

MINING ACT 1992—REGULATION

(Mining (General) Regulation 1992)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Mining Act 1992, has been pleased to make the Regulation set forth hereunder.

G. B. PEACOCKE,
Acting Minister for Natural Resources.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Mining (General) Regulation 1992.

Commencement

2. This Regulation commences on 21st August, 1992.

Definitions

3. (1) In this Regulation:

“**approved form**”, in relation to an application, means the form approved for the application under section 382 of the Act;

“**chief inspector of mines**” means the chief inspector of mines appointed for the purposes of the Mines Inspection Act 1901;

“**land identification map**” means:

- (a) in the case of land within the Eastern or Central Division of New South Wales, the relevant County, Parish, Town or Village map kept at the local office of the Department of Conservation and Land Management; or

(b) in the case of land in the Western Division of New South Wales, the relevant 1:100,000 cadastral map kept at the Dubbo office of the Western Lands Commissioner;

“standard map” means a map that complies with the provisions of clause 8;

“survey mark” includes a survey mark placed in accordance with the Survey Practice Regulation 1990 and includes any other mark in the nature of a survey mark that has been placed for the purposes of the Act by, or at the direction of, a mining registrar;

“the Act” means the Mining Act 1992.

(2) In this Regulation, a reference to a form is a reference to a form set out in Schedule 7.

Meaning of “mineral”

4. (1) The substances referred to in Schedule 1 are prescribed as minerals for the purposes of the definition of “mineral” in the Dictionary at the end of the Act.

(2) A reference in Schedule 1 to a geothermal substance is a reference to any underground substance other than:

- (a) coal, oil shale, petroleum or uranium; or
- (b) any other substance referred to in Schedule 1,

that occurs, because of the natural heating processes of the earth, at temperatures exceeding 80 degrees Celsius.

Meaning of “group of minerals”

5. The groups of minerals referred to in Schedule 2 are prescribed as groups of minerals for the purposes of the definition of “group of minerals” in the Dictionary at the end of the Act.

Meaning of “mining purpose”

6. The following purposes are prescribed as mining purposes for the purposes of the definition of “mining purpose” in the Dictionary at the end of the Act:

- (a) the construction, maintenance or use (in or in connection with mining operations) of:
 - any building or mining plant
 - any road, railway, tramway, bridge or jetty
 - any reservoir, dam, drain or water race

- any cable, conveyor, pipeline, telephone line or signalling system
 - any bin, magazine or fuel chute
 - any plant nursery
- (b) opal puddling;
- (c) the stockpiling or depositing of overburden, ore or tailings;
- (d) the storage of fuel, machinery, timber or equipment for use in or in connection with mining operations;
- (e) the generation and transmission of electricity for use in or in connection with mining operations.

Meaning of “occupier”

7. (1) The following classes of persons are, in relation to a particular parcel of land, prescribed classes of persons for the purposes of the definition of “occupier” in the Dictionary at the end of the Act:

- (a) persons who are identified in any register or record kept by the Registrar-General as having an interest in that land;
- (b) persons who are recognised by the Director-General as being occupiers of that land

(2) Any person may apply to the Director-General for recognition as an occupier of specified land

(3) The application must indicate the grounds on which the applicant claims to be an occupier of the land.

(4) The Director-General may require the application to be verified by statutory declaration.

(5) The Director-General must decide whether or not to recognise the applicant as an occupier of the land and must cause notice of the decision to be given to the applicant as soon as practicable after it is made.

(6) The Director-General may at any time withdraw a person’s recognition as an occupier of specified land

(7) The Director-General must cause a register to be maintained in which the following particulars are to be recorded:

- (a) particulars identifying each parcel of land in respect of which the Director-General recognises any person as being an occupier;
- (b) the name and address of each such person.

(8) The register is to be kept available at the head office of the Department for inspection, free of charge, by memmbrs of the public.

Standard map

8. A map is a standard map for the purposes of this Regulation if it is:
- (a) a standard topographic-cadastral map at the scale of
 - 1:25,000; or
 - if a map at the scale of 1:25,000 is not available, 1:50,000; or
 - if maps at the scale of 1:25,000 or 1:50,000 are not available, 1:100,000,published by the Department of Conservation and Land Management, the Department of Mineral Resources or the Australian Land Information Group; or
 - (b) if a map referred to in paragraph (a) is not available, a cadastral map published by a Government Department or public authority, whether of New South Wales or of the Commonwealth; or
 - (c) if maps referred to in paragraphs (a) and (b) are not available, an aerial photograph or a topographic map of a standard acceptable to the Director-General.

PART 2—PROSPECTING AND MINING GENERALLY**Sec. 8: mining etc. for privately owned minerals**

9. (1) For the purposes of section 8 (1) (b) of the Act, the security to be lodged with the Director-General:

- (a) must be:
 - in the form of cash; or
 - in the form of a security instrument of a kind approved by the Minister, being an instrument issued by a bank or other financial institution so approved; or
 - in such other form as the Director-General may approve; and
- (b) must be of an amount calculated at the rate per hectare determined by the Director-General for the land on which prospecting operations or mining operations are to be carried out.

(2) For the purposes of section 8 (1) (c) of the Act, the conditions in accordance with which a person must prospect for or mine privately owned minerals are the conditions set out in Schedule 3.

(3) For the purposes of section 8 (2) (c) of the Act, the prescribed manner for describing the land on which prospecting or mining operations are to be carried on is by means of:

- (a) a plan drawn in accordance with the Survey Practice Regulation 1990; or
- (b) a standard map showing the land to which the relevant notice relates by means of distinctive marking or colouring, indicating the distance and bearing of each side of the area and a connection, by distance and bearing, to a survey mark.

Sec. 12: fossicking

10. (1) A person must not fossick for minerals on any land that is the subject of an authority, a mineral claim or an opal prospecting licence except with the consent of the holder of the authority, claim or licence.

Maximum penalty: 10 penalty units.

