

Queensland



MINERAL RESOURCES AMENDMENT ACT 1995

Act No. 21 of 1995

Queensland



MINERAL RESOURCES AMENDMENT ACT 1995

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Queensland



Mineral Resources Amendment Act 1995

Act No. 21 of 1995

An Act to amend the *Mineral Resources Act 1989*, and for related purposes

[Assented to 11 April 1995]

The Parliament of Queensland enacts—**Short title**

1. This Act may be cited as the *Mineral Resources Amendment Act 1995*.

Commencement

2.(1) This Act (other than section 106(1), (3) and (4)) commences on a day to be fixed by proclamation.

(2) Section 106(1), (3) and (4) is taken to have commenced on 1 September 1990.¹

Amended Act

3. This Act (other than section 107 and Schedule 2) amends the *Mineral Resources Act 1989*.

Amendment of s 1.4 (Application of Act to Commonwealth land and territorial sea of Australia)

4.(1) Section 1.4, heading, ‘**territorial sea of Australia**’—

omit, insert—

‘**coastal waters of the State**’.

(2) Section 1.4(1), ‘territorial sea of Australia’—

omit, insert—

‘coastal waters of the State’.

¹ Section 106(1), (3) and (4) amends the *Mineral Resources Act 1989*, Schedule 2 (Savings, transitional and validation). The Act commenced on 1 September 1990.

Amendment of s 1.8 (Interpretation)

5.(1) Section 1.8, definitions “**Act relating to mining**”, “**company**”, “**Director-General**”, “**eligible person**”, “**hand mining**”, “**holder**”, “**member of the family**”, “**mining registrar**”, “**occupied land**”, “**officer**”, “**owner**”, “**reserve**” and “**road**”—

omit.

(2) Section 1.8—

insert—

“**adjoining lots**” includes lots that would be adjoining lots if they were not separated by a road.

“**aggrieved person**” see—

- section 3.22²
- section 4.63.³

“**building**” means a fixed, roofed structure that is completely or partly enclosed by walls.

“**company**” means the following entities within the meaning of the Corporations Law—

- (a) a company;
- (b) a recognised company;
- (c) a registered foreign company.

“**condition**” includes term.

“**contaminated land**” see section 1.8A.

“**district prospecting permit**” see section 3.2.

“**educational institution**” means a school, college, university or university college.

“**eligible person**” means—

- (a) an adult; or

² Section 3.22 (Appeals about prospecting permits)

³ Section 4.63 (Appeals about mining claims)

- (b) a company; or
- (c) a local government that acquires a mining claim or mining lease under the *Local Government Act 1993*, Chapter 10, Part 7⁴; or
- (d) an educational institution the Minister treats as an eligible person under section 1.8B.

“enter” land includes remain on the land.

“environment” has the meaning given by the *Environmental Protection Act 1994*.⁵

“environmental impact”, of the use, development or protection of land, includes the following—

- (a) positive or adverse impact on the environment;
- (b) temporary or irreversible impact on the environment;
- (c) cumulative impact on the environment over time or in combination with other impacts because of the scale, intensity, duration or frequency of the impacts;
- (d) potential impact on the environment that—
 - (i) is highly likely to happen; or
 - (ii) may be serious or irreversible but is unlikely to happen.

“environmental impact statement”, for a proposed mining project, means a document, prepared in accordance with guidelines under this Act, about the environmental impact of the project.

“exploration permit” means an exploration permit under Part 5.

⁴ Part 7 is about the recovery of rates.

⁵ Under the *Environmental Protection Act 1994*, “environment” includes—

- (a) ecosystems and their constituent parts, including people and communities; and
- (b) all natural and physical resources; and
- (c) the qualities and characteristics of locations, places and areas, however large or small, that contribute to their biological diversity and integrity, intrinsic or attributed scientific value or interest, amenity, harmony and sense of community; and
- (d) the social, economic, aesthetic and cultural conditions that affect, or are affected by, matters mentioned in paragraphs (a) to (c).

“hand mining” means mining using hand operated tools, including, for example, picks, shovels, hammers, gads, sieves and windlasses, but does not include mining using explosives.

“hazardous substance” has the meaning given by the *Contaminated Land Act 1991*.⁶

“holder”, for a prospecting permit, exploration permit, mining claim, mineral development licence or mining lease, means the person in whose name the permit, claim, licence or lease is recorded, and includes a person mentioned in section 3.1, definition “holder”.

“last objection day” means the last day fixed by a mining registrar for objection to an application for a mining claim or mining lease.

“mineral development licence” means a mineral development licence under Part 6.

“mining claim” means a mining claim under Part 4.

“mining project” means mining carried on under 1 or more mining leases as a single integrated undertaking.

“mining lease” means a mining lease under Part 7.

“mining registrar” means—

- (a) for a mining district—the mining registrar assigned to the district; or
- (b) for land—the mining registrar for the mining district in which the land is situated.⁷

“occupier” of land means a person (other than the owner) lawfully occupying the land.

“occupied land” means land (other than land occupied under a permit

⁶ Under the *Contaminated Land Act 1991*, a “hazardous substance” is a substance that because of its quantity, concentration, acute or chronic toxic effects, carcinogenicity, teratogenicity, mutagenicity, corrosiveness, flammability, or physical, chemical or infectious characteristics, may pose a hazard to human health or the environment when improperly treated, stored, disposed of or otherwise managed.

⁷ The mining registrar assigned to a particular mining district is the registrar of a Wardens Court convened in the district. See also section 7.15 (Lodgment of application where land in more than 1 mining district)

under the *Land Act 1994*) of which there is an owner, and includes a reserve.

“officer”, of a company, has the same meaning as officer of a corporation under the Corporations Law.

“owner”, of land, means—

- (a) for a reserve (other than land that is a reserve merely because it is in the Wet Tropics Area)—
 - (i) if the reserve is vested in a trustee—the trustee; or
 - (ii) if the reserve is a road—the entity responsible for its maintenance or in which it is vested; or
 - (iii) if subparagraphs (i) and (ii) do not apply—the person in whom it is vested or, if it is not vested in anyone, the Minister responsible for administering the Act under which it is a reserve; or
- (b) for freehold land—the registered owner of the land; or
- (c) if a person is, or will on performing conditions, be entitled to a deed of grant in fee simple for the land—the person; or
- (d) if an estate in fee simple of the land is being purchased from the State—the purchaser; or
- (e) for a State forest or timber reserve under the *Forestry Act 1959*—the Primary Industries Corporation; or
- (f) for a person who holds land under a lease from the State under the *Aboriginal and Torres Strait Islanders (Land Holding) Act 1985* for land excised from land granted in trust for Aboriginal or Torres Strait Islander purposes under the *Land Act 1994*—the trustees of the land; or
- (g) for a person who holds land from the State under an Act (other than an Act about mining or petroleum) under another kind of lease or occupancy (other than occupation rights under a permit under the *Land Act 1994*) of the land—the person;

and includes, in addition to an owner mentioned in paragraphs (a) to (g)—

- (h) for a forest entitlement area under the *Forestry Act 1959*—the

Primary Industries Corporation; and

- (i) for land in the Wet Tropics Area—the Wet Tropics Management Authority.

“parcel prospecting permit” see section 3.2.

“permanent building” means a building other than a building of a temporary nature.

“prospecting permit” means a prospecting permit granted under Part 3.

“rehabilitation”, of land, includes remediation of contaminated land.

“relevant local government”, for land, means the local government for the local government area in which the land is situated.

“relevant mining district”, for land, means the mining district in which the land is situated.

“reserve” means—

- (a) land that is—
 - (i) a road; or
 - (ii) a State forest or timber reserve under the *Forestry Act 1959*; or
 - (iii) vested in—
 - (A) the Minister administering the *Education (General Provisions) Act 1989*; or
 - (B) Queensland Railways; or
 - (C) the Queensland Housing Commission; or
 - (D) the Minister responsible for the construction of public buildings or the chief executive of that Minister’s department; or
 - (iv) held under the *Transport Planning and Coordination Act 1994*; or
 - (v) granted in trust or reserved for a community purpose under the *Land Act 1994* or another Act; or
- (b) land held under a lease under the *Local Government (Aboriginal*

Lands) Act 1978, section 6;⁸ or

(c) land within the Wet Tropics Area;

but does not include land (other than a road) reserved as a town or suburb under the *Land Act 1994*.

“restricted land” means restricted land (category A) or (category B).

“restricted land (category A)” means land within 100 m laterally of a permanent building used—

- (a) mainly as accommodation or for business purposes; or
- (b) for community, sporting or recreational purposes or as a place of worship.

“restricted land (category B)” means land within 50 m laterally of any of the following features—

- (a) a principal stockyard;
- (b) a bore or artesian well;
- (c) a dam;
- (d) another artificial water storage connected to a water supply;
- (e) a cemetery or burial place.

“road” has the meaning given by the *Land Act 1994*.

“section 4.18 conference” see section 4.18A.

“section 5.39 conference” see section 5.39A.

“section 6.33 conference” see section 6.33A.

“section 7.19 conference” see section 7.19A.

“termination” includes expiry.’.

(3) Section 1.8, definition **“explore”**, paragraph (d)—

omit, insert—

‘(d) doing anything else prescribed under a regulation.’.

(4) Section 1.8, definition **“mineral”**, paragraphs (a), (d) and (j), ‘when

⁸ Section 6 (Grants of leases to councils)

used’—

omit, insert—

‘if mined for use’.

(5) Section 1.8, definition “**mineral**”, paragraphs (k) and (n) ‘for building purposes’—

omit, insert—

‘for building or monumental purposes’.

Insertion of new ss 1.8A and 1.8B

6. After section 1.8—

insert—

‘Meaning of “contaminated land”

1.8A Land, or a building or structure on land, is “**contaminated land**” under this Act if the Minister considers it is affected by a hazardous substance in a way that makes it, or other land, air or water, a hazard to human health or the environment.

‘When educational institution is an eligible person

1.8B The Minister may treat an educational institution as an eligible person under this Act to enable it to apply for and hold a prospecting permit, mining claim or mining lease only if the Minister is satisfied the activities it intends to carry out under the permit, claim or lease are educational or training activities.’.

Amendment of s 1.9 (Crown’s property in minerals)

7. Section 1.9(4)—

omit, insert—

‘(4) Each deed of grant or lease of unallocated State land must contain a reservation of—

- (a) minerals on and below the surface of the land; and
- (b) the right of access for prospecting, exploring or mining.’.

Amendment of s 1.10 (Exclusive right of Crown to grant mining leases etc. irrespective of ownership of mineral)

8. Section 1.10(2)—

omit, insert—

‘(2) Subject to this Act, a prospecting permit, mining claim, exploration permit, mineral development licence or mining lease may be granted over land even though—

- (a) a deed of grant in fee simple from the State may or may not contain a reservation to the State of the relevant mineral on or below the surface of the land; or
- (b) the relevant mineral is not the property of the State.’.

Replacement of ss 3.1–3.5

9. Sections 3.1 to 3.5—

omit, insert—

Division 1—Prospecting permit categories and entitlements

‘Definitions

‘3.1 In this Division—

“holder”, of a prospecting permit, includes a person who is an officer, employee, contractor or agent of the holder if the person is in actual possession of—

- (a) the permit; or
- (b) the holder’s written permission for the person to do something the holder may do under the permit.

‘Categories of prospecting permit

‘3.2(1) A prospecting permit may be granted for—

- (a) a mining district; or
- (b) a lot; or
- (c) 2 or more adjoining lots⁹ owned by the same person.

‘(2) A prospecting permit under subsection (1)(a) is a **“district prospecting permit”**.

‘(3) A prospecting permit under subsection (1)(b) or (c) is a **“parcel prospecting permit”**.

‘Area of land covered by parcel prospecting permit

‘3.3(1) A parcel prospecting permit may be granted for all or part of the land of a lot, or 2 or more adjoining lots owned by the same person.

‘(2) Different parcel prospecting permits may be granted for different parts of a lot, or 2 or more adjoining lots owned by the same person.

‘(3) If an application for a parcel prospecting permit is for only part of the land of a lot, or 2 or more adjoining lots owned by the same person, the permit may be granted for all of the area.

‘Land excluded from prospecting permit

‘3.4(1) Land is excluded from a prospecting permit if it is covered by—

- (a) a mining claim, mineral development licence or mining lease; or
- (b) an application for a mining claim, mineral development licence or mining lease that has not been finally decided.

‘(2) Also, a prospecting permit may be granted for all or part of a fossicking area only if the application for the permit was made, but not decided, before the land became a fossicking area.

‘(3) However, if the holder of, or applicant for, the mining claim, mineral development licence or mining lease consents in writing to an application

⁹ See section 1.8 (Interpretation), definition “adjoining lots”.

for a prospecting permit for land covered by the claim, licence or lease, this section does not apply to the application to the extent stated in the consent.

‘(4) In addition, this section does not apply if—

- (a) the prospecting permit holder is the applicant for the mining claim, mineral development licence or mining lease; and
- (b) there is no other application for a claim, licence or lease for land covered by the prospecting permit.

‘Prospecting permit to be granted to a single person

‘3.5 A prospecting permit may only be issued in the name of a single eligible person.

‘Entitlements under prospecting permit

‘3.5A(1) A holder of a prospecting permit for land may enter the land for—

- (a) purposes necessary to enable the holder to apply for a mining claim or mining lease over the land; or
- (b) prospecting purposes; or
- (c) hand mining for a mineral other than coal.

‘(2) The holder may—

- (a) enter and leave the land using a reasonable type of transport; and
- (b) enter and leave the land through land the permit states is access land.

‘Consent required to enter certain land

‘3.5B(1) A parcel prospecting permit holder may enter the surface of a reserve for prospecting purposes only with the written consent of the owner of the reserve.

‘(2) A district prospecting permit holder may enter the surface of occupied land or a reserve only with the written consent of the owner of the land or reserve.

‘(3) Also, a prospecting permit holder may enter occupied land for hand mining only with the written consent of the owner of the land.

