MINES

MN302

MINING ACT 1978

MINING AMENDMENT REGULATIONS 1991

Made by His Excellency the Governor in Executive Council.

Citation

1. These regulations may be cited as the *Mining Amendment Regulations 1991*.

Commencement

2. These regulations shall come into operation on the day on which the *Mining Amendment Act 1990* comes into operation.

Principal regulations

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

[**Reprinted in the Gazette of 24 August 1988 at pp. 3147-242. For amendments to 19 April 1991 see pp. 316-7 of 1990 Index to Legislation of Western Australia.*]

Regulation 2 amended

4. Regulation 2 of the principal regulations is amended by inserting, in the appropriate alphabetical positions, the following definitions—

" "block" has the meaning ascribed to it in Part IV, Division 2 of the Act; ";

" "existing exploration licence" means an exploration licence—

(a) granted before the commencement of section 16 of the *Mining Amendment Act 1990*; or

(b) for which an application was made before the commencement of section 16 of the *Mining Amendment Act 1990* and which has subsequently been granted; ";

" "graticular exploration licence" means an exploration licence the application for which was made on or after the commencement of section 16 of the *Mining Amendment Act 1990* and which has subsequently been granted; ";

" "graticular section" has the meaning ascribed to it in Part IV, Division 2 of the Act; ".

Regulation 4 amended

5. Regulation 4 of the principal regulations is amended by deleting "and" and substituting the following—

" or ".

Regulation 7 amended

6. Regulation 7 of the principal regulations is amended—

(a) by inserting after the regulation designation "7." the subregulation designation "(1)"; and

(b) by inserting the following subregulation—

" (2) If the time prescribed for giving notice under section 33 (1) is extended under regulation 104, the applicant shall serve with that notice, and the map or plan referred to in subregulation (1), a written notice stating that the period for lodging objections to the application is within 21 days of the date of service of the documents. ".

Regulation 14 repealed and a regulation substituted

7. Regulation 14 of the principal regulations is repealed and the following regulation is substituted—

Limit on amount of earth, etc., that may be removed

" 14. For the purposes of section 48 (c), the limit on the amount of earth, soil, rock, stone, fluid or mineral bearing substances which may be excavated, extracted or removed during the period for which the licence remains in force is 500 tonnes in total, and the excavation, extraction or removal of a larger tonnage, without the Minister's written approval, shall render the licence liable to forfeiture. ".

Regulation 18 amended

8. Regulation 18 of the principal regulations is amended in paragraph (b) by deleting "square kilometre or part thereof." and substituting the following—

" block. ".

Regulation 20 repealed and a regulation substituted

9. Regulation 20 of the principal regulations is repealed and the following regulation is substituted—

Limit on amount of earth, etc., that may be removed

" 20. For the purposes of section 66 (c), the limit on the amount of earth, soil, rock, stone, fluid or mineral bearing substances which may be excavated, extracted or removed during the period for which the licence remains in force is 1 000 tonnes in total, and the excavation, extraction or removal of a larger tonnage, without the Minister's written approval, shall render the licence liable to forfeiture. ".

Regulation 21 amended

10. Regulation 21 of the principal regulations is amended by repealing subregulation (1) and substituting the following subregulations—

" (1) The holder of an exploration licence shall expend, or cause to be expended, in mining on or in connection with mining on the licence during each year of the term of the licence—

(a) in respect of an existing exploration licence, not less that $300 for each square kilometre or part thereof of the area of the licence with a minimum of $20 000; or

(b) in respect of a graticular exploration licence—

(i) not less than $10 000 where one block only is subject to the licence;

(ii) not less than $15 000 where 2 blocks only are subject to the licence;

(iii) where 3 or more blocks are subject to the licence, not less than an amount assessed by reference to the number of blocks comprising the licence, calculated at $900 per block with a minimum of $20 000,

but if the holder is directly engaged part-time or full-time in mining on the licence itself then an amount equivalent to the wages he would otherwise be entitled to if similarly employed elsewhere in the district shall be deemed to have been expended.

