



New South Wales

Mining (General) Amendment Regulation 2002

under the

Mining Act 1992

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

The Hon EDWARD OBEID, M.L.C.,

Minister for Mineral Resources

Explanatory note

The object of this Regulation is to amend the *Mining (General) Regulation 1997*:

- (a) to increase penalties currently prescribed for offences that may be dealt with by penalty notice, and
- (b) to prescribe certain matters for the purposes of section 390 of the *Mining Act 1992*, and
- (c) to prescribe a requirement for the lodgment of security deposits for opal prospecting licences, and
- (d) to revise the definition of “mining purposes” in the Regulation, and
- (e) to vary the quantity of minerals that may lawfully be taken in the course of fossicking and to require fossickers to replace material that has been disturbed in the course of fossicking.

This Regulation is made under the *Mining Act 1992*, including section 388 and Schedule 4 (the general power to make regulations) and sections 12, 13, 228, 248, 375A, 382 and 390.

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Clause 1 Mining (General) Amendment Regulation 2002

Mining (General) Amendment Regulation 2002

1 Name of Regulation

This Regulation is the *Mining (General) Amendment Regulation 2002*.

2 Amendment of Mining (General) Regulation 1997

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

Schedule 1 Amendments

(Clause 2)

[1] Clause 6 Meaning of “mining purpose”

Omit clause 6 (a) (vii).

[2] Clause 6 (f)

Insert at the end of clause 6 (e):

- (f) the construction, maintenance and use (in or in connection with mining operations) of any drillhole or shaft for:
 - (i) drainage of gas, or
 - (ii) drainage or conveyance of water, or
 - (iii) ventilation, or
 - (iv) conveyance of electricity, or
 - (v) conveyance of materials, or
 - (vi) communications, or
 - (vii) emergency access to underground workings.

[3] Clause 10 Fossicking: section 12

Omit clause 10 (1) (b).

[4] Clause 10 (1) (d)

Omit the paragraph. Insert instead:

- (d) in the course of fossicking for minerals, remove more than:
 - (i) 25 kilograms of minerals (other than gold or gemstones), or
 - (ii) 50 grams of gold (except where found as nuggets of 10 grams or greater), or
 - (iii) 100 grams of gemstonesduring any single period of 48 hours.

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Schedule 1 Amendments

[5] Clause 10 (1) (e)

Insert at the end of clause 10 (1) (d):

, or

- (e) fail to replace any soil, rock or other material that has been disturbed in the course of fossicking for minerals.

[6] Clause 10 (1)

Omit “10 penalty units”. Insert instead “50 penalty units”.

[7] Clause 10 (2)

Omit “Group 3,”.

[8] Clause 11 Applications: section 13

Insert after clause 11 (2):

- (3) The requirements of this clause that an application be accompanied by a standard map or diagram are satisfied if the map or diagram (accompanied by particulars of the application to which it relates) is lodged, in the same manner as an application is lodged under clause 44, so as to be received by the Director-General, or other person nominated by the Director-General as referred to in clause 44 (2), within 10 working days after lodgment of the application.

[9] Clauses 21 (3), 22 (8) and 31 (3)

Omit “5 penalty units” wherever occurring. Insert instead “20 penalty units”.

[10] Clause 25 Power of mining registrar in relation to applications: section 190

Omit clause 25 (1) (a) (ii). Insert instead:

- (ii) in the form of a security instrument of a kind approved by the Minister, being an instrument issued by an authorised deposit-taking institution, or

[11] Clause 34B

Insert after clause 34A:

34B Securities to be lodged: section 228

For the purposes of section 228 (4) 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 an authorised deposit-taking institution, 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.

[12] Clause 40 Returns: section 289

Omit “Maximum penalty: 10 penalty units.” from clause 40 (2).

Insert instead:

Maximum penalty:

- (a) 100 penalty units, in the case of an offence committed by a corporation, or
- (b) 50 penalty units, in the case of an offence committed by an individual.

[13] Clause 46 Mining statistics, returns

Omit “Maximum penalty (subclause (4)): 10 penalty units.” from clause 46 (4).

Insert instead:

Maximum penalty (subclause (4)):

- (a) 100 penalty units, in the case of an offence committed by a corporation, or
- (b) 50 penalty units, in the case of an offence committed by an individual.

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[14] Clause 49 Penalty notices for contraventions of conditions of mining title: section 375A

Omit clause 49 (1). Insert instead:

- (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 Column 2 of Schedule 7 in respect of a mining title referred to in Column 1 of that Schedule is:
 - (a) in the case of a penalty payable by an individual, the penalty specified in Column 4 of that Schedule opposite the description of the condition, and
 - (b) in the case of a penalty payable by a corporation, the penalty specified in Column 5 of that Schedule opposite the description of the condition.

[15] Clause 49 (2)

Omit “Columns 1 and 2 of Schedule 7”.

