right of way is marked out in accordance with subclause (2A), the holder of the mineral claim must prepare a map of the right of way and cause copies of the map to be given to the mining registrar and to each landholder affected by the right of way.
- (2E) A map referred to in subclause (2D) must describe the route of the right of way (which must be no more than 10 metres wide) and must indicate the co-ordinates of the position of each picket that bears a tag referred to in subclause (2B).

### [4] Clause 34 (4)

Omit "211 (5)". Insert instead "211 (6) (a)".

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**[5] Clause 38A**

Insert after clause 38:

**38A Rights of way**

- (1) For the purposes of section 235C (1) of the Act, a right of way to which the holder of an opal prospecting licence is entitled under that section is to be marked out with:
  - (a) steel star pickets, or
  - (b) other posts having a diameter of at least 75 millimetres, along the route of the right of way.
- (2) The pickets or posts are to be fixed into the ground:
  - (a) at intervals of not more than 150 metres, and
  - (b) at each point where the route of the right of way changes direction,and must project at least one metre above the ground.
- (3) Alternatively, a right of way may be marked out with steel star pickets fixed into the ground, and projecting at least one metre above the ground:
  - (a) in the case of a right of way which follows the route of an existing road or track:
    - (i) at the start and finish of the right of way, and
    - (ii) at the midpoint of the right of way, or
  - (b) in the case of a right of way which does not follow the route of an existing road or track:
    - (i) at the start and finish of the right of way, and
    - (ii) at intervals of not more than 500 metres and at each point where the route of the right of way changes direction.
- (4) A star picket referred to in subclause (3) must bear a tag showing:
  - (a) the co-ordinates of the picket's position, and
  - (b) the serial number of the opal prospecting licence, and
  - (c) the name of the holder of the opal prospecting licence.
- (5) For the purposes of subclause (4) (a), it is sufficient for the co-ordinates of a picket to be established by means of a Global Positioning System device.
- (6) If a right of way is marked out in accordance with subclause (3), the holder of the opal prospecting licence must prepare a map of

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the right of way and cause copies of the map to be given to the mining registrar and to each landholder affected by the right of way.

- (7) A map referred to in subclause (6) must describe the route of the right of way (which must be no more than 10 metres wide) and must indicate the co-ordinates of the position of each picket that bears a tag referred to in subclause (4).
- (8) The holder of the opal prospecting licence who is entitled to the right of way must ensure that any such picket or post is properly maintained.  
Maximum penalty: 20 penalty units.
- (9) For the purposes of section 235C (6) (a) of the Act, the exercise of a right of way conferred by that section is subject to the condition that, if the right of way passes over:
- (a) any garden, orchard or land under cultivation, or
  - (b) any land on which is situated any improvement, being a substantial building, dam, reservoir, contour bank, graded bank, levee, water disposal area, soil conservation work or other valuable work or structure,

being land that was, when the right of way was marked out, land of that nature, the holder of the opal prospecting licence who is entitled to the right of way is not to exercise the right of way otherwise than in accordance with the consent of the landholder.

#### [6] Part 5A

Insert after Part 5:

### **Part 5A Access management plans for small-scale titles**

#### **39A Miners' representative**

A person is a *miners' representative*, in relation to any access management plan over land, if the person (being a salaried or honorary office-holder) is nominated by any of the following bodies, by written notice served on the landholder, to represent the interests of holders (and potential holders) of small-scale titles with respect to that land:

- (a) the Lightning Ridge Miners' Association, in relation to land within the area covered by that Association,

- (b) the Grawin-Glengarry Sheeppark Miners Association, in relation to land within the area covered by that Association.

**39B Lodgment of access management plans**

An access management plan that has been agreed on under section 236E of the Act, or determined under section 236F or 236G of the Act, is to be sent or delivered to the Director-General at the Lightning Ridge office of the Department.

**39C Applications for determination of access management plans**

- (1) An application under section 236F of the Act for determination of an access management plan over land must be accompanied by the following:
  - (a) a copy of the notice served on each landholder of the land under clause 39A,
  - (b) a copy of the notice served on each landholder of the land under section 236E (1) of the Act,
  - (c) documentary evidence of the landholder's interest in the land,
  - (d) a statement as to the date on which, and the manner in which, each such notice was served,
  - (e) copies of any correspondence (including faxes and e-mails) between the miners' representative and any landholder of the land,
  - (f) a statement as to what steps have been taken to reach agreement on an access management plan over the land, and as to what matters are not yet agreed,
  - (g) a draft access management plan in a form acceptable to the applicant.
- (2) For the purpose of determining such an application, the Director-General may require the miners' representative or the landholder, or both of them, to provide the Director-General with alternative or amended versions of a draft access management plan.

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**[7] Clause 40A**

Insert after clause 40:

**40A Granting of permits**

- (1) A permit under section 254 of the Act is not to be granted to any applicant unless the Director-General is satisfied:
  - (a) as to the applicant's identity, having inspected a document (such as a driver licence) that bears both the applicant's photograph and the applicant's residential address, and
  - (b) as to the applicant's mining qualifications.
- (2) An applicant has satisfactory mining qualifications for the purposes of this clause if, and only if:
  - (a) the applicant is the holder of a mineral claim or an opal prospecting licence, or
  - (b) the applicant has completed such course of instruction in relation to mining as is approved for the time being by the chief inspector of mines.

**[8] Schedule 1 Forms**

Omit "*mining registrar*" from Form 3. Insert instead "*Director-General*".

BY AUTHORITY

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