

WESTERN AUSTRALIA

MINING AMENDMENT ACT 1994

No. 58 of 1994

AN ACT to amend the —

- *Mining Act 1978*; and
 - *Mining Amendment Act 1990*,
- and for related purposes.

[Assented to 2 November 1994.]

The Parliament of Western Australia enacts as follows:

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Mining Amendment Act 1994*.

Commencement

2. (1) The provisions of this Act, other than Part 2 and section 52, come into operation on the day on which this Act receives the Royal Assent.

- (2) The provisions of Part 2 and section 52 come into operation on such day as is, or days as are respectively, fixed by proclamation.

PART 2 — PROVISIONS RELATING TO *MINING ACT 1978*

Principal Act

3. (1) In this Part the *Mining Act 1978** is referred to as the principal Act.

[* *Reprinted as at 1 August 1988.*

For subsequent amendments see 1993 Index to Legislation of Western Australia, Table 1, pp. 139-40.]

(2) The Table at the end of this Act shows how this Act affects the principal Act.

Section 19 amended

4. (1) Section 19 (1) (a) of the principal Act is amended by deleting “Crown land, not being Crown” and substituting the following —

“ land, not being private land or ”.

(2) After section 19 (2) of the principal Act the following subsections are inserted —

“

(2a) An instrument made under subsection (1) (a) before the prescribed day, has effect until it is cancelled under subsection (1) (b).

(2b) An instrument made under subsection (1) (a) on or after the prescribed day, has effect until it is cancelled under subsection (1) (b) or until it expires under subsection (2c), whichever occurs first.

(2c) An instrument referred to in subsection (2b) expires at the end of the period of 2 years from its date unless it is extended for a period or periods (not exceeding 2 years at a time) by instrument in writing

under the Minister's hand published in the *Government Gazette*.

(2d) In subsections (2a) and (2b) **“the prescribed day”** means the day on which section 4 of the *Mining Amendment Act 1994* commences.

”.

(3) Section 19 (4) and (5) of the principal Act are amended by deleting “Crown” wherever it occurs.

(4) After section 19 (7) of the principal Act the following subsection is inserted —

“

(8) Nothing in this section authorizes or allows land to which section 24 or section 25 applies to be exempted from a provision of Division 2 or to be dealt with otherwise than in accordance with Division 2.

”.

Section 20 amended

5. (1) Section 20 (2) of the principal Act is amended —

(a) by deleting paragraph (b) and substituting the following paragraph —

“

(b) to prospect for minerals by —

(i) conducting geological mapping of;

(ii) undertaking sampling by prescribed means and subject to prescribed limits on;

(iii) conducting tests for minerals on;
and

- (iv) engaging in any other activity authorized by the Minister in writing on,

Crown land (not being Crown land that is the subject of a mining tenement) for the purpose of ascertaining whether any part of that land, and if appropriate determining which area, is to be marked out or applied for, or both, for the purpose of making an application for a mining tenement;

”;

- (b) in paragraph (c) by inserting after “extract or remove” the following —

“ by prescribed means ”;

- (c) in paragraph (d) by deleting “prospecting” and substituting the following —

“
the activities authorized under this subsection

”;

and

- (d) in paragraph (e) (i) and (ii) by deleting “purpose of prospecting” and substituting in each place the following —

“
purposes of the activities authorized under this subsection

”.

(2) Section 20 (3) (a) of the principal Act is amended by deleting “holes, pits, trenches and other” in both places where it occurs.

Section 29 amended

6. After section 29 (6) of the principal Act the following subsections are inserted —

“

(6a) Subsection (6b) applies to a mining tenement if it —

- (a) has been granted wholly or partly in respect of private land referred to in subsection (2) (a), (b), (c), (d), (e) or (f); but
- (b) has not been granted in respect of that portion of the private land (“**the relevant portion**”) that is less than 30 metres below the lowest part of the natural surface of that private land because the consents referred to in subsection (2) have not been given.

(6b) If during the currency of a mining tenement to which this subsection applies, the relevant portion or any part of the relevant portion ceases to be private land, the relevant portion or that part of the relevant portion, as the case requires, is, by operation of this subsection, included in the mining tenement.

”

Section 40 amended

7. (1) Section 40 (1) of the principal Act is amended by deleting “the warden” and substituting the following —

“

the mining registrar or the warden, in accordance with section 42,

”

(2) Section 40 (4) of the principal Act is repealed.

