



New South Wales

Mining (General) Regulation 1997

under the
Mining Act 1992

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

BOB MARTIN, MP,
Minister for Mineral Resources

Explanatory note

The object of this Regulation is to repeal and remake, with no changes in substance, the provisions of the *Mining (General) Regulation 1992*. The new Regulation deals with the following matters in connection with the *Mining Act 1992*:

- (a) the prescription of certain substances as minerals for the purposes of the Act (clause 4 and Schedule 1),
- (b) the prescription of groups of minerals for the purposes of the Act (clause 5 and Schedule 2),
- (c) the prescription of certain purposes as mining purposes under the Act (clause 6),
- (d) the aggregation of labour and expenditure conditions under certain mining leases (clause 14),
- (e) the prescription of rates of royalty under the Act (clause 39 and Schedule 5),
- (f) the payment of lodgment fees for certain matters arising under the Act and the Regulation (clause 42),
- (g) other matters of a minor, consequential or ancillary nature.

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Explanatory note

This Regulation is made under the *Mining Act 1992*, including section 388 and Schedule 4 (the general regulation making powers) and various other sections referred to in the Regulation.

This Regulation is made in connection with the staged repeal of subordinate legislation under the *Subordinate Legislation Act 1989*.

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Clause 1 Mining (General) Regulation 1997

Part 1 Preliminary

Mining (General) Regulation 1997

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Mining (General) Regulation 1997*.

2 Commencement

This Regulation commences on 1 September 1997.

3 Definitions

(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 Land and Water Conservation, 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.

statutory surveying requirements means the requirements of the *Surveyors Act 1929* and the regulations under that Act.

survey mark includes a survey mark placed in accordance with the statutory surveying requirements 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 6.

4 Meaning of “mineral”

- (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.

5 Meaning of “group of minerals”

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.

6 Meaning of “mining purpose”

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
 - (i) any building or mining plant,
 - (ii) any road, railway, tramway, bridge or jetty,
 - (iii) any reservoir, dam, drain or water race,
 - (iv) any cable, conveyor, pipeline, telephone line or signalling system,
 - (v) any bin, magazine or fuel chute,
 - (vi) any plant nursery,
 - (vii) any ventilation shaft,
- (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.

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Clause 7 Mining (General) Regulation 1997

Part 1 Preliminary

7 Meaning of “occupier”

- (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 written 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 members of the public.

8 Standard map

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
 - (i) 1:25,000, or

- (ii) if a map at the scale of 1:25,000 is not available, 1:50,000, or
- (iii) if maps at the scale of 125,000 or 1:50,000 are not available, 1:100,000,
published by the Department of Land and Water Conservation, the Department of Mineral Resources or the Australian Surveying and 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.

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Clause 9 Mining (General) Regulation 1997

Part 2 Prospecting and mining generally

Part 2 Prospecting and mining generally

9 Mining for privately owned minerals: section 8

- (1) For the purposes of section 8 (1) (b) of the Act, the security to be lodged with the Director-General:
 - (a) must be:
 - (i) in the form of cash, or
 - (ii) in the form of a security instrument of a kind approved by the Minister, being an instrument issued by a bank, building society, credit union or other financial institution so approved, or
 - (iii) 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 statutory surveying requirements, 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.

10 Fossicking: section 12

- (1) 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 one metre, or
 - (c) damage or remove any bushrock, or
 - (d) remove more than:
 - (i) 10 kilograms of minerals (other than gold or gemstones), or
 - (ii) 30 grams of gold, or
 - (iii) 20 grams of gemstones,during any single period of 48 hours.

Maximum penalty: 10 penalty units.

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

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Clause 11 Mining (General) Regulation 1997

Part 3 Authorities
Division 1

Part 3 Authorities

Division 1 Exploration licences

11 Applications: section 13

- (1) 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.
- (2) 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.

