MINERALS AND PETROLEUM

MP301*

Mining Act 1978

Mining Amendment Regulations (No. 3) 2011

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Mining Amendment Regulations (No. 3) 2011*.

2. Commencement

These regulations come into operation as follows —

(a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;

(b) regulation 28 — when the *Approvals and Related Reforms (No. 2) (Mining) Act 2010* section 10 comes into operation;

(c) the rest of the regulations — when the *Approvals and Related Reforms (No. 2) (Mining) Act 2010* Part 3 comes into operation.

3. Regulations amended

These regulations amend the *Mining Regulations 1981*.

4. Regulation 2 amended

(1) In regulation 2 delete the definition of ***the Act***.

(2) In regulation 2 insert in alphabetical order:

file means file at any mining registrar's office;

lodge means lodge at any mining registrar's office;

working day means a day on which any mining registrar's office is open for business.

(3) In regulation 2 in the definition of ***date of application*** delete "at the office of the mining registrar".

5. Regulation 4B amended

In regulation 4B delete "Customer Service Coordinator," and insert:

Manager Mining Information Counter,

6. Regulation 4K amended

In regulation 4K(1) delete "notice in writing lodged at the office of the mining registrar or the Department at Perth." and insert:

lodging notice in writing.

7. Regulation 4N amended

In regulation 4N(3)(a) delete "lodged, at the Department at Perth; and" and insert:

lodged; and

8. Regulation 5 amended

(1) In regulation 5(1)(a) delete "at the office of a mining registrar".

(2) In regulation 5(3):

(a) delete paragraph (a) and insert:

(a) Executive Director Mineral Titles Division;

(b) in paragraph (b) delete "and Title Services" and insert:

Titles

9. Regulation 8 amended

In regulation 8(1) delete "application with the Department at Perth," and insert:

application,

10. Regulation 9 amended

In regulation 9 delete "map which shall be lodged at the office of the mining registrar." and insert:

lodged map.

11. Regulation 10 amended

(1) Delete regulation 10(1)(a) and insert:

(a) filed; and

(2) Delete regulation 10(2)(a) and insert:

(a) filed; and

12. Regulation 10A amended

In regulation 10A(1) after "be" insert:

lodged

13. Regulation 13A amended

Delete regulation 13A(1).

14. Regulation 16B amended

In regulation 16B(1)(a) delete "at an office of the Department during the final year of the term of the licence;" and insert:

during the final year of the term of the licence; and

15. Regulation 16C amended

In regulation 16C(1):

(a) in paragraph (a) delete "lodged at an office of the Department;" and insert:

lodged; and

(b) after each of paragraphs (b) and (c) insert:

and

16. Regulation 21A amended

Delete regulation 21A(1).

17. Regulation 22B amended

In regulation 22B delete "lodged at an office of the Department." and insert:

lodged.

18. Regulation 23A amended

In regulation 23A(1)(a) delete "at an office of the Department during the final year of the term of the licence;" and insert:

during the final year of the term of the licence; and

19. Regulation 23BA amended

In regulation 23BA(1):

(a) in paragraph (a) delete "lodged at an office of the Department;" and insert:

lodged; and

(b) After each of paragraphs (b) and (c) insert:

and

20. Regulation 23C inserted

After regulation 23B insert:

23C. Time for lodging statutory declaration

For the purposes of section 70C(2A) the prescribed period is 14 days after the day on which the application for the retention licence is lodged.

21. Regulation 23DA amended

Delete regulation 23DA(1).

22. Regulation 25AA inserted

After regulation 24 insert:

25AA. Time for lodging mining proposal

For the purposes of section 74(1AA) the prescribed period is 14 days after the day on which the application for the mining lease is lodged.

23. Regulation 27 deleted

Delete regulation 27.

24. Regulation 28 amended

In regulation 28 delete "covenants and".

25. Regulation 28A amended

In regulation 28A(2) delete "to the Department at Perth" and insert:

at any mining registrar's office

26. Regulation 31A amended

Delete regulation 31A(1).

27. Regulation 32A amended

Delete regulation 32A(2).

