



New South Wales

Mining Regulation 2010

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*.

STEVE WHAN, MP
Minister for Primary Industries

Explanatory note

The object of this Regulation is to remake the *Mining Regulation 2003*.

In particular, as a consequence of the enactment of the *Mining Amendment Act 2008*, this Regulation:

- (a) enables the Minister to exempt a person or class of persons from the operation of section 6 of the *Mining Act 1992* (*the Act*), which makes it an offence to carry out a mining purpose without a relevant authorisation, and
- (b) enables the Minister to declare that a specified activity or class of activity is not prospecting or mining for the purposes of section 11A of the Act, and
- (c) prescribes the content of notices of applications for authorities and small-scale titles, and
- (d) prescribes the information that must accompany applications for authorities and small-scale titles, and
- (e) inserts a new Part in relation to the protection of the environment, and
- (f) prescribes certain offences as penalty notice offences, and
- (g) makes savings and transitional arrangements consequent on the commencement of the *Mining Amendment Act 2008*.

This Regulation also makes provision with respect to the following:

- (a) formal matters, including the meaning of certain terms,
- (b) prospecting and mining generally,
- (c) authorities issued under the Act,

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- (d) small-scale titles (being mineral claims and opal prospecting licences),
- (e) access management plans for small-scale titles,
- (f) the qualifications and experience required of a person to whom the Director-General refers an objection to a significant improvement claim, and
- (g) the protection of the environment,
- (h) the payment of royalties by the holder of a mining lease,
- (i) the membership and procedure of the Mine Safety Advisory Council,
- (j) the constitution and procedure of boards of management constituted by the Minister under section 359 of the Act,
- (k) miscellaneous matters, including the issuing of penalty notices for contravention of the conditions of mining titles,
- (l) savings and transitional matters.

This Regulation is made under the sections of the Act mentioned in the Regulation, and under section 388 and Schedule 4 (the general regulation-making powers).

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Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Mining Regulation 2010*.

2 Commencement

This Regulation commences on 15 November 2010 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Mining Regulation 2003* which is repealed by clause 83 of this Regulation.

3 Definitions

(1) In this Regulation:

agricultural lime means limestone sold or used for the purposes of application to land for agricultural purposes to improve the chemical and physical characteristics of the soil on that land.

annual exploration report—see clause 57 (1) (a).

area of operations of a board means the area for which the board is constituted.

block means a graticular section referred to in clause 10 or, if the Minister so directs in a particular case, part of such a graticular section.

board means a board of management constituted by the Minister under section 359 of the Act.

chief inspector means the Chief Inspector appointed under section 127 of the *Mine Health and Safety Act 2004* or section 145 of the *Coal Mine Health and Safety Act 2002*.

clay/shale does not include structural clay or clay or shale used in road making or as fill.

Council means the Mine Safety Advisory Council established under section 341 of the Act.

dimension stone means any rock, other than sandstone, that is quarried in blocks or slabs for building, decorative or other purposes.

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environmental performance record—see clause 4.

geothermal energy means the heat energy contained or stored in rock, geothermal water or any other material occurring naturally within the earth.

Map Grid of Australia means a rectangular coordinate system using a Transverse Mercator projection with zones 6 degrees wide and based on the Geocentric Datum of Australia.

marker post means:

- (a) a steel star picket, or
 - (b) a post with a diameter of at least 75 millimetres,
- that is fixed in the ground and projects at least 1 metre above the ground.

other relevant legislation means the Acts (and the regulations and other instruments made under those Acts) specified in Schedule 5.

quartzite does not include sandstone.

rehabilitation cost estimate means an estimate of the rehabilitation costs in relation to any land or water, prepared and calculated in accordance with guidelines approved by the Director-General.

renewal justification statement—see clause 57 (1) (c).

standard map—see clause 9.

statutory surveying requirements means the requirements of the *Surveying and Spatial Information Act 2002*, and the regulations under that Act, in relation to the conduct of surveys.

structural clay means clay or shale used in the manufacture of fired clay building or construction products, such as bricks, pipes and quarry tiles.

survey mark includes a survey mark placed by the Director-General for the purpose of surveying or placed in accordance with the statutory surveying requirements.

the Act means the *Mining Act 1992*.

unit means a unit into which a block is divided as referred to in clause 10 (2) or, if the Minister so directs in a particular case, part of such a unit.

- (2) Notes included in this Regulation do not form part of this Regulation.

4 Meaning of “environmental performance record”

- (1) The following information is prescribed as the *environmental performance record* of the relevant person for the purposes of making an application under this Regulation:
- (a) details of any conviction under environmental protection legislation or other relevant legislation in the 5 years immediately before the application is made, of:
 - (i) the person, and
 - (ii) if the person is a natural person—any corporation of which the person was a director at the time of the offence leading to that conviction, and
 - (iii) if the person is a corporation—each director of the corporation, any related corporation of the corporation and any other corporation of which a director was also a director at the time of the offence leading to that conviction,
 - (b) details of any of the following approvals under environmental protection legislation or other relevant legislation if the approval has been revoked or suspended in the 5 years immediately before the application is made:
 - (i) any approval held by the person,
 - (ii) any approval held by a corporation of which the person was a director at the time of the revocation or suspension,
 - (iii) if the person is a corporation—any approval held by a related corporation of the corporation and any other corporation of which a director of the person was also a director.
- (2) In this clause, *approval* includes a consent, licence or permission or any form of authorisation.

5 Meaning of “mineral”

The substances listed in Schedule 1 are prescribed as minerals for the purposes of the definition of *mineral* in the Dictionary to the Act.

6 Meaning of “group of minerals”

- (1) The groups of minerals listed in Schedule 2 are prescribed as groups of minerals for the purposes of the definition of *group of minerals* in the Dictionary to the Act.

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- (2) In relation to an application for an exploration (mineral owner) licence or to an exploration (mineral owner) licence that is in force, ***group of minerals*** means the group containing the privately owned mineral that is the subject of the relevant application or licence.

7 Meaning of “mining purpose”

The following purposes are prescribed as mining purposes for the purposes of the definition of ***mining purpose*** in the Dictionary to the Act:

- (a) the construction, maintenance or use (in or in connection with mining operations) of any one or more of the following:
 - (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,
- (b) opal puddling,
- (c) the removal, stockpiling, management or depositing of overburden, ore or tailings to the extent that it is associated with mineral extraction or mineral beneficiation,
- (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,
- (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.

8 Meaning of “landholder”

- (1) For the purposes of the definition of *landholder* in the Dictionary to the Act, a landholder in respect of a particular parcel of land includes a person who the Director-General recognises as being a landholder of that parcel in accordance with this clause.
- (2) Any person may apply to the Director-General for recognition as a landholder of a particular parcel of 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.
- (8) The register is to be kept available at the Maitland office of the Department for inspection, free of charge, by members of the public.

9 Standard map

A map is a standard map for the purposes of this Regulation if it shows the alignment of the boundaries of the land to which it relates relative to the Map Grid of Australia and shows the coordinates of all points where there is a change in the direction of the boundaries and the map is:

- (a) a standard topographic or 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

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- (iii) if a map at the scale of 1:25,000 or 1:50,000 is not available—1:100,000,
published by the Land and Property Management Authority, the Department of Industry and Investment or Geoscience Australia, 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, a satellite image or topographic map of a standard acceptable to the Director-General.

10 Graticulation of the Earth's surface

- (1) For the purposes of this Regulation, the surface of the Earth is taken to be divided into graticular sections:
 - (a) by the meridian of Greenwich and by the meridians that are at a distance from that meridian of 5 minutes, or a multiple of 5 minutes, of longitude, and
 - (b) by the equator and by parallels of latitude that are at a distance from the equator of 5 minutes, or a multiple of 5 minutes, of latitude,
each graticular section being bounded:
 - (c) by portions of 2 of those meridians that are at a distance from each other of 5 minutes of longitude, and
 - (d) by portions of 2 of those parallels of latitude that are at a distance from each other of 5 minutes of latitude.
- (2) Each graticular section is taken to be divided into 25 units, each unit being bounded:
 - (a) by portions of 2 meridians (being the meridian of Greenwich or the meridians that are at a distance from that meridian of 1 minute, or a multiple of 1 minute, of longitude) that are at a distance from each other of 1 minute of longitude, and
 - (b) by portions of 2 parallels of latitude (being the equator or parallels of latitude that are at a distance from the equator of 1 minute, or a multiple of 1 minute, of latitude) that are at a distance from each other of 1 minute of latitude.

Part 2 Prospecting and mining generally

11 Exemption from unauthorised carrying out of mining purposes in section 6

The Minister may, by order published in the Gazette, exempt any person or class of persons from the operation of section 6 of the Act with respect to the carrying out of a particular mining purpose, or a class of mining purposes, that is specified for the purposes of that section.

12 Fossicking

- (1) Any soil, rock or other material that is disturbed in the course of work carried out for the purpose of fossicking for minerals must:
- (a) be removed and stockpiled separately, and
 - (b) after completion of the work, be replaced in order to reconstruct the original soil profile.

Maximum penalty: 50 penalty units.

- (2) A person must not carry out work that includes any of the following activities for the purpose of fossicking:
- (a) the use of any equipment other than hand-held implements on any land or waters that is subject to native title,
 - (b) the excavation or clearing of any land or waters that is subject to native title,
 - (c) the use of power-operated equipment for the purpose of surface disturbance, excavation or processing on any land,
 - (d) the use of explosives on any land,
 - (e) the damage or removal of any bushrock,
 - (f) the removal of more than the prescribed amount of material from any land during any single period of 48 hours,
 - (g) the disturbance of more than 1 cubic metre of any soil, rock or other material during any single period of 48 hours.

Maximum penalty: 50 penalty units.

Note. The language of part of this subclause mirrors the language of part of section 24LA (Low impact future acts) of the *Native Title Act 1993* of the Commonwealth. That section refers, in part, to an act (in relation to particular land or waters) that does not consist of, authorise or otherwise involve “the excavation or clearing of any of the land or waters” or “mining (other than fossicking by using hand-held implements)”.

- (3) In this clause:

gemstone means a Group 6 or Group 7 mineral.

Note. Group 6 and Group 7 minerals are listed in Schedule 2.

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Part 2 Prospecting and mining generally

power-operated equipment means any equipment powered by mechanical or electrical means.

prescribed amount, in relation to material, means:

- (a) 10 kilograms of mineral-bearing material (other than the material referred to in paragraphs (b)–(e)), or
- (b) 5 kilograms of minerals (other than gold or gemstones), or
- (c) 50 grams of gold (except where found as nuggets of 10 grams or greater), or
- (d) 5 nuggets of 10 grams or greater of gold, or
- (e) 100 grams of gemstones.

13 Activities taken not to be prospecting or mining

- (1) The Minister may, by order published in the Gazette, declare that a specified activity, or a specified class of activity, is not prospecting or mining for the purposes of the Act.
- (2) For the purposes of section 11A of the Act, any activity carried out on the following land by Sita Australia Pty Ltd (ACN 002 902 650) for or in connection with the use of the land for waste disposal (including the extraction of material for the purpose of recovering minerals from the material) is declared not to be prospecting or mining for the purposes of the Act:

The land within Reserve No 3228 (constituted under section 367 of the Act by an order published in Gazette No 141 of 17 November 1995 at page 7866), being land situated at Badgerys Creek and having an area of approximately 56.7 hectares.

- (3) For the purposes of section 11A of the Act, any activity carried out for the purpose of recovering:
 - (a) halite (including solar salts), or
 - (b) magnesium salts, or
 - (c) potassium salts, or
 - (d) sodium salts,from evaporation basins is not prospecting or mining if the person who carries out the activity has first given notice of the person's intention to do so to the Director-General.
- (4) For the purposes of section 11A of the Act, any activity carried out on the land described in Schedule 3 (and shown by some distinctive marking on the maps marked "Hunter Enviro-Mining" held in the Department) by Hunter Enviro-Mining (Operations) Pty Limited (ACN 096 170 633) for or in connection with the use of the land for the

environmental rehabilitation of coal reject emplacement sites (including the extraction of material for the purpose of recovering minerals from the material) is not prospecting or mining.

- (5) A person who carries out any activity that is declared not to be prospecting or mining for the purposes of the Act must pay a royalty to the Minister in respect of any publicly owned minerals recovered as a consequence of the carrying out of that activity.
- (6) In this clause, *evaporation basins* means depressions or structures into which saline groundwater or surface water is pumped or drained for disposal by evaporation, in association with the mitigation or prevention of salinisation of land or water resources.

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Clause 14 Mining Regulation 2010

Part 3 Authorities

Part 3 Authorities

Division 1 Exploration licences

14 Application for exploration licence

- (1) For the purposes of section 13 (5) (f) of the Act, the following information is prescribed:
 - (a) the environmental performance record of the applicant,
 - (b) in the case of an exploration (mineral owner) licence:
 - (i) the privately owned mineral or minerals in relation to which the licence is sought, and
 - (ii) evidence of the applicant's ownership of any such mineral.
- (2) For the purposes of confirming an applicant's ownership of any mineral, the Director-General may require the applicant to provide further information, which may include written advice from an Australian legal practitioner certifying that the relevant evidence establishes that the applicant owns the mineral.