(2) A person must not, in the course of fossicking for minerals:

- (a) use any explosives or power-operated equipment; or
- (b) drill or excavate to a depth of more than 1 metre; or
- (c) damage or remove any bushrock; or
- (d) remove more than:
 - 10 kilograms of minerals (other than gold or gemstones); or
 - 10 grams of gold; or
 - 20 grams of gemstones,

during any single period of 48 hours.

Maximum penalty: 10 penalty units.

(3) In this clause, “gemstones” means a Group 3, Group 6 or Group 7 mineral.

PART 3—AUTHORITIES**Division 1—Exploration licences****Sec. 13: applications**

11. (1) For the purposes of section 13 (2) (d) of the Act, the fee to accompany an application for an exploration licence is the fee specified in Schedule 5 in relation to such an application.

(2) For the purposes of section 13 (3) (a) of the Act, the prescribed manner for describing the land over which an exploration licence is sought is by means of:

- (a) except as provided by paragraph (b), the area, block and unit references identifying the land, as determined in accordance with Schedule 4; or
- (b) in the case of an application for an exploration licence for a Group 9 mineral, a standard map showing the co-ordinates (either by reference to Integrated Survey Grid co-ordinates or by reference to latitude and longitude) of all points where there is a change in direction of the boundaries of the land.

(3) The description of land must be accompanied by a diagram, of a size and quality appropriate for newspaper publication, indicating the general location of the land and its boundaries.

Sec. 15: tenders

12. For the purposes of section 15 (1) (c) of the Act, the fee to accompany a tender for an exploration licence is the fee specified in Schedule 5 in relation to such an application.

Division 2—Assessment leases

Sec. 33: applications

13. (1) purposes of section 33 (2) (d) of the Act, the fee to accompany an application for an assessment lease is the fee specified in Schedule 5 in relation to such an application.

(2) For the purposes of section 33 (a) of the Act, the prescribed manner for describing the land over which an assessment lease is sought is by means of:

- (a) except as provided by paragraph (b):
 - a plan drawn in accordance with the Survey Practice Regulation 1990; or
 - a standard map showing the land to which the application relates by means of distinctive marking or colouring, indicating the distance and bearing of each side of the area and a connection, by distance and bearing, to a survey mark; or
 - a plan (certified by a registered surveyor as being accurate) showing co-ordinate values at each point at which the boundaries of the land concerned change direction and indicating the land to which the application relates by means of distinctive marking or colouring; or
 - the area, block and unit references identifying the land, as determined in accordance with Schedule 4; or

- (b) in the case of an application for an assessment lease for coal, a standard map showing the co-ordinates (either by reference to Integrated Survey Grid co-ordinates or by reference to latitude and longitude) of all points where there is a change in direction of the boundaries of the land.
- (3) The description of land must be accompanied by:
- (a) a diagram, of a size and quality appropriate for newspaper publication, indicating the general location of the land and its boundaries; and
- (b) a plan, prepared on the basis of the current land identification maps, showing all matters required by the relevant application form.

Division 3—Mining leases

Sec. 51: applications

14. (1) For the purposes of section 51 (2) (d) of the Act, the fee to accompany an application for a mining lease is the fee specified in Schedule 5 in relation to such an application.

(2) For the purposes of section 51 (3) (a) of the Act, the prescribed manner for describing the land over which a mining lease is sought is by means of:

- (a) except as provided by paragraph (b):
- a plan drawn in accordance with the Survey Practice Regulation 1990; or
 - a standard map showing the land to which the application relates by means of distinctive marking or colouring, indicating the distance bearing of each side of the area and a connection, by distance and bearing to a survey mark; or
 - a plan (certified by a registered surveyor as being accurate) showing co-ordinate values at each point at which the boundaries of the land concerned change direction and indicating the land to which the application relates by means of distinctive marking or colouring; or
- (b) in the case of an application for a mining lease for coal, a standard map showing the co-ordinates (either by reference to Integrated Survey Grid co-ordinates or by reference to latitude and longitude) of all points where there is a change in direction of the boundaries of the land.

- (3) The description of land must be accompanied by:
- (a) a diagram, of a size and quality appropriate for newspaper publication, indicating the general location of the land and its boundaries; and
 - (b) a plan, prepared on the basis of the relevant land identification maps, showing all matters required by the relevant application form.

Sec. 53: tenders

15. For the purposes of section 53 (1) (c) of the Act, the fee to accompany a tender for a mining lease is the fee specified in Schedule 5 in relation to such an application.

Sec. 79: amendment of mining lease in respect of certain conditions

16. An application for the amendment of a mining lease under section 79 of the Act is to be accompanied by the fee specified in Schedule 5 in relation to such an application.

Division 4—Consolidation of mining leases

Sec. 86: preparation of proposed lease

17. For the purposes of section 86 (2) of the Act, the prescribed manner for describing the land over which a consolidated mining lease is proposed to be granted is by means of a compilation of the various plans relating to the leases to be consolidated.

Division 5—Renewal, transfer and cancellation of authorities

Sec. 113: applications

18. (1) For the purposes of section 113 (4) of the Act, the fee to accompany an application for the renewal of an authority is the fee specified in Schedule 5 in relation to such an application.

(2) For the purposes of section 113 (5) of the Act, the prescribed manner for describing the land over which the renewal of an authority is sought is by means of:

- (a) if the renewal is sought in respect of the whole of the land to which the existing authority relates, a statement to that effect; or
- (b) in any other case, a description, prepared in accordance with clause 18, 13 or 14, as the case requires, of the land over which the renewal is sought.

(3) For the purposes of section 113 (6) of the Act, 5 is the maximum number of parts of an exploration area over which an application for renewal of an exploration licence may be made.

Sec. 120: transfers

19. (1) For the purposes of section 120 (2) (a) of the Act, the fee to accompany an application for approval of the transfer of an authority is the fee specified in Schedule 5 in relation to such an application.

(2) For the purposes of section 120 (2) (c) of the Act, the particulars to accompany an application are the particulars required by the approved form for such an application.

Sec. 122: registration of transfers

20. For the purposes of section 122 (2) (b) of the Act, the fee to accompany an application for registration of a transfer of an authority is the fee specified in Schedule 5 in relation to such an application.

