

MINING AMENDMENT ACT

No. 22 of 1990

AN ACT to amend the *Mining Act 1978* and the *Mining Amendment Act 1985*.

[Assented to 28 August 1990.]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Mining Amendment Act 1990*.

Commencement

2. The provisions of this Act shall come into operation on such day as is, or days as are respectively, fixed by proclamation.

Principal Act

3. In this Act the *Mining Act 1978** is referred to as the principal Act.

[*Reprinted as at 1 August 1988 and amended by Act No. 126 of 1987.]

Section 8 amended

4. Section 8 of the principal Act is amended—

- (a) in the definition of “Crown land”, by inserting after paragraph (c) the following paragraph—

“ (d) land reserved or constituted as a townsite under the *Land Act 1933*; ”;

- (b) after the definition of “lapidary work”, by inserting the following definition—

“ “listed public company” means a company that has been admitted to the official list of a stock exchange (being a stock exchange that is declared to be a stock exchange under the *Companies (Acquisition of Shares) (Western Australia) Code*) and has not been removed from that official list; ”; and

- (c) in the definition of “private land”, by inserting after “timber purposes” the following—

“ or a lease of Crown land for the use and benefit of the Aboriginal inhabitants ”.

Section 20 amended

5. Section 20 of the principal Act is amended in subsection (2) (c) by deleting “and” where it first occurs and substituting the following—

“ or ”.

Section 24 amended**6. Section 24 of the principal Act is amended—**

after subsection (1) (c) (iii), by inserting the following subparagraph—

“ (iv) land reserved or constituted as a townsite under the *Land Act 1933*. ”.

Section 25 amended**7. Section 25 of the principal Act is amended—**

(a) in subsection (1), by deleting paragraph (d) and substituting the following paragraph—

“ (d) any land reserved or constituted as a townsite under the *Land Act 1933*. ”;

(b) in subsection (2) (b), by deleting “Minister for Works, the Minister for Lands” and substituting the following—

“ Minister to whom the administration of the *Marine and Harbours Act 1981* is for the time being committed by the Governor, the Minister to whom the administration of the *Land Act 1933* is for the time being committed by the Governor ”; and

(c) in subsection (3) (b), by deleting “Minister for Local Government and the Minister for Lands” and substituting the following—

“ Minister to whom the administration of the *Land Act 1933* is for the time being committed by the Governor ”.

Section 26A inserted

8. After section 26 of the principal Act the following section is inserted—

Mining tenements within townsites

26A. (1) Where any land reserved or constituted as a townsite under the *Land Act 1933* is the subject of a mining tenement and the Minister considers that the land or a part of the land is required for community purposes, the Minister may, by notice in writing given to the holder of the mining tenement, require the holder to surrender the land specified in the notice to a depth of 15 metres from the lowest part of the natural surface of that land, within a period of 30 days after the giving of the notice.

(2) Where the holder of a mining tenement fails to surrender land when required to do so under subsection (1), the land specified in the notice shall, on the expiry of the period referred to in that subsection, be deemed to have been surrendered and a memorial to that effect shall be entered in the register kept in accordance with the regulations.

(3) Where land is surrendered or deemed to have been surrendered under this section, the holder of the mining tenement in respect of that land may, while the mining tenement remains in force—

- (a) with the approval of the Minister and subject to such terms and conditions as the Minister thinks fit, explore for minerals on that land;
- (b) if that land ceases to be reserved or constituted as a townsite under the *Land Act 1933*, or otherwise with the approval of the Minister, apply to have that land or a part of that land reincorporated in the mining tenement.

(4) The Minister shall consider an application under subsection (3) (b) and may—

- (a) grant the application, and the mining tenement shall be endorsed to reincorporate the land to which the application relates; or
- (b) refuse the application.

(5) Subject to subsections (3) (a) and (4), land surrendered or deemed to have been surrendered under this section is not open for mining while the mining tenement in respect of that land remains in force.

