

South Australia

# Mining Regulations 2020

under the *Mining Act 1971*

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# Part 1—Preliminary

## 1—Short title

These regulations may be cited as the *Mining Regulations 2020*.

## 2—Commencement

These regulations come into operation on 1 January 2021.

## 3—Interpretation

- (1) In these regulations, unless the contrary intention appears—

*Act* means the *Mining Act 1971*;

*change in operations* means a change in relation to a tenement to which Part 8B Division 7 of the Act applies;

*compliance report* means a compliance report under regulation 77;

*corresponding law* means an Act of another State or a Territory that contains provisions that substantially correspond with the *Mining Act 1971*;

*Department* means the administrative unit of the Public Service that is responsible for assisting a Minister in the administration of the Act;

*designated Act* means—

- (a) the *Aboriginal Heritage Act 1988*; or
- (b) the *Aboriginal Lands Trust Act 2013*; or
- (c) the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*; or
- (d) the *Environment Protection Act 1993*; or
- (e) the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth; or
- (f) the *Landscape South Australia Act 2019*; or
- (g) the *Maralinga Tjarutja Land Rights Act 1984*; or
- (h) the *National Parks and Wildlife Act 1972*; or

- (i) the *Native Title Act 1993* of the Commonwealth; or
- (j) the *Native Vegetation Act 1991*; or
- (k) the *Offshore Minerals Act 2000*; or
- (l) the *Planning, Development and Infrastructure Act 2016*; or
- (m) the *Radiation Protection and Control Act 1982*; or
- (n) the *Work Health and Safety Act 2012*; or
- (o) an Act of another State or a Territory that contains provisions that substantially correspond with an Act set out in paragraphs (a) to (n) (inclusive);

***designated material*** has the meaning given by section 15AI of the Act;

***dimension stone*** means stone that is cut, trimmed and finished to specific dimensions and shapes and includes cut stone, ashlars, monumental stone, roofing slate and flagging stone;

***industrial minerals*** means the following:

- (a) alunite;
- (b) anatase;
- (c) andalusite;
- (d) barite;
- (e) bentonite;
- (f) calcrete;
- (g) celestite;
- (h) cement shale;
- (i) diamond;
- (j) diatomite;
- (k) dolomite;
- (l) feldspar;
- (m) fire clay;
- (n) garnet;
- (o) graphite;
- (p) gypsum;
- (q) ilmenite;
- (r) kaolin;
- (s) kyanite;
- (t) leucoxene;
- (u) lime sand;
- (v) magnesite;

- (w) marble;
- (x) mica;
- (y) micaceous hematite;
- (z) monazite;
- (za) palygorskite;
- (zb) peat;
- (zc) phosphate;
- (zd) potash;
- (ze) rutile;
- (zf) salt;
- (zg) silica;
- (zh) silica sand;
- (zi) sillimanite;
- (zj) talc;
- (zk) vermiculite;
- (zl) wollastonite;
- (zm) xenotime;
- (zn) zircon;
- (zo) any other mineral that would be an extractive mineral for the purposes of the Act but for the fact that it is mined for a purpose prescribed for the purposes of paragraph (a) of the definition of *extractive minerals* in section 6(1) of the Act;

***leading indicator criteria*** means criteria used to give an early warning that a control strategy in a program under Part 10A of the Act may fail or be failing.

- (2) For the purposes of paragraph (ab) of the definition of ***declared equipment*** in section 6(1) of the Act, mechanically driven equipment that is capable of drilling to depths of 2.5 metres or more below the ground in order to recover subsurface geological samples or information is prescribed.
- (3) For the purposes of the definition of ***exploring or exploration operations*** in section 6(1) of the Act, the following activities are, in accordance with paragraph (d) of that definition, brought within the ambit of that definition:
  - (a) collecting a bulk sample required to evaluate the metallurgical and physical properties of a mineral deposit or the economic potential of such a deposit and rehabilitating the land from which the sample was taken to be as close as reasonably practicable to the state of the land before the sample was taken;
  - (b) undertaking geotechnical test work and rehabilitating the land on which the test work was undertaken to be as close as reasonably practicable to the state of the land before the test work was undertaken.

- (4) The following are *prescribed purposes* under paragraph (a) of the definition of *extractive minerals* in section 6(1) of the Act:
- (a) chemical, cement, lime and glass manufacture;
  - (b) metallurgical flux, refractories and industrial fillers;
  - (c) foundries, fertiliser, agricultural, jewellery and crafted ornamental uses;
  - (d) the production of dimension stone.

#### **4—Exercise of rights over a road, street or highway**

- (1) A person must not exercise a right under the Act or these regulations on a public road, street or highway without the written consent of the authority that has the care, control or management of the road, street or highway.
- (2) However, a consent under subregulation (1) is not required to identify an area for a mineral claim on land (in a manner determined or approved under section 56E of the Act) consisting (partially or entirely) of a public road, street or highway.
- (3) An application to register a claim on land consisting (partially or entirely) of a public road, street or highway must be accompanied by the consent required under subregulation (1).

#### **5—Exempt land—prescribed distance**

- (1) This regulation applies in relation to—
  - (a) a miscellaneous purpose licence; and
  - (b) a retention lease; and
  - (c) a mining lease.
- (2) For the purposes of section 9(5) of the Act, the *prescribed distance* for the recovery of industrial minerals under a mineral tenement to which this regulation applies is, in accordance with paragraph (c)(i) of that definition, 400 metres.

#### **6—Waiver of exemption**

- (1) For the purposes of section 9AA(8)(b) of the Act, a tenement holder must provide the owner of land with the following information in relation to each relevant tenement or proposed tenement in relation to the land:
  - (a) a copy of the approved program (if any) under Part 10A of the Act;
  - (b) a copy of the relevant proposal;
  - (c) a copy of any response of the tenement holder as required by the Minister under section 56H(4)(b) of the Act;
  - (d) information as to the rights of the owner of land under section 9AA(9)(b) and (14) of the Act in a manner and form determined by the Minister that is made publicly available on a website determined by the Minister.
- (2) For the purposes of section 9AA(14b) of the Act, notice of an agreement to waive the benefit of an exemption must be given to the Mining Registrar—
  - (a) within 21 days after the agreement is entered into; or
  - (b) when an application for the tenement is made under the Act,

whichever occurs first.

## Part 2—Administration

### 7—Delegation by Minister

For the purposes of section 12(1) of the Act, the following Acts are prescribed:

- (a) the *Aboriginal Lands Trust Act 2013*;
- (b) the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*;
- (c) the *Landscape South Australia Act 2019*;
- (d) the *Maralinga Tjarutja Land Rights Act 1984*;
- (e) the *National Parks and Wildlife Act 1972*;
- (f) the *Native Vegetation Act 1991*;
- (g) the *Offshore Minerals Act 2000*;
- (h) the *Opal Mining Act 1995*;
- (i) the *Planning, Development and Infrastructure Act 2016*;
- (j) the *Roxby Downs (Indenture Ratification) Act 1982*.

### 8—Applications for warrants

The following procedures in relation to an application for the issue of a warrant are prescribed for the purposes of section 14C(6)(b) of the Act:

- (a) if an application for the issue of a warrant is made personally—the grounds of the application must be verified by affidavit;
- (b) if an application for the issue of a warrant is made by telephone—
  - (i) the applicant must inform the magistrate, warden or justice of the applicant's name and identify the position that they hold for the purposes of the Act, and the magistrate, warden or justice, on receiving that information, is entitled to assume, without further inquiry, that the applicant holds that position; and
  - (ii) the applicant must inform the magistrate, warden or justice of the purpose for which the warrant is required and the grounds on which it is sought; and
  - (iii) if it appears to the magistrate, warden or justice from the information given by the applicant that there are proper grounds to issue a warrant, the magistrate, warden or justice must inform the applicant of the facts that justify, in their opinion, the issue of the warrant, and must not proceed to issue the warrant unless the applicant undertakes to make an affidavit verifying those facts; and
  - (iv) if the applicant gives such an undertaking, the magistrate, warden or justice may then make out and sign a warrant, noting on the warrant the facts that justify, in their opinion, the issue of the warrant; and
  - (v) the warrant is taken to have been issued, and comes into force, when signed by the magistrate, warden or justice; and



- (vi) the magistrate, warden or justice must inform the applicant of the terms of the warrant; and
- (vii) the applicant must, as soon as practicable after the issue of the warrant, forward to the magistrate, warden or justice an affidavit verifying the facts referred to in subparagraph (iii).

## **Part 3—Royalty**

### **9—Prescribed amount**

For the purposes of section 17(4)(a) of the Act, the lesser amount of 52 cents per tonne is prescribed.

### **10—Prescribed information to accompany tenement holder's estimate of value of minerals**

For the purposes of section 17(6)(b)(iv) of the Act, the tenement holder's estimate of the reasonable value of the minerals in accordance with that subparagraph must be accompanied by—

- (a) sufficient information as to why the market value of the minerals could not be determined according to section 17(6)(b)(i), (ii) and (iii) of the Act; and
- (b) sufficient information that demonstrates that the estimate provided by the tenement holder is reasonable; and
- (c) any further information requested by the Minister.

### **11—Prescribed costs**

- (1) For the purposes of section 17(8) of the Act, costs of the following kinds are prescribed:
  - (a) costs (excluding GST) genuinely incurred in transporting the minerals to a point of sale (including, for example, packaging, storage, loading, permit, fees, insurance and depreciation);
  - (b) any other costs (excluding GST) determined by the Minister to be a cost of a prescribed kind for the purposes of that subsection (which may vary according to a particular tenement holder, class of tenement holder, or all tenement holders).
- (2) For the purposes of section 17(8a) of the Act, costs of the following kind are prescribed:
  - (a) costs (excluding GST) genuinely incurred in transporting the minerals to a point of sale (including, for example, packaging, storage, loading, permit, fees, insurance and depreciation);
  - (b) costs (excluding GST) genuinely incurred in shipping the minerals to a genuine purchaser in a sale at arms length;
  - (c) any other costs (excluding GST) determined by the Minister to be a cost of a prescribed kind for the purposes of that subsection (which may vary according to a particular tenement holder, class of tenement holder, or all tenement holders).

## **12—Persons exempt from furnishing returns**

- (1) For the purposes of section 17CA(9) of the Act (but subject to subregulation (2)), the following persons are exempt from the requirement to furnish a return under section 17CA(1) of the Act:
  - (a) the holder of a registered mineral claim;
  - (b) the holder of an exploration licence;
  - (c) the holder of a miscellaneous purposes licence;
  - (d) the holder of a retention lease.
- (2) Subregulation (1)(c) or (d) does not apply in relation to a particular tenement if the Minister has determined, by notice to the tenement holder, that the tenement holder should comply with the requirements of section 17CA of the Act.

## **13—Means of payment of royalty**

For the purposes of section 17G of the Act, royalty must be paid—

- (a) by means of electronic funds transfer to an account nominated by the Minister; or
- (b) by means of a credit card.

## **Part 4—Mining register**

### **14—Other matters to be placed on register**

- (1) For the purposes of section 15AA(2)(l) of the Act, the following must be registered on the register:
  - (a) the items set out in Schedule 1 (unless, in the Mining Registrar's discretion, the Mining Registrar determines otherwise);
  - (b) such other interest, instrument, approval, agreement, determination, statement, notice, order, direction, bond, penalty or other document as the Mining Registrar thinks fit.
- (2) This regulation does not limit the operation of any other regulation.

### **15—Surrender of mortgages**

For the purposes of section 15AC(8)(d) of the Act, a prescribed circumstance is where the surrender is required by an order of a court or tribunal constituted by law.