15 Notice of application for exploration licence

- (1) For the purposes of section 13A (1) of the Act, the prescribed period is within 45 days after receipt of confirmation from the Director-General that the application has been lodged.
- (2) For the purposes of section 13A (2) (c) of the Act, the notice of an application for an exploration licence must be in the form, and include the information, required by the Director-General.

16 Size and shape of land subject to exploration licence

- (1) For the purposes of section 25 (1) of the Act, the land over which an exploration licence is granted must be measurable in units, but any area of land to which the exploration licence does not apply may be excluded from any particular unit.
- (2) Despite subclause (1), the land over which an exploration (mineral owner) licence or an exploration licence is granted in respect of a Group 9 mineral may be of any shape or size.

17 Applications for low-impact exploration licences

For the purposes of section 32D (4) of the Act, a low-impact exploration licence is not to be granted during the period of 4 months following service of the notice of the application for the licence on the representative bodies referred to in section 32D (1) (c) of the Act.

18 Renewal of exploration licence

- (1) For the purposes of section 113 (3) of the Act, the following information is prescribed:
 - (a) the licence number or other identifying code for the licence and the date of expiry of the licence,
 - (b) the contact details of the current licence holder,
 - (c) a rehabilitation cost estimate in relation to the licence,
 - (d) a renewal justification statement.
- (2) In the case of an application for the renewal of an exploration licence in respect of part only of the land subject to the licence, the prescribed manner of describing the land over which renewal of the licence is sought is by means of:
 - (a) in the case of an exploration licence for Group 9 minerals—a standard map showing the boundaries of the land, or
Note. Group 9 minerals are listed in Schedule 2.
 - (b) in the case of an exploration (mineral owner) licence—the lot and deposited plan numbers of the land, or
 - (c) in any other case—the area, block and unit references identifying the land, as determined in accordance with Schedule 4.
- (3) For the purposes of section 113 (6) of the Act, the maximum number of parts of an exploration area in respect of which an application for the renewal of an exploration licence may be made is 5.

19 Partial cancellation of exploration licence—manner of describing land

In the case of an application for the cancellation of an exploration licence in respect of part only of the land subject to the licence, the prescribed manner of describing the land in respect of which the licence is to be cancelled is by means of:

- (a) in the case of an exploration licence for Group 9 minerals—a standard map showing the boundaries of the land, or
Note. Group 9 minerals are listed in Schedule 2.
- (b) in the case of an exploration (mineral owner) licence—the lot and deposited plan numbers of the land, or
- (c) in any other case—the area, block and unit references identifying the land, as determined in accordance with Schedule 4.

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Part 3 Authorities

Division 2 Assessment leases

20 Application for assessment lease

- (1) For the purposes of section 33 (5) (h) of the Act, the following information is prescribed:
 - (a) the environmental performance record of the applicant,
 - (b) in the case of an assessment (mineral owner) lease:
 - (i) the privately owned mineral or minerals in relation to which the licence is sought, and
 - (ii) evidence of the applicant's ownership of any such mineral.
- (2) For the purposes of confirming an applicant's ownership of any mineral, the Director-General may require the applicant to provide further information, which may include written advice from a legal practitioner certifying that the relevant evidence establishes that the applicant owns the mineral.

21 Notice of application for assessment lease

- (1) For the purposes of section 33A (1) of the Act, the prescribed period is within 45 days after receipt of confirmation from the Director-General that the application has been lodged.
- (2) For the purposes of section 33A (2) (c) of the Act, the notice of an application for an assessment lease must be in the form, and include the information, required by the Director-General.

22 Renewal of assessment lease

- (1) For the purposes of section 113 (3) of the Act, the following information is prescribed:
 - (a) the lease number or other identifying code for the lease and the date of expiry of the lease,
 - (b) the contact details of the current lease holder,
 - (c) a rehabilitation cost estimate in relation to the lease,
 - (d) a renewal justification statement.
- (2) In the case of an application for the renewal of an assessment lease in respect of part only of the land subject to the lease, the prescribed manner for describing the land over which renewal of the lease is sought is by means of:
 - (a) a standard map showing the boundaries of the land, or
 - (b) in the case of an application in respect of an assessment (mineral owner) lease—the lot and deposited plan numbers of the land, or

- (c) a description of the area, block and unit references identifying the land, as determined in accordance with Schedule 4.

23 Partial cancellation of assessment lease—manner of describing land

In the case of an application for the cancellation of an assessment lease as to part only of the land to which the lease relates, the prescribed manner for describing the land in respect of which the lease is to be cancelled is by means of:

- (a) a standard map showing the boundaries of the land, or
- (b) in the case of an assessment (mineral owner) lease—the lot and deposited plan numbers of the land, or
- (c) a description of the area, block and unit references identifying the land, as determined in accordance with Schedule 4.

Division 3 Mining leases

24 Application for mining lease

- (1) For the purposes of section 51 (5) (f) of the Act, the following information is prescribed:
 - (a) the environmental performance record of the applicant,
 - (b) in the case of a mining (mineral owner) lease:
 - (i) the privately owned mineral or minerals in relation to which the lease is sought, and
 - (ii) evidence of the applicant's ownership of any such mineral.
- (2) For the purposes of confirming an applicant's ownership of any mineral, the Director-General may require the applicant to provide further information, which may include written advice from a legal practitioner certifying that the relevant evidence establishes that the applicant owns the mineral.

25 Notice of application for mining lease

- (1) For the purposes of section 51A (1) of the Act, the prescribed period is within 45 days after receipt of confirmation from the Director-General that the application has been lodged.
- (2) For the purposes of section 51A (2) (c) of the Act, the notice of an application for a mining lease must be in the form, and include the information, required by the Director-General.

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Clause 26 Mining Regulation 2010

Part 3 Authorities

26 Surface activities in relation to subsurface leases

For the purposes of section 81 (1) of the Act, the following activities are prescribed:

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

27 Renewal of mining lease

- (1) For the purposes of section 113 (3) of the Act, the following information is prescribed:
 - (a) the lease number or other identifying code for the lease and the date of expiry of the lease,
 - (b) the contact details of the current lease holder,
 - (c) a rehabilitation cost estimate in relation to the lease,
 - (d) a renewal justification statement.
- (2) In the case of an application for the renewal of a mining lease in respect of part only of the land subject to the mining lease, the prescribed manner of describing the land that will be subject to the mining lease if the application is approved is by means of:
 - (a) a plan prepared in accordance with the statutory surveying requirements, or
 - (b) in the case of a mining (mineral owner) lease—the lot and deposited plan numbers of the land.

28 Partial cancellation of mining lease—manner of describing land

In the case of an application for the cancellation of a mining lease in respect of part only of the land subject to the mining lease, the prescribed manner of describing the land in respect of which the lease is to be cancelled is by means of:

- (a) a plan prepared in accordance with the statutory surveying requirements, or

- (b) in the case of a mining (mineral owner) lease—the lot and deposited plan numbers of the land.

29 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 any conditions that 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) If there is more than one holder of the mining leases to which a declaration under this clause applies, the holders are taken to be joint holders for the purposes of this clause.
- (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 any later date that may be specified in the order.

30 Preparation of proposed consolidated mining lease—manner of describing land

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

Division 4 Variation and transfer of authorities

31 Review of determination of application for variation of prospecting operations under low-impact exploration licence

For the purposes of section 32EA (3) (b) of the Act, the following information is prescribed:

- (a) a copy of the determination in respect of which a review is sought,
- (b) a statement of reasons as to why the determination should be changed.

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32 Transfer of authorities

- (1) For the purposes of section 120 (2) of the Act, the following information is prescribed:
 - (a) the authority number or other identifying code for the authority that is to be transferred,
 - (b) the name of the holder of the authority,
 - (c) the name of the proposed transferee,
 - (d) the environmental performance record of the proposed transferee,
 - (e) in the case of the proposed transfer of a mining lease—details of how the land that is the subject of the proposed transfer will be mined,
 - (f) particulars of financial resources available to the proposed transferee,
 - (g) in the case of the proposed transfer of an exploration licence or an assessment lease—particulars of the proposed program of work,
 - (h) particulars of any technical advice available to the proposed transferee,
 - (i) a rehabilitation cost estimate in relation to the authority proposed to be transferred,
 - (j) the consent of any person that has a registered interest under section 161 of the Act in the authority being transferred,
 - (k) a description of the land prepared in accordance with subclause (2).
- (2) The prescribed manner of describing the land to be transferred in respect of an application for the partial transfer of an authority is by means of:
 - (a) in the case of an exploration licence:
 - (i) in respect of Group 9 minerals—a standard map showing the boundaries of the land, or
Note. Group 9 minerals are listed in Schedule 2.
 - (ii) in any other case—by means of the area, block and unit references identifying the land, as determined in accordance with Schedule 4, or
 - (b) in the case of an assessment lease:
 - (i) a standard map showing the boundaries of the land, or
 - (ii) the area, block and unit references identifying the land, as determined in accordance with Schedule 4, or

- (c) in the case of a mining lease—a plan drawn in accordance with the statutory surveying requirements, or
- (d) in the case of a mineral owner authority:
 - (i) the lot and deposited plan numbers of the land, or
 - (ii) a standard map showing the boundaries of the land.

Division 5 Authorities generally

33 Exemption from or variation of requirement to describe land

- (1) This clause applies to the requirements contained in clauses 18 (2), 19, 22 (2), 23, 27 (2), 28 and 32 (2).
- (2) The Director-General may grant an exemption from, or vary, part or all of a requirement to which this clause applies if satisfied that:
 - (a) the requirement in whole or in part is unduly onerous, or
 - (b) the Department holds a current survey of the relevant boundaries of the land.

34 Records concerning authorities

- (1) For the purposes of section 159 (2) of the Act, the record required to be kept must be kept in written or electronic form and must contain the following particulars:
 - (a) the application number, the departmental file number, the type of authority and its authority number or other identifying code,
 - (b) the date on which the authority was first granted and, if relevant, the date of the expiration or cancellation of the authority,
 - (c) the name and address of each applicant or holder of the authority,
 - (d) the address of each applicant or holder of the authority, or of the registered office of any such person,
 - (e) a description of the authority area,
 - (f) the mineral or minerals, or the group or groups of minerals, to which the authority relates,
 - (g) in the case of a mining lease granted in respect of one or more mining purposes—the mining purpose or mining purposes to which the authority relates,
 - (h) the period for which the authority is to have effect,
 - (i) the current status of the authority (for example, “current”, “expired” or “cancelled”),
 - (j) any interest in the authority registered under section 161 of the Act,

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- (k) the amount of security that is required or held in relation to the authority,
 - (l) the royalty rate that applies to the authority,
 - (m) the name and address of the colliery or mine to which the authority relates, if relevant.
- (2) For the purposes of sections 159 (3) and 161 (9) of the Act, the prescribed offices of the Department are the Maitland and Orange offices.

35 Register of colliery holdings

- (1) For the purposes of section 163 (1) of the Act, the register of colliery holdings 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 of colliery holdings must contain the following particulars for each colliery holding:
- (a) the name and address of each person who has an interest in the colliery holding,
 - (b) a description of the land comprised in the colliery holding,
 - (c) 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 (10) of the Act, the prescribed office of the Department at which the register of colliery holdings must be kept is Maitland.

36 Registration of mining subleases

- (1) For the purposes of section 163A (1) of the Act, the following information must be recorded in the register of mining subleases:
- (a) details of the lease being sublet,
 - (b) a description of the sublease area,
 - (c) the term of the sublease, including the date of commencement and expiry,
 - (d) the name of each sublessee of the sublease area,
 - (e) the name of the primary lessee of the lease being sublet,
 - (f) the sublease number or other identifying code for the sublease.
- (2) For the purposes of section 163A (4) (f) of the Act, the following information must accompany an application for registration:
- (a) the name and contact details of each sublessee,

- (b) the consent of each sublessor,
 - (c) the date of commencement and expiry of the sublease,
 - (d) the consent of any persons with a registered interest in the lease being sublet.
- (3) For the purposes of section 163A (7) of the Act, an application to register, renew or vary a sublease is exempt from the requirement to obtain the approval of the Minister under section 163A (3) of the Act if:
- (a) the sublessee is the leaseholder of an adjoining lease or sublease area, and
 - (b) the total sublease area (including the area of any adjoining subleases) does not exceed 100 hectares, and
 - (c) the term of the sublease does not exceed 5 years, including any consecutive sublease periods and options for extension.
- (4) For the purposes of section 163A (8) of the Act, the prescribed office of the Department at which the register of mining subleases must be kept is Maitland.