(6) Where part of land the subject of a mining tenement is surrendered pursuant to subsection (1), section 95 (4) and (5) apply, with such modifications as the circumstances require, for the purpose of that surrender.

(7) Where part of land the subject of a mining tenement is deemed to have been surrendered pursuant to subsection (2), section 95 (5) applies, with such modifications as the circumstances require, for the purpose of that surrender.

(8) Where land the subject of a mining tenement is surrendered or deemed to have been surrendered under this section the holder of the mining tenement is entitled to claim and receive compensation under the *Public Works Act 1902* as if the land had been taken by the Crown under that Act.

(9) Section 16 of the *Public Works Act 1902* applies to a claim for compensation referred to in subsection (8) except that the compensation payable is limited to compensation for actual loss sustained through damage to buildings or other structures on the surface of the land. ”.

Section 30 amended

9. Section 30 of the principal Act is amended—

- (a) in subsections (1), (2) (a), (2) (b) and (6), by deleting “the warden” and substituting in each case the following—

“ a warden ”; and

- (b) in subsections (3), (4) and (5), by deleting "The" and substituting in each case the following—

" A ".

Section 31 amended

10. Section 31 of the principal Act is amended in subsection (3) by deleting "the issue thereof" and substituting the following—

" his first entering the land after the issue of the permit ".

Section 45 amended

11. Section 45 of the principal Act is amended by inserting after subsection (2) the following subsection—

" (2a) For the purposes of subsection (2) (b) the holding of shares in a listed public company which held the prospecting licence in question does not of itself constitute an interest in the prospecting licence. ".

Section 46A inserted

12. After section 46 of the principal Act the following section is inserted—

Conditions for prevention or reduction of injury to land

" 46A. (1) Reasonable conditions may be imposed on the holder of a prospecting licence for the purpose of preventing or reducing, or making good, injury to the natural surface of the land in respect of which the licence is sought or was granted, or injury to anything on the natural surface of that land or consequential damage to any other land.

(2) A condition may be imposed under this section—

- (a) by the warden or the Minister on the granting of the licence; or
- (b) by the Minister at any subsequent time.

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

(4) A condition imposed in relation to a licence under this section—

- (a) may, either in full or with sufficient particularity as to identify the recommendation or other source from which it derives, be endorsed on the licence, for which purpose the holder of the licence shall produce the licence on demand; and
- (b) whether or not so endorsed, on notice of the imposition of the condition being given in writing to the holder of the licence shall for all purposes have effect as a condition to which the licence is subject. ”.

Section 48 amended

13. Section 48 of the principal Act is amended by deleting paragraph (c) and substituting the following paragraph—

- “ (c) to excavate, extract or remove, subject to any conditions imposed under section 24 or 25, from such land, earth, soil, rock, stone, fluid or mineral bearing substances in such amount, in total during the period for which the licence remains in force, as does not exceed the prescribed limit, or in such greater amount as the Minister may, in any case, approve in writing; ”.

Section 56A amended

14. Section 56A of the principal Act is amended—

- (a) in subsection (2), by deleting “The applicant for a special prospecting licence under subsection (1)” and substituting the following—

- “ Within 14 days after lodging an application for a special prospecting licence under subsection (1) the applicant ”;

- (b) in subsection (6) (d), by deleting “extract or remove during the period for which the tenement remains in force ore” and substituting the following—

“ excavate, extract or remove during the period for which the tenement remains in force a total amount of earth, soil, rock, stone, fluid or mineral bearing substances ”;
and

- (c) in subsection (8a) (b), by deleting “extract or remove ore” and substituting the following—

“ excavate, extract or remove a total amount of earth, soil, rock, stone, fluid or mineral bearing substances ”.