28. Regulation 33A inserted

At the end of Part IV Division 3 insert:

33A. Act s. 84AA, prescribed matters for

(1) For the purposes of section 84AA(1)(c), (2)(b) and (3) the prescribed officials are —

(a) Director, Environment Division in the Department;

(b) Manager Minerals, Environment Division in the Department.

(2) For the purposes of section 84AA(3) the prescribed time is 30 days after the day on which the applicable review period under section 84AA(1) or (2) expires.

29. Regulation 36 amended

In regulation 36:

(a) in paragraph (d) delete "with the Department at Perth";

(b) after each of paragraphs (a) to (d) insert:

and

30. Regulation 41 amended

In regulation 41:

(a) in paragraph (d) delete "with the Department at Perth";

(b) after each of paragraphs (a) to (d) insert:

and

31. Regulation 51 amended

In regulation 51(d) delete "lodged at the office of the mining registrar" and insert:

made

32. Regulation 54 amended

(1) In regulation 54(1) delete "at the office of the mining registrar".

(2) In regulation 54(3) delete "at the office of the mining registrar,".

33. Part V Division 1A inserted

At the beginning of Part V insert:

Division 1A — Lodging, filing documents

59A. Prescribed manner of lodging, filing documents

(1) In this regulation —

document includes an application, audit statement, caveat, consent, instrument to which section 103C applies, notice, report, return, programme, proposal, security and statutory declaration.

(2) For the purposes of any provision in the Act that requires a document to be lodged in the prescribed manner, the document is to be lodged at any mining registrar's office.

(3) For the purposes of any provision in the Act that requires a document to be filed in the prescribed

manner, the document is to be filed at any mining registrar's office.

(4) Nothing in subregulation (2) or (3) affects the prescribing of any other requirement in relation to the manner of the lodgment or filing of a document.

59B. Lodging mining tenement documents through Department's website

(1) In this regulation —

mining tenement document has the meaning given in section 162(3A) of the Act.

(2) Subject to the requirements of the Department's website and this regulation, a person may lodge a mining tenement document electronically by lodging an electronic version of it by means of the Department's website.

(3) A mining tenement document that is lodged electronically after 4.30 p.m. on a working day and before 8.30 a.m. on the next working day is to be taken to have been lodged at 8.30 a.m. on that next working day.

(4) A mining registrar may at any time, require a person who has lodged a mining tenement document electronically to lodge the paper version of the document.

34. Part V Division 2 heading amended

In the heading to Part V Division 2 delete "**and objections**".

35. Regulation 64 amended

In regulation 64(1) delete "with the warden by being filed at the office of the mining registrar".

36. Regulation 70A amended

In regulation 70A(1)(a) delete "lodged at the office of the mining registrar;" and insert:

lodged; and

37. Regulations 70BA, 70BB, 70BC and 70BD inserted

After regulation 70A insert:

70BA. Prescribed period for lodging certain applications for areas compulsorily surrendered (s. 105A(3))

(1) In this regulation —

application means an application for a prospecting licence, exploration licence, mining lease or general purpose lease —

(a) in respect of any land that is the subject of a surrender under section 65; and

(b) that is lodged on the date chosen under regulation 23(1)(c) for the release.

(2) For the purposes of section 105A(3), the prescribed period for an application is the period starting at the time chosen under regulation 23(1)(c) for the release and ending 15 minutes later.

70BB. Prescribed period for lodging certain applications or marking out land after forfeiture of exploration licence, mining lease or general purpose lease (s. 105A(3))

(1) In this regulation —

application means an application for a prospecting licence, exploration licence, mining lease or general purpose lease —

(a) in respect of any land that was the subject of an exploration licence forfeited under section 96A or a mining lease or general purpose lease forfeited under section 97; and

(b) that is lodged, or in respect of which the land concerned is marked out as required under section 105A(4), (as is applicable in the case) on the day on which the forfeiture takes effect.

(2) For the purposes of section 105A(3), the prescribed period for an application is the period starting when the forfeiture takes effect and ending 15 minutes later.