37 Rights of way

- (1) For the purposes of section 164 (1) of the Act, a right of way to which the holder of an authority (other than a mineral owner authority) is entitled is to be:
- (a) indicated by marker posts located along the route of the right of way in accordance with this clause, or
 - (b) indicated or described in such other manner as is agreed in writing by the landholder and the holder of the authority.
- (2) The marker posts are to be located:
- (a) at the start and finish of the right of way, and
 - (b) at intervals of not more than 250 metres, and
 - (c) at each point where the route of the right of way changes direction.
- (3) A marker post referred to in subclause (2) must bear a tag showing:
- (a) the coordinates of the post's position, and
 - (b) the authority number or other identifying code for the authority, and
 - (c) the name of the holder of the authority.
- (4) For the purposes of subclause (3) (a), the coordinates of a marker post:
- (a) are to be established by means of a Global Positioning System device, and

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- (b) must be identified in the Map Grid of Australia coordinate system.
- (5) Provided that the requirements referred to in subclause (3) are met by each holder of an authority for which a marker post indicates the right of way, the same marker post may be used to indicate a right of way in relation to 2 or more authorities.
- (6) The holder of the authority must prepare a map of the right of way and cause copies of the map to be given to each landholder affected by the right of way.
- (7) A map referred to in subclause (6) must describe the route of the right of way (which must be no more than 10 metres wide) and must indicate the coordinates of the position of each picket or post.
- (8) Each holder of an authority who is entitled to the right of way must ensure that a marker post referred to in subclause (2) is properly maintained.
Maximum penalty: 20 penalty units.
- (9) For the purposes of section 164 (6) 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 landholder such amount, by way of compensation, as is agreed in writing by the holder of the authority and the landholder (or, in default of agreement, as is assessed by the Land and Environment Court at the request of the holder of the authority or the landholder),
 - (b) if the right of way passes over:
 - (i) any garden, orchard or land under cultivation, or
 - (ii) any land on which is situated a significant improvement, 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 landholder.

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Division 1 Mineral claims

38 Marking out of proposed claim area

- (1) For the purposes of section 176 (1) of the Act, a proposed claim area is to be marked out with marker posts located along the boundaries of the proposed claim area.
- (2) A marker post may be used to mark out more than one claim area (proposed or otherwise), but only with the written consent of each applicant for the mineral claim relating to that area or of each holder of that claim area.
- (3) The area marked out for a proposed mineral claim must, as far as practicable, be square or rectangular in shape and no side of the area may exceed 200 metres in length.
- (4) The marker posts are to be located at each point where the boundaries change direction.
- (5) The boundaries of the proposed claim area 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 marker post.
- (6) If it is impractical to comply with subclause (5), steel direction indicators must be attached to each marker post showing the alignment of the claim boundaries. The steel direction indicators must be of a design acceptable to the Director-General.
- (7) There is to be attached to:
 - (a) the marker post indicating the northernmost corner of the proposed claim area, or
 - (b) if there are 2 or more such posts, the easternmost of them,a board or plate (made of wood or metal) to which is fixed a notice of the proposed mineral claim.
- (8) 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 mineral claim has been marked out,

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- (c) the date on which the proposed mineral claim was marked out,
 - (d) the name and address of the applicant for the proposed mineral claim.
- (9) As soon as practicable (but not later than 14 days) 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 mineral claim was granted,
 - (b) the mineral claim number or other identifying code for the mineral claim.
- (10) The requirements of subclause (9) are satisfied if the holder of the mineral claim replaces the notice with a new notice containing the particulars required by subclauses (8) and (9).
- (11) The applicant for a mineral claim must ensure that any marker post and any notice required by this clause is properly maintained and replaced, if lost or damaged, until the application is determined and, if the claim is granted, while the claim is in force.
- Maximum penalty: 20 penalty units.

39 Notice of intention to apply for mineral claim

- (1) 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.
- (2) For the purposes of section 177 (2) of the Act, the land to which an application for a mineral claim relates must be identified on a map of at least 1:100,000 scale that clearly indicates the extent and location of that land relative to property boundaries and man-made features such as roads, fences and buildings.

40 Application for granting of mineral claim

- (1) For the purposes of section 178 (2) (a) of the Act, an application for a mineral claim must identify the land to which the application relates in a manner that clearly indicates:
- (a) the location of each marker post used to mark out the proposed claim area, and
 - (b) the length of each boundary of the proposed claim area, and
 - (c) the location of any right of way or routes giving access to the proposed claim area as provided for in an access management plan registered under section 236I of the Act.

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- (2) The land must be identified by a map on which the land is shown in some distinctive manner, indicating the distance and bearing of each side of the proposed claim area and a connection, by distance and bearing, to a survey mark.
- (3) For the purposes of section 178 (2) (d) of the Act, the following information must accompany an application for the granting of a mineral claim:
- (a) the name of the applicant,
 - (b) if the applicant is an individual—the date of birth of the applicant,
 - (c) the address and contact details of the applicant,
 - (d) if the applicant is a corporation—the name of each director of that corporation,
 - (e) the environmental performance record of the applicant,
 - (f) details of any other claims or areas applied for (whether or not held or applied for by the applicant) with which that claim will be worked as part of a single mining operation,
 - (g) details of the proposed method of mining,
 - (h) a copy of the notice required to be given under section 177 of the Act.
- (4) Despite clause 76 (1), an application for the granting of a mineral claim must be lodged as follows:
- (a) in relation to land within the Lightning Ridge Mineral Claims District—in person at the Lightning Ridge office of the Department,
 - (b) in relation to land within the White Cliffs Mineral Claims District—in person at, or by post or facsimile to, the Lightning Ridge office of the Department.
- Note.** Clause 76 contains provisions relating to the lodgment of applications.

41 Determination of order of dealing with simultaneous applications for mineral claims

- (1) 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 Director-General to conduct a lottery 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,

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- (c) the Director-General is then, without looking, to select each of the tickets, one by one, from the box or receptacle.
- (2) The lottery may be conducted in the presence of any applicant or representative of an applicant.
- (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.

42 Application for renewal of mineral claim

Despite clause 76 (1), an application for the renewal of a mineral claim must be lodged in person at, or by post or facsimile to, the Lightning Ridge office of the Department.

Note. Clause 76 contains provisions relating to the lodgement of applications.

43 Application for transfer of mineral claim

- (1) For the purposes of section 200 (2) (c) of the Act, an application for the transfer of a mineral claim must contain the following information:
 - (a) the mineral claim number or other identifying code for the mineral claim,
 - (b) the name of the holder of the mineral claim,
 - (c) the name of the proposed transferee,
 - (d) the environmental performance record of the proposed transferee,
 - (e) the consent of any person who has a registered legal or equitable interest in the mineral claim being transferred.
- (2) Despite clause 76 (1), an application for the transfer of a mineral claim must be lodged as follows:
 - (a) in relation to land within the Lightning Ridge Mineral Claims District—in person at the Lightning Ridge office of the Department,
 - (b) in relation to land within the White Cliffs Mineral Claims District—in person at, or by post or facsimile to, the Lightning Ridge office of the Department.

Note. Clause 76 contains provisions relating to the lodgment of applications.

44 Partial cancellation of mineral claim—manner of describing land

For the purposes of section 203 (2) (b) of the Act, the prescribed manner of describing the land in respect of which the claim is to be cancelled is by means of a map indicating the distance and bearing of each side of the area and a connection, by distance and bearing, to a survey mark.

45 Rights of way

- (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:
 - (a) indicated by marker posts located along the route of the right of way in accordance with this clause, or
 - (b) indicated or described in such other manner as is agreed in writing between the landholder and the holder of the mineral claim.
- (2) The marker posts are to be located:
 - (a) at the start and finish of the right of way, and
 - (b) at intervals of not more than 250 metres, and
 - (c) at each point where the route of the right of way changes direction.
- (3) A marker post referred to in subclause (2) must bear a tag showing:
 - (a) the coordinates of the post's position, and
 - (b) the mineral claim number or other identifying code for the mineral claim, and
 - (c) the name of the holder of the mineral claim.
- (4) For the purposes of subclause (3) (a), it is sufficient for the coordinates of a marker post to be established by means of a Global Positioning System device.
- (5) If a right of way is marked out in accordance with subclause (2), the holder of the mineral claim must prepare a map of the right of way and cause copies of the map to be given to each landholder affected by the right of way.
- (6) A map referred to in subclause (5) must describe the route of the right of way (which must be no more than 10 metres wide) and must indicate the coordinates of the position of each marker post that bears a tag referred to in subclause (3).
- (7) Each holder of a mineral claim who is entitled to the right of way must ensure that a marker post referred to in subclause (2) is properly maintained.

Maximum penalty: 20 penalty units.
- (8) For the purposes of section 211 (6) (a) 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 landholder such amount, by way of compensation, as is agreed in writing by the holder of the mineral claim and the

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landholder (or, in default of agreement, as is assessed by the Land and Environment Court at the request of the holder of the mineral claim or the landholder),

- (b) if the right of way passes over:
 - (i) any garden, orchard or land under cultivation, or
 - (ii) any land on which is situated a significant improvement, 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 landholder,
- (c) the holder of the mineral claim who is entitled to the right of way is not to exercise the right of way before 7.00 am or after 6.00 pm, unless it is with the written consent of the landholder,
- (d) the holder of the mineral claim who is entitled to the right of way is not to exercise the right of way during or less than 24 hours after wet weather, unless it is with the written consent of the landholder.

46 Compensation arising under mineral claim

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

Division 2 Opal prospecting licences

47 Objections

- (1) 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 land to an existing opal prospecting area, are as follows:
 - (a) that the land to which the objection relates is a garden or an orchard or is within 50 metres of a garden or an 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 situated a significant improvement other than an improvement constructed or used for mining purposes and for no other purposes.

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- (2) For the purposes of section 222 (4) of the Act, a person to whom the Director-General must refer any objection for inquiry and report must be:
- (a) registered as a valuer under the *Valuers Act 2003*, or
 - (b) an Australian lawyer of at least 7 years' standing.

48 Applications for opal prospecting licences

For the purposes of section 226 (2) (b) of the Act, the following information must accompany an application for an opal prospecting licence over an opal prospecting block:

- (a) the name of the applicant,
- (b) if the applicant is an individual—the date of birth of the applicant,
- (c) the address and contact details of the applicant,
- (d) if the applicant is a corporation—the name of each director of that corporation,
- (e) the environmental performance record of the applicant.

49 Lodgment of applications for opal prospecting licences

- (1) Despite clause 76 (1), an application for an opal prospecting licence must be lodged as follows:
- (a) in relation to land within the Lightning Ridge Mineral Claims District—in person at the Lightning Ridge office of the Department,
 - (b) in relation to land within the White Cliffs Mineral Claims District—in person at, or by post or facsimile to, the Lightning Ridge office of the Department.

Note. Clause 76 contains provisions relating to the lodgment of applications.

- (2) Only one application per person may be lodged in respect of each opal prospecting block on any day on which an application may be lodged or may be taken to have been lodged.

50 Determination of order of dealing with simultaneous applications for opal prospecting licences

- (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 Director-General to conduct a lottery 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,

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- (b) the tickets are to be placed in a box or other receptacle and thoroughly mixed,
 - (c) the Director-General is then, without looking, to select each of the tickets, one by one, from the box or receptacle.
- (2) The lottery may be conducted in the presence of any applicant or representative of an applicant.
- (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.

51 Register of opal prospecting licences

For the purposes of section 235A (2) of the Act, the record must contain the following particulars:

- (a) the name of the applicant,
- (b) if the application is granted:
 - (i) the name of the holder of the licence, and
 - (ii) the licence number or other identifying code for the opal prospecting licence, and
 - (iii) the term of the opal prospecting licence, including the date of commencement and expiry of that term.

52 Rights of way

- (1) For the purposes of section 235C (1) of the Act, a right of way to which the holder of an opal prospecting licence is entitled under that section is to be:
- (a) indicated by marker posts along the route of the right of way in accordance with this clause, or
 - (b) indicated or described in such other manner as is agreed in writing by the landholder and the holder of the opal prospecting licence.
- (2) The marker posts are to be located:
- (a) at the start and finish of the right of way, and
 - (b) at intervals of not more than 250 metres, and
 - (c) at each point where the route of the right of way changes direction.
- (3) A marker post referred to in subclause (2) must bear a tag showing:
- (a) the coordinates of the post's position, and

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- (b) the licence number or other identifying code for the opal prospecting licence, and
 - (c) the name of the holder of the opal prospecting licence.
- (4) For the purposes of subclause (3) (a), it is sufficient for the coordinates of a marker post to be established by means of a Global Positioning System device.
- (5) If a right of way is marked out in accordance with subclause (2), the holder of the opal prospecting licence must prepare a map of the right of way and cause copies of the map to be given to each landholder affected by the right of way.
- (6) A map referred to in subclause (5) must describe the route of the right of way (which must be no more than 10 metres wide) and must indicate the coordinates of the position of each marker post that bears a tag referred to in subclause (3).
- (7) Each holder of an opal prospecting licence who is entitled to the right of way must ensure that a marker post referred to in subclause (2) is properly maintained.
Maximum penalty: 20 penalty units.
- (8) For the purposes of section 235C (6) (a) of the Act, the exercise of a right of way conferred by that section is subject to the following conditions:
- (a) if the right of way passes over:
 - (i) any garden, orchard or land under cultivation, or
 - (ii) any land on which is situated a significant improvement, being land that was, when the right of way was marked out, land of that nature, the holder of the opal prospecting licence who is entitled to the right of way is not to exercise the right of way otherwise than in accordance with the consent of the landholder,
 - (b) the holder of the opal prospecting licence who is entitled to the right of way is not to exercise the right of way before 7.00 am or after 6.00 pm, unless it is with the written consent of the landholder,
 - (c) the holder of the opal prospecting licence who is entitled to the right of way is not to exercise the right of way during or less than 24 hours after wet weather, unless it is with the written consent of the landholder.