Sections 56B and 56C inserted

15. After the heading to Division 2 of Part IV of the principal Act the following sections are inserted—

Points to be ascertained by reference to Australian Geodetic Datum

“ **56B.** (1) Where for the purposes of this Division or the regulations made for the purposes of this Division, it is necessary to determine the position on the surface of the Earth of a point, line or area, that position shall be determined by reference to a spheroid having its centre at the centre of the Earth and a major (equatorial) radius of 6 378 160 metres and a flattening of $\frac{100}{29825}$ and by reference to the position of the Johnston Geodetic Station in the Northern Territory of Australia.

(2) That station shall be taken to be situated at 133 degrees, 12 minutes and 30.077 1 seconds of East Longitude and at 25 degrees, 56 minutes and 54.551 5 seconds of South Latitude and to have a ground level of 571.2 metres above the spheroid referred to in subsection (1).

Graticular sections

56C. (1) For the purposes of this Division, the surface of the Earth shall be deemed to be divided—

- (a) by the meridian of Greenwich and by meridians that are at a distance from that meridian of 1, or a multiple of 1, minute of longitude; and
- (b) by the equator and by parallels of latitude that are at a distance from the equator of 1, or a multiple of 1, minute of latitude,

into sections (in this Division called “graticular sections”), each of which is bounded—

- (c) by portions of 2 of those meridians that are at a distance from each other of 1 minute of longitude; and
- (d) by portions of 2 of those parallels of latitude that are at a distance from each other of 1 minute of latitude.

(2) For the purposes of this Division—

- (a) a graticular section that is wholly within the State constitutes a block; and
- (b) if part of a graticular section is within the State that part of the graticular section constitutes a block.

(3) In this Division—

- (a) a reference to a graticular section that constitutes a block includes a reference to a graticular section part of which constitutes a block;
- (b) a reference to a part of a block includes a reference to 2 or more parts of the block;
- (c) a reference to a part of a graticular section includes a reference to 2 or more parts of the graticular section.

(4) For the purposes of this Division each block shall be identified by reference to the number of the block on a plan held at the Department. ”.

Section 57 amended

16. Section 57 of the principal Act is amended—

(a) by repealing subsections (2) and (2a) and substituting the following subsections—

“ (2) The area of land in respect of which an exploration licence may be granted shall be a block or blocks but shall not be more than 70 blocks.

(2a) Where an exploration licence is granted in respect of 2 or more blocks the graticular sections that constitute those blocks shall—

(a) constitute a single area; and

(b) each have a side in common with at least one other graticular section in that area.

(2b) Where—

(a) an application is made for an exploration licence in respect of 3 or more blocks;

(b) before the exploration licence is granted one or more of the blocks applied for becomes the subject of another mining tenement; and

(c) the exploration licence is granted in respect of 2 or more of the other blocks applied for,

the graticular sections that constitute the blocks in respect of which the licence is granted need not comply with subsection (2a) (a) and (b) if they form 2 or 3 discrete areas each consisting of—

(d) a single graticular section; or

- (e) a number of graticular sections each having a side in common with at least one other graticular section in that area.

(2c) Where an application for an exploration licence is made with respect to one block, the land in respect of which the licence is granted may comprise part of the block if the rest of the block consists of land that is unavailable for exploration.

(2d) Where an application for an exploration licence is made with respect to 2 or more blocks, the land in respect of which the licence is granted may include part of a block if the rest of the block consists of land that is unavailable for exploration.

(2e) For the purposes of subsections (2c) and (2d) land is unavailable for exploration if that land is the subject of a current mining tenement.

(2f) Where the land in respect of which an exploration licence is granted comprises or includes part of a block—

- (a) the licence is deemed to be granted in respect of that block for the purposes of subsections (2), (2a) and (2b);
- (b) that block is deemed to be subject to the licence for the purposes of section 65; and
- (c) the boundaries of the land the subject of the licence shall be deemed to be the same as the boundaries of the block for the purposes of section 105 (2).

(2g) A person may be granted more than one exploration licence. ”;

- (b) in subsection (4), by deleting “Subject to subsection (5), where” and substituting the following—

“ Where ”; and

- (c) by repealing subsection (5).

