Western Australia

Mining Amendment Act 2026

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Western Australia

Mining Amendment Act 2026

No. 22 of 2026

An Act to amend the *Mining Act 1978* and to make consequential amendments to the *Mining Legislation Amendment Act 2014*.

[*Assented to 16 November 2026*]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Mining Amendment Act 2026*.

2. Commencement

This Act comes into operation as follows —

(a) Part 1 — on the day on which this Act receives the Royal Assent;

(b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

Part 2 — *Mining Act 1978* amended

3. Act amended

This Part amends the *Mining Act 1978*.

4. Section 6 amended

In section 6(1a) delete "accompanied by the documentation referred to in section 74(1)(ca)(ii) —" and insert:

as part of which the documents referred to in section 74(1AA)(b) or (c) have been lodged —

5. Section 8 amended

(1) In section 8(1) insert in alphabetical order:

Department's website means a website maintained by or on behalf of the Department;

(2) In section 8(1) in the definition of ***mining development and closure proposal*** delete paragraph (a) and insert:

(a) lodged as part of an application for a mining lease under section 74(1AA)(a); or

6. Section 19 amended

(1) In section 19(1):

(a) delete "in writing under his hand —" and insert:

(an ***exemption instrument***) published on the Department's website —

(b) delete the passage that begins with "paragraph (a)," and continues to the end of the subsection and insert:

paragraph (a).

(2) Delete section 19(2) and insert:

(2) An exemption instrument —

(a) takes effect on the date and time specified in the instrument; and

(b) must specify the area and description of land to which the instrument relates.

(3) Delete section 19(2a).

(4) In section 19(2b):

(a) before "instrument" insert:

exemption

(b) delete "on or after the prescribed day,";

(c) delete "(2c)," and insert:

(2C),

(5) Delete section 19(2c) and insert:

(2C) An exemption instrument made under subsection (1)(a) expires, subject to any extension or extensions under subsection (2CA) —

(a) on the date and time specified in the instrument; or

(b) if a date and time is not specified in the instrument — at the end of the period of 5 years from the date on which the instrument takes effect.

(2CA) The Minister may extend an exemption instrument made under subsection (1)(a) for a period or periods not exceeding 5 years at a time by instrument published on the Department's website.

(6) Delete section 19(2d).

7. Section 40 amended

After section 40(1) insert:

(1A) Any term or condition imposed under section 24, 24A or 25, or any condition specified in a prospecting licence, may be cancelled or varied by the Minister at any time if the Minister is satisfied that —

(a) it is necessary to cancel or vary the term or condition because the term or condition contains an error; or

(b) the cancellation or variation can be done without detriment to the holder of the licence.

8. Section 49 amended

In section 49(1):

(a) delete "section 75(9)" and insert:

section 75B(3)

(b) delete "section 75(7)," and insert:

section 75B(2),

9. Section 56A amended

In section 56A(8aa) delete "74A and 75" and insert:

74A, 74B, 75, 75A and 75B

10. Section 57 amended

(1) After section 57(1) insert:

(1A) Any term or condition on which an exploration licence is granted under subsection (1) may be cancelled or varied by the Minister at any time if the Minister is satisfied that —

(a) it is necessary to cancel or vary the term or condition because the term or condition contains an error; or

(b) the cancellation or variation can be done without detriment to the holder of the licence.

(2) Delete section 57(2c), (2d) and (2e) and insert:

(2C) The area of land in respect of which an exploration licence is granted may be less than the area of land in respect of which the exploration licence is sought, and may comprise part of a block, if any of the following

circumstances apply to a part of the area of land in respect of which the exploration licence is sought —

(a) the part is, or was when the application for the exploration licence was made, the subject of a current mining tenement (other than a miscellaneous licence);

(b) another application for a mining tenement with respect to the part has been made but not determined (other than an application for a miscellaneous licence);

(c) before the application for the exploration licence is granted, the Minister considers that the part is not suitable for the purposes of exploration.

(3) In section 57(2ea) delete "subsection (2e)" and insert:

subsection (2C)(a)

(4) After section 57(2h) insert:

(2I) If 2 or more applications for exploration licences with respect to 1 or more of the same blocks are made, but have not been determined, an applicant may, with the approval of the Minister, amend their application to remove all of the same blocks from their application.

(2J) An application for the approval of the Minister to amend an application under subsection (2I) must —

(a) be in the approved form; and

(b) contain the information required by the Minister.

11. Section 58 amended

(1) In section 58(1):

(a) delete "exploration licence — " and insert"

exploration licence must —

(b) delete paragraphs (a) and (b) and insert:

(a) be in the prescribed form and lodged in the prescribed manner; and

(b) include a statement lodged within the prescribed time and in the prescribed manner specifying —

(i) the details of the programme of work proposed to be carried out in the first year of the term of the licence; and

(ii) the estimated amount of money proposed to be expended on exploration in the first year of the term of the licence; and

(iii) the technical and, subject to subsection (1aa), financial resources available to the applicant in the first year of the term of the licence;

and

(c) in paragraph (c) delete "shall";

(d) delete paragraph (d);

(e) in paragraph (e) delete "shall".

(2) In section 58(1aa)(c) delete "(1)(b)(ii)." and insert:

(1)(b)(i).

12. Section 59 amended

(1) Delete section 59(1A)(a) and insert:

(a) lodged in the prescribed manner and within the prescribed period; and

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

(1AA) However, a notice of objection to the granting of an application for an exploration licence may be lodged before the lodgment of the statement under section 58(1)(b) in relation to the application.

(3) In section 59(2) delete "time," and insert:

period or under subsection (1AA),

(4) In section 59(4):

(a) in paragraph (a) delete "time; or" and insert:

period or under subsection (1AA); or

(b) in paragraph (b) delete "time" and insert:

period or under subsection (1AA)

(5) Delete section 59(5) and insert:

(5) The warden must, as soon as practicable after the hearing of the application, give to the Minister for the Minister's consideration a report which recommends the grant or refusal of the exploration licence and sets out the reasons for that recommendation.

13. Section 63A deleted

Delete section 63A.

14. Section 67 amended

In section 67(1):

(a) delete "section 75(9)" and insert:

section 75B(3)

(b) delete "section 75(7)," and insert:

section 75B(2),

15. Section 70 amended

In section 70(8aa) delete "74A and 75" and insert:

74A, 74B, 75, 75A and 75B

16. Section 70B amended

After section 70B(1) insert:

(1A) Any term or condition on which a retention licence is granted under subsection (1) may be cancelled or varied by the Minister at any time if the Minister is satisfied that —

(a) it is necessary to cancel or vary the term or condition because the term or condition contains an error; or

(b) the cancellation or variation can be done without detriment to the holder of the licence.