53 Compensation arising under opal prospecting licence

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

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Division 3 Access management plans

54 Miners' representative

For the purposes of the definition of *miners' representative* in the Dictionary to the Act, an office holder of:

- (a) the Lightning Ridge Miners' Association, who is nominated by that Association, is the miners' representative in relation to any access management plan over the land within the area covered by that Association, and
- (b) the Glengarry-Grawin Sheeppark Miners' Association, who is nominated by that Association, is the miners' representative in relation to any access management plan over the land within the area covered by that Association.

55 Lodgment of access management plans

An access management plan that has been agreed on under section 236E of the Act must be lodged with the Director-General by the miners' representative at the Lightning Ridge office of the Department.

56 Applications for determination of access management plans

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

Part 5 Exploration reports

57 Exploration reports (geological, geophysical etc)

- (1) For the purposes of section 163C (2) (a) of the Act, the following reports must be lodged with the Director-General:
 - (a) an **annual exploration report** being a report containing:
 - (i) full particulars of all surveys and other operations, including details of expenditure on prospecting operations carried out by or on behalf of the holder of the authorisation during the preceding 12 month period within which the authorisation had effect, and
 - (ii) the results and conclusions of such surveys and any other operations, and
 - (iii) the exploration proposed to be conducted during the next 12 month period,
 - (b) a **geophysical survey results report** being a report in relation to geophysical survey results concerning the land that is subject to an authorisation,
 - (c) a **renewal justification statement** being a statement that contains the following:
 - (i) details of the prospecting operations carried out in the authorisation area during the current term of the authorisation including:
 - (A) the types of prospecting operations carried out, and
 - (B) the location of prospecting operations carried out (identified on an A4-sized cadastral map), and
 - (C) any expenditure incurred in relation to those prospecting operations,
 - (ii) a summary of the results of such prospecting operations and the conclusions reached in relation to the potential resources of the authorisation area,
 - (iii) particulars of the program of work proposed to be carried out by the applicant in the authorisation area,
 - (iv) particulars of the estimated amount of money that the applicant proposes to spend on prospecting in the authorisation area,
 - (v) particulars of the financial resources and relevant technical advice available to the applicant,
 - (vi) a statement giving the reasons that the applicant considers the renewal to be justified,

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Clause 57 Mining Regulation 2010

Part 5 Exploration reports

- (d) a ***partial relinquishment report***, being a report in relation to land that is subject to an authorisation immediately before its relinquishment in a partial cancellation or partial renewal of the authorisation, containing the following:
 - (i) a summary of all surveys and other operations carried out by or on behalf of the holder of the authorisation during the period within which the land that has been relinquished was subject to the authorisation, and
 - (ii) detailed data of all surveys and other operations, and
 - (iii) the results and conclusions of such surveys and any other operations,
 - (e) a ***final report*** being a report containing the following:
 - (i) a summary of all surveys and other operations carried out by or on behalf of the holder of the authorisation on the land that has been relinquished during the period within which the authorisation had effect, and
 - (ii) detailed data of all surveys and other operations if such data has not been provided in previous annual reports, and
 - (iii) the results and conclusions of such surveys and any other operations.
- (2) Each report must be lodged at the following times:
- (a) in the case of an annual exploration report—within 30 days of the expiration of each 12 months after the date on which the term of the authorisation commenced (regardless of whether an application to renew the authorisation area has been lodged and not yet determined),
 - (b) in the case of a geophysical survey results report—within 6 months of the completion of any geophysical survey,
 - (c) in the case of a renewal justification statement—at the time of applying for a renewal of the authorisation area,
 - (d) in the case of a partial relinquishment report—within 30 days of the publication in the Gazette of the notice of the partial cancellation or partial renewal as referred to in section 136 of the Act,
 - (e) in the case of a final report—within 30 days of the expiry or cancellation of the authorisation.

Note. The period for lodging a report may be extended—see clause 60.

- (3) Each report must:
- (a) comply with *Exploration Reporting: A guide for reporting on exploration and prospecting in New South Wales* (Department of Industry and Investment, 2010), and
 - (b) be verified by a qualified geoscientist, and
 - (c) contain all maps, plans and data necessary to satisfactorily interpret and evaluate the report.

58 Confidentiality of reports

- (1) The following reports that have been lodged with the Director-General under this Division are to be kept confidential:
- (a) annual exploration reports,
 - (b) renewal justification statements in respect of the information referred to in clause 57 (1) (c) (i) and (ii),
 - (c) geophysical survey results reports.
- (2) A report must be kept confidential:
- (a) for the period during which the authority to which the report relates is in force, and
 - (b) if the report is lodged in relation to an exploration licence—for the period during which any assessment lease or mining lease subsequently granted to the same person (or to a nominee of that person) in respect of the same land and mineral is in force.
- (3) Subclause (2) continues to apply to a report if an authority referred to in that subclause is subsequently transferred to another person.
- (4) The Minister may extend the period during which a report is to be kept confidential.

59 Publication of reports

- (1) The Minister may arrange for a report to be published, printed or adapted at any time after the period during which it is to be kept confidential expires.
- (2) Any report published, printed or adapted under subclause (1) is to contain a statement acknowledging any person's copyright in the report.

60 Exemption from lodgment of reports

- (1) For the purposes of section 163C (2) (b) of the Act, the Director-General may, by order published in the Gazette, exempt any person, class of persons, authorisation or class of authorisations from a requirement to prepare and lodge a report.

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Part 5 Exploration reports

- (2) The holder of an authorisation may apply to the Director-General for an exemption from a requirement to prepare and lodge a report under section 163C of the Act or for an extension of the period during which a report must be lodged under clause 57.
- (3) An application for an exemption or an extension must be lodged with the Director-General not less than 30 days before the date the report is required to be lodged and must contain the following information:
 - (a) the authority number or other identifying code for the authority,
 - (b) the name of the holder of the authority,
 - (c) whether an exemption or an extension is sought,
 - (d) in the case of an extension—the period of the extension sought,
 - (e) the reason for the exemption or extension.
- (4) On receipt of an application for an exemption or extension the Director-General may do any one of the following:
 - (a) grant an extension of the time by which a report must be lodged,
 - (b) grant an exemption,
 - (c) refuse the application.
- (5) The Director-General must advise the applicant of the determination in writing within 21 days of receipt of the application.

Part 6 Protection of the environment

61 Use of information and protected documents

- (1) For the purposes of sections 246T (3), 246W (1) (a) and 365 (1) (g) of the Act, the following legislation is prescribed:
 - (a) *Coal Mine Health and Safety Act 2002*,
 - (b) *Crimes Act 1900*,
 - (c) *Electricity Supply Act 1995*,
 - (d) *Explosives Act 2003*,
 - (e) *Forestry Act 1916*,
 - (f) *Hunter Water Act 1991*,
 - (g) *Mine Health and Safety Act 2004*,
 - (h) *Occupational Health and Safety Act 2000*,
 - (i) *Pipelines Act 1967*,
 - (j) *Sydney Water Act 1994*,
 - (k) environment protection legislation and other relevant legislation.
- (2) For the purposes of section 246W (1) (b) of the Act, the following agencies, departments and authorities are prescribed authorities:
 - (a) a catchment management authority established under the *Catchment Management Authorities Act 2003*,
 - (b) the Dams Safety Committee constituted under the *Dams Safety Act 1978*,
 - (c) Land and Property Management Authority,
 - (d) a livestock health and pest authority constituted for a district under the *Rural Lands Protection Act 1998*,
 - (e) a local council,
 - (f) Maritime Authority of NSW,
 - (g) Mine Subsidence Board,
 - (h) NSW Police Force,
 - (i) WorkCover Authority of New South Wales,
 - (j) Roads and Traffic Authority,
 - (k) Sydney Catchment Authority,
 - (l) Sydney Harbour Foreshore Authority,
 - (m) Western Lands Commissioner,
 - (n) any other agency or authority administering any legislation set out in subclause (1).

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Clause 62 Mining Regulation 2010

Part 7 Royalty

Part 7 Royalty

62 Rates of royalty for minerals other than coal

- (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 of mineral recovered that is specified in that Schedule, and
 - (b) the base rate of royalty payable in respect of any other mineral (other than coal) is 4 per cent of the value of mineral recovered.
- (2) 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.

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.

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.

63 Rates of royalty for coal

- (1) For the purposes of section 283 (1) (a) of the Act, the base rate of royalty for coal is as follows:
 - (a) 8.2% of the value of coal recovered by open cut mining,
 - (b) 7.2% of the value of coal recovered by underground mining,
 - (c) 6.2% of the value of coal recovered by deep underground mining.
- (2) For the purposes of this clause, the quantity of coal taken to have been recovered during any particular period is the quantity of coal disposed of by the holder of the mining lease during the period, as determined by the Minister having regard to any records kept by the holder of the mining lease.

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- (3) For the purposes of this clause, if there is a dispute as to the extent to which subclause (1) (a), (b) or (c) applies, the dispute must be referred to the Minister who may determine the extent to which each of those subclauses applies.
- (4) Any determination made by the Minister under subclause (3) is final and binding.
- (5) In this clause:
- deep underground mining*** means mining carried out at a mine in which coal situated at a depth of 400 metres or more is extracted by means other than open cut methods.
- open cut mining*** means mining carried out at a mine in which coal is extracted by open cut methods.
- underground mining*** means mining (other than deep underground mining) carried out at a mine in which coal is extracted other than by open cut methods.

64 Returns

- (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 6—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
- (iii) in the case of any mineral—any other matters required by the Director-General to be shown, and
- (b) royalty returns must be furnished:
- (i) in the case of minerals other than coal—at the time at which the royalty is payable, and
- (ii) in the case of coal—monthly or in any case not later than the 21st day of the following month.
- (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

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Clause 65 Mining Regulation 2010

Part 7 Royalty

- (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 each return period, and
- (d) records of the price obtained or consideration received for minerals disposed of during each return period, and
- (e) records of all royalties that became payable during each return period in connection with the disposal of minerals (including any documents relating to the calculation of that royalty), and
- (f) any other records relating to the minerals required by the Director-General to be kept.

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.
- (3) The records referred to in subclause (2) must be retained by the holder of the mining lease for a period of at least 7 years after the end of the financial year in which the extraction to which the records relate occurred.

65 Payment of royalty

- (1) This clause prescribes the times at which, and the periods in respect of which, a 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, a 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, the royalty is payable within 21 days after the beginning of each month.

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Clause 66 Mining Regulation 2010

Part 8 Mine Safety Advisory Council

Part 8 Mine Safety Advisory Council

66 Membership of Council

- (1) In this Part and Schedule 7:
member means a member of the Council.
Note. Schedule 7 contains provisions with respect to the members and procedure of the Council.
- (2) The Council is to consist of the following members appointed by the Minister:
 - (a) one or more persons nominated by each of the following bodies to represent employers:
 - (i) the NSW Minerals Council (in respect of employers in the coal sector),
 - (ii) the NSW Minerals Council (in respect of employers in the metalliferous sector),
 - (iii) Cement Concrete & Aggregates Australia,
 - (b) one or more persons nominated by each of the following bodies to represent employees:
 - (i) the Construction Forestry Mining and Energy Union, Mining and Energy Division,
 - (ii) the Australian Workers Union, Greater New South Wales Branch,
 - (c) the Director-General of the Department or a representative of the Department nominated by the Director-General,
 - (d) one or more persons who in the Minister's opinion are independent of the bodies referred to in paragraphs (a) or (b) and also have expertise that would be of assistance to the Council.
- (3) The Minister is to appoint a person appointed under subclause (1) (d) as Chairperson of the Council.
- (4) The secretary of the Council is to be an officer of the Department appointed by the Director-General.
- (5) Equal numbers of persons are to be appointed under subclause (2) (a) and (2) (b).
- (6) The Minister may decline to accept the nomination of any candidate.
- (7) If a body referred to in subclause (2) (a) or (b) fails to nominate a candidate within 60 days after being requested to do so by the Minister, or fails to nominate within that period a candidate whose nomination is accepted by the Minister, the Minister may appoint any person whom

the Minister considers suitable to represent the interests of the body as a member of the Council, instead of a person nominated by the body.

67 Functions of Council

For the purposes of section 341 (2) (b) of the Act, the prescribed functions of the Mine Safety Advisory Council are:

- (a) to advise the Minister on any matter, other than a policy matter, relating to occupational health and safety in mines that is referred to it by the Minister, and
- (b) to advise the Minister on any other matter, other than a policy matter, relating to occupational health and safety in mines that it considers relevant.

Note. Section 341 (2) (a) of the Act provides that the Council has the function of providing advice to the Minister on any policy matter relating to occupational health and safety in mines.