Section 58 amended

17. Section 58 of the principal Act is amended in subsection (2) by repealing paragraph (a) and substituting the following paragraph—

- “ (a) An application referred to in subsection (1) must identify the block or blocks applied for by number in accordance with section 56C (4) and must be accompanied by a map that clearly delineates the block or blocks. ”.

Section 63AA inserted

18. After section 63 of the principal Act the following section is inserted—

**Conditions for prevention or reduction
of injury to land**

- “ **63AA.** (1) On the granting of an exploration licence, or at any subsequent time, the Minister may impose on the holder of the licence reasonable conditions for the purpose of preventing or reducing, or making good, injury to the natural surface of the land in respect of which the licence is sought or was granted, or injury to anything on the natural surface of that land or consequential damage to any other land.

(2) A condition imposed under this section may be cancelled or varied by the Minister at any time.

(3) A condition imposed in relation to a licence under this section—

- (a) may, either in full or with sufficient particularity as to identify the recommendation or other source from which it derives, be endorsed on the licence, for which purpose the holder of the licence shall produce the licence on demand; and
- (b) whether or not so endorsed, on notice of the imposition of the condition being given in writing to the holder of the licence shall for all purposes have effect as a condition to which the licence is subject. ”.

Section 65 amended

19. Section 65 of the principal Act is amended—

- (a) by repealing subsection (1) and substituting the following subsection—

“ (1) Subject to this section, the holder of an exploration licence shall at the expiration of—

(a) the third year of the term for which the licence was granted, surrender not less than half the number of the blocks that are subject to the licence;

(b) the fourth year of the term for which the licence was granted, surrender not less than half the number of the blocks that are then subject to the licence,

but so that after each surrender the graticular sections that constitute the blocks that remain subject to the exploration licence form not more than 3 discrete areas each consisting of—

(c) a single graticular section; or

(d) a number of graticular sections each having a side in common with at least one other graticular section in that area. ”;

- (b) in subsection (1b), by deleting “and of subsection (3) as to notification”;

- (c) after subsection (1b), by inserting the following subsection—

“ (1c) A surrender under this section—

(a) shall be made in the prescribed manner;

(b) shall be lodged at the principal office of the Department at Perth on or before the last day of the third or fourth year, as the case requires, of the term for which it is lodged;

(c) subject to subsection (1b), takes effect on the expiration of the last day of the third or fourth year, as the case requires, of the term; and

- (d) if the number of blocks in an exploration licence is an uneven number, the number of blocks to be surrendered is the number ascertained in accordance with the following formula—

$$S = \frac{N - 1}{2}$$

Where S means the number of blocks to be surrendered; and

N means the total number of blocks in the licence. ”;

- (d) by repealing subsection (3) and substituting the following subsections—

“ (3) Subsection (1) does not apply to an exploration licence if the licence is granted in respect of one block.

(3a) Subsection (1) (b) does not apply to an exploration licence if the licence is granted in respect of 2 blocks. ”; and

- (e) by repealing subsection (5) and substituting the following subsections—

“ (5) A surrender under this section shall be endorsed on the public plans of the Department—

(a) at the office of the Department at Perth; and

(b) at the office of the mining registrar for the mineral field or district thereof in which the land is situate.

(6) Notwithstanding that a surrender has taken effect under this section any land the subject of the surrender shall not be—

(a) marked out in connection with a mining tenement; or

(b) included in an application for a mining tenement,

unless and until plans referred to in subsection (5) have been endorsed to that effect in the prescribed manner. ”.

Section 66 amended

20. Section 66 of the principal Act is amended by deleting paragraph (c) and substituting the following paragraph—

- “ (c) to excavate, extract or remove, subject to any conditions imposed under section 24 or 25, from such land, earth, soil, rock, stone, fluid or mineral bearing substances in such amount, in total during the period for which the licence remains in force, as does not exceed the prescribed limit, or in such greater amount as the Minister may, in any case, approve in writing; ”.