17. Section 70D amended

Delete section 70D(5) and insert:

(5) The warden must, as soon as practicable after the hearing of the application, give to the Minister for the Minister's consideration a report which recommends the grant or refusal of the retention licence and sets out the reasons for that recommendation.

18. Section 70K deleted

Delete section 70K.

19. Section 70L amended

In section 70L(1):

(a) delete "section 75(9)" and insert:

section 75B(3)

(b) delete "section 75(7)," and insert:

section 75B(2),

20. Section 70O replaced

Delete section 70O and insert:

70O. Terms used

(1) In this Division —

compliance document means —

(a) a mining development and closure proposal referred to in section 74(1AA)(a); or

(b) a statement and mineralisation report referred to in section 74(1AA)(b); or

(c) a statement and resource report referred to in section 74(1AA)(c);

compliance period means the period prescribed under section 74(1AA) for lodging a compliance document or, if that period is extended under section 162B, that period as extended;

objection period —

(a) means the period prescribed under section 74B(2)(a) for lodging a notice of objection or, if that period is extended under section 162B, that period as extended; and

(b) includes any period during which a notice of objection may be lodged under section 74B(3);

section 74A report means the report prepared by the Director, Geological Survey referred to in section 74A(1);

significant mineralisation has the meaning given in subsection (2).

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

21. Section 71 amended

(1) In section 71:

(a) delete "Subject" and insert:

(1) Subject

(b) after "mining registrar" insert:

under section 75

(c) delete "in accordance with section 75," and insert:

under section 75A,

(2) At the end of section 71 insert:

(2) Any term or condition on which a mining lease is granted under subsection (1) may be cancelled or varied by the Minister at any time if the Minister is satisfied that —

(a) it is necessary to cancel or vary the term or condition because the term or condition contains an error; or

(b) the cancellation or variation can be done without detriment to the holder of the lease.

22. Section 74 amended

(1) Delete section 74(1) and (1AA) and insert:

(1) An application for a mining lease must —

(a) be in the prescribed form and lodged in the prescribed manner; and

(b) be accompanied by the amount of the prescribed rent for the first year of the term of the lease, or the prescribed portion of that rent; and

(c) be accompanied by the prescribed application fee.

(1AA) If an application for a mining lease is made in accordance with subsection (1), the applicant must then, within the prescribed period and in the prescribed manner, lodge as part of the application —

(a) a mining development and closure proposal for the mining operations that are proposed to be carried out in, on or under the land to which the application relates; or

(b) a statement complying with subsection (1a) and a mineralisation report; or

(c) a statement complying with subsection (1a) and a resource report.

(1AB) A mining development and closure proposal lodged under subsection (1AA)(a) must include any prescribed information.

(2) In section 74(1a):

(a) delete "subsection (1)(ca)(ii) and (iii) shall" and insert:

subsection (1AA)(b) and (c) must

(b) delete paragraph (c) and insert:

(c) the proposed location of the mining operations; and

(d) the proposed location and area of land that is likely to be required for any infrastructure associated with the mining operations.

(3) Delete section 74(5) and insert:

(5) The Director General of Mines must ensure that the following documents are made available for public inspection at reasonable times —

(a) any document referred to in subsection (1AA) that is lodged as part of the application;

(b) any document furnished by the applicant in response to a request under subsection (2).

(4) In section 74(7) delete the definition of ***JORC Code***.

(5) In section 74(7) in the definition of ***mineralisation report*** after "a report" insert:

prepared by a qualified person

(6) In section 74(7) in the definition of ***resource report*** delete paragraphs (b) and (c) and insert:

(b) that has been given to the Australian Securities Exchange Limited.

23. Section 74A amended

(1) Delete section 74A(1) to (4) and insert:

(1) If the documents referred to in section 74(1AA)(b) are lodged as part of an application for a mining lease, the Director, Geological Survey must prepare a report as to whether or not there is significant mineralisation in, on or under the land to which the application relates.

(2) For the purposes of preparing the report, the Director, Geological Survey may request, by notice in writing, that the applicant provide further information in relation to matters dealt with in the documents referred to in section 74(1AA)(b) and the applicant must provide that information within the time specified in the notice.

(3) The report must be based solely on information contained in the documents referred to in section 74(1AA)(b) and any further information provided by the applicant in response to a request made under subsection (2).

(4) The Director, Geological Survey must cause a copy of the report to be given to —

(a) the mining registrar if the report is required under section 75 for the performance of the function conferred under that section; or

(b) the warden if the report is required under section 75A for the performance of the function conferred under that section.

(2) Delete section 74A(7).

24. Section 75 replaced

Delete section 75 and insert:

74B. Objection to application for mining lease

(1) A person who wishes to object to the granting of an application for a mining lease must lodge a notice of objection.

(2) The notice of objection must be —

(a) lodged in the prescribed manner and within the prescribed period; and

(b) accompanied by the prescribed fee.

(3) However, the notice of objection may be lodged before the lodgment of a document referred to in section 74(1AA)(a) to (c) as part of the application.

(4) A person is not entitled to lodge a notice of objection if the basis for the objection is that —

(a) there is no significant mineralisation in, on or under the land to which the application relates; or

(b) the mining lease, or activities authorised by it, would affect an offsets project.

(5) Subsection (4)(b) does not apply in respect of an offsets project, or any part of an offsets project, situated on land held in freehold.

75. Recommendation of mining registrar on application for mining lease

(1) This section applies to an application for a mining lease if, at the expiration of the objection period in respect of the application, no notice of objection to the granting of the application has been lodged or every notice of objection that has been lodged has been withdrawn.

(2) As soon as practicable after the end of the objection period, the mining registrar must give 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 must recommend the grant of the mining lease if the mining registrar is satisfied that the applicant has complied in all respects with the provisions of this Act relevant to making an application for the grant of a mining lease.

(4) If a compliance document lodged as part of the application for the mining lease consists of or includes the documents referred to in section 74(1AA)(b), the mining registrar must not give a report to the Minister under subsection (2) unless —

(a) the mining registrar has received a copy of the section 74A report relating to the application; and

(b) the section 74A report states that there is significant mineralisation in, on or under the land to which the application relates.

(5) If subsection (4) applies and the mining registrar gives the Minister a report under subsection (2), the mining registrar must also forward to the Minister a copy of the section 74A report in relation to the application.

(6) The mining registrar must not give a report to the Minister under subsection (2) if section 75A applies to the application under section 75A(1)(b)(ii).