70BC. Prescribed period for lodging certain applications after expiry of mining tenement (s. 105A(3))

(1) In this regulation —

application means an application for an exploration licence, or an application for a prospecting licence, mining lease or general purpose lease where the land concerned is wholly covered by the sea or the waters of any lake, pond, river or stream —

(a) in respect of any land that was the subject of a mining tenement that has expired; and

(b) that is lodged after the expiry takes effect.

(2) For the purposes of section 105A(3), the prescribed period for an application is the period starting at the beginning of the next working day after the day on which the expiry took effect and ending at 8.45 a.m. on that next working day.

70BD. Prescribed period for lodging other applications for exploration licences (s. 105A(3))

(1) In this regulation —

application means an application for an exploration licence that is not one to which regulation 70BA, 70BB or 70BC applies.

(2) For the purposes of section 105A(3), the prescribed period for an application is the period starting at 4.30 p.m. on a working day and ending at 8.45 a.m. on the next working day.

38. Regulation 84A deleted

Delete regulation 84A.

39. Regulation 84E amended

In regulation 84E delete the passage that begins with "be" and continues to the end of the regulation and insert:

be lodged in the form of Form 30.

40. Regulation 89B amended

In regulation 89B delete "Manager, Customer Services, Mineral and Title Services" and insert:

Manager Mining Information Counter, Mineral Titles

41. Regulation 90A deleted

Delete regulation 90A.

42. Regulation 91 amended

In regulation 91(1) delete "at the Department at Perth".

43. Regulation 95 amended

In regulation 95(1) delete "shall be lodged with the warden" and insert:

may be lodged at any mining registrar's office but must be assigned to the mining registrar

44. Regulation 113A amended

In regulation 113A:

(a) in paragraph (a) before "Director" insert:

Executive

(b) delete paragraph (d) and insert:

(d) Manager Mining Information Counter,

(c) delete "and Title Services" and insert:

Titles

45. Regulation 113B amended

In regulation 113B:

(a) delete paragraph (a) and insert:

(a) Executive Director Mineral Titles Division;

(b) in paragraph (b) delete "and Title Services" and insert:

Titles

46. Regulation 116 amended

In regulation 116 in the definition of ***the Director*** delete "Director" and insert:

Executive Director

47. Regulation 120A amended

In regulation 120A(3a) delete "Form 16 at the office of the mining registrar." and insert:

Form 16.

48. Regulation 120E amended

In regulation 120E delete "lodged with the Director." and insert:

lodged.

49. Regulation 122 amended

In regulation 122(1) delete "fees at the office of the mining registrar." and insert:

fees.

50. Regulation 137 amended

In regulation 137(1) delete the definition of ***lodge***.

51. Regulation 138A inserted

After regulation 137 insert:

138A. Lodging proceedings documents through Department's website

(1) Subject to the requirements of the Department's website and this regulation, a person may lodge electronically a document in relation to proceedings before the warden by lodging an electronic version of it by means of the Department's website.

(2) If a document is or must be signed by a person who is not, or who is not acting on behalf of, the person lodging it, the document cannot be lodged electronically unless it is an affidavit.

(3) If a document is in a form that, before it is lodged, is required to be signed by or on behalf of the person lodging it and the document is being lodged electronically —

(a) the document need not be signed by that person; and

(b) the person lodging the document electronically must ensure that the electronic version of the document, instead of showing a signature at any place where a signature is required, states the name of the person whose signature is required at the place.

(4) A person who lodges an affidavit electronically must either lodge an electronic version of it that includes the signatures on it or —

(a) lodge an electronic version of it that does not include the signatures on it; and

(b) ensure that the electronic version, instead of showing a signature at any place where a signature appears in the paper version, states the name of the person whose signature it is; and

(c) also lodge an undertaking that the person —

(i) has possession of the paper version signed according to law; and

(ii) will retain the paper version subject to any order of the warden.

(5) A document that is lodged electronically after 4.30 p.m. on a working day and before 8.30 a.m. on the next working day is to be taken to have been lodged at 8.30 a.m. on that next working day.

(6) If a document is sent electronically to the Department but not in accordance with the requirements of the Department's website and this regulation —

(a) the document is to be taken not to have been lodged; and

(b) the mining registrar must notify the person who sent it of the fact.