(1a) Where a part of a block comprises or is included in the land in respect of which an exploration licence is granted, the whole of that block is deemed to be subject to the licence for the purposes of subregulation (1) (b). ".

Regulation 23 repealed and a regulation substituted

11. Regulation 23 of the principal regulations is repealed and the following regulation is substituted—

Endorsement of plans upon surrender

" 23. The surrender under section 65 (which in this regulation includes a deemed surrender) of the whole or portion of the land the subject of an exploration licence shall be endorsed on the plans referred to in section 65 (5) in the following manner—

(a) the portion surrendered, or deemed surrendered, shall be marked on each plan;

(b) on each plan the portion surrendered, or deemed surrendered, shall be endorsed with the exploration licence number and a release number allocated by the Department; and

(c) at a date and time chosen by an officer authorized by the Director General of Mines for the release of the portion surrendered, or deemed surrendered, that date and time shall be endorsed on that portion of each plan. ".

Regulation 23B repealed

12. Regulation 23B of the principal regulations is repealed.

Regulation 44 amended

13. Regulation 44 of the principal regulations is amended in subregulation (1) by deleting "but in respect of an exploration licence the part remaining shall consist of no more than 3 discrete areas each of which is of the shape prescribed by that regulation or as near thereto as is practicable." and substituting the following—

" but—

(a) in respect of an existing exploration licence, the part remaining shall consist of not more than 3 discrete areas each of which is of the shape prescribed by that regulation or as near to that shape as is practicable; or

(b) in respect of a graticular exploration licence, the graticular sections that constitute the blocks that remain subject to the exploration licence shall comply with section 65 (1). ".

Regulation 45 amended

14. Regulation 45 of the principal regulations is amended—

(a) in subregulation (1)—

(i) by deleting the full stop at the end of paragraph (b) and substituting the following—

" ; and "; and

(ii) by inserting after paragraph (b) the following paragraph—

" (c) in the case of a surrender under section 65, also comply with the Act as if that surrender were a surrender under section 95. ";

and

(b) by inserting after subregulation (4) the following subregulation—

" (5) Where a part of a mining tenement is to be surrendered under section 25A, a surrender in the form No. 14 in the First Schedule shall be executed and lodged accompanied by a map clearly delineating the portion of the tenement being surrendered, and the portion being retained, but any further requirements of this regulation do not apply. ".

Regulation 47 amended

15. Regulation 47 of the principal regulations is amended in subregulation (1) by inserting after "section" the following—

" 26A or ".

Regulation 54 amended

16. Regulation 54 of the principal regulations is amended—

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

" (1a) For the purposes of section 102 (1), the prescribed period in which an application may be made, after the end of the year to which the proposed exemption relates, is 60 days. ";

and

(b) by inserting after subregulation (2) the following subregulation—

" (3) An applicant for a certificate of exemption under section 102 or 102A shall also lodge at the office of the mining registrar, prior to the hearing or determination of the application, reasons in the form of a statutory declaration supporting the application for the certificate of exemption. ".

Regulation 56 amended

17. Regulation 56 of the principal regulations is amended—

(a) by repealing subregulation (1) and substituting the following subregulation—

" (1) Where any objection against an application for a certificate of exemption under section 102 is lodged within the time allowed, the warden shall receive evidence in open court in support of the application and in support of any object so lodged. ";

and

(b) by repealing subregulation (2).

Regulation 64 amended

18. Regulation 64 of the principal regulations is amended—

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

" (1a) For the purposes of section 58 (1) an application for an exploration licence, in the form No. 21 of the First Schedule, shall be accompanied by—

(a) a completed copy of Attachment 1 to form No. 21, identifying the block or blocks to which the application relates by number; and

(b) a completed copy of Attachment 2 to form No. 21, clearly delineating the block or blocks to which the application relates,

in accordance with section 58 (2) (a). ";

and

(b) by inserting after subregulation (5) the following subregulation—

" (6) An applicant for a mining tenement in respect of land that is the subject of a miscellaneous licence shall, in addition to giving notice of the application as required by the Act and these regulations, cause a copy of the application to be given to the holder of the miscellaneous licence. ".

