

**MINERALS AND ENERGY**

MN301

**MINING ACT 1978****MINING AMENDMENT REGULATIONS 1995**

Made by His Excellency the Governor in Executive Council.

**Citation**

1. These regulations may be cited as the *Mining Amendment Regulations 1995*.

**Commencement**

2. These regulations come into operation on the day on which section 3 of the *Mining Amendment Act 1994* comes into operation.

**Principal regulations**

3. In these regulations the *Mining Regulations 1981*\* are referred to as the principal regulations.

[\* Reprinted as at 11 August 1988.  
For amendments to 28 September 1995 see 1994 Index to  
Legislation of Western Australia, Table 4, pp. 190-193, and  
Gazette of 19 May and 30 June 1995.]

**Regulation 2 amended**

4. Regulation 2 of the principal regulations is amended by inserting after the definition of "graticular section" the following definition —

"  
     **"mineral exploration report"** has the same meaning as it has  
     in section 115A (1);  
 "

**Regulation 18A inserted**

5. After regulation 18 of the principal regulations the following regulation is inserted —

"  
     **Prescribed procedure for certain applications**  
     **18A.** (1) This regulation applies to applications for  
     exploration licences in respect of an area that are made at the  
     first available opportunity after that area —  
         (a) has been surrendered under section 65; or  
         (b) has become forfeited under section 96A or 97.  
     (2) Applications to which this regulation applies shall be  
     lodged by placing the applications in a tray specifically identified  
     for that purpose at the office of the mining registrar.  
     (3) When the mining registrar is satisfied that all persons  
     waiting to lodge applications to which this regulation applies  
     have placed their applications in the tray in accordance with  
     subregulation (2), the mining registrar shall remove the tray.  
     (4) The applications contained in the tray after removal by  
     the mining registrar shall be regarded as having been lodged —  
         (a) in the case of applications in respect of an area  
             surrendered under section 65, on the date and at the  
             time endorsed on the public plans of the Department  
             under regulation 23 (c) as the date and time for the  
             release of the area surrendered; and  
         (b) in the case of applications in respect of an area  
             forfeited under section 96A or 97, at the same time on  
             the date on which notice of the forfeiture was  
             published in the *Government Gazette*.  
 "

**Regulation 21 amended**

6. Regulation 21 of the principal regulations is amended —

- (a) in subregulation (1) —
  - (i) by inserting after "term of the licence" the following —
 

"  
     or, where the term of the licence is extended  
     under section 61 (2), during each of the first  
     5 years of that term  
 ";
  - (ii) by deleting the comma at the end of paragraph (b) and  
     substituting a full stop; and
  - (iii) by deleting all of the subregulation after paragraph (b);
- (b) in subregulation (1aa) by inserting after "subregulation (1)" the  
     following —
 

"      or (1b)      ";

- (c) by inserting after subregulation (1a) the following subregulation —

“

(1b) If the term of an exploration licence is extended under section 61 (2), the holder of the exploration licence shall expend, or cause to be expended, in mining on or in connection with mining on the licence —

(a) during the sixth and seventh year of the term of the licence, not less than \$50 000 per year;

(b) during the eighth, ninth and any subsequent year of the term of the licence, not less than \$100 000 per year,

irrespective of the area of the licence or, in the case of a graticular exploration licence, the number of blocks that are subject to the licence.

”;

and

- (d) by inserting after subregulation (2) the following subregulation —

“

(3) If during a particular year of the term of an exploration licence the holder of the licence is directly engaged part-time or full-time in mining on land the subject of the licence, an amount equivalent to the wages the holder would otherwise have earned if similarly employed elsewhere in the district is to be deemed to have been expended during that year.

”.

#### **Regulation 22 amended**

7. Regulation 22 (1) and (2) of the principal regulations are amended by deleting “68 (2) of the Act” and substituting in each case the following —

“ 68 (3) ”.

#### **Regulations 23AA and 23AB inserted**

8. After regulation 23 of the principal regulations the following regulations are inserted —

“

##### **Refund of rent following unsuccessful application under section 65 (1a)**

**23AA.** (1) If the holder of an exploration licence makes an application under section 65 (1a) for an exemption and an exemption is not granted, the holder is entitled to a *pro-rata* refund of rent paid on the blocks surrendered for the period commencing on the day on which the surrender takes effect under section 65 (1b).