## **Part 5—Information**

### **16—Compilation, keeping and provision of material**

- (1) For the purposes of section 15AJ of the Act, a tenement holder must comply with the requirements set out in this regulation with respect to—
  - (a) compiling or creating designated material referred to in this regulation (section 15AJ(1) of the Act); and
  - (b) keeping designated material referred to in this regulation (section 15AJ(2) of the Act); and

- (c) providing designated material referred to in this regulation to the Director (section 15AJ(3) of the Act); and
  - (d) providing for the form of any designated material provided to the Director (section 15AJ(5) of the Act).
- (2) Geological mapping: complete and detailed records must be kept in an electronic form for 7 years and any such record created in a particular designated period must be provided electronically to the Director at the end of that particular designated period.
- (3) Surveys of workings: complete and detailed records must be kept in an electronic form for 7 years and any such records created in a particular designated period must be provided electronically to the Director at the end of that particular designated period.
- (4) Geological samples, including drill hole core and samples: all drill hole core samples and other representative geological samples must be kept in accordance with guidelines issued by the Department for the term of the relevant tenement and for 7 years after the expiry, surrender, cancellation or forfeiture of the tenement to which the sample relates and must be retained by the tenement holder, or provided to the Director, in accordance with those guidelines (unless the Minister has authorised, on application by the tenement holder in a manner and form set out in the guidelines, the destruction or disposal of the samples).
- (5) Drill hole logs: complete and detailed records must be kept in an electronic form for 7 years and any such records created in a particular designated period must be provided electronically to the Director at the end of that particular designated period.
- (6) Locations relating to geological samples including drill hole collar locations: these locations must be identified by using maps and coordinates that accurately show each location in accordance with any requirements determined by the Director and these maps and coordinates must be kept in an electronic form for 7 years and any such maps and coordinates created in a particular designated period must be provided electronically to the Director at the end of that particular designated period.
- (7) Results of analysis and testing of samples: complete and detailed records must be kept in an electronic form for 7 years and any such records created in a particular designated period must be provided electronically to the Director at the end of that particular designated period.
- (8) Records of geophysical surveys: complete and detailed records must be kept in an electronic form for 7 years and any such records created in a particular designated period must be provided electronically to the Director at the end of that particular designated period.
- (9) Technical data, studies and reports: these must be kept in an electronic form for 7 years and any such designated material created or finalised in a particular designated period must be provided electronically to the Director at the end of that particular designated period.
- (10) Records of geochemistry: complete and detailed records must be kept in an electronic form for 7 years and any such records created in a particular designated period must be provided electronically to the Director at the end of that particular designated period.

- (11) Supporting information and data associated with reserve or resource estimation: complete and detailed records must be kept in an electronic form for 7 years and any such records created in a particular financial year must be provided electronically to the Director by the designated date for that financial year.
- (12) Records of airborne surveys under regulation 80: complete and detailed records must be kept in an electronic form for 7 years and any such records created in a particular designated period must be provided electronically to the Director at the end of that particular designated period.
- (13) Records of remote sensing: these must be kept in an electronic form for 7 years and any such records created in a particular designated period must be provided electronically to the Director at the end of that particular designated period.
- (14) Economic, environmental or social studies or reports: these must be kept in an electronic form for 7 years and any such designated material created or finalised in a particular designated period must be provided electronically to the Director at the end of that particular designated period.
- (15) Records of mineralogy and petrology studies: these must be kept in an electronic form for 7 years and any such records created in a particular designated period must be provided electronically to the Director at the end of that particular designated period.
- (16) Scoping studies: these must be kept in an electronic form for 7 years and any such studies created or finalised in a particular designated period must be provided electronically to the Director at the end of that particular designated period.
- (17) Feasibility studies: these must be kept in an electronic form for 7 years and any such studies created or finalised in a particular designated period must be provided electronically to the Director at the end of that particular designated period.
- (18) Surface mapping (recording the geological features of an operating mine): complete and detailed records must be kept in an electronic form for 7 years and any such records created in a particular designated period must be provided electronically to the Director at the end of that particular designated period.
- (19) Drill hole photographs: these must be kept in an electronic form for 7 years and any such photographs taken in a particular designated period must be provided electronically to the Director at the end of that particular designated period.
- (20) Open data file compilations: complete and detailed records must be kept in an electronic form for 7 years and any such records created in a particular designated period must be provided electronically to the Director at the end of that particular designated period.
- (21) Technical data associated with exploration that demonstrates an increased inferred or indicated resource (JORC definitions or equivalent): this data must be kept in an electronic form for 7 years and any such data created in a particular designated period must be provided electronically to the Director at the end of that particular designated period.
- (22) Production volume or quantity, and quality and value, records for a mining lease or private mine: these records must be kept in an electronic form for 7 years and any such records must be provided electronically to the Director if so requested by the Director.

- (23) Records that evidence costs of a kind prescribed by regulation 11: these records must be kept in an electronic form for 7 years and any such records must be provided electronically to the Director if so requested by the Director.
- (24) Technical data associated with the measurement of criteria in a program or plan approved under Part 10A or 11B of the Act: this data must be kept in an electronic form for the term of the relevant tenement (or in the case of a private mine, until the private mine is surrendered) and any such data must be provided electronically to the Minister on request by the Minister.
- (25) Technical and environmental data used to prepare a proposal accompanying an application for a mining lease, retention lease, miscellaneous purposes licence or an application for a change under Part 8B Division 7 of the Act: this data must be kept in an electronic form for the term of the relevant tenement and any such data must be provided electronically to the Minister on request by the Minister.
- (26) In this regulation—  
*designated period* means—
  - (a) unless paragraph (b) applies—
    - (i) in relation to a private mine—each 12 month period ending on 30 June in each year; and
    - (ii) in any other case—each 12 month period ending on the anniversary of the day on which the relevant mineral tenement was granted; or
  - (b) if the Minister so determines—a period set by reference to particular dates in a year, or a particular frequency.

## 17—Release of material

For the purposes of section 15AL(3)(d) of the Act, any designated material provided to the Director under this Part must not be released under section 15AL of the Act until—

- (a) the expiry of the period of 5 years from the date on which the designated material was so provided to the Director; or
  - (b) the expiry, cancellation or forfeiture of the tenement to which the designated material relates; or
  - (c) the surrender, relinquishment or reduction (in whole or in part) of the tenement to which the designated material relates (being, in a case involving a part of a tenement, the designated material that relates to that part); or
  - (d) the designated material has been made publicly available; or
  - (e) a holder of the tenement consents to the release of the designated material,
- whichever occurs first.

## **Part 6—Mineral claims**

### **18—Application to establish a mineral claim**

- (1) For the purposes of section 21(7)(f) of the Act, the following information is prescribed:
  - (a) a statement of the proposed operations to be carried out within the area of the mineral claim;
  - (b) a plan delineating any exempt land within the area of the mineral claim.
- (2) For the purposes of sections 21(10) and 24A(a)(ii) of the Act, the period of 28 days, or such longer period as the Mining Registrar may determine or approve, is prescribed.

### **19—Area of claim**

For the purposes of section 23 of the Act (but subject to section 23(2) of the Act), the maximum permissible area of a mineral claim is 250 hectares.

### **20—Notification of registration**

The Mining Registrar must, on the registration of a mineral claim, give notice of the registration of the claim to the applicant.

### **21—Cancellation of claim**

- (1) If the Mining Registrar discovers or determines, after a mineral claim is registered, that the claim should not have been registered on account of a contravention of, or a failure to comply with, a provision or requirement of the Act or these or any other regulations made under the Act, the Mining Registrar may, by notice in writing to the owner of the claim, give notice of the Mining Registrar's intention to cancel the registration of the claim on a day specified in the notice (which must be at least 21 days after the date of the notice).
- (2) A person who receives a notice under subregulation (1) may apply to the Warden's Court to have the decision of the Mining Registrar reviewed.
- (3) An application for review must be made within 14 days of service of the notice (unless the Warden's Court allows an extension of time).
- (4) Pending the determination of an application for review, the Mining Registrar must not cancel the registration of the claim.
- (5) At the conclusion of the review, the Warden's Court may—
  - (a) confirm the decision of the Mining Registrar; or
  - (b) cancel the notice.
- (6) Subject to a decision of the Warden's Court under this regulation, the Mining Registrar may, after the day specified in a notice under this regulation, cancel the registration of the relevant claim.

## **22—Cessation of claim if lease granted**

If the Minister grants a mining lease or a retention lease over the whole or part of the area of a mineral claim—

- (a) the claim will cease to the extent to which the lease applies to the area of the claim; and
- (b) if there is no other application for a mineral tenement in relation to the mineral claim under consideration under the Act and these regulations at that time, the claim will cease and determine.

## **Part 7—Exploration licences**

### **23—Application for licence**

- (1) For the purposes of section 29A(1)(c) of the Act, the following information is prescribed:
  - (a) a statement—
    - (i) outlining the exploration operations that the tenement holder intends to carry out under the exploration licence during—
      - (A) the first 2 years of operations under the licence; or
      - (B) a period determined by the Minister; and
    - (ii) declaring the amount of expenditure that is estimated to occur in carrying out those operations;
  - (b) a statement of the technical, operational and financial capabilities and resources available to the applicant for the purpose of carrying out operations under the exploration licence;
  - (c) a statement nominating the principal mineral or minerals that the applicant is seeking under the exploration licence and the exploration model that the applicant intends to employ for the purposes of exploring for that mineral or those minerals;
  - (d) a statement by the applicant or a related body corporate outlining any contravention of, or failure to comply with, a provision of a corresponding law or designated Act in connection with authorised operations carried out by them within the preceding period of 5 years that resulted in—
    - (i) the revocation or suspension of an authority to carry out authorised operations; or
    - (ii) a prosecution for an offence; or
    - (iii) the imposition of a penalty by a court; or
    - (iv) the issuing of a notice, direction or order that required the suspension or discontinuance of any authorised operations or the rectification of any harm to the environment or the rehabilitation of any land, place or other aspect of the environment;

- (e) a statement outlining whether the applicant or a related body corporate has, within the preceding period of 3 months, held an exploration licence (or an interest in an exploration licence) in relation to any area in respect of which the exploration licence is being sought.
- (2) Any information provided under subregulation (1) must be in a form determined by the Minister, be supported by such evidence as the Minister may determine, and comply with any requirement of the Minister relating to the amount or detail of information that must be provided.

## **24—Notification of grant of licence**

For the purposes of section 29B of the Act, notice of the grant of an exploration licence will be given in the manner prescribed by regulation 88.

## **25—Expenditure**

For the purposes of section 30AAA of the Act—

- (a) the period applying under subsection (3)(a)(i) of that section is—
  - (i) unless subparagraph (ii) applies—every 2 years (with the first period commencing on the date on which the exploration licence is granted); or
  - (ii) a period determined by the Minister; and
- (b) the period applying under subsection (3)(b)(i) of that section is—
  - (i) unless subparagraph (ii) applies—every ensuing period of 2 years (with the period commencing on the second anniversary of the date on which the exploration licence is granted); or
  - (ii) a period determined by the Minister; and
- (c) the time within which a return must be furnished under subsection (3) of that section is within 60 days of the end of each period applying in accordance with paragraphs (a) and (b).

## **26—Application for retention status**

For the purposes of section 33B(2)(c) of the Act, the following information is prescribed:

- (a) in the case of a tenement holder who applies for the grant of retention status in relation to the exploration licence under section 33B(3)(a) of the Act—
  - (i) a statement of the approval or approvals under another Act or Acts that the tenement holder has been unable to obtain, and details of any attempts to obtain such approvals; and
  - (ii) a statement summarising the exploration operations undertaken under the exploration licence; and
  - (iii) an estimate of the expenditure that has been incurred in respect of exploration operations undertaken on the area of land to which the application relates; and



- (iv) an estimate of the time that the applicant considers will be required to obtain the approvals under another Act or Acts that are required before the tenement holder can commence or continue exploration operations in relation to the land to which the application relates;
- (b) in the case of a tenement holder who applies for the grant of retention status in relation to the exploration licence under section 33B(3)(b) of the Act—
  - (i) details of the mineral resource located in, on or under the land to which the application relates; and
  - (ii) a statement declaring that the mineral resource has been appropriately identified and estimated; and
  - (iii) a statement outlining the reasons the applicant considers it unreasonable to expect an application to be made for a mining lease or a retention lease because it is not commercially viable to spend time and money on developing the resource; and
  - (iv) a statement outlining the reasons the applicant considers that mining the relevant land will become commercially viable within the next 6 years;
- (c) in the case of a tenement holder who applies for the grant of retention status in relation to the exploration licence under section 33B(3)(c) of the Act—
  - (i) a statement summarising the exploration operations undertaken under the exploration licence; and
  - (ii) an estimate of the expenditure that has been incurred in respect of exploration operations undertaken on the area of land to which the application relates; and
  - (iii) a statement of the circumstances that the applicant considers justify the application, including details of any steps taken by the applicant to resolve those circumstances by other means;
- (d) such other information as may be determined by the Minister for the purposes of this regulation.