75A. Recommendation of warden on application for mining lease

(1) This section applies to an application for a mining lease if —

(a) a compliance document is lodged as part of the application within the compliance period; and

(b) a notice of objection to the granting of the application —

(i) is lodged within the objection period in respect of the application; or

(ii) is not lodged within the objection period in respect of the application but is lodged before the mining registrar gives a report to the Minister under section 75(2) and the warden is satisfied that there are reasonable grounds for late lodgment;

and

(c) the notice of objection is not withdrawn.

(2) Subject to subsection (3), the warden must hear the application on a day appointed by the warden and may give any person who has lodged a notice of objection an opportunity to be heard.

(3) If a compliance document lodged as part of an application for a mining lease consists of or includes the documents referred to in section 74(1AA)(b), the warden must not hear the application unless —

(a) the warden has received a copy of the section 74A report relating to the application; and

(b) the section 74A report states that there is significant mineralisation in, on or under the land to which the application relates.

(4) The warden must, as soon as practicable after the hearing of the application for a mining lease, give to the Minister for the Minister's consideration —

(a) a report which recommends the grant or refusal of the mining lease and sets out the reasons for that recommendation; and

(b) if subsection (3) applies — a copy of the section 74A report relating to the application.

75B. Determination by Minister of application for mining lease

(1) On receipt of a report under section 75(2) or 75A(4)(a) in respect of an application for a mining lease, the Minister may 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; or

(b) the applicant has or has not complied in all respects with the provisions of this Act relevant to making an application for the grant of a mining lease.

(2) However, subject to subsection (3), if the report is in respect of an application for a mining lease made by the holder of a prospecting licence, exploration licence or retention licence, the Minister must grant to the holder 1 or more mining leases —

(a) 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

(b) on such terms and conditions as the Minister considers reasonable.

(3) Subsection (2) does not apply if all or part of the land to which the application for the mining lease relates falls within 1 or more of the classes of land referred to in section 24(1) or is in a marine nature reserve, marine park or marine management area.

25. Section 78 amended

(1) In section 78(1):

(a) delete "shall remain" and insert:

remains

(b) delete paragraph (b) and insert:

(b) for 1 further term of 21 years (the ***further term***) from the expiry of the initial term as of right if —

(i) an application for the renewal of the mining lease is made in the prescribed manner and within the prescribed period; or

(ii) section 111A(1)(d) applies.

(2) Delete section 78(2) and insert:

(2) A mining lease renewed for the further term is subject to the provisions of this Act as in force on and after the date of the renewal.

(2A) If a mining lease is renewed for the further term in the circumstances mentioned in subsection (1)(b)(i), the Minister may, on an application made in the prescribed manner and within the prescribed period, renew or further renew the mining lease for successive terms, with each successive term not exceeding 21 years.

26. Section 82 amended

(1) In section 82(1):

(a) in paragraph (f) delete "lease;" and insert:

lease.

(b) delete paragraph (g).

(2) Delete section 82(2) and (3).

27. Section 85B amended

In section 85B(7a) delete "74A and 75" and insert:

74A, 74B, 75, 75A and 75B

28. Section 86 amended

After section 86(1) insert:

(1A) Any term or condition on which a general purpose lease is granted under subsection (1) may be cancelled or varied by the Minister at any time if the Minister is satisfied that —

(a) it is necessary to cancel or vary the term or condition because the term or condition contains an error; or

(b) the cancellation or variation can be done without detriment to the holder of the lease.

29. Section 88 amended

After section 88(2) insert:

(2A) Any term or condition on which a general purpose lease is renewed or further renewed under subsection (2)(a)(ii) or (b)(ii) may be cancelled or varied by the Minister at any time if the Minister is satisfied that —

(a) it is necessary to cancel or vary the term or condition because the term or condition contains an error; or

(b) the cancellation or variation can be done without detriment to the holder of the lease.

30. Section 90 amended

(1) Delete section 90(2)(b) and insert:

(b) in subsection (1AA)(b) "and a mineralisation report" were deleted.

(2) Delete section 90(3) and insert:

(3) Sections 74B, 75, 75A and 75B apply, with such modifications as the circumstances require, to and in relation to a general purpose lease as if —

(a) a reference in any of those sections to a mining lease were a reference to a general purpose lease; and

(b) in section 70O(1) in the definition of ***compliance document*** paragraph (b) "and mineralisation report" were deleted.

(3A) However, sections 74B(4)(a), 75(4) and 75A(3) do not apply to or in relation to a general purpose lease.

31. Section 91B amended

After section 91B(3) insert:

(3A) Any term or condition on which a miscellaneous licence is renewed or further renewed under subsection (3)(a)(ii) or (b)(ii) may be cancelled or

varied by the Minister at any time if the Minister is satisfied that —

(a) it is necessary to cancel or vary the term or condition because the term or condition contains an error; or

(b) the cancellation or variation can be done without detriment to the holder of the licence.

32. Section 94 amended

After section 94(2) insert:

(2A) Any term or condition to which a miscellaneous licence is made subject under subsection (2) may be cancelled or varied by the Minister at any time if the Minister is satisfied that —

(a) it is necessary to cancel or vary the term or condition because the term or condition contains an error; or

(b) the cancellation or variation can be done without detriment to the holder of the licence.

33. Sections 96, 96A and 97 replaced

Delete sections 96, 96A and 97 and insert:

96. Forfeiture of mining tenements by Minister

(1) The Minister may declare, by notice published on the Department's website, that a mining tenement is forfeited if the Minister —

(a) is satisfied that 1 or more grounds for forfeiture exist in respect of the mining tenement; or

(b) is given a report by the warden under section 96B(4)(a) or 96C(6)(a) recommending —

(i) that an application for the forfeiture of the mining tenement be granted; or

(ii) that a penalty be imposed as an alternative to the forfeiture of the mining tenement.

