



Western Australia

Mining Amendment Act (No. 2) 2022

As at 01 Nov 2022

No. 39 of 2022

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Mining Amendment Act (No. 2) 2022

No. 39 of 2022

An Act to amend the *Mining Act 1978*.

[Assented to 1 November 2022]

The Parliament of Western Australia enacts as follows:

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1. Short title

This is the *Mining Amendment Act (No. 2) 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 the day after that day.

3. Act amended

This Act amends the *Mining Act 1978*.

4. Section 9B amended

After section 9B(1) insert:

- (1A) A datum may be prescribed for all or some of the purposes referred to in subsection (1), and different datums may be prescribed for different purposes.

5. Section 17 amended

- (1) In section 17(1) in the definition of *give* delete “notify”.
- (2) In section 17(1) in the definition of *prescribed provision* paragraph (a) delete “a document or notice” and insert:

a document, a notice or a notification

- (3) In section 17(2):
- (a) in paragraph (a) delete “a document or notice” and insert:

a document, a notice or a notification
 - (b) in paragraph (b) delete “document or notice” and insert:

document, notice or notification

6. Section 42 amended

- (1) In section 42(1) delete “shall lodge a notice of objection within the prescribed time and in the prescribed manner.” and insert:

must lodge a notice of objection.
- (2) After section 42(1) insert:
- (1A) A notice of objection must be —
- (a) lodged within the prescribed time and in the prescribed manner; and
 - (b) accompanied by the prescribed fee.

7. Section 56A amended

- (1) Delete section 56A(4) and insert:
- (4) If the holder of the primary tenement lodges a notice of objection to an application for a special prospecting licence —
- (a) the notice of objection must be —
 - (i) lodged within the prescribed time and in the prescribed manner; and
 - (ii) accompanied by the prescribed fee;
 - and
 - (b) the warden must obtain a report from the Director, Geological Survey in respect of the prospecting carried on by the holder of the primary tenement on the land to which the application relates.

- (2) In section 56A(4a) delete “subsection (4)” and insert:

subsection (4)(b)

8. Section 56C amended

After section 56C(4) insert:

- (4A) Without limiting section 9B(1A), a datum must be prescribed by the regulations for the purposes of the determination of the position on the surface of the Earth of a graticular section or a block.

- (4B) Despite subsection (1), the meridians of longitude defining the eastern and western boundaries of a graticular section, and the parallels of latitude defining the northern and southern boundaries of a graticular section, are taken to be at a distance from each other that is other than 1 minute if required as a result of the prescription of a datum under subsection (4A).

9. Section 59 amended

- (1) In section 59(1) delete “shall lodge a notice of objection within the prescribed time and in the prescribed manner.” and insert:

must lodge a notice of objection.

- (2) After section 59(1) insert:

- (1A) A notice of objection must be —
- (a) lodged within the prescribed time and in the prescribed manner; and
 - (b) accompanied by the prescribed fee.

10. Section 70 amended

- (1) Delete section 70(4) and insert:

- (4) If the holder of the primary tenement lodges a notice of objection against the application for the special prospecting licence —
- (a) the notice of objection must be —
 - (i) lodged within the prescribed time and in the prescribed manner; and

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- (ii) accompanied by the prescribed fee;
 - and
 - (b) the warden must obtain a report from the Director, Geological Survey in respect of the exploration carried on by the holder of the primary tenement on the land to which the application relates.
- (2) In section 70(4a) delete “subsection (4)” and insert:

subsection (4)(b)

11. Section 70D amended

- (1) In section 70D(1) delete “shall lodge a notice of objection within the prescribed time and in the prescribed manner.” and insert:

must lodge a notice of objection.
- (2) After section 70D(1) insert:
 - (1A) A notice of objection must be —
 - (a) lodged within the prescribed time and in the prescribed manner; and
 - (b) accompanied by the prescribed fee.

12. Section 75 amended

- (1) In section 75(1) delete “shall lodge a notice of objection within the prescribed time and in the prescribed manner.” and insert:

must lodge a notice of objection.