‘(4) In addition, a prospecting permit holder may enter restricted land only with the written consent of the owner of the land where the relevant permanent building, or relevant feature, is situated.

‘(5) Further, a prospecting permit holder may enter land within 50 m laterally of a place where activities are being carried on under an exploration permit only with the written consent of the exploration permit holder.

‘Provisions about consents to enter land

‘3.5C(1) This section applies to consents for a prospecting permit holder to enter land.

‘(2) In the absence of evidence to the contrary, the consent of an owner who is a joint tenant or tenant in common with other owners, is taken to be the consent of all the owners.

‘(3) If the owner of land cannot be easily contacted, a consent may be given for the land by the land’s occupier.

Examples of the owner not being easily contacted—

1. The owner does not live in Australia and there is no known current overseas address for the owner.

2. The owner is travelling in Australia and there is no known current address for the owner.

‘(4) Consent under this section may be given on conditions.

‘(5) The holder of a consent must comply with the consent’s conditions.

Maximum penalty for subsection (5)—10 penalty units.

‘(6) A consent given for land may be amended or withdrawn by the land’s owner (or, if given by the occupier, the occupier) by written notice given to the holder and mining registrar.

‘Division 2—Other provisions about prospecting permits**‘Application for prospecting permit**

‘3.5D An application for a prospecting permit for land must—

- (a) be made in the approved form and lodged with the mining registrar; and
- (b) be accompanied by—
 - (i) proof, to the mining registrar’s satisfaction, of the applicant’s identity; and
 - (ii) the fee prescribed under a regulation; and
- (c) state the applicant’s name, and address for service of notices; and
- (d) if the application is for a parcel prospecting permit—
 - (i) identify, by sketch and description, or in another way acceptable to the mining registrar, the land over which the permit is sought and land proposed to be used as access; and
 - (ii) state the name and address of each owner of occupied land over which the permit is sought; and
 - (iii) state the name and address of each owner of land proposed to be used as access.’.

Amendment of s 3.8 (Grant of prospecting permit)

10.(1) Section 3.8(1)—

omit, insert—

‘3.8(1) A mining registrar may grant a prospecting permit for land if the mining registrar is satisfied an eligible person has—

- (a) made a genuine application that complies with this Part; and
- (b) deposited the amount of security required to be deposited for the permit.’.

(2) Section 3.8(4)—

omit, insert—

‘(4) For subsection (3), a company is taken to have contravened a provision of this Act if the person contravening the provision is—

- (a) an officer or employee of the company; or
- (b) someone else who is in a position to control or substantially influence the company’s affairs.’.

Amendment of s 3.10 (Provision of security)

11.(1) Section 3.10—

insert—

‘(1A) If the mining registrar fixes an amount of security under subsection (1), the amount must not be less than the amount prescribed under a regulation.’.

(2) Section 3.10(4)—

omit, insert—

‘(4) The mining registrar may, at any time (whether before or after the expiry or cancellation of a prospecting permit) use all or part of the security deposited for the permit to rectify actual damage caused by someone acting under the permit.’.

(3) Section 3.10(10)—

renumber as section 3.10(14).

(4) Section 3.10(8) to (9)—

omit, insert—

‘(8) Subsection (9) applies if an amount of security deposited by a holder of a prospecting permit has not been used when the permit terminates and—

- (a) for a parcel prospecting permit—the owner of the occupied land covered by the permit—
 - (i) gives the mining registrar written approval to refund the security; or
 - (ii) does not make a claim against the security within—
 - (A) 28 days after the termination; or

- (B) a longer period (of not more than 3 months) fixed by the mining registrar by written notice given to the permit holder and owner; or
- (b) for a district prospecting permit—an owner of land covered by the permit does not make a claim against the security within—
 - (i) 28 days after the termination; or
 - (ii) a longer period (of not more than 3 months) fixed by the mining registrar by written notice given to the permit holder and owner.

‘(9) After deducting the amount the mining registrar considers should be held for use under subsection (4), the mining registrar may refund the balance of the security.

‘(10) The mining registrar must refund the amount to the permit holder or in accordance with any written direction the holder gives the mining registrar.

‘(11) In the absence of evidence to the contrary, the approval of an owner who is a joint tenant or tenant in common is taken to be the approval of all the owners for subsection (8)(a)(i).

‘(12) Subsection (9) does not limit the mining registrar’s powers under subsection (14).

‘(13) If—

- (a) a prospecting permit holder applies for a mining claim or mining lease; and
- (b) the application has not been finally decided when the permit is terminated; and
- (c) after the application is decided, an amount held as security under this section is not held as security for the claim or lease;

the amount may be refunded under subsection (8).’.

Replacement of s 3.13 (Term of prospecting permit)

12. Section 3.13—

omit, insert—

‘Term of prospecting permit

‘3.13(1) A prospecting permit may be granted for—

- (a) if it is a district prospecting permit—1 or more months but not longer than 1 year; or
- (b) if it is a parcel prospecting permit—3 months.

‘(2) A prospecting permit’s term must—

- (a) be stated in the permit; and
- (b) not start before the day the permit is granted.’.

Amendment of s 3.15 (Mining registrar to notify owners of occupied land of grant of prospecting permit)

13.(1) Section 3.15, heading **‘prospecting permit’**—

omit, insert—

‘parcel prospecting permit’.

(2) Section 3.15(1), **‘prospecting permit’**—

omit, insert—

‘parcel prospecting permit’.

Replacement of s 3.16 (Prior notice of entry to be served)

14. Section 3.16—

omit, insert—

‘Notice of entry under parcel prospecting permit

‘3.16(1) A parcel prospecting permit holder must give the owner of the land covered by the permit notice of entry before initial entry is made under the permit.

‘(2) The notice must be given at least 7 days before the intended entry (or a shorter time acceptable to the owner and endorsed on the notice).

‘(3) If the owner cannot be easily contacted, the holder may notify the occupier of the land of the intended entry.

Examples of the owner not being easily contacted—

1. The owner does not live in Australia and there is no known current address for the owner.

2. The owner is travelling within Australia and there is no known current address for the owner.

‘(4) If the holder satisfies the mining registrar it is impracticable to give either the owner or occupier notice of the intended entry, the mining registrar may dispense with the need to give notice.

‘(5) If the mining registrar dispenses with the need to give notice, the mining registrar must make an appropriate endorsement on the permit.

‘(6) However, before making the endorsement, the mining registrar may require the holder to take the action the mining registrar considers appropriate to publicise the proposed entry, including, for example, publishing an advertisement in a newspaper or other publication.’.

Replacement of s 3.22 (Review of mining registrar’s determination)

15. Section 3.22—

omit, insert—

‘Appeals about prospecting permits

‘**3.22(1)** A person whose interests are adversely affected by a decision to which this section applies (the “**aggrieved person**”) may appeal against the decision to the Wardens Court.

‘(2) This section applies to the following decisions of a mining registrar—

- (a) a decision to refuse to grant a prospecting permit;
- (b) a decision to impose a condition on a prospecting permit;
- (c) a decision to vary a condition imposed on a prospecting permit;
- (d) a decision to require an applicant for, or holder of, a prospecting permit to deposit security;¹⁰
- (e) a decision about the use of security deposited by a prospecting

¹⁰ See section 3.10 (Provision of security).

permit holder towards rectification of damage caused by noncompliance with permit conditions;¹⁰

- (f) a decision to require a prospecting permit holder to pay an amount to the State by way of penalty for a breach of a permit condition;¹¹
- (g) a decision to cancel a prospecting permit.

‘How to start an appeal

‘3.22A(1) An appeal is started by filing a written notice of appeal with the mining registrar.

‘(2) The notice of appeal must be filed within 28 days after the aggrieved person receives notice of the decision appealed against.

‘(3) However, if—

- (a) the decision did not state the reasons for the decision; and
- (b) the person asked for a statement of reasons for the decision within the period mentioned in subsection (2);

the person may make the application within 28 days after the person is given the statement of reasons.

‘(4) In addition, the Wardens Court may extend the period for filing the notice of appeal.

‘(5) The notice of appeal must state the grounds of appeal.

‘Stay of operation of decisions

‘3.22B(1) The Wardens Court may stay a decision appealed against to secure the effectiveness of the appeal.

‘(2) A stay—

- (a) may be given on conditions the Wardens Court considers appropriate; and
- (b) operates for the period fixed by the Wardens Court; and

¹¹ See section 3.19 (Penalty for breach of conditions).

(c) may be revoked or amended by the Wardens Court.

‘(3) The period of a stay fixed by the Wardens Court must not extend past the time when the Wardens Court decides the appeal.

‘(4) A decision, or the carrying out of a decision, is affected by the starting of an appeal against the decision only if the decision is stayed.

‘Hearing procedures

‘3.22C(1) In deciding an appeal, the Wardens Court—

- (a) is not bound by the rules of evidence; and
- (b) must observe natural justice; and
- (c) may hear the appeal in court or chambers.¹²

‘(2) An appeal is by way of rehearing.

‘Powers of Wardens Court on appeal

‘3.22D(1) In deciding an appeal, the Wardens Court may—

- (a) confirm the decision appealed against; or
- (b) set the decision aside and substitute another decision; or
- (c) set aside the decision and return the issue to the mining registrar with directions the Wardens Court considers appropriate.

‘(2) In substituting another decision, the Wardens Court has the same powers as the mining registrar.

Example—

The Wardens Court may decide that an unsuccessful applicant for a prospecting permit be granted the permit and impose conditions on it.

‘(3) If the Wardens Court substitutes another decision, the substituted decision is taken to be the decision of the mining registrar.’.

¹² Under section 10.24 (Practice and procedure of Wardens Court), if the Act is silent or does not sufficiently state the practice and procedure applying in the Wardens Court, the practice and procedure of Magistrates Courts apply.

Replacement of s 3.27 (Staying on occupied land)**16. Section 3.27—**

omit, insert—

‘Staying on occupied land

‘3.27(1) A person entitled to enter occupied land under a district prospecting permit must not enter land at night without the written consent of the land’s owner.

Maximum penalty—10 penalty units.

‘(2) A person entitled to enter occupied land under a parcel prospecting permit must not enter the land at night without the written consent of the land’s owner or the mining registrar.

Maximum penalty—10 penalty units.

‘(3) In the absence of evidence to the contrary, the consent of an owner who is a joint tenant or tenant in common is taken to be the consent of all the owners.

‘(4) If the owner of land cannot be easily contacted, a consent may be given for the land by the land’s occupier.

Examples of the owner not being easily contacted—

1. The owner does not live in Australia and there is no known current address for the owner.

2. The owner is travelling within Australia and there is no known current address for the owner.

‘(5) Consent under this section may be given on conditions.

‘(6) The mining registrar’s consent and any consent conditions must be endorsed on the permit.

‘(7) A person who enters occupied land at night with a consent under this section must comply with conditions imposed by the owner or occupier of the land or the mining registrar.

Maximum penalty—10 penalty units.

‘(8) A person on occupied land under a prospecting permit must dispose of rubbish and human waste in a safe and sanitary way.

Maximum penalty—10 penalty units.’.

Replacement of s 4.4 (Land over which mining claim not to be granted)

17. Section 4.4—

omit, insert—

‘Land for which mining claim not to be granted

‘4.4(1) A mining claim may not be granted for land covered by—

- (a) an existing mining claim; or
- (b) a mining lease; or
- (c) a mineral development licence; or
- (d) an earlier application for a mining claim, mineral development licence or mining lease that has not been finally decided or withdrawn; or
- (e) an exploration permit or earlier application for an exploration permit unless the applicant for the claim gives the mining registrar the written consent of the holder of, or applicant for, the permit on or before the last objection day.

‘(2) A mining claim may be granted over the surface of land that is restricted land when the application for the claim was lodged only if—

- (a) the owner of the land where the relevant permanent building, or relevant feature, is situated, consents in writing to the application; and
- (b) the applicant lodges the owner’s written consent with the mining registrar before the last objection day ends.’.

Amendment of s 4.6 (Area and shape of mining claim land)

18. Section 4.6(1)—

omit, insert—

‘4.6(1) The land for which a mining claim may be granted—

- (a) must be—
 - (i) rectangular in shape; or

- (ii) of the dimensions prescribed under a regulation; and
- (b) must be more or less the prescribed area.

‘(1A) However, the mining registrar may, for a particular mining claim, accept an application for a mining claim over land of a different shape.’.

Amendment of s 4.14 (Application for grant of mining claim)

19. Section 4.14(1)(j)(iv)—

omit, insert—

- ‘(iv) an outline, to the mining registrar’s satisfaction, of the proposed mining program that—
 - (A) states when operations are expected to start; and
 - (B) briefly describes the measures the applicant plans to take to minimise adverse environmental impact; and
 - (C) includes proposals for the progressive and final rehabilitation of the land.’.

Amendment of s 4.17 (Certificate of application etc.)

20.(1) Section 4.17(1A)—

omit, insert—

‘(1A) The mining registrar must endorse on the certificate of application—

- (a) the number of the proposed mining claim; and
- (b) the date and time the application was lodged; and
- (c) the day the mining registrar fixes, at least 28 days after the day of the certificate’s issue, as the last objection day for the application.

‘(1AA) The person who lodged the application must sign the certificate.’.

(2) Section 4.17(1B), ‘as prescribed in subsection (1A)’—

omit.

Replacement of s 4.18 (Owner of land may request conference)

21. Section 4.18—

omit, insert—

‘Mining registrar may call conference in some cases

‘4.18(1) This section applies if—

- (a) within 7 days after receiving a copy of a signed certificate of application for a mining claim (or a longer period allowed by the mining registrar) an owner of land affected by the application gives the mining registrar a written request for a conference, stating the things the owner wants to discuss about the application; or
- (b) for another reason, the mining registrar considers it desirable to call a conference to discuss things about a mining claim or an application for a mining claim.

‘(2) If subsection (1)(a) applies, the mining registrar must call a conference about the application, by written notice given to the owner of the land and the applicant.

‘(3) If subsection (1)(b) applies, the mining registrar may call a conference about the mining claim or application, by written notice given to—

- (a) the owners of land affected by the mining claim or application; and
- (b) the claim holder or applicant; and
- (c) anyone else the mining registrar considers should be given notice of the conference.