Division 2 Assessment leases

12 Applications: section 33

- (1) For the purposes of section 33 (3) (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):
 - (i) a plan drawn in accordance with the statutory surveying requirements, or
 - (ii) 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

-
- (iii) 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
 - (iv) 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.
- (2) 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

13 Applications: section 51

- (1) For the purposes of section 51 (3) (a) and (5) (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):
 - (i) a plan drawn in accordance with the statutory surveying requirements, or
 - (ii) 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

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Clause 13 Mining (General) Regulation 1997

Part 3 Authorities
Division 3

- (iii) 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.
- (2) 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.

14 Aggregation of labour and expenditure conditions

- (1) The Minister may, by order, declare that 2 or more mining leases are taken to be a single mining lease for the purpose of enabling the labour and expenditure conditions of those leases to be aggregated.
- (2) A declaration is subject to such conditions (if any) as the Minister thinks fit to impose.
- (3) The effect of a declaration is to allow the holder or holders of the mining leases concerned to comply with the labour and expenditure conditions of those leases, subject to any conditions on which the declaration is made, as if they were the conditions of a single mining lease over the whole of the land the subject of those mining leases.
- (4) For the purpose of calculating the application fee, any mining leases whose labour and expenditure conditions are currently aggregated as a result of a previous declaration are taken to be a single mining lease.

- (5) An order under this clause takes effect on the date on which written notice of the order is served on the holder or holders of the mining leases concerned or on such later date as may be specified in the notice.

Division 4 Consolidation of mining leases

15 Preparation of proposed lease: section 86

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

16 Applications: section 113

- (1) 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 11, 12 or 13, as the case requires, of the land over which the renewal is sought.
- (2) 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.

17 Transfers: section 120

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.

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Clause 18 Mining (General) Regulation 1997

Part 3 Authorities
Division 5

18 Grounds of cancellation: section 125

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 statutory surveying requirements, 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

19 Records: section 159

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:
 - (i) the type of authority and the identifying number or code allocated to it,
 - (ii) the date on which the authority was first granted,
 - (iii) the name and address of each person who is a holder of the authority,
 - (iv) a description of the land over which the authority is in force,
 - (v) the mineral or minerals, or the group or groups of minerals, to which the authority relates,
 - (vi) the mining purpose or mining purposes to which the authority relates (in the case of a mining lease granted in respect of a mining purpose or mining purposes),

- (vii) the period for which the authority is to have effect,
- (viii) the current status of the authority (that is, “current”, “expired” or “cancelled”),
- (ix) any interest registered under section 161 of the Act in relation to the authority.

20 Colliery holdings: section 163

- (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.

21 Rights of way: section 164

- (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.

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Clause 21 Mining (General) Regulation 1997

Part 3 Authorities
Division 6

- (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) 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:
 - (i) any garden, orchard or land under cultivation, or
 - (ii) 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.

Part 4 Mineral claims

22 Marking out of proposed claim area: section 176

- (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 one 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 one 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 prominently displayed 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 name and address of the applicant for the proposed claim.

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Clause 22 Mining (General) Regulation 1997

Part 4 Mineral claims

- (6) As soon as practicable after a mineral claim is granted, the holder of the claim must include the following particulars on the notice:
 - (a) the date on which the claim was granted,
 - (b) the number of the claim.
- (7) The requirements of subclause (6) are satisfied if the holder of the claim replaces the notice with a new notice containing the particulars required by subclauses (5) and (6).
- (8) The applicant for a 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.
- (9) 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.

23 Notice of intention to apply for mineral claim: section 177

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 statutory surveying requirements, 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.

24 Application for granting of mineral claim: section 178

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 statutory surveying requirements, 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.

25 Power of mining registrar in relation to applications: section 190

- (1) For the purposes of section 190 (4) (b) of the Act, the security to be lodged with the mining registrar:
 - (a) must be:
 - (i) in the form of cash, or
 - (ii) in the form of a security instrument of a kind approved by the Minister, being an instrument issued by a bank, building society, credit union or other financial institution so approved, or
 - (iii) 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.