(2) The following are grounds for a mining tenement to be forfeited (the ***grounds for forfeiture***) —

(a) for a prospecting licence or a miscellaneous licence —

(i) the prescribed rent or royalty in respect of the licence is not paid in accordance with this Act; or

(ii) any term or condition to which the licence is subject is not complied with; or

(iii) the holder of the licence has neither filed nor caused to be filed a report as required under section 51 or 115A; or

(iv) any request made to the holder of the licence under section 51A is not complied with; or

(v) any requirement of the holder of the licence made under section 55B(2), 103AV(1) or 115B(2) is not complied with; or

(vi) the holder of the licence is convicted of an offence against this Act;

(b) for an exploration licence —

(i) the prescribed rent or royalty in respect of the licence is not paid in accordance with this Act; or

(ii) any requirement of the holder of the licence made under section 65(4), 69E(2), 103AV(1) or 115B(2) is not complied with; or

(iii) any term or condition to which the licence is subject is not complied with; or

(iv) any request made of the holder of the licence under section 68(1) or (2) is not complied with; or

(v) the holder of the licence has neither filed nor caused to be filed a report as required under section 68(3) or 115A; or

(vi) the holder of the licence is convicted of an offence against this Act;

(c) for a retention licence —

(i) the prescribed rent or royalty in respect of the licence is not paid in accordance with this Act; or

(ii) any term or condition to which the licence is subject is not complied with; or

(iii) the holder of the licence has neither filed nor caused to be filed a report as required under section 115A; or

(iv) the holder of the licence fails to lodge a security as required under section 103AV(1); or

(v) the holder of the licence is convicted of an offence against this Act; or

(vi) the holder of the licence fails to comply with a requirement made of the holder under section 70M(2) or 115B(2);

(d) for a mining lease —

(i) the prescribed rent or royalty in respect of the lease is not paid in accordance with this Act; or

(ii) there is a breach of any covenant, term or condition applying to the lease; or

(iii) the lessee fails to comply with any requirement made of the lessee under section 103AV(1) or 115B(2) in relation to the lease; or

(iv) the lessee has neither filed nor caused to be filed a report as required under section 115A;

(e) for a general purpose lease —

(i) the prescribed rent or royalty in respect of the lease is not paid in accordance with this Act; or

(ii) there is a breach of any covenant, term or condition applying to the lease; or

(iii) the lessee fails to comply with any requirement made of the lessee under section 103AV(1) in relation to the lease.

(3) The production of a copy of the notice published on the Department's website under subsection (1) is evidence that the mining tenement concerned has been forfeited.

(4) The production of a copy of the notice published on the Department's website in relation to a mining lease or a general purpose lease under subsection (1) is evidence that an event referred to in subsection (2)(d) or (e), as the case requires, has occurred, and that the estate and interest of the lessee in the lease has been lawfully determined.

96A. Penalties may be imposed as alternative to forfeiture

(1) As an alternative to declaring a mining tenement to be forfeited under section 96(1), the Minister may, by written notice given to the holder of the mining tenement, impose on the holder of the mining tenement a penalty not exceeding —

(a) if the holder is an individual — $75 000; or

(b) if the holder is a body corporate — $150 000.

(2) If the Minister imposes a penalty on the holder of a mining tenement under subsection (1), the Minister may award the whole or any part of the amount of the penalty to —

(a) if the penalty is imposed as an alternative to forfeiture under section 96(1)(a) — any person, other than an officer of the Department; or

(b) if the penalty is imposed as an alternative to forfeiture under section 96(1)(b) — the applicant for the forfeiture of the mining tenement.

(3) If any penalty imposed on the holder of a mining tenement under subsection (1) is not paid within the time specified by the Minister in the written notice or, if no time is specified in the written notice, within 30 days after the day on which the written notice is given, the mining tenement is forfeited.

(4) Notice of forfeiture of a mining tenement under subsection (3) must be published on the Department's website.

(5) The production of a copy of the notice published on the Department's website under subsection (4) is evidence that the mining tenement concerned has been forfeited.

(6) Subsection (7) applies if —

(a) the Minister imposes a penalty under subsection (1) after being given a report by the warden under section 96B(4)(a) or 96C(6)(a) in relation to a prospecting licence, miscellaneous licence, exploration licence or mining lease; and

(b) the prospecting licence, miscellaneous licence, exploration licence or mining lease is forfeited under subsection (3).

(7) Section 96D(5) and (6) or section 96E(5) and (6), as the case requires, apply as if —

(a) the Minister had declared the prospecting licence, miscellaneous licence, exploration licence or mining lease forfeited under section 96(1); and

(b) the notice of forfeiture published under subsection (4) were the notice for forfeiture published under section 96(1).

96B. Application for forfeiture of prospecting licences or miscellaneous licences to warden

(1) If the requirements of this Act relating to a prospecting licence or miscellaneous licence, other than expenditure conditions, have not been complied with, a person may apply to the warden for the forfeiture of the licence.

(2) An application under subsection (1) must be —

(a) made in the prescribed form and in the prescribed manner; and

(b) accompanied by the prescribed application fee.

(3) An application under subsection (1) must be heard by the warden.

(4) The warden must, as soon as practicable after hearing the application —

(a) give to the Minister a report which recommends —

(i) the grant or refusal of the application; or

(ii) the imposition of a penalty as an alternative to the forfeiture;

or

(b) dismiss the application.

(5) A report given to the Minister under subsection (4)(a) must set out the reasons for the recommendation.

(6) The warden must not recommend the grant of the application under subsection (4)(a)(i) unless satisfied that —

(a) the requirements of this Act in relation to the prospecting licence or miscellaneous licence have not been complied with in a material respect; and

(b) the matter is of sufficient gravity to justify the forfeiture of the licence.

(7) If an applicant withdraws an application made under subsection (1) before the application is heard by the warden, the warden may award the holder of the prospecting licence or miscellaneous licence the

subject of the application a sum for costs and expenses as the warden considers reasonable.

96C. Application for forfeiture for non-compliance with expenditure conditions

(1) If the requirements of this Act are not being complied with in respect of the expenditure conditions applicable to a mining tenement, a person may apply to the warden for the forfeiture of the mining tenement.

(2) A mining tenement is not liable to forfeiture for non-compliance with the expenditure conditions applicable to the mining tenement if the holder of the mining tenement satisfies the Minister that the non-compliance was due to a strike.

(3) An application under subsection (1) must be —

(a) made in the prescribed form and in the prescribed manner; and

(b) accompanied by the prescribed application fee.

(4) An application under subsection (1) must be made —

(a) during the expenditure year in relation to which the requirement is not complied with; or

(b) within the period of 8 months after the end of the expenditure year in relation to which the requirement is not complied with.

(5) An application under subsection (1) must be heard by the warden.

(6) The warden must, as soon as practicable after hearing the application —

(a) give to the Minister a report which recommends —

(i) the grant or refusal of the application; or

(ii) the imposition of a penalty as an alternative to the forfeiture;

or

(b) dismiss the application.

(7) A report given to the Minister under subsection (6)(a) must set out the reasons for the recommendation.

(8) The warden must not recommend the grant of the application under subsection (6)(a)(i) unless satisfied that the failure to comply with the expenditure conditions applicable to the relevant mining tenement is, in the circumstances of the case, of sufficient gravity to justify the forfeiture of the mining tenement.