## 27—Division of area of licence

For the purposes of section 30AA(4)(b) of the Act, the following information is prescribed:

- (a) a description of the area that is to be surrendered in accordance with the requirements of section 56E of the Act;
- (b) an application that complies with the requirements of section 29A of the Act as if the designated party were applying for a new exploration licence in relation to the land to which the application relates and as if the land were open ground (subject to any necessary modifications);
- (c) a statement, in the form of a statutory declaration, declaring that—
  - (i) the designated party is not, in relation to the tenement holder, a related body corporate; and

- (ii) the designated party or a related body corporate has not, within the preceding period of 2 years, held a mineral tenement in respect of the land to be surrendered;
- (d) a statement that there are no outstanding obligations or liabilities in respect of the land to which the application relates or, if there are any such obligations or liabilities, a commitment from the designated party to assume responsibility for those obligations and liabilities;
- (e) if the exploration licence falls within the ambit of regulation 77(1)(b)—a final compliance report as if the land to which the application relates were a tenement that was being surrendered by the tenement holder;
- (f) such other information as may be determined by the Minister for the purposes of this regulation.

## 28—Renewal of licence

- (1) For the purposes of section 30A(4a)(a) of the Act, the following information is prescribed:
  - (a) a statement of performance for the previous term which includes such information as the Minister may determine;
  - (b) a statement—
    - (i) outlining the exploration operations that the tenement holder intends to carry out under the exploration licence during—
      - (A) the first 2 years of operations under the renewed licence; or
      - (B) a period determined by the Minister; and
    - (ii) declaring the amount of expenditure that is estimated to occur in carrying out those operations;
  - (c) a statement nominating the principal mineral or minerals that the applicant is seeking over the next term of the licence and the exploration model that the applicant intends to employ for the purposes of exploring for that mineral or those minerals;
  - (d) a statement of the technical, operational and financial capabilities and resources available to the applicant for the purposes of carrying out operations under the renewed licence;
  - (e) a statement by the applicant or a related body corporate outlining any contravention of, or failure to comply with, a provision of a corresponding law or designated Act in connection with authorised operations carried out by them within the preceding period of 5 years that resulted in—
    - (i) the revocation or suspension of an authority to carry out authorised operations; or
    - (ii) a prosecution for an offence; or
    - (iii) the imposition of a penalty by a court; or

- (iv) the issuing of a notice, direction or order that required the suspension or discontinuance of any authorised operations or the rectification of any harm to the environment or the rehabilitation of any land, place or other aspect of the environment;
  - (f) such other information as may be determined by the Minister for the purposes of this regulation.
- (2) Any information provided under subregulation (1) must be in a form determined by the Minister, be supported by such evidence as the Minister may determine, and comply with any requirement of the Minister relating to the amount or detail of information that must be provided.
- (3) An application under section 30A(4) of the Act must be accompanied by the prescribed fee.

## **29—Excise of land for public purposes**

- (1) For the purposes of section 30AB of the Act, the Minister may excise land by notice in the Gazette in a form determined by the Minister.
- (2) If the Minister gives a notice under subregulation (1), the Minister must serve a copy of the notice on the tenement holder.

## **Part 8—Leases**

### **30—Additional information in connection with application for mining lease**

- (1) For the purposes of section 36(1)(d) of the Act, the following information is prescribed:
  - (a) a statement nominating the principal mineral or minerals that are to be recovered under the mining lease;
  - (b) a statement that provides detailed information about the mineral resource or ore reserve, or both;
  - (c) a statement declaring that the mineral resource or ore reserve, or both, has been appropriately identified and estimated;
  - (d) a statement of the technical, operational and financial capabilities and resources available to the applicant for the purpose of carrying out operations under the mining lease;
  - (e) a statement that demonstrates—
    - (i) that there is a reasonable prospect that the land in respect of which the lease is sought could be effectively and efficiently mined; and
    - (ii) that appropriate environmental outcomes will be able to be achieved;
  - (f) a statement by the applicant or a related body corporate outlining any contravention of, or failure to comply with, a provision of a corresponding law or designated Act in connection with authorised operations carried out by them within the preceding period of 5 years that resulted in—
    - (i) the revocation or suspension of an authority to carry out authorised operations; or

- (ii) a prosecution for an offence; or
    - (iii) the imposition of a penalty by a court; or
    - (iv) the issuing of a notice, direction or order that required the suspension or discontinuance of any authorised operations or the rectification of any harm to the environment or the rehabilitation of any land, place or other aspect of the environment;
  - (g) such other information as may be determined by the Minister for the purposes of this regulation.
- (2) Any information provided under subregulation (1) must be in a form determined by the Minister, be supported by such evidence as the Minister may determine, and comply with any requirement of the Minister relating to the amount or detail of information that must be provided.

### **31—Additional information in connection with application for retention lease**

- (1) For the purposes of section 44(1)(d) of the Act, the following information is prescribed:
- (a) if the application is being made under section 43(1)(a) of the Act—
    - (i) a statement outlining the operations to be carried out to support an application for a mining lease; and
    - (ii) a statement that provides detailed information about the mineral resource or ore reserve, or both; and
    - (iii) a statement declaring that the mineral resource or ore reserve, or both, has been appropriately identified and estimated;
  - (b) if the application is being made under section 43(1)(c) of the Act—
    - (i) a statement nominating the principal mineral or minerals that are proposed to be recovered under a mining lease; and
    - (ii) a statement that provides detailed information about the mineral resource or ore reserve, or both; and
    - (iii) a statement declaring that the mineral resource or ore reserve, or both, has been appropriately identified and estimated; and
    - (iv) a statement setting out the grounds for proposing that there are economic or other reasons which justify not proceeding immediately to mine the land under a mining lease; and
    - (v) a statement setting out the reasons why the applicant considers that mining the relevant land will become commercially viable within the next 5 years;
  - (c) a statement of the technical, operational and financial capabilities and resources available to the applicant for the purpose of carrying out operations under the retention lease;
  - (d) a statement that demonstrates that appropriate environmental outcomes will be able to be achieved;

- (e) a statement by the applicant or a related body corporate outlining any contravention of, or failure to comply with, a provision of a corresponding law or designated Act in connection with authorised operations carried out by them within the preceding period of 5 years that resulted in—
    - (i) the revocation or suspension of an authority to carry out authorised operations; or
    - (ii) a prosecution for an offence; or
    - (iii) the imposition of a penalty by a court; or
    - (iv) the issuing of a notice, direction or order that required the suspension or discontinuance of any authorised operations or the rectification of any harm to the environment or the rehabilitation of any land, place or other aspect of the environment;
  - (f) such other information as may be determined by the Minister for the purposes of this regulation.
- (2) Any information provided under subregulation (1) must be in a form determined by the Minister, be supported by such evidence as the Minister may determine, and comply with any requirement of the Minister relating to the amount or detail of information that must be provided.

### **32—Notice of application for retention lease**

For the purposes of section 56H(1)(a)(ii) of the Act, an application for a retention lease is exempt from the operation of that section if the applicant proposes to conduct only exploration operations in relation to the land to which the application relates.

### **33—Notice of terms and conditions**

The Minister must, before determining to grant a mining lease or a retention lease, notify the applicant of the proposed terms and conditions of the lease and give the applicant at least 28 days, or such longer period as the Minister may allow, to make submissions on those terms and conditions before the Minister finalises them (although the applicant may indicate that a shorter period of time is sufficient for the purposes of this regulation).

### **34—Renewal of retention lease**

- (1) For the purposes of section 46(3)(b) of the Act, the following information is prescribed:
- (a) a statement of performance for the previous term which includes such information as the Minister may determine;
  - (b) a statement outlining the reasons why the retention lease should be renewed;
  - (c) a statement of the technical, operational and financial capabilities and resources available to the applicant for the purposes of carrying out operations under the renewed lease;
  - (d) a statement by the applicant or a related body corporate outlining any contravention of, or failure to comply with, a provision of a corresponding law or designated Act in connection with authorised operations carried out by them within the preceding period of 5 years that resulted in—

- (i) the revocation or suspension of an authority to carry out authorised operations; or
    - (ii) a prosecution for an offence; or
    - (iii) the imposition of a penalty by a court; or
    - (iv) the issuing of a notice, direction or order that required the suspension or discontinuance of any authorised operations or the rectification of any harm to the environment or the rehabilitation of any land, place or other aspect of the environment;
  - (e) such other information as may be determined by the Minister for the purposes of this regulation.
- (2) Any information provided under subregulation (1) must be in a form determined by the Minister, be supported by such evidence as the Minister may determine, and comply with any requirement of the Minister relating to the amount or detail of information that must be provided.

### **35—Notice of decision**

The Minister must give an applicant for a mining lease or a retention lease, or for the renewal of a mining lease or a retention lease, notice of the outcome of the application.

## **Part 9—Miscellaneous purposes licences**

### **36—Size**

For the purposes of section 47(2) of the Act, the maximum permissible area of a miscellaneous purposes licence is—

- (a) 250 hectares; or
- (b) an amount (greater than 250 hectares) determined by the Minister in a particular case.

### **37—Additional information in connection with application for licence**

For the purposes of section 49(1)(d) of the Act, the following information is prescribed:

- (a) a statement of the technical, operational and financial capabilities and resources available to the applicant for the purpose of carrying out operations under the miscellaneous purposes licence;
- (b) a statement that demonstrates that appropriate environmental outcomes will be able to be achieved;
- (c) a statement by the applicant or a related body corporate outlining any contravention of, or failure to comply with, a provision of a corresponding law or designated Act in connection with authorised operations carried out by them within the preceding period of 5 years that resulted in—
  - (i) the revocation or suspension of an authority to carry out authorised operations; or
  - (ii) a prosecution for an offence; or

- (iii) the imposition of a penalty by a court; or
- (iv) the issuing of a notice, direction or order that required the suspension or discontinuance of any authorised operations or the rectification of any harm to the environment or the rehabilitation of any land, place or other aspect of the environment;
- (d) such other information as may be determined by the Minister for the purposes of this regulation.

### **38—Additional information in connection with infrastructure**

- (1) Subject to subregulation (2), this regulation applies if an application for a miscellaneous purposes licence proposes that infrastructure, or additional infrastructure, be constructed or installed on the land in respect of which the licence is being sought and the infrastructure is of a kind that is capable of being shared with other persons.
- (2) This regulation does not apply in relation to infrastructure excluded from the operation of the regulation by the Minister.
- (3) For the purposes of section 49(1)(d) of the Act, the following information is prescribed in relation to any infrastructure referred to in subregulation (1):
  - (a) a description of any similar infrastructure that exists in the region where the land is located;
  - (b) either—
    - (i) if infrastructure is identified under paragraph (a)—a statement as to why that infrastructure cannot be used for any relevant ancillary operations; or
    - (ii) if infrastructure is not identified under paragraph (a)—a statement demonstrating the benefit (if any) that the infrastructure proposed to be constructed or installed under the miscellaneous purposes licence would provide to the region where the land is located, and outlining any proposal to share that infrastructure with any other person.
- (4) Any information provided under subregulation (3) must be in a form determined by the Minister, be supported by such evidence as the Minister may determine, and comply with any requirement of the Minister relating to the amount or detail of information that must be provided.

### **39—Notice of terms and conditions**

The Minister must, before determining to grant a miscellaneous purposes licence, notify the applicant of the proposed terms and conditions of the licence and give the applicant at least 28 days, or such longer period as the Minister may allow, to make submissions on those terms and conditions before the Minister finalises them (although the applicant may indicate that a shorter period of time is sufficient for the purposes of this regulation).