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Clause 26 Mining (General) Regulation 1997

Part 4 Mineral claims

26 Conditions of mineral claim: section 192

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:
 - (i) such conditions as to mining safety as the chief inspector of mines may require, and
 - (ii) such conditions as the Director-General may require, and
 - (iii) 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.

27 Determination of application for renewal: section 198

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:
 - (i) such conditions as to mining safety as the chief inspector of mines may require, and
 - (ii) such conditions as the Director-General may require, and
 - (iii) 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.

28 Determination of application for transfer: section 201

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:
 - (i) such conditions as to mining safety as the chief inspector of mines may require, and

- (ii) such conditions as the Director-General may require, and
- (iii) 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.

29 Grounds of cancellation: section 203

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 statutory surveying requirements, 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.

30 Mining registrar to keep records

- (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.

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Clause 31 Mining (General) Regulation 1997

Part 4 Mineral claims

31 Rights of way: section 211

- (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 one 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:
 - (i) any garden, orchard or land under cultivation, or
 - (ii) 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.

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Clause 32 Mining (General) Regulation 1997

Part 5 Opal prospecting licences

Part 5 Opal prospecting licences

32 Objections: section 222

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, are as 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.

33 Opal prospecting blocks: section 224

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.

34 Applications: section 226

- (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.

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Clause 35 Mining (General) Regulation 1997

Part 6 Powers of entry

Part 6 Powers of entry

35 Certificates of authority: section 248

For the purposes of section 248 (2) of the Act:

- (a) an inspector's certificate of authority is to be in Form 1,
and
- (b) a royalty officer's certificate of authority is to be in Form
1A.

36 Form of permit: section 260

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

Part 7 Compensation

37 Compensation arising under mining lease: section 265

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.

38 Assessment of compensation: section 272

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

39 Rate of royalty: section 283

- (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 5 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:

- (a) R represents the quantity of minerals recovered by the holder of the mining lease during that period,
- (b) 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,
- (c) S₁ 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,
- (d) S₂ 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.

40 Returns: section 289

- (1) For the purposes of section 289 (1) of the Act:
- (a) royalty returns must be in a form that shows:
- (i) in the case of a mineral specified in Schedule 5, the quantity of the mineral recovered by the holder of the mining lease during the period to which the return relates, and
- (ii) 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:
- (i) 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
- (ii) 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.

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Clause 41 Mining (General) Regulation 1997

Part 8 Royalty

41 Payment of royalty: section 291

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

42 Fees for services

- (1) 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.
- (2) An appropriate lodgment fee is payable with respect to the following matters:
 - (a) an application for the amendment of a mining lease under section 79 of the Act,
 - (b) an application under section 168 of the Act for the suspension of any of the conditions of an authority,
 - (c) an application for a certificate under section 172 of the Act,
 - (d) an application under section 215 of the Act for the suspension of any of the conditions of a mineral claim,
 - (e) an application for a certificate under section 219 of the Act,
 - (f) an application for a certificate under section 236 of the Act,
 - (g) an application for a permit under section 252 of the Act,
 - (h) an application for a permit under section 254 of the Act,
 - (i) an objection under clause 26 of Schedule 1 to the Act,
 - (j) an application for a declaration under clause 14,
 - (k) an application for registration of a change in the name of the holder of an authority,
 - (l) an application for registration of a change in the name of the holder of a mineral claim.

43 Waiver and refund of fees

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

44 Applications generally: section 382

- (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 am and 4.00 pm.
- (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:
 - (i) between the hours of 9.30 am and 4.00 pm, in the case of applications lodged at the office of the mining registrar for Sydney, and
 - (ii) between the hours of 9.30 am and 1.00 pm, and between the hours of 2.00 pm and 4.00 pm, 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.

45 Notification of owners and occupiers of certain land: Schedule 1, clause 21

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 13.

46 Mining statistics, returns

- (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.

47 Repeal

- (1) The *Mining (General) Regulation 1992* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Mining (General) Regulation 1992*, had effect under that Regulation continues to have effect under this Regulation.