(9) The Minister may, before acting on the recommendation, require the warden to request further evidence or rehear the application as the Minister directs.

(10) If an applicant fails to proceed with an application under subsection (1), the warden may award the holder of the mining tenement the subject of the application a sum for costs and expenses as the warden considers reasonable.

96D. Applicant to have priority for marking out and applying for certain surrendered or forfeited licences

(1) A person who makes an application for forfeiture of a prospecting licence or miscellaneous licence under section 96B(1) or 96C(1) has a right in priority over any other person to mark out or apply for, or both, a mining tenement upon the whole or any part of the land the subject of the prospecting licence or miscellaneous licence if the prospecting licence or miscellaneous licence that is the subject of the application for

forfeiture made by the applicant is surrendered (other than by way of a conditional surrender or a surrender under section 26A or 65) before that application is heard by the warden.

(2) If a person decides to exercise the right in priority under subsection (1), the person must mark out or apply for, or both, the mining tenement within the period starting on the day on which the surrender is registered and ending on the day that is 14 days after the day on which the person is served with written notice of the surrender by an officer of the Department.

(3) A person who makes an application for forfeiture of a prospecting licence under section 96B(1) or 96C(1) has a right in priority over any other person to mark out or apply for, or both, a mining tenement upon the whole or any part of the land the subject of the prospecting licence if —

(a) the prospecting licence that is the subject of the application for forfeiture has continued in force under section 49(2) or 70C(6) pending the determination of an application (the ***tenement application***) referred to in that section; and

(b) the tenement application is withdrawn in accordance with the regulations before the application for forfeiture is heard by the warden.

(4) If a person decides to exercise the right in priority under subsection (3), the person must mark out or apply for, or both, the mining tenement within the period starting on the day on which the tenement application is withdrawn and ending on the day that is 14 days after the day on which the person is served with written notice of the withdrawal by an officer of the Department.

(5) If the Minister declares a prospecting licence or a miscellaneous licence forfeited after being given a report by the warden under section 96B(4)(a) or 96C(6)(a), the applicant who made the application for forfeiture in respect of which the report was made has a right in priority over any other person to mark out or apply for, or both, a mining tenement upon the whole or any part of the land that was the subject of the prospecting licence or miscellaneous licence.

(6) If an applicant decides to exercise the right in priority under subsection (5), the applicant must mark out or apply for, or both, the mining tenement within the period starting on the day on which the notice for forfeiture is published on the Department's website and ending on the day that is 14 days after that date.

96E. Applicant to have priority for marking out and applying for surrendered or forfeited licence or lease

(1) A person who makes an application for forfeiture of an exploration licence or a mining lease under section 96C(1) has a right in priority over any other person to mark out or apply for, or both, a mining tenement upon the whole or any part of the land that was the subject of the licence or lease if the licence or lease that is the subject of the application for forfeiture is surrendered (other than by way of a conditional surrender or a surrender under section 26A or 65) before the application for forfeiture is finally heard by the warden under section 96C(5).

(2) If a person decides to exercise the right in priority under subsection (1), the person must mark out or apply for, or both, the mining tenement within the period starting on the day on which the surrender is registered and ending on the day that is 14 days after

the day on which the person is served with written notice of the surrender by an officer of the Department.

(3) A person who makes an application for forfeiture of an exploration licence or a mining lease under section 96C(1) has a right in priority over any other person to mark out or apply for, or both, a mining tenement upon the whole or any part of the land the subject of the licence or lease if —

(a) the licence or lease is the subject of the application for forfeiture; and

(b) the licence or lease has continued in force under section 67(2) or 70C(6) pending the determination of an application (the ***tenement application***) referred to in section 67(2) or 70C(6), as the case requires; and

(c) the tenement application is withdrawn in accordance with the regulations before the application for forfeiture is heard by the warden.

(4) If a person decides to exercise the right in priority under subsection (3), the person must mark out or apply for, or both, the mining tenement within the period starting on the day on which the tenement application is withdrawn and ending on the day that is 14 days after the day on which the person is served with written notice of the withdrawal by an officer of the Department.

(5) If the Minister declares an exploration licence or a mining lease forfeited under section 96(1) after being given a report by the warden under section 96C(6)(a), the applicant who made the application for forfeiture in respect of which the report was made has a right in priority over any other person to mark out or apply for, or both, a mining tenement upon the whole or any part

of the land that was the subject of the forfeited licence or lease.

(6) If an applicant decides to exercise the right in priority under subsection (5), the applicant must mark out or apply for, or both, the mining tenement within the period starting on the day on which the notice for forfeiture is published on the Department's website and ending on the day that is 14 days after that date.

97. Cancellation of forfeiture by Minister

(1) The Minister may, for any cause the Minister considers sufficient, do both of the following by notice published on the Department's website —

(a) cancel a declaration made by the Minister under section 96(1) of the forfeiture of a mining tenement or cancel a forfeiture of a mining tenement under section 96A(3);

(b) restore the mining tenement to the holder of the mining tenement.

(2) The Minister may, when restoring a mining tenement under subsection (1)(b), impose any additional conditions on the tenement that the Minister considers reasonable.

(3) The production of a copy of the notice published on the Department's website under subsection (1) is evidence that the declaration made under section 96(1), or the forfeiture under section 96A(3), is cancelled and the mining tenement concerned is restored.

34. Section 97A amended

(1) In section 97A(1):

(a) delete "or by virtue of section 96, 96A or 97" and insert:

section 96(1) or 96A(3)

(b) delete "mining tenement to be restored to the person and the forfeiture cancelled." and insert:

forfeiture to be cancelled and the mining tenement restored to the person.

(2) In section 97A(2) delete "made by a person, not being a person acting on behalf of the Department," and insert:

made under section 96C(1),

(3) Delete section 97A(3) and insert:

(3) An application under subsection (1) must be —

(a) made in the prescribed manner and in the prescribed form; and

(b) made within the period prescribed; and

(c) accompanied by the prescribed application fee.

(3A) The applicant for an application under subsection (1) must, at the request of the warden, furnish any other information or evidence in support of the application as the warden may require but the warden must not require information or evidence relating to assays or other results of any testing, sampling or other mining

operations that the applicant may have carried out on the land the subject of the application.

(4) Delete section 97A(7) and (8) and insert:

(7) The warden must, as soon as practicable after hearing an application made under subsection (1), give to the Minister for the Minister's consideration a report which recommends the grant or refusal of the application and sets out the reasons for that recommendation.