Section 69 amended

21. Section 69 of the principal Act is amended—

- (a) by inserting after the section designation “69.” the subsection designation “(1)”; and
- (b) by inserting the following subsection—

- “ (2) For the purposes of subsection (1) the holding of shares in a listed public company which held the exploration licence in question does not of itself constitute an interest in the exploration licence. ”.

Section 70 amended

22. Section 70 of the principal Act is amended—

- (a) in subsection (2), by deleting “The applicant for a special prospecting licence pursuant to subsection (1)” and substituting the following—

- “ Within 14 days after lodging an application for a special prospecting licence under subsection (1) the applicant ”;

- (b) in subsection (6) (d), by deleting “extract or remove during the period for which the tenement remains in force ore” and substituting the following—

“ excavate, extract or remove during the period for which the tenement remains in force a total amount of earth, soil, rock, stone, fluid or mineral bearing substances ”;
and

- (c) in subsection (8a) (b), by deleting “extract or remove ore” and substituting the following—

“ excavate, extract or remove a total amount of earth, soil, rock, stone, fluid or mineral bearing substances ”.

Section 76 amended

23. Section 76 of the principal Act is amended by inserting after “referred to” the following—

“ and section 94A as regards miscellaneous licences ”.

Section 91 amended

24. Section 91 of the principal Act is amended—

- (a) in subsection (1) by deleting “ , including the land the subject of a mining tenement”; and

- (b) by inserting after subsection (3) the following subsections—

“ (4) 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.

(4a) 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. ”.

Section 92 amended

25. Section 92 of the principal Act is amended by inserting after "46" the following—

" , 46A ".

Sections 94A and 94B inserted

26. After section 94 of the principal Act the following sections are inserted—

**Grant of mining tenement on land
in a miscellaneous licence**

" 94A. (1) Sections 18, 23, 27 and 76 do not prevent another mining tenement from being marked out, applied for or granted in respect of land that is the subject of a miscellaneous licence.

(2) Notwithstanding section 76, if another mining tenement is granted in respect of land that is subject to a miscellaneous licence the other mining tenement and the miscellaneous licence apply concurrently with respect to that land.

Surrender etc., of concurrent tenement

94B. Subject to this Act, if—

- (a) under section 91 (4a) or 94A (2), 2 or more mining tenements apply concurrently with respect to land;
and
- (b) one of the mining tenements is surrendered or forfeited or expires,

the land continues to be subject to the other mining tenement or tenements. ".

Section 95 amended

27. Section 95 of the principal Act is amended in subsection (6)—

- (a) by inserting after "Act" the following—

" other than section 26A (3) and (4) ";

(b) by inserting after "is surrendered" the following—

" , whether under this section or under section 26A or 65, ";

and

(c) by deleting the passage commencing with "in the case of" and ending with "registered." and substituting the following—

" in the case of—

(c) a conditional surrender, on the date on which the surrender becomes absolute;

(d) a surrender other than a conditional surrender or a surrender under section 26A (2) or 65, on the date the surrender is registered;

(e) a surrender under section 26A (2), on the expiry of the period referred to in section 26A (1);

(f) a surrender under section 65, on the date on which the surrender becomes effective under that section. ".

Section 96 amended

28. Section 96 of the principal Act is amended by inserting after subsection (1) the following subsection—

" (1a) An authorization under subsection (1) (a) may be given to a specified officer or to officers of a specified class, or may be given to the holder or holders for the time being of a specified office or class of office. ".

Section 97 amended

29. Section 97 of the principal Act is amended—

- (a) in subsection (1), by deleting “inserted in the lease under section 82 (1) which is otherwise made” and substituting the following—

“ included in the lease under section 82 (1) or section 89 or ”;

- (b) in subsection (3), by deleting “reinstate” and substituting the following—

“ restore ”; and

- (c) in subsection (4), by deleting “reinstatement” and substituting the following—

“ restoration ”.