‘(4) The notice must state when and where the conference will be held, and what is to be discussed at the conference.

‘(5) If the conference is about an application, the conference must be held before the last objection day ends.

‘Who may attend conference

‘4.18A(1) Apart from the mining registrar, anyone given notice of a

conference about an application for a mining claim or a mining claim (a “**section 4.18 conference**”) may attend and take part in the conference.

‘(2) Also, with the mining registrar’s approval, someone else may be present to help a person attending the conference.

‘(3) However, a person may not be represented at the conference by a lawyer.

‘What happens if someone does not attend

‘**4.18B** The mining registrar may hold a section 4.18 conference even though someone given notice of the conference does not attend the conference.

‘Mining registrar’s function at section 4.18 conference

‘**4.18C** The mining registrar must endeavour to help those attending a section 4.18 conference to reach an early, inexpensive settlement of the things discussed.

‘Agreements and statements at section 4.18 conference

‘**4.18D(1)** If parties to a section 4.18 conference reach agreement about something discussed at the conference, the parties must—

- (a) put the agreement into writing; and
- (b) sign the agreement; and
- (c) if the agreement is about an application for a mining claim—lodge it with the mining registrar on or before the last objection day.

‘(2) A person attending or present at the conference must not disclose or publish anything said at the conference other than in an agreement mentioned in subsection (1).

‘(3) Nothing said by a person at the conference is admissible in a proceeding without the person’s consent.

‘Wardens Court may award costs

‘4.18E(1) If—

- (a) a person agrees to attend a section 4.18 conference but does not attend; and
- (b) someone else does attend (the “**attending party**”);

the attending party may apply to the Wardens Court for an order requiring the person who did not attend to pay the attending party’s reasonable costs.

‘(2) If the Wardens Court orders a person to pay the attending party’s costs, the Wardens Court must decide the amount of the costs of attending.

‘(3) However, the Wardens Court must not order a person to pay costs if the Wardens Court is satisfied the person had a reasonable excuse for not attending the conference.¹³’.

Amendment of s 4.19 (Objection to application for grant of mining claim)

22.(1) Section 4.19(1) and (2)—

omit, insert—

‘4.19(1) An entity may, on or before the last objection day ends, lodge a written objection in the approved form to an application for a mining claim.

‘(2) An owner of land who attends a conference about an application for a mining claim may, even though the time for objecting to the application has ended, lodge an objection to the application within 7 days after—

- (a) the day the conference ends; or
- (b) if the applicant did not attend the conference—the day the owner attended the conference.’.

(2) Section 4.19(5)—

omit.

¹³ Orders of a Wardens Court may be enforced under section 10.34 (Enforcement of decisions etc. of Wardens Court).

Replacement of s 4.22 (Grant of mining claim where no objection to application and necessary consents obtained)

23. Section 4.22—

omit, insert—

‘Grant of mining claim to which no objection is lodged

‘4.22(1) This section applies to an application for a mining claim for land if—

- (a) no-one objects to the application on or before the last objection day; and
- (b) at least 7 days have passed since the end of any section 4.18 conference about the application.

‘(2) The mining registrar may grant a mining claim for the land to an applicant for the mining claim only if the mining registrar is satisfied—

- (a) the application complies with this Part; and
- (b) any consents needed in relation to the land have been obtained.

‘(3) The applicant must give written notice of the grant to the owners of land covered by the claim.

‘(4) The notice must be given within 28 days after the applicant receives notice of the grant.’

Replacement of s 4.24 (Reference to Wardens Court where owner of reserve does not consent to grant of mining claim

24. Section 4.24—

omit, insert—

‘Reference of application to Wardens Court if consent of reserve’s owner is not given

‘4.24(1) If the mining registrar is not satisfied an owner of a reserve consented to an application for a mining claim for the reserve, the mining registrar must fix a day, within 7 days after the later of the following, for consideration by the Wardens Court of the issue of the consent—

- (a) the last objection day for the application; or

(b) the end of any section 4.18 conference about the application.

‘(2) The mining registrar must immediately give the applicant for the mining claim and the owner of the reserve notice of the day fixed under subsection (1).’.

Amendment of s 4.25 (One hearing by Wardens Court)

25.(1) Section 4.25 (heading)—

omit, insert—

‘Wardens Court hearing’.

(2) Section 4.25(1)—

omit, insert—

‘**4.25(1)** The Wardens Court must hear and decide all issues in relation to an application for a mining claim and any objections to the application at the same hearing.’.

Amendment of s 4.28 (Grant of mining claim at instruction of Wardens Court or with consent of Governor in Council)

26. Section 4.28—

insert—

‘(2) The applicant for the grant of the mining claim must give written notice of the grant to the owners of land covered by the claim.

‘(3) The notice must be given within 28 days after the applicant receives notice of the grant.’.

Amendment of s 4.31 (Provision of security)

27.(1) Section 4.31(1)(d)—

omit, insert—

‘(d) amounts (other than penalties) payable to the State under this Act.’.

(2) Section 4.31(5)—

omit.

(3) Section 4.31(6), ‘as provided by subsection (4) or (5)’—

omit, insert—

‘under subsection (4)’.

(4) Section 4.31(9)—

omit, insert—

‘**(9)** If a mining claim terminates, the mining registrar may, not earlier than 28 days after the termination, refund the amount of security held for the mining claim, after deducting any amount used under subsection (4).

‘**(9A)** The mining registrar must refund the amount to the holder of the claim or in accordance with any written direction the holder gives to the mining registrar.

‘**(9B)** However, before refunding the security, the mining registrar may also deduct the amount the mining registrar considers appropriate to apply in the following order towards—

- (a) rectifying anything caused by noncompliance with—
 - (i) a condition of the mining claim; or
 - (ii) an order given to the holder by the mining registrar; and
- (b) amounts (other than penalties) the holder owes to the State under this Act or the conditions of the mining claim (including amounts that became payable before or after the termination of the claim); and
- (c) rates and charges (including interest on unpaid rates and charges) owing to a local government for the mining claim by the former holder.

‘**(9C)** Subsection (9) does not limit the mining registrar’s powers under subsection (10).’.

(5) Section 4.31(10), ‘under subsection (4)’—

omit.

Amendment of s 4.33 (Compensation to be settled before granting of mining claim)

28. Section 4.33—

insert—

‘(11) An amount of compensation decided by agreement between the parties or the Wardens Court is binding on the parties and the parties’ personal representatives, successors and assigns.’.

Amendment of s 4.34 (Appeal against Wardens Court’s determination upon compensation)

29. Section 4.34—

insert—

‘(5A) In deciding an appeal, the Land Court must consider the things relevant to the appeal that the Wardens Court was required to consider in making the decision appealed against.’.

Amendment of s 4.41 (Renewal of mining claim)

30. Section 4.41—

insert—

‘(7) The holder of a renewed mining claim must give written notice of the claim’s renewal to the owners of the land covered by the claim.

‘(8) The notice must be given within 28 days after the holder receives notice of the renewal.’.

Amendment of s 4.43 (Rental payable on mining claim)

31. Section 4.43(4)(b), ‘31 March’—

omit, insert—

‘1 April’.

Amendment of s 4.51 (Correction of certificate of grant of mining claim)

32. Section 4.51(1)(b)—

omit, insert—

- ‘(b) facts have appeared or been established since the grant of the mining claim justifying correction of the certificate to more accurately reflect the holder’s entitlements under the claim; or’.

Amendment of s 4.55 (Surrender of mining claim)

33.(1) Section 4.55(1)(c)—

omit, insert—

- ‘(c) if land covered by the surrender is not included in an application for a new mining claim or a mining lease—a final rehabilitation report stating how the holder has rehabilitated land affected directly or indirectly by the holder’s mining activities under the claim; and
- (d) the fee prescribed under a regulation.’.

(2) Section 4.55—

insert—

‘(7) However, the mining registrar may accept a surrender for land for which a final rehabilitation report is lodged only if the mining registrar is satisfied the holder has satisfactorily rehabilitated the land.

‘(8) If the mining registrar is not satisfied the holder has satisfactorily rehabilitated land, the mining registrar may, by written notice, give the holder reasonable directions about rehabilitating the land.

‘(9) The holder must comply with the directions.

Maximum penalty for subsection (9)—300 penalty units.’.

Insertion of new s 4.56A

34. After section 4.56—

insert—

‘Rehabilitation of land covered by mining claim

‘4.56A(1) Within 28 days after the termination of a mining claim, the holder must give the mining registrar a final rehabilitation report stating how the holder has rehabilitated land affected directly or indirectly by the holder’s mining activities under the claim.

‘(2) After considering the report, the mining registrar may direct the holder to give the mining registrar further information about the rehabilitation.

‘(3) If the mining registrar is not satisfied the holder has satisfactorily rehabilitated land, the mining registrar may, by written notice, give the holder reasonable directions about rehabilitating the land.

‘(4) The holder must comply with the directions.

Maximum penalty for subsection (4)—300 penalty units.

‘(5) The holder and the holder’s employees or agents may, to the extent reasonably necessary to comply with the directions—

- (a) enter land stated in the notice; and
- (b) bring onto the land vehicles, vessels, machinery and equipment that are approved by the mining registrar for the purpose.

‘(6) This section does not apply if—

- (a) a final rehabilitation report is lodged with a notice of surrender of a mining claim; or
- (b) the termination is for granting a new mining claim or a mining lease over the same land.’

Replacement of s 4.63 (Appeal against mining registrar’s determination)

35. Section 4.63—

omit, insert—

‘Appeals about mining claims

‘4.63(1) An applicant for a mining claim who is dissatisfied with a decision of a mining registrar to refuse to grant the mining claim (the **“aggrieved person”**) may appeal against the decision to the Wardens

Court.

‘(2) A holder of a mining claim who is dissatisfied with any of the following decisions of a mining registrar (also an “**aggrieved person**”) may appeal against the decision to the Wardens Court—

- (a) a decision to impose a condition on a mining claim;
- (b) a decision to require an applicant for, or holder of, a mining claim to deposit security;¹⁴
- (c) a decision to give a direction to a mining claim holder about rehabilitating the land covered by the claim;
- (d) a decision to refuse to renew a mining claim.

‘(3) However, an applicant may not appeal against a decision of a mining registrar made in accordance with a consent of the Governor in Council or decision of a Wardens Court.

‘**How to start an appeal**

‘**4.63A(1)** An appeal is started by filing a written notice of appeal with the mining registrar.

‘(2) The notice of appeal must be filed within 28 days after the aggrieved person receives notice of the decision appealed against.

‘(3) However, if—

- (a) the decision did not state the reasons for the decision; and
- (b) the person asked for a statement of reasons for the decision within the period mentioned in subsection (2);

the person may make the application within 28 days after the person is given the statement of reasons.

‘(4) In addition, the Wardens Court may extend the period for filing the notice of appeal.

‘(5) The notice of appeal must state the grounds of appeal.

¹⁴ See section 4.31 (Provision of security).

‘Stay of operation of decisions

‘**4.63B(1)** The Wardens Court may stay a decision appealed against to secure the effectiveness of the appeal.

‘(2) A stay—

- (a) may be given on conditions the Wardens Court considers appropriate; and
- (b) operates for the period fixed by the Wardens Court; and
- (c) may be revoked or amended by the Wardens Court.

‘(3) The period of a stay fixed by the Wardens Court must not extend past the time when the Wardens Court decides the appeal.

‘(4) A decision, or the carrying out of a decision, is affected by the starting of an appeal only if the decision is stayed.

‘Hearing procedures

‘**4.63C(1)** In deciding an appeal, the Wardens Court—

- (a) is not bound by the rules of evidence; and
- (b) must observe natural justice; and
- (c) may hear the appeal in court or chambers.¹⁵

‘(2) An appeal is by way of rehearing.

‘Powers of Wardens Court on appeal

‘**4.63D(1)** In deciding an appeal, the Wardens Court may—

- (a) confirm the decision appealed against; or
- (b) set the decision aside and substitute another decision; or
- (c) set aside the decision and return the issue to the mining registrar with directions the Wardens Court considers appropriate.

¹⁵ Under section 10.24 (Practice and procedure of Wardens Court), if the Act is silent or does not sufficiently state the practice and procedure applying in the Wardens Court, the practice and procedure of Magistrates Courts apply.

‘(2) In substituting another decision, the Wardens Court has the same powers as the mining registrar.

Example—

The Wardens Court may decide that an unsuccessful applicant for a mining claim be granted the claim and impose conditions on it.

‘(3) If the Wardens Court substitutes another decision, the substituted decision is, for this Act, taken to be the decision of the mining registrar.’.

Replacement of s 4.64 (Effect of termination of mining claim)

36. Section 4.64—

omit, insert—

‘Effect of termination of mining claim

‘**4.64(1)** This section applies on the termination of a mining claim.

‘(2) However, this section (other than subsection (3)) does not apply to a mining claim if the termination is for granting a new mining claim or a mining lease over the same land to the holder of the terminated mining claim.

‘(3) The person who was the holder of the terminated mining claim immediately before its termination must immediately remove each post or other thing used to mark the land under this Act (other than a survey mark or anything else required under another Act not to be removed).

‘(4) On the termination of a mining claim, the ownership of all mineral, ore, tailings and other material (“**mineral**”), and structures, machinery and equipment (“**property**”), on the land covered by the terminated mining claim, divests from the owner and vests in the State.

‘(5) However, subsection (4) applies to property only if it was brought onto the land under the terminated claim.

‘Application may be made for approval to remove mineral and property

‘**4.64A(1)** This section applies to mineral and property that vests in the State on the termination of a mining claim.

‘(2) Anyone who had an interest in the mineral or property immediately before its ownership vests in the State may apply in writing to the mining registrar for permission to remove the mineral or property from the land.

‘(3) The application—

- (a) must be made within 28 days after the mineral or property vests in the State (or a longer period, of not more than 3 months, allowed by the mining registrar); and
- (b) may be made even though a subsequent grant of a mining claim, exploration permit, mineral development licence or mining lease has been made over the land.

