
MINERALS AND PETROLEUM

MP301*

Mining Act 1978

Mining Amendment Regulations (No. 3) 2006

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Mining Amendment Regulations (No. 3) 2006*.

2. Commencement

These regulations come into operation on 11 February 2006.

3. The regulations amended

The amendments in these regulations are to the *Mining Regulations 1981**.

[* *Reprint 5 as at 16 July 2004.*

For amendments to 23 December 2005 see Western Australian Legislation Information Tables for 2004, Table 4, p. 259, and Gazette 28 January, 20 May and 24 June 2005.]

4. Regulation 27 amended

Regulation 27(d) is amended by deleting “assign, underlet or part with possession of” and inserting instead —

“ transfer or mortgage a legal interest in ”.

5. Regulation 36 amended

Regulation 36(c) is amended by deleting “assign, underlet or part with possession of” and inserting instead —

“ transfer or mortgage a legal interest in ”.

6. Regulation 41 amended

Regulation 41(c) is amended by deleting “assign, underlet or part with possession of” and inserting instead —

“ transfer or mortgage a legal interest in ”.

7. Regulation 51B amended

- (1) Regulation 51B is amended by inserting before “A notice” the subregulation designation “(1)”.

- (2) At the end of regulation 51B the following subregulation is inserted —

“

- (2) A person who lodges a notice of objection referred to in subregulation (1) shall serve a copy of the notice on the applicant.

”.

8. Regulation 55 amended

- (1) Regulation 55 is amended by inserting before “A person” the subregulation designation “(1)”.
- (2) At the end of regulation 55 the following subregulation is inserted —

“

- (2) A person who lodges an objection referred to in subregulation (1) shall serve a copy of the objection on the applicant.

”.

9. Regulation 64 amended

Regulation 64(6) is amended by inserting after “the miscellaneous licence” —

“ within 14 days after lodging the application ”.

10. Regulation 69 amended

Regulation 69 is amended by deleting “at the office of the mining registrar”.

11. Regulation 76 replaced

Regulation 76 is repealed and the following regulation is inserted instead —

“

76. Lodgment of caveats

- (1) For the purposes of section 122A a caveat shall be —
- (a) in the form No. 24 in the First Schedule; and
 - (b) accompanied by the prescribed fee.
- (2) A separate caveat shall be lodged in respect of each mining tenement affected.

”.

12. Regulation 76B amended

Regulation 76B is amended as follows:

- (a) by deleting “120A” and inserting instead —
- “ 122 ”;

- (b) by deleting “a notice of the registration of the surrender sent, by or on behalf of the Minister, by certified mail” and inserting instead —
“ sent by registered post ”.

13. Regulation 77 replaced

Regulation 77 is repealed and the following regulation is inserted instead —

“

77. Mortgage

A mortgage shall be —

- (a) lodged in the form No. 25 in the First Schedule; and
- (b) accompanied by the prescribed fee.

”.

14. Regulation 78 repealed

Regulation 78 is repealed.

15. Part V Division 4A inserted

After regulation 84 the following Division is inserted —

“

Division 4A — Lodgment of instruments and the register

84A. Lodgment of instruments

An instrument to which section 103C applies shall be —

- (a) lodged for registration at the office of the mining registrar or at the Department at Perth; and
- (b) accompanied by the prescribed fee.

84B. Provisional lodgment

- (1) In this regulation —

“allowed period” means —

- (a) the period referred to in subregulation (4); or
- (b) if an extension of that period is granted under subregulation (8), the extended period.

- (2) This regulation applies to the following instruments —

- (a) an instrument accepted for provisional lodgment under section 103D(1); and
- (b) a caveat accepted for provisional lodgment under section 122B(1).

- (3) The time and date of lodgment of the instrument shall be entered in the register as the time and date at which registration was effected but the word “provisional” shall be entered in the register next to the entry specifying that time and date.
- (4) An authorised officer shall, by notice in writing to the person who lodged the instrument, direct the person to ensure that the error or defect in the instrument is corrected within the period specified in the notice.
- (5) Where a direction is given under subregulation (4) in relation to an instrument —
 - (a) if the direction is complied with within the allowed period, the word “provisional” shall be deleted from the register; or
 - (b) if the direction is not complied with within the allowed period, the instrument shall be taken to have been rejected and the register shall be so endorsed.
- (6) If the word “provisional” is entered in the register next to an entry specifying a time and date in relation to a time and date of lodgment of an instrument, the instrument shall be taken not to have been registered.
- (7) If the word “provisional” is deleted from the register under subregulation (5)(a), the instrument shall be taken to have been registered from and including the time and date specified in the register under subregulation (3).
- (8) An authorised officer —
 - (a) may, for reasonable cause, extend the period specified in the notice for the correction of any error or defect provided the request to extend is made, in writing by or on behalf of the person who lodged the instrument, before the expiry of that period; and
 - (b) shall, by notice in writing to the person who requested the extension, advise whether an extension has been granted.

