



Western Australia

Mining Amendment Act 2022

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Mining Amendment Act 2022

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Western Australia

Mining Amendment Act 2022

No. 31 of 2022

An Act to amend the *Mining Act 1978*.

[Assented to 28 September 2022]

The Parliament of Western Australia enacts as follows:

1. Short title

This is the *Mining Amendment Act 2022*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

3. Act amended

This Act amends the *Mining Act 1978*.

4. Section 6 amended

- (1) In section 6(1c) delete “pursuant to a Government agreement as defined in section 2 of the *Government Agreements Act 1979*.” and insert:

under a Government agreement.

- (2) In section 6(1d):

- (a) in paragraph (a) delete “section 82(1)(ca); or” and insert:

section 103AH(2)(b) or (3); or

- (b) in paragraph (b) delete “mining proposal” and insert:

mining development and closure proposal

- (c) in paragraph (b) delete “section 82A.” and insert:
section 103AL(2)(b) or (3).

5. Section 8 amended

- (1) In section 8(1) delete the definition of *ground disturbing equipment*.
- (2) In section 8(1) insert in alphabetical order:

approved form means a form approved by the Minister;

Government agreement has the meaning given in the *Government Agreements Act 1979* section 2;

mining development and closure proposal means a mining development and closure proposal —

- (a) accompanying an application for a mining lease under section 74(1)(ca); or
- (b) required in order to comply with a condition referred to in —
- (i) section 103AL(2)(b) or (3); or
- (ii) section 103AM(2)(b) or (3);

prescribed means prescribed by regulations made under this Act;

6. Section 12 replaced

Delete section 12 and insert:

12. Delegation

- (1) The Minister may delegate to an officer of the Department any power or duty of the Minister except this power of delegation.
- (2) A delegation under subsection (1) must be in writing signed by the Minister.
- (3) The Director General of Mines may delegate to an officer of the Department any power or duty of the Director General of Mines except this power of delegation.
- (4) A delegation under subsection (3) must be in writing signed by the Director General of Mines.
- (5) A person exercising or performing a power or duty that has been delegated to the person under this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (6) Nothing in this section limits the ability of the Minister or the Director General of Mines to perform a function through an officer or agent.

7. Section 17 amended

In section 17(2) before “taken” delete “to be”.

8. Section 20 amended

Delete section 20(5a)(d)(i) and insert:

- (i) take all necessary steps to prevent damage or injury to property or livestock whether resulting from fire, the presence of dogs, the discharge of firearms, the use of vehicles or any other cause; and

9. Section 40D amended

Delete section 40D(2)(d) and insert:

- (d) must take all necessary steps to prevent damage or injury to property or livestock whether resulting from fire, the presence of dogs, the discharge of firearms, the use of vehicles or any other cause.

10. Section 46 amended

In section 46:

- (a) delete “shall be deemed” and insert:

is taken

- (b) delete paragraphs (aa), (b) and (c) and insert:

- (b) that all holes, pits, trenches and other disturbances to the surface of the land the subject of the prospecting licence that are made while prospecting, and that are likely to

s. 11

- endanger the safety of any person or animal,
will be filled in or otherwise made safe;
- (c) that all necessary steps are taken by the holder to prevent damage or injury to property or livestock whether resulting from fire, the presence of dogs, the discharge of firearms, the use of vehicles or any other cause.

11. Section 46A deleted

Delete section 46A.

12. Section 52 amended

- (1) Delete section 52(1a).
(2) In section 52(2) delete “or (1a)”.

13. Section 55A amended

- (1) In section 55A(2) delete “a form approved by the Minister” and insert:

an approved form

- (2) Delete section 55A(4) and insert:
- (4) On and from giving notice in writing to the holder of the licence of the imposition of the condition, the condition has effect for all purposes as a condition to which the licence is subject.

14. Section 60 amended

- (1) Delete section 60(1a).
- (2) In section 60(2) delete “or (1a)”.

15. Section 63 amended

In section 63:

- (a) delete “shall be deemed” and insert:

is taken

- (b) delete paragraphs (aa), (b) and (c) and insert:

- (b) will fill in or otherwise make safe all holes, pits, trenches and other disturbances to the surface of the land the subject of the exploration licence that are made while exploring for minerals, and that are likely to endanger the safety of any person or animal; and

- (c) will take all necessary steps to prevent damage or injury to property or livestock whether resulting from fire, the presence of dogs, the discharge of firearms, the use of vehicles or any other cause.

Note: The heading to amended 63 is to read:

Conditions attached to exploration licence

16. Section 63AA deleted

Delete section 63AA.