(8) After being given a report under subsection (7) about a recommendation relating to an application for the restoration of a mining tenement, the Minister may —

(a) grant or refuse the application for restoration of the mining tenement as the Minister thinks fit, irrespective of whether the report recommends the grant or refusal of the application; and

(b) impose on the restored mining tenement any further or other conditions that the Minister considers reasonable.

Note: The heading to amended section 97A is to read:

Application for cancellation of forfeiture

35. Sections 98, 99 and 100 deleted

Delete sections 98, 99 and 100.

36. Section 101 amended

In section 101(1) and (2) delete "section 96 or 98" and insert:

section 96C(1)

37. Section 102 amended

(1) In section 102(1):

(a) delete "a certificate of exemption in the prescribed form" and insert:

an exemption

(b) delete "relating thereto, in an amount not exceeding the amount required to be expended — " and insert:

for the mining tenement —

(2) Delete section 102(1a) and insert:

(1A) An application for exemption may relate to more than 1 mining tenement.

(1B) An applicant for an exemption must lodge within the prescribed period and in the prescribed manner a statutory declaration made by the applicant setting out the reasons for which the exemption is sought.

(3) In section 102(2) delete "A certificate of exemption" and insert:

An exemption

(4) In section 102(3) delete "a certificate of exemption" and insert:

an exemption

(5) Delete section 102(6) and (7) and insert:

(6) The warden must, as soon as practicable after the hearing of an application for exemption under subsection (5)(a), give to the Minister for the Minister's consideration a report which recommends the grant or refusal of the application and sets out the reasons for that recommendation.

(7) If the warden finds that the reasons given by the holder of the mining lease are sufficient to justify the granting of an exemption and so recommends, or if the Minister is satisfied whether or not a recommendation is made by the warden, the Minister may grant an exemption totally or partially exempting the mining lease from the prescribed expenditure conditions for the mining lease in the period of 5 years from the commencement of the year to which the application relates.

38. Section 102A amended

(1) In section 102A(1):

(a) delete "a certificate in the prescribed form" and insert:

an exemption

(b) delete "licence in an amount not exceeding the amount required to be expended in any one year." and insert:

licence.

(2) Delete section 102A(1a) and insert:

(1A) An application referred to in subsection (1) may relate to more than 1 exploration licence.

(1B) An applicant must lodge within the prescribed period and in the prescribed manner a statutory declaration made by the applicant setting out the reasons for which the exemption is sought.

39. Section 103 amended

In section 103:

(a) delete "a certificate of exemption" and insert:

an exemption

(b) delete "certificate," and insert:

exemption,

40. Section 111A amended

In section 111A(2) delete "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" and insert:

prescribed, but not within the period prescribed, for the purposes of section 78(1)(b)(i) for the renewal of the lease with effect from the expiry of the initial

41. Section 120Q amended

Delete section 120Q(2)(a) and insert:

(a) in the case of a mining tenement — a failure to pay the prescribed royalty in respect of the mining tenement in accordance with this Act for the purposes of section 96(2)(a)(i), (b)(i), (c)(i), (d)(i) or (e)(i), as the case requires; or

42. Part IX heading replaced

Delete the heading to Part IX and insert:

Part 9 — General

Division 1 — Miscellaneous and regulations

43. Section 162B amended

After section 162B(2) insert:

(3) The regulations may prescribe the following —

(a) circumstances in which the Minister or a warden must not exercise the power under subsection (1);

(b) the maximum period by which the period or the time for doing a thing may be extended under subsection (1);

(c) that a period or time is excluded from the operation of subsection (1) or (2).

44. Section 162 amended

(1) In section 162(2):

(a) after paragraph (ba) insert:

(bb) provide for the time at which an amount or fee submitted in respect of an application lodged under this Act, or an instrument lodged for registration under this Act, is taken to have been received for the purposes of this Act;

(b) after paragraph (eg) insert:

(eh) provide that where the last day for doing a thing under this Act (the ***compliance day***) would otherwise be an excluded day as defined in the *Interpretation Act 1984* section 61(2), the compliance day is the last day before that excluded day that is not also an excluded day;

(c) delete paragraph (x) and insert:

(x) authorise and regulate the copying, storage, making available for public inspection, release, publication and dissemination of information contained in a mining tenement document;

(2) Delete section 162(2a) and (3A) and insert:

(2A) Subsection (2)(x) applies to information irrespective of when the mining tenement document was made, lodged, given or provided.

(2B) In subsections (2) and (2A) —

mining tenement document means any of the following —

(a) an application for or in respect of a mining tenement or a document that accompanies, or is lodged or furnished in respect of, the application;

(b) an agreement, claim, report, notice of objection, security, caveat or other document made in respect of a mining tenement;

(c) a document containing any other information supplied under this Act to the Minister, a warden or any official of the Department.

45. Part IX Division 2 inserted

After section 163 insert:

Division 2 — Compliance with prescribed requirements

164. Terms used

(1) In this Division —

amendment, of a mining tenement, means —

(a) an amendment relating to the land the subject of a mining tenement to include private land; or

(b) an amalgamation of a mining tenement with another mining tenement, including, for example, a mining tenement that has been surrendered or forfeited or has expired;

applicable laws means —

(a) this Act and the regulations as they were in force when an application for the grant, amendment, renewal or surrender of a mining tenement was lodged; or

(b) the repealed Act, and the regulations under it, if and as they were in force when an application for the grant, amendment, renewal or surrender of a mining tenement was lodged or taken to have been lodged;

complied with includes observed and conformed to;

hearing means the substantive hearing by the warden of proceedings relating to an application for the grant, amendment, renewal or surrender of a mining tenement in relation to which an objection has been lodged;

lodged means —

(a) lodged with a warden; or

(b) lodged or filed with, or at the office of, a mining registrar; or

(c) lodged with the Department electronically, whether by means of the Department's website or otherwise;

prescribed requirements means the requirements of the applicable laws as to —

(a) an application for the grant, amendment, renewal or surrender of a mining tenement; and

(b) the determination of an application for the grant, amendment, renewal or surrender of a mining tenement, including any jurisdictional requirements and requirements to be complied with in relation to the performance of functions;

relevant time means the time of the coming into operation of the *Mining Amendment Act 2026* section 45;

renewal, of a mining tenement, includes —

(a) the further renewal of a mining tenement; and

(b) the restoration of a mining tenement; and

(c) the extension of the term of a mining tenement; and

(d) the approval of retention status for land the subject of a mining tenement;

requirement includes an obligation and a condition.