‘(4) The mining registrar may approve or refuse to approve the application.

‘(5) However, the mining registrar must approve the application if the mining registrar is satisfied—

- (a) the person was entitled to the mineral or property immediately before it vested in the State; and
- (b) there is enough security held for the mining claim to meet the costs for which it was deposited.¹⁶

‘(6) The approval may be given on conditions stated in it.

‘(7) If the application is approved, the person named in the approval may enter the land and remove mineral or property (other than covers, fencing, casings, linings, timbering or other things securing the safety of the land) stated in the application before the time stated in the approval ends.

‘(8) Anything removed under subsection (7) divests from the State and vests in the person entitled to it immediately before the termination of the mining claim.

‘(9) However, mineral divests from the State and forms part of the land if it is not removed before the later of—

- (a) the end of the time stated in an approval under this section; or
- (b) 3 months after the termination of the mining claim.

¹⁶ See section 4.31.

‘Property remaining on former mining claim may be sold etc.

‘4.64B(1) This section applies if the mining registrar has not received, or has received but not granted, an application for approval to remove property from land covered by a terminated mining claim within 3 months after the claim’s termination.

‘(2) The mining registrar may—

- (a) sell the property by public auction or in another way; or
- (b) if the property has no commercial value—dispose of or destroy it.

‘(3) Proceeds of a sale are to be applied in the following order towards—

- (a) the reasonable expenses incurred in the sale;
- (b) the cost of rectifying actual damage for which an amount of security deposited for the mining claim could have been used but was not used, or was inadequate;
- (c) amounts owing to the State under this Act by the former holder;
- (d) rates and charges (including interest on unpaid rates and charges) owing to a local government by the former holder for the mining claim;
- (e) amounts owing to a mortgagee by the former holder under a mortgage registered under this Act over the mining claim.

‘(4) Any balance must be paid to the former holder.

‘(5) If the mining registrar cannot decide the identity of, or locate, a person entitled to the proceeds or a part of the proceeds, the mining registrar may pay the amount to the Public Trustee as unclaimed moneys.

‘(6) Compensation is not payable for a sale, disposal or destruction under this section.’.

Amendment of s 5.4 (Entitlements under exploration permit)

37.(1) Section 5.4(2)—

omit, insert—

‘(2) An exploration permit authorises a person to enter the surface of restricted land only if—

- (a) the owner of the land where the relevant permanent building, or relevant feature, is situated consents in writing to entry; and
- (b) the exploration permit holder gives the consent to the chief executive.’.

(2) Section 5.4(2B)—

omit.

Amendment of s 5.8 (Application for exploration permit)

38.(1) Section 5.8(g)(iv)—

omit.

(2) Section 5.8(h)—

omit, insert—

‘(h) be accompanied by—

- (i) a statement, acceptable to the Minister, but separate from the statement mentioned in paragraph (g), detailing the applicant’s financial and technical resources; and
- (ii) proof of the applicant’s identity; and
- (iii) the application fee prescribed under a regulation.’.

Amendment of s 5.14 (Periodic reduction in land subject to exploration permit)

39.(1) Section 5.14 (heading)—

omit, insert—

‘Periodic reduction in land covered by exploration permit for mineral other than coal’.

(2) Section 5.14(1)—

omit, insert—

‘5.14(1) Unless the Minister otherwise decides (whether before the grant of an exploration permit or during its term) the area of an exploration permit for a mineral other than coal must be reduced by 50%—

- (a) at the end of the first 2 years after its grant; and
- (b) at the end of each subsequent year.

‘(1A) The area remaining after the reduction must consist of whole sub-blocks.’.

(3) Section 5.14—

insert—

‘(7) Compensation is not payable for a reduction in the area covered by an exploration permit under this section.’.

Insertion of new s 5.14A

40. After section 5.14—

insert—

‘Periodic reduction in land covered by exploration permit for coal

‘5.14A(1) The Minister may require the holder of an exploration permit for coal to reduce the area covered by the permit in the way and to the extent the Minister considers reasonable.

‘(2) However, the Minister may not require the holder to reduce the area covered by the permit to a greater extent than the reduction that must be made for other minerals.¹⁷

‘(3) Compensation is not payable for a reduction in the area covered by an exploration permit under this section.’.

Amendment of s 5.15 (Conditions of exploration permit)

41.(1) Section 5.15(1)(c)—

omit, insert—

‘(c) a condition that the holder must rehabilitate the surface of the land covered by the permit to the Minister’s satisfaction; and’.

(2) Section 5.15(1)(g)—

¹⁷ See section 5.14 (Periodic reduction in land covered by exploration permit for mineral other than coal).

omit, insert—

- ‘(g) a condition that the holder must, when and in the way the Minister requires, give to the Minister—
- (i) progress, relinquishment and final reports, accompanied by maps, sections, charts and other data giving full particulars and results of the exploration program and investigations carried out on the area specified by the Minister, including details of costs incurred for specified periods within the term of the exploration permit; and
 - (ii) materials obtained because of the holder’s activities under the exploration permit; and
 - (iii) an environmental management plan for the holder’s activities under the exploration permit; and’.

(3) Section 5.15(5), after ‘conduct’—

insert—

‘or practice’.

Insertion of new s 5.15A and 5.15B

42. After section 5.15—

insert—

‘Draft guidelines for environmental impact statements

‘5.15A(1) This section applies if an exploration permit holder gives written notice to the Minister of the holder’s plan to prepare an environmental impact statement about a proposed mining project.

‘(2) The Minister must issue draft guidelines for the preparation of the statement within 28 days after receiving the notice.

‘(3) The draft guidelines—

- (a) must state the things the environmental impact statement must address; and
- (b) may state the way the things may or must be addressed.

‘(4) The Minister must give a copy of the draft guidelines to the holder

and the mining registrar.

‘(5) The mining registrar must—

- (a) immediately display a notice at the mining registrar’s office stating that the draft guidelines are available for comment until a stated day, at least 28 days after the day the notice is displayed; and
- (b) give a copy of the notice to the holder.

‘(6) Within 7 days of receiving the notice or a longer period fixed by the mining registrar, the holder must—

- (a) publish a copy of the notice in a newspaper circulating generally in the relevant mining district; and
- (b) give the mining registrar a statutory declaration stating that the holder has published the notice.

‘(7) Anyone may lodge written comments about the draft guidelines at the mining registrar’s office on or before the stated day.

‘Guidelines for environmental impact statements

‘5.15B(1) After considering any written comments lodged at the mining registrar’s office on or before the day for making written comments about the draft guidelines, the Minister must issue guidelines for the preparation of the environmental impact statement.

‘(2) The Minister must give a copy of the guidelines to the holder, the relevant local government and the mining registrar within 28 days after the day for lodging written comments about the draft guidelines ends.’.

Amendment of s 5.16 (Provision of security)

43.(1) Section 5.16(1)(d)—

omit, insert—

‘(d) amounts (other than penalties) payable to the State under this Act.’.

(2) Section 5.16—

insert—

‘**(1A)** A person who holds more than 1 exploration permit may elect to deposit a single amount of security for all exploration permits held by the person.

‘**(1B)** The Minister is to decide the amount of security to be deposited under subsection (1A).’.

(3) Section 5.16(3) and (4)—

omit, insert—

‘**(3)** If the Minister is satisfied—

- (a) a condition of an exploration permit has not been complied with; or
- (b) a provision of this Act has not been complied with in relation to an exploration permit; or
- (c) someone claiming to act under an exploration permit, or to have entered land on the permit holder’s instructions, caused damage mentioned in subsection (1)(c);

the Minister may require the permit holder to take the steps necessary to stop the noncompliance or repair the damage.

‘**(4)** Also, the Minister may use any of the security deposited by the holder to stop the noncompliance or repair the damage.

‘**(4A)** Subsection (3) and (4) do not apply if the holder satisfies the Minister that the person responsible for the noncompliance or damage was not on the land with the holder’s approval or on the holder’s instructions when the noncompliance or damage happened.’.

(4) Section 5.16(8)—

omit, insert—

‘**(8)** Subject to subsections (9) and (10), if an exploration permit terminates, the Minister may, not earlier than 6 months after the termination, refund to the permit holder the amount of security deposited for the permit and not used after deducting the amounts the Minister considers should be kept towards—

- (a) remedying anything caused by noncompliance with the

conditions of the permit or an order or direction given by the Minister to the permit holder; and

- (b) amounts (other than penalties) the holder owes to the State under this Act (whether they become owing before or after the termination).

‘(8A) Subsection (8) does not prevent the Minister refunding the security within 6 months of the exploration permit’s termination if the owner of the land covered by the permit gives the Minister written advice that the land does not need rehabilitation and the owner will not make a claim on the security.’

(5) Section 5.16—

insert—

‘(10) Subsection (8) does not apply to a person who elects to deposit security for all exploration permits held by the person if the person continues to hold an exploration permit for which the security is held.

‘(11) However, the Minister may, at the person’s written request, reduce the amount of security held for the person’s exploration permits to an amount decided by the Minister.

‘(12) If the security deposited was money, an amount equal to the reduction is to be refunded to the person or in accordance with any written direction the holder gives to the mining registrar.’

Amendment of s 5.21 (Correction of instrument of exploration permit)

44. Section 5.21(a)—

omit, insert—

- ‘(a) facts have appeared or been established since the grant of the exploration permit justifying a correction of the instrument to more accurately reflect the holder’s entitlements under the permit; or’

Amendment of s 5.23 (Assignment of exploration permit)

45.(1) Section 5.23(2)—

omit.

(2) Section 5.23—

insert—

‘**(4A)** The Minister may approve, and record particulars of, the exercise of a power mentioned in subsection (1) even though subsections (1) and (3) have not been complied with if the Minister would have approved the exercise of the power if the subsections had been complied with.’.

Amendment of s 5.33 (Surrender of exploration permit)

46.(1) Section 5.33—

insert—

‘**(1A)** If land covered by the notice of surrender is not included in an application to which subsection (3) applies, the holder must lodge, with the notice, a final rehabilitation report stating how the holder has rehabilitated land affected directly or indirectly by the holder’s activities under the exploration permit.’.

(2) Section 5.33—

insert—

‘**(4)** However, the Minister may accept a surrender for land for which a final rehabilitation report is lodged only if the Minister is satisfied the holder has satisfactorily rehabilitated the land.

‘**(5)** If the Minister is not satisfied the holder has satisfactorily rehabilitated land, the Minister may, by written notice, give the holder reasonable directions about rehabilitating the land.

‘**(6)** The holder must comply with the directions.

Maximum penalty for subsection (6)—200 penalty units.’.

Replacement of s 5.35 (Prior notice of entry to be served)

47. Section 5.35—

omit, insert—

‘Notice of entry to be given

‘5.35(1) An exploration permit holder must give the owner of the land covered by the permit written notice of entry before initial entry is made under the permit.

‘(2) The notice must be given at least 7 days before the intended entry (or a shorter period acceptable to the owner and endorsed on the notice).

‘(3) The notice must—

- (a) describe the activities proposed to be carried out on the land under the exploration permit; and
- (b) state when the activities are to be carried out; and
- (c) be accompanied by a copy of—
 - (i) the codes of conduct or practice applying to activities under the permit; and
 - (ii) any statement given to the Minister about proposals to protect the environment and rehabilitate the land.

‘(4) If the owner cannot easily be contacted, the holder may notify the occupier of the land of the intended entry.

Examples of owner not being easily contacted—

1. The owner does not live in Australia and there is no known current address for the owner.

2. The owner is travelling within Australia and there is no known current address for the owner.

‘(5) If the holder satisfies the mining registrar it is impracticable to give either the owner or occupier notice of the intended entry, the mining registrar may dispense with the need to give notice.

‘(6) If the mining registrar dispenses with the need to give notice, the mining registrar must make an appropriate endorsement on the permit.

‘(7) However, before making the endorsement, the mining registrar may require the holder to take the action the mining registrar considers appropriate to publicise the proposed entry, including, for example, publishing an advertisement in a newspaper or other publication.

‘Term and renewal of notice

‘5.35A(1) If an exploration permit holder gives notice of initial entry for land, the notice—

- (a) permits entry for 3 months from the day stated in the notice; and
- (b) may permit entry for a longer period if the owner’s written consent to the longer period is lodged with the mining registrar.¹⁸

‘(2) The notice may be renewed.

‘(3) A notice of renewal must—

- (a) be given to the owner at least 7 days (or a shorter period acceptable to the owner and endorsed on the notice), but not more than 21 days, before the current notice ends; and
- (b) contain information of the kind mentioned in section 5.35(3) that is relevant to the period of renewal.

‘(4) The holder must give the mining registrar a copy of the notice or notice of renewal.

‘(5) If the owner of the land cannot easily be contacted, the holder may notify the occupier of the land of the intended entry.

Examples of owner not being easily contacted—

1. The owner does not live in Australia and there is no known current address for the owner.

2. The owner is travelling within Australia and there is no known current address for the owner.

‘(6) If the holder satisfies the mining registrar it is impracticable to give either the owner or occupier notice of the intended entry, the mining registrar may dispense with the need to give notice.

‘(7) If the mining registrar dispenses with the need to give notice, the mining registrar must make an appropriate endorsement on the permit.

‘(8) However, before making the endorsement, the mining registrar may require the holder to take the action the mining registrar considers appropriate to publicise the proposed entry, including, for example, publishing an advertisement in a newspaper or other publication.

¹⁸ See section 5.35 (Notice of entry to be given)

Insertion of new s 5.36A

48. After section 5.36—

insert—

‘Rehabilitation of land covered by exploration permits

‘5.36A(1) Within 28 days after termination of an exploration permit, the holder must give the Minister a final rehabilitation report stating how the holder has rehabilitated land affected directly or indirectly by the holder’s activities under the permit.

‘(2) After considering the report, the Minister may, by written notice, direct the holder to give the Minister further stated and reasonable information about the rehabilitation.

‘(3) If the Minister is not satisfied the holder has satisfactorily rehabilitated land, the Minister may, by written notice, give the holder reasonable directions about rehabilitating the land.

