



New South Wales

Mining (General) Amendment Regulation 2000

under the

Mining Act 1992

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

EDWARD OBEID, M.L.C.,

Minister for Mineral Resources

Explanatory note

The objects of this Regulation are:

- (a) to vary the manner in which the amount of the security deposit required in respect of mining for privately-owned minerals is calculated, and
- (b) to vary, in certain cases, the times at which royalties on minerals (other than coal) are payable and the times at which returns relating to such royalties are to be furnished, and
- (c) to make further provision with respect to fossicking for minerals, and
- (d) to provide for penalty notices for offences occasioned by contravention of certain licence conditions, and
- (e) to prescribe matters required or permitted to be prescribed under the *Mining Act 1992* (as amended by the *Mining Amendment Act 1999*) and to amend the *Mining (General) Regulation 1997* in other minor respects as a consequence of the enactment of that Act.

This Regulation is made under the *Mining Act 1992*, including sections 8, 21, 34, 164, 211, 289, 291, 375A, 383 and 388.

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Clause 1 Mining (General) Amendment Regulation 2000

Mining (General) Amendment Regulation 2000

1 Name of Regulation

This Regulation is the *Mining (General) Amendment Regulation 2000*.

2 Commencement

This Regulation commences on 26 May 2000.

3 Amendment of Mining (General) Regulation 1997

The *Mining (General) Regulation 1997* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 3)

[1] Clause 7 Meaning of “occupier”

Omit the clause. Insert instead:

7 Meaning of “landholder”

- (1) Persons who are recognised by the Director-General as being landholders of a particular parcel of land are landholders for the purposes of the definition of *landholder* in the Dictionary at the end of the Act.
- (2) Any person may apply to the Director-General for recognition as a landholder of specified land.
- (3) The application must indicate the grounds on which the applicant claims to be a landholder 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 a landholder 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, by notice in writing served on the person, withdraw a person's recognition as a landholder 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 a landholder,
 - (b) the name and address of each such person.

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Schedule 1 Amendments

- (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.
- (9) A person who, immediately before the commencement of the *Mining (General) Amendment Regulation 2000*, was recognised by the Director-General as an occupier of any land is taken, subject to this clause, to be recognised by the Director-General as a landholder of that land.

[2] Clause 9 Mining for privately owned minerals: section 8

Omit clause 9 (1) (b). Insert instead:

- (b) is to be of an amount determined by the Minister.

[3] Clause 10

Omit the clause. Insert instead:

10 Fossicking: section 12

- (1) A person must not:
 - (a) fossick for minerals using explosives, power-operated equipment or any other equipment except a hand-held (not power-driven) implement, or
 - (b) fossick for minerals on land that is or in waters that are the subject of an approved determination of native title under the *Native Title Act 1993* of the Commonwealth, to the effect that native title exists, except with the consent of the relevant registered native title body corporate with respect to that native title, or
 - (c) in the course of fossicking for minerals:
 - (i) excavate or clear any land or waters, or
 - (ii) damage or remove any bushrock, or
 - (d) in the course of fossicking for minerals, 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, *gemstone* means a Group 3, Group 6 or Group 7 mineral.

[4] Clause 21 Rights of way: section 164

Omit “owner or occupier of the land” wherever occurring in clause 21 (4).

Insert instead “the landholder”.

[5] Clause 31 Rights of way: section 211

Omit “the owner or occupier of the land” wherever occurring in clause 31 (4).

Insert instead “the landholder”.

[6] Clause 31A

Insert after clause 31:

31A Compensation arising under mineral claim

For the purposes of section 266 (4) (c) of the Act, the prescribed amount is \$10.

[7] Clause 33 Opal prospecting blocks: section 224

Omit the clause.

[8] Clause 34A

Insert after clause 34:

34A Compensation arising under opal prospecting licence

For the purposes of section 267 (4) (c) of the Act, the prescribed amount is \$10.

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[9] Clause 40 Returns: section 289

Omit clause 40 (1) (b) (i). Insert instead:

- (i) at the time at which royalty is payable, in the case of minerals other than coal, and

[10] Clause 41 Payment of royalty: section 291

Omit the clause. Insert instead:

41 Payment of royalty: section 291

- (1) This clause prescribes the times at which, and the periods in respect of which, royalty is payable to the Minister under the Act, except to the extent that a determination under section 291 (1) (b) of the Act is in force.
- (2) In the case of minerals other than coal, royalty is payable on or before 31 July in each year in respect of the period of 12 months ending on the last preceding 30 June, unless subclause (3) applies.
- (3) In the case of a person by whom, in respect of the last preceding period of 12 months that ended on 30 June, an amount of royalty greater than \$50,000 was payable in respect of minerals (other than coal), royalty on minerals (other than coal) recovered during the succeeding period of 12 months is payable:
 - (a) on or before 31 October, in respect of the period of 3 months ending on 30 September, and
 - (b) on or before 31 January, in respect of the period of 3 months ending on 31 December, and
 - (c) on or before 30 April, in respect of the period of 3 months ending on 31 March, and
 - (d) on or before 31 July, in respect of the period of 3 months ending on 30 June.
- (4) In the case of coal, royalty is payable within 21 days after the beginning of each month.

