
MINERALS AND ENERGY

MN301*

Mining Act 1978

Mining Amendment Regulations 2001

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Mining Amendment Regulations 2001*.

2. Commencement

These regulations come into operation on the day on which the *Mining Amendment Act 2000* comes into operation.

3. The regulations amended

The amendments in these regulations are to the *Mining Regulations 1981**.

[* Reprinted as at 21 July 2000.

For amendments to 16 January 2001 see Gazette 15 December 2000 and 5 January 2001.]

4. Part IIA inserted

After Part II the following Part is inserted —

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Part IIA — Permits under section 20A

4A. Definitions

In this Part —

“**date of issue**”, in relation to a permit, means the day on which the permit is issued;

“**issuing officer**” means the mining registrar or the holder of the office referred to in regulation 4B;

“**licensee statement**”, in relation to land, means a statement made in relation to the land under regulation 4H;

“**permit**” means a permit under section 20A;

“**permit holder**”, in relation to a permit, means the person who is or was the holder of the permit;

“**relevant exploration licence**”, in relation to an application for a permit in respect of land, or a permit issued in respect of land, means the exploration licence that was in force for the land when the application was made or the permit was issued.

4B. Prescribed office — section 20A(1)

For the purposes of section 20A(1) the office of Customer Service Coordinator, Mineral Titles Division of the Department is prescribed.

4C. Prescribed depth — section 20A(6)(b)

For the purposes of section 20A(6)(b) the prescribed depth is 2 metres below the natural surface of the land.

4D. Application for permit

- (1) An application for a permit is to be in the form No. 1A in the First Schedule.
- (2) The application is to be accompanied by the relevant application fee set out in item 2 of the Second Schedule.

- (3) The application may be accompanied by a licensee statement.

4E. Area of land to which permit applies

- (1) The area of land in respect of which a permit is issued is to be a block or blocks but is not to exceed 10 blocks.
- (2) If a permit is issued in respect of 2 or more blocks the graticular sections that constitute those blocks are to —
 - (a) constitute a single area; and
 - (b) each have a side in common with at least one other graticular section in that area.
- (3) The area of land in respect of which a permit is issued is to be specified in the permit by reference to the number of the block or each block, as the case requires, on a plan held at the Department.

4F. Permit conditions

- (1) An issuing officer may impose one or more of the following conditions on the issue of a permit in respect of land —
 - (a) a condition relating to the conservation of the land and its environment;
 - (b) where the land is the subject of a pastoral lease within the meaning of the *Land Administration Act 1997*, a condition requiring the permit holder to give a copy of the permit to the holder of the pastoral lease before prospecting for minerals on the land;
 - (c) if the application for the permit is not accompanied by a licensee statement, a condition requiring the permit holder not to prospect on the land before the permit comes into operation under regulation 4I;
 - (d) a condition requiring the permit holder to comply with regulation 4O(1);
 - (e) any other reasonable condition.
- (2) An issuing officer may vary or cancel a condition imposed under subregulation (1) by notice in writing given to the permit holder.

4G. Notice of issue of permit

An issuing officer is to cause a copy of a permit to be given to the holder of the relevant exploration licence as soon as practicable after the date of issue.

4H. Statement by holder of exploration licence

- (1) The holder of an exploration licence for land may make a written statement setting out any comments the license holder wishes to make in relation to prospecting activities proposed to be carried out on the land under a permit.
- (2) A licensee statement may be given to a person who proposes to apply, or has applied, for a permit, or to whom a permit has been issued, in respect of the land.

4I. Commencement of operation of permit

- (1) If a permit holder received a licensee statement before the permit was issued, the permit comes into operation on the date of issue.
- (2) If a permit holder receives a licensee statement after the date of issue, but within 21 days after the date of issue, the permit comes into operation on the day on which the permit holder receives the licensee statement.
- (3) If the permit holder does not receive a licensee statement before the end of the period of 21 days after the date of issue, the permit comes into operation at the end of that 21-day period.

4J. Expiry of permit

A permit stops being in force in respect of land when one of the following happens —

- (a) a notice of the surrender of the permit is lodged under regulation 4K;
- (b) the permit is cancelled under regulation 4L(2)(b);
- (c) the relevant exploration licence stops being in force;
- (d) a mining lease, general purpose lease or retention licence is granted in respect of the land;
- (e) the period of 3 months after the date of issue of the permit ends.