Insert instead “Column 2 of Schedule 7 in respect of a mining title referred to in Column 1 of that Schedule”.

[16] Clause 49A

Insert after clause 49:

49A References to officers in mining titles

Pursuant to section 390 of the Act, a reference in any authority, mineral claim or opal prospecting licence to any of the following officers is, for the purpose of the performance of a function involving rehabilitation or environmental requirements, taken to be a reference to the Minister:

Chief Inspector of Mines,
Chief Inspector of Coal Mines,
Senior Inspector of Mines,
Regional Inspector of Mines,
District Inspector of Mines,
Mining Occupations Officer,

Regional Mining Officer,
Mine Safety Officer,
Regional Mining Engineer,
Mining Registrar,
Opal Field Management Officer.

[17] Schedule 6 Forms

Omit the following matter from Form 1A:

- (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,

Insert instead:

- (a) the power to enter:
 - (i) any premises occupied by the holder of an authority or mineral claim, or
 - (ii) any premises where the royalty officer reasonably believes documents, of the kind referred to in paragraph (b), of or relating to the holder are kept,
- (b) the power to inspect, and take extracts or copies 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,

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Schedule 1 Amendments

[18] Schedule 7

Omit the Schedule. Insert instead:

Schedule 7 Penalty notice offences

(Clause 49)

Column 1	Column 2	Column 3	Column 4	Column 5
Type of mining title	Nature of condition	Short description of contravention or failure to comply	Penalty for individual's contravention or failure to comply	Penalty for corporation's contravention or failure to comply
Mineral claim	Requirement to maintain marks defining area of claim	Not maintain area marks	\$550	\$550
Mineral claim	Prohibition on keeping more than one dog on claim	Keep more than one dog on claim	\$550	\$550
Mineral claim	Requirement to comply with direction given by Mining Registrar, Inspector of Mines, Mine Safety Officer or Environmental Officer	Not comply with direction of Registrar/Inspector/Officer	\$2,200	\$2,200

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Amendments

Schedule 1

Column 1	Column 2	Column 3	Column 4	Column 5
Type of mining title	Nature of condition	Short description of contravention or failure to comply	Penalty for individual's contravention or failure to comply	Penalty for corporation's contravention or failure to comply
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	\$2,200	\$2,200
Mineral claim	Requirement to maintain claim in clean and tidy condition	Claim not clean/ tidy	\$2,200	\$2,200
Mineral claim	Prohibition on erection of unauthorised structures	Unauthorised structure	\$5,500	\$5,500
Mineral claim	Requirement to ensure operations are conducted so as to provide safety to persons and stock	Unsafe operations	\$5,500	\$5,500
Mineral claim	Requirement to fill in or make safe shafts and excavations	Unsafe shaft/ excavation	\$5,500	\$5,500
Exploration licence or assessment lease	Requirement to lodge report of exploration activity	Not report exploration	\$2,750	\$5,500

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Schedule 1 Amendments

Column 1	Column 2	Column 3	Column 4	Column 5
Type of mining title	Nature of condition	Short description of contravention or failure to comply	Penalty for individual's contravention or failure to comply	Penalty for corporation's contravention or failure to comply
Exploration licence or assessment lease	Requirement to leave exploration site in clean and tidy condition	Site not clean/ tidy	\$2,750	\$5,500
Exploration licence or assessment lease	Requirement to make safe any drillholes or other excavations	Unsafe excavation	\$2,750	\$5,500
Exploration licence or assessment lease	Requirement to comply with direction given by Inspector or Environmental Officer	Not comply with direction of Inspector/Officer	\$5,500	\$5,500
Mining lease	Requirement to prevent slurry or silt flowing outside lease boundary	Not contain slurry/silt	\$5,500	\$5,500
Mining lease	Requirement to lodge report	Not report	\$2,750	\$5,500
Mining lease	Requirement to comply with direction given by Inspector or Environmental Officer	Not comply with direction of Inspector/Officer	\$5,500	\$5,500
Mining lease	Prohibition on erection of unauthorised structures	Unauthorised structure	\$5,500	\$5,500

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Amendments

Schedule 1

Column 1	Column 2	Column 3	Column 4	Column 5
Type of mining title	Nature of condition	Short description of contravention or failure to comply	Penalty for individual's contravention or failure to comply	Penalty for corporation's contravention or failure to comply
Mining lease	Requirement to ensure operations are conducted so as to provide safety to persons and stock	Unsafe operations	\$5,500	\$5,500
Mining lease	Requirement to fill in or make safe shafts and excavations	Unsafe shaft/ excavation	\$5,500	\$5,500
Mining lease	Requirement to maintain lease area in clean and tidy condition	Area not clean/ tidy	\$5,500	\$5,500
Mining lease	Requirement to mine in accordance with mining operations plan	Not mine in accordance with plan	\$5,500	\$5,500

BY AUTHORITY