Section 41 amended

8. Section 41 (2) of the principal Act is amended by deleting “14 days after lodging such an application” and substituting the following —

“ the prescribed period ”.

Section 42 repealed and a section substituted and consequential amendments

9. (1) Section 42 of the principal Act is repealed and the following section is substituted —

“

Determination of application for prospecting licence

42. (1) A person who wishes to object to the granting of an application for a prospecting licence shall lodge at the office of the mining registrar a notice of objection within the prescribed time and in the prescribed manner.

(2) Where no notice of objection is lodged within the prescribed time the mining registrar may —

- (a) grant the prospecting licence if satisfied that the applicant has complied in all respects with the provisions of this Act; or
- (b) refuse the prospecting licence if not so satisfied.

(3) Where a notice of objection —

- (a) is lodged within the prescribed time; or

- (b) is not lodged within the prescribed time but is lodged before the mining registrar has granted or refused the prospecting licence under subsection (2) and the warden is satisfied that there are reasonable grounds for late lodgment,

the warden shall hear and determine the application for the prospecting licence in open court on a day appointed by the warden and may give any person who has lodged such a notice of objection an opportunity to be heard.

”.

(2) Section 46A (2) (a) of the principal Act is amended by inserting after “by” the following —

“ the mining registrar, ”.

(3) Section 56 (1) of the principal Act is amended —

(a) by inserting after “Where” the following —

“ the mining registrar or ”; and

(b) by deleting “under section 40”.

(4) Section 56 (1a) of the principal Act is amended by inserting after “94K” the following —

“ the mining registrar or ”.

[Section 46A of the principal Act is amended by section 9 (2) of this Act.]

[Section 49 of the principal Act is amended by section 29 (2) of this Act.]

Section 51 amended

10. Section 51 of the principal Act is amended by deleting “Penalty: \$500.”.

Section 52 amended

11. (1) Section 52 (1) of the principal Act is amended by deleting “28 days after lodging that application” and substituting the following —

“ the prescribed period ”.

(2) After section 52 (2) of the principal Act the following subsections are inserted —

“

(3) A prospecting licence shall not be granted unless a security has been lodged by the applicant for the prospecting licence in accordance with subsection (1).

(4) Notwithstanding section 154 (1), an applicant for a prospecting licence who fails to comply with subsection (1) does not commit an offence against this Act.

”.

[Section 56 of the principal Act is amended by section 9 (3) and (4) of this Act.]

Section 56A amended and saving

12. (1) Section 56A (3) of the principal Act is amended by deleting “warden” and substituting the following —

“ mining registrar ”.

(2) Section 56A (6) of the principal Act is amended —

(a) by inserting after “this section,” the following —

“ the mining registrar, ”; and

(b) in paragraph (c) by deleting “warden” and substituting the following —

“ Minister ”.

(3) After section 56A (6) of the principal Act the following subsection is inserted —

“

(6aa) A special prospecting licence may be granted for a period of 3 months or for any period which is a multiple of 3 months but which does not exceed 4 years.

”.

(4) Section 56A (6a) (a) of the principal Act is amended by deleting “in accordance with the provisions of section 45”.

(5) The amendments made to section 56A of the principal Act by subsections (3) and (4) do not affect the term of any special prospecting licence in force under that section immediately before the commencement of this section.

(6) Section 56A (12) (b) of the principal Act is amended by inserting before “mining” the following —

“ retention licence, a ”.

Section 57 amended*

13. After section 57 (2g) of the principal Act the following subsection is inserted —

“

(2h) Where the land in respect of which an exploration licence is granted comprises or includes part of a block, no other exploration licence shall be granted in respect of that block or any part of that block.

”.

*[*N.B. Section 57 is also amended by section 15 of this Act.]*

Section 58 amended

14. (1) After section 58 (1) of the principal Act the following subsection is inserted —

“

(1a) In order to facilitate the operation of section 105A (3) and (4) (a) in relation to applications for exploration licences in respect of an area that are made at the first available opportunity after that area has been surrendered under section 65 or has become forfeited under section 96A or 97, those applications shall be made in accordance with a prescribed procedure and shall be regarded as having been lodged at a time determined in accordance with the regulations.

”.

(2) Section 58 (2) (a) of the principal Act is amended by deleting “and must be accompanied by a map that clearly delineates the block or blocks”.