‘(4) The holder must comply with the directions.

Maximum penalty—200 penalty units.

‘(5) The holder and the holder’s employees or agents may, to the extent reasonable and necessary to comply with the directions—

- (a) enter land stated in the notice; and
- (b) bring onto the land vehicles, vessels, machinery and equipment.

‘(6) This section does not apply if—

- (a) a final rehabilitation report is lodged with a notice of surrender of an exploration permit; or
- (b) the termination is for granting a new exploration permit, a mineral development licence or a mining lease for the same land.’.

Replacement of s 5.39 (Reference by owner or holder to mining registrar)

49. Section 5.39—

omit, insert—

‘Mining registrar may call conference in some cases

‘5.39(1) This section applies if—

- (a) an owner of land who is concerned about any of the following gives the mining registrar for the mining district written notice of the concerns—
 - (i) that someone claiming to act under an exploration permit, or to have entered land on the permit holder’s instructions, is not authorised to be on the land or is not complying with a provision of this Act or a condition of the permit;
 - (ii) activities being, or proposed to be, carried out on the land apparently under an exploration permit (including when the activities are being, or are to be, carried out);
 - (iii) the conduct on the land of someone apparently acting under an exploration permit; or
- (b) an exploration permit holder who is concerned about something relevant to the permit involving the holder and the owner of land gives the mining registrar written notice of the concerns; or
- (c) for another reason, the mining registrar considers it desirable to call a conference to discuss concerns about an exploration permit.

‘(2) If subsection (1)(a) or (b) applies, the mining registrar—

- (a) must investigate the concerns; and
- (b) may call a conference about the concerns, by written notice given to the owner of the land and the exploration permit holder.

‘(3) If subsection (1)(c) applies, the mining registrar may call a conference about the exploration permit, by written notice given to—

- (a) the owners of land covered by the permit who appear to the mining registrar to be affected by the concerns; and
- (b) the exploration permit holder; and
- (c) anyone else the mining registrar considers should be given notice of the conference.

‘(4) The notice must state when and where the conference will be held and what is to be discussed at the conference.

‘Who may attend conference

‘5.39A(1) Apart from the mining registrar, anyone given notice of a conference about an exploration permit (a “**section 5.39 conference**”) may attend and take part in the conference.

‘(2) Also, with the mining registrar’s approval, someone else may be present to help a person attending the conference.

‘(3) However, a person may not be represented at the conference by a lawyer.

‘What happens if someone does not attend

‘5.39B The mining registrar may hold a section 5.39 conference even though someone given notice of the conference does not attend the conference.

‘Mining registrar’s function at section 5.39 conference

‘5.39C The mining registrar must endeavour to help those attending a section 5.39 conference to reach an early, inexpensive settlement of the things discussed.

‘Agreements and statements at section 5.39 conference

‘5.39D(1) If parties to a section 5.39 conference reach agreement about something discussed at the conference, the parties must put it into writing, sign it and lodge it with the mining registrar.

‘(2) A person attending the conference must not disclose or publish anything said at the conference other than in an agreement mentioned in subsection (1).

‘(3) Nothing said by a person at the conference is admissible in a proceeding without the person’s consent.

‘Wardens Court may award costs

‘5.39E(1) If—

- (a) a person agrees to attend a section 5.39 conference but does not

attend; and

- (b) someone else does attend (the “**attending party**”);

the attending party may apply to the Wardens Court for an order requiring the person who did not attend to pay the attending party’s reasonable costs of attending.

‘(2) If the Wardens Court orders a person to pay the attending party’s costs, the Wardens Court must decide the amount of the costs.

‘(3) However, the Wardens Court must not order a person to pay costs if the Wardens Court is satisfied the person had a reasonable excuse for not attending the conference.¹⁹

‘Mining registrar may recommend action to ease concerns

‘**5.39F(1)** If the mining registrar considers an exploration permit holder should take action to ease concerns of an owner of land or another exploration permit holder, the mining registrar may recommend the action to the Minister.

‘(2) The Minister may give the exploration permit holder the directions the Minister considers appropriate about the recommended action.

‘(3) A failure by the holder to comply with the Minister’s directions is taken to be a breach of a condition of the exploration permit.

‘(4) If the Minister gives a direction under subsection (2), the chief executive must give a copy to the owner.

‘(5) The mining registrar must give the land’s owner and the exploration permit holder written notice of—

- (a) the substance of any recommendation made to the Minister under subsection (1) or, if the mining registrar decides not to make a recommendation, the mining registrar’s decision; and
- (b) any other action the mining registrar has taken to ease the concerns of the owner or exploration permit holder.’.

¹⁹ Orders of a Wardens Court may be enforced under section 10.34 (Enforcement of decisions etc. of Wardens Court).

Amendment of s 6.3 (Obligations and entitlement under mineral development licence)

50.(1) Section 6.3(4)—

omit, insert—

‘(4) A mineral development licence authorises a person to enter the surface of land that was restricted land when the application for the licence is lodged only if—

- (a) the owner of the land where the relevant permanent building, or relevant feature, is situated, consents in writing to the application; and
- (b) the applicant gives the consent to the chief executive.’.

Insertion of new s 6.3A

51. After section 6.3—

insert—

‘Land is excluded from mineral development licence if covered by other authority under Act

‘6.3A(1) This section applies if—

- (a) the chief executive accepts lodgment of an application for a mineral development licence for particular land; and
- (b) all or some of the land covered by the accepted application is—
 - (i) covered by an existing mining claim or mining lease; or
 - (ii) included in an earlier application for a mining claim or mining lease.

‘(2) Land mentioned in subsection (1)(b) that is within the boundaries of the accepted application, and its surface, (“**excluded land**”) is taken to be excluded from the land covered by a mineral development licence granted for the land on the accepted application.

‘(3) However, the land is excluded land—

- (a) if subsection (1)(b)(i) applies—only while it is covered by an existing mining claim or mining lease; or

- (b) if subsection (1)(b)(ii) applies—
 - (i) until the earlier application is abandoned or rejected; or
 - (ii) while it is covered by a mining claim or mining lease granted on the earlier application.

‘(4) If excluded land within the boundaries of the mineral development licence ceases to be excluded land, it is taken to be included in the mineral development licence.’.

Amendment of s 6.4 (Application for mineral development licence)

52.(1) Section 6.4(k), after ‘the land’—

insert—

‘and the mineral’.

(2) Section 6.4(m)—

omit, insert—

- ‘(m) if the nature of the activities proposed to be conducted under the mineral development licence may have an environmental impact—be accompanied by a statement containing proposals—
 - (i) to protect the environment while conducting the activities; and
 - (ii) for the progressive and final rehabilitation of the land; and
- (n) be accompanied by—
 - (i) a statement, acceptable to the Minister—
 - (A) giving a detailed description and technical particulars of the mineral occurrence for which the mineral development licence is sought together with any necessary supporting documents; and
 - (B) stating the activities (if any) proposed to be conducted under the mineral development licence, including, for example, work programs, amounts to be spent and studies to be performed; and
 - (ii) a statement, acceptable to the Minister, separate from the

statement mentioned in subparagraph (i), detailing the applicant's financial and technical resources; and

(iii) the application fee prescribed under a regulation.'.

Amendment of s 6.11 (Provision of security)

53.(1) Section 6.11(1)(d)—

omit, insert—

'(d) amounts (other than penalties) payable to the State under this Act.'

(2) Section 6.11(4)—

omit.

(3) Section 6.11(8), 'the expiration or'—

omit.

(4) Section 6.11(9)(d)—

omit, insert—

'(d) amounts (other than penalties) the holder owes to the State under this Act (whether the amounts became owing before or after the termination).'

Amendment of s 6.14 (Rental payable on mineral development licence)

54. Section 6.14(4)(b), '31 March'—

omit, insert—

'1 April'.

Amendment of s 6.15 (Conditions of mineral development licence)

55.(1) Section 6.15(1)(c)—

omit, insert—

'(c) a condition that the holder must rehabilitate the surface of the land covered by the mineral development licence to the Minister's

satisfaction; and’.

(2) Section 6.15(1)(g)—

omit, insert—

‘(g) a condition that the holder must, when, and in the way, the Minister requires, give to the Minister—

- (i) progress and final reports, accompanied by maps, sections, charts and other data giving full particulars and results of activities carried out on the area specified by the Minister, including details of costs incurred for specified periods within the term of the mineral development licence; and
- (ii) materials obtained because of the holder’s activities under the mineral development licence; and
- (iii) an environmental management plan for the holder’s activities under the mineral development licence; and’.

(3) Section 6.15(5), after ‘conduct’—

insert—

‘or practice’.

Insertion of new ss 6.15A and 6.15B

56. After section 6.15—

insert—

‘Draft guidelines for environmental impact statements

‘**6.15A(1)** This section applies if a mineral development licence holder gives written notice to the Minister of the holder’s plans to prepare an environmental impact statement about a proposed mining project.

‘(2) The Minister must issue draft guidelines for the preparation of the statement within 28 days after receiving the notice.

‘(3) The draft guidelines—

- (a) must state the things the environmental impact statement must address; and
- (b) may state the way the things may or must be addressed.

‘(4) The Minister must give a copy of the draft guidelines to the holder and the mining registrar.

‘(5) The mining registrar must—

- (a) immediately display a notice at the mining registrar’s office stating that the draft guidelines are available for comment until a stated day, at least 28 days after the day the notice is displayed; and
- (b) give a copy of the notice to the holder.

‘(6) Within 7 days of receiving the notice or a longer period fixed by the mining registrar, the holder must—

- (a) publish a copy of the notice in a newspaper circulating generally in the relevant mining district; and
- (b) give the mining registrar a statutory declaration stating that the holder has published the notice.

‘(7) Anyone may lodge written comments about the draft guidelines at the mining registrar’s office on or before the stated day.

‘Guidelines for environmental impact statements

‘6.15B(1) After considering any written comments lodged at the mining registrar’s office on or before the day for making written comments about draft guidelines, the Minister must issue guidelines for the preparation of the environmental impact statement.

‘(2) The Minister must give a copy of the guidelines to the holder, the owner of the land covered by the mineral development licence and the relevant local government within 28 days after the day for lodging written comments about the draft guidelines ends.’.

Amendment of s 6.17 (Assignment etc. of mineral development licence)

57. Section 6.17—

insert—

‘(4A) The Minister may approve, and record particulars of, the exercise

of a power mentioned in subsection (1) even though subsections (2) and (3) have not been complied with if the Minister would have approved the exercise of the power if the subsections had been complied with.’.

Amendment of s 6.25 (Correction of instrument of mineral development licence)

58. Section 6.25(b)—

omit, insert—

‘(b) facts have appeared or been established since the grant of the mineral development licence justifying a correction of the instrument to more accurately reflect the holder’s entitlements under the licence; or’.

Insertion of new s 6.26A

59. After section 6.26—

insert—

‘Adding other minerals to licence

‘6.26A(1) The holder of a mineral development licence for particular minerals may lodge a written application with the chief executive for the Minister’s approval to add stated minerals to the licence.

‘(2) The application must be accompanied by the application fee prescribed under a regulation.

‘(3) The Minister may approve or reject the application.

‘(4) The approval may be given on the conditions the Minister considers appropriate, including conditions requiring the holder to deposit a stated amount of additional security.

‘(5) If the Minister approves the application, the mineral development licence is taken to include the stated minerals—

- (a) if the Minister requires the holder to deposit additional security—on the day the applicant deposits the additional security; or
- (b) if paragraph (a) does not apply—on the day the Minister approves

the application.

‘(6) Particulars of an approval under this section must be recorded in the appropriate register and endorsed on the holder’s licence.’.

Amendment of s 6.28 (Surrender of mineral development licence)

60.(1) Section 6.28(2)(c)—

omit, insert—

‘(c) if land covered by the surrender is not included in an application for a new mineral development licence or a mining lease—a final rehabilitation report stating how the holder has rehabilitated land affected directly or indirectly by the holder’s mining activities under the licence; and

(d) the fee prescribed under a regulation.’.

(2) Section 6.28—

insert—

‘**(3A)** The Minister may consent to a surrender under subsection (3) for land for which a final rehabilitation report is lodged only if the Minister is satisfied the holder has satisfactorily rehabilitated the land.

‘**(3B)** If the Minister is not satisfied the holder has satisfactorily rehabilitated land, the Minister may, by written notice, give the holder reasonable directions about rehabilitating it.

‘**(3C)** The holder must comply with the directions.

Maximum penalty—500 penalty units.’.

Replacement of s 6.29 (Prior notice of entry to be served)

61. Section 6.29—

omit, insert—

‘Notice of entry to be given

‘**6.29(1)** A mineral development licence holder must give the owner of the land covered by the licence written notice of entry before initial entry is made under the licence.

‘(2) The notice must be given at least 7 days before the entry (or a shorter period acceptable to the owner and endorsed on the notice).

‘(3) The notice must—

- (a) describe the activities proposed to be carried out on the land under the mineral development licence; and
- (b) state when the activities are to be carried out; and
- (c) be accompanied by a copy of—
 - (i) the codes of conduct or practice applying to activities under the licence; and
 - (ii) any statement given to the Minister about proposals to protect the environment and rehabilitate the land.

‘(4) If the owner cannot easily be contacted, the holder may notify the occupier of the land of the intended entry.

Examples of owner not being easily contacted—

1. The owner does not live in Australia and there is no known current address for the owner.

2. The owner is travelling within Australia and there is no known current address for the owner.

‘(5) If the holder satisfies the mining registrar it is impracticable to give either the owner or occupier notice of the intended entry, the mining registrar may dispense with the need to give notice.

‘(6) If the mining registrar dispenses with the need to give notice, the mining registrar must make an appropriate endorsement on the notice.

‘(7) However, before making the endorsement, the mining registrar may require the holder to take the action the mining registrar considers appropriate to publicise the proposed entry, including, for example, publishing an advertisement in a newspaper or other publication.