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Clause 68 Mining Regulation 2010

Part 9 Boards of management

Part 9 Boards of management

68 Boards to be constituted by Ministerial order

- (1) In this Part and Schedule 8:
appointed member means a member of a board who is appointed by the Minister.
Note. Schedule 8 contains provisions with respect to the members and procedure of boards of management.
- (2) A board is constituted by means of an order published in the Gazette by the Minister.
- (3) An order must:
 - (a) specify the board's name, and
 - (b) describe the board's area of operations, and
 - (c) specify the number of board members, and
 - (d) specify the persons who are to be board members by virtue of their office, and
 - (e) specify the persons or bodies who are to be authorised to nominate persons for appointment as board members, and the number of persons they are authorised to nominate, and
 - (f) specify which of the board members is to be the Chairperson of the board.
- (4) The board members (other than those who are members by virtue of their office) are to be appointed by the Minister.
- (5) The secretary of a board is to be an officer of the Department appointed by the Director-General.
- (6) An order under this clause commences on the day it is published in the Gazette or, if a later day for commencement is specified in the order, on the later day.

69 Nominations for membership of board

- (1) The secretary of a board must cause a written notice to be sent to each person or body who is authorised to nominate a person for appointment as an appointed member of the board.
- (2) Notices under this clause must be sent as follows:
 - (a) within one month after the publication in the Gazette of the order by which the board is constituted,
 - (b) at least one month before the end of a current appointed member's term of office,

- (c) within one month after a casual vacancy arises in a current appointed member's office.
- (3) Despite subclause (1), a notice required to be given at the time specified in subclause (2) (b) or (c) need be given only to the persons or bodies authorised to nominate a person for appointment in respect of the following board members:
 - (a) the board member whose term of office is coming to an end (in the case of a notice required to be given at the time specified in subclause (2) (b)), or
 - (b) the board member in respect of whom a casual vacancy has arisen (in the case of a notice required to be given at the time specified in subclause (2) (c)).
- (4) A notice under this clause must invite the persons or bodies concerned to send nominations to the secretary within the time specified in the notice (being at least 14 days from the date of service of the notice).
- (5) If a person or body fails to nominate a person as a board member within the specified time, the Minister may appoint, as that member, any person who in the Minister's opinion represents the interests of the person or body.

70 Annual report to Minister

- (1) On or before 31 July each year, a board is to prepare and present to the Minister an annual report for the period of 12 months ending on the preceding 30 June.
- (2) The report must set out the board's membership, a summary of its activities and achievements during the year and its plans for the following year.

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Clause 71 Mining Regulation 2010

Part 10 Significant improvement claims

Part 10 Significant improvement claims

71 Inquiry and report concerning significant improvement claim

- (1) For the purposes of clause 23B (1) of Schedule 1 to the Act, a person to whom the Director-General must refer any objection made under clause 23A of Schedule 1 to the Act for inquiry and report must be:
 - (a) registered as a valuer under the *Valuers Act 2003*, or
 - (b) an Australian lawyer of at least 7 years' standing.
- (2) A person to whom the Director-General has referred any such objection must, as soon as practicable, notify the landholder and the applicant who made the objection of the following:
 - (a) the name and contact details of the person,
 - (b) that the person has received the referral from the Director-General for the person's inquiry and report,
 - (c) that the person will take steps to reach agreement with the landholder on a particular time at which the person may inspect the improvement for the purpose of the inquiry,
 - (d) that a copy of the draft report will be made available to the landholder and the applicant.
- (3) As soon as practicable after reaching agreement on a time at which the person may inspect the improvement, the person must notify the applicant:
 - (a) of the date and time of the inspection, and
 - (b) if the landholder or the landholder's agent will be attending the inspection, that the applicant and any agent of the applicant may also attend the inspection.
- (4) If the person is unable to reach agreement with the landholder on a time at which the person may inspect the improvement, the person must, before preparing the draft report, provide the landholder and the applicant with a statement as to what steps have been taken to reach agreement to inspect the improvement and that agreement cannot be reached.
- (5) If, in the opinion of the person, the landholder unreasonably withholds consent to inspect the improvement, the person may declare that the improvement is not a significant improvement.
- (6) An inquiry referred to in this clause must be conducted in accordance with any guidelines approved by the Director-General.
- (7) At the conclusion of the inquiry into the objection, the person must:
 - (a) prepare a draft report, and

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- (b) send a copy of that report to the landholder and the applicant, and
 - (c) provide the landholder and the applicant with 14 days within which to make a written response to the draft report.
- (8) The person to whom the objection was referred must take into consideration any response received in accordance with subclause (7) (c) when finalising the report to be submitted to the Minister.

72 Referral of significant improvement claims

- (1) A referral under clause 23B (1) of Schedule 1 to the Act must be made in writing and must include the following information:
 - (a) the name and contact details of the landholder,
 - (b) in the case of a claim relating to an application for a mining lease—the name and contact details of the applicant,
 - (c) a copy of the claim lodged by the landholder,
 - (d) a copy of the objection lodged by the applicant.
- (2) As soon as practicable after making the referral referred to in subclause (1), the Director-General must notify the landholder and the applicant that the referral has been made.

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Clause 73 Mining Regulation 2010

Part 11 Miscellaneous

Part 11 Miscellaneous

73 Permits to enter land

- (1) A permit under section 254 of the Act must not be granted to an applicant unless the Director-General is satisfied as to the applicant's identity, having inspected a document (such as a driver licence) that bears both the applicant's photograph and the applicant's residential address.
- (2) The holder of a permit under section 254 of the Act, and any employee or agent of the holder, may enter the land to which the permit relates only between the hours of 9.00 am and 5.00 pm from Monday to Friday (excluding public holidays), unless the permit otherwise specifies.
- (3) The holder of a permit must comply with all reasonable requests made by the holder of the land to which the permit relates in relation to the manner and time of entry, provided the requests do not prevent the holder of the permit from carrying out the activities authorised by the permit.
- (4) For the purposes of section 260 of the Act, a permit is to be in Form 1 as set out in Schedule 9.

74 Compensation

- (1) 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.
- (2) For the purposes of section 272 (1) (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,
 - (d) the use of the land that is approved under any development consent that is in force in respect of the land.

75 Fees

- (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.

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- (2) The matters for which fees are payable under the Act and this Regulation are set out in Column 1 of Schedule 10.
 - (3) The fee for a particular matter is the amount set out opposite the matter in Column 2 of that Schedule.

76 Applications

- (1) Applications made under the Act in relation to authorities may be lodged either in person, by facsimile, by post or electronically.
- (2) An application that is required to be lodged with the Director-General may be lodged instead with any other person to whom the Director-General delegates the function of receiving applications under the Act.
- (3) An application that is lodged in person with the Director-General or any other person nominated under this clause may be lodged on any day (other than a Saturday, Sunday or public holiday) between the hours of 9.30 am and 4.30 pm.
- (4) If an application is lodged in person, the application is presumed to have been lodged on the date and at the time on which it is received.
- (5) If an application is lodged by post, the application is presumed to have been lodged at 9.30 am on the day on which it is received.
- (6) Despite any other provision of this clause, if an application is required to be accompanied by a fee, the application is taken to have been lodged on the date determined in accordance with this clause only if the fee is paid to and received by the Department.
- (7) If an application is lodged by facsimile and the receiving facsimile machine records its receipt at a particular date and time, the application is presumed to have been lodged on the date and at the time shown on the last page of the application that is received by the facsimile.
- (8) If an application is lodged electronically, the application is presumed to have been lodged on the date and at the time determined by the relevant information system in accordance with the *Electronic Transactions Act 2000*.
- (9) If an application is lodged and any information that is required to accompany that application is lodged with the Director-General more than 10 business days after lodging the application, the application is taken to have been refused.
- (10) In this clause, ***information system*** has the same meaning as in the *Electronic Transactions Act 2000*.

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Clause 77 Mining Regulation 2010

Part 11 Miscellaneous

77 Notification of landholder of intention to invite tenders for mining lease—manner of describing land

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 the approved form.

78 Mining statistics and returns

- (1) The Director-General may direct the holder of an authorisation:
 - (a) to keep any statistics in relation to the conduct of prospecting operations and mining operations, and to the treatment and disposal of minerals recovered, under the authorisation, and
 - (b) to furnish to the Director-General any returns in connection with those statistics.
- (2) Any statistics required to be kept under subclause (1) are to be kept in the form that the Director-General may determine from time to time.
- (3) Any returns required to be furnished are to be furnished at any time and in respect of any periods that the Director-General may determine.
- (4) The holder of an authorisation 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:

 - (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.

79 Mine safety legislation

For the purposes of the definition of *mine safety legislation* in section 378E (4) of the Act, the *Explosives Act 2003* is prescribed.

80 Penalty notices for contraventions of conditions of authorisations

- (1) For the purposes of section 378K of the Act:
 - (a) each offence created by a provision specified in Column 1 of Schedule 11 is an offence for which a penalty notice may be served, and
 - (b) in the case of a penalty payable by an individual—the penalty prescribed for such an offence is the amount specified in Column 2 of the Schedule, and

- (c) in the case of a penalty payable by a corporation—the penalty prescribed for such an offence is the amount specified in Column 3 of the Schedule.
- (2) The following persons are declared to be penalty notice officers for the purposes of section 378K of the Act:
 - (a) the Director-General,
 - (b) an inspector.

81 Service of documents on the Crown

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.

82 References to officers in authorisations

Pursuant to section 390 of the Act, a reference in an authorisation to an officer of the Department (other than the Director-General) is, for the purpose of exercising a specified function, taken to be a reference to the Minister, unless the function relates to a requirement for the holder of the authorisation to give notice of a certain matter to the officer.

83 Repeal of Regulation

The *Mining Regulation 2003* is repealed.

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Mining Regulation 2010

Schedule 1 Minerals

Schedule 1 Minerals

(Clause 5)

agate
antimony
apatite
arsenic
asbestos
barite
bauxite
bentonite (including fuller's earth)
beryllium minerals
bismuth
borates
cadmium
caesium
calcite
chalcedony
chert
chlorite
chromite
clay/shale
coal
cobalt
columbium
copper
corundum
cryolite
diamond
diatomite
dimension stone
dolomite
emerald
emery
feldspathic materials
fluorite
galena
garnet
geothermal energy
germanium
gold
graphite
gypsum
halite (including solar salt)
ilmenite

indium
iron minerals
jade
kaolin
lead
leucoxene
limestone
lithium
magnesite
magnesium salts
manganese
marble
marine aggregate
mercury
mica
mineral pigments
molybdenite
monazite
nephrite
nickel
niobium
oil shale
olivine
opal
ores of silicon
peat
perlite
phosphates
platinum group minerals
platinum
potassium minerals
potassium salts
pyrophyllite
quartz crystal
quartzite
rare earth minerals
reef quartz
rhodonite
rubidium
ruby
rutile
sapphire
scandium and its ores
selenium
serpentine
sillimanite-group minerals

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Schedule 1 Minerals

silver
sodium salts
staurolite
strontium minerals
structural clay
sulphur
talc
tantalum
thorium
tin
topaz
tourmaline
tungsten and its ores
turquoise
vanadium
vermiculite
wollastonite
zeolites
zinc
zircon
zirconia

Schedule 2 Groups of minerals

(Clause 6)

Group 1 (Metallic minerals)

antimony
arsenic
bismuth
cadmium
caesium
chromite
cobalt
columbium
copper
galena
germanium
gold
indium
iron minerals
lead
lithium
manganese
mercury
molybdenite
nickel
niobium
platinum group minerals
platinum
rare earth minerals
rubidium
scandium and its ores
selenium
silver
sulphur
tantalum
thorium
tin
tungsten and its ores
vanadium
zinc
zirconia

Group 2 (Non-metallic minerals)

apatite
asbestos

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Schedule 2 Groups of minerals

barite
bauxite
beryllium minerals
borates
calcite
chert
chlorite
cryolite
diatomite
dimension stone
dolomite
emerald
emery
feldspathic materials
fluorite
garnet
graphite
gypsum
halite (including solar salt)
limestone
magnesite
magnesium salts
marble
mica
mineral pigments
olivine
ores of silicon
peat
perlite
phosphates
potassium minerals
potassium salts
pyrophyllite
quartzite
reef quartz
serpentine
sillimanite-group minerals
sodium salts
staurolite
strontium minerals
talc
topaz
vermiculite
wollastonite
zeolites

Group 3 (Semi-precious stones)

agate
chalcedony
jade
nephrite
quartz crystal
rhodonite
tourmaline
turquoise

Group 4 (Marine aggregate)

marine aggregate

Group 5 (Clay minerals)

bentonite (including fuller's earth)
clay/shale
kaolin
structural clay

Group 6 (Corundum, diamond, ruby and sapphire)

corundum
diamond
ruby
sapphire

Group 7 (Opal)

opal

Group 8 (Geothermal energy)

geothermal energy

Group 9 (Coal and oil shale)

coal
oil shale

Group 10 (Mineral sands)

ilmenite
leucoxene
monazite
rutile
zircon

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Schedule 3 Description of land for activities carried out by Hunter Enviro-Mining (Operations) Pty Limited

Schedule 3 Description of land for activities carried out by Hunter Enviro-Mining (Operations) Pty Limited

(Clause 13 (4))