17. Section 63A amended

In section 63A:

- (a) in paragraph (aa) delete “section 60(1a), 65(4), 69E(2)” and insert:

section 65(4), 69E(2), 103AV(1)

- (b) delete paragraph (b) and insert:

- (b) the terms and conditions of the exploration licence are not complied with, including —
- (i) the prescribed expenditure conditions referred to in section 62; and
 - (ii) any conditions to which the licence is taken to be subject under section 63, 103AE(1) or 103AG(3), (4) or (5); and
 - (iii) any conditions imposed under section 69D(1) or 103AU(1);

or

18. Section 69D amended

- (1) In section 69D(2) delete “a form approved by the Minister” and insert:

an approved form

- (2) Delete section 69D(4) and insert:

- (4) On and from giving notice in writing to the holder of the licence of the imposition of the condition, the

condition has effect for all purposes as a condition to which the licence is subject.

19. Section 70F amended

- (1) Delete section 70F(2).
- (2) In section 70F(3) delete “or (2)”.

20. Section 70H amended

In section 70H(1):

- (a) delete “shall be deemed” and insert:

is taken

- (b) delete “shall — ” and insert:

must —

- (c) delete paragraphs (aa), (a) and (b) and insert:

- (a) fill in or otherwise make safe all holes, pits, trenches and other disturbances to the surface of the land the subject of the retention licence that are made while exploring for minerals, and that are likely to endanger the safety of any person or animal; and
- (b) take all necessary steps to prevent damage or injury to property or livestock whether resulting from fire, the presence of dogs, the discharge of firearms, the use of vehicles or any other cause; and

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21. Section 70I deleted

Delete section 70I.

22. Section 70IA amended

- (1) In section 70IA(2) delete “a form approved by the Minister” and insert:

an approved form

- (2) Delete section 70IA(3) and insert:

(3) A condition imposed under subsection (1) may be cancelled or varied by the Minister at any time.

- (3A) On and from giving notice in writing to the holder of the licence of the imposition of the condition, the condition has effect for all purposes as a condition to which the licence is subject.

23. Section 70K amended

In section 70K:

- (a) delete paragraph (b) and insert:

(b) the terms and conditions of the licence are not complied with, including —

- (i) any conditions to which the licence is taken to be subject under section 70H, 103AE(1) or 103AG(3), (4) or (5); and
(ii) any conditions imposed under section 70IA(1) or 103AU(1);

or

(b) in paragraph (bb) delete “section 70F(2)” and insert:

section 103AV(1)

24. Section 70L amended

In section 70L(1)(b) delete “section 70I or 70IA; and” and insert:

section 70IA(1) or 103AU(1); and

25. Sections 70O and 70P replaced

Delete sections 70O and 70P and insert:

70O. Significant mineralisation

In this Division there is *significant mineralisation* in, on or under land to which an application for a mining lease relates if exploration results in respect of a deposit of minerals located in, on or under that land indicate that there is a reasonable prospect of minerals being obtained by mining operations on the land.

26. Section 74 amended

(1) Delete section 74(1)(ca)(i) and insert:

- (i) a mining development and closure proposal lodged in accordance with section 103AN(2); or

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- (2) In section 74(1AA) delete “mining proposal” (each occurrence) and insert:

mining development and closure proposal

27. Section 82 amended

- (1) In section 82(1):

- (a) delete “shall be deemed to be” and insert:

is taken to be

- (b) delete paragraph (ca);

- (c) delete paragraphs (ga) and (g) and insert:

- (g) be liable to have the lease forfeited if —

- (i) the lessee contravenes any of the covenants or conditions to which the lease is subject; or
- (ii) the lessee fails to comply with any requirement under section 103AV(1) or 115B(2) in relation to the lease; or
- (iii) a report required under paragraph (e) or section 115A(2) in relation to the land the subject of the lease is not filed in accordance with this Act.

- (2) Delete section 82(1b).

28. Section 82A deleted

Delete section 82A.

29. Sections 84AA and 84 deleted

Delete sections 84AA and 84.

30. Section 84A amended

- (1) Delete section 84A(2).
- (2) In section 84A(3) delete “or (2)”.

31. Section 90 amended

- (1) In section 90(1):
 - (a) in paragraph (a) delete “those subsections” and insert:

section 6(1a), (1c) and (1d)(b)
 - (b) delete paragraph (b) and insert:

(b) section 6(1d)(a) were replaced by the following —
 - (a) a programme of work lodged by the holder of the general purpose lease in compliance with a condition prescribed for the purposes of section 89; or
- (2) Delete section 90(2)(b) and insert:
 - (b) section 74(1)(ca)(ii) and (iii) were replaced by the following —
 - (ii) a statement in accordance with subsection (1a);

- (3) In section 90(4) delete “82A, 83, 84, 84A,” and insert:

83, 84A, 103AL, 103AN, 103AO, 103AP, 103AQ, 103AR,
103AS, 103AT,

32. Section 92 amended

In section 92 delete “46A,”.

