

# Mining Regulation 2016

As at 1 July 2018

## Part 1 – Preliminary

### 1 Name of Regulation

This Regulation is the *Mining Regulation 2016*.

### 2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

### 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. "**appointed member**" means a member of a board who is appointed by the Minister. "**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. "**clay/shale**" does not include structural clay or clay or shale used in road making or as fill. "**dimension stone**" means any rock, other than sandstone, that is quarried in blocks or slabs for building, decorative or other purposes. "**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 Secretary. "**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 Secretary 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. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

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

For the purposes of comparison, a number of provisions of this Regulation contain bracketed notes in headings drawing attention ("Former") to equivalent or comparable (though not necessarily identical) provisions of the *Mining Regulation 2010* ("2010 Reg").

#### **4 Meaning of "environmental performance record"**

(Former clause 4 of 2010 Reg)

(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 environment 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 environment 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"**

(Former clause 5 of 2010 Reg)

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"**

(Former clause 6 of 2010 Reg)

(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.

(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 "ancillary mining activity"**

(Former clause 7 of 2010 Reg)

The following activities are prescribed as ancillary mining activities for the purposes of the definition of "**ancillary mining activity**" 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,
- (g) the environmental management, protection and rehabilitation of land on which an ancillary mining activity referred to in another paragraph of this clause is being or has been carried out.

### **8 Meaning of "landholder"**

(Former clause 8 of 2010 Reg)

- (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 Secretary recognises as being a landholder of that parcel in accordance with this clause.
- (2) Any person may apply to the Secretary 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 Secretary may require the application to be verified by statutory declaration.
- (5) The Secretary 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 Secretary 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 Secretary 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 Secretary 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**

(Former clause 9 of 2010 Reg)

- (1) A map is a standard map for the purposes of this Regulation if it:
  - (a) shows the alignment of the boundaries of the land to which it relates relative to the Map Grid of Australia (MGA94) and shows the coordinates of all points where there is a change in the direction of the boundaries, or

- (b) if a map referred to in paragraph (a) is not available--is 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--is an aerial photograph, a satellite image or topographic map of a standard acceptable to the Secretary.

(2) In this clause: "**MGA94**" means the Geocentric Datum of Australia 1994 (GDA94), using the Map Grid of Australia 1994 (MGA94) standard map projection expressed in Universal Transverse Mercator (UTM) projection coordinates with zones 6 degrees wide.

## **10 Graticulation of the Earth's surface**

(Former clause 10 of 2010 Reg)

(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 ancillary mining activities in section 6**

(Former clause 11 of 2010 Reg)

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 ancillary mining activity, or a class of ancillary mining activities, that is specified for the purposes of that section.

### **12 Fossicking**

(Former clause 12 of 2010 Reg)

(1) A person who causes any soil, rock or other material to be disturbed in the course of work carried out for the purpose of fossicking for minerals must ensure that:

- (a) the soil, rock or other material is removed and stockpiled separately, and
- (b) after completion of the work, the soil, rock or other material is 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. 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. Group 6 and Group 7 minerals are listed in Schedule 2. "**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**

(Former clause 13 of 2010 Reg)

(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 Suez Recycling and Recovery Pty Ltd (formerly 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 Secretary.

(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 Crown 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.

## **Part 3 – Authorities**

### **Division 1 – Exploration licences**

#### **14 Applications for exploration licences**

(Former clause 14 of 2010 Reg)

(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 Secretary 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 Notices of application for exploration licences**

(Former clause 15 of 2010 Reg)

(1) For the purposes of section 13A (1) of the Act, the prescribed period is within 45 days after receipt of confirmation from the Secretary 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 Secretary.

#### **16 Size and shape of land subject to exploration licences**

(Former clause 16 of 2010 Reg)

(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 or Group 9A mineral may be of any shape or size.

Nothing in the Act or this Regulation requires the boundaries of an area that is intended to be comprised in an exploration licence to match or mirror the boundaries of 1 or more units.

#### **17 Applications for low-impact exploration licences**

(Former clause 17 of 2010 Reg)

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 licences**

(Former clause 18 of 2010 Reg)

(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) particulars of the financial resources and relevant technical advice available to the applicant,
- (e) a renewal justification statement, that is, a statement that contains the following information:
  - (i) details of the operations carried out on the land comprised in the licence during the current term of the authority, including the following:
    - (A) the types of operations carried out,
    - (B) a map showing the location of operations carried out,
    - (C) any expenditure incurred in relation to those operations,
  - (ii) a summary of the results of such operations and the conclusions reached in relation to the potential resources of the land comprised in the licence,
  - (iii) a statement giving the reasons for which the applicant considers the renewal to be justified,
- (f) a work program for the proposed term of renewal that complies with the requirements of section 129A of the Act.

(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 or Group 9A minerals--a standard map showing the boundaries of the land, or Group 9 and Group 9A 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 licences--manner of describing land**

(Former clause 19 of 2010 Reg)

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 or Group 9A minerals--a standard map showing the boundaries of the land, or Group 9 and Group 9A 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.

### **20 Licences for operational allocation purposes**

(Former clause 19A of 2010 Reg)

(1) For the purposes of section 13C (2) (a) of the Act, the following are prescribed as **"operational allocation purposes"**:

(a) in relation to applications by holders of exploration licences or assessment leases--the purpose of both developing a better mine design proposal and recovering coal resources that would otherwise be likely to be sterilised,

(b) in relation to applications by holders of mining leases, each of the following:

(i) the purpose of extending the life of a mine,

(ii) the purpose of developing a better mine design,

(iii) the purpose of recovering coal resources that would otherwise be likely to be sterilised,

(iv) the purpose of obtaining an exploration licence for coal over the subsoil above or below the stratum to which the mining lease concerned relates or over the surface above the land to which that mining lease relates.

(2) For the purposes of section 13C (2) (b) of the Act, if the operational allocation purpose for which the relevant application under section 13C (1) of the Act is made is:

(a) one referred to in subclause (1) (a) or (b) (i), (ii) or (iii)--the area of land to which the application relates must not exceed an area equivalent to 33% of the area of the land to which the exploration licence, assessment lease or mining lease concerned relates, or

(b) one referred to in subclause (1) (b) (iv)--the boundary of subsoil or the surface area of the land to which the application relates must not exceed the boundary of the area of land to which the mining lease concerned relates.

## **Division 2 – Assessment leases**

### **21 Applications for assessment leases**

(Former clause 20 of 2010 Reg)

(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 Secretary 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.

### **22 Notices of application for assessment leases**

(Former clause 21 of 2010 Reg)

(1) For the purposes of section 33A (1) of the Act, the prescribed period is within 45 days after receipt of confirmation from the Secretary 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 Secretary.

### **23 Renewal of assessment leases**

(Former clause 22 of 2010 Reg)

(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) particulars of the financial resources and relevant technical advice available to the applicant,
- (e) a renewal justification statement, that is, a statement that contains the following information:
  - (i) details of the operations carried out on the land comprised in the lease during the current term of the lease, including the following:
    - (A) the types of operations carried out,
    - (B) a map showing the location of operations carried out,
    - (C) any expenditure incurred in relation to those operations,
  - (ii) a summary of the known resources, and potential resources, on the land comprised in the lease,
  - (iii) a summary of the potential for the development of resources on the land comprised in the lease,
  - (iv) a statement giving the reasons for which the applicant considers the renewal to be justified,
- (f) a work program for the proposed term of renewal that complies with the requirements of section 129A of the Act.

(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.