Part 1 Abandoned pit top areas

Name of site	Property description	Coordinates of approximate centre of site
Aberdare South Pit Top	State Forest situated to the south of Howells Road and to the east of Ferguson Road Abernathy and Part Lot 542 DP 39553, Parish of Cessnock, County of Northumberland.	337480 E 1359810 N (ISG Zone 56/1), 350496 E 6360174 N (MGA Zone 56)
Abermain No 1 Pit Top	Crown land situated on the southern side of the South Maitland Railway at Abermain, Parish of Stanford, County of Northumberland.	339810 E 1367820 N (ISG Zone 56/1), 352673 E 6368226 N (MGA Zone 56)
Abermain No 2 Pit Top	Land within Werakata National Park adjoining Lot 260 DP 257594, off Caledonia Street, Kearsley, Parish of Stanford, County of Northumberland.	350342 E 6363012 N (MGA 94 Zone 56)
Abermain No 1 Colliery Shaft 3	An irregularly shaped parcel (located on 2 parcels of Crown land) situated between the Villages of Neath and Kearsley, the South Maitland Railway and Neath Road, within the Parish of Stanford, County of Northumberland.	338630 E 1365840 N (ISG Zone 56/1), 351531 E 6366224 N (MGA Zone 56)
Elrington	Part Lot 28 DP 844871 & Part Lot 7 DP 263182, Parish of Stanford, County of Northumberland, and Part Lot 20 DP 778222, Parish of Stanford, County of Northumberland.	339225 E 1360853 N (ISG Zone 56/1), 352220 E 6361250 N (MGA Zone 56)
Hebburn No 1	Part Lot 203 DP 829425, Parish of Stanford, County of Northumberland.	342445 E 1367255 N (ISG Zone 56/1), 355318 E 6367711 N (MGA Zone 56)
Pelaw Main Pit Top	Part Crown land (partially covered by ALC 4243) located south of Mulbring Street, Pelaw Main, Parish of Stanford, County of Northumberland.	344490 E 1366395 N (ISG Zone 56/1), 357379 E 6366890 N (MGA Zone 56)

Name of site	Property description	Coordinates of approximate centre of site
Pinkeye	Crown land (partially covered by ALC 4250) located to the south of Weston on the southern side of the South Maitland Railway and bordered in the east by Lot 203 DP 829425, Parish of Stanford, County of Northumberland. Lot 203 DP 829425, located to the south of Weston, Parish of Stanford, County of Northumberland.	341822 E 1367350 N (ISG Zone 56/1), 354694 E 6367794 N (MGA Zone 56)

Part 2 Chitter emplacements outside pit top areas

Name of area	Property description	Coordinates of approximate centre of area
Aberdare East	Part Lot 566 DP 821172, Aberdare adjoining the South Maitland Railway leased to the Hunter Plant Operator Training School under Special Lease 192411, Parish of Cessnock, County of Northumberland.	347000 E 6364550 N (MGA Zone 56)
Abermain South	Crown land (almost entirely covered by ALC 4250) situated on the western side of Hebburn Road, south of the South Maitland Railway and southeast of the Township of Abermain, Parish of Stanford, County of Northumberland.	340718 E 1366659 N (ISG Zone 56/1), 353603 E 6367083 N (MGA Zone 56)
Hebburn No 3	Crown land in Parish Reserve DP 755259 within the granted ALC 4250 adjoining CML1 and Hebburn Road, Abermain, Parish of Stanford, County of Northumberland.	353800 E 6364900 N (MGA 94 Zone 56)
Hospital Road	Part Lot 203 DP 829425, Parish of Stanford, County of Northumberland. Part Crown land located on the eastern side of Hebburn Road, Parish of Stanford, County of Northumberland.	Road commences at 340777 E 1364724 N (ISG Zone 56/1), 353699 E 6365149 N (MGA Zone 56) and ends at 342589 E 1365672 N (ISG Zone 56/1), 355492 E 6366131 N (MGA Zone 56)

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Schedule 3 Description of land for activities carried out by Hunter Enviro-Mining (Operations) Pty Limited

Part 3 Rail emplacements

Name of site	Property description	Coordinates of commencement and end points
Rail Line Abermain No 1 to Abermain No 2	Traverses several Crown land parcels between Neath and Kearsley, Parish of Stanford, County of Northumberland Commences on the southern side of Cessnock Road and continues southward along the western side of Neath Road. The easement crosses Neath Road at Kearsley and enters the Abermain No 2 pit top area.	Rail line commences at 339512 E 1367347 N (ISG Zone 56/1), 352384 E 6367748 N (MGA Zone 56) and ends on Lake Road at 337206 E 1362375 N (ISG Zone 56/1), 350173 E 6362733 N (MGA Zone 56)
Rail Line Abermain No 2 to Aberdare South	Part Crown land parcel fronting Lake Road at Kearsley, Parish of Stanford, County of Northumberland. Part Crown land comprising a narrow north-south corridor that follows the eastern side of Kearsley Road, Part PT DP 755259, Parish of Stanford, County of Northumberland and Part PT DP 755215, Parish of Cessnock, County of Northumberland.	Rail line commences at 337205 E 1362311 N (ISG Zone 56/1), 350173 E 6362669 N (MGA Zone 56) and ends at 337516 E 1360041 N (ISG Zone 56/1), 350527 E 6360406 N (MGA Zone 56)
Rail Line Hebburn No 1 to Pelaw Main	Part Lot 203 DP 829425, Parish of Stanford, County of Northumberland and Part of several Crown land parcels: Lot 697 DP 755231 Parish of Heddon, Lot 332 DP 729940 Parish of Stanford, Lot 331 DP 729940 Parish of Stanford and Crown land covering the Pelaw Main pit top, Parish of Stanford, County of Northumberland.	Rail line commences at 342439 E 1367555 N (ISG Zone 56/1), 355307 E 6368011 N (MGA Zone 56) and ends at 344707 E 1366490 N (ISG Zone 56/1), 357594 E 6366989 N (MGA Zone 56)
Rail Line Pelaw Main to Heddon Greta	Several parcels of Crown land dividing Kurri Kurri in the north from Pelaw Main and Stanford Merthyr in the south, Parishes of Stanford and Heddon, County of Northumberland.	Rail line commences at 344712 E 1366390 N (ISG Zone 56/1), 357601 E 6366889 N (MGA Zone 56) and ends at 346824 E 1368363 N (ISG Zone 56/1), 359675 E 6368902 N (MGA Zone 56)

Name of site	Property description	Coordinates of commencement and end points
Rail Line Pelaw Main to Richmond Main East	<p>Rail line traverses four parcels of Crown land within the Parish of Stanford, County of Northumberland. Crown land encompassing Pelaw Main Colliery pit top.</p> <p>A narrow strip of Crown land that bisects the urban area.</p> <p>Crown land (almost entirely covered by ALC 4242) located south of Mulbring Street, Stanford Merthyr, on the eastern side of Pelaw Main and Leggets Lane.</p> <p>Crown land (entirely covered by ALC 4242) located to the east of Crown land No 3, bordered in the north by Lot 327 DP 822130 and in the south by several lots including Lot 14 DP 716009.</p>	<p>Rail line commences at 344712 E 1366489 N (ISG Zone 56/1), 357599 E 6366988 N (MGA Zone 56) and ends at 346962 E 1363778 N (ISG Zone 56/1), 359900 E 6364321 N (MGA Zone 56)</p>
Rail Line Pinkeye to Hebburn No 2	<p>Crown land (covered by ALC 4250 on the eastern side of Hebburn Road) situated south of the South Maitland Railway and southeast of the Township of Abermain, Parish of Stanford, County of Northumberland.</p> <p>A narrow north-south section of Crown land following the western side of Hebburn Road southward to Hebburn No 2.</p>	<p>Rail line commences at 341219 E 1367093 N (ISG Zone 56/1), 351096 E 6367526 N (MGA Zone 56) and ends at 340471 E 1363845 N (ISG Zone 56/1), 353409 E 6364265 N (MGA Zone 56)</p>

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Schedule 3 Description of land for activities carried out by Hunter Enviro-Mining
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Name of site	Property description	Coordinates of commencement and end points
Richmond Main Rail Line	Part Lot 2 DP 533820 & Lot 14 DP 716009, Parish of Stanford, County of Northumberland. Part Lot 26 DP 879812 Parish of Stanford, County of Northumberland. Part Lot 2 DP 986081, Parish of Stockrington, County of Northumberland. Part Lot 4 DP 1000943, Parish of Stockrington, County of Northumberland. Part Crown land parcels (entirely covered by ALC 4242), Parish of Stanford, County of Northumberland, bordered in the south by several lots including Lot 14 DP 716009 and Lot 26 DP 879812.	Rail line commences at 345380 E 1363337 N (ISG Zone 56/1), 358327 E 6363850 N (MGA Zone 56) and ends at 347928 E 1363628 N (ISG Zone 56/1), 360868 E 6364189 N (MGA Zone 56)

Schedule 4 Land identification

1 Areas

An area of land that is required to be described in blocks and units in relation to an authority 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,
- (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.

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Schedule 4 Land identification

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.

Schedule 5 Other relevant legislation

Commonwealth legislation

Environment Protection and Biodiversity Conservation Act 1999,
Offshore Minerals Act 1994,
Offshore Petroleum and Greenhouse Gas Storage Act 2006,
Offshore Petroleum (Royalty) Act 2006,
Petroleum (Submerged Lands) Act 1967 (repealed).

New South Wales legislation

the Act,
Dams Safety Act 1978,
Environmental Planning and Assessment Act 1979,
Fisheries Act 1935,
Fisheries Management Act 1994,
Heritage Act 1977,
Local Government Act 1993,
Marine Parks Act 1997,
Marine Pollution Act 1987,
National Parks and Wildlife Act 1974,
Native Vegetation Act 2003,
Offshore Minerals Act 1999,
Petroleum (Offshore) Act 1982,
Petroleum (Onshore) Act 1991,
Rivers and Foreshores Improvement Act 1948 (repealed),
Soil Conservation Act 1938,
Sydney Water Catchment Management Act 1998,
Threatened Species Conservation Act 1995,
Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986,
Water Act 1912,
Water Management Act 2000,
Western Lands Act 1901.

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Schedule 5 Other relevant legislation

Queensland legislation

Aboriginal Cultural Heritage Act 2003,
Environmental Protection Act 1994,
Geothermal Exploration Act 2004,
Greenhouse Gas Storage Act 2009,
Integrated Planning Act 1997 (repealed),
Mineral Resources Act 1989,
Nature Conservation Act 1992,
Offshore Minerals Act 1998,
Petroleum Act 1923,
Petroleum (Submerged Lands) Act 1982,
Queensland Heritage Act 1992,
Vegetation Management Act 1999,
Water Act 2000,
Wild Rivers Act 2005.

Northern Territory legislation

Environmental Assessment Act,
Environmental Offences and Penalties Act 1996,
Heritage Conservation Act,
Mining Act,
Mining Management Act,
Petroleum Act,
Petroleum (Submerged Lands) Act,
Planning Act,
Waste Management and Pollution Control Act,
Water Act.

South Australian legislation

Aboriginal Heritage Act 1988,
Development Act 1993,
Environment Protection Act 1993,
Heritage Places Act 1993,
Mining Act 1971,
National Parks and Wildlife Act 1972,

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Other relevant legislation

Schedule 5

Native Vegetation Act 1991,
Natural Resources Management Act 2004,
Offshore Minerals Act 2000,
Opal Mining Act 1995,
Petroleum Act 2000,
Petroleum (Submerged Lands) Act 1982,
River Murray Act 2003,
South Eastern Water Conservation and Drainage Act 1992,
Water Conservation Act 1936.

Tasmanian legislation

Aboriginal Relics Act 1975,
Environmental Management and Pollution Control Act 1994,
Historic Cultural Heritage Act 1995,
Land Use Planning and Approvals Act 1993,
Mineral Resources Development Act 1995,
National Parks and Reserves Management Act 2002,
Nature Conservation Act 2002,
Petroleum (Submerged Lands) Act 1982,
Pollution of Waters by Oil and Noxious Substances Act 1987,
Threatened Species Protection Act 1995,
Water Management Act 1999.

Victorian legislation

Environment Protection Act 1970,
Extractive Industries Development Act 1995,
Flora and Fauna Guarantee Act 1988,
Geothermal Energy Resources Act 2005,
Greenhouse Gas Geological Sequestration Act 2008,
Mineral Resources (Sustainable Development) Act 1990,
National Parks Act 1975,
Petroleum Act 1998,
Petroleum (Submerged Lands) Act 1982,
Planning and Environment Act 1987,
Pollution of Waters by Oil and Noxious Substances Act 1986,

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Schedule 5 Other relevant legislation

Underseas Mineral Resources Act 1963,
Water Act 1989,
Wildlife Act 1975.

Western Australian legislation

Aboriginal Heritage Act 1972,
Conservation and Land Management Act 1984,
Contaminated Sites Act 2003,
Environmental Protection Act 1986,
Heritage of Western Australia Act 1990,
Mining Act 1978,
Offshore Minerals Act 2003,
Petroleum and Geothermal Energy Resources Act 1967,
Petroleum (Submerged Lands) Act 1982,
Planning and Development Act 2005,
Pollution of Waters by Oil and Noxious Substances Act 1987,
Rights in Water and Irrigation Act 1914,
Wildlife Conservation Act 1950.