Sec. 124: caveats

21. For the purposes of section 124 (1) of the Act, the fee to accompany a caveat is the fee specified in Schedule 5 in relation to such a caveat.

Sec. 125: grounds of cancellation

22. For the purposes of section 125 (2) (b) of the Act, the land to which a request for cancellation of an authority (in relation to part only of that land) relates must be identified in a manner that clearly indicates the extent of that land, for example:

- (a) by means of a plan drawn in accordance with the Survey Practice Regulation 1990; or
- (b) by means of a map on which the land is shown in some distinctive manner, indicating the distance and bearing of each side of the area and a connection, by distance and bearing, to a survey mark.

Division 6—Authorities generally

Sec. 144: appointment of arbitrator in default of agreement

23. For the purposes of section 144 (2) of the Act, the fee to accompany an application for the appointment of an arbitrator is the fee specified in Schedule 5 in relation to such an application.

Sec. 159: records

24. (1) For the purposes of section 159 (2) of the Act, the records required to be kept:

(a) must be kept in written form or by means of computer equipment; and

(b) must contain the following particulars:

- the type of authority and the identifying number or code allocated to it;
- the date on which the authority was first granted;
- the name and address of each person who is a holder of the authority;
- a description of the land over which the authority is in force;
- the mineral or minerals, or the group or groups of minerals, to which the authority relates;
- the period for which the authority is to have effect;
- the current status of the authority (that is, “current”, “expired“ or “cancelled”);
- any interest registered under section 161 of the Act in relation to the authority.

(2) An application for registration of a change in the name of the holder of an authority is to be accompanied by the fee specified in Schedule 5 in relation to such an application.

Section 161: registration of certain interests

25. For the purposes of section 161 (3) of the Act, the fee to accompany an application for registration of a legal or equitable interest in an authority is the fee specified in Schedule 5 in relation to such an application.

Sec. 163: colliery holdings

26. (1) For the purposes of section 163 (1) of the Act, the register required to be kept must be kept in written form or by means of computer equipment.

(2) For the purposes of section 163 (2) (b) of the Act, the register required to be kept must contain the following particulars for each colliery holding.

- (a) the name of the colliery holding;
- (b) the name and address of each person who is an owner of the colliery holding;
- (c) a description of the land comprised in the colliery holding;
- (d) the current status of the land (that is, “subject to mining lease” or “not subject to mining lease”).

(3) For the purposes of section 163 (5) (b) of the Act, the prescribed particulars to accompany an application for registration of land as a colliery holding or as part of an existing colliery holding are the particulars required by the approved form for such an application.

Sec. 164: rights of way

27. (1) For the purposes of section 164 (1) of the Act, a right of way to which the holder of an authority 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 1 metre above the ground.

(3) The holder of the authority who is entitled to the right of way must ensure that any such picket or post is properly maintained.

Maximum penalty: 5 penalty units.

(4) For the purposes of section 164 (5) of the Act, the exercise of a right of way conferred by that section is subject to the following conditions:

- (a) the holder of the authority who is entitled to the right of way is to pay to the owner or occupier of the land such amount, by way of compensation, as a warden may determine;
- (b) if the right of way passes over:
 - any garden, orchard, or land under cultivation; or
 - 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 authority 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 owner or occupier of the land.

(5) The amount determined for the purposes of subclause (4) (a) may be a fixed amount or an amount calculated at a fixed rate.

Sec. 168: suspension of conditions

28. An application under section 168 of the Act for the suspension of any of the conditions of an authority is to be accompanied by the fee specified in Schedule 5 in relation to such an application.

Sec. 172: evidentiary provision

29. An application for a certificate under section 172 of the Act is to be accompanied by the fee specified in Schedule 5 in relation to such an application.

PART 4—MINERAL CLAIMS

Sec. 176: marking out of proposed claim area

30. (1) For the purposes of section 176 (1) of the Act, a proposed claim is to be marked out with:

- (a) steel star pickets; or
- (b) other posts having a diameter of at least 75 millimetres,

along the boundaries of the proposed claim area.

(2) The pickets or posts are to be fixed into the ground at each point where the boundaries change direction and must project at least 1 metre above the ground.

(3) The boundaries of the proposed claim are to be indicated:

- (a) by means of trenches at least 150 millimetres in depth; or
- (b) if the cutting of trenches is impracticable, by means of stone walls at least 150 millimetres in height,

extending along the boundaries for a distance of at least 1 metre from each post or picket.

(4) There is to be attached to:

- (a) the picket or post indicating the northernmost corner of the proposed claim; or
- (b) if there are 2 or more such pickets or posts, the easternmost of them,

a board or plate (made of wood or metal) to which is fixed a notice of the proposed claim.

(5) The notice is to contain the following particulars:

- (a) the words “MINERAL CLAIM” in block letters, at least 50 millimetres in height, at the head of the notice;
- (b) the dimensions of the land over which the proposed claim has been marked out;
- (c) the date on which the proposed claim was marked out;
- (d) the time of the day on which the proposed claim was marked out;
- (e) the name and address of the person by whom an application for the proposed claim is to be made;
- (f) particulars identifying the mining registrar’s office at which the application for the proposed claim is to be lodged.

(6) The applicant for the mineral claim must ensure that any such picket or post, and any such notice, is properly maintained until the application is determined and, if the claim is granted, while the claim is in force.

Maximum penalty: 5 penalty units.

(7) For the purposes of section 176 (2) of the Act:

- (a) the area marked out for a proposed mineral claim must, as far as practicable, be square or rectangular in shape; and
- (b) no side of the area may exceed 200 metres in length.

Sec. 177: notice of intention to apply for mineral claim

31. For the purposes of section 177 (2) of the Act, the land to which an application for a mineral claim relates must be identified in a manner that clearly indicates the extent of that land, for example:

- (a) by means of a plan drawn in accordance with the Survey Practice Regulation 1990; or
- (b) by means of a map on which the land is shown in some distinctive manner, indicating the distance and bearing of each side of the area and a connection, by distance and bearing, to a survey mark.