#### **40—Renewal of miscellaneous purposes licence**

- (1) For the purposes of section 51(3)(b) of the Act, the following information is prescribed:
- (a) a statement of performance for the previous term which includes such information as the Minister may determine;
  - (b) a statement outlining the reasons why the miscellaneous purposes licence should be renewed;
  - (c) a statement of the technical, operational and financial capabilities and resources available to the applicant for the purposes of carrying out operations under the renewed licence;
  - (d) a statement by the applicant or a related body corporate outlining any contravention of, or failure to comply with, a provision of a corresponding law or designated Act in connection with authorised operations carried out by them within the preceding period of 5 years that resulted in—
    - (i) the revocation or suspension of an authority to carry out authorised operations; or
    - (ii) a prosecution for an offence; or
    - (iii) the imposition of a penalty by a court; or
    - (iv) the issuing of a notice, direction or order that required the suspension or discontinuance of any authorised operations or the rectification of any harm to the environment or the rehabilitation of any land, place or other aspect of the environment;
  - (e) such other information as may be determined by the Minister for the purposes of this regulation.
- (2) Any information provided under subregulation (1) must be in a form determined by the Minister, be supported by such evidence as the Minister may determine, and comply with any requirement of the Minister relating to the amount or detail of information that must be provided.

#### **41—Notice of decision**

The Minister must give an applicant for a miscellaneous purposes licence, or for the renewal of a miscellaneous purposes licence, notice of the outcome of the application.

### **Part 10—Scoping**

#### **42—Object of Part**

The object of this Part is to establish a scheme that, in relation to mining leases, retention leases and miscellaneous purposes licences—

- (a) provides the holders of a relevant tenement an opportunity to obtain greater certainty with respect to government and community expectations as to the scope of work and the level and extent of assessment relating to environmental impacts that are relevant to their authorised operations or proposed authorised operations, including by taking the initiative through the preparation and provision of scoping reports; and



- (b) provides for projects to be categorised according to their level of potential environmental impacts and assigned to assessment pathways that are appropriate in their particular circumstances, after taking into account information and other material provided in or in connection with scoping reports; and
- (c) ensures that project assessments are commensurate with the level of environmental impacts after taking into account project type, scale, duration and the sensitivity of the location of mining and ancillary operations; and
- (d) ensures that projects are assessed within a scheme that promotes efficiencies, transparency and clarity as to approval pathways and technical assessments.

### 43—Interpretation

In this Part—

***designated person*** means—

- (a) the holder of a mineral tenement that may lead to a relevant tenement; or
- (b) an applicant for a relevant tenement; or
- (c) an applicant for an approval to make a change in operations;

***relevant tenement*** means a mining lease, a retention lease or a miscellaneous purposes licence.

### 44—Application of Part

This Part may apply in relation to a particular project even if an application is yet to be made for a mining lease, retention lease or miscellaneous purposes licence.

### 45—Scoping report

- (1) The purpose of a report under this Part (a ***scoping report***) is to gather, develop, assess and provide, to such extent as may be reasonable and relevant, information relating to 1 or more of the following:
  - (a) categorising the level of environmental impact of a relevant tenement or change in operations;
  - (b) determining the reasonable and relevant level of detail for information to be provided to the Minister for the purposes of environmental impact assessment as part of the consideration of an application for a relevant tenement or change in operations;
  - (c) identifying and prioritising the issues that are associated with environmental impact assessment as part of the consideration of an application for a relevant tenement or change in operations;
  - (d) determining the extent of work required to be undertaken for the purposes of environmental impact assessment as part of the consideration of an application for a relevant tenement or change in operations;

- (e) if it is relevant in the circumstances or is reasonable or appropriate to do so—determining the impacts of a relevant tenement or change in operations on people or communities, including by providing information about the measures that are to be used to manage, limit or remedy those impacts (in the case of negative impacts), or to facilitate or ensure those impacts (in the case of positive impacts).
- (2) A designated person may provide a scoping report to the Minister at any time that is reasonable and appropriate.
- (3) The Minister may require a designated person to provide a scoping report if such a report has not been provided by the designated person.
- (4) A scoping report—
  - (a) must be provided in a manner and form determined by the Minister; and
  - (b) in the case of a report required under subregulation (3), must be provided within a period, or at a time or stage, determined by the Minister.
- (5) The Minister may require the designated person to furnish the Minister with any additional information specified by the Minister (and that information must be furnished within any period specified by the Minister).
- (6) Any information provided under this regulation must—
  - (a) be balanced, objective and concise; and
  - (b) state any limitations that apply, or should apply, to the use of information; and
  - (c) identify any matter in relation to which there is a significant lack of information or a significant degree of uncertainty; and
  - (d) so far as is relevant, identify the sensitivity to change of any assumption that has been made and any significant risks that may arise if an assumption is later found to be incorrect; and
  - (e) be in a form determined by the Minister, be supported by such evidence as the Minister may determine, and comply with any requirement of the Minister relating to the amount or detail of information that must be provided.

## **Part 11—Common provisions**

### **46—Information relating to environmental impact assessment—initial application for tenement**

- (1) This regulation applies to—
  - (a) a mining proposal under section 36(1)(c) of the Act; or
  - (b) a retention proposal under section 44(1)(c) of the Act; or
  - (c) a proposal accompanying an application for a miscellaneous purposes licence under section 49(1)(c) of the Act.
- (2) An assessment of environmental impacts of any proposed operations in a proposal may be limited to those aspects of the environment that may reasonably be expected to be affected by the relevant authorised operations.

- (3) An assessment of environmental impacts of any proposed operations and an outline of the measures that the applicant proposes to take to manage, limit or remedy those impacts must include a description of the anticipated impacts after the relevant measures have been taken.
- (4) A statement of the environmental outcomes that are expected to occur must include a set of completion outcomes assessed on a long term basis.
- (5) For the purposes of sections 36(1)(c)(iii), 44(1)(c)(iii) and 49(1)(c)(iii) of the Act, the criteria to be adopted to measure the environmental outcomes that are set out in a proposal must include details about—
  - (a) what is to be measured and the form of the measurements that are to be used; and
  - (b) the locations where the relevant measurements are to be taken, or how such locations are to be determined; and
  - (c) what is proposed to be taken to constitute the achievement of the relevant outcomes (with consideration being given to any inherent errors of measurement); and
  - (d) the frequency of any measurement or monitoring; and
  - (e) any background or control data that is to be used, or how any such data is to be acquired.
- (6) In addition—
  - (a) an assessment under subregulation (2) or (3); and
  - (b) a statement of the environmental outcomes under subregulation (4); and
  - (c) any criteria to be adopted under subregulation (5),must take into account any scoping report accepted by the Minister under Part 10.
- (7) Any information or material provided for the purposes of a proposal must—
  - (a) be balanced, objective and concise; and
  - (b) state any limitations that apply, or should apply, to the use of information; and
  - (c) identify any matter in relation to which there is a significant lack of information or a significant degree of uncertainty; and
  - (d) so far as is relevant, identify the sensitivity to change of any assumption that has been made and any significant risks that may arise if an assumption is later found to be incorrect; and
  - (e) be in a form determined by the Minister, be supported by such evidence as the Minister may determine, and comply with any requirement of the Minister relating to the amount or detail of information that must be provided.
- (8) Without limiting subregulation (7), any criteria referred to in subregulation (5) must, insofar as is reasonably practicable and appropriate, be expressed in quantitative terms (rather than qualitative terms).

## **47—Consultation on proposed tenement**

- (1) This regulation applies to—
  - (a) a mining proposal under section 36(1)(c) of the Act; or
  - (b) a retention proposal under section 44(1)(c) of the Act; or
  - (c) a proposal accompanying an application for a miscellaneous purposes licence under section 49(1)(c) of the Act.
- (2) For the purposes of sections 36(1)(c)(iv), 44(1)(c)(iv) and 49(1)(c)(iv) of the Act—
  - (a) the consultation must at least comply with the following requirements:
    - (i) there should be a focus on engagement about the environmental outcomes that are expected to occur in connection with the proposed authorised operations;
    - (ii) reasonable steps should be taken to consult with the owner of land where the authorised operations are proposed to be carried out; and
  - (b) the results of the consultation undertaken in relation to a proposal must at least set out the following:
    - (i) the persons consulted;
    - (ii) any issues of concern raised by the persons consulted;
    - (iii) the steps (if any) taken or proposed to be taken by the applicant to address those concerns.

## **48—Social impact assessment**

- (1) This regulation applies to an application for—
  - (a) a mining lease; or
  - (b) a retention lease; or
  - (c) a miscellaneous purposes licence; or
  - (d) a change in operations.
- (2) For the purposes of sections 36(1)(d), 44(1)(d), 49(1)(d) and 56R(1)(b)(ii) of the Act, the Minister may, if the Minister considers it appropriate to do so, determine that the following information be furnished to the Minister in connection with an application to which this regulation applies:
  - (a) a description of the impacts on people and communities that are reasonably expected to occur as a result of authorised operations that are proposed to be carried out under the tenement or the proposed change in operations (as the case may be); and
  - (b) an outline of the measures that are to be used to manage, limit or remedy those impacts (in the case of negative impacts), or to facilitate or ensure those impacts (in the case of positive impacts).
- (3) In addition, the Minister must, in acting under subregulation (2), take into account any scoping report accepted by the Minister under Part 10.

- (4) Any information or material provided for the purposes of this regulation must—
  - (a) be balanced, objective and concise; and
  - (b) state any limitations that apply, or should apply, to the use of information; and
  - (c) identify any matter in relation to which there is a significant lack of information or a significant degree of uncertainty; and
  - (d) so far as is relevant, identify the sensitivity to change of any assumption that has been made and any significant risks that may arise if an assumption is later found to be incorrect; and
  - (e) be in a form determined by the Minister, be supported by such evidence as the Minister may determine, and comply with any requirement of the Minister relating to the amount or detail of information that must be provided.
- (5) This regulation—
  - (a) does not limit or derogate from any assessment of social impact that must be undertaken as part of assessing environmental impact under the Act or these regulations; and
  - (b) does not limit or derogate from the ability of the Minister to require information to be furnished to the Minister under the Act.

#### **49—Alteration of terms and conditions**

- (1) For the purposes of section 56J(2)(c) of the Act, the following matters are prescribed:
  - (a) where a term or condition of a mineral tenement to which the section applies is inconsistent with, limits or derogates from a provision of the Act;
  - (b) where a change will prevent or avoid a reoccurrence of a breach of the Act;
  - (c) where a change will address a term or condition of a mineral tenement to which the section applies that is incapable of being met;
  - (d) where a change will ensure that a term or condition of a mineral tenement to which the section applies is consistent with an amendment that has been made to the Act or any other Act.
- (2) For the purposes of section 56J(6) of the Act, subsections (3), (4) and (5) of section 56J of the Act do not apply if the Minister determines that the change is required as a matter of urgency.

#### **50—Rental**

- (1) For the purposes of section 56M(2) of the Act, rental as set out in Schedule 2 is payable by the holder of a mineral tenement to whom section 56M of the Act applies in accordance with that Schedule.
- (2) Rental will be calculated according to the total amount of land in respect of which the relevant mineral tenement is granted, and no allowance will be made for land that is not available for authorised operations or other activities under the relevant mineral tenement.
- (3) Rental is to be paid annually in advance to the Department.

## **51—Amalgamation of areas (terms and conditions of tenement)**

For the purposes of section 56P(3)(b) of the Act, the Minister must provide to the tenement holder (or tenement holders) a copy of the proposed terms and conditions of the tenement for the purposes of consultation.

## **52—Surrender on application**

For the purposes of section 56X(2)(b) of the Act, the following information is prescribed:

- (a) a statement, accompanied by supporting evidence—
  - (i) that completion outcomes required under a program under Part 10A of the Act, or all mine completion objectives required under a mine operations plan under Part 11B of the Act, have been achieved (or if an outcome or objective has not been achieved, the reason for this situation and information about what the tenement holder has done, or proposes to do, in the circumstances); and
  - (ii) that all rehabilitation required to be undertaken has been completed or is in place;
- (b) in the case of a surrender of a part of the area of the mineral tenement—a map and description of the relevant areas, showing the area to be surrendered and the area to remain, that comply with the requirements of section 56E of the Act;
- (c) the final compliance report, final royalty report and, if relevant, a final technical exploration report, required under these regulations;
- (d) the following declarations, in the form of a statutory declaration:
  - (i) a declaration that authorised operations have ceased;
  - (ii) a declaration that there are no outstanding liabilities under the Act or these regulations;
  - (iii) a declaration that all fees, royalties, rents or penalties under the Act or these regulations have been paid;
  - (iv) a declaration that outlines any legal proceedings in respect of the tenement that involve the tenement holder as a party to those proceedings;
  - (v) if relevant, a declaration that the tenement holder has a management plan in place for the management or transfer of any outstanding matters or liabilities;
  - (vi) in the case of a private mine where the person carrying out mining operations is not the proprietor of the private mine—a declaration that the person who has been carrying out the operations has consulted with the proprietor of the mine;
- (e) an outline of the consultation undertaken by the tenement holder with the owner of the land about surrendering the mineral tenement and any rehabilitation or other work or activities to be carried out in connection with the surrender, including the issues raised by the owner and how those issues have been, or will be, addressed.