#### **24 Partial cancellation of assessment leases--manner of describing land**

(Former clause 23 of 2010 Reg)

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**

#### **25 Applications for mining leases**

(Former clause 24 of 2010 Reg)

(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 Secretary 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.

## **26 Notices of application for mining leases**

(Former clause 25 of 2010 Reg)

- (1) For the purposes of section 51A (1) of the Act, the prescribed period is within 45 days after receipt of confirmation from the Secretary 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 Secretary.

## **27 Surface activities in relation to subsurface leases**

(Former clause 26 of 2010 Reg)

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.

## **28 Renewal of mining leases**

(Former clause 27 of 2010 Reg)

- (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, that is, a statement that contains the following information:
    - (i) details of the operations carried out on the land comprised in the lease during the current term of the lease, including the following:
      - (A) the types of operations carried out,
      - (B) a map showing the location of operations carried out,
    - (ii) a summary of the resources on the land comprised in the lease,
    - (iii) a statement giving the reasons for which the applicant considers the renewal to be justified,
  - (e) a work program for the proposed term of renewal that complies with the requirements of section 129A of the Act.
- (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.

### **29 Partial cancellation of mining leases--manner of describing land**

(Former clause 28 of 2010 Reg)

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.

### **30 Aggregation of labour and expenditure conditions**

(Former clause 29 of 2010 Reg)

- (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.

### **31 Preparation of proposed consolidated mining leases--manner of describing land**

(Former clause 30 of 2010 Reg)

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**

### **32 Review of determination of applications for variation of prospecting operations under low-impact exploration licences**

(Former clause 31 of 2010 Reg)

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.

### **33 Transfer of authorities**

(Former clause 32 of 2010 Reg)

- (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 work program,
  - (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) a description of the land prepared in the manner prescribed by 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 or Group 9A minerals--a standard map showing the boundaries of the land, or Group 9 and Group 9A 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**

### **34 Exemptions from or variations of requirements to describe land**

(Former clause 33 of 2010 Reg)

- (1) This clause applies to the requirements contained in clauses 18 (2), 19, 23 (2), 24, 28 (2), 29 and 33 (2).
- (2) The Secretary 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.

### **35 Work programs accompanying applications for exploration licences or assessment leases**

(Former clause 33A of 2010 Reg)

For the purposes of section 129A (1) (d) of the Act, a work program for an exploration licence or an assessment lease must include particulars of the estimated amount of money that the applicant proposes to spend on carrying out operations and activities on the land comprised in the licence or lease.

### **36 Records concerning authorities**

(Former clause 34 of 2010 Reg)

- (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 annual rental fee area for an authority granted or proposed to be granted, if the Secretary is required to keep a record of the annual rental fee area under Division 2 of Part 8,
- (g) the mineral or minerals, or the group or groups of minerals, to which the authority relates,
- (h) in the case of a mining lease granted in respect of one or more ancillary mining activities--the ancillary mining activity or ancillary mining activities to which the authority relates,
- (i) the period for which the authority is to have effect,
- (j) the current status of the authority (for example, "current", "expired" or "cancelled"),
- (k) any interest in the authority registered under section 161 of the Act,
- (l) the amount of security that is required or held in relation to the authority,
- (m) the royalty rate that applies to the authority,
- (n) 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 office of the Department is the Maitland office.

### **37 Register of colliery holdings**

(Former clause 35 of 2010 Reg)

- (1) For the purposes of section 163 (1) of the Act, the register of colliery holdings must be kept in written or electronic form.
- (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.

### **38 Registration of mining subleases**

(Former clause 36 of 2010 Reg)

- (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.

### **39 Rights of way**

(Former clause 37 of 2010 Reg)

- (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
  - (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.

#### **Division 6 – Land access arbitration**

##### **39A Procedure for appointment of person as member of Arbitration Panel**

For the purposes of section 139 (2) of the Act, the Minister must, before appointing a person as a member of the Arbitration Panel:

- (a) publish a notice inviting applications for appointment to the Arbitration Panel in at least 1 newspaper circulating generally in Australia, and
- (b) give notice to at least 1 independent arbitration body recognised in New South Wales, inviting applications for appointment as a member of the Arbitration Panel, and
- (c) establish an Assessment Panel, comprising the following 3 members:
  - (i) 1 person who is an Australian legal practitioner of at least 7 years' standing who has, in the opinion of the Minister, extensive arbitration experience,
  - (ii) 1 person nominated by the Minister for Primary Industries,
  - (iii) 1 person nominated by the Minister, and
- (d) direct the Assessment Panel to:
  - (i) evaluate applications for appointment to the Arbitration Panel, having regard to the eligibility criteria specified in clause 39B, and
  - (ii) make recommendations for appointment to the Minister, and
- (e) have regard to any recommendations made by the Assessment Panel, and
- (f) consult with the Minister for Aboriginal Affairs and the Minister for Primary Industries on any proposed appointee.

##### **39B Eligibility for appointment as member of Arbitration Panel**

For the purposes of section 139 (3) of the Act, a person is eligible for appointment as a member of the Arbitration Panel if:

- (a) the person:
  - (i) is an accredited mediator under the National Mediator Accreditation System, or
  - (ii) holds practitioner membership, or advanced practitioner membership, with LEADR & IAMA (ACN 008 651 232, trading as Resolution Institute), and
- (b) the person has, in the opinion of the Minister, extensive arbitration experience, and
- (c) the person either:
  - (i) has, in the opinion of the Minister, extensive agricultural or resources industry experience, or
  - (ii) is an Australian legal practitioner of at least 7 years' standing who has, in the opinion of the Minister, extensive litigation experience.

##### **39C Maximum term of office as member of Arbitration Panel**

For the purposes of section 139 (4) of the Act, the maximum period prescribed for a single term of office as a member of the Arbitration Panel is 3 years.

##### **39D Making of complaints about Arbitration Panel arbitrators**

For the purposes of section 158B (3) (a) of the Act, a complaint made about an arbitrator appointed under section 144 or 145A (7) (b) of the Act:

- (a) must be made in writing to the Secretary, and
- (b) must be made within 14 days after the subject matter of the complaint first becomes known to the person making the complaint, unless the Secretary considers special

circumstances exist that warrant a complaint being permitted to be made after that date.

### **39E Investigation by Secretary of complaints about Arbitration Panel arbitrators**

- (1) For the purposes of section 158B (3) (b) of the Act:
  - (a) the Secretary must provide notice of a complaint made under section 158B (1) of the Act by a party to an arbitration to:
    - (i) the other party to the arbitration, and
    - (ii) the arbitrator who is the subject of the complaint, and
  - (b) that notice must include:
    - (i) the name and address of the party making the complaint, and
    - (ii) details about the nature of the complaint, and
    - (iii) details of any evidence provided by the party making the complaint that supports the complaint.
- (2) The Secretary must:
  - (a) provide an arbitrator the subject of a complaint under section 158B (1) of the Act with a reasonable opportunity to make any submissions about the complaint, and
  - (b) take any submissions made by the arbitrator into consideration when determining whether to remove the arbitrator under section 158B (1) of the Act.
- (3) Any determination of the Secretary in relation to a complaint against an arbitrator must:
  - (a) be in writing, and
  - (b) set out the reasons for the determination made in relation to the complaint, and
  - (c) be given to the party that made the complaint, and the arbitrator who is the subject of the complaint, as soon as practicable.

### **39F Costs relating to access arrangements**

For the purposes of section 142 (2F) of the Act, the payment of costs is not required unless documentary evidence of the incurring of those costs (including costs relating to time spent participating in negotiating the access arrangement) has been provided to the holder of the prospecting title.