33. Section 96 amended

In section 96(2):

- (a) in paragraph (b) delete “subject, including any condition referred to in section 46 or section 50,” and insert:

subject, including any conditions referred to in sections 46, 50, 103AE(1), 103AG(3), (4) and (5), 103AI(2), (3) and (5), 103AM(2), (3) and (4), 103AO(4) and 103AS,

- (b) in paragraph (bb) delete “section 52(1a), 55B(2)” and insert:

section 55B(2), 103AV(1)

34. Part 4AA inserted

After section 103 insert:

Part 4AA — Conditions and approvals**Division 1 — Preliminary****103AA. Terms used**

In this Part —

approvals statement has the meaning given in section 103AP(1);

closure outcomes means —

- (a) in relation to a mining development and closure proposal — the outcomes, objectives or goals to be achieved at the completion of the decommissioning of a proposed mine, and the rehabilitation of the land, the subject of a mining lease or a miscellaneous licence to which the mining development and closure proposal relates; and
- (b) in relation to a mine closure plan — the outcomes, objectives or goals to be achieved at the completion of the decommissioning of a mine, and the rehabilitation of the land, in respect of which a mining lease or a miscellaneous licence is granted;

eligible mining activity (EMA) has the meaning given in section 103AB(1);

EMA notice has the meaning given in section 103AF(1);

licensed activity means an activity authorised by a miscellaneous licence;

mine closure plan has the meaning given in section 103AR;

programme of work means a programme of work required in order to comply with a condition referred to in section 103AG(3)(b) or (4), 103AH(2)(b) or (3) or 103AI(2)(b) or (3);

relevant information has the meaning given in section 103AO(6).

Division 2 — Conditions and notices relating to eligible mining activities

103AB. Eligible mining activities

- (1) For the purposes of this Part, the regulations may prescribe an activity done on land the subject of a mining tenement to be an *eligible mining activity (EMA)* if —
 - (a) the activity uses machinery to disturb the surface of the land for the purposes of, or in preparation for, mining; and
 - (b) the activity can be carried out with minimal disturbance to the surface of the land.
- (2) For the purposes of subsection (1)(b), an EMA is taken to be carried out with minimal disturbance to the surface of the land if it is carried out in accordance with prescribed requirements.

103AC. Excluded area notices

- (1) The Minister may, by notice (an *excluded area notice*) in the *Gazette*, declare an area named or described in the notice as an excluded area for the purposes of this Part if the Minister is satisfied that it is not appropriate for an EMA notice to be given in relation to the area.

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- (2) An EMA notice cannot be given in relation to an area that is the subject of an excluded area notice.
 - (3) The Minister may, by notice in the *Gazette*, cancel an excluded area notice.
 - (4) The Minister must keep a register of excluded area notices and make the information on the register publicly available free of charge —
 - (a) by making the register available during normal office hours at a prescribed place for public inspection; and
 - (b) by making the register available on a website maintained by the Department.

103AD. Certain lands excluded from EMAs

An EMA notice cannot be given in relation to —

- (a) land, or land of a class, to which section 24, 24A or 25 applies; or
- (b) Commonwealth land.

103AE. Condition relating to carrying out EMAs in accordance with prescribed requirements

- (1) Subject to subsection (2), it is a condition of every mining tenement that the holder of the mining tenement must not carry out an EMA on land the subject of the mining tenement otherwise than in accordance with the requirements for carrying out the EMA prescribed under section 103AB(2).
- (2) The holder of a mining tenement is not required to comply with subsection (1) in respect of the carrying out of an EMA if —
 - (a) the EMA is proposed in a programme of work relating to the mining tenement, and approved under section 103AK(1); or

- (b) the EMA is proposed in a mining development and closure proposal relating to the mining tenement and approved under section 103AO(1).
- (3) Subsection (1) does not affect any obligation the holder of a mining tenement has to comply with a condition referred to in section 103AG(5), 103AH(5), 103AI(5), 103AL(4) or 103AM(4) in relation to the carrying out of an EMA.