### **53—Reinstatement of tenement—exploration licence**

For the purposes of section 56Z(1)(a) of the Act, section 56Z of the Act applies to an exploration licence.

### **54—Assessment reports—alteration of terms and conditions under section 56J of Act**

For the purposes of section 56ZA(1)(h) of the Act, a decision to add, vary or revoke a term or condition of a mineral tenement under section 56J of the Act is prescribed.

## **Part 12—Change in operations**

### **55—Proposal to accompany application**

- (1) For the purposes of section 56R(1)(b)(i) of the Act, a proposal must—
  - (a) specify the change that is being proposed taking into account the changes referred to in section 56Q(3) of the Act; and
  - (b) set out any changes that would apply (if the application for the change were to be approved) in relation to—
    - (i) the environmental impacts of the authorised operations carried out under the relevant tenement; and
    - (ii) the measures that are used, or to be used, to manage, limit or remedy those impacts; and
    - (iii) the environmental outcomes that are expected to occur; and
    - (iv) the criteria that have been adopted to measure the environmental outcomes associated with the relevant tenement; and
  - (c) be accompanied by a statement that demonstrates—
    - (i) in the case of a mining lease—that the change will not adversely affect the ability of the tenement holder to ensure that land comprised in the tenement can be effectively and efficiently mined; and
    - (ii) that appropriate environmental outcomes will be able to be achieved; and
    - (iii) that the change will not adversely affect the ability of the tenement holder to comply with the other requirements of the Act.
- (2) A proposal must also, in relation to any proposed change to the criteria adopted to measure a particular outcome, include details about any change to—
  - (a) what is to be measured and the form of the measurements that are to be used; and
  - (b) what is proposed to be taken to constitute the achievement of the relevant outcome; and
  - (c) the locations where the relevant measurements are to be taken, or how such locations are to be determined; and
  - (d) the frequency of any measurement or monitoring; and

- (e) any background or control data that is to be used, or how any such data is to be acquired.
- (3) In addition, a proposal must take into account any scoping report accepted by the Minister under Part 10.
- (4) Any information or material provided for the purposes of a proposal must—
  - (a) be balanced, objective and concise; and
  - (b) state any limitations that apply, or should apply, to the use of information; and
  - (c) identify any matter in relation to which there is a significant lack of information or a significant degree of uncertainty; and
  - (d) so far as is relevant, identify the sensitivity to change of any assumption that has been made and any significant risks that may arise if an assumption is later found to be incorrect; and
  - (e) be in a form determined by the Minister, be supported by such evidence as the Minister may determine, and comply with any requirement of the Minister relating to the amount or detail of information that must be provided.

## **56—Information on engagement on application for approval for change in operations**

- (1) For the purposes of section 56R(1)(b)(ii) of the Act, an application for the approval of the Minister under Part 8B Division 7 of the Act must set out information on the results of consultation undertaken by the tenement holder in relation to a proposal which must at least set out the following:
  - (a) the persons consulted;
  - (b) any issues of concern raised by the persons consulted;
  - (c) the steps (if any) taken or proposed to be taken by the applicant to address those concerns.
- (2) The consultation must at least comply with the following requirements:
  - (a) there should be a focus on engagement about any changes to the environmental impacts or outcomes that are expected to occur in connection with the proposed changes to authorised operations to be carried out under the tenement;
  - (b) reasonable steps should be taken to consult with the owner of land where the authorised operations are carried out.

## **57—Consultation by Minister**

For the purposes of section 56S(b) of the Act, the Minister is required to undertake consultation under Part 8B Division 2 of the Act if—

- (a) there is an additional or different impact to the environment as a result of a proposed change to the operations to be carried out under the tenement; and
- (b) the impact is significant.



## **58—Notice of variation of terms or conditions**

- (1) The Minister must, before determining to vary the terms or conditions of a mineral tenement under section 56U of the Act, notify the applicant of the proposed variation and give the applicant at least 28 days, or such longer period as the Minister may allow, to make submissions on the variation before the Minister finalises it (although the applicant may indicate that a shorter period of time is sufficient for the purposes of this regulation).
- (2) For the purposes of this regulation, a reference to a variation of terms or conditions of a mineral tenement includes a reference to adding or revoking 1 or more terms or conditions.

## **59—Notice of decision**

For the purposes of section 56V(2) of the Act, a notice to an applicant must be given in accordance with regulation 88.

## **Part 13—Funds**

### **60—Mining Rehabilitation Fund—prescribed period**

For the purposes of section 62AA(3)(b) of the Act, the prescribed period is 24 months.

### **61—Extractive Areas Rehabilitation Fund—prescribed rate**

For the purposes of the definition of *prescribed rate* in section 63(5) of the Act, the lesser amount of 22 cents per tonne of extractive minerals is prescribed.

## **Part 14—Forfeiture and transfer of mineral tenement**

### **62—Forfeiture and transfer of mineral tenement**

- (1) For the purposes of section 70(1)(b) of the Act, section 70 of the Act applies in relation to an exploration licence.
- (2) For the purposes of section 70(2a) of the Act—
  - (a) an applicant must be able to demonstrate—
    - (i) their capacity to meet the terms and conditions of the tenement; and
    - (ii) their capacity to meet the outcomes, criteria and requirements of the relevant approved program under Part 10A of the Act; and
    - (iii) their capacity to replace any bond or security in place under section 62 of the Act; and
    - (iv) a history of compliance with the provisions of the Act and any designated Act; and
  - (b) an application must be supported by—
    - (i) evidence of technical, operational and financial capabilities and resources available to the applicant to undertake the operations contemplated by the relevant approved program under Part 10A of the Act; and

- (ii) evidence of the capacity to rectify or address the grounds on which the tenement would be forfeited, as applying under section 70(2b) of the Act; and
- (c) an application may not be made in relation to an exploration licence that was granted or has been transferred within the period of 2 years immediately preceding the date of the application.
- (3) For the purposes of section 70(3a)(a) of the Act, a right to the transfer of a mineral tenement does not arise—
  - (a) if the person on whose application the Court recommended forfeiture fails to notify the Minister, within 14 days after the Court makes its recommendation, in a manner and form determined by the Minister, that they wish to have the mineral tenement transferred to them; or
  - (b) if the Minister does not consent to the transfer of the mineral tenement.

## **Part 15—Programs for environment protection and rehabilitation**

### **63—Preparation of program**

- (1) For the purposes of section 70B(2)(d) of the Act, a program under Part 10A of the Act must, in addition to the requirements set out in that section—
  - (a) if the program relates to operations to be carried out under an exploration licence, a mineral claim or a mineral tenement determined by the Minister in a particular case—
    - (i) include a description of the features of the environment that are expected to be affected by the proposed authorised operations; and
    - (ii) include a description of the environmental impacts that may reasonably be expected to occur; and
  - (b) set out the strategies that the tenement holder and any other person who may be acting on behalf of the tenement holder proposes to adopt to achieve the environmental outcomes under section 70B(2)(b) of the Act; and
  - (c) set out a statement of the criteria to be adopted to measure the environmental and completion outcomes specified in the program, including details about—
    - (i) what is to be measured and the form of the measurements that are to be used; and
    - (ii) the locations where relevant measurements are to be taken, or how such locations are to be determined; and
    - (iii) what is proposed to be taken to constitute the achievement of the relevant outcomes (with consideration being given to any inherent errors of measurement); and
    - (iv) the frequency of any measurement or monitoring; and
    - (v) any background or control data that is to be used, or how any such data is to be acquired; and

- (d) without limiting paragraph (c), to the extent (if any) that there is a high level of reliance on control strategies to reduce risk to the environment—set out leading indicator criteria; and
  - (e) such other information as may be determined by the Minister for the purposes of this regulation.
- (2) Subregulations (1)(c)(iv) and (1)(d) do not apply in relation to a mineral claim or an exploration licence.
- (3) Any information or material provided for the purposes of a program under section 70B of the Act must—
  - (a) be balanced, objective and concise; and
  - (b) state any limitations that apply, or should apply, to the use of information; and
  - (c) identify any matter in relation to which there is a significant lack of information or a significant degree of uncertainty; and
  - (d) so far as is relevant, identify the sensitivity to change of any assumption that has been made and any significant risks that may arise if an assumption is later found to be incorrect; and
  - (e) be in a form determined by the Minister, be supported by such evidence as the Minister may determine, and comply with any requirement of the Minister relating to the amount or detail of information that must be provided.
- (4) Without limiting subregulation (3), the criteria provided for the purposes of subregulation (1)(c) and (d) must, insofar as is reasonably practicable and appropriate, be expressed in quantitative terms (rather than qualitative terms).

#### **64—Engagement on preparation and review of program**

- (1) For the purposes of section 70B(2)(d) and (e) of the Act, a program under Part 10A of the Act must, in addition to the requirements set out in that section and these regulations, include information on all consultation undertaken in connection with the preparation of the program that must at least set out the following:
  - (a) the persons consulted;
  - (b) any issues of concern raised by the persons consulted;
  - (c) the steps (if any) taken or proposed to be taken by the tenement holder to address those concerns.
- (2) For the purposes of section 70C(3)(a) of the Act, a tenement holder conducting a review of a program under Part 10A of the Act must include, in any revised program, information on all consultation undertaken in connection with the review which must at least set out the following:
  - (a) the persons consulted;
  - (b) any issues of concern raised by the persons consulted;
  - (c) the steps (if any) taken or proposed to be taken by the applicant to address those concerns.

## **65—Adoption of program**

- (1) For the purposes of section 70B(8) of the Act, any program determined by the Minister and published in the Gazette in connection with the operation of this regulation is adopted.
- (2) For the purposes of section 70B(8) of the Act, the following classes of authorised operations are prescribed:
  - (a) operations carried out within the area of a mineral claim;
  - (b) operations under an exploration licence;
  - (c) operations under a mining lease;
  - (d) operations under a retention lease;
  - (e) operations under a miscellaneous purposes licence.

## **66—Review of program**

- (1) For the purposes of section 70C(3)(c) and (4) of the Act, a review must be completed and furnished to the Minister within 3 months after a direction of the Minister to review the program, or within such longer period approved by the Minister.
- (2) In determining whether or not to approve a revised program under section 70C of the Act and, if so, any change to the terms and conditions applying in relation to a program, the Minister must have regard to any submissions or response received under section 70D(2) or (3) of the Act.
- (3) For the purposes of section 70C(4a) of the Act, if a revised program has been submitted to the Minister for the purposes of section 70C(2)(a) of the Act, the Minister may determine that a lower prescribed fee is payable on submission of that revised program.
- (4) For the purposes of section 70C(4a) of the Act, if a revised program has been submitted under section 70C of the Act merely because minor administrative revisions have been made to the program, the Minister may determine that a lower prescribed fee is payable on submission of that revised program.

# **Part 16—General provisions—environmental protection**

## **67—Environmental directions**

For the purposes of section 7(2a) of the Act—

- (a) section 70E of the Act applies as if a reference to authorised operations included a reference to mining operations for the recovery of extractive minerals that are authorised under another Act insofar as that section relates to undue damage, or potential undue damage, to the environment; and
- (b) section 70H of the Act applies as if it extended to an environmental direction issued in relation to authorised operations for the recovery of extractive minerals that are authorised under another Act as provided for by paragraph (a); and

- (c) the powers of an authorised officer to carry out an authorised investigation under the Act apply in relation to authorised operations for the recovery of extractive minerals if the powers are exercised, or the investigation is, in connection with Part 10B of the Act.