Sec. 178: application for granting of mineral claim

32. (1) For the purposes of section 178 (2) (a) of the Act, the land to which an application for a mineral claim relates must be identified in a manner that clearly indicates the extent of that land, for example:

- (a) by means of a plan drawn in accordance with the Survey Practice Regulation 1990; or
- (b) by means of a map on which the land is shown in some distinctive manner, indicating the distance and bearing of each side of the area and a connection, by distance and bearing, to a survey mark.

(2) For the purposes of section 178 (2) (c) of the Act, the fee to accompany an application for a mineral claim is the fee specified in Schedule 5 in relation to such an application.

Sec. 190: power of mining registrar in relation to applications

33. (1) For the purposes of section 190 (4) (b) of the Act, the security to be lodged with the mining registrar:

- (a) must be:
 - in the form of cash; or
 - in the form of a security instrument of a kind approved by the Minister, being an instrument issued by a bank or other financial institution so approved; or
 - in such other form as the Director-General may approve; and

(b) must be of such amount as the Director-General may determine.

(2) For the purposes of section 190 (6) of the Act, the prescribed manner of determining the order in which simultaneous applications for mineral claims are to be dealt with is for the mining registrar to conduct a ballot in accordance with the following provisions:

- (a) the names of each of the applicants are to be written on separate tickets, each of the same size and shape;
- (b) the tickets are to be placed in a box or other receptacle and thoroughly mixed;
- (c) the mining registrar is then, without looking, to select each of the tickets, one by one, from the box or receptacle.

(3) The ballot is to be conducted in the presence of such of the applicants as wish to be present.

(4) The applications are to be dealt with in the order in which the tickets bearing the applicants' names are drawn from the box or receptacle.

Sec. 192: conditions of mineral claim

34. For the purposes of section 192 (1) (b) of the Act, the conditions to which a mineral claim referred to in that paragraph is to be subject:

(a) must include:

- such conditions as to mining safety as the chief inspector of mines may require; and
- such conditions as the Director-General may require; and
- in the case of land within an exempted area, such conditions as the controlling body for the area may require; and

(b) must not, except to the extent required by paragraph (a), include conditions other than those approved by the Director-General.

Sec. 197: application for renewal

35. For the purposes of section 197 (2) (a) of the Act, the fee to accompany an application for the renewal of a mineral claim is the fee specified in Schedule 5 in relation to such an application.

Sec. 198: determination of application for renewal

36. For the purposes of section 198 (3) (b) of the Act, the conditions to which a renewed mineral claim is to be subject:

(a) must include:

- such conditions as to mining safety as the chief inspector of mines may require; and
- such conditions as the Director-General may require; and
- in the case of land within an exempted area, such conditions as the controlling body for the area may require; and

(b) must not, except to the extent required by paragraph (a), include conditions other than those approved by the Director-General.

Sec. 200: application for transfer

37. For the purposes of section 200 (2) (a) of the Act the fee to accompany an application for the transfer of a mineral claim is the fee specified in Schedule 5 in relation to such an application.

Sec. 201: determination of application for transfer

38. For the purposes of section 201 (3) (b) of the Act, the conditions to which a transferred mineral claim is to be subject:

(a) must include:

- such conditions as to mining safety as the chief inspector of mines may require; and
- such conditions as the Director-General may require; and
- in the case of land within an exempted area, such conditions as the controlling body for the area may require; and

(b) must not, except to the extent required by paragraph (a), include conditions other than those approved by the Director-General.

Sec. 202: devolution by operation of law

39. For the purposes of section 202 (2) (a) of the Act, the fee to accompany an application for the transfer of a mineral claim (where the claim has devolved by operation of law) is the fee specified in Schedule 5 in relation to such an application.

Sec. 203: grounds of cancellation

40. For the purposes of section 203 (2) (b) of the Act, the land to which a request for cancellation of a mineral claim (in relation to part only of that land) relates must be identified in a manner that clearly indicates the extent of that land, for example:

- (a) by means of a plan drawn in accordance with the Survey Practice Regulation 1990; or
- (b) by means of a map on which the land is shown in some distinctive manner, indicating the distance and bearing of each side of the area and a connection, by distance and bearing, to a survey mark.

Mining registrar to keep records

41. (1) A mining registrar is to keep a record of:

- (a) every application for a mineral claim that is received by the mining registrar; and
- (b) every mineral claim granted, renewed, transferred or cancelled by the mining registrar.

(2) Such a record must be kept in written form or by means of computer equipment and must contain the particulars required by the Director-General.

(3) The record must be kept available at the mining registrar's office for inspection, free of charge, by members of the public.

(4) An application for registration of a change in the name of the holder of a mineral claim is to be accompanied by the fee specified in Schedule 5 in relation to such an application.

Sec. 211: rights of way

42. (1) For the purposes of section 211 (1) of the Act, a right of way to which the holder of a mineral claim 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 1 metre above the ground.

(3) The holder of the mineral claim who is entitled to the right of way must ensure that any such picket or post is properly maintained.

Maximum penalty: 5 penalty units.

(4) For the purposes of section 211 (5) of the Act, the exercise of a right of way conferred by that section is subject to the following conditions:

- (a) the holder of the mineral claim who is entitled to the right of way is to pay to the owner or occupier of the land such amount, by way of compensation, as a warden may determine;
- (b) if the right of way passes over:
 - any garden, orchard or land under cultivation; or
 - 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 mineral claim 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 owner or occupier of the land.

(5) The amount determined for the purposes of subclause (4) (a) may be a fixed amount or an amount calculated at a fixed rate.

Sec. 215: suspension of conditions

43. An application under section 215 of the Act for the suspension of any of the conditions of a mineral claim is to be accompanied by the fee specified in Schedule 5 in relation to such an application.

Sec. 219: evidentiary provision

44. An application for a certificate under section 219 of the Act is to be accompanied by the fee specified in Schedule 5 in relation to such an application.