(2) When calculating a *pro-rata* refund for the purposes of subregulation (1), only whole months of the period referred to in that subregulation are to be the subject of the refund.

**Prescribed circumstances under section 61 (2) (a)**

**23AB.** For the purposes of section 61 (2) (a), the Minister may extend the term of an exploration licence if the Minister is satisfied that —

- (a) by reason of difficulties or delays —
  - (i) occasioned by law;
  - (ii) arising from administrative, political, environmental or other requirements of governmental or other authorities, in the State or elsewhere; or
  - (iii) in obtaining requisite consents or approvals for exploration or for the marking out of a mining lease or general purpose lease in relation to any part of the land,  
  
the exploration programme, or the marking out and application appropriate to a mining lease or general purpose lease in relation to the land, could not be undertaken or completed or is restricted in a manner that is, or subject to conditions that are, for the time being impracticable;
- (b) the land the subject of the licence has for any reason the Minister considers sufficient been unworkable for the whole or a considerable part of any year of the term; or
- (c) work already carried out under the licence justifies further exploration on the basis that —
  - (i) significant mineralisation has been discovered; or
  - (ii) a new or revised geological concept is being used to identify new areas of mineralisation.

”.

**Regulation 23A amended**

9. Regulation 23A (1) (c) (iii) of the principal regulations is amended by deleting “exceptional”.

**Regulation 37 amended**

10. Regulation 37 of the principal regulations is amended by inserting after subregulation (2) the following subregulation —

“

(3) Within 35 days of the date of application for a miscellaneous licence the applicant shall lodge at the office of the mining registrar written details of —

- (a) any works to be constructed in connection with the licence;
- (b) the proposed manner of construction of such works; and
- (c) any operations to be carried out on the land the subject of the application.

”.

**Regulation 40 repealed**

11. Regulation 40 of the principal regulations is repealed.

**Regulation 42B repealed and a regulation substituted**

**12.** Regulation 42B of the principal regulations is repealed and the following regulation is substituted —

“

**Prescribed purposes for grant of miscellaneous licence**

**42B.** For the purposes of section 91 (1), a miscellaneous licence may be granted for the use of land for one or more of the following purposes —

- (a) a road;
- (b) a tramway;
- (c) an aerial rope way;
- (d) a pipeline;
- (e) a power line;
- (f) a conveyor system;
- (g) a tunnel;
- (h) a bridge;
- (i) taking water;
- (j) hydraulic reclamation and transport of tailings;
- (k) an aerodrome;
- (l) a meteorological station;
- (m) a sulphur dioxide monitoring station; or
- (n) any other purpose directly connected with mining operations approved by the Director General of Mines.

”

**Regulation 47A inserted**

**13.** After regulation 47 of the principal regulations the following regulation is inserted —

“

**Refund where conditional surrender of mining lease or general purpose lease**

**47A.** (1) If —

- (a) the holder of a mining lease or a general purpose lease surrenders the lease in whole or in part under section 95 conditionally upon the grant of a mining tenement in respect of the whole or any part of the lease; and
- (b) that mining tenement is granted,

the holder is entitled to a *pro-rata* refund of rent paid on the whole or such part of the lease as is included in that mining tenement for the period commencing on the day on which that mining tenement is granted.

(2) When calculating a *pro-rata* refund for the purposes of subregulation (1) only whole months of the period referred to in that subregulation are to be the subject of the refund.

”

**Regulation 54 amended**

14. Regulation 54 of the principal regulations is amended by inserting after subregulation (1a) the following subregulation —

“

(1b) The mining registrar shall, on the lodging of an application for a certificate of exemption under section 102, post a copy of the application on the notice board at his office.

”

**Regulation 55 repealed and a regulation substituted**

15. Regulation 55 of the principal regulations is repealed and the following regulation is substituted —

“

**Objection to application for exemption**

55. A person may within 21 days of the date of lodgement of an application for a certificate of exemption under section 102 lodge an objection against that application in the form No. 16 in the First Schedule.

”

**Regulation 64 amended**

16. Regulation 64 of the principal regulations is amended —

- (a) in subregulation (1a) by deleting “shall be accompanied by” and substituting the following —

“ includes ”; and

- (b) in subregulation (3) by inserting after “85B” the following —

“ , 91 ”.