[11] Clause 48–50

Insert after clause 47:

48 Service of documents on the Crown: section 383

For the purposes of section 383 (6) of the Act, the prescribed manner of service is by sending the document to the head office or regional office of the Government Department or public authority responsible for administration of the land.

49 Penalty notices for contraventions of conditions of mining title: section 375A

- (1) For the purposes of section 375A (2) of the Act, the prescribed penalty for an offence under section 374A of the Act that consists of a contravention of or failure to comply with a condition described in Columns 1 and 2 of Schedule 7 is the penalty specified in Column 4 of that Schedule opposite the description of the condition.
- (2) For the purposes of section 145B of the *Justices Act 1902*, the prescribed expression for an offence under section 374A of the Act that consists of a contravention of or failure to comply with a condition described in Columns 1 and 2 of Schedule 7 is:
 - (a) the expression specified in Column 3 of that Schedule, or
 - (b) if a choice of words is indicated in that expression, the words remaining after the omission of the words irrelevant to the offence.

[12] Schedule 3 Conditions for prospecting for and mining privately owned minerals

Omit clause 1 (1). Insert instead:

- (1) The maximum area over which prospecting operations or mining operations may be conducted at any one time is the area determined by the Minister and notified to the person conducting the operations.

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Schedule 1 Amendments

[13] Schedule 3, clause 8

Insert after clause 7:

8 Security for rehabilitation

- (1) If it appears to the Minister that any security lodged by a miner or prospector under section 8 (1) (b) of the Act is inadequate to secure observance of the conditions prescribed by clauses 2, 3 and 4, the Minister may, by notice in writing, require the miner or prospector to give and maintain further security for compliance with those conditions.
- (2) A security lodged under section 8 (1) (b) of the Act or given under this clause may be retained by the Minister until the Minister is satisfied that the conditions prescribed by clauses 2, 3 and 4 have been observed.
- (3) Such part of any such security as the Minister may determine is to be forfeited to the Crown if the miner or prospector fails to observe any of the conditions prescribed by clauses 2, 3 and 4.
- (4) Money realised from the forfeiture of any such security is to be applied for the purpose of rehabilitating the land affected by prospecting or mining operations.
- (5) The functions of the Minister under this clause may be exercised with or without the benefit of a finding by a court or tribunal that the miner or prospector has failed to observe any of the conditions prescribed by clauses 2, 3 and 4.

[14] Schedule 7

Insert after Schedule 6:

Schedule 7 Penalty notice offences

(Clause 49)

Column 1 Type of mining title	Column 2 Nature of condition	Column 3 Short description of contravention or failure to comply	Column 4 Penalty for contravention or failure to comply
Mineral claim	Requirement to maintain marks defining area of claim	Not maintain area marks	1 penalty unit
Mineral claim	Prohibition on keeping more than one dog on claim	Keep more than one dog on claim	1 penalty unit
Mineral claim	Requirement to comply with direction given by Mining Registrar, Inspector of Mines or Opal Field Management Officer	Not comply with direction of Registrar/Inspector/Officer	2 penalty units
Mineral claim	Requirement to dispose of soil, rock and tailings in accordance with Opal Field Management Plan or as directed	Disposal not in accordance with plan/direction	5 penalty units
Mineral claim	Requirement to maintain claim in clean and tidy condition	Claim not neat/tidy	5 penalty units

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Mineral claim	Prohibition on erection of unauthorised structures	Unauthorised structure	10 penalty units
Mineral claim	Requirement to ensure operations are conducted so as to provide safety to persons and stock	Unsafe operations	10 penalty units
Mineral claim	Requirement to fill in or make safe shafts and excavations	Unsafe shaft/excavation	10 penalty units
Exploration licence or assessment lease	Requirement to lodge report of exploration activity	Not report exploration	5 penalty units
Exploration licence or assessment lease	Requirement to leave exploration site in clean and tidy condition	Site not clean/tidy	10 penalty units
Exploration licence or assessment lease	Requirement to make safe any drillholes or other excavations	Unsafe excavation	10 penalty units
Exploration licence or assessment lease	Requirement to comply with direction given by Inspector or Environmental Officer	Not comply with direction of Inspector/Officer	10 penalty units
Mining lease	Requirement to prevent slurry or silt flowing outside lease boundary	Not contain slurry/silt	5 penalty units
Mining lease	Requirement to lodge report	Not report	5 penalty units

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Amendments

Schedule 1

Mining lease	Requirement to comply with direction given by Inspector or Environmental Officer	Not comply with direction of Inspector/Officer	10 penalty units
Mining lease	Prohibition on erection of unauthorised structures	Unauthorised structure	10 penalty units
Mining lease	Requirement to ensure operations are conducted so as to provide safety to persons and stock	Unsafe operations	10 penalty units
Mining lease	Requirement to fill in or make safe shafts and excavations	Unsafe shaft/ excavation	10 penalty units
Mining lease	Requirement to maintain lease area in clean and tidy condition	Area not clean/tidy	20 penalty units
Mining lease	Requirement to mine in accordance with mining operations plan	Not mine in accordance with plan	20 penalty units

BY AUTHORITY