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Mining (General) Regulation 1997

Schedule 1 Minerals

Schedule 1 Minerals

(Clause 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	leucoxene
bismuth	limestone
bloating clay	lithium
borates	magnesite
brick clay	magnesium salts
cadmium	manganese
caesium	marble
calcite	marine aggregate
chalcedony	mercury
chert	mica
chlorite	mineral pigments
chromite	molybdenite
cinnabar	monazite
clay shale	nephrite
cobalt	nickel
columbium	opal
copper	ores of silicon
corundum	osmiridium
cryolite	oxide of iron
diamond	peat
diatomaceous earth	perlite
dolomite	phosphates
emerald	pipeclay
emery	platinoid minerals
felspar	platinum
fire clay	plumbago
fluorspar	potassium salts
fuller's earth	pottery clay
galena	pyrophyllite
garnet	quartz crystal
geothermal substances	quartzite
germanium	rare earth minerals
gold	reef quartz
granite	rhodonite
graphite	rock salt

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

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Mining (General) Regulation 1997

Schedule 2 Groups of minerals

Schedule 2 Groups of minerals

Clause 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
leucoxene	zinc
lithium	zircon
manganese	zirconia
mercury	

Group 2 (Elemental minerals (non-metallics))

alum	graphite
alumina	gypsum
alunite	halite (including solar salt)
apatite	iceland spar
asbestos	laterite
barytes	limestone
bauxite	magnesite
beryllium and its ores	magnesium salts
borates	marble
calcite	mica
chert	mineral pigments
chlorite	ores of silicon
cryolite	peat
diatomaceous earth	perlite
dolomite	phosphates
emerald	plumbago
emery	potassium salts
felspar	pyrophyllite

quartzite	steatite
reef quartz	talc
rock salt	topaz
shale ash	vermiculite
soapstone	wollastonite
sodium salts	zeolites

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 earth
bloating clay	kaolin
brick clay	pipeclay
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

(Clause 9)

1 Maximum area over which operations may be conducted

- (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 at 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.

2 Safety

- (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.

3 Restoration of land that has been drilled

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.

4 Topsoil and vegetation

- (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.

5 Soil erosion

- (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.

6 Water pollution

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.

7 Protection of fisheries

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 Management Act 1994* 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

(Clauses 11, 12)

1 Areas

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,
- (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,

Mining (General) Regulation 1997

Land identification

Schedule 4

- (h) the Bodalla *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 36 degrees south and 40 degrees south.

2 Blocks

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.

3 Units

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.

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Schedule 5 Royalty

Schedule 5 Royalty

(Clause 39)

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
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
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

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Schedule 6 Forms

Schedule 6 Forms

(Clause 3)

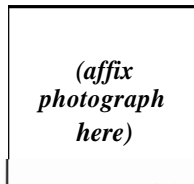
Form 1 Certificate of authority

(Clause 35)

(Mining Act 1992)

This certifies that,
(insert name of inspector)

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



.....
(signature of inspector)

.....
(Minister for Mineral 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.

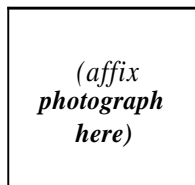
Form IA Certificate of authority

(Clause 35)

(Mining Act 1992)

This certifies that
(insert name of royalty officer)

whose photograph and signature appear below, is a royalty officer appointed under the *Mining Act 1992*.



.....
(signature of royalty officer)

.....
(Minister for Mineral Resources)

The royalty officer named above is authorised to exercise the following powers:

- (a) the power to enter premises occupied by the holder of an authority or a mineral claim,
- (b) the power to inspect, and take extracts from, any documents that are found on those premises and that appear to the royalty officer to relate to minerals recovered under the authority or mineral claim,
- (c) the power to direct the person in charge of any such premises to provide the royalty officer with all reasonable facilities and assistance.

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Schedule 6 Forms

Form 2 Permit

(Clause 36)

(Mining Act 1992)

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

whose signature appears below, is authorised to exercise the powers conferred by section of the *Mining Act 1992*.

.....
(Signature of holder of permit)

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)