- (2) After section 75(1) insert:

(1AA) A notice of objection must be —

- (a) lodged within the prescribed time and in the prescribed manner; and
- (b) accompanied by the prescribed fee.

13. Section 97A amended

Delete section 97A(6) and insert:

- (6) A person who wishes to object to the granting of an application made under subsection (1) must lodge a notice of objection.

(6A) A notice of objection must be —

- (a) lodged within the prescribed time and in the prescribed manner; and
- (b) accompanied by the prescribed fee.

14. Section 102 amended

After section 102(4) insert:

- (4A) A person who wishes to object to the granting of an application for exemption must lodge a notice of objection.
- (4B) A notice of objection must be —
 - (a) lodged within the prescribed time and in the prescribed manner; and
 - (b) accompanied by the prescribed fee.

15. Section 105 amended

- (1) In section 105(1) delete “Before” and insert:

Except as provided in subsection (2), before

- (2) After section 105(1) insert:
 - (2) The holder of a prospecting licence, exploration licence or retention licence may make an application for the grant of a mining lease or general purpose lease in respect of any part of the land the subject of the licence without first marking out the land in relation to which the lease is sought if the holder includes with the application —
 - (a) a statement of the grounds of the application; and
 - (b) evidence supporting the statement.
 - (3) The statement must specify that, in the opinion of the holder of the licence, it is not possible for the land in

relation to which the lease is sought to be accessed by or on behalf of the holder for the purpose of marking out as a result of 1 or more of the following —

- (a) any law;
- (b) any order of a court, tribunal or person acting judicially;
- (c) an act or omission of —
 - (i) a department of the Public Service; or
 - (ii) a State agency or instrumentality; or
 - (iii) a local government, regional local government or regional subsidiary; or
 - (iv) a body, whether incorporated or not, or the holder of an office, post or position, that is established or continued for a public purpose under a written law; or
 - (v) a brigade as defined in the *Fire Brigades Act 1942* section 4(1);
- (d) any disaster or emergency, including a disaster or emergency caused by —
 - (i) fire, storm, flood, lightning, landslide or earthquake; or
 - (ii) the holder or any other person;
- (e) any revolution, insurrection, riot or other civil disturbance;
- (f) any vandalism, sabotage or other form of malicious damage of property;
- (g) any war (whether declared or undeclared) or military operation;
- (h) any strike, lock-out or other industrial dispute;
- (i) any other circumstance beyond the control of the holder of the licence.

- (4) If the holder of the licence makes an application in reliance on subsection (2), the holder must —
- (a) mark out the land in relation to which the lease is sought in the prescribed manner and in the prescribed shape —
 - (i) as soon as practicable after it becomes possible for the land to be accessed; or
 - (ii) if the mining registrar is not satisfied that the evidence provided under subsection (2)(b) demonstrates that it is not possible for the land to be accessed and specifies, in writing, a day by which the land must be marked out — by the end of the specified day; or
 - (iii) if the mining registrar is satisfied that it has become possible for the land to be accessed and specifies, in writing, a day by which the land must be marked out — by the end of the specified day;and
 - (b) as soon as practicable after the land is marked out, provide the mining registrar with evidence that the land has been marked out.
- (5) The activities involved in marking out under subsection (4)(a) are taken to be activities relating to prospecting and to constitute mining for the purpose of any claim under section 123 for compensation for loss or damage suffered, or likely to be suffered, resulting or arising from marking out —
- (a) under subsection (4)(a); or
 - (b) for the purposes of an order under section 124(2).

16. Section 162 amended

In section 162(2):

- (a) after paragraph (ec) insert:
 - (ed) provide for matters relating to the giving of information, a document, a notice or a notification required or permitted to be given under this Act (including the giving of the information or the document, notice or notification in electronic form);
 - (ef) provide for the time at which information, a document, a notice or a notification is taken to have been given;
 - (eg) prescribe the means of satisfying a requirement under this Act in relation to information, a document, a notice or a notification in writing if the information, document, notice or notification is given in electronic form;

- (b) in paragraph (ka)(iii) delete “tenement,” and insert:

tenement, prescribing fees for the lodgment of notices relating to those disputes or objections,

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