103AF. EMA notices and notices of completion

- (1) A notice (an *EMA notice*) of an EMA required in order to comply with a condition referred to in section 103AG(3)(a), 103AH(2)(a), 103AI(2)(a), 103AL(2)(a) or 103AM(2)(a) must be in the approved form.
- (2) The holder of a mining tenement who gives an EMA notice under this Part must, on completing the EMA, give the Minister notice of the completion in the approved form.
- (3) The regulations must specify —
 - (a) the manner in which an EMA notice must be given; and
 - (b) the period within which a notice of completion must be given under subsection (2).

Division 3 — Programmes of work

103AG. Conditions attached to prospecting licences, exploration licences and retention licences

- (1) In this section —

relevant licence means —

 - (a) a prospecting licence; or

- (b) an exploration licence; or
 - (c) a retention licence.
- (2) This section applies to an activity done on land the subject of a relevant licence using machinery to disturb the surface of the land for the purposes of, or in preparation for, prospecting or exploring for minerals.
- (3) It is a condition of every relevant licence that an activity that is an EMA must not be done by the holder of the relevant licence on land the subject of the relevant licence unless —
 - (a) the holder has given an EMA notice in respect of the activity; or
 - (b) the EMA is proposed in a programme of work and approved under section 103AK(1).
- (4) It is a condition of every relevant licence that an activity that is not an EMA must not be done by the holder of the relevant licence on land the subject of the relevant licence unless the activity is proposed in a programme of work and approved under section 103AK(1).
- (5) It is a condition of every relevant licence that, if an activity on land the subject of the relevant licence is proposed in a programme of work and approved under section 103AK(1), the holder of the relevant licence must not do the activity on the land otherwise than in accordance with the approved programme of work for the activity.

103AH. Conditions attached to mining leases

- (1) This section applies to an activity done on land the subject of a mining lease using machinery to disturb the surface of the land for the purposes of, or in

preparation for, prospecting or exploring for minerals but does not apply to mining operations.

- (2) It is a condition of every mining lease that an activity that is an EMA must not be done by the lessee on land the subject of the mining lease unless —
 - (a) the lessee has given an EMA notice in respect of the activity; or
 - (b) the EMA is proposed in a programme of work and approved under section 103AK(1).
- (3) It is a condition of every mining lease that an activity that is not an EMA must not be done by the lessee on land the subject of the mining lease unless the activity is proposed in a programme of work and approved under section 103AK(1).
- (4) A lessee of a mining lease is not required to comply with the condition referred to in subsection (2) or (3) in respect of an activity that is proposed in a mining development and closure proposal relating to the mining lease and approved under section 103AO(1).
- (5) It is a condition of every mining lease that, if an activity on land the subject of the lease is proposed in a programme of work and approved under section 103AK(1), the lessee must not do the activity on the land otherwise than in accordance with the approved programme of work for the activity.
- (6) Unless a Government agreement provides otherwise, this section does not apply to a mining lease granted or held under the agreement in accordance with proposals approved, taken to be approved or determined under the agreement.

103AI. Conditions attached to miscellaneous licences

- (1) This section applies to an activity done on land the subject of a miscellaneous licence using machinery to disturb the surface of the land for the purposes of, or in preparation for, a licensed activity but does not apply to mining operations.
- (2) It is a condition of every miscellaneous licence that a licensed activity that is an EMA must not be done by the holder of the miscellaneous licence on land the subject of the miscellaneous licence unless —
 - (a) the holder has given an EMA notice in respect of the activity; or
 - (b) the EMA is proposed in a programme of work and approved under section 103AK(1).
- (3) It is a condition of every miscellaneous licence that a licensed activity that is not an EMA must not be done by the holder of the miscellaneous licence on land the subject of the miscellaneous licence unless the licensed activity is proposed in a programme of work and approved under section 103AK(1).
- (4) A holder of a miscellaneous licence is not required to comply with a condition referred to in subsection (2) or (3) in respect of a licensed activity that is proposed in a mining development and closure proposal relating to the miscellaneous licence and approved under section 103AO(1).
- (5) It is a condition of every miscellaneous licence that, if a licensed activity on land the subject of the miscellaneous licence is proposed in a programme of work and approved under section 103AK(1), the holder of the miscellaneous licence must not do the activity on the land otherwise than in accordance with the approved programme of work for the activity.

- (6) Unless a Government agreement provides otherwise, this section does not apply to a miscellaneous licence granted or held under the agreement in accordance with proposals approved, taken to be approved or determined under the agreement.