## **Part 4 – Small-scale titles**

### **Division 1 – Mineral claims**

#### **40 Marking out of proposed claim areas**

(Former clause 38 of 2010 Reg)

- (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 Secretary.

(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,

(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.

#### **41 Notices of intention to apply for mineral claims**

(Former clause 39 of 2010 Reg)

(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.

(3) The notice of the proposed application for a mineral claim that is served on a landholder under section 177 of the Act must include a copy of an information sheet (if any) that:

(a) outlines a landholder's right to object to the application, and

(b) has been prepared by the Secretary and made available to proposed applicants for the purposes of this subclause.

#### **42 Applications for granting of mineral claims**

(Former clause 40 of 2010 Reg)

(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.

(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 94 (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.

Clause 94 contains provisions relating to the lodgment of applications.

#### **43 Determination of order of dealing with simultaneous applications for mineral claims** (Former clause 41 of 2010 Reg)

(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 Secretary 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,
- (c) the Secretary 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.

#### **44 Applications for renewal of mineral claims** (Former clause 42 of 2010 Reg)

Despite clause 94 (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.

Clause 94 contains provisions relating to the lodgment of applications.

#### **45 Applications for transfer of mineral claims** (Former clause 43 of 2010 Reg)

(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 94 (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.

Clause 94 contains provisions relating to the lodgment of applications.

#### **46 Partial cancellation of mineral claims--manner of describing land**

(Former clause 44 of 2010 Reg)

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.

#### **47 Rights of way**

(Former clause 45 of 2010 Reg)

- (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 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 am or after 6 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.

#### **48 Register of interests in mineral claims**

(Former clause 46 of 2010 Reg)

For the purposes of section 218B (9) of the Act, the prescribed office of the Department at which the register of interests in mineral claims must be kept is Lightning Ridge.

#### **Division 2 – Opal prospecting licences**

##### **49 Objections**

(Former clause 47 of 2010 Reg)

(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 ancillary mining activities and for no other purposes.

(2) For the purposes of section 222 (4) of the Act, a person to whom the Secretary must refer any objection for inquiry and report must be:

(a) a qualified valuer, or

(b) an Australian lawyer of at least 7 years' standing.

(3) In this clause: "**qualified valuer**" means a person who:

(a) has membership of the Australian Valuers Institute (other than associate or student membership), or

(b) has membership of the Australian Property Institute (other than student or provisional membership), acquired in connection with his or her occupation as a valuer, or

(c) has membership of the Royal Institution of Chartered Surveyors as a chartered valuer.

##### **50 Applications for opal prospecting licences**

(Former clause 48 of 2010 Reg)

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.

### **51 Lodgment of applications for opal prospecting licences**

(Former clause 49 of 2010 Reg)

(1) Despite clause 94 (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.

Clause 94 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.

### **52 Determination of order of dealing with simultaneous applications for opal prospecting licences**

(Former clause 50 of 2010 Reg)

(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 Secretary 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,
- (c) the Secretary 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.

### **53 Register of opal prospecting licences**

(Former clause 51 of 2010 Reg)

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.

### **54 Rights of way**

(Former clause 52 of 2010 Reg)

- (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
  - (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 am or after 6 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.

### **55 Register of interests in opal prospecting licences**

(Former clause 53 of 2010 Reg)

For the purposes of section 235F (9) of the Act, the prescribed office of the Department at which the register of interests in opal prospecting licences must be kept is Lightning Ridge.

### **Division 3 – Access management plans**

#### **56 Miners' representatives**

(Former clause 54 of 2010 Reg)

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.

### **57 Lodgment of access management plans**

(Former clause 55 of 2010 Reg)

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

### **58 Applications for determination of access management plans**

(Former clause 56 of 2010 Reg)

- (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 Secretary may require the miners' representative or the landholder, or both, to provide the Secretary with alternative or amended versions of a draft access management plan.

## **Part 5 – Reports**

### **59 Annual reports**

(Former clause 57 of 2010 Reg)

- (1) For the purposes of section 163C (2) (a) of the Act, the holder of an authority must prepare and lodge with the Secretary an annual report that complies with this clause.
- (2) An annual report must be lodged within 1 calendar month of the grant anniversary date (within the meaning of section 292B of the Act) or such other date notified by the Secretary in writing, regardless of whether an application to renew the authority area has been lodged and not yet determined.
- (3) An annual report must contain the following:
  - (a) full particulars of all surveys and other operations or activities, including details of expenditure on operations carried out by or on behalf of the holder of the authority during the preceding 12-month period within which the authority had effect,
  - (b) the results and conclusions of such surveys and any other operations,
  - (c) the operations proposed to be conducted during the next 12-month period.

### **60 Partial relinquishment reports**

(Former clause 58 of 2010 Reg)

- (1) For the purposes of section 163C (2) (a) of the Act, the holder of an authority must prepare and lodge with the Secretary a partial relinquishment report that complies with this clause when the holder's authority has been:
  - (a) partially cancelled, or
  - (b) renewed over an area of land that is less than the area over which the authority applied prior to its renewal.
- (2) A partial relinquishment report must be lodged with the Secretary within 1 calendar month after the Secretary gives notice of the cancellation or renewal of a kind referred to in subclause (1).
- (3) A partial relinquishment report is only required in relation to the area of land which formed part of the authority before the cancellation or renewal of the kind referred to in subclause (1).
- (4) A partial relinquishment report must contain the following:
  - (a) a summary of all surveys and other operations carried out by or on behalf of the holder of the authority during the period within which the land that has been relinquished was subject to the authority,
  - (b) detailed data of all surveys and other operations,
  - (c) the results and conclusions of such surveys and any other operations.

### **61 Final reports**

(Former clause 58A of 2010 Reg)

- (1) For the purposes of section 163C (2) (a) of the Act, the holder of an authority must prepare and lodge with the Secretary a final report that complies with this clause.
- (2) A final report must be lodged with the Secretary within 1 calendar month after the expiry or cancellation of the authority.
- (3) A final report must contain the following:
  - (a) a summary of all surveys and other operations carried out by or on behalf of the holder of the authority during the period within which the land that has been relinquished was subject to the authority,
  - (b) detailed data of all surveys and other operations not previously provided,
  - (c) the results and conclusions of such surveys and any other operations not previously provided.

### **62 Requirements of reports**

(Former clause 58B of 2010 Reg)

- (1) The Secretary may issue further requirements relating to reports under clause 59, 60 or 61. Any such requirements must be published in the Gazette.
- (2) A report under clause 59, 60 or 61 must be prepared and lodged in accordance with any requirements issued by the Secretary.

### **63 Maps, plans and data in reports**

(Former clause 58C of 2010 Reg)

A report under clause 59, 60 or 61 must contain all maps, plans and data that are necessary to satisfactorily interpret and evaluate the report.

### **64 Confidentiality of reports**

(Former clause 58D of 2010 Reg)

- (1) For the purposes of section 163C (2) (c) of the Act, reports lodged with the Secretary under clause 59 must not be disclosed (except as authorised by the Act) during the period



for which the authority to which the report relates is in force unless:

- (a) in the case of a report lodged on or after 1 June 2016--5 years have passed since the lodgment of the report, or
- (b) in the case of a report lodged before 1 June 2016--5 years have passed since that date.

(2) Subclause (1) continues to apply to a report if the relevant authority in relation to which a report was made is subsequently transferred to another person.

(3) This clause does not prevent:

- (a) any disclosure or publication of a summary of a work program, or
- (b) the disclosure of reports lodged with the Secretary under clause 59 after the authority to which the report relates ceases to be in force.