PART 5—OPAL PROSPECTING LICENCES

Sec. 222: objections

45. For the purposes of section 222 (1) (b) of the Act, the prescribed grounds of objection to the constitution of land as an opal prospecting area, or to the addition of the land to an existing opal prospecting area, follows:

- (a) that the land to which the objection relates is a garden or orchard or is within 50 metres of a garden or orchard;
- (b) that on the land, or within 200 metres of the land, there is a dwelling-house or a woolshed or shearing shed;
- (c) that the land is, or is within 200 metres of, a watering place;
- (d) that on the land, or within 50 metres of the land, there is an improvement (being a substantial building, dam, reservoir, contour bank, graded bank, levee, water disposal area, soil conservation work or other valuable work or structure) other than an improvement constructed or used for mining purposes and for no other purposes.

Sec. 224: opal prospecting blocks

46. For the purposes of section 224 (3) of the Act, the dimensions of an opal prospecting block may not exceed 10 kilometres by 10 kilometres.

Sec. 226: applications

47. (1) For the purposes of section 226 (3) of the Act, the prescribed manner of determining the order in which simultaneous applications for opal prospecting licences are to be dealt with is for the mining registrar to conduct a ballot in accordance with the following provisions:

- (a) the names of each of the applicants are to be written on separate tickets, each of the same size and shape;
- (b) the tickets are to be placed in a box or other receptacle and thoroughly mixed;
- (c) the mining registrar is then, without looking, to select each of the tickets, one by one, from the box or receptacle.

(2) The ballot is to be conducted in the presence of such of the applicants as wish to be present.

(3) The applications are to be dealt with in the order in which the tickets bearing the applicants' names are drawn from the box or receptacle.

Sec. 228: granting of licence

48. (1) For the purposes of section 228 (1) of the Act, the fee to accompany an application for an opal prospecting licence is the fee specified in Schedule 5 in relation to such an application.

(2) For the purposes of section 228 (2) of the Act, the records required to be kept:

- (a) must be kept in written form or by means of computer equipment; and
- (b) must contain the following particulars:
 - the identifying number or code allocated to the licence;
 - the date on which the licence was granted;
 - the name and address of each person who is a holder of the licence;
 - the identifying number of the opal prospecting block over which the licence is in force
 - the period for which the licence is to have effect;
 - the current status of the licence (that is, "current", "expired" or "cancelled").

(3) The records must be kept available at the mining registrar's office for inspection, free of charge, by members of the public.

Sec. 236: evidentiary provision

49. An application for a certificate under section 236 of the Act is to be accompanied by the fee specified in Schedule 5 in relation to such an application.

PART 6—POWERS OF ENTRY**Sec. 248: certificates of authority**

50. For the purposes of section 248 (2) of the Act, an inspector's certificate of authority is to be in Form 1.

Sec. 252: environmental assessment

51. An application for a permit under section 252 of the Act is to be accompanied by the fee specified in Schedule 5 in relation to such an application.

Sec. 254: permit to enter Crown land

52. An application for a permit under section 254 of the Act is to be accompanied by the fee specified in Schedule 5 in relation to such an application.

Sec. 260: form of permit

53. For the purposes of section 260 of the Act, a permit is to be in Form 2.

PART 7—COMPENSATION**Sec. 265: compensation arising under mining lease**

54. For the purposes of section 265 (3) of the Act, the prescribed period is the period of 28 days beginning on the date on which the mining lease takes effect.

Sec. 272: assessment of compensation

55. For the purposes of section 272 (a) of the Act, the prescribed manner of assessing compensation is by making an assessment that has regard to the following factors:

- (a) the nature, quality, area and particular characteristics of the land concerned;
- (b) the proximity of the land to any building, structure, road, track or other facility;
- (c) the purpose for which the land is normally used.

PART 8—ROYALTY

Sec. 283: rate of royalty

56. (1) For the purposes of section 283 (1) (a) of the Act:

- (a) the base rate of royalty payable in respect of a mineral specified in Schedule 6 is the rate per tonne so specified of the quantity of mineral recovered; and
- (b) the base rate of royalty payable in respect of any other mineral is 4 per cent of the value of mineral recovered.

(2) For the purposes of section 283 (1) (b) of the Act, the additional rate of royalty payable in respect of coal recovered pursuant to a lease that contains a condition requiring the payment of additional royalty in accordance with this clause is 50 cents per tonne.

(3) For the purposes of section 283 (4) of the Act, the quantity of minerals (other than coal) recovered during any particular period is to be calculated in accordance with the following formula:

$$R = D + S_2 - S_1$$

where:

- R represents the quantity of minerals recovered by the holder of the mining lease during that period,
- D represents the quantity of minerals disposed of by the holder of the mining lease during that period as determined by the Minister, having regard to any records kept by the holder of the mining lease
- S_1 represents the quantity of minerals held (in the form in which they are disposed of) by the holder of the mining lease at the beginning of that period as determined by the Minister, having regard to any records kept by the holder of the mining lease
- S_2 represents the quantity of minerals held (in the form in which they are disposed of) by the holder of the mining lease at the end of that period as determined by the Minister, having regard to any records kept by the holder of the mining lease

(4) For the purposes of section 283 (4) of the Act, the quantity of coal recovered during any particular period is the quantity of coal disposed of by the holder of the mining lease during that period, as determined by the Minister on the basis of the records kept by the holder of the mining lease.

(5) In calculating the quantity of coal disposed of, the residual quantity of any water used in the mining or washing of the coal (as determined in accordance with guidelines issued by the Director-General) is to be disregarded.

Sec. 289: returns

57. (1) For the purposes of section 289 (1) of the Act:

(a) royalty returns must be in a form that shows:

- in the case of a mineral specified in Schedule 6, the quantity of the mineral recovered by the holder of the mining lease during the period to which the return relates; and
- in the case of any other mineral, the value of the mineral recovered by the holder of the mining lease during the period to which the return relates; and

(b) royalty returns must be furnished:

- annually, and in any case not later than 31 July following the year ending on the previous 30 June, in the case of minerals other than coal; and
- monthly, and in any case not later than the 21st day of the following month, in the case of coal.

(2) The holder of a mining lease must keep records of all minerals recovered under the lease, including:

- (a) records of the quantity of minerals recovered during each return period; and
- (b) records of the quantity of minerals disposed of, whether by sale or otherwise, during each return period; and
- (c) records of the quantity of minerals held (in the form in which they are disposed of) by the holder of the mining lease at the beginning and at the end of that period; and
- (d) records of all royalty that became payable during each return period in connection with the disposal of minerals.