103AJ. Lodgment of programmes of work

- (1) In this section —
relevant lodging party means —
- (a) in relation to a programme of work lodged for an activity on land the subject of a prospecting licence, an exploration licence or a retention licence — the holder of the licence, or a person authorised by the holder of the licence; or
 - (b) in relation to a programme of work lodged for an activity on land the subject of a mining lease — the lessee of the mining lease, or a person authorised by the lessee of the mining lease; or
 - (c) in relation to a programme of work lodged for a licensed activity on land the subject of a miscellaneous licence — the holder of the miscellaneous licence, or a person authorised by the holder of the miscellaneous licence.
- (2) A programme of work required in order to comply with a condition referred to in section 103AG(3)(b) or (4), 103AH(2)(b) or (3) or 103AI(2)(b) or (3) must be lodged with the Minister by the relevant lodging party in accordance with subsection (3).
- (3) The programme of work must —
- (a) be lodged in the prescribed manner; and
 - (b) be in the approved form; and

- (c) be accompanied by the prescribed assessment fee; and
 - (d) include any prescribed information.
- (4) Before the Minister approves or refuses to approve an activity proposed in a programme of work under section 103AK(1) —
- (a) the Minister may request the relevant lodging party —
 - (i) to lodge a substitute programme of work; or
 - (ii) to provide such further information as the Minister may require for the purposes of making the decision;
 - or
 - (b) the relevant lodging party may, with the written permission of the Minister, lodge a substitute programme of work.
- (5) The activity proposed in a substitute programme of work must not be substantially different to the activity proposed in the programme of work it is intended to replace.
- (6) A relevant lodging party who has lodged a programme of work or a substitute programme of work may withdraw it, by written notice to the Minister, at any time before the Minister approves or refuses to approve the activity proposed in the programme of work under section 103AK(1).

103AK. Approval of activities in programmes of work

- (1) The Minister must approve, or refuse to approve, an activity proposed in a programme of work or a substitute programme of work (if any).

- (2) The Minister must —
 - (a) notify the holder of the mining tenement to which the programme of work relates in writing of the Minister's decision under subsection (1); and
 - (b) if the decision is to refuse to approve the activity, include in the notification the reasons for the refusal.
- (3) An approval takes effect when notice of it is given to the holder of the mining tenement to which the programme of work relates.

Division 4 — Mining development and closure proposals

103AL. Conditions relating to mining operations on land subject of mining leases

- (1) This section applies to the following activities done on land the subject of a mining lease —
 - (a) using machinery to disturb the surface of the land for the purposes of, or in preparation for, mining operations;
 - (b) carrying out mining operations.
- (2) It is a condition of every mining lease that an activity that is an EMA must not be done by the lessee on land the subject of the mining lease unless —
 - (a) the lessee has given an EMA notice in respect of the activity; or
 - (b) the EMA is proposed in a mining development and closure proposal and approved under section 103AO(1).

- (3) It is a condition of every mining lease that an activity that is not an EMA must not be done by the lessee on land the subject of the mining lease unless the activity is proposed in a mining development and closure proposal and approved under section 103AO(1).
- (4) It is a condition of every mining lease that, if an activity on land the subject of the lease is proposed in a mining development and closure proposal and approved under section 103AO(1), the lessee must not do the activity on the land otherwise than in accordance with the approvals statement for the lease.
- (5) Unless a Government agreement provides otherwise, this section does not apply to a mining lease granted or held under the agreement in accordance with proposals approved, taken to be approved or determined under the agreement.

103AM. Conditions relating to mining operations on land subject of miscellaneous licences

- (1) This section applies to the following licensed activities done on land the subject of a miscellaneous licence —
 - (a) using machinery to disturb the surface of the land for the purposes of, or in preparation for, mining operations;
 - (b) carrying out mining operations.
- (2) It is a condition of every miscellaneous licence that a licensed activity that is an EMA must not be done by the holder of the miscellaneous licence on land the subject of the miscellaneous licence unless —
 - (a) the holder has given an EMA notice in respect of the activity; or

- (b) the EMA is proposed in a mining development and closure proposal and approved under section 103AO(1).
- (3) It is a condition of every miscellaneous licence that a licensed activity that is not an EMA must not be done by the holder of the miscellaneous licence on land the subject of the miscellaneous licence unless the licensed activity is proposed in a mining development and closure proposal and approved under section 103AO(1).
- (4) It is a condition of every miscellaneous licence that, if a licensed activity on land the subject of the miscellaneous licence is proposed in a mining development and closure proposal and approved under section 103AO(1), the holder of the miscellaneous licence must not do the activity on the land otherwise than in accordance with the approvals statement for the miscellaneous licence.
- (5) Unless a Government agreement provides otherwise, this section does not apply to a miscellaneous licence granted or held under the agreement in accordance with proposals approved, taken to be approved or determined under the agreement.