## **65 Collection of cores and samples**

(Former clause 58E of 2010 Reg)

For the purposes of section 163G of the Act, the holder of an authority must:

(a) so far as is reasonably practicable collect, retain and preserve:

- (i) all drill cores remaining after sampling, including any material obtained under previous authorities, and
- (ii) all characteristic samples of the rock or strata encountered on any drill hole on the land comprised in the authority, including any material obtained under previous authorities, and

(b) collect, retain and preserve samples of any water discovered in any drill hole on the land comprised in the authority, where requested to do so by written notice from the Secretary, and

(c) label any such drill cores or samples for reference, and

(d) so far as is reasonably practicable, preserve the integrity of any such drill core or sample for the life of the authority, and

(e) if the holder of the authority intends to dispose of any of the drill cores or samples:

- (i) offer those drill cores or samples to the Secretary for preservation, and
- (ii) if requested to do so, provide them to the Secretary for preservation in such manner as the Secretary determines.

## **66 Publication of reports**

(Former clause 59 of 2010 Reg)

(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 this clause is to contain a statement acknowledging any person's copyright in the report.

## **67 Extension of time to lodge reports**

(Former clause 60 of 2010 Reg)

(1) The holder of an authorisation may apply to the Secretary for an extension of the period during which a report must be lodged under clause 59.

(2) An application for an extension must be lodged with the Secretary 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) the period of the extension sought,
- (d) the reason for seeking the extension.

(3) On receipt of an application for an extension the Secretary may do either of the

following:

- (a) grant an extension of the time by which a report must be lodged,
  - (b) refuse the application.
- (4) The Secretary must advise the applicant of the determination in writing within 21 days of receipt of the application.

### **68 Exemption from obligation to prepare and lodge reports**

(Former clause 60 of 2010 Reg)

- (1) For the purposes of section 163C (2) (b) of the Act, the Secretary 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.
- (2) The holder of an authorisation may apply to the Secretary for an exemption from a requirement to prepare and lodge a report under section 163C of the Act.
- (3) An application for an exemption must be lodged with the Secretary 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) the reason for seeking the exemption.
- (4) On receipt of an application for an exemption the Secretary may do either of the following:
- (a) grant an exemption,
  - (b) refuse the application.
- (5) The Secretary must advise the applicant of the determination in writing within 21 days of receipt of the application.

## **Part 6 – Use of information and protected documents**

### **69 Use of information**

(Former clause 61 of 2010 Reg)

For the purposes of the definition of "**relevant agency**" in section 246T (3) of the Act, the following legislation is prescribed:

- (a) the *Crimes Act 1900*,
- (b) the *Electricity Supply Act 1995*,
- (c) the *Explosives Act 2003*,
- (d) the *Forestry Act 2012*,
- (e) the *Hunter Water Act 1991*,
- (f) the *Pipelines Act 1967*,
- (g) the *Sydney Water Act 1994*,
- (h) the *Water Act 1912*,
- (i) the *Water Management Act 2000*,
- (j) the *Work Health and Safety (Mines and Petroleum Sites) Act 2013*.

### **70 Protected documents not admissible in certain proceedings or otherwise protected**

(Former clause 61AA of 2010 Reg)

- (1) For the purposes of section 246W (1) (a) of the Act, the following legislation is prescribed:
- (a) the *Crimes Act 1900*,
  - (b) the *Electricity Supply Act 1995*,
  - (c) the *Explosives Act 2003*,
  - (d) the *Forestry Act 2012*,

- (e) the *Hunter Water Act 1991*,
  - (f) the *Pipelines Act 1967*,
  - (g) the *Sydney Water Act 1994*,
  - (h) the work health and safety legislation.
- (2) For the purposes of section 246W (1) (b) of the Act, the following agencies, departments and authorities are prescribed authorities:
- (a) Dams Safety NSW,
  - (b) the Department of Finance, Services and Innovation,
  - (c) the Independent Commission Against Corruption,
  - (d) a local council,
  - (e) Local Land Services,
  - (f) the Mine Subsidence Board,
  - (g) the NSW Police Force or the police force of any other State or Territory,
  - (h) the Regulatory Authority (within the meaning of the *Water NSW Act 2014*),
  - (i) Roads and Maritime Services,
  - (j) SafeWork NSW,
  - (k) the Sydney Harbour Foreshore Authority,
  - (l) (Repealed)
  - (m) any other agency or authority administering any environment protection legislation, or any other relevant legislation that is New South Wales legislation.

## **71 Disclosure of protected documents**

(Former clause 61AB of 2010 Reg)

For the purposes of section 365 (1) (g) of the Act, the following legislation is prescribed:

- (a) the *Crimes Act 1900*,
- (b) the *Electricity Supply Act 1995*,
- (c) the *Explosives Act 2003*,
- (d) the *Forestry Act 2012*,
- (e) the *Hunter Water Act 1991*,
- (f) the *Pipelines Act 1967*,
- (g) the *Sydney Water Act 1994*,
- (h) the *Water Act 1912*,
- (i) the *Water Management Act 2000*.

## **Part 7 – Royalty**

### **72 Definition**

In this Part:

"**holder**", in relation to a mining lease, includes the holder of a mining sublease.

### **73 Rates of royalty for minerals other than coal**

(Former clause 62 of 2010 Reg)

- (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% 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:

graphic

[Note: This is a graphic. It has not been processed by the Point in Time system and may not be accurate at the selected working date.]

"**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 Chief Commissioner 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 Chief Commissioner 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 Chief Commissioner having regard to any records kept by the holder of the mining lease.

#### **74 Rates of royalty for coal**

(Former clause 63 of 2010 Reg)

(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 Chief Commissioner having regard to any records kept by the holder of the mining lease.

(3) 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.

#### **75 Disputes**

(Former clause 63A of 2010 Reg)

(1) The Chief Commissioner is to refer a dispute about any of the following matters to the Minister and the Minister may make a determination with respect to that matter:

- (a) the quantity of minerals disposed of or held by the holder of a mining lease,
- (b) the quantity of coal disposed of by the holder of a mining lease,
- (c) whether, and the extent to which, coal was recovered by open cut mining, underground mining or deep underground mining.

(2) Any determination made by the Minister with respect to the matter is final and binding.

(3) A certificate that is signed by the Minister and that states that, on a specified date, the Minister made a determination under this clause is admissible in evidence in any proceedings and is evidence of the fact or facts so certified.

#### **76 Returns**

(Former clause 64 of 2010 Reg)

(1) For the purposes of section 289 of the Act, royalty returns must include:

- (a) 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
  - (b) 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
  - (c) in the case of any mineral--any other matters required by the Chief Commissioner to be included.
- (2) For the purposes of section 289 of the Act, royalty returns must be lodged:
- (a) in the case of minerals other than coal--at the time at which the royalty is payable, and
  - (b) in the case of coal--monthly or in any case not later than the 21st day of the following month.
- (3) The holder of a mining lease must keep records of all minerals recovered under the lease, including:
- (a) records of the quantity of minerals recovered during each return period, and
  - (b) records of the quantity of minerals disposed of, whether by sale or otherwise, during each return period, and
  - (c) records of the quantity of minerals held (in the form in which they are disposed of) by the holder of the mining lease at the beginning and at the end of 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 Secretary 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.
- (4) The records referred to in subclause (3) 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.