(3) Section 58 (4) of the principal Act is amended by deleting "14 days after the lodging of such an application" and substituting the following —

" the prescribed period ".

Section 59 repealed and a section substituted and consequential amendments

15. (1) Section 59 of the principal Act is repealed and the following section is substituted —

"

Determination of application for exploration licence

59. (1) A person who wishes to object to the granting of an application for an exploration licence shall lodge at the office of the mining registrar a notice of objection within the prescribed time and in the prescribed manner.

(2) Where no notice of objection is lodged within the prescribed time the mining registrar shall, unless subsection (4) (b) applies, forward to the Minister a report which recommends the grant or refusal of the exploration licence and sets out the reasons for that recommendation.

(3) The mining registrar shall —

- (a) recommend the grant of the exploration licence if satisfied that the applicant has complied in all respects with the provisions of this Act; or
- (b) recommend the refusal of the exploration licence if not so satisfied.

(4) Where a notice of objection —

- (a) is lodged within the prescribed time; or
- (b) is not lodged within the prescribed time but is lodged before the mining registrar has forwarded a report to the Minister under subsection (2) and the warden is satisfied that there are reasonable grounds for late lodgment,

the warden shall hear the application for the exploration licence in open court on a day appointed by the warden and may give any person who has lodged such a notice of objection an opportunity to be heard.

(5) The warden shall as soon as practicable after the hearing of the application forward to the Minister for the Minister's consideration —

- (a) the notes of evidence;
- (b) any maps or other documents referred to in the notes of evidence; and
- (c) a report which recommends the grant or refusal of the exploration licence and sets out the reasons for that recommendation.

(6) On receipt of a report under subsection (2) or (5), the Minister may grant or refuse the exploration licence as the Minister thinks fit, and irrespective of whether —

- (a) the report recommends the grant or refusal of the exploration licence; and

- (b) the applicant has or has not complied in all respects with the provisions of this Act.

”.

(2) Section 57 (1) of the principal Act is amended by inserting after “recommendation of ” the following —

“ the mining registrar or ”.

(3) Section 57 (3) of the principal Act is amended by deleting “The warden” and substituting the following —

“ The mining registrar or the warden ”.

Section 60 amended

16. (1) Section 60 (1) of the principal Act is amended by deleting “28 days after lodging that application” and substituting the following —

“ the prescribed period ”.

(2) After section 60 (2) of the principal Act the following subsections are inserted —

“

(3) An exploration licence shall not be granted unless a security has been lodged by the applicant for the exploration licence in accordance with subsection (1).

(4) Notwithstanding section 154 (1), an applicant for an exploration licence who fails to comply with subsection (1) does not commit an offence against this Act.

”.

Section 61 amended

17. Section 61 (2) of the principal Act is repealed and the following subsection is substituted —

“

(2) Notwithstanding subsection (1) the Minister may extend the term of an exploration licence —

(a) in prescribed circumstances by —

(i) a period of one or 2 years; and

(ii) one further period of one or 2 years;

and

(b) in exceptional circumstances by a further period or periods of one year,

as to the whole or any part of the land the subject of that exploration licence on such terms and conditions as the Minister thinks fit.

”

Section 63A amended

18. Section 63A of the principal Act is amended by inserting after paragraph (b) the following paragraph —

“

(ba) a report required under section 68 (3) or 115A in relation to the land the subject of the exploration licence is not filed in accordance with this Act;

”

[Section 67 of the principal Act is amended by section 29 (2) of this Act.]

Section 67A amended

19. After section 67A (7) of the principal Act the following subsection is inserted —

“

(8) This section does not affect the operation of section 40 (1) (b) and (c) of the *Mining Amendment Act 1990*.

”.

Section 68 amended

20. Section 68 (2) of the principal Act is repealed and the following subsections are substituted —

“

(2) The holder of an exploration licence shall furnish the Minister with such information relating to the surveys and other operations conducted by the holder pursuant to the licence and such geological samples obtained in the course of those operations as the Minister may request.

Penalty: \$500.

(3) The holder of an exploration licence shall at such times and in such manner as may be prescribed, file or cause to be filed with the Department at Perth a report of all work done on, and money expended in connection with, exploration in the area the subject of the licence during the period to which the report relates.

”.

Section 70 amended and saving

21. (1) Section 70 (3) of the principal Act is amended by deleting “warden” and substituting the following —

“ mining registrar ”.