84C. Content of register

The register is to contain the following particulars —

- (a) in relation to an application for a mining tenement —
 - (i) the particulars shown on the prescribed form of application; and
 - (ii) the approval of the application and the terms and conditions of that approval, or

- the refusal or withdrawal of the application, as the case may be;
- (b) in relation to a mining tenement —
- (i) all rental payments;
 - (ii) moneys expended or deemed to be expended in mining on or in connection with mining on the tenement;
 - (iii) particulars of exemptions;
 - (iv) particulars of dealings and other instruments affecting the tenement that are required to be entered in the register under the Act;
 - (v) the name of the registered holder and the number of shares held; and
 - (vi) the surrender, forfeiture or other cancellation of the tenement;
- (c) such other particulars relating to a mining tenement or an application for a mining tenement as the Director General of Mines considers necessary.

84D. Fees for copies of entries, dealings, etc.

For the purposes of section 103F(4) the fees set out in item 3 of the Second Schedule are prescribed.

84E. Amendment of register

An application to amend particulars in the register shall be —

- (a) made in the form No. 30 in the First Schedule; and
- (b) lodged at the office of the mining registrar or the Department at Perth.

84F. Inclusion of information in register despite late lodgment of report

- (1) In this regulation —
- “**prescribed period**”, in relation to a report, means the period within which the report is required to be filed or lodged under regulation 16, 22, 23E or 32, as the case requires.
- (2) An officer of the Department may extract information from a report referred to in regulation 16, 22, 23E or 32 for the purpose of including it in the register despite the fact that the report was received at the Department after the expiry of the prescribed period.

”.

16. Regulations 103, 106, 107, 107A, 107AA and 110 repealed

Regulations 103, 106, 107, 107A, 107AA and 110 are repealed.

17. First Schedule amended

- (1) The amendments in this regulation are to the First Schedule.
- (2) Form 8 is amended in item 4 by deleting “assign, underlet or part with possession of” and inserting instead —
“ transfer or mortgage a legal interest in ”.
- (3) Form 10 is amended in item 3 by deleting “assign, underlet or part with possession of” and inserting instead —
“ transfer or mortgage a legal interest in ”.
- (4) Form 16 is amended as follows:
 - (a) by deleting “(f)” in both places where it occurs and inserting instead —
“ (g) ”;
 - (b) by inserting after item (e) the following item —
“
(f) Insert date on which copy of (f)
application for mining tenement
received (See Note 1)
”.
 - (c) by inserting at the end of the form —
“
Note 1: To be completed if the objection is in respect
of an application for a mining tenement that
relates to private land.
”.
- (5) Forms 23, 24 and 24A are deleted and the following forms are inserted instead —

“

Form 23

WESTERN AUSTRALIA
Mining Act 1978

(Regs. 75, 81, 84 & 134)

STAMP DUTY

TRANSFER

No.

INTEREST BEING
TRANSFERRED

- (a) Type of tenement
- (b) Number
- (c) Mineral Field
- (d) Number of shares

Details of Mining Tenement and Interest

- (a) (b)
- (c) (d)

TRANSFEROR

- (e) Full name and address

(e)

CONSIDERATION

- (f) In words — see Note 1

(f)

TRANSFeree

- (g) Full name and address

(g)

(h) Mortgage number and Mortgagee or "NIL" (See Note 2)

(h)

THE TRANSFEROR for the consideration expressed HEREBY TRANSFERS TO THE TRANSFEREE the interest specified in the abovementioned mining tenement, and the TRANSFEREE accepts the said interest subject to any mortgage shown hereon and to all the terms and conditions under which it is now held.

*See Note 3

*

DATED this day of 20 .

(i) Signature of transferor

(j) Signature of transferee

(k) Signature of witness

TRANSFERORS sign here

Signed (i)
in the
presence of (k)

Signed (i)
in the
presence of (k)

Signed (i)
in the
presence of (k)

TRANSFEREES sign here

Signed (j)
in the
presence of (k)

Signed (j)
in the
presence of (k)

Signed (j)
in the
presence of (k)

LODGING PARTY

(l) Full name and address
(for return of
documents)

(l)

| | | | |
|---|--|---|--|
| O F F I C E U S E | | Received at a.m./p.m. on with fee of \$ | |
| | | (Mining Registrar) | |

- Notes: 1. Where the stamp duty shown on the transfer is not in respect of the full amount of the consideration stated then the documents indicating the full stamp duty must accompany the transfer.
2. If a mortgage is registered with the Department of Industry and Resources and will continue after the transfer, insert the required details.
If no mortgage, or a mortgage is to be discharged prior to or on the transfer, insert "nil".
The consent of the mortgagee to the transfer must be lodged with this form.
3. If section 122A(1)(b) of the Act applies, insert "THE TRANSFEROR and THE TRANSFEREE acknowledge that this transfer is subject to the interest claimed by the caveator in caveat no." and the relevant caveat number.