## **Part 17—Special mining enterprises**

### **68—Concept phase**

- (1) For the purposes of section 56BA(3)(a) of the Act, the following information is prescribed:
  - (a) information demonstrating that the enterprise is of major significance to the economy of the State;
  - (b) a statement outlining the principal mineral or minerals that the proponent is seeking to recover by undertaking the special mining enterprise and a general description of the operations that would be carried out for the purposes of the mining enterprise;
  - (c) maps and plans relating to the place where the mining enterprise is proposed to be undertaken;
  - (d) an outline of the environmental impacts of the mining enterprise and of steps proposed to be undertaken to address or manage those impacts;
  - (e) if so determined by the Minister in a particular case, a description of the impacts on people and communities that may reasonably be expected to occur as a result of the mining enterprise and the measures that are to be used to manage, limit or remedy those impacts (in the case of negative impacts), or to facilitate or ensure those impacts (in the case of positive impacts);
  - (f) a statement of the technical, operational and financial capabilities and resources available to the proponent for the purpose of undertaking the mining enterprise;
  - (g) a statement by the applicant outlining any contravention of, or failure to comply with, a provision of a corresponding law or designated Act in connection with authorised operations carried out by them within the preceding period of 5 years that resulted in—
    - (i) the revocation or suspension of an authority to carry out authorised operations; or
    - (ii) a prosecution for an offence; or
    - (iii) the imposition of a penalty by a court; or
    - (iv) the issuing of a notice, direction or order that required the suspension or discontinuance of any authorised operations or the rectification of any harm to the environment or the rehabilitation of any land, place or other aspect of the environment;
  - (h) a statement identifying any exemptions or modifications with respect to the provisions of the Act that the proponent has under consideration in connection with the operation of section 56C of the Act;

- (i) such other information as may be determined by the Minister for the purposes of this regulation.
- (2) Subregulation (1)(e) does not limit or derogate from any assessment of social impact that must be undertaken as part of assessing environmental impact under the Act or these regulations.
- (3) Any information provided under subregulation (1) must be in a form determined by the Minister, be supported by such evidence as the Minister may determine, and comply with any requirement of the Minister relating to the amount or detail of information that must be provided.

## **69—Application phase**

- (1) For the purposes of section 56BB(1)(c) of the Act, the following information is prescribed:
  - (a) a statement providing, addressing or outlining any additional information, requirement or action specified by the Director as part of the concept phase;
  - (b) a statement outlining the results of any consultation undertaken in connection with the application, including information about—
    - (i) the persons consulted; and
    - (ii) the issues of concern raised by the persons consulted; and
    - (iii) the steps (if any) taken or proposed to be taken by the proponent to address those concerns;
  - (c) a draft program that—
    - (i) sets out the environmental outcomes that are expected to occur as a result of the mining operations and related or ancillary operations or works that are proposed to be carried out under the enterprise (including after taking into account any rehabilitation proposed by the proponent and other steps to manage, limit or remedy any adverse environmental impacts); and
    - (ii) sets out a statement of the criteria to be adopted to measure those environmental outcomes, in a form determined by the Minister; and
    - (iii) incorporates information about the ability of the proponent to achieve the environmental outcomes set out in the program; and
    - (iv) if it is considered to be appropriate—sets out information about outcomes relating to impacts on people and communities and the measures that are to be used to manage, limit or remedy those impacts (in the case of negative impacts), or to facilitate or ensure those impacts (in the case of positive impacts); and
    - (v) addresses any other matter determined by the Minister;
  - (d) such other information as may be determined by the Minister for the purposes of this regulation.
- (2) Any information provided for the purposes of a draft program must—
  - (a) be balanced, objective and concise; and

- (b) state any limitations that apply, or should apply, to the use of information; and
  - (c) identify any matter in relation to which there is a significant lack of information or a significant degree of uncertainty; and
  - (d) so far as is relevant, identify the sensitivity to change of any assumption that has been made and any significant risks that may arise if an assumption is later found to be incorrect.
- (3) Without limiting subregulation (2), any criteria referred to in subregulation (1)(c) must, insofar as is reasonably practicable and appropriate, be expressed in quantitative terms (rather than qualitative terms).
- (4) Any information provided under this regulation must be in a form determined by the Minister, be supported by such evidence as the Minister may determine, and comply with any requirement of the Minister relating to the amount or detail of information that must be provided.
- (5) For the purposes of section 56BB(6) of the Act, notice of the approval of an applicant must be given to the applicant in accordance with regulation 88.

## **Part 18—Entry on land**

### **70—Entry on land**

- (1) A person must, on serving a notice of entry under section 58A of the Act, keep a record that the notice has been served.
- (2) For the purposes of section 58A(6) of the Act, a notice under section 58A of the Act must be served on the Mining Registrar.

## **Part 19—Private mines**

### **71—Application of Act**

For the purposes of section 73D(3)(p) of the Act, the following sections of the Act are specified:

- (a) section 62, but only so that it applies in relation to authorised operations that are not operations for the recovery of extractive minerals;
- (b) section 79A.

### **72—Prescribed requirements for mine operations plans**

- (1) This regulation sets out the prescribed requirements relating to mine operations plans for the purposes of section 73G of the Act.
- (2) A mine operations plan must, in addition to the requirements set out in section 73G of the Act—
  - (a) include a statement outlining the operations to be carried out at the mine; and
  - (b) include a description of the features of the environment that are expected to be affected by operations at the mine; and

- (c) include a description of the environmental impacts that may reasonably be expected to occur; and
  - (d) set out the measures that are used, or to be used, to manage, limit or remedy those impacts; and
  - (e) set out the environmental objectives that are expected to be achieved; and
  - (f) set out a set of criteria proposed to be adopted to measure the environmental objectives to be achieved in relation to the mining operations to be carried out at the mine and when operations at the mine will no longer be undertaken, including details about—
    - (i) what is to be measured and the form of the measurements that are to be used; and
    - (ii) the locations where relevant measurements are to be taken, or how such locations are to be determined; and
    - (iii) what is proposed to be taken to constitute the achievement of the relevant objectives (with consideration being given to any inherent errors of measurement); and
    - (iv) the frequency of any measurement or monitoring; and
    - (v) any background or control data that is to be used, or how any such data is to be acquired; and
  - (g) without limiting paragraph (f), to the extent (if any) that there is a high level of reliance on control strategies to reduce risk to the environment—set out leading indicator criteria; and
  - (h) include a statement of the capabilities of the person's ability to achieve the environmental objectives that are expected to occur; and
  - (i) if so determined by the Director in a particular case, include a description of the impacts on people and communities that may reasonably be expected to occur and the measures that are to be used to manage, limit or remedy those impacts (in the case of negative impacts), or to facilitate or ensure those impacts (in the case of positive impacts); and
  - (j) include such other information as may be determined by the Director for the purposes of this regulation.
- (3) Any information or material provided for the purposes of a mine operations plan must—
  - (a) be balanced, objective and concise; and
  - (b) state any limitations that apply, or should apply, to the use of information; and
  - (c) identify any matter in relation to which there is a significant lack of information or a significant degree of uncertainty; and
  - (d) so far as is relevant, identify the sensitivity to change of any assumption that has been made and any significant risks that may arise if an assumption is later found to be incorrect; and



- (e) be in a form determined by the Director, be supported by such evidence as the Director may determine, and comply with any requirement of the Director relating to the amount or detail of information that must be provided.
- (4) Without limiting subregulation (3), the criteria provided for the purposes of subregulations (2)(f) and (g) must, insofar as is reasonably practicable and appropriate, be expressed in quantitative terms (rather than qualitative terms).
- (5) Subregulation (2)(i) does not limit or derogate from any assessment of social impact that must be undertaken as part of assessing environmental impact under the Act or these regulations.
- (6) A mine operations plan must be provided in a manner and form determined by the Director.

### **73—Engagement on preparation and review of mine operations plan**

- (1) For the purposes of section 73G(2)(c) of the Act, a mine operations plan must, in addition to the requirements set out in that section and these regulations, include information on all consultation undertaken in connection with the preparation of the plan in relation to—
  - (a) engagement about the environmental objectives that are expected to be achieved in connection with operations carried out at the private mine; and
  - (b) if the relevant mine is located on land vested in fee simple in a person other than the proprietor of the mine—reasonable steps taken to consult with that person,that must at least set out the following:
  - (c) the persons consulted;
  - (d) any issues of concern raised by the persons consulted;
  - (e) the steps (if any) taken or proposed to be taken by the person submitting the plan to address those concerns.
- (2) For the purposes of section 73G(16) of the Act, a person conducting a review of a mine operations plan must—
  - (a) undertake consultation that at least complies with the following requirements:
    - (i) engagement about the environmental objectives that are expected to be achieved in connection with the operations to be carried out under the mine operations plan being reviewed;
    - (ii) if the relevant mine is located on land vested in fee simple in a person other than the proprietor of the mine—reasonable steps should be taken to consult with that person; and
  - (b) include, in any revised mine operations plan, information on all consultation undertaken in connection with the review which must at least set out the following:
    - (i) the persons consulted;
    - (ii) the issues of concern raised by the persons consulted;

- (iii) the steps (if any) taken or proposed to be taken by the person conducting the review to address those concerns.

#### **74—Consultation by Director on mine operations plans**

- (1) For the purposes of section 73G(9) of the Act, this regulation applies in relation to a draft of the objectives and criteria for a mine operations plan that must be released for public consultation under section 73G(8) of the Act.
- (2) The Director must issue, in such manner as the Director thinks fit, a notice—
  - (a) identifying the location of the mine; and
  - (b) stating that a mine operations plan has been prepared for the mine and that the relevant objectives and criteria may be inspected at a place specified in the notice; and
  - (c) inviting written submissions in relation to the draft objectives and criteria within a period specified in the invitation.
- (3) The Director must also invite written submissions (to be submitted within the period specified under subregulation (2)(c)) on the draft objectives and criteria from—
  - (a) if the relevant mine is located on land vested in fee simple in a person other than the proprietor of the mine—that person; and
  - (b) if the relevant mine is located within the area of a council—that council.
- (4) The Director must, in order to enable compliance with section 73G(10) of the Act, provide to the person who submitted the relevant draft copies of any submissions received by the Director within the relevant period applying under subregulation (2) and (3).
- (5) The report required for the purposes of section 73G(10) of the Act must be submitted to the Director within 20 business days after copies of any submissions are provided under subregulation (4), or within such longer period as the Director may allow.
- (6) A submission under subregulation (2) or (3) cannot be made on the basis that the submission (or part of the submission) will be kept confidential.

#### **75—Review of mine operations plans**

- (1) For the purposes of section 73G(16) of the Act, a review—
  - (a) must be conducted taking into account the requirements of section 73G(2) of the Act (and so as to provide consistency with those requirements); and
  - (b) must include—
    - (i) the preparation of a report that contains the information determined by the Director; and
    - (ii) if so required by the Director, a revised mine operations plan for the approval of the Director under section 73G of the Act.
- (2) For the purposes of section 73G(17) of the Act, a review must be completed and furnished to the Director—
  - (a) in the case of a review under section 73G(14) of the Act—within 3 months after a direction of the Director to review the mine operations plan, or within such longer period approved by the Director; or

- (b) in the case of a review under section 73G(15) of the Act—by the end of the relevant 7 year period, or at such other time approved by the Director.

## **76—Registration of interests**

- (1) For the purposes of section 15AA(2)(l) of the Act, but subject to this regulation, the interest of a proprietor of a private mine is required to be registered on the register.
- (2) The requirement under subregulation (1) only applies to the extent that the Mining Registrar is satisfied that the Mining Registrar has sufficient information to enable the registration to occur.
- (3) The Mining Registrar may, for the purpose of obtaining information about the proprietor of a private mine, by notice in writing to a designated person, require the person, within a period specified in the notice—
  - (a) to confirm or indicate whether the person is the proprietor of the private mine; and
  - (b) if the person is not the proprietor of the private mine, or is not the sole proprietor of the private mine—to provide such information as the Mining Registrar may require about who is, or about who else is, the proprietor of the private mine.
- (4) A person who is subject to a notice under subregulation (3) must comply with the requirements of the notice.  
Maximum penalty: \$5 000.
- (5) It is a defence to a charge for an offence under subregulation (4) for a person to prove that they took reasonable steps to comply with the requirements of the notice.
- (6) In this regulation—  
*designated person*, in relation to a private mine, means—
  - (a) a person who, according to information in the possession of the Mining Registrar, is the last known proprietor of the private mine; or
  - (b) a person who is the current owner of the land where the private mine is situated.