(2) Section 70 (6) of the principal Act is amended —

(a) by inserting after “this section” the following —

“ the mining registrar, ”; and

(b) in paragraph (c) by deleting “warden” and substituting the following —

“ Minister ”.

(3) After section 70 (6) of the principal Act the following subsection is inserted —

“

(6aa) A special prospecting licence may be granted for a period of 3 months or for any period which is a multiple of 3 months but which does not exceed 4 years.

”.

(4) Section 70 (6a) (a) of the principal Act is amended by deleting “in accordance with the provisions of section 45”.

(5) The amendments made to section 70 of the principal Act by subsections (3) and (4) do not affect the term of any special prospecting licence in force under that section immediately before the commencement of this section.

(6) Section 70 (12) (b) of the principal Act is amended by inserting before “mining” the following —

“ retention licence, a ”.

Section 70AA inserted

22. After section 70A of the principal Act the following section is inserted —

“

This Division subject to Division 5A

70AA. (1) This Division has effect subject to Division 5A.

(2) The provisions of this Division relating to objections to the granting of an application do not apply to an objection of the kind referred to in section 94F, and objections of that kind can only be made under that section.

”.

[Section 70B of the principal Act is amended by section 24 (2) of this Act.]

Section 70C amended

23. Section 70C (4) of the principal Act is amended by deleting “14 days after lodging an application” and substituting the following —

“ the prescribed period ”.

Section 70D repealed and a section substituted and consequential amendment

24. (1) Section 70D of the principal Act is repealed and the following section is substituted —

“

Determination of application for retention licence

70D. (1) A person who wishes to object to the granting of an application for a retention licence shall lodge at the office of the mining registrar a notice of objection within the prescribed time and in the prescribed manner.

(2) Where no notice of objection is lodged within the prescribed time the mining registrar shall, unless subsection (4) (b) applies, forward to the Minister a report which recommends the grant or refusal of the retention licence and sets out the reasons for that recommendation.

(3) The mining registrar shall —

- (a) recommend the grant of the retention licence if satisfied that the applicant has complied in all respects with the provisions of this Act; or
- (b) recommend the refusal of the retention licence if not so satisfied.

(4) Where a notice of objection —

- (a) is lodged within the prescribed time; or
- (b) is not lodged within the prescribed time but is lodged before the mining registrar has forwarded a report to the Minister under

subsection (2) and the warden is satisfied that there are reasonable grounds for late lodgment,

the warden shall hear the application for the retention licence in open court on a day appointed by the warden and may give any person who has lodged such a notice of objection an opportunity to be heard.

(5) The warden shall as soon as practicable after the hearing of the application forward to the Minister for the Minister's consideration —

- (a) the notes of evidence;
- (b) any maps or other documents referred to in the notes of evidence; and
- (c) a report which recommends the grant or refusal of the retention licence and sets out the reasons for that recommendation.

(6) On receipt of a report under subsection (2) or (5), the Minister may, subject to subsection (7), grant or refuse the retention licence as the Minister thinks fit, and irrespective of whether —

- (a) the report recommends the grant or refusal of the retention licence; and
- (b) the applicant has or has not complied in all respects with the provisions of this Act.

(7) The Minister shall not grant a retention licence unless the Minister is satisfied that mining of an identified mineral resource on the land in respect of which the retention licence is sought is for the time being impracticable for one or more of the reasons referred to in section 70C (2).

(8) Before granting or refusing a retention licence the Minister may require the applicant to furnish such further information in relation to the application, or such evidence in support of the application, as the Minister thinks fit.

(9) Before granting a retention licence the Minister may require the applicant to mark out in the prescribed manner the land in respect of which the retention licence is sought.

”.

(2) Section 70B (1) of the principal Act is amended by inserting after “recommendation of” the following —

“ the mining registrar or ”.

Section 70F amended

25. After section 70F (2) of the principal Act the following subsection is inserted —

“

(3) Where the applicant for a retention licence is required to lodge a security under subsection (1), the retention licence shall not be granted unless a security is lodged in accordance with that requirement.

”.

Section 70K amended

26. After section 70K (b) of the principal Act the following paragraphs are inserted —

“

(ba) a report required under section 70H (1) (f) or 115A in relation to the land the subject of the

retention licence is not filed in accordance with this Act;

- (bb) the holder of the licence fails to comply with a requirement under section 70F (1) to lodge a security;

”.