Form 24

WESTERN AUSTRALIA

Mining Act 1978

(Sec. 122A Reg. 76)

CAVEAT No.

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

Details of Mining Tenement

(a)

(b)

(c)

(d) Specify "the whole" or the number of shares being caveated
(e) Full name of holder of shares being caveated

Interest being caveated

(d)

(e)

| | | |
|-----|---|--|
| (f) | Full name and address of caveator | Caveator (f) |
| (g) | Specify the grounds on which the claim is made. (See Note 1) *See Note 2 | THE CAVEATOR claims an interest as specified in the abovementioned mining tenement BY VIRTUE OF (g) and whilst this caveat remains in force FORBIDS the registration of any transfer or other instrument affecting such tenement or interest* and appoints (h) as the place at which notices and proceedings relating to this caveat may be served DATED this day of 20 |
| (i) | Signature of caveator | Caveator or agent signs here Signed (i) as agent (delete if not applicable) Witness signs here in the presence of (j) |
| (j) | Signature of witness | |
| (k) | Full name and address (for return of documents) | (k) |

| | | | |
|---|--|---|--|
| O F F I C E U S E | | Received at a.m./p.m. on with fee of \$..... (Mining Registrar) | |
|---|--|---|--|

- Notes:
1. If the caveat is lodged pursuant to section 122A(2) of the Act the term of the caveat (if any) must be stated and a copy of the agreement attached.
 2. If the caveat is lodged pursuant to section 122A(1)(b) of the Act, insert "unless the instrument is expressed to be subject to the interest claimed in this caveat".

Form 24A

WESTERN AUSTRALIA

Mining Act 1978

(Sec. 122E Reg. 76A)

WITHDRAWAL OF CAVEAT No.(s)

| | | |
|-----|---|---|
| (a) | Full name & Address of Caveator | Caveator (a) |
| (b) | Specify caveat(s) to be withdrawn and mining tenement(s) affected | Caveat Number(s) and mining tenement(s) affected (b) |

THE CAVEATOR HEREBY WITHDRAWS the abovementioned caveat(s) against the interest in the mining tenement(s) described above

DATED this day of 20

| | |
|--|---|
| (c) Signature of caveator | Caveator or agent signs here Signed (c) as agent (delete if not applicable) |
| (d) Signature of witness | |
| (e) LODGING PARTY Full name and address (for return of documents) | (e) |

| | |
|---|---|
| O F F I C E U S E | Received at a.m./p.m. on with fee of \$..... (Mining Registrar) |
|---|---|

”

(6) Form 25 is amended by deleting all of the form after “3. *” and inserting instead —

“

**See Note 1

**

DATED this day of 20

| | |
|-------------------------------|--|
| (a) Signature of Mortgagor(s) | MORTGAGOR(S) sign here Signed (a) in the presence of (b) |
| (b) Signature of witness | |

***See Note 2

LODGING PARTY

(c) Full name and address
(for return of documents)

(c)

| | |
|---|--|
| O F F I C E U S E | Received at a.m./p.m. on with fee of \$ (Mining Registrar) |
|---|--|

- Notes: 1. If section 122A(1)(b) of the Act applies, insert “THE MORTGAGOR AND THE MORTGAGEE acknowledge that this mortgage is subject to the interest claimed by the caveator in caveat no.” and the relevant caveat number.
2. If the words set out in Note 1 are inserted in the mortgage the mortgage must also be signed by the mortgagee(s) and that signature or those signatures duly witnessed.

”

- (7) Form 28 is amended by deleting “applicant” in both places where it occurs and inserting instead —

“ executor or administrator ”.

- (8) Form 30 is amended in the heading by deleting “107” and inserting instead —

“ 84E ”.

18. Second Schedule amended

- (1) The amendments in this regulation are to the Second Schedule.

- (2) Item 3 is deleted and the following item is inserted instead —

“

| | | | |
|----|--|----------|------|
| 3. | Copy of — | | |
| | Entry in the register (per tenement) | Reg. 84D | 6.50 |
| | Dealing or other instrument (per | | |
| | tenement) | Reg. 84D | 6.50 |

”.

- (3) Item 10 is amended as follows:

- (a) by deleting “of dealings” and inserting instead —

“ or recording of instruments ”;

- (b) by deleting “AgreementReg. 110 82.00”;

- (c) in the entry beginning “Caveat” by deleting “Sec. 121” and inserting instead —

“ Reg. 76 ”;

- (d) in the entry beginning “Discharge/Withdrawal” by deleting “, 110”;

- (e) in the entry beginning “Judgment/Order” by deleting “110” and inserting instead —

“ 109 ”;

- (f) by deleting “Sub-lease of Mining Tenement...Reg. 110 82.00”.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.