Maximum penalty: 10 penalty units.

Sec. 291: payment of royalty

58. For the purposes of section 291 (1) (a) of the Act, royalty becomes payable:

- (a) in the case of minerals other than coal, on 31 July in each year; and
- (b) in the case of coal, within 21 days after the beginning of each month.

PART 9—MISCELLANEOUS**Fees for services**

59. The Director-General may determine the fee payable for any service provided in connection with the administration or execution of the Act for which a fee is not prescribed by this Regulation.

Waiver and refund of fees

60. The Minister may waive or refund any fees payable under the Act or this Regulation in such circumstances as the Minister may consider 'appropriate.

Sec. 382: applications generally

61. (1) An application that is required to be lodged with the Director-General:

- (a) may be lodged instead with such other person as the Director-General may from time to time nominate as the person to receive such an application; and
- (b) may be lodged on any day (other than a Saturday, Sunday or public holiday) between the hours of 9.30 a.m. and 4.00 p.m.

(2) An application that is required to be lodged with a mining registrar:

- (a) may be lodged instead with such other person as the mining registrar may from time to time nominate as the person to receive such an application; and
- (b) may be lodged on any day (other than a Saturday, Sunday, public holiday or other day on which the mining registrar's office is closed) or on any Saturday on which the mining registrar's office is open:
 - between the hours of 9.30 a.m. and 4.00 pm., in the case of applications lodged at the office of the mining registrar for Sydney; and

- between the hours of 9.30 a.m. and 1.00 p.m., and between the hours of 2.00 p.m. and 4.00 p.m., in the case of applications lodged at the office of any other mining registrar.

(3) An application is to be endorsed, by the person with whom it is lodged, with the date and time of its lodgment.

Sch. 1 (cl. 21): notification of owners and occupiers of certain land

62. For the purposes of clause 21 (4) (b) of Schedule 1 to the Act, the prescribed manner for describing the land over which a mining lease is sought is by means of a plan or map prepared in accordance with clause 14.

Sch. 1 (cl. 26): objections to granting of mining lease

63. An objection under clause 26 of Schedule 1 to the Act is to be accompanied by the fee specified in Schedule 5 in relation to such an objection.

Mining statistics, returns etc.

64. (1) The Director-General may direct the holder of an authority:

- (a) to keep such statistics in relation to the conduct of prospecting operations and mining operations, and to the treatment and disposal of minerals recovered, under the authority; and
- (b) to furnish to the Director-General such returns in connection with those statistics,

as the Director-General may reasonably require in connection with the administration of the Act.

(2) Any statistics required to be kept are to be kept in such form as the Director-General may determine.

(3) Any returns required to be furnished are to be furnished at such times and in respect of such periods as the Director-General may determine.

(4) The holder of an authority must not fail to comply with a direction under this clause or, in purported compliance with a direction under this clause, furnish false or misleading information.

Maximum penalty (subclause (4)): 10 penalty units.

SCHEDULE 1—MINERALS

(Cl. 4)

agate	gypsum
alum	halite (including solar salt)
alumina	iceland spar
alunite	ilmenite
antimony	indium
apatite	iron
arsenic	iron ore
arsenical pyrites	ironstone
asbestos	jade
barytes	kaolin
bauxite	laterite
bentonite	lead
beryllium and its ores	limestone
bismuth	lithium
bloating clay	magnesite
borates	manganese
brick clay	marble
cadmium	marine aggregate
caesium	mercury
calcite	mica
chalcedony	mineral pigments
chert	mineral water
chlorite	molybdenite
chromite	monazite
cinnabar	nephrite
clay shale	nickel
cobalt	opal
columbium	ores of silicon
copper	osmiridium
corundum	oxide of iron
cryolite	peat
diamond	perlite
diatomaceous earth	phosphates
dolomite	pipeclay
emerald	platinoid minerals
emery	platinum
felspar	plumbago
fire clay	pottery clay
fluorspar	pyrophyllite
fuller's earth	quartz crystal
galena	quartzite
garnet	rare earth minerals
geothermal substances	reef quartz
germanium	rhodonite
gold	rock salt
granite	rubidium
graphite	ruby

rutile	tin
sapphire	titanium
scheelite	topaz
selenium	tourmaline
serpentine	tungsten and its ores
shale ash	turquoise
silver	vanadium
slate	vermiculite
soapstone	wolfram
steatite	wollastonite
sulphur	wulfenite
syenite	zeolites
talc	zinc
tantalum	zircon
thorium	zirconia

SCHEDULE 2—GROUPS OF MINERALS

(Cl. 5)

Group 1 (Elemental minerals (metallics))

antimony	molybdenite
arsenic	monazite
arsenical pyrites	nickel
bismuth	osmiridium
cadmium	oxide of iron
caesium	platinoid minerals
chromite	platinum
cinnabar	rare earth minerals
cobalt	rubidium
columbium	rutile
copper	scheelite
fluorspar	selenium
galena	silver
garnet	sulphur
germanium	tantalum
gold	thorium
ilmenite	tin
indium	titanium
iron	tungsten and its ores
iron ore	vanadium
ironstone	wolfram
lead	wulfenite
lithium	zinc
manganese	zircon
mercury	zirconia

Group 2 (Elemental minerals (non-metallics))

alum	magnesite
alumina	marble
alunite	mica
apatite	mineral pigments
asbestos	mineral water
barytes	ores of silicon
bauxite	peat
beryllium and its ores	perlite
borates	phosphates
calcite	plumbago
chert	pyrophyllite
chlorite	quartzite
cryolite	reef quartz
diatomaceous earth	rock salt
dolomite	shale ash
emerald	soapstone
emery	statite
felspar	talc
graphite	topaz
gypsum	vermiculite
halite (including solar salt)	wollastonite
iceland spar	zeolites
laterite	
limestone	