‘Term and renewal of notice

‘6.29A(1) If a mineral development licence holder gives an owner of land notice of entry, the notice—

- (a) permits entry for 3 months from the day stated in the notice; and

(b) may permit entry for a longer period if the owner's written consent to the longer period of entry is lodged with the mining registrar.²⁰

'(2) The notice may be renewed.

'(3) A notice of renewal must—

- (a) be given to the owner at least 7 days (or a shorter period acceptable to the owner and endorsed on the notice), but not more than 21 days, before the earlier notice expires; and
- (b) contain information of the kind mentioned in section 6.29(3) that is relevant to the period of renewal.

'(4) The holder must give the mining registrar a copy of the notice or notice of renewal.'

Insertion of new s 6.30A

62. After section 6.30—

insert—

'Rehabilitation of land covered by mineral development licence

'**6.30A(1)** Within 28 days after the termination of a mineral development licence, the holder must give the Minister a final rehabilitation report stating how the holder has rehabilitated land affected directly or indirectly by the holder's activities under the licence.

'(2) After considering the report, the Minister may, by written notice, direct the holder to give the Minister further stated and reasonable information about the rehabilitation.

'(3) If the Minister is not satisfied the holder has satisfactorily rehabilitated land, the Minister may, by written notice, give the holder reasonable directions about rehabilitating the land.

'(4) The holder must comply with the directions.

Maximum penalty—500 penalty units.

'(5) The holder and the holder's employees or agents may, to the extent

²⁰ See section 6.29 (Notice of entry to be given)

reasonable and necessary to comply with the directions—

- (a) enter land stated in the notice; and
- (b) bring onto the land vehicles, vessels, machinery and equipment.

‘(6) This section does not apply if—

- (a) a final rehabilitation report is lodged with a notice of surrender of a mineral development licence; or
- (b) the termination is for granting a new mineral development licence or a mining lease for the same land.’.

Replacement of s 6.33 (Reference by owner or holder to mining registrar)

63. Section 6.33—

omit, insert—

‘Mining registrar may call conference in some cases

‘**6.33(1)** This section applies if—

- (a) an owner of land who is concerned about any of the following gives the mining registrar written notice of the concerns—
 - (i) that someone claiming to act under a mineral development licence, or to have entered land on the licence holder’s instructions, is not authorised to be on the land or is not complying with a provision of this Act or a condition of the licence;
 - (ii) activities being, or proposed to be, carried out on the land apparently under a mineral development licence (including when the activities are being, or are to be, carried out);
 - (iii) the conduct on the land of someone apparently acting under a mineral development licence; or
- (b) a mineral development licence holder who is concerned about something relevant to the licence involving the holder and the owner of land gives the mining registrar written notice of the concerns; or
- (c) for another reason, the mining registrar considers it desirable to

call a conference to discuss concerns about a mineral development licence.

‘(2) If subsection (1)(a) or (b) applies, the mining registrar—

- (a) must investigate the concerns; and
- (b) may call a conference about the concerns, by written notice given to the owner of the land and the mineral development licence holder.

‘(3) If subsection (1)(c) applies, the mining registrar may call a conference about the mineral development licence, by written notice given to—

- (a) the owners of land covered by the licence who appear to the mining registrar to be affected by the concerns; and
- (b) the mineral development licence holder; and
- (c) anyone else the mining registrar considers should be given notice of the conference.

‘(4) The notice must state when and where the conference will be held and what is to be discussed at the conference.

‘Who may attend conference

‘**6.33A(1)** Apart from the mining registrar, anyone given notice of a conference about a mineral development licence (a “**section 6.33 conference**”) may attend and take part in the conference.

‘(2) Also, with the mining registrar’s approval, someone else may be present to help a person attending the conference.

‘(3) However, a person may not be represented at the conference by a lawyer.

‘What happens if someone does not attend

‘**6.33B** The mining registrar may hold a section 6.33 conference even though someone given notice of the conference does not attend the conference.

‘Mining registrar’s function at section 6.33 conference

‘6.33C The mining registrar must endeavour to help those attending a section 6.33 conference to reach an early, inexpensive settlement of the things discussed.

‘Agreements and statements at section 6.33 conference

‘6.33D(1) If parties to a section 6.33 conference reach agreement about something discussed at the conference, the parties must put the agreement into writing, sign it and lodge it with the mining registrar.

‘(2) A person attending the conference must not disclose or publish anything said at the conference other than in an agreement mentioned in subsection (1).

‘(3) Nothing said by a person at the conference is admissible in a proceeding without the person’s consent.

‘Wardens Court may award costs

‘6.33E(1) If—

- (a) a person agrees to attend a section 6.33 conference but does not attend; and
- (b) someone else does attend (the **“attending party”**);

the attending party may apply to the Wardens Court for an order requiring the person who did not attend to pay the attending party’s reasonable costs of attending.

‘(2) If the Wardens Court orders a person to pay the attending party’s costs, the Wardens Court must decide the amount of the costs.

‘(3) However, the Wardens Court must not order a person to pay costs if the Wardens Court is satisfied the person had a reasonable excuse for not attending the conference.²¹

²¹ Orders of a Wardens Court may be enforced under section 10.34 (Enforcement of decisions etc. of Wardens Court).

‘Mining registrar may recommend action to ease concerns

‘6.33F(1) If the mining registrar considers a mineral development licence holder should take stated action to ease concerns of an owner of land or another mineral development licence holder, the mining registrar may recommend the action to the Minister.

‘(2) The Minister may give the mineral development licence holder the directions the Minister considers appropriate about the recommended action.

‘(3) A failure by the holder to comply with the Minister’s directions is taken to be a breach of a condition of the mineral development licence.

‘(4) If the Minister gives a direction under subsection (2), the chief executive must give a copy to the owner.

‘(5) The mining registrar must give the owner and the other mineral development licence holder written notice of—

- (a) the substance of any recommendation made to the Minister under subsection (1) or, if the mining registrar decides not to make a recommendation, the mining registrar’s decision; and
- (b) any other action the mining registrar has taken to ease the concerns of the owner or mineral development licence holder.’.

Replacement of s 6.38 (Effect of termination of mineral development licence)

64. Section 6.38—

omit, insert—

‘Effect of termination of mineral development licence

‘6.38(1) This section applies on the termination of a mineral development licence.

‘(2) However, this section does not apply to a mineral development licence if the termination is for granting a new mineral development licence or a mining lease over the land covered by the terminated licence to the holder of the terminated licence.

‘(3) On the termination of a mineral development licence, the ownership of machinery, equipment and removable improvements (**“plant”**) on the

land covered by the terminated licence divests from the owner and vests in the State.

‘(4) However, subsection (3) applies to plant only if the plant was brought onto the land under the terminated mineral development licence.

‘Application may be made for approval to remove plant

‘**6.38A(1)** This section applies to plant that vests in the State on the termination of a mineral development licence.

‘(2) Anyone who had an interest in the plant immediately before its ownership vested in the State may apply in writing to the Minister for permission to remove the plant from the land.

‘(3) The application—

- (a) must be made within 28 days after the plant vests in the State (or a longer period, of not more than 3 months, allowed by the Minister); and
- (b) may be made even though a subsequent grant of a mining claim, exploration permit, mineral development licence or mining lease has been made over the land.

‘(4) The Minister may approve or refuse to approve the application.

‘(5) However, the Minister must approve the application if the Minister is satisfied—

- (a) the person was entitled to the plant immediately before it vested in the State; and
- (b) there is enough security held for the terminated mineral development licence to meet the costs for which it was deposited.²²

‘(6) An approval may be given on conditions stated in it.

‘(7) If the application is approved, the person named in the approval may enter the land and remove the plant (other than any covers, fencing, casings, linings, timbering or other things securing the safety of the land) stated in the application before the time stated in the approval ends.

²² See section 6.11 (Provision of security)

‘(8) Anything lawfully removed under subsection (7) divests from the State and vests in the person entitled to it immediately before the termination of the mineral development licence.

‘Plant remaining on former mineral development licence may be sold etc.

‘**6.38B(1)** This section applies if the chief executive has not received, or has received but not granted, an application for approval to remove plant from the site of a terminated mineral development licence within 3 months after the licence’s termination.

‘(2) The chief executive may direct the mining registrar to—

- (a) sell the plant by public auction or in another stated way; or
- (b) if the plant has no commercial value—dispose of or destroy it.

‘(3) Proceeds of a sale are to be applied in the following order towards—

- (a) the reasonable expenses incurred in the sale;
- (b) the cost of rectifying actual damage for which an amount of security deposited for the terminated mineral development licence could have been used but was not used, or was inadequate;
- (c) amounts owing to the State under this Act by the former holder;
- (d) amounts owing to a mortgagee under a mortgage registered under this Act over the mineral development licence.

‘(4) Any balance must be paid to the former holder.

‘(5) If the mining registrar cannot decide the identity of, or locate, a person entitled to the proceeds or part of the proceeds, the mining registrar may pay the amount to the Public Trustee as unclaimed moneys.

‘(6) Compensation is not payable for a sale, disposal or destruction under this section.’.

Insertion of new s 7.5A

65. After section 7.5—

insert—

‘Drilling and other activities on land not included in surface area

‘7.5A(1) A mining lease holder may apply in writing to the Minister for approval to conduct drilling and other activities on land not included in the surface area covered under the lease.

‘(2) The application—

- (a) must be lodged with the mining registrar; and
- (b) must describe—
 - (i) the activities proposed to be carried out on the land under the mining lease; and
 - (ii) the area over which the activities are to be carried out on the land; and
 - (iii) the measures the applicant plans to take to protect the environment and rehabilitate land directly or indirectly affected by the activities; and
- (c) must state how long the activities are to be carried out; and
- (d) must be accompanied by—
 - (i) the written consent of the owner of the land; and
 - (ii) if there is an agreement between the holder and the owner about the compensation payable to the owner for the activities—a copy of the agreement; and
 - (iii) the fee prescribed under a regulation.

‘(3) The Minister may approve or refuse to approve the application.

‘(4) An approval may be given on conditions stated in it, including conditions about, for example, depositing security and complying with stated codes of conduct or practice.’

Replacement of s 7.6 (Mining lease over surface that is reserve or near dwelling house etc. only with consent)

66. Section 7.6—

omit, insert—

‘Mining lease over surface of reserve or land near a dwelling-house

7.6(1) Unless the Governor in Council otherwise approves, a mining lease may be granted over the surface of a reserve only if—

- (a) the owner of the reserve consents in writing to granting the lease; and
- (b) the applicant lodges the consent with the mining registrar before the last objection day ends.

(2) Also, a mining lease may be granted over the surface of land that was restricted land when the application for the lease was lodged only if—

- (a) the owner of the land where the relevant permanent building, or relevant feature, is situated, consents in writing to the application; and
- (b) the applicant lodges the consent with the mining registrar before the last objection day ends.

(3) A consent given for subsection (2) cannot be withdrawn.’

Amendment of s 7.13 (Application for grant of mining lease)

67.(1) Section 7.13(1)(n) and (o)—

omit, insert—

- ‘(n) subject to section 7.15A,²³ be accompanied by the consent in writing of each exploration permit or mineral development licence holder for the land and mineral who is not an applicant; and
- (o) be accompanied by—
 - (i) proof, to the mining registrar’s satisfaction, of the applicant’s identity; and
 - (ii) the number of additional copies of the application, and other documents lodged with the application, the mining registrar requires; and
 - (iii) a statement, acceptable to the Minister—

²³ See section 7.15A (Consent of certain parties with registered interests to be obtained).

-
- (A) outlining the mining program proposed, outlining its method of operation, and providing an indication of when operations are expected to start or, if a mining program is not proposed, outlining the use proposed for the land and providing an indication of when the proposed use is to start; and
 - (B) of proposals for infrastructure requirements necessary to enable the mining program to proceed, or additional activities to be carried on to work out the infrastructure requirements;²⁴ and
 - (iv) a statement, acceptable to the Minister and separate from the statement mentioned in subparagraph (iii), detailing the applicant's financial and technical resources; and
 - (v) the application fee prescribed under a regulation; and
 - (p) be accompanied by an environmental management overview strategy, acceptable to the Minister, stating strategies for—
 - (i) protecting the environment and managing environmental impacts on, and in the vicinity of, the land to be covered by the proposed lease; and
 - (ii) progressive and final rehabilitation of the land.’

(2) Section 7.13(1A), ‘ subsection (1)(o)(iv)(B)’—

omit, insert—

‘subsection (1)(o)(iii)(A)’.

(3) Section 7.13—

insert—

‘(3) An environmental management overview strategy may relate to all mining leases in a mining project.’.

Insertion of new ss 7.15A and 7.15B

68. After section 7.15—

²⁴ See section 7.68 (Approval of additional activities on mining lease application).

insert—

‘Consent of certain parties with registered interests to be obtained

‘7.15A(1) In this section—

“authority holder” means the holder of an exploration permit or mineral development licence.

‘(2) This section applies if an applicant applies for a mining lease over land covered by an exploration permit or mineral development licence held by someone else.

‘(3) If the application and the authority holder’s licence or permit are for the same minerals, the applicant must obtain the authority holder’s written consent to the application.

‘(4) If the application and the authority holder’s licence or permit are for different minerals, the applicant must obtain the authority holder’s written views on the application.

‘(5) If the authority holder’s consent is not lodged with the mining registrar as required by subsection (4) before the last objection day ends, the mining registrar must recommend to the Minister that the application be rejected.

‘(6) If the authority holder’s views are not lodged with the mining registrar as required by subsection (4) before the last objection day ends, the applicant must lodge with the mining registrar before the last objection day ends a statutory declaration stating why the applicant cannot obtain the views.

‘Consent of certain parties with pending applications to be obtained

‘7.15B(1) This section applies if—

- (a) a person (the **“earlier applicant”**) makes an application to the chief executive for an exploration permit or mineral development licence over land; and
- (b) someone else (the **“later applicant”**) makes a later application to the mining registrar for a mining lease over land included in the earlier application.

‘(2) The later applicant must obtain the earlier applicant’s written consent

to the later application if both applications are for the same mineral.