Regulation 66 amended

19. Regulation 66 of the principal regulations is amended by inserting after "for" the following—

" , other than an exploration licence, ".

Regulation 67 amended

20. Regulation 67 of the principal regulations is amended—

(a) by inserting after the regulation designation "67." the subregulation designation "(1)"; and

(b) by inserting the following subregulation—

" (2) Notwithstanding subregulation (1), where an application is made for a mining tenement that relates to private land, the period during which a person may lodge an objection is—

(a) within 21 days of the date on which the person was served with a copy of notice required to be given under section 33 (1); or

(b) within 30 days of the date of the application,

whichever period ends later, or such further period as the warden considers reasonable. ".

Regulations 70B and 70C inserted

21. After regulation 70A of the principal regulations the following regulations are inserted—

Agreement as to priority

" 70B. A written agreement referred to in section 105A (3) shall be lodged within 60 days of the day on which the applications for licences or leases, as the case may be, were lodged.

Refund where licence substituted or lease refused

70C. (1) Where an application for a mining lease or general purpose lease is made under section 49 or section 67 and a lease is granted, the applicant is entitled to a *pro-rata* refund of the balance of any portion of unused rent which has been paid on the prospecting licence or exploration licence formerly held by the applicant.

(2) Where an application described in subregulation (1) is refused, and the term of the prospecting licence or exploration licence held by the applicant has been extended beyond its normal expiry date under section 49 or section 67, the applicant shall receive a *pro-rata* refund of any portion of unused rent which has been paid on the licence.

(3) When calculating a *pro-rata* refund for the purposes of this regulation, only whole months of the term that is remaining shall be the subject of refund. ".

Regulation 75 amended

22. Regulation 75 of the principal regulations is amended by deleting paragraph (g) and substituting the following paragraph—

" (g) when—

(i) a mining tenement is encumbered by a mortgage; or

(ii) a share in a mining tenement is encumbered by a mortgage and the transfer affects that share,

the transfer shall be accompanied by the written consent of the affected mortgagee. ".

Regulation 77 amended

23. Regulation 77 of the principal regulations is amended in paragraph (a) by inserting after "lodged" the following—

" with the prescribed fee ".

Regulation 88 repealed

24. Regulation 88 of the principal regulations is repealed.

Regulation 92 amended

25. Regulation 92 of the principal regulations is amended by inserting after "than" the following—

" a graticular exploration licence, ".

Regulation 106 amended

26. Regulation 106 of the principal regulations is amended—

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

" (1a) The register may be kept wholly or partly on paper, or may be wholly or partly recorded or stored by means of any mechanical, electronic or other device. ";

and

(b) by inserting after subregulation (2) the following subregulation—

" (3) A copy for the purposes of subregulation (2) may, at the discretion of the Director General of Mines or a person authorized by him, be—

(a) in writing;

(b) a photographic reproduction;

(c) a printout produced by mechanical or electronic means; or

(d) a combination of any or all of the methods referred to in paragraphs (a), (b) and (c). ".

Regulation 120E repealed and a regulation substituted

27. Regulation 120E of the principal regulations is repealed and the following regulation is substituted—

Plans of surveyed tenements to be prepared

" 120E. An approved surveyor shall cause a plan to be prepared of each tenement surveyed by him by lodging his field records, together with a report in form No. 44 set out in the First Schedule, at the office of the mining registrar. ".

First Schedule amended

28. The First Schedule to the principal regulations is amended—

(a) by deleting Form 6 and substituting the following form—

"

Form 6 Instrument of Licence

WESTERN AUSTRALIA
Mining Act 1978
(Sec. 116 Reg. 19)

EXPLORATION LICENCE

No.

(a) Name and address of holder and number of shares. (a)

is/are authorized in accordance with Section 66 of the Act to explore the land the subject of this licence situated at

(b) Locality (b) in the

(c) Mineral Field (c) Mineral Field

(d) Number of Blocks. containing

(d) as described in the First Schedule

for a term of 5 years commencing on the date of grant of the licence

(e) Date Licence granted. (e)

(f) Shire (f)

subject to the provisions of the Mining Act 1978 and to the conditions/ endorsements as set out in the Second Schedule.