## **77 Payments of royalty**

(Former clause 65 of 2010 Reg)

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

## **Part 8 – Fees**

### **Division 1 – General**

#### **78 Fees**

(Former clause 65A of 2010 Reg)

(1) The matters for which fees are payable under the Act and this Regulation are set out in Column 1 of Schedule 9.

(2) The fee for a particular matter is the amount set out opposite the matter in Column 2 of that Schedule.

#### **79 Other fees**

(Former clause 65B of 2010 Reg)

The Secretary 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.

### **Division 2 – Annual rental fees**

#### **80 Calculation of annual rental fees**

(Former clause 65C of 2010 Reg)

(1) An annual rental fee specified in Schedule 9 as per hectare, per square kilometre, per square metre or per unit is to be calculated on the basis of the annual rental fee area.

(2) The "**annual rental fee area**" is the number of hectares, square kilometres, square metres or units of land comprised in the annual rental fee area for the authorisation for which the annual rental fee is payable, as specified in the record kept by the Secretary under the Act.

(3) If the annual rental fee area includes a part of a unit, that part is to be disregarded.

(4) If the annual rental fee area includes a part of a hectare, square kilometre or square metre, that part is to be included in the calculation.

(5) If there is no annual rental fee area for an authorisation for which an annual rental fee is payable, the annual rental fee is to be calculated as if the authority area, as specified in the record of the authority kept by the Secretary under the Act, were the annual rental fee area.

(6) To avoid doubt, subclause (5) continues to apply until an annual rental fee area is determined for the authorisation under this Division and specified in the record kept by the Secretary under the Act.

#### **81 Annual rental fee areas**

(Former clause 65D of 2010 Reg)

(1) The Secretary is to determine an annual rental fee area for any authorisation that is granted or proposed to be granted on or after 1 July 2012.

(2) The Secretary may determine (and must determine, if required to do so by this Division) an annual rental fee area for an authorisation granted before 1 July 2012.

(3) The annual rental fee area is a description of the land to which the authorisation applies, or is proposed to apply, in terms that enable an annual rental fee payable under Part 14A of the Act to be calculated in respect of the authorisation.

(4) Exclusions specified, or proposed to be specified, in an authorisation are to be counted towards the annual rental fee area.

(5) The Secretary is required to record an annual rental fee area determined under this clause in the record kept by the Secretary under section 159 of the Act.

(6) The Secretary may, if the Secretary considers it is fair and reasonable to do so, revise his or her determination of the annual rental fee area for an authorisation by varying the determination or substituting a new determination. For example, the Secretary might revise his or her determination of the annual rental fee area if an application for partial renewal of an authority is made and, because of section 117 of the Act, the authority continues to have effect but only in relation to a smaller area of land.

(7) If the Secretary revises his or her determination of the annual rental fee area for an authorisation, the Secretary is to update the record of the annual rental fee area kept under section 159 of the Act to reflect that revision.

(8) It is not necessary to determine an annual rental fee area in respect of an authorisation if the authorisation is exempt from the requirement to pay an annual rental fee.

## **82 Minimum annual rental fees**

(Former clause 65E of 2010 Reg)

If the annual rental fee payable in respect of an authorisation under Part 14A of the Act would, but for this clause, be less than \$100, the annual rental fee is taken to be \$100.

## **83 References to initial term (Schedule 9)**

(Former clause 65F of 2010 Reg)

(1) In Schedule 9, a reference to the "**initial term**" of an authorisation is a reference to the initial term for which the authorisation is granted.

(2) The initial term of an authorisation does not include any period starting when the authorisation, as granted, would have expired, but for section 117 of the Act, and during which the authorisation continues to have effect under that section.

(3) A term of an authorisation is "**after**" another term, for the purposes of Schedule 9, if it starts when, or at any time after, the other term ends.

## **84 Phasing-in of annual rental fees for authorisations granted before 1 July 2012**

(Former clause 65G of 2010 Reg)

(1) In relation to an authorisation in force on 1 July 2012 that was renewed or due for renewal before 1 July 2012, the current term of the authorisation is taken to be the initial term of the authorisation for the purposes of Schedule 9.

(2) The "**current term**" of the authorisation is the term starting on the date when the authorisation was last renewed or, if the authorisation has not been renewed by 1 July 2012 but continues in effect under section 117 of the Act, the date that it was last due for renewal.

(3) The current term of the authorisation ends when the authorisation is next due for renewal (on or after 1 July 2012) or when the authorisation ceases to have effect (whichever happens sooner).

(4) An authorisation is "**due for renewal**" when the term for which it is granted or renewed is due to expire (that is, disregarding any period for which the authorisation is taken to continue to have effect under section 117 of the Act).

## **85 Grant anniversary date occurring during period in which authorisations are automatically extended**

(Former clause 65H of 2010 Reg)

(1) The amount of the annual rental fee payable under Part 14A of the Act in respect of a grant anniversary date that occurs during a period in which an authorisation is taken to continue to have effect under section 117 of the Act is to be reassessed if the decision-maker finally disposes of an application for renewal of the authorisation by refusing it.

(2) In such a case, the annual rental fee payable in respect of the most recent grant anniversary date to have occurred is taken to be the relevant proportion of the annual rental fee that, but for this clause, would be payable.

(3) The "**relevant proportion**" is the proportion that the number of days in the period from (and including) that most recent grant anniversary date to (but not including) the date the application is refused bears to 366 days.

(4) A refund is to be provided, as necessary, in accordance with the reassessment.

### **Division 3 – Administrative levies**

#### **86 Grant anniversary date occurring during period in which authorisations are automatically extended**

(Former clause 65J of 2010 Reg)

(1) The amount of the annual administrative levy payable under Part 14A of the Act in respect of a grant anniversary date that occurs during a period in which an authorisation is taken to continue to have effect under section 117 of the Act is to be reassessed if the decision-maker finally disposes of an application for renewal of the authorisation by refusing it.

(2) In such a case, the annual administrative levy payable in respect of the most recent grant anniversary date to have occurred is taken to be the relevant proportion of the annual administrative levy that, but for this clause, would be payable.

(3) The "**relevant proportion**" is the proportion that the number of days in the period from (and including) that most recent grant anniversary date to (but not including) the date the application is refused bears to 366 days.

(4) A refund is to be provided, as necessary, in accordance with the reassessment.

### **Part 9 – Boards of management**

#### **87 Boards to be constituted by Ministerial order**

(Former clause 68 of 2010 Reg)

(1) A board is constituted by means of an order published in the Gazette by the Minister.

(2) 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.

(3) The board members (other than those who are members by virtue of their office) are to be appointed by the Minister.

(4) The secretary of a board is to be an employee of the Department appointed by the Secretary.

(5) 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.

(6) Schedule 7 contains provisions with respect to the membership and procedure of boards.

#### **88 Nominations for membership of board**

(Former clause 69 of 2010 Reg)

(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)),
- (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.

### **89 Annual reports to Minister**

(Former clause 70 of 2010 Reg)

(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.

## **Part 10 – Miscellaneous**

### **90 Permits to enter land**

(Former clause 73 of 2010 Reg)

(1) A permit under section 254 of the Act must not be granted to an applicant unless the Secretary 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 am and 5 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 the form set out in Schedule 8.

### **91 Compensation**

(Former clause 74 of 2010 Reg)

(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.

## **92 Compensation arising under small-scale titles**

(Former clause 74A of 2010 Reg)

(1) The Secretary is nominated as the collection agency for the purposes of section 266 of the Act.

(2) All the functions of the collection agency may be delegated by the collection agency to Service NSW as customer service functions.

(3) Standard compensation is to be paid to the collection agency in cash or in any other manner that is approved by the collection agency.