Schedule 6 Rate of royalty

(Clause 62)

Mineral	\$ per tonne
agricultural lime	0.35
barite	0.70
bauxite	0.35
bentonite (including fuller's earth)	0.70
borates	0.70
calcite	0.40
chert	0.35
chlorite	0.70
clay/shale	0.35
diatomite	0.70
dimension stone	0.70
dolomite	0.40
feldspathic materials	0.70
fluorite	0.70
gypsum	0.35
halite (including solar salt)	0.40
kaolin	0.70
limestone (other than agricultural lime)	0.40
magnesite	0.70
magnesium salts	0.40
marble	0.70
mica	0.70
mineral pigments	0.70
olivine	0.70
peat	0.70
perlite	0.70
phosphates	0.70

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Schedule 6 Rate of royalty

Mineral	\$ per tonne
potassium minerals	0.70
potassium salts	0.40
pyrophyllite	0.70
quartzite	0.70
reef quartz	0.70
serpentine	0.70
sillimanite-group minerals	0.70
sodium salts	0.40
staurolite	0.70
structural clay	0.35
talc	0.70
vermiculite	0.70
wollastonite	0.70
zeolites	0.70

Schedule 7 Membership and procedure of Mine Safety Advisory Council

(Clause 66)

Part 1 Membership of Council

1 Definition

In this Schedule, *member* means a member of the Council.

2 Terms of office of members

Subject to this Regulation, a member holds office for such period (not exceeding 3 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for reappointment.

3 Deputies of members

- (1) A member (other than the Chairperson or Deputy Chairperson) may, from time to time, appoint a person to be the deputy of the member, and the member or the Minister may revoke any such appointment.
- (2) In the absence of a member, the member's deputy may, if available, act in the place of the member.
- (3) While acting in the place of a member, a deputy has all the functions of the member and is taken to be a member.
- (4) For the purposes of this clause, a vacancy in the office of a member is taken to be an absence of the member.

4 Vacancy in office of member

- (1) The office of a member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Minister under this clause, or
 - (e) is absent from 4 consecutive meetings of the Council of which reasonable notice has been given to the member personally or by post, except on leave granted by the Minister or unless the member is excused by the Minister for having been absent from those meetings, or

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Schedule 7 Membership and procedure of Mine Safety Advisory Council

- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person.
- (2) The Minister may at any time remove a member from office.
 - (3) If a member is convicted in New South Wales of an offence, or is convicted elsewhere than in New South Wales of an offence, that person must disclose the conviction to the Minister:
 - (a) if the conviction occurs before the member is appointed to hold office—at the time the member is appointed to the relevant office, or
 - (b) if the conviction occurs after the member is appointed to hold office—as soon as is reasonably practicable after the conviction.
 - (4) If a member discloses a conviction as referred to in subclause (3), the Minister may declare the office of that member vacant.

5 Filling of vacancy in office of member

If the office of any member becomes vacant, a person is, subject to this Regulation, to be appointed to fill the vacancy.

6 Deputy Chairperson

- (1) The Minister may, from time to time, appoint a member of the Council to be the Deputy Chairperson of the Council, and may at any time revoke any such appointment.
- (2) In the absence of the Chairperson, the Deputy Chairperson may, if available, act in the place of the Chairperson.
- (3) While acting in the place of the Chairperson, the Deputy Chairperson has all the functions of the Chairperson and is taken to be the Chairperson.
- (4) The Deputy Chairperson vacates office as Deputy Chairperson if the person:
 - (a) is removed from office by the Minister under this clause, or
 - (b) ceases to be a member.

Part 2 Procedure of Council

7 Calling and frequency of Council meetings

- (1) The procedure for the calling of meetings of the Council is, subject to this Regulation, to be as determined by the Minister.
- (2) The Minister is to call at least 2 meetings of the Council each calendar year, unless otherwise determined by the Council.

8 General procedure at Council meetings

The procedure for the conduct of Council meetings is, subject to this Regulation, to be as determined by the Minister.

9 Presiding member

- (1) The Chairperson (or, in the absence of the Chairperson, the Deputy Chairperson) is to preside at a meeting of the Council.
- (2) If the Chairperson and Deputy Chairperson are both absent from a meeting of the Council, the members present may elect a member to preside at the meeting.

10 Transaction of business outside meetings by telephone

- (1) The Council may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Council for the time being, and a resolution in writing, approved in writing by the members, is taken to be a decision of the Council.
- (2) The Council may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) A resolution approved under subclause (1) is, subject to this Regulation, to be recorded in the minutes of the meetings of the Council.
- (4) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

11 Disclosure of pecuniary interests

- (1) If:
 - (a) a member of the Council has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting, and

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Schedule 7 Membership and procedure of Mine Safety Advisory Council

- (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,
the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a Council meeting.
- (2) A disclosure by a member of the Council at a Council meeting that the member:
- (a) is a member, or is in the employment, of a specified company or body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,
- is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of that disclosure and which is required to be disclosed under this clause.
- (3) The secretary is to record particulars of any disclosure made under this clause in a book kept for that purpose and that book is to be made available at all reasonable hours for inspection by any person.
- (4) After a member of the Council has disclosed the nature of an interest in any matter, the member must not, unless the Council otherwise determines:
- (a) be present at any deliberation of the Council with respect to the matter, or
 - (b) take part in any decision of the Council with respect to the matter.
- (5) For the purposes of the making of a determination by the Council under subclause (4), a member of the Council who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
- (a) be present during any deliberation of the Council for the purpose of making the determination, or
 - (b) take part in the making by the Council of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Council.
- (7) Nothing in this clause applies to or in respect of an interest of a member of the Council in a matter or thing that arises merely because the member is associated with the organisation by which the member was nominated.

12 Committees of Council

- (1) The Minister may appoint such committees as the Council considers appropriate to assist the Council in the exercise of its functions.
- (2) It does not matter if any or all of the members of a committee are not members of the Council.
- (3) Subject to any direction made by the Minister or the Council, the procedure of a committee is to be, as far as practicable, the same as for the Council.

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Schedule 8 Membership and procedure of boards of management

Schedule 8 Membership and procedure of boards of management

(Clause 68)

Part 1 Membership of boards

1 Terms of office of appointed members

Subject to this Regulation, an appointed member holds office:

- (a) for a period of 3 years from the date of the appointment, or
- (b) if the member has been appointed to fill a casual vacancy, for the unexpired portion of his or her predecessor's term of office, but is eligible (if otherwise qualified) for reappointment.

2 Deputies of members

- (1) A board member may appoint a person to act as the member's deputy.
- (2) The appointment is invalid unless it is approved:
 - (a) by the Minister, or
 - (b) if the member has been appointed on the nomination of a particular person or body, by that person or body.
- (3) In the absence of a board member, the member's deputy:
 - (a) may act in the place of the member, and
 - (b) while so acting, has all the functions of the member and is to be regarded as a board member.
- (4) The deputy of a board member who is also the Chairperson of the board has the member's functions as Chairperson.
- (5) The Minister may revoke the appointment of a member's deputy at any time.

3 Vacancy in office of appointed member

- (1) The office of an appointed member becomes vacant if the member:
 - (a) dies, or
 - (b) resigns the office by instrument in writing addressed to the Minister, or
 - (c) is removed from office by the Minister under this clause, or

-
- (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (e) becomes a mentally incapacitated person.
- (2) The Minister may remove an appointed member from office at any time.
 - (3) If an appointed member is convicted in New South Wales of an offence or is convicted elsewhere than in New South Wales of an offence, that person must disclose the conviction to the Minister:
 - (a) if the conviction occurs before the member is appointed to hold office—at the time the member is appointed to the relevant office, or
 - (b) if the conviction occurs after the member is appointed to hold office—as soon as is reasonably practicable after the conviction.
 - (4) If an appointed member discloses a conviction as referred to in subclause (3), the Minister may declare the office of that member to be vacant.

4 Filling of vacancy in office of appointed member

If the office of an appointed member becomes vacant, a person is, subject to this Regulation, to be appointed to fill the vacancy.

Part 2 Procedure of boards

5 Calling and frequency of board meetings

- (1) An ordinary board meeting is to be called by the Chairperson at least once every 3 months.
- (2) A special board meeting is to be called on the written request of at least 3 members or, if the number of members that constitutes a quorum at a board meeting is less than 3, of at least that number of members.
- (3) The request must:
 - (a) state the purpose of the meeting, and
 - (b) be signed by the board members making the request, and
 - (c) be lodged with the secretary in time for the secretary to call the meeting.

6 Secretary to give notice of board meeting

- (1) The secretary of a board is to give written notice of a proposed board meeting to each member at least 7 days before the meeting.

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Schedule 8 Membership and procedure of boards of management

- (2) A board member must give written notice to the secretary, at least 7 days before a proposed board meeting, of any matter the member wishes to be placed on the agenda for the meeting.
- (3) The secretary of a board (or, in the secretary's absence, a nominee of the secretary) must attend all board meetings.

7 General procedure at board meetings

The procedure for the conduct of board meetings is, subject to this Regulation, to be determined by the board.

8 Quorum

A majority of a board's members for the time being (of whom one must be the Chairperson or the Chairperson's deputy) constitutes a quorum at a board meeting.

9 Presiding member

- (1) The Chairperson (or, in the Chairperson's absence, the Chairperson's deputy) is to preside at all board meetings.
- (2) The person presiding at a board meeting has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

10 Voting

A decision supported by a majority of votes cast at a board meeting at which a quorum is present is the decision of the board.

11 Transaction of business outside meetings or by telephone

- (1) A board may, if it thinks fit, transact any of its business by the circulation of papers among all the board members for the time being, and a resolution in writing, approved in writing by a majority of those members, is taken to be a decision of the board.
- (2) The board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of:
 - (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),the person presiding and each member have the same voting rights as they have at an ordinary board meeting.

-
- (4) A resolution approved under subclause (1) is to be recorded in the minutes of the board meeting.
 - (5) Papers may be circulated among board members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

12 Disclosure of pecuniary interests

- (1) If:
 - (a) a board member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a board meeting, and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a board meeting.
- (2) A disclosure by a board member at a board meeting that the member:
 - (a) is a member, or is in the employment, of a specified company or body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of that disclosure and which is required to be disclosed under this clause.
- (3) The secretary is to record particulars of any disclosure made under this clause in a book kept for that purpose and that book is to be made available at all reasonable hours for inspection by any person.
- (4) After a board member has disclosed the nature of an interest in any matter, the member must not, unless the board otherwise determines:
 - (a) be present at any deliberation of the board with respect to the matter, or
 - (b) take part in any decision of the board with respect to the matter.

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Schedule 8 Membership and procedure of boards of management

- (5) For the purposes of the making of a determination by the board under subclause (4), a board member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
 - (a) be present during any deliberation of the board for the purpose of making the determination, or
 - (b) take part in the making by the board of the determination.
- (6) A contravention of this clause does not invalidate any decision of the board.
- (7) Nothing in this clause applies to or in respect of an interest of a board member in a matter or thing that arises merely because the member is associated with the organisation by which the member was nominated.

13 Minutes

- (1) The secretary of a board must keep full and accurate minutes of the proceedings of each board meeting.
- (2) The secretary must keep (in addition to the minutes) a separate record of resolutions decided by a casting vote.
- (3) The record is to show the date of the meeting, the name of the presiding member and the wording of the resolution.
- (4) A copy of the minutes must be forwarded to the Minister and to each member within one month of the meeting.

14 Calling of first meeting

The Minister may call the first meeting of a board in such manner as the Minister thinks fit.

Schedule 9 Form

(Clause 73 (4))

Form 1 Permit

Mining Act 1992, section 260

Mining Regulation 2010, clause 73 (4)

This permit is granted to *[insert name of person]* under section 254 of the *Mining Act 1992* in respect of the following land: *[insert description of land to which the permit relates]*

This permit is granted subject to the following conditions: *[insert conditions to which the permit is subject]*

This permit authorises the holder, whose signature appears below, and any employee or agent of the holder, to exercise the powers conferred on permit holders by Part 12 of the *Mining Act 1992*.

[signature of holder of permit]

This permit has effect for the period commencing on *[insert commencement date]* and ending on *[insert end date]*.