.....
Mining Registrar

NOTE

In addition to any specific conditions that are endorsed on this instrument, the holder in exercising the rights granted herein must first ensure that the necessary consents and permission have been obtained and compensation has been agreed to or determined in respect to certain Crown Land, Public Reserves, etc., private land and where the lawful rights of other land users is concerned.

For Schedules see attached.

";

(b) by deleting Form 7;

(c) by deleting Form 14 and substituting the following form—

"

Form 14

WESTERN AUSTRALIA

Mining Act 1978
(Ss. 26A, 65, 95; reg. 45.)

PARTIAL SURRENDER*

*If applicable, add whether the surrender is under section 26A or section 65.

(This form must be accompanied by a map clearly delineating the portion of the tenement being— (i) surrendered; and (ii) retained.)

Details of Mining Tenement	
(a)	(b)
(c)	

(a) Type
(b) Number
(c) Mineral Field

Holder
(d)

(d) Full name and address of each holder.

THE HOLDER of the abovementioned mining tenement hereby applies to surrender all right, title and interest in that portion described hereunder.**

** If the surrender is a conditional one, add "conditional on application for . . . being granted."

PORTION BEING SURRENDERED	
(e)	
	Area***

(e) Describe the boundaries of the portion being surrendered.

***In ha/km² or number of blocks.

DATED this day of 19

Holders sign here	in the presence of	Witnesses sign here
(f)	(g)	
.....	.....	
.....	.....	

(f) Signature of holder.
(g) Signature of Witness.

LODGING PARTY
(h)

(h) Full name and address (for return of documents).

OFFICE USE		Received at ..... on ..... with fee of $ .... (Mining Registrar)	

";

(d) by deleting Form 18 and substituting the following form—

"

Form 18 WESTERN AUSTRALIA
Mining Act 1978
(Sec. 102 Reg. 54)

APPLICATION FOR EXEMPTION

Office Use
No.

Details of Mining Tenement
(a) (b)
(c)

(a) Type
(b) Number
(c) Mineral Field

Holder
(d)

(d) Full name and address of each holder.

Exemption Details
(e) ($)
(f) ..... 19 .....
(g)

(e) Amount of expenditure for which exemption is sought.

(f) Expiry date of period to which exemption relates.

(g) Reasons for exemption.

APPLICATION is made for exemption for the period specified from the expenditure conditions applicable to the abovementioned mining tenement.

DATED this day of 19

(h) Signature of holder or authorized agent. (h).....

OFFICE USE	OBJECTIONS to this application may be lodged at the Mining Registrar's office at ..... on or before the day of 19 Where an objection to this application is lodged the hearing will take place on a date to be set.		
		Received at ..... m on ..... with fee of $ .... (Mining Registrar)	

";

(e) by deleting Form 21 and substituting the following form—

"

Form 21

WESTERN AUSTRALIA
Mining Act 1978
(Secs. 41, 58, 74, 86, 91, Reg. 64)

APPLICATION FOR MINING TENEMENT

(a) Type of tenement
(b) Time & Date marked out (where applicable).

(a) ..... No...../.....

(b) a.m./p.m. / / (c)

(c) Mineral Field

APPLICANT:
(d) Full name
(e) Address
(f) No. of shares.
for each applicant.
(g) Total No. of shares.

(d) & (e)	(f) Shares
(g) Total	

DESCRIPTION OF GROUND APPLIED FOR (For Exploration Licences see Note 1).

(h) Locality
(i) Datum Peg
(j) Boundaries

(h) .....
(i) .....
(j) .....

(k) Area (ha or Km2)

(k)

(l) Signature of applicant or agent.

(l) ..... DATE .....

OBJECTIONS to this application may be lodged at the Mining Registrar's office at .....
on or before the ..... day of ..... 19 ..... (see Note 3) and the hearing will take place on the ..... day of ..... 19 .....

OFFICE USE

FEES PAID	$	c
Application		
Rent		
Survey Fee		
TOTAL		

Receipt No:

SHIRE:

Received at ..... m
on .....
.....
(Mining Registrar)

Map Ref.
Plan .....
.....
Scale .....