Section 70L amended*

27. After section 70L (2) of the principal Act the following subsection is inserted —

“

(3) The right referred to in subsection (1) is subject to the provisions of Division 5A but the responsible Minister, as defined in section 94C, may only recommend to the Minister for Mines for the purposes of section 94H (3) the conditions that should be attached to the grant having regard to rights of traditional usage claimed in a notice of objection.

”.

[*N.B. Section 70L is also amended by section 29 (3) of this Act.]

[Section 71 of the principal Act is amended by section 29 (4) of this Act.]

Section 74 amended

28. Section 74 (3) of the principal Act is amended by deleting “14 days after lodging such an application” and substituting the following —

“ the prescribed period ”.

Section 75 repealed and a section substituted and consequential amendments

29. (1) Section 75 of the principal Act is repealed and the following section is substituted —

“

Determination of application for mining lease

75. (1) A person who wishes to object to the granting of an application for a mining lease shall lodge at the office of the mining registrar a notice of objection within the prescribed time and in the prescribed manner.

(2) Where no notice of objection is lodged within the prescribed time the mining registrar shall, unless subsection (4) (b) applies, forward to the Minister a report which recommends the grant or refusal of the mining lease and sets out the reasons for that recommendation.

(3) The mining registrar shall —

- (a) recommend the grant of the mining lease if satisfied that the applicant has complied in all respects with the provisions of this Act; or
- (b) recommend the refusal of the mining lease if not so satisfied.

(4) Where a notice of objection —

- (a) is lodged within the prescribed time; or
- (b) is not lodged within the prescribed time but is lodged before the mining registrar has forwarded a report to the Minister under

subsection (2) and the warden is satisfied that there are reasonable grounds for late lodgment,

the warden shall hear the application for the mining lease in open court on a day appointed by the warden and may give any person who has lodged such a notice of objection an opportunity to be heard.

(5) The warden shall as soon as practicable after the hearing of the application forward to the Minister for the Minister's consideration —

- (a) the notes of evidence;
- (b) any maps or other documents referred to in the notes of evidence; and
- (c) a report which recommends the grant or refusal of the mining lease and sets out the reasons for that recommendation.

(6) On receipt of a report under subsection (2) or (5), the Minister may, subject to subsection (7), grant or refuse the mining lease as the Minister thinks fit, and irrespective of whether —

- (a) the report recommends the grant or refusal of the mining lease; and
- (b) the applicant has or has not complied in all respects with the provisions of this Act.

(7) In the case of an application for a mining lease made by the holder of —

- (a) a prospecting licence under section 49;
- (b) an exploration licence under section 67; or

- (c) a retention licence under section 70L,

the Minister shall, subject to this Act, grant to that holder one or more mining leases —

- (d) in respect of any part or parts of the land the subject of the prospecting licence, exploration licence or retention licence, as the case requires; and
- (e) on such terms and conditions as the Minister considers reasonable.

(8) The right provided for by subsection (7) is subject to the provisions of Division 5A but the responsible Minister, as defined in section 94C, may only recommend to the Minister for Mines for the purposes of section 94H (3) the conditions that should be attached to the grant having regard to rights of traditional usage claimed in a notice of objection.

(9) Subsection (7) does not apply to an application for a mining lease if all or part of the land to which that application relates falls within one or more of the classes of land referred to in section 24 (1).

”.

(2) Sections 49 (1) and 67 (1) of the principal Act are amended by deleting “subsection (6) of that section to have granted pursuant to section 75 (5)” and substituting in each place the following —

“

section 75 (9) to have granted pursuant to section 75 (7)

”.

(3) Section 70L (1) of the principal Act is amended by deleting “75 (6)” and “75 (5)” and substituting respectively the following —

“ 75 (9) ” and “ 75 (7) ”.

(4) Section 71 of the principal Act is amended by inserting after “recommendation of ” the following —

“ the mining registrar or ”.

Section 82 amended

30. Section 82 (1) (g) of the principal Act is amended by deleting “thereof ” and substituting the following —

“
of the lease or if a report required under paragraph (e)
or section 115A in relation to the land the subject of
the lease is not filed in accordance with this Act
”.

Section 85B amended and saving

31. (1) Section 85B (3) of the principal Act is amended —

(a) by deleting “warden” in the first 3 places where it occurs and substituting in each place the following —

“ mining registrar ”; and

(b) in paragraph (c) by deleting “warden” and substituting the following —

“ Minister ”.