**Regulation 64A repealed and a regulation substituted**

17. Regulation 64A of the principal regulations is repealed and the following regulation is substituted —

“

**Notice of application for prospecting licence, exploration licence, retention licence or mining lease**

64A. For the purposes of sections 41 (2), 58 (4), 70C (4) and 74 (3), the notice required to be served on the owner and occupier shall be —

- (a) in the form No. 21 in the First Schedule; and

- (b) served by the applicant within 14 days of the lodging of the application to which the notice relates.

”

**Regulation 70A amended**

18. Regulation 70A of the principal regulations is amended by inserting after subregulation (2) the following subregulations —

“

(3) If an application to amalgamate a secondary tenement under section 67A (1) is granted, the applicant is entitled to a *pro-rata* refund of rent paid on the secondary tenement for the period commencing on the day on which the application is granted.

(4) When calculating a *pro-rata* refund for the purposes of subregulation (3) only whole months of the period referred to in that subregulation are to be the subject of the refund.

”

### **Regulation 91 amended**

19. Regulation 91 (1) of the principal regulations is amended —

- (a) by inserting after “Department” the following —  
“ at Perth ”; and
- (b) by inserting after “requires, by” the following —  
“ a mining registrar or ”.

### **Regulation 96 repealed and regulations 96, 96A and 96B substituted**

20. Regulation 96 of the principal regulations is repealed and the following regulations are substituted —

“

#### **Release of information contained in reports**

96. (1) In this regulation —

“**combined mineral exploration report**” means a combined mineral exploration report filed in accordance with arrangements referred to in section 115A (4);

“**mineral exploration report**” includes a combined mineral exploration report;

“**operations report**” has the same meaning as in section 115A (1);

“**release**” means publish, print, reproduce or otherwise make available to the public.

(2) The Minister may only release information contained in a mineral exploration report, an operations report or a report required under regulation 36 (d) or 41 (d) —

- (a) with the written consent of the holder for the time being of the mining tenement the subject of the information or of a mining tenement granted in renewal or substitution of that mining tenement;
- (b) after the expiry of the period of 6 months immediately following the surrender, forfeiture, expiry or cancellation of the mining tenement the subject of the information or of a mining tenement granted in renewal or substitution of that mining tenement;
- (c) in accordance with subregulation (4); or
- (d) in the case of a combined mineral exploration report, in accordance with subregulation (7).

(3) Despite subregulation (2), a person may, on payment of the prescribed fee, obtain at the Department at Perth a copy of the front page of an operations report in the form No. 5 in the First Schedule.

(4) Subject to subregulation (5), the Minister may release information contained in a mineral exploration report, operations report or report required under regulation 36 (d) or 41 (d) that has been held at the Department for a period of 10 years or more.

(5) The Minister may, upon the written application of the holder of a mining tenement the subject of information in a report referred to in subregulation (4) or of a mining tenement granted in renewal of or substitution for such a mining tenement, refuse to release information contained in the report for a further period or further periods not exceeding 5 years in each case.

(6) An application under subregulation (5) shall set out the reasons why the information contained in the report should not be released immediately.

(7) If —

- (a) a mining tenement, or part of a mining tenement, the subject of information in a combined mineral exploration report is surrendered, forfeited or expires or is cancelled; and
- (b) the former holder of that mining tenement or that part of the mining tenement fails to provide a separate mineral exploration report in respect of the mining tenement or part of the mining tenement within the period of 6 months immediately following its surrender, forfeiture, expiry or cancellation,

the Minister may, at the expiry of the period referred to in paragraph (b), release information relating to any mining tenement contained in the combined mineral exploration report.

#### **Authorization for release of information in mineral exploration reports**

**96A.** (1) If the copyright in a mineral exploration report or part of a mineral exploration report is owned by a person other than the holder of the mining tenement to which the report relates, the holder shall, before filing the report, take all reasonable steps to obtain the authorization of the owner of the copyright to the release of information contained in the report in accordance with regulation 96.

(2) When filing a mineral exploration report at the Department, the holder of a mining tenement shall —

- (a) if the holder is the owner of the copyright in the report or a part of the report, authorize in writing the release of information contained in the report or the relevant part of the report in accordance with regulation 96;
- (b) if the copyright in the report or a part of the report is owned by a person other than the holder, state in writing whether or not the authorization of the owner of the copyright to the release of information in the report or the relevant part of the report has been obtained and, if not, state in writing what steps have been taken to obtain that authorization; and
- (c) if the copyright in a part of the report is owned by a person other than the holder, ensure that the report is marked in a manner approved by the Director General of Mines to enable that part to be identified.