Section 98 amended

30. Section 98 of the principal Act is amended—

- (a) in subsection (1), by deleting “ , a mining lease or general purpose lease” and substituting the following—

“ or a mining lease ”;

- (b) in subsection (4), by deleting “or general purpose lease”; and

- (c) in subsection (7), by deleting “, mining lease or general purpose lease” and substituting the following—

“ or mining lease ”.

Section 100 amended

31. Section 100 of the principal Act is amended by deleting “, a mining lease or general purpose lease” and substituting the following—

“ or a mining lease ”.

Section 102 amended

32. Section 102 of the principal Act is amended—

(a) in subsection (1), by inserting after “exemption relates,” the following—

“ or within the prescribed period after the end of that year, ”; and

(b) in subsection (5), by deleting paragraph (b) and substituting the following paragraph—

“ (b) otherwise, shall be forwarded to the Minister for determination by the Minister. ”.

Section 105 amended

33. Section 105 of the principal Act is amended in subsection (1), by deleting “Before making an application for a mining tenement other than an exploration licence, the applicant shall mark out in the prescribed manner and in the prescribed shape the land in respect of which the mining tenement is sought,” and substituting the following—

“ Before an application for a mining tenement other than an exploration licence is made, the land in relation to which the mining tenement is sought shall be marked out in the prescribed manner and in the prescribed shape, ”.

Section 105A amended

34. Section 105A of the principal Act is amended by repealing subsections (2), (3) and (4) and substituting the following subsections—

“ (2) In subsection (3) “applicant” means an applicant for a prospecting licence, exploration licence, mining lease or general purpose lease.

(3) Where in respect of any land the warden is satisfied that 2 or more applicants complied with the initial requirement in relation to their applications at the same time, priority shall, unless written agreement is concluded by the applicants and lodged with the mining registrar within the prescribed time, be determined by ballot conducted by the warden in open court on a date to be determined by the warden and notified to the applicants.

(4) In this section a reference to compliance with the initial requirement in relation to an application is a reference—

- (a) in the case of an application for an exploration licence, to lodging that application with the mining registrar;
- (b) in the case of an application for a prospecting licence, mining lease or general purpose lease, to marking out the land concerned in the prescribed manner. ”.

Section 109A inserted

35. After section 109 of the principal Act the following section is inserted—

Verification of royalties payable

“ **109A.** (1) Where the Minister is of the opinion that any royalty has not been paid or that, having regard to any particulars that may be furnished by a person pursuant to a requirement of this Act or regulations in respect of any

mining operations, any royalty was not properly assessed or was not properly calculated, notwithstanding that a certificate may have been furnished in accordance with subsection (2), the Minister may make an estimate of the royalty, taking into account the relevant regulations and such information as has been furnished or is otherwise available to the Minister, and thereafter, having given to the person who paid or may be required to pay the royalty notice—

- (a) that the Minister proposes to exercise the power conferred by this subsection, particulars of the manner in which the proposed estimate is calculated being set out in the notice; and
- (b) that any submissions as to the proposal should be made to the Minister within a period specified in that notice,

the Minister, on the expiry of that period and having considered any submissions made, may determine the amount of royalty that should have been or which is to be paid.

(2) For the purpose of verifying any royalty, the Minister may, where a person who has paid or may be required to pay a royalty under this Act so requests, in respect of a period stated in the request, accept a certificate that the royalty appears to the person signing the certificate to have been properly assessed and calculated, being a certificate which—

- (a) is prepared at the cost of the person by whom the request is made and is signed by—
 - (i) an auditor, being a person who is or is deemed to be a registered company auditor for the purposes of the *Companies (Western Australia) Code*; or
 - (ii) some other competent independent assessor, being a person approved by the Minister; and

- (b) sets out the amount of the royalty paid or to be payable and, unless the Minister otherwise consents, sufficient detail of the methods of assessment and calculation, and of all weights, analyses, assays and other matters relevant to the certificate to enable the amount certified to be verified.