(4) The collection agency must pay standard compensation collected on behalf of a landholder to the landholder as reasonably directed by the landholder.

(5) The notice under section 266 (4) (b) of the Act must be sent by mail to the landholder.

(6) The Secretary may rely on such evidence as the Secretary sees fit to be satisfied of a matter under section 266 (4) of the Act. However, the following evidence is taken to be sufficient for the purposes of that subsection:

- (a) for evidence that an applicant for a small-scale title and a landholder have entered into a compensation agreement--a document signed by the landholder that identifies the small-scale title and makes it clear that an agreement has been entered into which excludes the need to pay standard compensation,
- (b) for evidence that a notice has been sent in the mail to a landholder--a delivery receipt (such as a registered post receipt or a receipt from a courier) showing delivery to the landholder or to the postal address of the landholder.

## **93 Minimum deposit--security deposit conditions**

(Former clause 75 of 2010 Reg)

For the purposes of section 261BF of the Act, the minimum deposit for an authorisation is:

- (a) \$200 for a small-scale title, and
- (b) \$1,000 for an environmental assessment permit, and
- (c) \$10,000 for any other authorisation.

## **94 Applications**

(Former clause 76 of 2010 Reg)

(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 Secretary may be lodged instead with any other person to whom the Secretary delegates the function of receiving applications under the Act.

(3) An application that is lodged in person with the Secretary 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) In this clause, "**information system**" has the same meaning as in the *Electronic Transactions Act 2000*.

### **95 Notification of landholder of intention to invite tenders for mining lease--manner of describing land**

(Former clause 77 of 2010 Reg)

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.

### **96 Mining statistics and returns**

(Former clause 78 of 2010 Reg)

(1) The Secretary 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 Secretary any returns in connection with those statistics.

(2) Any statistics required to be kept under this clause are to be kept in the form that the Secretary 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 Secretary 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.

### **97 Notification of agents**

(Former clause 78A of 2010 Reg)

For the purposes of section 163F of the Act, a person who has appointed an agent for the purposes of that section must provide written notice of the appointment to the Secretary.

### **98 Mine safety legislation**

(Former clause 79 of 2010 Reg)

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

### **99 Penalty notice offences and penalties**

(Former clause 80 of 2010 Reg)

(1) For the purposes of section 378K of the Act:

(a) each offence created by a provision specified in Column 1 of Schedule 10 is an offence for which a penalty notice may be served, and

(b) the penalty prescribed for each such offence is:

(i) in the case of an offence committed by an individual--the amount specified opposite the provision in Column 2 of the Schedule, or

(ii) in the case of an offence committed by a corporation--the amount specified opposite the provision in Column 3 of the Schedule.

(2) If the reference to a provision in Column 1 of Schedule 10 is qualified by words that restrict its operation to specified kinds of offences, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or committed in the circumstances so specified.

(3) The following persons are declared to be "**penalty notice officers**" for the purposes of section 378K (9) of the Act:

(a) the Secretary,

(b) an inspector.

### **100 Service of documents on the Crown**

(Former clause 81 of 2010 Reg)

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.

### **101 References to Departmental employees in authorisations**

(Former clause 82 of 2010 Reg)

Pursuant to section 390 of the Act, a reference in an authorisation to an employee of the Department (other than the Secretary) 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 employee.

### **102 Repeal of Mining Regulation 2010**

The *Mining Regulation 2010* is repealed.

## **Schedule 1 Minerals**

(Clause 5)

agate

antimony

apatite

arsenic

asbestos

barite

bauxite

benionite (including fuller's earth)

beryllium minerals

bismuth

borates

cadmium

caesium

calcite

chalcedony

chert

chlorite

chromite

clay/shale

coal

cobalt

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

platinum group minerals

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

silver

sodium salts

staurolite

strontium minerals

structural clay

sulphur

talc

tantalum

thorium

tin

topaz

tourmaline

tungsten and its ores

turquoise

uranium

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

copper

galena

germanium

gold

indium

iron minerals

lead

lithium

manganese

mercury

molybdenite

nickel

niobium

platinum

platinum group minerals

rare earth minerals

rubidium

scandium and its ores

selenium

silver

sulphur

tantalum

tin

tungsten and its ores

vanadium

zinc

zirconia

**Group 2 (Non-metallic minerals)**

apatite

asbestos

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)**

coal

**Group 9A (Oil shale)**

oil shale

**Group 10 (Mineral sands)**

ilmenite

leucoxene

monazite

rutile

zircon

**Group 11 (Uranium)**

thorium

uranium

**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
Aberdar e 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)
Abermai n 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)
Abermai	Crown land situated on the southern side of the South Maitland	339810 E

n No 1 Pit Top	Railway at Abermain, Parish of Stanford, County of Northumberland.	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)
Elrington	Part Lot 28 DP 844871 and 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)
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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### 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)

Rail Line Pelaw Main to Richmond Main East	Rail line traverses four parcels of Crown land within the Parish of Stanford, County of Northumberland. Crown land encompassing Pelaw Main Colliery Pit Top. A narrow strip of Crown land that bisects the urban area. 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. 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.	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)
Rail Line Pinkeye to Hebburn No 2	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. A narrow north-south section of Crown land following the western side of Hebburn Road southward to Hebburn No 2.	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)
Richmond Main Rail Line	Part Lot 2 DP 533820 and 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

(Clauses 18 (2), 19, 23 (2), 24 and 33 (2))

### 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, based on the NSW Block Identification Index Map 2016 published by the Secretary:

- (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.

## **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**

(Clause 3 (1), definition of "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**

*Biodiversity Conservation Act 2016*

*Crown Land Management Act 2016*

*Dams Safety Act 1978*

*Dams Safety Act 2015*

*Environmental Planning and Assessment Act 1979*

*Fisheries Act 1935*

*Fisheries Management Act 1994*

*Heritage Act 1977*

*Local Government Act 1993*

*Local Land Services Act 2013 (Part 5A)*

*Marine Estate Management Act 2014*

*Marine Parks Act 1997 (repealed)*

*Marine Pollution Act 1987 (repealed)*

*Marine Pollution Act 2012*

*Mining Act 1992*

*National Parks and Wildlife Act 1974*

*Native Vegetation Act 2003 (repealed)*

*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 (repealed)*

*Threatened Species Conservation Act 1995 (repealed)*

*Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986*

*Water Act 1912*

*Water Management Act 2000*

*Water NSW Act 2014*

**Northern Territory legislation**

*Environmental Assessment Act*

*Environmental Offences and Penalties Act*

*Heritage Act*

*Mining Act (repealed)*

*Mining Management Act*

*Petroleum Act*

*Petroleum (Submerged Lands) Act*

*Planning Act*

*Waste Management and Pollution Control Act*

*Water Act*

**Queensland legislation**

*Aboriginal Cultural Heritage Act 2003*

*Environmental Protection Act 1994*

*Geothermal Energy Act 2010*

*Geothermal Exploration Act 2004 (repealed)*

*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*

*Regional Planning Interests Act 2014*

*Queensland Heritage Act 1992*

*Vegetation Management Act 1999*

*Water Act 2000*

*Wild Rivers Act 2005 (repealed)*

**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*

*Native Vegetation Act 1991*

*Natural Resources Management Act 2004*

*Offshore Minerals Act 2000*

*Opal Mining Act 1995*

*Petroleum and Geothermal Energy Act 2000*

*Petroleum (Submerged Lands) Act 1982*

*River Murray Act 2003*

*South Eastern Water Conservation and Drainage Act 1992*

*Water Conservation Act 1936 (repealed)*

*Water Industry Act 2012*

**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*

*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*

## Schedule 6 Rate of royalty

(Clause 73)

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
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 boards of management**

(Clause 87 (6))

## **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.
- (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.

(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 of the determination by the board.