(7) A person who lodges a document electronically must have the paper version of the document with him or her at any hearing of the relevant proceedings.

(8) The warden may, at any time, order a person who has lodged a document electronically to lodge the paper version of the document.

(9) This regulation does not affect, and is not affected by, regulation 59B.

52. Regulation 140 amended

In regulation 140(2)(b) delete "fees at the office of the mining registrar." and insert:

fees.

53. Regulation 141 amended

(1) In regulation 141(1) delete "at the office of the mining registrar".

(2) In regulation 141(2)(b) delete "fees at the office of the mining registrar." and insert:

fees.

54. Regulations 150A and 150B inserted

After regulation 149 insert:

150A. Electronic addresses for service

(1) For the purposes of enabling the service by fax of documents that under this Part are required to be served a person may, in addition to providing an address for service under regulation 149, provide a fax number operating at that address.

(2) For the purposes of enabling the service by email of documents that under this Part are required to be served a person may, in addition to providing an address for service under regulation 149, provide an email address operating at that address.

(3) If a lawyer practises in a business with one or more other lawyers or people —

(a) any fax number provided under subregulation (1) must be the fax number of the business and not that of the lawyer personally; and

(b) any email address provided under subregulation (2) must be the email address of the business and not that of the lawyer personally.

(4) A person who under this regulation provides an email address or a fax number is to be taken to consent to being served with documents by fax at that fax number, or as an attachment to an email sent to that email address, as the case may be.

(5) If a party's fax number or email address provided under this regulation changes, the party must lodge with the warden and serve a notice of change of address as soon as practicable after the change occurs.

150B. Service electronically

(1) If under this Part a party is required to serve a document, then, unless the contrary intention appears, the party may serve the document —

(a) if the party to be served has provided a fax number under regulation 150A(1), by sending the document by fax to that number; or

(b) if the party to be served has provided an email address under regulation 150A(2), by sending the document as an attachment to an email sent to that address.

(2) A document cannot be served by email under subregulation (1) if under regulation 138A(2) it cannot be lodged electronically.

(3) A document that is served by fax must have a cover page stating —

(a) the sender's name, postal address, telephone number and fax number; and

(b) the number of pages (including the cover page) being sent by fax.

(4) A person that serves a document by fax must —

(a) endorse the first page of the original document with —

(i) a statement that the document is the original of a document sent by fax; and

(ii) the date and time the document was sent by fax;

and

(b) keep the endorsed original document and the fax machine's report evidencing the successful transmission of the document; and

(c) if directed to do so by the warden, produce the items in paragraph (b) to the warden.

(5) Regulation 138A(3) and (4)(a) and (b), with any necessary changes, apply to a document being served by email in the same way as they apply to a document being lodged electronically.

(6) A document that is served by email or fax on a person is to be taken to have been served —

(a) if the whole document is sent before 4.30 p.m. on a working day, on that day;

(b) otherwise, on the next working day.

(7) Subregulation (1), with any necessary changes, applies to the service by the warden of any document on a party.

(8) This regulation does not prevent a person from consenting to being served in a manner other than in accordance with this Part.

55. Regulation 160 amended

In regulation 160(1) delete "with the mining registrar".

56. Schedule 1 amended

(1) In Schedule 1 Form 5 in instruction 10 delete "with the Mining Registrar." and insert:

at any mining registrar's office.

(2) In Schedule 1 Forms 5, 8 and 10 delete "with the Department at Perth" and insert:

at any mining registrar's office

(3) In Schedule 1 Forms 17, 18 and 21 delete "the office of the mining registrar" (each occurrence) and insert:

any mining registrar's office

57. Various references to "at the office of the mining registrar" deleted

In the provisions listed in the Table delete "at the office of the mining registrar".

Table

r. 23F(1)(c)	r. 29(1)(c)
r. 36A(1)(c)	r. 37(3)
r. 42A(1)(c)	r. 49(3)
r. 79(2)(b)(ii)(IV)	r. 126
r. 127D(1)	r. 150(1)

By Command of the Governor,

PETER CONRAN, Clerk of the Executive Council.