## **Part 20—Reports**

### **77—Compliance reports**

- (1) This regulation applies in relation to—
  - (a) a mineral claim; and
  - (b) an exploration licence; and
  - (c) a mining lease; and
  - (d) a retention lease; and
  - (e) a miscellaneous purposes licence; and
  - (f) a private mine.

- (2) The tenement holder in relation to a mineral tenement to which this regulation applies must provide to the Minister after the end of each reporting period a report (a **compliance report**) in accordance with the requirements of this regulation.

Maximum penalty: \$5 000.

Expiation fee: \$750.

- (3) For the purposes of subregulation (2), a **reporting period** is—
- (a) unless paragraph (b) applies—
    - (i) in relation to a private mine—each 12 month period ending on 30 June in each year; and
    - (ii) in any other case—each 12 month period ending on the anniversary of the day on which the relevant mineral tenement was granted; or
  - (b) if the Minister so determines—a period set by reference to particular dates in a year, or a particular frequency.

- (4) A compliance report under subregulation (2)—

- (a) must be provided within a period after the end of each reporting period determined by the Minister; and
- (b) must be provided in a manner and form determined by the Minister; and
- (c) must contain the information determined by the Minister.

- (5) If a mineral tenement to which this regulation applies is being transferred, the transferor must provide to the Minister a compliance report in accordance with the requirements of this regulation—

- (a) unless paragraph (b) applies—in conjunction with the application for the Minister's consent to the transfer; or
- (b) at a time determined by the Minister in the particular case.

Maximum penalty: \$5 000.

Expiation fee: \$750.

- (6) A compliance report under subregulation (5)—

- (a) must relate to the period between the end of the last reporting period applying under subregulation (3) in relation to the mineral tenement and the date of the report; and
- (b) must be provided in a manner and form determined by the Minister; and
- (c) must contain the information determined by the Minister.

- (7) If or when—

- (a) a mineral tenement to which this regulation applies expires, or is surrendered, cancelled or forfeited; or
- (b) part of the area of a mineral tenement to which this regulation applies is surrendered, relinquished or reduced,

the tenement holder at that time must provide to the Minister a final compliance report—

- (c) unless paragraph (d) or (e) applies—

- (i) in the case of an expiry—before the expiration; or
- (ii) in the case of a surrender—at the time that the tenement holder applies for the surrender; or
- (iii) in the case of a cancellation or forfeiture—within 2 months of the date of the cancellation or forfeiture; or
- (d) in the case of a surrender, relinquishment or reduction of area by operation of section 30AAA, 30A or 33B of the Act—within 2 months after the date of the surrender, relinquishment or reduction; or
- (e) within a period or at a time determined by the Minister in the particular case.

Maximum penalty: \$5 000.

Expiation fee: \$750.

- (8) The Director may exempt the holder of an exploration licence from a requirement under this regulation.

## 78—Technical exploration reports

- (1) Subject to subregulation (2), this regulation applies in relation to—
  - (a) an exploration licence; and
  - (b) any other mineral tenement where the tenement holder carries out exploration operations.
- (2) This regulation does not apply in relation to a class of tenement excluded from the operation of this regulation by a determination of the Minister.
- (3) The tenement holder in relation to a mineral tenement to which this regulation applies must provide to the Minister after the end of each reporting period a report (a ***technical exploration report***) in accordance with the requirements of this regulation.

Maximum penalty: \$5 000.

Expiation fee: \$750.

- (4) For the purposes of subregulation (3), a ***reporting period*** is—
  - (a) unless paragraph (b) applies—
    - (i) in relation to a private mine—each 12 month period ending on 30 June in each year; and
    - (ii) in any other case—each 12 month period ending on the anniversary of the day on which the relevant mineral tenement was granted; or
  - (b) if the Minister so determines—a period set by reference to particular dates in a year, or a particular frequency.
- (5) A technical exploration report under subregulation (3)—
  - (a) must be provided within a period after the end of each reporting period determined by the Minister; and
  - (b) must be provided in a manner and form determined by the Minister; and
  - (c) must contain the information determined by the Minister.

(6) If or when—

- (a) a mineral tenement to which this regulation applies expires, or is surrendered, cancelled or forfeited; or
- (b) part of the area of a mineral tenement to which this regulation applies is surrendered, relinquished or reduced,

the tenement holder at that time must provide to the Minister a final technical report—

- (c) unless paragraph (d) applies—
  - (i) in the case of an expiry or surrender—within 2 months of the date of the expiration or surrender; or
  - (ii) in the case of a cancellation or forfeiture—within 3 months of the date of the cancellation or forfeiture; or
  - (iii) in the case of a relinquishment or reduction of area—within 2 months after the date of the relinquishment or reduction; or
- (d) within a period or at a time determined by the Minister in the particular case.

Maximum penalty: \$5 000.

Expiation fee: \$750.

## 79—Incident reports

- (1) If or when the holder of a mineral tenement becomes aware of the occurrence of a reportable incident, the holder must ensure that the reportable incident is reported to the Minister in accordance with the requirements of this regulation.

Maximum penalty: \$10 000.

Expiation fee: \$1 500.

- (2) A reportable incident must be reported to the Minister as follows:

- (a) an initial report must be provided to the Minister within 24 hours after the holder of the tenement becomes aware of the occurrence of the incident;
- (b) a comprehensive report must be provided to the Minister—
  - (i) unless subparagraph (ii) applies— within 1 month after the holder of the tenement becomes aware of the occurrence of the incident; or
  - (ii) within a period determined by the Minister in a particular case.

- (3) A report—

- (a) must be provided in a manner and form determined by the Minister; and
- (b) must contain the information determined by the Minister.

- (4) In this regulation—

**reportable incident** means—

- (a) a contravention of, or a failure to comply with, a condition of a mineral tenement; or
- (b) a failure to achieve, or a breach of, an outcome specified in a program under Part 10A of the Act; or

- (c) a contravention of, or a failure to comply with, a condition of a program under Part 10A of the Act; or
- (d) a triggering of any leading indicator criteria set out in a program under Part 10A of the Act; or
- (e) action that causes undue damage to the environment in connection with any operations carried out under a mineral tenement; or
- (f) a failure to comply with a direction under Part 10B of the Act within the time allowed in the direction; or
- (g) action that constitutes an authorised operation without being duly authorised by or under the Act; or
- (h) a failure to achieve, or a breach of, an outcome specified in a mine operations plan under Part 11B of the Act; or
- (i) a breach of the general duty under Part 11B of the Act; or
- (j) a failure to comply with an order under Part 11B of the Act within the time allowed in the order.

## **80—Airborne surveys**

- (1) The holder of a mineral tenement who is intending to carry out an airborne survey over land must, in accordance with this regulation, notify the Minister of the holder's intention to carry out the survey.

Maximum penalty: \$2 500.

Expiation fee: \$250.

- (2) A notification—
- (a) must be provided to the Minister at least 14 days before the airborne survey is due to be carried out; and
  - (b) must be provided in a manner and form determined by the Minister; and
  - (c) must contain the information determined by the Minister.
- (3) In this regulation—

*airborne survey* means—

- (a) an airborne geophysics survey; or
- (b) remote sensing techniques conducted from the air.

## Part 21—Miscellaneous

### 81—Public liability insurance

- (1) The holder of a mineral tenement must, before commencing operations under the tenement and for the duration of the tenement, maintain a policy of public liability insurance indemnifying the holder, in an amount that is reasonable taking into account the kind of tenement, the nature and extent of the operations carried out under the tenement, and relevant industry standards, in relation to any action arising out of the operations carried out under the tenement and complying with any other requirement (if any) determined by the Minister.

Maximum penalty: \$20 000.

- (2) The tenement holder must provide to the Minister a certificate evidencing the insurance coverage required by subregulation (1), and any endorsements or waivers relating to insurance coverage, in accordance with the requirements of this regulation.

Maximum penalty: \$5 000.

Expiation fee: \$750.

- (3) A certificate under subregulation (2) must be provided to the Minister before operations commence under the relevant mineral tenement and then a current certificate must be provided to the Minister—
- (a) unless paragraph (b) applies—
    - (i) in relation to a private mine—by 30 June in each year; and
    - (ii) in any other case—by each anniversary of the day on which the relevant mineral tenement was granted; or
  - (b) if the Minister so determines—on another date in each year, or according to a particular frequency, determined by the Minister.
- (4) The tenement holder must, in accordance with this regulation, notify the Minister—
- (a) if any insurance obtained for the purposes of this regulation lapses without having been renewed; or
  - (b) if there is a change in an insurance policy obtained for the purposes of this regulation, including a change in the level of cover.

Maximum penalty: \$5 000.

Expiation fee: \$750.

- (5) A notification under subregulation (4)—
- (a) must be provided to the Minister within 14 days after the relevant event under that subregulation; and
  - (b) must be provided in a manner and form determined by the Minister; and
  - (c) must contain the information determined by the Minister, and be accompanied by such information or documents as the Minister may determine.



- (6) A tenement holder must, at the request of the Minister, provide to the Minister a copy of the policy of insurance relating to the requirements that apply under this regulation within a period specified by the Minister.

Maximum penalty: \$5 000.

Expiation fee: \$750.

## **82—Confirmation of emergency direction**

For the purposes of section 70FB(4) of the Act, confirmation of a direction will be given by a notice of confirmation, in a form determined by the Director, given to the person to whom the emergency direction has been issued.

## **83—Confirmation of emergency order**

For the purposes of section 73KA(4) of the Act, confirmation of an emergency order will be given by a notice of confirmation, in a form determined by the Director, given to the person to whom the emergency order has been issued.

## **84—Declaration to accompany an application (general provision)**

- (1) This regulation applies to—
- (a) an application for—
    - (i) a mining lease; or
    - (ii) a retention lease; or
    - (iii) a miscellaneous purposes licence; or
  - (b) an application for a change in operations under Part 8B Division 7 of the Act; or
  - (c) an application for the approval of a program, or for the approval of a revised program, under Part 10A of the Act.
- (2) Any information provided for the purposes of an application to which this regulation applies must be accompanied by a declaration, signed by the relevant prescribed person, to the effect that the person has taken reasonable steps to review the information and to ensure its accuracy.
- (3) In this regulation—
- relevant prescribed person*** means—
- (a) in the case of an application to which subregulation (1)(c) applies—the holder of the tenement in respect of which the program or revised program is to apply; and
  - (b) in any other case—the applicant.

## **85—Declaration to accompany an application (mine operations plans)**

- (1) This regulation applies to an application for an approval in relation to a mine operations plan, or the review of a mine operations plan, under Part 11B of the Act.
- (2) Any information provided for the purposes of an application to which this regulation applies must be accompanied by a declaration, signed by the person who is carrying out mining operations at the mine, to the effect that the person has taken reasonable steps to review the information and to ensure its accuracy.

## 86—Fees

- (1) A designated person may—
  - (a) on application; or
  - (b) on the designated person's own initiative,waive, reduce or refund (in whole or in part) a fee prescribed for the purposes of the Act in respect of a person or a class of persons.
- (2) A designated person may allow the payment by instalment of a fee prescribed for the purposes of the Act.
- (3) In this regulation—

***designated person*** means—

  - (a) the Minister; or
  - (b) the Mining Registrar; or
  - (c) the Director of Mines.