103AN. Lodgment of mining development and closure proposal

- (1) In this section —
 - relevant lodging party* means —
 - (a) in relation to a mining development and closure proposal lodged for an activity on land the subject of a mining lease — the lessee of the mining lease, or a person authorised by the lessee of the mining lease; or

- (b) in relation to a mining development and closure proposal lodged for a licensed activity on land the subject of a miscellaneous licence — the holder of the miscellaneous licence, or a person authorised by the holder of the miscellaneous licence.
- (2) A mining development and closure proposal required in order to comply with a condition referred to in section 103AL(2)(b) or (3) or 103AM(2)(b) or (3) must be lodged with the Minister by the relevant lodging party in accordance with subsection (3).
- (3) The mining development and closure proposal must —
 - (a) be lodged in the prescribed manner; and
 - (b) be in the approved form; and
 - (c) be accompanied by the prescribed assessment fee; and
 - (d) include detailed information regarding —
 - (i) the proposed mining operations to be carried out; and
 - (ii) the decommissioning of any proposed mine to which the mining development and closure proposal relates; and
 - (iii) the rehabilitation of land the subject of the mining tenement to which the mining development and closure proposal relates; and
 - (iv) the closure outcomes;and
 - (e) include any prescribed information.

- (4) Before the Minister approves, or refuses to approve, an activity proposed in a mining development and closure proposal under section 103AO(1) —
 - (a) the Minister may request the relevant lodging party —
 - (i) to lodge a substitute mining development and closure proposal; or
 - (ii) to provide such further information as the Minister may require for the purposes of making the decision;
 - or
 - (b) the relevant lodging party may, with the written permission of the Minister, lodge a substitute mining development and closure proposal.
- (5) The activity proposed in a substitute mining development and closure proposal must not be substantially different to the activity proposed in the mining development and closure proposal it is intended to replace.
- (6) A relevant lodging party who has lodged a mining development and closure proposal or a substitute mining development and closure proposal may withdraw it, by written notice to the Minister, at any time before the Minister approves or refuses to approve the activity proposed in the mining development and closure proposal under section 103AO(1).

103AO. Approval of activities in mining development and closure proposals

- (1) The Minister must approve, or refuse to approve, an activity proposed in a mining development and closure proposal or a substitute mining development and closure proposal (if any).

- (2) If the Minister approves an activity under subsection (1), the Minister must —
 - (a) record the approval on an approvals statement for the mining lease or the miscellaneous licence to which the mining development and closure proposal relates; and
 - (b) give a copy of the approvals statement to the lessee of the mining lease or the holder of the miscellaneous licence to which the mining development and closure proposal relates.
- (3) If the decision is to refuse to approve the activity, the Minister must notify the lessee of the mining lease or the holder of the miscellaneous licence to which the mining development and closure proposal relates in writing of the Minister's decision and include in the notification the reasons for the refusal.
- (4) The Minister may impose conditions on an approval and those conditions must be recorded on the approvals statement.
- (5) A condition recorded on an approvals statement has effect for all purposes as a condition to which the mining lease or the miscellaneous licence is subject.
- (6) The Minister may record information (the **relevant information**) provided in a mining development and closure proposal, that is relevant to the nature and extent of the activity in the proposal, on the approvals statement for the mining lease or the miscellaneous licence to which the mining development and closure proposal relates.
- (7) An approvals statement takes effect when it is given to the holder of the mining lease or the miscellaneous licence to which it relates and remains in force until it is cancelled by the Minister.

103AP. Approvals statements

- (1) An *approvals statement* is a document that, in relation to a mining lease or a miscellaneous licence, records the following information —
 - (a) an approval given to an activity on land the subject of the mining lease or the miscellaneous licence proposed in a mining development and closure proposal;
 - (b) any conditions attached to the approval;
 - (c) any relevant information;
 - (d) the closure outcomes included in a mining development and closure proposal relating to the mining lease or the miscellaneous licence;
 - (e) the date by which a mine closure plan for the land the subject of the mining lease or the miscellaneous licence must be lodged.
- (2) An approvals statement must be —
 - (a) in writing; and
 - (b) signed by the Minister.
- (3) The Minister must make an approvals statement available for public inspection in accordance with the regulations.