‘(3) The later applicant must obtain the earlier applicant’s written views on the later application if the applications are for different minerals.

‘(4) The earlier applicant’s consent or views—

- (a) may be lodged with the mining registrar before the earlier application is decided; or
- (b) if the earlier application is decided by the grant of an exploration permit or mineral development licence—must be lodged with the mining registrar within 28 days after the grant of the permit or licence.

‘(5) The mining registrar must not deal with the later application until the earlier application is finally decided.

‘(6) However, the mining registrar may deal with the later application before the earlier application is finally decided if—

- (a) for applications for the same mineral—the earlier applicant’s consent to the later application is lodged with the mining registrar; or
- (b) for applications for different minerals—the earlier applicant’s views on the later application are lodged with the mining registrar and the earlier applicant is not opposed to the later application.’.

Amendment of s 7.16 (Rejection of application by mining registrar)

69. Section 7.16(2)—

omit, insert—

‘(2) The mining registrar may reject an application for a mining lease for all or part of land that appears, on evidence available to the mining registrar, to be covered by a mining claim, mineral development licence (other than the licence held by the applicant) or mining lease, or an application for the grant of a mining claim, mineral development licence or mining lease.’.

Amendment of s 7.18 (Certificate of application etc.)

70.(1) Section 7.18(1A)—

omit, insert—

‘**(1A)** The mining registrar must endorse on the certificate of application—

- (a) the number of the proposed mining lease; and
- (b) the date and time the application was lodged; and
- (c) the day the mining registrar fixes, at least 28 days after the day of the certificate’s issue, as the last objection day for the application.

‘**(1AA)** The person lodging the application must sign the certificate.’.

(2) Section 7.18(3)(c)—

omit, insert—

‘(c) give a true copy of the application (but not the statement detailing the applicant’s financial and technical resources) and the endorsed certificate of application to—

- (i) each owner of land, including access land, to which the proposed mining lease relates; and
- (ii) each holder of, or applicant for, an exploration permit over the land for a mineral other than the mineral to which the proposed mining lease relates; and
- (iii) each holder of, or applicant for, a mineral development licence over the land for a mineral other than the mineral to which the proposed mining lease relates; and
- (iv) the relevant local government; and’.

(3) Section 7.18(7)—

omit, insert—

‘**(7)** If an applicant for a mining lease gives the mining registrar additional information about the application, the applicant must also give a copy of the information to each person given a copy of the application under subsection (3)(c).’.

Insertion of new s 7.18A

71. After section 7.18—

insert—

‘Reissue of certificate of application

‘7.18A(1) The mining registrar may reissue a certificate of application if the mining registrar is satisfied it should be reissued—

- (a) because of an error in its preparation; or
- (b) because compliance with the certificate is impracticable.

‘(2) If the mining registrar reissues a certificate of application, the mining registrar may extend the last date for objections to take account of the time between the issue of the original certificate and its reissue.’

Replacement of s 7.19 (Owner of land may request conference)

72. Section 7.19—

omit, insert—

‘Mining registrar may call conference in some cases

‘7.19.(1) This section applies if—

- (a) within 7 days after receiving a signed certificate of application for a mining lease (or a longer period allowed by the mining registrar), an owner of land affected by the application gives the mining registrar a written request for a conference, stating the things the owner wants to discuss about the application; or
- (b) for another reason, the mining registrar considers it desirable to hold a conference about a mining lease or an application for a mining lease.

‘(2) If subsection (1)(a) applies, the mining registrar must call a conference about the application, by written notice given to the owner and the applicant.

‘(3) If subsection (1)(b) applies, the mining registrar may call a conference about the mining lease or application, by written notice given to—

- (a) the owners of land who appear to the mining registrar to be affected by the lease or application; and
- (b) the lease holder or applicant; and

(c) anyone else the mining registrar considers should be given notice of the conference.

‘(4) The notice must state when and where the conference will be held and what is to be discussed at the conference.

‘(5) If the conference is about an application, the conference must be held before the last objection day ends.

‘Who may attend conference

‘7.19A(1) Apart from the mining registrar, anyone given notice of a conference about a mining lease or an application for a mining lease (a “**section 7.19 conference**”), may attend and take part in the conference.

‘(2) Also, with the mining registrar’s approval, someone else may be present to help a person attending the conference.

‘(3) However, the person may not be represented at the conference by a lawyer.

‘What happens if someone does not attend

‘7.19B The mining registrar may hold a section 7.19 conference even though someone given notice of the conference does not attend the conference.

‘Mining registrar’s function at section 7.19 conference

‘7.19C The mining registrar must endeavour to help those attending a section 7.19 conference to reach an early, inexpensive settlement of the things discussed.

‘Agreements and statements at section 7.19 conference

‘7.19D(1) If parties to a section 7.19 conference reach agreement about something discussed at the conference, the parties must—

- (a) put the agreement into writing; and
- (b) sign the agreement; and

- (c) if the agreement is about an application for a mining lease—lodge it with the mining registrar before the last objection day ends.

‘(2) A person attending the conference must not disclose or publish anything said in an oral or written statement made or given at the conference other than in an agreement mentioned in subsection (1).

‘(3) Nothing said by a person at the conference is admissible in a proceeding without the person’s consent.

‘Wardens Court may award costs

‘7.19E(1) If—

- (a) a person agrees to attend a section 7.19 conference but does not attend; and
- (b) someone else does attend (the “**attending party**”);

the attending party may apply to the Wardens Court for an order requiring the person who did not attend to pay the attending party’s reasonable costs of attending.

‘(2) If the Wardens Court orders a person to pay the attending party’s costs, the Wardens Court must decide the amount of the costs.²⁵

‘(3) However, the Wardens Court must not order a person to pay costs if the Court is satisfied the person had a reasonable excuse for not attending the conference.’.

Amendment of s 7.20 (Objection to application for grant of mining lease)

73.(1) Section 7.20(1), ‘An eligible person, local authority or owner of land’—

omit, insert—

‘An entity’.

²⁵ Orders of a Wardens Court may be enforced under section 10.34 (Enforcement of decisions etc. of Wardens Court).

(2) Section 7.20(5)—
omit.

Replacement of s 7.21 (Study into environmental impact)

74. Section 7.21—
omit, insert—

‘Minister may require environmental impact statement in some cases

‘7.21(1) Before the last objection day for a mining lease ends, the Minister may require the applicant for the lease to—

- (a) carry out a study of the proposed mining project’s environmental impact; and
- (b) prepare an environmental impact statement in accordance with guidelines issued by the Minister.

‘(2) The Minister must notify the mining registrar and the applicant of the decision to require the applicant to prepare an environmental impact statement.

‘(3) The mining registrar must—

- (a) immediately display notice of the Minister’s decision at the mining registrar’s office; and
- (b) give a copy of the notice to—
 - (i) the applicant; and
 - (ii) each owner of land covered by the proposed mining lease; and
 - (iii) the relevant local government; and
 - (iv) anyone who has already lodged an objection to the application.

‘(4) The notice must state that the time for objecting to the application is extended until a time to be fixed by the mining registrar after the applicant completes the environmental impact statement.

‘(5) Within 7 days after receiving the notice (or a longer period allowed by the mining registrar), the applicant must—

- (a) publish a copy of the notice in a newspaper approved by the mining registrar that circulates in the relevant mining district; and
- (b) give the mining registrar a statutory declaration stating that the applicant has published the notice.

‘(6) This section applies to a proposed mining project for land covered by an exploration permit or mineral development licence for which an environmental impact statement has been prepared only if the Minister considers that the way the project impacts on the environment is substantially different from the impact indicated in the statement.

‘Draft guidelines for environmental impact statements

‘7.21A(1) The Minister must issue draft guidelines for the preparation of an environmental impact statement within 28 days after giving notice to an applicant for a mining lease of any decision to require the applicant to prepare the statement.

‘(2) The draft guidelines—

- (a) must state the things the environmental impact statement must address; and
- (b) may state the way the things may or must be addressed.

‘(3) The Minister must give a copy of the draft guidelines to the applicant and the mining registrar.

‘(4) The mining registrar must—

- (a) immediately display a notice at the mining registrar’s office stating that the draft guidelines are available for comment until a day stated in the notice, at least 28 days after the notice is displayed; and
- (b) give a copy of the notice to anyone required to be given notice of the decision to require the preparation of the environmental impact statement.²⁶

‘(5) Anyone may lodge written comments about the draft guidelines at the mining registrar’s office on or before the stated day.

²⁶ See section 7.21(3)(b).

‘Guidelines for environmental impact statements

‘7.21B(1) After considering any written comments lodged at the mining registrar’s office on or before the day for making written comments about the draft guidelines, the Minister must issue guidelines for the preparation of the environmental impact statement.

‘(2) The Minister must give a copy of the guidelines to—

- (a) the applicant; and
- (b) each owner of land covered by the proposed mining lease; and
- (c) the relevant local government; and
- (d) anyone who has already lodged an objection to the application.

‘(3) The Minister must give the copy within 28 days after the day for making written comments about the draft guidelines ends.

‘What happens after environmental impact statement is prepared?

‘7.21C(1) After completing the environmental impact statement, the applicant must give the chief executive as many copies of the statement as the chief executive requires.

‘(2) The chief executive must immediately give the mining registrar a copy of the environmental impact statement.

‘(3) The mining registrar must immediately display a notice at the mining registrar’s office, stating the following—

- (a) the environmental impact statement is available for inspection at the mining registrar’s office;
- (b) a copy may be obtained from the mining registrar at a stated cost;
- (c) the day, 2 months after the day the notice is displayed, that is the last day anyone wanting to object to the application may make written objection to the mining registrar.

‘(4) The cost of the copy must be as close as possible to the actual cost of providing the copy.

‘(5) The mining registrar must give a copy of the notice to each person given notice of the decision to require the preparation of the environmental impact statement.

‘(6) Within 7 days after receiving the notice (or a longer period allowed by the mining registrar), the applicant must—

- (a) publish a copy of the notice in a newspaper approved by the mining registrar that circulates in the relevant mining district; and
- (b) give the mining registrar a statutory declaration stating that the applicant has published the notice.

‘(7) The Wardens Court must not hear or continue to hear, and the warden must not make a recommendation about, the application until after the time for making written objections to the application ends.’.

Amendment of s 7.26 (Warden’s recommendation on hearing)

75.(1) Section 7.26(3)—

insert—

‘(ga)any disadvantage may result to the rights of—

- (i) holders of existing exploration permits or mineral development licences; or
- (ii) existing applicants for exploration permits or mineral development licences; and’.

(2) Section 7.26(3)(i), ‘effect’—

omit, insert—

‘impact’.

Amendment of s 7.33 (Conditions of mining lease)

76.(1) Section 7.33(1)(b) to (d)—

omit, insert—

- ‘(b) a condition that the holder submit a plan of operations that is consistent with the accepted environmental management overview strategy; and
- (c) a condition that the holder conduct mining activities under the mining lease in accordance with the accepted environmental management overview strategy and current plan of operations;

and

- (d) a condition that the holder—
- (i) conduct an environmental audit for any proposed plan of operations or amendment of a plan of operations; and
 - (ii) submit an environmental audit report with the plan or amendment; and’.

(2) Section 7.33(1)—

insert—

‘(ha) a condition that the holder give materials obtained under the holder’s mining operations to the Minister at the times, in the way and in quantities the Minister reasonably requires by written notice to the holder; and’.

(3) Section 7.33(3)—

omit.

(4) Section 7.33(5), after ‘conduct’—

insert—

‘or practice’.

Amendment of s 7.34 (Provision of security)

77.(1) Section 7.34(1) and (2)—

omit, insert—

7.34(1) The holder of a mining lease must deposit security for the lease to ensure the holder—

- (a) complies with the conditions of the lease; and
- (b) complies with this Act; and
- (c) rectifies actual damage that may be caused by activities under the lease to land or improvements situated on or off the land covered by the lease; and
- (d) pays amounts (other than penalties) payable under this Act to the State.

‘(2) The Minister must fix the amount of security to be deposited under subsection (1).

‘(2A) Despite subsection (2), the Minister may, at any time and in the Minister’s absolute discretion, decide that the holder must deposit extra security.

‘(2B) If the security is for a mining project, a single amount of security may be deposited for all mining leases in the mining project.

‘(2C) Before the holder of a mining lease starts operations under the lease, the holder must deposit the amount fixed under subsection (2) or, with the Minister’s approval, security of a kind mentioned in subsection (6) for the amount.’.

(2) Section 7.34(4)—

omit.

(3) Section 7.34(8), ‘subsections (3) and (4)’—

omit, insert—

‘subsection (3)’.

(4) Section 7.34(8)(b)—

omit, insert—

‘(b) amounts (other than penalties) the holder owes to the State under this Act (whether before or after the termination); and

(c) rates and charges (including interest on unpaid rates and charges) owing to a local government by the former holder for the mining lease.’.

(5) Section 7.34—

insert—

‘(8A) For matters mentioned in subsection (8), security must be applied to each of the matters in turn.’.

Amendment of s 7.38 (Determination of compensation by Wardens Court)

78. Section 7.38(6)—

omit, insert—

‘(6) An amount of compensation decided by agreement between the parties, or by the Wardens Court or the Land Court on appeal, is binding on the parties and the parties’ personal representatives, successors and assigns.’.

Amendment of s 7.39 (Appeal against Wardens Court’s determination upon compensation)

79. Section 7.39—

insert—

‘(4A) In deciding an appeal, the Land Court must consider the things relevant to the appeal that the Wardens Court was required to consider when making the decision appealed against.’.

Amendment of s 7.43 (Renewal of mining lease)

80. Section 7.43(2)(b)—

omit, insert—

‘(b) be accompanied by—

- (i) written confirmation that the current environmental management overview strategy is to continue unamended; or
- (ii) an amended environmental management overview strategy acceptable to the Minister; and

(c) be accompanied by—

- (i) written confirmation that the current plan of operations is to continue unamended; or
- (ii) an amended plan of operations acceptable to the Minister; and

(d) be accompanied by the renewal fee prescribed under a regulation.’.