(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 8 Form of permit to enter land**

(Clause 90 (4))

**Form – Permit****Permit***Mining Act 1992, section 260***Permit***Mining Regulation 2016, clause 90 (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:

[Secretary]

**Schedule 9 Fees**

(Part 8)

	Column 1	Column 2
	Matter	Fee
	Exploration licences	
1	Application for exploration licence--Groups 1-8, 10 and 11 minerals (Division 1 of Part 3 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--Groups 9 and 9A minerals (Division 1 of Part 3 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 (Division 1 of Part 3 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, 9A, 10 and 11 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--Groups 9 and 9A minerals (section 15 of the Act)	\$2,200
6, 7		
8	Application for renewal of exploration licence--Groups 1-8, 10 and 11 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--Groups 9 and 9A 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
11	Annual rental fee (section 292F of the Act)	\$0.20 per ha or \$20 per sq km or \$0.00002 per sq m or \$60 per unit
	Assessment leases	
12	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
13	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
14	Annual rental fee (section 292F of the Act):	
	(a) for a grant anniversary date occurring during the initial term of the lease, and	\$12 per ha or \$1,200 per sq km or \$3,600 per unit
	(b) for a grant anniversary date occurring during a term of the lease after the initial term	\$24 per ha or \$2,400 per sq km or \$7,200 per unit
	Mining leases	
15	Application for mining lease (section 51 of the Act)	\$10,000
16	Tender for mining lease (section 53 of the Act)	\$10,000
17	On grant of mining lease (section 63 of the Act)--per hectare or part hectare of land to which the lease relates	\$85

18	Application for suspension of operations under mining lease (clause 14 (3) of Schedule 1B to the Act)	\$250
19		
20	Application for addition of petroleum to mining lease (section 78 of the Act)	\$6,000
21		
21A	Application for variation of mining lease (clause 12 of Schedule 1B to the Act) to impose a condition to regulate the carrying out of an ancillary mining activity on land that is not within the mining area that is the subject of the mining lease	\$8,000
22	Application for consolidation of mining leases (section 86 of the Act)	\$1,000
23		
24	Application for renewal of mining lease (section 113 of the Act):	
	(a) application fee, and	\$3,000
	(b) per hectare	\$36
25	Lodgment of objection to significant improvement claim (section 62 (6A) of the Act and clause 23A of Schedule 1 to the Act) (exclusive of GST)	\$2,000
26		
27	Annual rental fee (section 292F of the Act)	\$6.50 per ha or \$650 per sq km or \$0.00065 per sq m
	<b>Authorities generally</b>	
28	Application for approval of transfer of authority (section 120 of the Act)	\$1,000
29	Application for approval of partial transfer of authority (section 120 of the Act)	\$1,650
30, 31		
32	Application for cancellation of authority (section 125 of the Act)	\$250
33	Application for partial cancellation of authority (section 125 of the Act)	\$500
34-3 7		
	<b>Records and registration</b>	
38	Application for registration of each interest (section 161 of the Act)	\$250
39-4 4		
	<b>Mineral claims</b> The class of a mineral claim is specified by the Minister, by order published in the Gazette, under section 175 of the Act.	
45	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
46	Application for Class B mineral claim in the Lightning Ridge Mineral Claims District (section 178 of the Act)	\$470
47	Application for Class C mineral claim (prospecting following opal	\$180

	prospecting licence) in the Lightning Ridge Mineral Claims District (section 178 of the Act)	
48	Application for Class D mineral claim (ancillary mining activity--processing) in the Lightning Ridge Mineral Claims District (section 178 of the Act)	\$470
49	Application for Class E mineral claim (ancillary mining activity--mullock stockpiling) in the Lightning Ridge Mineral Claims District (section 178 of the Act)	\$470
50	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
51	Application for Class G mineral claim (open cut mining operations) in the Lightning Ridge Mineral Claims District (section 178 of the Act)	\$470
52	Application for mineral claim area in the White Cliffs Mineral Claims District (section 178 of the Act)	\$130
53	Application for renewal of mineral claim area in the White Cliffs Mineral Claims District (section 197 of the Act)--per year of tenure	\$100
54	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
55	Application for renewal of Class B mineral claim in the Lightning Ridge Mineral Claims District (section 197 of the Act)	\$470
56	Application for renewal of Class D mineral claim (ancillary mining activity--processing) in the Lightning Ridge Mineral Claims District (section 197 of the Act)	\$470
57	Application for renewal of Class E mineral claim (ancillary mining activity--mullock stockpiling) in the Lightning Ridge Mineral Claims District (section 197 of the Act)	\$470
58	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
59	Application for transfer of mineral claim (section 200 of the Act)	\$120
60-63		
	Opal prospecting licences	
64	Application for opal prospecting licence (section 226 of the Act)	\$30
65	Registration of legal or equitable interest (section 235F (3) of the Act)	\$65
	Miscellaneous	
66	Application for environmental assessment permit (section 252 of the Act)	\$420
67		
68	Fee per hour for provision of information (not including prescribed records available at prescribed locations) (exclusive of GST)	\$150

## Schedule 10 Penalty notice offences

(Clause 99)

Column 1	Column 2	Column 3
Offence	Individual	Corporation
	Offences under the Act	
Section 5	\$2,500	\$5,000
Section 6 (1)	\$2,500	\$5,000
Section 12 (4) and (6)	\$750	--
Section 12B	\$2,500	--
Section 75 (3)	\$750	\$1,500
Section 76 (2)	\$750	\$1,500
Section 163 (3) or (6D)	\$750	\$1,500
Section 163C (3)	\$2,500	\$5,000
Section 164 (3)	\$750	\$1,500
Section 175A	\$1,250	\$2,500
Section 211 (3)	\$750	\$1,500
Section 213 (1) or (2)	\$750	\$1,500
Section 235C (3)	\$750	\$1,500
Section 240C	\$2,500	\$5,000
Section 246R (5)	\$2,500	\$5,000
Section 248S (1) (in relation to failure to comply with requirement under section 248E (2) (i))	\$1,250	\$2,500
Section 248S (1) (in relation to failure to comply with requirement under section 248N)	\$500	--
Section 248S (3)	\$2,500	\$5,000
Section 257	\$750	\$1,500
Section 258	\$110	\$110
Section 288 (2)	\$750	\$1,500
Section 291 (1A)	\$2,500	\$5,000
Section 292C (3)	\$500	\$1,000
Section 365	\$750	--
Section 378B	\$2,500	\$5,000
Section 378C	\$1,250	\$2,500
Section 378D (1)	\$1,250	\$2,500
Section 378ZFE	\$2,500	\$5,000
	Offences under this Regulation	
Clause 12 (1) or (2)	\$750	\$1,500
Clause 39 (8)	\$750	\$1,500
Clause 40 (11)	\$750	\$1,500
Clause 47 (7)	\$750	\$1,500
Clause 54 (7)	\$750	\$1,500
Clause 76 (3)	\$750	\$1,500
Clause 96 (4)	\$750	\$1,500

# Schedule 11 Savings and transitional provisions

## Part 1 – Provision consequent on the repeal of Mining Regulation 2003

### 1 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

### 2 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 *Mining Amendment Act 2008*) is taken to be an inspector appointed under section 361 of the Act.