Dated:

[Director-General]

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Schedule 10 Fees

Schedule 10 Fees

(Clause 75)

Column 1	Column 2
Matter	Fee (\$)
Exploration licences	
1 Application for exploration licence—Groups 1–8 and 10 minerals (section 13 of the Act):	
(a) application fee, and	1,000
(b) per year of tenure for each unit or part unit of land to which the application relates:	
(i) for initial group of minerals, and	12.50
(ii) for each additional group of minerals	6.25
2 Application for exploration licence—Group 9 minerals (section 13 of the Act):	
(a) application fee, and	1,000
(b) per year of tenure for each hectare or part hectare of land to which the application relates	2
3 Application for exploration (mineral owner) licence (section 13 of the Act):	
(a) application fee, and	1,000
(b) per year of tenure for each hectare or part hectare of land to which the application relates	2
4 Tender for exploration licence—Groups 1–8 and 10 minerals (section 15 of the Act):	
(a) tender fee, and	1,000
(b) per year of tenure for each unit or part unit of land to which the tender relates:	
(i) for initial group of minerals, and	12.50
(ii) for each additional group of minerals	6.25
5 Tender for exploration licence—Group 9 minerals (section 15 of the Act)	2,200
6 Application for variation of prospecting operations authorised by low-impact exploration licence (section 32E of the Act)	250

Column 1	Column 2
Matter	Fee (\$)
7 Application for review of determination under section 32E (section 32EA of the Act)	600
8 Application for renewal of exploration licence—Groups 1–8 and 10 minerals (section 113 of the Act):	
(a) application fee, and	2,000
(b) per year of tenure for each unit or part unit of land to which the application relates:	
(i) for initial group of minerals, and	12.50
(ii) for each additional group of minerals	6.25
9 Application for renewal of exploration licence—Group 9 minerals (section 113 of the Act):	
(a) application fee, and	2,000
(b) per year of tenure for each hectare or part hectare of land to which the application relates	2
10 Application for renewal of exploration (mineral owner) licence (section 113 of the Act):	
(a) application fee, and	2,000
(b) per year of tenure for each hectare or part hectare of land to which the application relates	2
Assessment leases	
11 Application for assessment lease (section 33 of the Act):	
(a) application fee, and	2,000
(b) per year of tenure for each hectare or part hectare of land to which the application relates	6
12 Application for renewal of assessment lease (section 113 of the Act):	
(a) application fee, and	2,000
(b) per year of tenure for each hectare or part hectare of land to which the application relates	6
Mining leases	
13 Application for mining lease (section 51 of the Act)	10,000
14 Tender for mining lease (section 53 of the Act)	10,000
15 On grant of mining lease (section 63 of the Act)—per hectare or part hectare of land to which the lease relates	85

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Schedule 10 Fees

Column 1	Column 2
Matter	Fee (\$)
16 Application for suspension of mining lease operations (section 70 of the Act)	250
17 Application for addition of mineral to mining lease (section 77 of the Act)	250
18 Application for addition of petroleum to mining lease (section 78 of the Act)	6,000
19 Application for amendment of mining lease (section 79 of the Act)	250
20 Application for consolidation of mining leases (section 86 of the Act)	1,000
21 Application for suspension of consolidated mining lease operations (section 100 of the Act)	250
22 Application for renewal of mining lease (section 113 of the Act):	
(a) application fee, and	3,000
(b) per hectare	36
23 Lodgment of objection to significant improvement claim (clause 23A of Schedule 1 to the Act) (exclusive of GST)	2,000
24 Application for aggregation of labour and expenditure conditions (clause 29 of this Regulation)	250
Authorities generally	
25 Application for approval of transfer of authority (section 120 of the Act)	1,000
26 Application for approval of partial transfer of authority (section 120 of the Act)	1,650
27 Application for registration of transfer (section 122 of the Act)	250
28 Lodgment of caveat (section 124 of the Act)	250
29 Application for cancellation of authority (section 125 of the Act)	250
30 Application for partial cancellation of authority (section 125 of the Act)	500
31 Nomination to whom authority is granted (section 133 of the Act)	250
32 Application for appointment of arbitrator in default of agreement (section 144 of the Act)	250
33 Application to suspend conditions of authority (section 168 of the Act)	250
34 Provision of certificate evidence (section 378ZG of the Act)	250

Column 1	Column 2
Matter	Fee (\$)
Records and registration	
35 Application for registration of each interest (section 161 of the Act)	250
36 Application for amendment of each registered interest, including cancellation (section 161 of the Act)	250
37 Application to record as holder of authority on devolution of rights (section 162 of the Act)	250
38 Application for registration of colliery holding or amendment or cancellation of colliery holding (section 163 of the Act)	250
39 Application for registration, renewal or variation of each sublease (section 163A of the Act)	250
40 Application for removal of each sublease from register (section 163B of the Act)	250
41 Application for change of registered name of holder of authority (other than on transfer of authority)	250
Mineral claims	
Note. The class of a mineral claim is specified by the Minister, by order published in the Gazette, under section 175 of the Act.	
42 Application for Class A mineral claim in the Lightning Ridge Mineral Claims District (section 178 of the Act):	
(a) if mineral claim area is no more than 0.25 of a hectare, or	130
(b) if mineral claim area is more than 0.25 of a hectare and less than or equal to 1 hectare, or	330
(c) if mineral claim area is more than 1 hectare and less than or equal to 2 hectares	470
43 Application for Class B mineral claim in the Lightning Ridge Mineral Claims District (section 178 of the Act)	470
44 Application for Class C mineral claim (prospecting following opal prospecting licence) in the Lightning Ridge Mineral Claims District (section 178 of the Act)	180
45 Application for Class D mineral claim (mining purpose—processing) in the Lightning Ridge Mineral Claims District (section 178 of the Act)	470
46 Application for Class E mineral claim (mining purpose—mullock stockpiling) in the Lightning Ridge Mineral Claims District (section 178 of the Act)	470

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Schedule 10 Fees

Column 1	Column 2
Matter	Fee (\$)
47 Application for Class F mineral claim (prospecting outside opal prospecting block in Opal Prospecting Areas 1, 2 and 3) in the Lightning Ridge Mineral Claims District (section 178 of the Act)	180
48 Application for Class G mineral claim (open cut mining operations) in the Lightning Ridge Mineral Claims District (section 178 of the Act)	470
49 Application for mineral claim area in the White Cliffs Mineral Claims District (section 178 of the Act)	130
50 Application for renewal of mineral claim area in the White Cliffs Mineral Claims District (section 197 of the Act)—per year of tenure	100
51 Application for renewal of Class A mineral claim in the Lightning Ridge Mineral Claims District (section 197 of the Act):	
(a) if mineral claim area is no more than 0.25 of a hectare—per year of tenure, or	100
(b) if mineral claim area is more than 0.25 of a hectare and less than or equal to 1 hectare—per year of tenure, or	300
(c) if mineral claim area is more than 1 hectare and less than or equal to 2 hectares—per year of tenure	470
52 Application for renewal of Class B mineral claim in the Lightning Ridge Mineral Claims District (section 197 of the Act)	470
53 Application for renewal of Class D mineral claim (mining purpose—processing) in the Lightning Ridge Mineral Claims District (section 197 of the Act)	470
54 Application for renewal of Class E mineral claim (mining purpose—mullock stockpiling) in the Lightning Ridge Mineral Claims District (section 197 of the Act)	470
55 Application for renewal of Class G mineral claim (open cut mining operations) in the Lightning Ridge Mineral Claims District (section 197 of the Act)	470
56 Application for transfer of mineral claim (section 200 of the Act)	120
57 Registration of change of name on devolution of mineral claim (section 202 of the Act)	65
58 Application for suspension of conditions of mineral claim (section 215 of the Act)	65
59 Registration of change of name of holder of mineral claim (other than on transfer of mineral claim)	85
Opal prospecting licences	
60 Application for opal prospecting licence (section 226 of the Act)	30

Column 1	Column 2
Matter	Fee (\$)
Miscellaneous	
61 Application for environmental assessment permit (section 252 of the Act)	420
62 Application for permit to enter land (section 254 of the Act)	50
63 Fee per hour for provision of information (not including prescribed records available at prescribed locations) (exclusive of GST)	150

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Schedule 11 Penalty notice offences

Schedule 11 Penalty notice offences

(Clause 80)

Column 1	Column 2	Column 3
Offence	Individual	Corporation
	\$	\$
Section 5:		
(a) prospecting otherwise than in accordance with an authorisation	1,250	2,500
(b) mining otherwise than in accordance with an authorisation	2,500	5,000
Section 6:		
(a) carrying out a mining purpose on land that is not within a mineral claims district otherwise than in accordance with an authorisation	2,500	5,000
(b) carrying out opal puddling on land within a mineral claims district otherwise than in accordance with an authorisation	2,500	5,000
(c) carrying out a mining purpose (other than opal puddling) on land within a mineral claims district otherwise than in accordance with an authorisation	500	1,000
Section 75 (3)	500	500
Section 76 (2)	500	500
Section 163 (3)	150	150
Section 163 (6D)	150	150
Section 163C (3)	500	750
Section 164 (3)	200	200
Section 211 (3)	200	200
Section 213 (1)	500	750
Section 213 (2) (a)	500	500
Section 213 (2) (b)	500	500
Section 240C (breach of direction under Division 3 of Part 11)	1,250	2,500
Section 246R	1,250	2,500

Column 1	Column 2	Column 3
Offence	Individual	Corporation
	\$	\$
Section 257	250	1,000
Section 288 (2) (failing to comply with a notice served under section 288 (1))	250	1,000
Section 289 (3) (a)	250	1,000
Section 378B	250	250
Section 378D (1) (breach of condition referred to in section 238 or 239 in relation to an authorisation)	1,250	2,500
Section 378D (1) (breach of condition referred to in section 239B (1), 239C (1), 246G (1) or 246P in relation to an authorisation)	1,250	2,500
Section 378D (1) (breach of condition of authorisation not otherwise referred to in this Schedule)	300	750
Section 378D (1) (breach of condition referred to in section 239B (1), 239C (1), 246G (1) or 246P in relation to a small-scale title)	500	750
Section 378D (1) (breach of condition of small-scale title not otherwise referred to in this Schedule)	200	350
Section 378D (2) (breach of condition of mining lease referred to in section 70 (1) (a))	1,250	1,250
Section 378D (2) (breach of condition of mining lease referred to in section 70 (2) (g))	250	250

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Mining Regulation 2010

Schedule 12 Savings and transitional provisions

Schedule 12 Savings and transitional provisions

Part 1 Provisions consequent on the repeal of Mining Regulation 2003

1 Saving

Any act, matter or thing that, immediately before the repeal of the *Mining Regulation 2003*, had effect under that Regulation continues to have effect under this Regulation.

2 Survey mark placed by mining registrar

Any mark in the nature of a survey mark that was placed for the purposes of the Act by, or at the direction of, a mining registrar before the commencement of this Regulation is taken to be a survey mark placed in accordance with this Regulation.

Part 2 Provisions consequent on the enactment of Mining Amendment Act 2008 No 19

3 Definition

In this Part:

amending Act means the *Mining Amendment Act 2008*.

4 Applications lodged to comply with sections 5 and 6

- (1) This clause applies to a person who, immediately before the repeal of sections 6, 8 and 9 by the amending Act, was entitled under section 8 or 9 to prospect for or mine any privately owned minerals or coal.
- (2) Sections 13A, 33A, 51A, 62 and 63 (3A), (4) and (5) of the Act do not apply to an application for an authorisation lodged by a person to whom this clause applies within 10 months after the commencement of Schedule 1 [2] to the amending Act, if the person, immediately before that commencement:
 - (a) prospected for, or mined, any mineral on land and lodged the application only in order to be able to continue that same prospecting or mining, or
 - (b) lawfully carried out a mining purpose specified for the purposes of section 6 of the Act (as substituted by the amending Act) and lodged the application only in order to be able to continue that same mining purpose.

5 Conditions in authorisations

A condition imposed on an authorisation by the Minister under section 26 (exploration licence), 44 (assessment lease), 70 (mining lease), 100 (consolidated mining lease), 192 (mineral claim) or 229 (opal prospecting licence) and in force immediately before the substitution or amendment of those sections by the amending Act, is taken to be a condition imposed on an authorisation under those sections as substituted or amended.

6 Saving of appointments of inspector or royalty officer

Any person appointed as a royalty officer or an inspector immediately before the commencement of section 361 of the Act (as substituted by the amending Act) is taken to be an inspector appointed under section 361 of the Act.

7 Saving of higher penalties for breach of condition relating to environmental management

Despite its repeal, section 374A continues to apply to a breach of a condition imposed by or under sections 238 or 239 of the Act until such time as those provisions are substituted by the amending Act.

8 Groups of minerals

- (1) An application for an exploration licence (pending immediately before the commencement of this Regulation) in respect of Group 2 or Group 8 minerals is, on and from that commencement, taken to be an application in respect of the Group 2 or Group 8 minerals specified in Schedule 2 to this Regulation.
- (2) An exploration licence (as in force immediately before the commencement of this Regulation) granted in respect of Group 2 or Group 8 minerals is, on and from that date, taken to be granted in respect of the Group 2 or Group 8 minerals specified in Schedule 2 to this Regulation.
- (3) An application for an assessment lease or a mining lease (pending immediately before the commencement of this Regulation) in respect of agricultural lime is taken to be an assessment lease or mining lease granted in respect of limestone.
- (4) An assessment lease or a mining lease (as in force immediately before the commencement of this Regulation) granted in respect of agricultural lime is taken to be an assessment lease or mining lease granted in respect of limestone.
- (5) An application for an assessment lease or a mining lease (pending immediately before the commencement of this Regulation) in respect of

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Mining Regulation 2010

Schedule 12 Savings and transitional provisions

geothermal substances is taken to be an assessment lease or mining lease granted in respect of geothermal energy.

- (6) An assessment lease or a mining lease (as in force immediately before the commencement of this Regulation) granted in respect of geothermal substances is taken to be an assessment lease or mining lease granted in respect of geothermal energy.