Group 3 (Semi-precious stones)

agate	quartz crystal
chalcedony	rhodonite
jade	tourmaline
nephrite	turquoise

Group 4 (Hard rock minerals)

granite	slate
marine aggregate	syenite
serpentine	

Group 5 (Clay minerals)

bentonite	fuller's eart
bloating clay	kaolin
brick clay	piperclay
clay shale	pottery clay
fire clay	

Group 6 (Diamond, corundum, ruby and sapphire)

corundum	ruby
diamond	sapphire

Group 7 (Opal)

Opal

Group 8 (Geothermal Substances)

Geothermal substances

Group 9 (Coal and oil shale)

Coal
Oil shale

**SCHEDULE 3—CONDITIONS FOR PROSPECTING FOR AND MINING
PRIVATELY OWNED MINERALS**

(Cl. 9)

Maximum area over which operations may be conducted

1. (1) The maximum area over which prospecting operations or mining operations may be conducted at any one time is the area calculated by dividing the amount of the security paid under section 8 (1) (b) of the Act by the amount determined by the Director-General as the rate per hectare at which the security is to be calculated for the land concerned.

(2) Prospecting operations or mining operations are taken to continue to be carried on until any rehabilitation work required to be carried out (whether by this Schedule or otherwise) has been completed.

Safety

2. (1) Prospecting operations and mining operations are not to be carried out in a manner that endangers the safety of any persons or any stock in the vicinity of the location of the operations.

(2) In particular, all shafts and excavations are to be appropriately protected to ensure that access to them by persons and stock is restricted.

(3) Abandoned shafts and excavations are to be filled in or otherwise rendered safe.

Restoration of land that has been drilled

3. Any drillhole is to be filled or plugged as soon as it ceases to be used and the land in its immediate vicinity is to be left in a clean and tidy condition.

Topsoil and vegetation

4. (1) Any topsoil that is removed in the course of prospecting operations and mining operations is to be set aside for replacement when the operations have come to an end.

(2) Other soil, rock and tailings are to be used to fill abandoned shafts and excavations and to be covered by topsoil.

(3) The land over which the prospecting operations or mining operations have been carried on:

- (a) is to be appropriately landscaped to ensure that the land is properly drained and protected from soil erosion; and
- (b) is to be planted with vegetation appropriate to the area.

Soil erosion

5. (1) Prospecting operations and mining operations are to be carried on in such a manner as to avoid soil erosion.

(2) Particular regard is to be given to preventing water run-off from causing or contributing to soil erosion.

Water pollution

6. Prospecting operations and mining operations are to be carried out in a manner that avoids the pollution of water or the siltation of any watercourse.

Protection of fisheries

7. Prospecting operations and mining operations are not to be carried out in or adjacent to any waters that are closed to fishing pursuant to the Fisheries and Oyster Farms Act 1935 unless at least 7 days' notice of the commencement of those operations have been given to the Director of NSW Fisheries.

SCHEDULE 4—LAND IDENTIFICATION

(Cl. 11, 13)

Areas

1. The area of land over which an exploration licence or assessment lease, or a renewal of such a licence or lease, is sought is to be identified in relation to the following 1:1,000,000 areas within which it is situated:

- (a) the Broken Hill 1:1,000,000 area, being that area bounded by portions of meridians of longitude 138 degrees east and 144 degrees east, and by portions of parallels of latitude 28 degrees south and 32 degrees south;
- (b) the Bourke 1:1,000,000 area, being that area bounded by portions of meridians of longitude 144 degrees east and 150 degrees east, and by portions of parallels of latitude 28 degrees south and 32 degrees south;
- (c) the Armidale 1:1,000,000 area, being that area bounded by portions of meridians of longitude 150 degrees east and 156 degrees east, and by portions of parallels of latitude 28 degrees south and 32 degrees south;
- (d) the Adelaide 1:1,000,000 area, being that area bounded by portions of meridians of longitude 138 degrees east and 144 degrees east, and by portions of parallels of latitude 32 degrees south and 36 degrees south;

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- (e) the Canberra 1:1,000,000 area, being that area bounded by portions of meridians of longitude 144 degrees east and 150 degrees east, and by portions of parallels of latitude 32 degrees south and 36 degrees south;
- (f) the Sydney 1:1,000,000 area, being that area bounded by portions of meridians of longitude 150 degrees east and 156 degrees east, and by portions of parallels of latitude 32 degrees south and 36 degrees south;
- (g) the Melbourne 1:1,000,000 area, being that area bounded by portions of meridians of longitude 144 degrees east and 150 degrees east, and by portions of parallels of latitude 36 degrees south and 40 degrees south;
- (h) the Bodalla 1 : 1,008,000 area, being that area bonded by portions of meridians of longitude 150 degrees east and 156 degrees east, and by portions of parallels of latitude 36 degrees south and 40 degrees south.

Blocks

2. The blocks in each 1:1,000,000 area are to be identified by numbering consecutively from west to east, commencing with 1 in the northwestern corner, and concluding with 3456 in the southeastern corner, of the 1:1,000,000 area.

Units

3. The units in each block are to be identified from west to east, by letters commencing with “a” in the northwestern corner of the block, omitting the letter “i”, and finishing with “z” in the southeastern corner of the block

SCHEDULE 5—FEES

Part 1

Application for exploration licence (Sec. 13):

(a) for Group 1–Group 8 (per group)	\$700, plus \$21 per unit for the first group and \$10.50 per unit for each subsequent group
(b) for Group 9	\$600, plus \$500 per square kilometre or part thereof

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Tender for exploration licence (Sec. 15):	
(a) for Group 1–Group 8	\$100, plus \$21 per unit for the first group and \$10.50 per unit for each subsequent group
(b) for Group 9	\$1,000
Application for assessment lease (Sec. 33):	
(a) for minerals other than coal	\$1,600
(b) for coal	\$600, plus \$1,000 per square kilometre or part thereof
Application for mining lease (Sec. 51):	
(a) for minerals other than coal	\$2,350
(b) for coal	\$600, plus \$5,000 per square kilometre or part thereof
Tender for mining lease (Sec. 53):	\$1,000
Renewal of authority (Sec. 113):	
(a) exploration licence for Group 1–Group 8	\$100, plus \$21 per unit for the first group and \$10.50 per unit for each subsequent group
(b) exploration licence for Group 9	\$500 per square kilometre or part thereof
(c) assessment lease for minerals other than coal	\$500
(d) assessment lease for coal	\$1,000 per square kilometre or part thereof
(e) mining lease for minerals other than coal	\$1,000
(f) mining lease for coal	\$3,000 per square kilometre or part thereof