(2) After section 85B (3) of the principal Act the following subsection is inserted —

“

(3a) A special prospecting licence may be granted for a period of 3 months or for any period which is a multiple of 3 months but which does not exceed 4 years.

”.

(3) Section 85B (4) (a) of the principal Act is amended by deleting “in accordance with the provisions of section 45”.

(4) The amendments made to section 85B of the principal Act by subsections (2) and (3) do not affect the term of any special prospecting licence in force under section 85B immediately before the commencement of this section.

(5) Section 85B (12) (b) of the principal Act is amended by inserting before “mining” the following —

“ retention licence, a ”.

Section 86 amended

32. (1) Section 86 (1) of the principal Act is amended —

(a) by inserting after “recommendation of ” the following —

“ the mining registrar or ”; and

(b) by inserting after “mining operations” the following —

“

on such terms and conditions as the Minister considers reasonable

”.

(2) Section 86 (4) of the principal Act is amended —

(a) by inserting after paragraph (a) the following —

“ and ”; and

(b) by deleting paragraphs (b) and (c) and “and” after paragraph (b) and substituting the following paragraph —

“

(b) shall be determined in the same manner as an application for a mining lease.

”.

Section 91 repealed and a section substituted

33. Section 91 of the principal Act is repealed and the following section is substituted —

“

Grant of miscellaneous licence

91. (1) Subject to this Act, and in the case of a miscellaneous licence for water to the *Rights in Water and Irrigation Act 1914*, or any Act amending or replacing the relevant provisions of that Act, the mining registrar or the warden, in accordance with section 42 (as read with section 92), may, on the application of any person, grant in respect of any land a licence, to be known as a miscellaneous licence, for any one or more of the purposes prescribed.

(2) A person may be granted more than one miscellaneous licence.

(3) A miscellaneous licence shall —

- (a) be in the prescribed form;
- (b) authorize the holder to do such matters and things as are specified in the licence; and
- (c) subject to this Act, remain in force for a period of 5 years.

(4) On an application for renewal being made in the prescribed manner, the Minister may renew or further renew a miscellaneous licence for successive terms but so that no such term exceeds a period of 5 years.

(5) Where an application for the renewal of a miscellaneous licence is made before the expiry of that licence, the miscellaneous licence continues in force, subject to this Act, until the application for renewal is finally disposed of.

(6) A miscellaneous licence shall not be granted unless the purpose for which it is granted is directly connected with mining operations.

(7) Sections 18, 23 and 27 do not prevent a miscellaneous licence from being applied for or granted in respect of land that is the subject of another mining tenement.

(8) If a miscellaneous licence is granted in respect of land that is subject to another mining tenement the miscellaneous licence and the other mining tenement apply concurrently with respect to that land.

(9) Before an application for a miscellaneous licence is determined a copy of the application shall, at least 10 days before that determination, be given to

the council of the municipality in whose municipal district the land to which the application relates is and to such other persons as may be prescribed.

(10) The council is entitled to be heard on the application and may submit to the mining registrar or the warden, as the case requires, any terms and conditions to which it considers the miscellaneous licence, if granted, should be subject.

”.

Section 92 amended

34. Section 92 of the principal Act is amended by deleting “licence under this Division” in both places where it occurs and substituting in each place the following —

“ miscellaneous licence ”.

Section 93 amended

35. (1) Section 93 (1) of the principal Act is amended by deleting “licence under section 91” and substituting the following —

“ miscellaneous licence ”.

(2) Section 93 (2) of the principal Act is amended by inserting before “licence” in both places where it occurs the following —

“ miscellaneous ”.

Section 94 amended

36. (1) Section 94 (1) of the principal Act is amended by deleting “licence under this Division” and substituting the following —

“ miscellaneous licence ”.

(2) Section 94 (2) of the principal Act is amended by deleting “licence, the warden may make a licence under this Division” and substituting the following —

“
miscellaneous licence, the mining registrar or the
warden, as the case requires, may make a
miscellaneous licence
”.

(3) Section 94 (3) of the principal Act is amended —

(a) by inserting after “Where” the following —

“ the mining registrar or ”; and

(b) by deleting “under section 91”.

(4) Section 94 (3a) of the principal Act is amended by inserting after “94K” the following —

“ the mining registrar or ”.