103AQ. Cancellations and variations recorded on approvals statements

- (1) The Minister may, on the Minister's own initiative or by application in writing by the lessee of a mining lease or the holder of a miscellaneous licence to which an approvals statement relates —
 - (a) cancel an approval given to an activity under section 103AO(1); or

- (b) cancel or vary a condition that is recorded on the approvals statement under section 103AO(4); or
 - (c) vary any relevant information that is recorded on the approvals statement under section 103AO(6).
- (2) The Minister must —
- (a) record a cancellation or a variation made under subsection (1) on the approvals statement to which the cancellation or variation relates; and
 - (b) give a copy of the amended approvals statement to the lessee of the mining lease or the holder of the miscellaneous licence to which the approvals statement relates.
- (3) A cancellation or a variation made under subsection (1) takes effect on the day recorded on the amended approvals statement.

Division 5 — Mine closure plans

103AR. Contents of mine closure plan

A *mine closure plan*, for land the subject of a mining lease or a miscellaneous licence, is a planning and reporting document that provides for —

- (a) the decommissioning of each mine on the land; and
- (b) the rehabilitation of the land; and
- (c) the closure outcomes; and
- (d) any other prescribed information.

103AS. Conditions relating to mine closure plans

It is a condition of every mining lease or miscellaneous licence that the lessee of the mining lease or the holder of the miscellaneous licence must lodge a mine closure plan for land the subject of the mining lease or the miscellaneous licence in compliance with section 103AT(1).

103AT. Lodgment of mine closure plans

- (1) The lessee of a mining lease or the holder of a miscellaneous licence, or a person authorised by the lessee of the mining lease or the holder of the miscellaneous licence (as the case requires) must lodge a mine closure plan required in order to comply with the condition referred to in section 103AS —
 - (a) with the Minister in the prescribed manner; and
 - (b) on or before the date recorded on the approvals statement for the mining lease or the miscellaneous licence, as the date required for lodgment of the mine closure plan.
- (2) The mine closure plan must be in the approved form.
- (3) The Minister may extend or vary the date recorded on the approvals statement by which a mine closure plan must be lodged.
- (4) If the Minister extends or varies the date under subsection (3), the Minister must —
 - (a) give the lessee of the mining lease or the holder of the miscellaneous licence (as the case requires) written notice that the date has been extended or varied; and
 - (b) amend the date recorded on the approvals statement accordingly.

Division 6 — Other conditions**103AU. Conditions for preventing, reducing or remediating injury to land and for other purposes**

- (1) The Minister may impose a condition on a mining tenement for the following purposes —
 - (a) preventing, reducing or remediating injury to land the subject of the mining tenement or other land;
 - (b) preventing or reducing the impact of mining on the statutory or public purposes for which land to which section 24 or 24A applies is reserved or managed, or remediating such land.
- (2) The condition may be imposed —
 - (a) in the case of a prospecting licence or a miscellaneous licence —
 - (i) by the mining registrar, or the warden, on the granting of the licence; or
 - (ii) by the Minister on the granting of the licence or at any subsequent time;
 - and
 - (b) in any other case, by the Minister on the granting of the mining tenement or at any subsequent time.
- (3) A condition imposed under subsection (1) may be cancelled or varied by the Minister at any time.
- (4) The condition has effect for all purposes, whether or not the condition is endorsed on the mining tenement, on notice of the imposition of the condition being given in writing to the holder of the mining tenement.
- (5) Without limiting subsection (1), a condition may be imposed for the purpose of preventing mining

operations being carried out within a specified distance of the natural surface of the land the subject of a mining tenement.

Division 7 — Securities

103AV. Security for compliance with conditions

- (1) The Minister may require the holder of a mining tenement to lodge a security for compliance with any conditions imposed under section 103AO(4) or 103AU(1).
- (2) A security referred to in subsection (1) —
 - (a) must be lodged in the prescribed manner and within the period specified in writing by the Minister; and
 - (b) is subject to the provisions of section 126.

35. Section 103EA amended

In section 103EA(3) before “taken” delete “to be”.

36. Section 105A amended

In section 105A(6) delete “to be”.

37. Section 122C amended

In section 122C before “taken” delete “to be”.

38. Section 126 amended

In section 126(1):

- (a) delete “section 26, 52, 60, 70F or 84A —” and insert:

section 26, 52(1), 60(1), 70F(1), 84A(1) or 103AV(1) —

- (b) in paragraph (a)(i) delete “section 26, 52(1a), 60(1a), 70F(2) or 84A(2),” and insert:

section 26 or 103AV(1),

39. Section 140 amended

In section 140(4) and (5) before “taken” delete “to be”.

40. Section 162 amended

- (1) In section 162(1) delete “he deems” and insert:

the Governor thinks

- (2) In section 162(2)(eb) delete “to be”.