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Approval of transfer of authority (Sec. 120):	
(a) as to the whole of the land	\$250
(b) as to part only of the land	
Registration of transfer of authority (Sec. 122)	\$50
Caveat on authority (Sec. 124)	\$100
Appointment of arbitrator (Sec. 144)	\$150
Registration of legal or equitable interest (Sec. 161)	\$25, plus \$25 per authority
Application for mineral claim (Sec. 178)	\$50
Renewal of mineral claim (Sec. 197)	\$50
Transfer of mineral claim (Sec. 200)	\$50
Transfer of mineral claim by devolution (Sec. 202)	\$50
Grant of opal prospecting licence (Sec. 228)	\$150

Part 2

Application for amendment of mining lease (Cl. 16)	\$50
Application for registration of change of name of holder of authority (Cl. 24)	\$50
Application for suspension of conditions of authority (Cl. 28) .	\$50
Application for evidentiary certificate (Cl. 29)	\$50
Application for registration of change of name of holder of mineral claim (Cl. 41)	\$50
Application for suspension of conditions of mineral claim (Cl. 43)	\$25
Application for evidentiary certificate (Cl. 44)	\$50
Application for evidentiary certificate (Cl. 49)	\$50
Application for environmental assessment permit (Cl. 51)	\$250
Application for permit to enter Crown lands (Cl. 52)	\$25
Objection to grant of mining lease (Cl. 63)	\$100

SCHEDULE 6—ROYALTY

(Cl. 56)

Alum	\$0.70 per tonne
Alumina	\$0.70 per tonne
Alunite	\$0.70 per tonne
Barytes	\$0.50 per tonne
Bauxite	\$0.35 per tonne
Bentonite	\$0.70 per tonne
Bloating Clay	\$0.25 per tonne
Borates	\$0.35 per tonne
Brick Clay	\$0.25 per tonne
Calcite	\$0.35 per tonne
Chert	\$0.25 per tonne
Chlorite	\$0.85 per tonne
Clay shale	\$0.25 per tonne
Coal	\$1.70 per tonne
Diatomaceous earth	\$0.50 per tonne
Dolomite	\$0.50 per tonne
Felspar	\$0.50 per tonne
Fire clay	\$0.50 per tonne

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Fluorspar	\$0.50 per tonne
Fuller's earth	\$0.70 per tonne
Granite	\$0.50 per tonne
Gypsum	\$0.35 per tonne
Halite	\$0.35 per tonne
Iron	\$0.35 per tonne
Iron ore	\$0.35 per tonne
Ironstone	\$0.35 per tonne
Kaolin	\$0.50 per tonne
Laterite	\$0.35 per tonne
Limestone	\$0.35 per tonne
Magnesite	\$0.70 per tonne
Marble	\$0.50 per tonne
Marine aggregate	\$0.85 per tonne
Mineral pigments	\$0.70 per tonne
Mineral water	\$0.35 per 500 litres
Oxide of iron	\$0.35 per tonne
Peat	\$0.70 per tonne
Perlite	\$0.35 per tonne
Phosphates	\$0.50 per tonne
Pipeclay	\$0.50 per tonne
Pottery clay	\$0.50 per tonne
Pyrophyllite	\$0.85 per tonne
Quartzite	\$0.45 per tonne
Reef quartz	\$0.45 per tonne
Serpentine	\$0.50 per tonne
Shale ash	\$0.35 per tonne
Soapstone	\$0.85 per tonne
Steatite	\$0.85 per tonne
Syenite	\$0.85 per tonne
Talc	\$0.85 per tonne
Wollastonite	\$0.50 per tonne

SCHEDULE 7—FORMS

(Cl. 3)

Form 1

(Cl. 50)

CERTIFICATE OF AUTHORITY

(Mining Act 1992)

This certifies that,
(insert name of inspector)

whose photograph and signature appear hereunder, is an inspector appointed under the Mining Act 1992.

*(affix
photograph
here)*

.....
(signature of inspector)

.....
*(Minister for Natural
Resources)*

The inspector named above is authorised to exercise the following powers:

- (a) the power to enter land the subject of an authority or a mineral claim, or the subject of an application for an authority or a mineral claim, and land in an opal prospecting area;
- (b) the power to inspect that land and any mine, works, operations, buildings or structures on that land;
- (c) the power to remove samples of ore or other mineral deposits from that land;
- (d) the power to direct the person in charge of any mine, works, operations, buildings or structures on that land to provide the inspector with all reasonable facilities and assistance.

Form 2

(Cl. 53)

PERMIT

(Mining Act 1992)

This certifies that,
(insert name of holder of permit)

whose photograph and signature appear hereunder, is authorised to exercise the powers conferred by section of the Mining Act 1982.

*(affix
photograph
here)*

.....
(signature of holder of permit)

.....
*(Minister for Natural
Resources)*

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That section confers the following powers on the holder of a permit:

.....
.....

This permit is granted in respect of the following land:

.....
.....

This permit is granted subject to the following conditions:

.....
.....

This permit has effect for the period commencing on the day of
..... 19 and ending on the day of
..... 19

Dated:

.....
(Minister/warden/mining registrar)

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EXPLANATORY NOTE

The object of this Regulation is to prescribe matters that are necessary or convenient for the operation of the Mining Act 1992. In addition to matters of a purely machinery nature, the new Regulation:

- (a) prescribes certain substances as minerals for the purposes of the Act; and
 - (b) prescribes the manner in which a warden is to assess compensation under the Act; and
 - (c) prescribes the rates of royalty payable for the recovery of minerals
 - (d) pursuant to an authority or mineral claim under the Act; and
 - (e) prescribes the fees payable under the Act in relation to various matters.
-