### 3 Groups of minerals

- (1) An application for an exploration licence (pending immediately before the commencement of the *Mining Regulation 2010*) 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 the *Mining Regulation 2010*) 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 the *Mining Regulation 2010*) 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 the *Mining Regulation 2010*) 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 the *Mining Regulation 2010*) in respect of 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 the *Mining Regulation 2010*) granted in respect of geothermal substances is taken to be an assessment lease or mining lease granted in respect of geothermal energy.

## Part 3 – Provisions consequent on enactment of Mining Legislation Amendment (Uranium Exploration) Act 2012

### 4 Definitions

In this Part:

**"transitional exploration application"** means an application for an exploration licence in respect of Group 1 minerals that, because of clause 5, are taken to include thorium.

**"transitional exploration licence"** means an exploration licence in respect of Group 1 minerals

that, because of clause 5, are taken to include thorium.

### **5 Changes to mineral groups**

Despite the amendment made by Schedule 2 [2] to the *Mining Legislation Amendment (Uranium Exploration) Act 2012*, thorium is taken to continue to be a Group 1 mineral for the following purposes:

- (a) the determination of an application for, and the granting of, an exploration licence or a renewal of an exploration licence, if the application was made (but not determined) before the commencement of that amendment,
- (b) the operation of an exploration licence in respect of Group 1 minerals, and an application for the renewal of, and the renewal of, any such licence, if the original licence was granted before that commencement or granted as referred to in paragraph (a).

### **6 Exploration licence applications relating to land subject to transitional existing exploration licence or transitional exploration application**

- (1) This clause applies to an application for an exploration licence in respect of Group 11 minerals in respect of land that is subject to a transitional exploration application or a transitional exploration licence.
- (2) For the purposes of the application of section 19 of the Act to an application for an exploration licence to which this clause applies:
  - (a) the transitional exploration application or transitional exploration licence is taken to include Group 11 minerals, and
  - (b) consent to the application is not required under that section if the application is accompanied by a statutory declaration by or on behalf of the applicant to the effect that it is not intended to prospect for thorium on the land to which the transitional exploration application or transitional exploration licence applies.
- (3) If an exploration licence is granted after an application for which consent is not obtained because of subclause (2) (b), the exploration licence is taken, to the extent that it applies to land covered by the transitional exploration application or transitional exploration licence to be a licence over Group 11 minerals (other than thorium).
- (4) An exploration licence referred to in subclause (3) is taken to be a licence over all Group 11 minerals if:
  - (a) the transitional exploration application lapses or is refused, or
  - (b) the transitional exploration licence ceases to be in force and is not succeeded by a mining lease or assessment lease that is taken to include thorium.

### **7 Assessment lease applications relating to land subject to transitional exploration application**

For the purposes of the application of section 37 (1) (c) (i) of the Act to an application for an assessment lease sought in respect of thorium on land that is subject to a transitional exploration application, the transitional exploration application is taken to include Group 11 minerals.

The effect of this provision is to require the consent of the applicant under a transitional exploration licence to the proposed assessment lease. Because clause 5 deems thorium to be included as a Group 1 mineral covered by a transitional exploration licence or a transitional exploration application, the consent of the holder of the transitional exploration licence is also required to be obtained under section 37 of the Act to an application for an assessment lease that applies to thorium on the same land. Similarly, the consent of the holder of a transitional exploration licence or a transitional exploration application is also required to be obtained under section 58 of the Act to an application for a mining lease in respect of thorium on the same land.

## **Part 4 – Provision consequent on enactment of Mining and Petroleum Legislation Amendment Act 2014**

### **8 Operation of section 380AA (Restrictions on planning applications for coal**



## mining)--transitional consents for authorities

- (1) For the purposes of section 380AA of the Act, a person who holds a transitional consent is deemed to be the holder of the authority that the transitional consent permits the person to apply for.
- (2) A person who has applied for an authority pursuant to a transitional consent is still considered to hold the transitional consent while the application for the authority is pending.
- (3) A development application made or purporting to have been made before the commencement of this clause that would have been validly made had this clause been in force at that time is taken to have been validly made (despite section 380AA of the Act).
- (4) In this clause: "**development application**" means an application for development consent or modification of development consent. "**transitional consent**" means a consent of the Minister under section 13, 33 or 51 of the Act to the making of an application for an authority in respect of coal, given before the commencement of section 380AA of the Act.

## Part 5 – Provision consequent on making of Mining Amendment (Licences for Operational Allocation Purposes) Regulation 2015

### 9 References to Group 9 minerals--oil shale

- (1) On and from the commencement of the amendment made by the *Mining Amendment (Licences for Operational Allocation Purposes) Regulation 2015* to Schedule 2 to the *Mining Regulation 2010*:
  - (a) a reference in any mining document to a Group 9 mineral, to the extent that the reference applies in respect of oil shale, is to be read as a reference to a Group 9A mineral, and
  - (b) a reference in any mining document prepared before that commencement to Group 9 minerals generally is to be read as a reference to Group 9 minerals and Group 9A minerals, generally.
- (2) In this clause, "**mining document**" means any authorisation or other document that has any operation in connection with the Act or an authorisation.

## Part 6 – Provision consequent on making of Mining Legislation Amendment (Harmonisation) Regulation 2016

### 10 Construction of reference

In clause 70 (2) (a) of this Regulation, the reference to Dams Safety NSW includes a reference to the Dams Safety Committee constituted under the *Dams Safety Act 1978*, until that Act is repealed.

## Part 7 – Provision consequent on repeal of Mining Regulation 2010

### 11 Savings

Any act, matter or thing that, immediately before the repeal of the *Mining Regulation 2010*, had effect under that Regulation is taken to have effect under this Regulation.

### Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
Cll	clauses	p	page	Sec	section

Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

Table of amending instruments *Mining Regulation 2016 (498)*. LW 12.8.2016. Date of commencement, on publication on LW, cl 2. This Regulation has been amended as follows:

2016	(719)	<i>Mining Legislation Amendment (Arbitration) Regulation 2016</i> . LW 1.12.2016. Date of commencement, 1.12.2016, cl 2.
2017	No 17	<i>Crown Land Legislation Amendment Act 2017</i> . Assented to 17.5.2017. Date of commencement of Sch 4, 1.7.2018, sec 2 (1) and 2018 (225) LW 1.6.2018.
	No 27	<i>Mining and Petroleum Legislation Amendment Act 2017</i> . Assented to 27.6.2017. Date of commencement, assent, sec 2.
2018	(21)	<i>Mining Amendment (Fees) Regulation 2017</i> . LW 1.2.2018. Date of commencement, on publication on LW, cl 2.
	No 25	<i>Statute Law (Miscellaneous Provisions) Act 2018</i> . Assented to 15.6.2018. Date of commencement of Sch 3, 14 days after assent, sec 2 (1).

#### Table of amendments

Cl 7	Am 2017 No 27, Sch 2 [2] [3].
Cl 16	Am 2016 (719), Sch 2 [1].
Part 3, Div 6 (cl 39A-39F)	Ins 2016 (719), Sch 2 [2].
Cl 70	Am 2017 No 17, Sch 4.57 [1].
Sch 5	Am 2017 No 17, Sch 4.57 [2] [3]; 2018 No 25, Sch 3.11 [1] [2].
Sch 9	Am 2017 No 27, Sch 2 [4]; 2018 (21), cl 3.
The whole Regulation	Am 2017 No 27, Sch 2 [1] ("mining purpose" and "mining purposes" omitted wherever occurring, "ancillary mining activity" and "ancillary mining activities" inserted instead, respectively).