(3) For the purpose of—

- (a) determining whether or not in relation to any mining operations any royalties are payable, the rates of payment, the method of valuation which is to be used in relation to a mineral or class of minerals, the basis on which a rate of royalty shall be applicable, the methods of assessment and calculation, and the amount payable; or
- (b) ascertaining information as to pricing or accounting methods and storage, transportation, processing or merchandising practices,

an officer of the Department or a person authorized by the Minister may, at any reasonable time, without warrant other than this section exercise the powers conferred by subsection (4).

(4) For the purposes of subsection (3), the powers conferred are to—

- (a) enter upon any land where mining operations are carried out and into any premises situate there or any other premises elsewhere used for the purpose of preparing accounting or other records relating to the mining operations conducted on that land;
- (b) enter upon any other land or into any premises where that officer or authorized person has reasonable cause to believe any mineral derived from the mining operations, or any accounting records relating to that mineral, to be, if—
 - (i) the officer or authorized person has reasonable cause to believe an offence against this Act or a breach of the

conditions of any mining tenement has been, is being, or is about to be committed; or

- (ii) the consent of the owner or occupier of that land or premises has been obtained;
- (c) inspect and examine any mining operations and any accounting or other records in respect of those operations, and any mining product or mineral, in relation to which royalty is, or in his opinion may be, payable;
- (d) take copies or extracts of accounting or other records relating to mining operations, or of other sources of information examined by or produced to him;
- (e) require any person to produce, or to secure the production of to that officer or authorized person—
 - (i) forthwith; or
 - (ii) if by notice in writing a time and place for the production is specified, at the time and place specified,

such accounting or other records or other sources of information as are in the custody or control of the person of whom the requirement is made and which relate to a mining tenement, or to any mining operations, mineral product or holder of a mining tenement specified by the officer or authorized person, and are relevant for the purpose of determining whether any, or what amount of, royalty may be payable in relation to the mining operations,

for the purpose of seeking or obtaining the information that appears to the officer or person exercising that power to be necessary in relation to any question as to the royalties that may be payable.

(5) A person who, without reasonable cause, refuses or fails—

- (a) to permit the entry upon any land or into any premises which an officer of the Department or other person authorized under subsection (3) reasonably believes to be necessary;
- (b) to permit inspection or examination, or the taking of copies or extracts of records or other sources of information, for the purposes of this section;
- (c) to produce, or secure the production of, to such an officer or authorized person the accounting or other records or sources of information that officer or authorized person reasonably believes to be necessary and requires to be produced;
- (d) to provide or secure the provision of any other information which such an officer or authorized person may reasonably require pursuant to this section; or
- (e) to provide such an officer or authorized person with appropriate means and reasonable facilities and assistance for the effective exercise of the powers conferred by this section,

or who knowingly makes any false or misleading statement or otherwise furnishes or permits to be furnished false or misleading information, in relation to a matter to which this section applies, commits an offence against this Act.

Penalty: \$5 000.

(6) Where a person who is the holder of, or an applicant for, a mining tenement is convicted in respect of that tenement of an offence contravening subsection (5)—

- (a) an estimate of the royalty that, taking into account the relevant regulations and such information as has been furnished or is otherwise available to the Minister, might but for the contravention have been

assessed in respect of minerals obtained from the land to which the tenement or application relates may be made by or on behalf of the Minister;

(b) that person may by notice in writing be required to pay to the Minister—

(i) that estimated royalty; and

(ii) an amount by way of penalty determined by the Minister, being an amount not greater than 50% of that estimated royalty,

within a time specified by the Minister; and

(c) where in relation to an offence a requirement for payment of estimated royalty or a penalty, or both, was made of that person under paragraph (b) and is not complied with, the Minister may—

(i) in the case of a mining tenement, forfeit that tenement as though it were a mining lease liable to forfeiture for a breach of the lessee's covenant to pay royalty, effect being given to section 97 as though for the purposes of that section the tenement were a lease of which the holder was the lessee; or

(ii) in the case of an application for a mining tenement, refuse that application, effect being given to section 111A as though the Minister were satisfied on reasonable grounds in the public interest that the application should not be granted. ”.