(2) In this Division —

(a) a reference to an application for the grant, amendment, renewal or surrender of a mining tenement includes a reference to a purported application for the grant, amendment, renewal or surrender of a mining tenement; and

(b) a reference to the grant, amendment, renewal or surrender of a mining tenement includes a reference to the purported grant, amendment, renewal or surrender of a mining tenement; and

(c) a reference to the surrender of a mining tenement includes a reference to the surrender of land the subject of a mining tenement; and

(d) a reference to an application for the surrender of a mining tenement includes a reference to the lodgment of the surrender for registration.

165. Applications lodged before relevant time

(1) Subject to this section, if an application for the grant, amendment, renewal or surrender of a mining tenement was lodged before the relevant time and 1 or more prescribed requirements that applied to the application

were not complied with, the application can be dealt with and be determined after the relevant time as if the prescribed requirements had been complied with.

(2) Subsection (1) does not affect the operation of any other provision of this Act that authorises the mining registrar or warden to request further information in relation to the application, or evidence in support of the application, as the mining registrar or warden may require.

(3) Subsection (1) does not apply to any unpaid application fee for the application and the fee must be paid —

(a) in the case of an application for the grant of a mining tenement —

(i) if there is a hearing — before the commencement of that hearing; or

(ii) if there is no hearing — before the grant of the mining tenement;

or

(b) in the case of an application for the amendment or renewal of a mining tenement —

(i) if there is a hearing — before the commencement of that hearing; or

(ii) if there is no hearing — before the determination of the application.

(4) Subsection (1) does not apply to the extent, if any, that the application is for the grant of a mining tenement in respect of private land if —

(a) under this Act the grant of the mining tenement requires the consent in writing of the owner and the occupier of the private land concerned; and

(b) those consents have not been given.

(5) Subsection (1) does not apply to the extent, if any, that the application is for the amendment, in respect of the land the subject of the mining tenement, to include private land if —

(a) under this Act the amendment requires the consent in writing of the owner and the occupier of the private land concerned; and

(b) those consents have not been given.

(6) Subsection (1) does not apply to an application if, before or after the relevant time, the application has been marked in the register as being invalid.

166. Applications marked as invalid in register

An authorised officer, as defined in section 103A, has the power, and is taken to have always had the power, to mark in the register as being invalid an application assessed by the Department as not having complied with the requirements of the applicable laws that relate to the application.

46. Second Schedule Division 5 inserted

At the end of the Second Schedule insert:

Division 5 — Provisions relating to *Mining Amendment Act 2026*

31. Exemption for land

(1) In this clause —

commencement day means the day on which the *Mining Amendment Act 2026* section 6 comes into operation;

existing exemption instrument means an instrument exempting land that is in effect under section 19 immediately before commencement day.

(2) On and from commencement day, section 19 applies in relation to an existing exemption instrument as if the *Mining Amendment Act 2026* section 6 had not come into operation.

32. Power to cancel or vary term or condition of mining tenement

(1) In this clause —

commencement day means the day on which the *Mining Amendment Act 2026* sections 7, 10(1), 16, 21(2), 28, 29, 31 and 32 come into operation;

relevant provision means section 40(1A), 57(1A), 70B(1A), 71(2), 86(1A), 88(2A), 91B(3A) or 94(2A) as inserted by the *Mining Amendment Act 2026* section 7, 10(1), 16, 21(2), 28, 29, 31 or 32.

(2) A relevant provision applies to a mining tenement granted, or renewed or further renewed, before commencement day.

33. Application for exploration licence

(1) In this clause —

commencement day means the day on which the *Mining Amendment Act 2026* sections 10(2) to (4), 11 and 12 come into operation;

pending application means an application for an exploration licence that was lodged, but had not been finally determined, before commencement day.

(2) Section 57(2C), as inserted by the *Mining Amendment Act 2026* section 10(2), applies to the grant of an exploration licence on a pending application.

(3) Section 57(2I) and (2J), as inserted by the *Mining Amendment Act 2026* section 10(4), apply to a pending application.

(4) On and from commencement day, sections 58 and 59 apply for the purpose of dealing with and determining a pending application as if the *Mining Amendment Act 2026* sections 11 and 12 had not come into operation.

(5) Despite subclause (4), section 59(5), as inserted by the *Mining Amendment Act 2026* section 12(5), applies to a pending application (unless section 59(5), as in force from time to time before commencement day, was complied with before commencement day).

34. Application for retention lease

(1) In this clause —

commencement day means the day on which the *Mining Amendment Act 2026* section 17 comes into operation;

pending application means an application for a retention lease that was lodged, but had not been finally determined, before commencement day.

(2) Section 70D(5), as inserted by the *Mining Amendment Act 2026* section 17, applies to a pending application (unless section 70D(5), as in force from time to time before commencement day, was complied with before commencement day).

35. Application for mining lease or general purpose lease

(1) In this clause —

amending provisions means the *Mining Amendment Act 2026* sections 4, 5(2), 8, 9, 14, 15, 19, 20, 21(1), 22, 23, 24, 27 and 30;

commencement day means the day on which the amending provisions come into operation;

former section 75(5) means section 75(5) as deleted by the *Mining Amendment Act 2026* section 24;

pending application means an application for a mining lease or general purpose lease that was lodged, but had not been finally determined, before commencement day.

(2) On and from commencement day —

(a) section 6(1a) applies in relation to a pending application as if the amending provisions had not come into operation; and

(b) the definition of ***mining development and closure proposal*** in section 8(1) applies in relation to a pending application as if the amending provisions had not come into operation; and

(c) sections 49(1), 56A(8aa), 67(1), 70(8aa) and 70L(1), and Part IV Divisions 3 and 4, apply for the purpose of dealing with and determining a pending application as if the amending provisions had not come into operation.

(3) Former section 75(5), as it applies to a pending application under subclause (2)(c), applies as if paragraphs (a) and (b) were deleted.

36. Renewal of mining lease

(1) In this clause —

commencement day means the day on which the *Mining Amendment Act 2026* sections 25 and 40 come into operation;

pre-commencement application means an application for the renewal, or further renewal, of a pre-commencement mining lease that was made before commencement day;

pre-commencement mining lease means a mining lease granted or acquired before commencement day.

(2) On and from commencement day —

(a) section 78, as amended by the *Mining Amendment Act 2026* section 25, applies for the purpose of renewing and further renewing pre-commencement mining leases; but

(b) section 78 applies in relation to a pre-commencement application that has not been finally determined before commencement day as if

the *Mining Amendment Act 2026* section 25 had not come into operation.

(3) For the purposes of subclause (2)(a), section 78(2A) applies to a pre-commencement mining lease as it applies to a mining lease that is renewed for the further term in the circumstances mentioned in section 78(1)(b)(i) if the pre-commencement mining lease —

(a) was renewed on 1 or more occasions before commencement day; or

(b) was never renewed before commencement day but is renewed on or after commencement day in accordance with subclause (2)(b).