NOTES

Note 1: EXPLORATION LICENCE

(i) Attachments 1 and 2 must be completed and accompany the lodgement of every application for an Exploration Licence in lieu of (h), (i), (j) and (k) above and a map.

(ii) An application for an Exploration Licence shall be accompanied by a statement specifying method of exploration, details of the proposed work programme, estimated cost of exploration and technical and financial ability of the applicant(s).

Note 2: PROSPECTING LICENCES, MINING/GENERAL PURPOSE LEASES AND MISCELLANEOUS LICENCES

(i) This application form shall be accompanied by a map on which are clearly delineated the boundaries of the area applied for.

Note 3: ALL APPLICATIONS OVER PRIVATE LAND

The period for lodgement of an objection is within 21 days of service of this notice, or the date noted above for lodging objections, whichever is the longer period.

WESTERN AUSTRALIA
Mining Act 1978
Sec 58, Reg 64

FORM 21 - ATTACHMENT 1

EXPLORATION LICENCE No ...../.....

THIS SECTION MUST BE COMPLETED IN FULL FOR ALL EXPLORATION LICENCE APPLICATIONS

LOCALITY: ..... INDICATE BLOCKS APPLIED FOR: ☒

BLOCK IDENTIFIER (All three sections must be completed)

1:1,000,000 PLAN NAME	PRIMARY NUMBER	GRATICULAR SECTION
		All a b c d e f g h j k l m n o p q r s t u v w x y z

WESTERN AUSTRALIA
Mining Act 1978
Sec 58, Reg 64

FORM 21 - ATTACHMENT 2

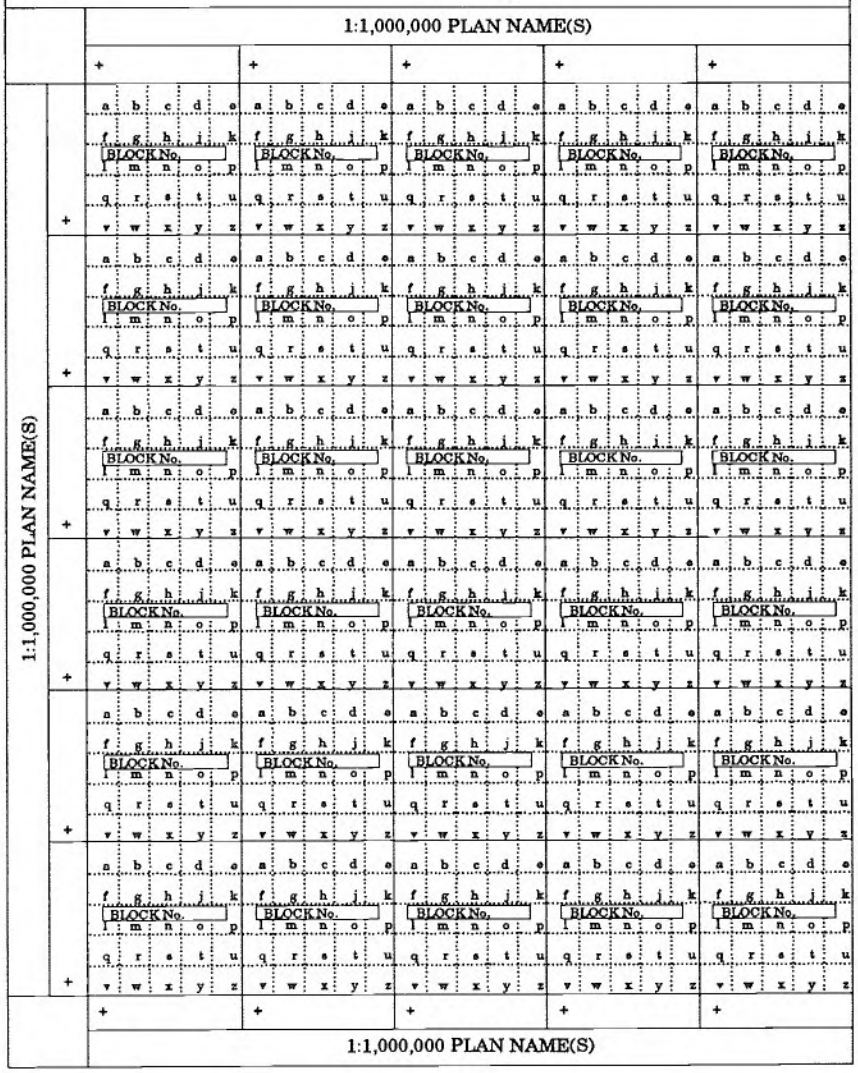
MAP SHOWING BLOCKS APPLIED FOR IN EXPLORATION LICENCE No ...../.....