Section 118 amended

36. Section 118 of the principal Act is amended by inserting after “a copy of the application” the following—

“ together with a map on which are clearly delineated the boundaries of the land in respect of which the mining tenement is sought ”.

Section 160B inserted

37. After section 160A of the principal Act the following section is inserted—

Time limit for prosecution action

“ 160B. A prosecution for an offence against this Act may be commenced at any time within one year after the date on which the offence is alleged to have been committed. ”.

Various sections amended

38. The provisions of the principal Act specified in column 2 of the table to this section are amended in the manner specified opposite to those provisions in column 3 of that table.

TABLE

Column 1 Item	Column 2 Provision	Column 3 Amendment
1.	Section 82 (2)	Delete “\$1 000”, substitute “\$5 000”.
2.	Section 96 (3) (a)	Delete “\$500”, substitute “\$5 000”.
3.	Section 96A (5) (a)	Delete “\$500”, substitute “\$5 000”.
4.	Section 97 (5) (a)	Delete “\$500”, substitute “\$5 000”.
5.	Section 98 (4)	Delete “\$500”, substitute “\$5 000”.
6.	Section 99 (1) (b)	Delete “\$1 000”, substitute “\$5 000”.
7.	Section 139 (2)	Delete “\$100”, substitute “\$1 000”.
8.	Section 140 (3)	(1) Delete “\$200”, substitute “\$2 000”. (2) Delete “\$25”, substitute “250”.
9.	Section 154 (2)	(1) Delete “\$500”, substitute “\$5 000”. (2) Delete “\$100”, substitute “\$500”.
10.	Section 155 (1)	(1) Delete “\$1 000”, substitute “\$10 000”. (2) Delete “\$200”, substitute “\$1 000”.
11.	Section 157	Delete “\$200”, substitute “\$5 000”.
12.	Section 158 (2)	Delete “\$1 000”, substitute “\$10 000”.
13.	Section 158 (4)	Delete “\$1 000”, substitute “\$10 000”.
14.	Section 162 (3)	(1) Delete “\$500”, substitute “\$5 000”. (2) Delete “\$100”, substitute “\$1 000”.

**Sections 88 and 90 of the
Amendment Act repealed**

39. Sections 88 and 90 of the *Mining Amendment Act 1985** are repealed.

[*Act No. 100 of 1985.]

Savings and transitional

40. (1) Notwithstanding sections 16, 17, 18, 20 and 35 but subject to this section—

(a) the amendments to the principal Act effected by those sections do not have effect in relation to—

- (i) any exploration licence in force before the commencement day;
- (ii) any application for an exploration licence lodged with the Department before the commencement day; or
- (iii) any exploration licence granted in respect of an application referred to in subparagraph (ii);

(b) where, after the commencement day—

- (i) land that is the subject of an exploration licence referred to in paragraph (a) (i) or (iii) is surrendered or forfeited (otherwise than under section 98 of the principal Act) or expires;

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 referred to in subparagraph (i) unless that land has been included in an application under section 67 and a mining lease is granted in respect of that application.

(2) Without affecting anything in subsection (1) the Governor may make regulations providing for such savings and transitional matters as are convenient or necessary for the purposes of giving effect to the amendments effected by this Act to the principal Act.

(3) In this section—

“block” means a block as described in section 56C of the principal Act as in force after the commencement of section 16 of this Act;

“commencement day” means the day on which sections 16, 17, 18, 20 and 35 of this Act come into operation.