(4) The holder of a mining tenement shall not be regarded as having complied with the guidelines referred to in section 115A in relation to the filing of a mineral exploration report, unless the holder has complied with subregulation (2) in relation to that report.

#### **Publication of guidelines — mineral exploration reports**

**96B.** The guidelines referred to in section 115A shall be published in the *Government Gazette* in a form approved by the Director General of Mines.



**Regulation 112 amended**

21. Regulation 112 of the principal regulations is amended —

- (a) by inserting after the regulation designation “112.” the subregulation designation “(1)”;
- (b) by deleting “of the Act” wherever it occurs; and
- (c) by inserting the following subregulation —

“

(2) For the purposes of sections 52 and 60, the applicant shall lodge a security within 28 days of lodging the application to which the security relates.

”.

**Regulation 116 amended**

22. Regulation 116 of the principal regulations is amended in the definition of “the Director” —

- (a) by deleting “Surveys and Mapping” and substituting the following —

“ Mineral Titles ”; and

- (b) by deleting “the *Public Service Act 1978*” and substituting the following —

“ Part 3 of the *Public Sector Management Act 1994* ”.

**Part VIB inserted**

23. After regulation 1200 of the principal regulations the following Part is inserted —

“

**PART VIB — AERIAL PHOTOGRAPHY****Interpretation in Part VIB**

120P. In this Part —

“**aerial photography**” means aerial photography for the purposes of mineral exploration;

“**contractor**” means a person who undertakes aerial photography;

“**the Director**” means the person for the time being holding or acting in the office of the Director of the Geological Survey Division of the Department.

**Information to be provided as to aerial photography**

120Q. (1) A contractor shall within one year of undertaking aerial photography provide the Director with the following information —

- (a) a copy of the flight diagram;
- (b) specifications of the aerial photography including —
  - (i) the date on which the aerial photography was undertaken;
  - (ii) the height at which the aerial photography was undertaken;

- (iii) the focal length of the camera lens used for the aerial photography; and
  - (iv) whether the photographs taken were black and white or colour;
  - (c) his or her name and address;
  - (d) the name and address of the owner of the negatives;
  - (e) if the owner of the negatives is not the owner of the copyright in the negatives, the name and address of the person who is the owner of the copyright; and
  - (f) the name and address of the person who commissioned the aerial photography.
- (2) A contractor who fails to comply with subregulation (1) commits an offence.

### Register

**120R.** (1) The Director shall keep a register of the information provided under regulation 120Q.

(2) The register shall be kept in such form as the Director thinks fit.

(3) Subject to regulation 120S, the register shall be available for public inspection during the normal office hours of the Department.

(4) Subject to regulation 120S, a person may, upon application to the Director, obtain a copy of an entry in the register.

(5) The Director may amend, add to and correct the register in such manner as is necessary to make the register an accurate record of the information it contains.

### Confidentiality of information

**120S.** (1) The Director may, at the request of an owner of negatives of aerial photography or a contractor, classify information referred to in regulation 120Q (d), (e) or (f) that relates to particular aerial photography as confidential for a period not exceeding 5 years from the date on which the aerial photography concerned was undertaken.

(2) Despite regulation 120R (3) and (4), information that is classified as confidential under subregulation (1) shall not be made available to the public during the period that it is so classified.

”.

### Regulation 127A amended

**24.** Regulation 127A of the principal regulations is amended —

- (a) by deleting “Mining Registration” and substituting the following —  
“ Mineral Titles ”; and
- (b) by inserting after “before a warden” the following —  
“ or a mining registrar ”.

**First Schedule amended**

**25.** The First Schedule to the principal regulations is amended —

- (a) in form 4 by deleting “2 years” and substituting the following —

“ 4 years ”; and

- (b) in form 21 by deleting paragraph (i) of Note 1 and substituting the following —

“

(i) Attachments 1 and 2 form part of every application for an exploration licence and must be lodged with this form in lieu of (h), (i), (j) and (k) above.

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By His Excellency's Command,

J. PRITCHARD, Clerk of the Council.

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