4K. Surrender of permit

- (1) A permit holder may surrender his or her permit by notice in writing lodged at the office of the mining registrar or the Department at Perth.
- (2) A notice under subregulation (1) is to be —
 - (a) signed by the permit holder or each permit holder (if more than one); and
 - (b) where possible, accompanied by the permit.

4L. Powers available to Minister where breach of condition, etc.

- (1) This regulation applies if the Minister is satisfied that a permit holder —
 - (a) has contravened a condition referred to in section 20A(5) or imposed on the permit in accordance with regulation 4F; or
 - (b) has included in the application for the permit information that the permit holder knew was false or misleading in a material respect at the time the application was made.
- (2) The Minister may, subject to regulation 4M, do one or more of the following —
 - (a) order the permit holder to pay a monetary penalty not exceeding \$5 000;
 - (b) cancel the permit;
 - (c) disqualify the permit holder from holding or applying for a permit for such period, not exceeding 3 years from the date of the decision to disqualify, as the Minister thinks fit.
- (3) The Minister may take action under subregulation (2)(a) or (c) whether or not the permit has expired or has been surrendered.
- (4) If there are 2 or 3 permit holders for a particular permit, those permit holders are jointly and severally liable for the payment of a penalty imposed under subregulation (2)(a).
- (5) The Minister may recover a penalty imposed under subregulation (2)(a) in a court of competent jurisdiction as a debt due by the permit holder to the State.

4M. Right of permit holder to make submissions

- (1) The Minister is not to take action under regulation 4L(2) unless the Minister —
 - (a) has caused a notice in accordance with subregulation (2) to be posted to the permit holder at his or her last known address; and
 - (b) has considered any submissions made by the permit holder on or before the date specified in the notice.
- (2) The notice is to specify —
 - (a) the proposed action; and
 - (b) a date on or before which the permit holder may make written submissions to the Minister on the matter.

4N. Prospecting report on recovered minerals

- (1) If a permit holder recovers any minerals from land in the course of prospecting in accordance with the permit, the permit holder is to prepare and lodge a written report in accordance with subregulations (2) and (3).
- (2) The report is to —
 - (a) contain details of each type of mineral recovered from the land;
 - (b) specify the quantity of each type of mineral recovered; and
 - (c) specify, in relation to each type of mineral recovered, the exact location of its recovery.
- (3) The permit holder must, within 14 days after the permit stops being in force —
 - (a) lodge the report, or cause it to be lodged, at the Department at Perth; and
 - (b) give a copy of the report to the holder of the relevant exploration licence.
- (4) A person who contravenes subregulation (1) commits an offence.
- (5) A person who, in a report, gives information that the person knows is false or misleading in a material respect commits an offence.

4O. Prohibition of use of certain hand tools

- (1) A permit holder is not to use powered or hydraulically driven hand tools on the land the subject of the permit.
- (2) A person who contravenes subregulation (1) commits an offence.

4P. Application of regulations 98 and 99

Regulations 98 and 99 apply to a permit holder as if references in those regulations to —

- (a) the holder of a mining tenement included a permit holder; and
- (b) the tenement included the land the subject of a permit.

5. First Schedule amended

The First Schedule is amended by inserting after Form 1 the following form —

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Form 1A

WESTERN AUSTRALIA
Mining Act 1978
(Sec. 20A Reg. 4D)

APPLICATION FOR PERMIT UNDER SECTION 20A No.

To: The Mining Registrar/Customer Service Coordinator, Mineral Titles Division

(a) Full name, address, telephone number and Miner's Right number of applicant(s) (maximum of 3 applicants)

(a)	Applicant 1 Name: Address: Telephone No.: Miner's Right No.: Applicant 2 Name: Address: Telephone No.: Miner's Right No.: Applicant 3 Name: Address: Telephone No.: Miner's Right No.:
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(b) Number of relevant exploration licence

(b)	Exploration Licence No.....
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(c) Area of Crown land in respect of which permit sought (maximum of 10 blocks)

(c)	
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(d) Full name and address of holder of relevant exploration licence

(d)	
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(e) Make, model and registration number of vehicle(s) to be used

(e)

DATED this

day of

20

(f) Signature of applicant(s)

(f)
Applicant 1
.....
Applicant 2
.....
Applicant 3

OFFICE USE		Received at	Receipt No:
		on	
		with fee of \$.....	
		
		(Mining Registrar/Customer Service Coordinator, Mineral Titles Division)	

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6. Second Schedule amended

The Second Schedule is amended in item 2 after the subitem beginning “Miscellaneous Licence” by inserting the following subitem —

“ Permit under section 20A..... Reg. 4D(2) 20.00 ”.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.