(4) On and from commencement day, the definition of ***late renewal application*** in section 111A(2) includes a pre-commencement application that was covered by that definition as in force from time to time before commencement day.

37. Forfeiture of mining tenement

(1) In this clause —

amending provisions means the *Mining Amendment Act 2026* sections 13, 18, 26, 33, 34, 35, 36 and 41;

commencement day means the day on which the amending provisions come into operation;

event includes breach, failure, non-compliance and omission;

existing mining tenement means a mining tenement granted or acquired before commencement day;

ground for forfeiture means —

(a) an event referred to in section 96(2)(a) to (e) as inserted by the *Mining Amendment Act 2026* section 33; or

(b) an event in relation to which an application may be made to the warden under section 96B(1) or 96C(1)

as inserted by the *Mining Amendment Act 2026* section 33; or

(c) a failure to pay an amount as referred to in section 120Q(1).

(2) Sections 96 to 97, as inserted by the *Mining Amendment Act 2026* section 33, apply in relation to —

(a) an existing mining tenement; and

(b) a ground for forfeiture that occurred before commencement day in respect of an existing mining tenement.

(3) Despite subclause (2), sections 96 to 97, as inserted by the *Mining Amendment Act 2026* section 33, do not apply in relation to a ground for forfeiture in respect of an existing mining tenement if —

(a) the ground for forfeiture occurred before commencement day; and

(b) either of the following applies —

(i) before commencement day, the ground for forfeiture was the subject of an application made under section 96 or 98 as in force from time to time before commencement day;

(ii) before commencement day, the ground for forfeiture was considered by the Minister for the purposes of section 96A or 97, as in force from time to time before commencement day, as a ground, or as a potential ground, for the forfeiture of the existing mining tenement, or for the imposition of a penalty, under that section.

(4) Section 120Q(2)(a), as inserted by the *Mining Amendment Act 2026* section 41, applies to a failure to pay an amount as referred to in section 120Q(1) that occurred before commencement day.

(5) Despite subclause (4), section 120Q(2)(a), as inserted by the *Mining Amendment Act 2026* section 41, does not apply to a failure to pay an amount as referred to in section 120Q(1) if the failure to pay the amount is a ground for forfeiture in respect of an existing mining tenement that is covered by subclause (3).

(6) On and from commencement day, this Act applies in relation to the following as if the amending provisions had not come into operation —

(a) a ground for forfeiture in respect of an existing mining tenement that is covered by subclause (3);

(b) without limiting paragraph (a) —

(i) an application made before commencement day under section 96, 97A or 98 as in force from time to time before commencement day;

(ii) the forfeiture of an existing mining tenement that occurred before commencement day;

(iii) the imposition, before commencement day, of a penalty on the holder of an existing mining tenement as an alternative to forfeiture of the existing mining tenement;

(iv) anything else that was done or occurred before commencement day under sections 96 to 100 as in force from time to time before commencement day.

38. Exemption from expenditure condition

(1) In this clause —

commencement day means the day on which the *Mining Amendment Act 2026* sections 37 and 38 come into operation;

former section 102(1) means section 102(1) as in force from time to time before commencement day;

former section 102A(1) means section 102A(1) as in force from time to time before commencement day.

(2) On and from commencement day —

(a) a certificate of exemption granted under former section 102(1) that is in effect immediately before commencement day is taken to be an exemption granted under section 102(1) as amended by the *Mining Amendment Act 2026* section 37; and

(b) a certificate granted under former section 102A(1) that is in effect immediately before commencement day is taken to be an exemption granted under section 102A(1) as amended by the *Mining Amendment Act 2026* section 38.

(3) An application for a certificate of exemption made under former section 102(1) that has not been finally determined before commencement day is to be dealt with and determined under section 102 as amended by the *Mining Amendment Act 2026* section 37.

(4) An application for a certificate made under former section 102A(1) that has not been finally determined before commencement day is to be dealt with and determined under section 102A as amended by the *Mining Amendment Act 2026* section 38.

(5) For the purposes of subclauses (3) and (4), a statutory declaration that was lodged under the *Mining Regulations 1981* regulation 54(3) before commencement day in respect of an application is taken to have been lodged under section 102(1B) or 102A(1B), as the case requires.

39. Continuing application of regulation

(1) In this clause —

commencement day has the meaning given in clause 31(1), 33(1), 35(1), 36(1) or 37(1), as the case requires.

(2) For the purpose of giving effect to clause 31(2), 33(4), 35(2), 36(2)(b) or 37(6), any relevant regulation in force before commencement day applies on and from commencement day as it applied before commencement day, despite the regulation being repealed or amended on or after commencement day.

40. Transitional regulations

(1) In this clause —

commencement day means the day on which the *Mining Amendment Act 2026* section 46 comes into operation;

publication day, in relation to transitional regulations, means the day on which the regulations are published in accordance with the *Interpretation Act 1984* section 41(1)(a);

transitional regulations means regulations made for the purposes of subclause (2).

(2) The regulations may deal with matters of a transitional, savings or application nature arising as a result of the enactment of the *Mining Amendment Act 2026*.

(3) Transitional regulations may not be made after the end of the period of 2 years beginning on commencement day.

(4) If transitional regulations provide that a state of affairs is taken to have existed, or not to have existed, on and from a day that is earlier than publication day, but not earlier than commencement day, the regulations have effect according to their terms.

(5) If transitional regulations contain a provision referred to in subclause (4), the provision does not operate so as to —

(a) affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before publication day; or

(b) impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before publication day.

Notes for this Division:

1. This Division applies, as relevant, for the purpose of dealing with and determining an application in accordance with section 165(1) as if the prescribed requirements referred to in section 165(1) had been complied with.

2. For example —

   (a) sections 58 and 59 apply in accordance with clause 33(4) for the purpose of dealing with and determining, in accordance with section 165(1), an application for an exploration licence as if the prescribed requirements referred to in section 165(1) had been complied with; and

   (b) the provisions referred to in clause 35(2)(c) apply in accordance with clause 35(2)(c) for the purpose of dealing with and determining, in accordance with section 165(1), an application for a mining lease or general purpose lease as if the prescribed requirements referred to in section 165(1) had been complied with.

Part 3 — *Mining Legislation Amendment Act 2014* amended

47. Act amended

This Part amends the *Mining Legislation Amendment Act 2014*.

48. Sections 4 to 7 deleted

Delete sections 4 to 7.

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