## 87—Ministerial notices in connection with certain prescribed fees

- (1) The Minister may, by notice in the Gazette, declare that an area of the State is an exploration regulation fee zone for the purposes of a prescribed fee payable in connection with an exploration licence.
- (2) The Minister must specify in a notice under subregulation (1) whether an area declared in the notice to be an exploration regulation fee zone is a ***zone 1 exploration regulation fee zone***, a ***zone 2 exploration regulation fee zone*** or a ***zone 3 exploration regulation fee zone***.
- (3) A notice under subregulation (1) may declare more than 1 area of the State to be an exploration regulation fee zone.
- (4) The Minister may, by notice in the Gazette, for the purposes of a prescribed fee payable in connection with an application for approval under section 56R of the Act to make a change to which Part 8B Division 7 of the Act applies, declare whether a change of a kind specified in the notice is a ***level 1, level 2, level 3*** or ***level 4*** change.
- (5) A declaration as to whether a change is a level 1, level 2, level 3 or level 4 change under subregulation (4) may vary in its application according to the matter to which it is expressed to apply.
- (6) The Minister must, by notice in the Gazette, publish criteria to be used in determining whether a draft of objectives and criteria, or a revised program, is a ***tier 1, tier 2, tier 3*** or ***tier 4*** draft or program for the purposes of a prescribed fee payable in connection with submission of a program under Part 10A of the Act.
- (7) A draft of objectives and criteria, or a revised program, is a tier 1, tier 2, tier 3 or tier 4 draft or program (as the case requires) for the purposes of a prescribed fee if it is classified as such under the criteria published under subregulation (6).
- (8) A notice made under this regulation may be varied or revoked by the Minister by subsequent notice in the Gazette.

## 88—Service of documents

- (1) A notice or document required or authorised by or under the Act to be given to or served on a person (other than a designated person or a person who holds or may hold native title in land) may—
  - (a) be served on the person personally; or
  - (b) be posted by registered post in an envelope addressed to the person—
    - (i) at the person's last known address; or
    - (ii) if the person has an address for correspondence or service—at that address; or
  - (c) be served by email sent to an email address provided by the person (in which case the notice or document will be taken to have been given or served at the time of sending).

### Note—

Part 5 of the *Native Title (South Australia) Act 1994* sets out the method of service on all who hold or may hold native title in land.

- (2) A notice or document required or authorised by or under the Act or these regulations to be provided or given to or served on a designated person must be provided, given or served in the manner specified by the relevant designated person by notice in the Gazette.
- (3) If a notice or document is given or served under subregulation (2)—
  - (a) by email—the notice or document will be taken to have been given or served at the time of sending the email; or
  - (b) by other electronic means—the notice or document will be taken to have been provided, given or served when the person providing, giving or serving the notice or document receives confirmation by those electronic means that the notice or document has been received by the designated person.
- (4) Subregulation (2) operates subject to any other provision made by these regulations.
- (5) In this regulation—

***designated person*** means—

- (a) the Minister; or
- (b) the Mining Registrar; or
- (c) the Director of Mines.

## 89—Administrative penalties

- (1) The amount of an administrative penalty fixed by Schedule 3 applies in relation to an alleged contravention of a provision of the Act specified in that Schedule.
- (2) The amount of an administrative penalty that is to apply in relation to an alleged contravention of a provision of these regulations is \$2 500.

## 90—Expiation of offences

For the purposes of section 92(1)(r) of the Act—

- (a) an offence under a section of the Act specified in Schedule 4 is an offence in respect of which an expiation notice may be issued; and
- (b) the amount specified in Schedule 4 in relation to an offence under the relevant section of the Act specified in the Schedule is prescribed as the expiation fee for that offence.

## Schedule 1—Items to be registered on mining register

- 1 A report published under section 14F of the Act
- 2 An instrument recording the existence of an agreement between the Treasurer and a person liable to pay royalty under section 17(9) of the Act
- 3 A notification of a relevant event provided to the Minister under section 17AC of the Act
- 4 An instrument of approval to establish a successive mineral claim under section 27 of the Act
- 5 An instrument for the approval of the amalgamation of expenditure commitments under section 30AAA(10) of the Act
- 6 An instrument for the approval of the division of an area of an exploration licence under section 30AA of the Act
- 7 An instrument for the approval of retention status in relation to an exploration licence under section 33B of the Act
- 8 A copy of a notice given by the Minister under section 33B(13) or (14) of the Act
- 9 An instrument providing for action taken by the Minister under section 56J of the Act
- 10 An instrument providing for action taken by the Mining Registrar under section 56O of the Act
- 11 An instrument providing for the amalgamation of the areas of 2 or more mineral tenements under section 56P of the Act
- 12 An instrument providing for the extension of the term of a mineral tenement under section 56Y of the Act
- 13 An instrument providing for the renewal of a mining tenement
- 14 An assessment report under section 56ZA of the Act
- 15 An instrument recording the existence of an agreement relating to entry to land between the person seeking entry and the owner of the land for the purposes of section 58A of the Act
- 16 The amount of a bond under section 62 of the Act
- 17 A current copy of a program approved by the Minister under Part 10A of the Act
- 18 A copy of a program audit developed for the purposes of section 70DA of the Act
- 19 An environmental direction issued by the Minister or an authorised officer under section 70E of the Act
- 20 A rehabilitation direction issued by the Minister under section 70F of the Act
- 21 A compliance direction issued by the Minister under section 70FA of the Act
- 22 An emergency direction issued by an authorised officer under section 70FB of the Act
- 23 An agreement or order relating to a civil penalty under section 70HE of the Act
- 24 A current copy of a mine operations plan under section 73G of the Act

- 25 A compliance order issued by the Director under section 73I of the Act
- 26 A rectification order issued by the Director under section 73J of the Act
- 27 A rectification authorisation issued by the Director under section 73K of the Act
- 28 An emergency order issued by an authorised officer under section 73KA of the Act
- 29 A copy of the proclamation providing for the variation or revocation of the declaration of an area as a private mine under section 73N of the Act
- 30 An undertaking under section 74AA of the Act
- 31 A compliance order under section 74A of the Act
- 32 An instrument recording the consent of an owner of land under section 75 of the Act
- 33 An instrument providing for an exemption granted by the Minister under section 79 of the Act
- 34 An instrument recording a consent or an agreement as to access under section 80 of the Act
- 35 An instrument recording a consent or an agreement that is taken to be provided under section 82 of the Act
- 36 An instrument relating to the seizure of machinery or goods under section 86 of the Act
- 37 A report provided under section 90 of the Act
- 38 A copy of a notice imposing an administrative penalty under section 91 of the Act
- 39 An instrument recording or evidencing the imposition of a criminal penalty under the Act
- 40 An instrument imposing an expiation fee under the Act
- 41 Decisions, determinations and orders of the ERD Court or the Supreme Court where the Minister, the Director or the Mining Registrar was a party to the relevant proceedings
- 42 A compliance report provided to the Minister under regulation 77
- 43 A certificate evidencing the insurance coverage required by regulation 81

## Schedule 2—Rental

- |   |   |  |
|---|---|--|
| 1 | Mining lease  | \$256.00 or \$67.50 for each hectare or part of a hectare in the area of the lease, whichever is the greater |
| 2 | Mining lease—extractives  | \$216.00 or \$56.00 for each hectare or part of a hectare in the area of the lease, whichever is the greater |
| 3 | Retention lease—  |  |
|   | (a) if the retention lease authorises the carrying out of only exploration operations under the lease—  |  |
|   | (i) if the lease is granted for a term of less than 5 years (or an aggregate term of 5 years); or   | \$975.00 or \$22.50 per km <sup>2</sup> in the area of the lease, whichever is the greater                   |
|   | (ii) if the term or aggregate term of the lease has reached the period of 5 years from the grant date, and the lease is renewed for a period of less than 5 years (or an aggregate term of 5 years); or | \$261.00 or \$35.00 for each hectare or part of a hectare in the area of the lease, whichever is the greater |
|   | (iii) if the term or aggregate term of the lease  | \$261.00 or \$103.50 for each hectare or   |

	has reached the period of 10 years from the grant date, and the lease is renewed for a further period or periods; or	part of a hectare in the area of the lease, whichever is the greater
(b)	in any other case	\$256.00 or \$34.25 for each hectare or part of a hectare in the area of the lease, whichever is the greater
4	Miscellaneous purposes licence	\$256.00 or \$67.50 for each hectare or part of a hectare in the area of the licence, whichever is the greater

## Schedule 3—Administrative penalties

	Section of Act	Administrative penalty
1	section 15AJ(1)	\$15 000.00
2	section 15AJ(2)	\$15 000.00
3	section 15AJ(3)	\$5 000.00
4	section 15AJ(4)	\$5 000.00
5	section 15AJ(5)	\$5 000.00
6	section 15AK(1)	\$5 000.00
7	section 25(2)	\$5 000.00
8	section 56E(4)	\$5 000.00

## Schedule 4—Expiation fees

	Section of Act	Expiation fee
1	section 15AA(9)	\$210.00
2	section 15AG(3)	\$210.00
3	section 17AC(1)	\$1 000.00
4	section 17CA(8)	\$1 000.00
5	section 58A(1)	\$1 000.00
6	section 58A(2)	\$1 000.00
7	section 62AA(8)	\$1 000.00
8	section 90(6)	\$1 000.00

## Schedule 5—Transitional provisions

### 1—Interpretation

In this Schedule—

***Amendment Act*** means the *Statutes Amendment (Mineral Resources) Act 2019*;

***commencement day*** means the day on which these regulations commence;

***revoked regulations*** means the *Mining Regulations 2011*.

## **2—Exempt land**

The amendments made to section 9 of the Act by the Amendment Act do not apply in relation to an application for a mineral tenement made before the commencement day (and those sections will continue to apply in relation to the application as if the amendments made to those sections had not been enacted).

## **3—Subsequent exploration licences**

An application for a subsequent exploration licence under section 30AB of the Act made before the commencement day that has not been determined before the commencement day will continue to be considered and determined under that section as if that section had not been repealed by the Amendment Act (and the Minister may grant a subsequent exploration licence as a result of the application for a period of up to 5 years).

## **4—Inconsistent term or condition of exploration licence void**

On or after the commencement day, a term or condition of an exploration licence that is inconsistent with the provision of the Act or these regulations will be void to the extent of the inconsistency.

## **5—Minister may grant retention lease**

If, before the commencement day, an application for a mining lease under Part 6 of the Act has been made but not finally determined, the Minister may, instead of granting the application, with the concurrence of the applicant for the mining lease (and on the basis of that application or such further application by the applicant as the Minister thinks fit), grant a retention lease under Part 7 of the Act.

## **6—Collection of information and reports**

To the extent that these regulations impose additional requirements when compared to the requirements under the revoked regulations—

- (a) in relation to the creation, collection, keeping or compilation of information or materials; or
- (b) in relation to the provision or production of—
  - (i) information or materials; or
  - (ii) any reports,

the additional requirements under these regulations—

- (c) will only relate to the creation, collection, keeping or compilation of information or materials on a prospective basis; and
- (d) will only require—
  - (i) information and material to be provided or produced in accordance with those requirements to the extent that they relate to matters arising on or after the commencement day; and
  - (ii) reports to comply with these regulations to the extent to which they apply to a period commencing on the commencement day.

## **7—Mineral tenements not subject to a program for environment protection and rehabilitation**

- (1) This clause applies to a mineral tenement in force immediately before the day on which the revoked regulations commenced that has not become subject to a program under Part 10A of the Act either by virtue of the operation of regulation 114(2) of the revoked regulations or for any other reason.
- (2) The holder of a mineral tenement to which this clause applies must, within 12 months after the commencement of these regulations, notify the Minister in a manner and form determined by the Minister either—
  - (a) that the tenement holder intends to provide a program to the Minister in accordance with subclause (3); or
  - (b) that the tenement holder intends to surrender the tenement or allow the tenement to expire.
- (3) The holder of a mineral tenement to which this clause applies who has provided a notice to the Minister under subclause (2)(a) must provide a program that complies with the requirements of subclause (4) to the Minister—
  - (a) within 24 months after the commencement of these regulations; or
  - (b) if the Minister so determines—such period, being less than or more than 24 months, as the Minister may specify in a particular case.
- (4) A program required to be provided to the Minister under this clause must—
  - (a) comply with the requirements set out in section 70B(2) of the Act (and the relevant requirements under these regulations); and
  - (b) be accompanied by a declaration, signed by the holder of the tenement in respect of which the program is to apply, to the effect that the tenement holder has taken reasonable steps to review the information and to ensure its accuracy; and
  - (c) be accompanied by the prescribed fee.

## **Schedule 6—Revocation of *Mining Regulations 2011***

The *Mining Regulations 2011* are revoked.



## Legislative history

### Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal regulations

Year	No	Reference	Commencement
2020	300	<i>Gazette 19.11.2020 p5143</i>	1.1.2021: r 2