Section 94B amended

37. Section 94B (a) of the principal Act is amended by deleting “(4a)” and substituting the following —

“ (8) ”.

Section 94I amended

38. Section 94I (2) of the principal Act is amended by inserting before “warden” the following —

“ mining registrar and the ”.

Section 94K amended

39. Section 94K of the principal Act is amended —

(a) in subsection (1) by inserting before “warden” the following —

“ mining registrar or ”;

(b) in subsection (2) by deleting “warden’s power” and substituting the following —

“ power of the mining registrar or warden ”;

(c) in subsection (3) (b) by deleting “or 70” and substituting the following —

“ , 70 or 85B ”; and

(d) by deleting subsection (3) (c) and substituting the following paragraph —

“ (c) a miscellaneous licence. ”.

Section 94L amended

40. Section 94L of the principal Act is amended by inserting before “warden” the following —

“ mining registrar or ”.

Section 96 amended

41. Section 96 (2) of the principal Act is amended by inserting after paragraph (b) the following paragraph —

“

(ba) a report required under section 51 or 115A in relation to the mining tenement is not filed in accordance with this Act;

”.

Section 105A amended

42. After section 105A (4) of the principal Act the following subsection is inserted —

“

(5) If the warden is satisfied that 2 or more applications for a mining tenement have been lodged by or on behalf of the same party for the purpose of affecting the result of a ballot to be conducted under subsection (3), the warden may exclude all but one of those applications from the ballot.

”.

Section 109 amended

43. Section 109 (4) of the principal Act is amended by inserting after “Notwithstanding” the following —

“ section 160B or ”.

Section 111A repealed and a section substituted

44. Section 111A of the principal Act is repealed and the following section is substituted —

“

Minister may terminate or summarily refuse certain applications

111A. (1) The Minister may —

- (a) by notice served on the mining registrar or the warden, as the case requires, terminate an application for a mining tenement before the mining registrar or the warden has determined, or made a recommendation in respect of, the application; or
- (b) refuse an application for a mining tenement,

if in respect of the whole or any part of the land to which the application relates —

- (c) the Minister is satisfied on reasonable grounds in the public interest that —
 - (i) the land should not be disturbed; or
 - (ii) the application should not be granted;or
- (d) a person who in relation to the land was formerly the lessee of a mining lease the term of which has expired, or is a person deriving title through such a former lessee, has subsequently made a late renewal application and the Minister, being satisfied that the requirements of that

expired mining lease and of this Act in relation to that lease had been substantially observed (other than as to the timing of an application for renewal) and that the person has continued to observe those requirements as if the term of the lease had not expired, determines that the renewal application should be approved and grants that renewal.

(2) In subsection (1) (d) **“late renewal application”** means an application made in the manner prescribed for the purposes of section 78 (except that it was not made during the final year of the term of the lease) for the renewal of the lease with effect from the expiry of the term of the lease.

(3) Notwithstanding anything in this Act, an application to which a notice referred to in subsection (1) (a) applies ceases to have any effect for the purposes of this Act when that notice is served.

(4) The powers conferred by subsection (1) are in addition to any other powers of the Minister under this Act.

”

Section 115A inserted

45. After section 115 of the principal Act the following section is inserted —

“

Mineral exploration reports

115A. (1) In this section —

“guidelines” means guidelines published under the regulations;

“mineral exploration report” means a report containing records of the progress and results of —

- (a) programmes involving the application of one or more of the geological sciences;
- (b) drilling programmes;
- (c) activities involving the collection and assaying of soil, rock, groundwater and mineral samples,

that have been carried out in search for minerals;

“operations report” means a report of the kind required under section 51, 68 (3), 70H (1) (f) or 82 (1) (e).

(2) The holder of a mining tenement shall file a mineral exploration report, or cause a mineral exploration report to be filed —

- (a) in conjunction with an operations report in such circumstances as are set out in the guidelines; and
- (b) whenever required to do so by the Minister by notice in writing.

(3) A mineral exploration report is to be filed with the Department at Perth and is to be in the form required by the guidelines and is to contain information of the kind required by the guidelines.

(4) The Minister may, under the guidelines, approve of arrangements for combined mineral exploration reports to be filed for 2 or more mining

tenements and mineral exploration reports can be filed under those arrangements despite the requirement of subsection (2) (a) for them to be filed in conjunction with operations reports.