(i) indicate 1:1,000,000 Plan Name(s) highlighting sheet boundaries in the areas marked (+) e.g. Kalgoorlie

(ii) Indicate Primary Number(s) e.g. BLOCK No. 318

(iii) Indicate Graticular Section e.g.

(iv) Outline external boundaries of licence applied for.



";

(f) by deleting Form 21A;

(g) in Form 24 by deleting "(h) Address for service of notices" and substituting the following—

" (h) Address within the State for service of notices ";

(h) in Form 28 by deleting—

"

(g) Signature (g).....

(h) Executor OR as the case may be (h).....

LODGING PARTY
(i) Full name and address (for return of documents) (i)

";

and substituting the following—

"

(g) Signature of applicant	(g).....
LODGING PARTY (h) Full name and address (for return of documents)	(h)

";

(i) in Form 33 by deleting—

"

OFFICE USE	Received at ..... m on ...../...../..... with fees as stated. ..... (Mining Registrar) Seal of Court	Fees Paid	$	c
		Plaint	.....	.....
		Summons	.....	.....
		Subpoena	.....	.....
		Service	.....	.....
		Affidavit	.....	.....
		Kilometrage	.....	.....
		Copies	.....	.....
		Attendance	.....	.....
		Total		

";

and substituting the following—

"

OFFICE USE	Received at ..... m on ...../...../..... with fees as stated. ..... (Mining Registrar) Seal of Court	Fees Paid	$	c
		Plaint (inc. Summons and Subpoena)	.....	.....
		Service	.....	.....
		Affidavit	.....	.....
		Kilometrage	.....	.....
		Copies	.....	.....
		Attendance	.....	.....
		Total		

";

and

(j) by inserting after Form 43 the following form—

" Form 44

WESTERN AUSTRALIA

MINING ACT 1978

Regulation 120E

REPORT OF APPROVED SURVEYOR

(To be lodged for each tenement surveyed)

Tenement type	Tenement number	Holder/ Applicant	Date of marking

I have surveyed this tenement in accordance with the regulations. The area surveyed is in accordance with the applicant's marking. The applicant has signified to me his satisfaction with the survey.

There are no encroachments or unlawful interferences evident on survey. Other land tenures have been located and/or shown on my plan.

(Amend or augment as necessary)

.....
Approved surveyor.
...../...../19..... ".

Second Schedule amended

29. The Second Schedule to the principal regulations is amended—

(a) in item 1 by deleting "Exploration licence per square kilometre or part thereof .... Reg. 18 28.60" and substituting the following—

" Existing exploration licence per square kilometre or part thereof ..... Reg. 18 28.60

Graticular exploration licence per block ... Reg. 18 80.00 ";

(b) by deleting item 4 and substituting the following item—

" 4. Exemption from expenditure conditions—

One year exemption ..... Reg. 54 100.00

5 year exemption for mining lease ..... Reg. 54 500.00 ";

(c) in item 10 by deleting—

"Mortgage ..... Reg. 109 16.30" and substituting the following—

" Mortgage ..... Reg. 77 16.30 ";

and

(d) in item 13 by deleting subitem (vi) and substituting the following subitem—

" (vi) Copy of—

(a) evidence—per page 6.50

(b) a judgment, decision or order—per page ..... 1.00 ".

By His Excellency's Command,

D. G. BLIGHT, Clerk of the Council.