- (3) In section 162(2)(ga) delete “section” and insert:

sections

41. Second Schedule Division 3 inserted

At the end of the Second Schedule insert:

Division 3 — Provisions relating to *Mining Amendment Act 2022*

20. Terms used

In this Division —

commencement day means the day on which the *Mining Amendment Act 2022* section 34 comes into operation;

former, in relation to a provision, means the provision as in force immediately before commencement day.

21. Continuation of conditions for prevention or reduction of injury to land

- (1) In this clause —
former provision means —
- (a) former section 46A; or
 - (b) former section 63AA; or
 - (c) former section 70I; or
 - (d) former section 84.
- (2) A condition that was, immediately before commencement day, imposed on the holder of a mining tenement under a former provision has effect, on and from commencement day, as if it were a condition imposed on the mining tenement under section 103AU(1).
- (3) Subclause (2) applies whether or not the condition is of a kind that, on or after commencement day, could be imposed on the mining tenement under section 103AU(1).

22. Continuation of securities

- (1) In this clause —
former provision means —
- (a) former section 52(1a); or
 - (b) former section 60(1a); or
 - (c) former section 70F(2); or
 - (d) former section 84A(2).
- (2) A security that was, immediately before commencement day, required to be lodged by the holder of a mining tenement under a former provision is, on and from commencement day, taken to be a security required to be lodged by the holder of the mining tenement under section 103AV(1).

23. Transitional provisions for programmes of work

(1) In this clause —

existing undetermined programme of work means a programme of work that —

- (a) was lodged before commencement day in accordance with a former provision; and
- (b) was not, before commencement day, approved or refused to be approved as described in that former provision;

former provision means —

- (a) former section 46(aa); or
- (b) former section 63(aa); or
- (c) former section 70H(1)(aa); or
- (d) former section 82(1)(ca)(i);

previously approved programme of work means a programme of work referred to in a former provision for which there was, immediately before commencement day, approval as described in that former provision.

(2) On and from commencement day —

- (a) a previously approved programme of work is taken to be a programme of work lodged in accordance with section 103AJ(2); and
- (b) an activity proposed in a previously approved programme of work is taken to be approved under section 103AK(1).

(3) On and from commencement day, an existing undetermined programme of work is taken to be a programme of work lodged in accordance with section 103AJ(2).

24. Transitional provisions for existing undetermined mining proposals

(1) In this clause —

existing undetermined mining proposal means —

- (a) a mining proposal that accompanied, under former section 74(1)(ca)(i), the application for a mining lease that was lodged, but not finally determined, before commencement day; or
- (b) a mining proposal that was lodged before commencement day in accordance with former section 82A(2)(a) and written approval for the mining proposal was not obtained before commencement day, as described in former section 82A(2)(b); or
- (c) a mining proposal that was lodged before commencement day in accordance with a condition imposed under former section 84 and was not, before commencement day, approved or refused to be approved as described in the condition.

(2) On and from commencement day —

- (a) an existing undetermined mining proposal is taken to be a mining development and closure proposal lodged in accordance with section 103AN(2); and
- (b) a mine closure plan contained in an existing undetermined mining proposal is taken to be information required under section 103AN(3)(d)(ii), (iii) and (iv) to be included in a mining development and closure proposal lodged in accordance with section 103AN(2).

25. Transitional provisions for previously approved mining proposals

(1) In this clause —

previously approved mining proposal means —

- (a) a mining proposal that accompanied, under former section 74(1)(ca)(i), the application for a mining

lease that was granted before commencement day;
or

- (b) a mining proposal for which there was, immediately before commencement day, approval as described in former section 82A(2)(b); or
- (c) a mining proposal for which there was, immediately before commencement day, approval as described in a condition imposed under former section 84;

transition period means the period beginning on commencement day and ending —

- (a) 10 years after that day; or
 - (b) on a later day approved by —
 - (i) the Minister; or
 - (ii) if the Minister does not approve a later day — the Director General of Mines.
- (2) During the transition period, a copy of an approvals statement may be given to the holder of a mining tenement in accordance with section 103AO(2)(b).
- (3) If an approvals statement is given under subclause (2) —
- (a) a previously approved mining proposal for the mining tenement is taken to be a mining development and closure proposal lodged in accordance with section 103AN(2); and
 - (b) the mining operations proposed in the previously approved mining proposal for the mining tenement is taken to be an activity (a **transitioned activity**) approved under section 103AO(1); and
 - (c) the mine closure plan contained in the previously approved mining proposal for the mining tenement is taken to be a mine closure plan lodged in accordance with section 103AT(1).

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- (4) An approval of a transitioned activity must be recorded on the approvals statement in accordance with section 103AO(2)(a).

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