(5) The Minister may, under the guidelines, cancel arrangements referred to in subsection (4).

”.

Section 119 amended

46. Section 119 (3) to (9) of the principal Act are repealed.

Section 120 amended

47. Section 120 (1) of the principal Act is amended by deleting “or warden,” and substituting the following —

“ , warden or mining registrar, ”.

Section 144 amended

48. Section 144 of the principal Act is amended by inserting after “before a warden” the following —

“ or a mining registrar ”.

Section 151 amended

49. Section 151 (b) of the principal Act is amended by deleting “warden or of” and substituting the following —

“ warden, the mining registrar or ”.

Section 155A inserted

50. After section 155 of the principal Act the following section is inserted —

“

Aerial survey work

155A. Nothing in this Act has the effect of restricting or preventing the obtaining of data in respect of any land by means of aerial surveys.

”

Section 162 amended

51. Section 162 (2) of the principal Act is amended after paragraph (t) by deleting the full stop and substituting a semi-colon and by inserting the following paragraphs —

“

- (u) regulating the way in which drill cores obtained from mining tenements are to be stored and dealt with and imposing restrictions on the disposal or destruction of them;
- (v) providing for the reporting of prescribed information as to aerial photography for mineral exploration and providing for the keeping of a register of such information;
- (w) providing for the publication of guidelines in relation to mineral exploration reports referred to in section 115A;
- (x) authorizing and regulating the copying, storage, release, publication and dissemination of information contained in any application or report under this Act or any other information

supplied to the Minister, a warden or any official of the Department under this Act;

- (y) prescribing and regulating the responsibilities of the holders of mining tenements as to authorizing, or obtaining authorization for, the release of information contained in applications or reports under this Act.

”.

**PART 3 — PROVISIONS RELATING TO PREVIOUS
AMENDING ACTS****Section 40 of the *Mining Amendment Act 1990* amended**

52. (1) Section 40 (1) of the *Mining Amendment Act 1990** is amended by deleting paragraph (b) and substituting the following paragraphs —

“

(b) where, after the commencement day —

- (i) land becomes available from an existing licence; and
- (ii) other land in the same block is the subject of an exploration licence granted in respect of an application lodged with the Department on or after the commencement day,

the exploration licence referred to in subparagraph (ii) shall, by virtue of this paragraph, be amended to include the land that has become available from the existing licence.

(c) where, after section 52 of the *Mining Amendment Act 1994* commences —

- (i) land becomes available from an existing licence; and
- (ii) other land in the same block is the subject of an application for an exploration licence lodged with the Department on or after the commencement day,

the application referred to in subparagraph (ii) is deemed to extend, and to have always extended,

to the land that has become available from the existing licence, and, if an exploration licence is granted as a result of the application, that land shall be included in the exploration licence.

”.

(2) After section 40 (1) of the *Mining Amendment Act 1990** the following subsection is inserted —

“

(1a) Subsection (1) (b) or (c) does not apply if the land that has become available from an existing licence has been included in an application under section 67 or 70B and a mining lease, general purpose lease or retention licence is granted in respect of that application.

”.

(3) Subsection 40 (3) of the *Mining Amendment Act 1990** is amended by deleting the full stop at the end, substituting a semi-colon and adding the following definition —

“

“existing licence” means an exploration licence referred to in subsection (1) (a) (i) or (iii).

”.

(4) After section 40 (3) of the *Mining Amendment Act 1990** the following subsection is added —

“

(4) A reference in this section to land becoming available from an existing licence is a reference to the land being surrendered or forfeited (otherwise than under section 98 of the principal Act) or to the expiry of the existing licence.

”.

[* Act No. 22 of 1990.]

Operation of section 30 (3) (b) of the *Mining Amendment Act 1993* modified

53. (1) Despite sections 2 (2) and 30 (3) (b) of the *Mining Amendment Act 1993*, section 65 (1c) (b) and (c) of the *Mining Act 1978* as inserted by section 19 (c) of the *Mining Amendment Act 1990* do not have any effect, and are deemed to have never had any effect, in relation to the surrender of an existing licence under section 65 of the *Mining Act 1978* where that surrender took place before 1 July 1994.

(2) In subsection (1) “**existing licence**” means an exploration licence referred to in section 40 (1) (a) (i) or (iii) of the *Mining Amendment Act 1990*.

Mining Amendment Act 1994

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