Insertion of new s 7.44A

81. After section 7.44—

insert—

‘Holder to notify owner of grant or renewal of mining lease

‘7.44A(1) The holder of a mining lease must notify each owner of land covered by the lease of the grant or renewal of the lease.

‘(2) The notice must be given within 28 days after the holder receives notice of the grant or renewal.’.

Omission of s 7.45 (Survey)

82. Section 7.45—

omit.

Amendment of s 7.46 (Mining lease where area not surveyed)

83. Section 7.46(1)—

omit, insert—

‘7.46(1) The Governor in Council may grant or renew a mining lease, and the instrument of lease for the mining lease may be issued, even though the boundaries of the land have not been surveyed.’.

Amendment of s 7.47 (Rental payable on mining lease)

84. Section 7.47(4)(b), ‘31 March’—

omit, insert—

‘1 April’.

Replacement of s 7.48 (Plan of operations)

85. Section 7.48—

omit, insert—

‘Plan of operations and environmental audit statement

‘7.48(1) The holder of a mining lease must give to the Minister—

- (a) a plan of operations (the “**plan**”) for mining under the lease; and
- (b) an environmental audit statement (the “**statement**”) about the plan’s consistency with the accepted environmental management overview strategy for the lease.

‘(2) The initial plan and statement must be given to the Minister at least 2 months before starting operations under the lease (or a shorter period approved by the Minister for the mining lease).

‘(3) A later plan and statement must be given to the Minister at least 2 months before the current plan expires (or a shorter period approved by the Minister for the mining lease).

‘(4) The plan and statement may relate to mining under more than 1 mining lease.

‘(5) Within 28 days of receiving the plan and statement, the Minister may give the mining lease holder written notice that the plan is not acceptable if the Minister is not satisfied—

- (a) the plan properly addresses the way the purpose of the mining lease is to be carried out; or
- (b) the way the purpose is to be carried out is consistent with this Act, the conditions of the lease and the environmental management overview strategy for mining under the lease; or
- (c) the person preparing the statement acted responsibly and honestly when preparing it.

‘(6) If the Minister gives the holder notice under subsection (5) and there is a current plan of operations, the current plan continues in force until the Minister is given a plan of operations with which the Minister is satisfied.

‘(7) The holder of a mining lease and anyone acting under the lease must perform operations under the lease in accordance with the current plan of operations for the lease.

‘Amendment of plan of operations

‘7.48A(1) A mining lease holder may amend the plan of operations for mining under the lease by giving to the Minister—

- (a) a document stating the way the holder proposes to amend the plan; and
- (b) an environmental audit statement about the plan as amended.

‘(2) The amendment takes effect 28 days after the document and statement are given to the Minister, unless within the 28 days the Minister gives the holder written notice that the amendment is not acceptable.

‘(3) The amendment affects the period the plan is in force, only if the amendment provides it is to affect the period.

‘Duration of plan of operations

‘7.48B(1) A plan of operations for a mining lease takes effect 28 days after the Minister is given a copy of the plan or, if a later day of effect is stated in the plan, the later day.

‘(2) However, subsection (1) does not apply if the Minister gives the holder of the lease written notice that the plan is not acceptable within 28 days of being given the plan.

‘(3) The plan of operations is in force for—

- (a) the period the Governor in Council decides when granting the lease; or
- (b) not more than 5 years from the day it takes effect, (or a shorter period fixed by the Minister by written notice given to the holder), unless earlier replaced by a later plan.

‘(4) Subsections (1), (2) and (3)(b) also apply to a plan replacing a current plan of operations.’.

Amendment of s 7.50 (Variation of mining lease for accuracy etc.)

86. Section 7.50(1)(c)—

omit, insert—

‘(c) facts have appeared or been established since the grant of the mining lease that satisfy the Minister that an amendment of the mining lease should be made to more accurately reflect the holder’s entitlements under the lease;’.

Amendment of s 7.54 (Consolidation of mining leases)

87.(1) After section 7.54(1A)—

insert—

‘**(1B)** If the mining registrar is not satisfied the land is adjoining, the holder may apply to the Wardens Court for an order declaring the land to be adjoining land for this section.’.

(2) Section 7.54(2), ‘On the recommendation of the Minister, the Governor in Council’—

omit, insert—

‘The Governor in Council’.

(3) Section 7.54(2B)—

omit, insert—

‘**(2B)** If, within the proposed area of the consolidated mining lease, there is an area not included in 1 of the leases to be consolidated, the Governor in Council may include the area in the consolidated mining lease.

‘**(2C)** A consolidated mining lease may be granted only if the Minister is satisfied arrangements for compensation, the deposit of security and the proposed conditions of the mining lease are adequate.’.

(4) Section 7.54(3), ‘, on the recommendation of the Minister’—

omit.

Amendment of s 7.64 (Surrender of mining lease)

88.(1) Section 7.64(2)(d)—

omit, insert—

‘(d) if land covered by the surrender is not included in an application to which subsection (7) applies—a final rehabilitation report

stating how the holder has rehabilitated land affected directly or indirectly by mining activities on the mining lease; and

- (e) an environmental audit statement confirming that the holder has met the rehabilitation requirements under the environmental management overview strategy and plan of operations; and
- (f) the fee prescribed under a regulation.’.

(2) Section 7.64—

insert—

‘**(2A)** The Minister may, by written notice, give the mining lease holder directions about rehabilitating the land, and require the holder to give the Minister a further rehabilitation report and environmental audit statement on carrying out the directions, if the Minister is not satisfied—

- (a) the holder has rehabilitated the land in accordance with the accepted environmental management overview strategy and plan of operations; and
- (b) the person preparing the statement acted responsibly and honestly when preparing the statement.’.

(3) Section 7.64—

insert—

‘**(3A)** The Minister may accept a surrender under subsection (3) only if the Minister is satisfied the holder has satisfactorily rehabilitated the land.’.

(4) Section 7.64(6A)—

omit, insert—

‘**(6A)** In a proceeding for the recovery of an amount owing to the State under this Act, a certificate signed by the chief executive stating the amount of the debt is evidence of the amount of the debt.’.

Replacement of s 7.67 (Effect of termination of mining lease)

89. Section 7.67—

omit, insert—

‘Effect of termination of mining lease

‘7.67(1) This section applies on the termination of a mining lease.

‘(2) However, this section does not apply to a mining lease if the termination is for granting a mining claim or a new mining lease over the land covered by the terminated lease to the holder of the terminated lease.

‘(3) On the termination of the mining lease, the ownership of all mineral, ore, tailings and other material (“**mineral**”), and any structures, machinery and equipment (“**property**”), on the land covered by the terminated lease divests from the owner and vests in the State.

‘(4) However, subsection (3) applies to property only if it was brought onto the land under the terminated mining lease.

‘Application for approval to remove mineral and property

‘7.67A(1) This section applies to mineral and property that vests in the State on the termination of a mining lease.

‘(2) Anyone who had an interest in the mineral or property immediately before its ownership vests in the State may apply in writing to the Minister for permission to remove the mineral or property from the land.

‘(3) The application—

- (a) must be made within 28 days (or a longer period, of not more than 3 months, allowed by the Minister) after the mineral or property vests in the State; and
- (b) may be made even though a subsequent grant of a mining claim, exploration permit, mineral development licence or mining lease is made over for the land.

‘(4) The Minister may approve or refuse to approve the application.

‘(5) However, the Minister must approve the application if the Minister is satisfied—

- (a) the person was entitled to the mineral or property immediately before it vested in the State; and

(b) there is enough security to meet the costs for which it was deposited.²⁷

‘(6) The approval may be given on conditions stated in it.

‘(7) If the application is approved, the person named in the approval may enter the land and remove the mineral or property (other than covers, fencing, casings, linings, timbering or other things securing the safety of the land) stated in the application before the time stated in the approval ends.

‘(8) Anything removed under subsection (7) divests from the State and vests in the person entitled to it immediately before the termination of the mining lease.

‘(9) However, mineral divests from the State and forms part of the land if it is not removed before the later of—

- (a) the end of the time stated in an approval under this section; or
- (b) 3 months after the mining lease’s termination.

‘Property remaining on former mining lease may be sold

‘**7.67B(1)** This section applies if the mining registrar has not received an application, or has received an application that has not been granted, for approval to remove property from the site of a terminated mining lease within 3 months after the lease’s termination.

‘(2) The Minister may direct the mining registrar to—

- (a) sell the property by public auction or in another stated way; or
- (b) if the property has no commercial value—dispose of or destroy it.

‘(3) Proceeds of a sale are to be applied in the following order towards—

- (a) the reasonable expenses incurred in the sale;
- (b) the cost of rectifying actual damage for which an amount of security deposited for the terminated mining lease could have been used, but was not used, or was inadequate;
- (c) amounts owing to the State under this Act by the former holder;

²⁷ See section 7.34 (Provision of security).

- (d) rates and charges (including interest on unpaid rates and charges) owing to a local government by the former holder for the lease;
- (e) amounts owing to a mortgagee under a mortgage registered under this Act over the lease.

‘(4) Any balance must be paid to the former holder.

‘(5) If the mining registrar cannot decide the identity of, or locate, a person entitled to the proceeds or part of the proceeds, the mining registrar may pay the amount to the Public Trustee as unclaimed moneys.

‘(6) Compensation is not payable for a sale, disposal or destruction under this section.’.

Amendment of s 7.68 (Approval of additional activities upon mining lease application)

90. Section 7.68(1)—

omit, insert—

‘**7.68(1)** This section applies if an applicant for a mining lease holds an existing licence, claim or permit under this Act that does not allow the applicant to do something (other than winning or extracting minerals) someone may do under a mining lease.

‘**(1AA)** The applicant may apply to the Minister for approval to enter land, or a particular part of the land, covered by the application for the lease for a purpose (other than winning or extracting minerals) that is not allowed under the applicant’s existing authority.

‘**(1AB)** This section does not limit a person’s entitlement as an applicant for a mining lease.’.

Replacement of s 7.69 (Mining lease for carriage through land)

91. Section 7.69—

omit, insert—

‘Mining lease for transportation through land

‘**7.69(1)** This section applies if a person who holds a mining lease for particular land—

- (a) wants a mining lease over land not covered by the person's lease for the transportation of something through, over or under the land by a pipeline, aerial ropeway, conveyor apparatus, transmission line or similar method of transport; and
- (b) does not hold a prospecting permit, exploration permit or mineral development licence for the land.

‘(2) The Governor in Council may grant to a person a mining lease for the transportation of the thing through, over or under the land covered by the application for the lease if—

- (a) the Minister is satisfied the proposed lease is for a purpose associated with or arising from activities performed, or to be performed, under the person's mining lease; or
- (b) before the person applied for the lease, the Governor in Council, under a regulation, declared the transportation of the thing through, over or under land not covered by a mining lease by a pipeline, aerial ropeway, conveyor apparatus, transmission line or similar method of transport to be an activity associated with or arising from mining.

‘(3) An application for a mining lease under this section must be given to the mining registrar for the applicant's current mining lease.

‘(4) If land included in the application is covered by an exploration permit or mineral development licence, the application does not have to be accompanied by the consent of the permit or licence holder, but the applicant must give written notice of the application to the permit or licence holder within 7 days after lodging the application.

‘(5) The chief executive may either completely or partly dispense with a requirement under this Part for marking out the land included in the application.’.

Insertion of new s 7.71

92. After section 7.70—

insert—

‘Rehabilitation of land covered by mining lease

‘7.71(1) Within 3 months after the termination of a mining lease, the holder must give the Minister—

- (a) a final rehabilitation report—
 - (i) stating that the holder has rehabilitated land affected directly or indirectly by mining activities on the mining lease in accordance with the accepted environmental management overview strategy and plan of operations; and
 - (ii) outlining how the holder has rehabilitated the land; and
- (b) an environmental audit statement confirming that the holder has met the rehabilitation requirements under the environmental management overview strategy and plan of operations.

‘(2) Within 6 months after receiving the report and statement, the Minister may give the mining lease holder reasonable directions about rehabilitating the land, and require the holder to give the Minister a further rehabilitation report and environmental audit statement within a stated time, if the Minister is not satisfied—

- (a) the holder has rehabilitated the land in accordance with the accepted environmental management overview strategy and plan of operations; or
- (b) the person preparing the environmental audit statement acted responsibly and honestly when preparing it.

‘(3) The holder must comply with the directions.

Maximum penalty—2 000 penalty units.

‘(4) The holder and the holder’s employees or agents may, to the extent reasonable and necessary to comply with the directions—

- (a) enter land stated in the notice; and
- (b) bring onto the land vehicles, vessels, machinery and equipment.

‘(5) This section does not apply if—

- (a) a final rehabilitation report is lodged with a notice of surrender of a mining lease; or

- (b) the termination is for granting a mining claim or a new mining lease for the same land.’.

Replacement of s 10.2 (Acting mining registrars)

93. Section 10.2—

omit, insert—

‘Acting mining registrar

‘10.2 The Minister may appoint an appropriate person to act as a mining registrar during—

- (a) any vacancy, or all vacancies, in the office; or
- (b) any period, or all periods, when the mining registrar is absent from the State or, for another reason, cannot perform the functions of the office.’.

Amendment of s 10.7 (Powers of mining registrars and others)

94. Section 10.7(1)—

insert—

‘(ba) a person of a class prescribed under a regulation; and’.

Replacement of s 10.9 (Appointment of wardens)

95. Section 10.9—

omit, insert—

‘Qualifications for appointment of wardens

‘10.9 A person is qualified to be appointed as a warden if the person is a lawyer of at least 5 years standing.

‘Appointment of wardens

‘10.9A(1) The Governor in Council may appoint the number of wardens necessary for transacting the business of the Wardens Court.

‘(2) The *Public Service Management and Employment Act 1988* and the

Public Sector Management Commission Act 1990 do not apply to the appointment of a warden.

‘Terms and conditions of employment

‘10.9B(1) A warden is to be paid—

- (a) salary fixed under the *Judges (Salaries and Allowances) Act 1967*; and
- (b) the allowances decided by the Governor in Council.

‘(2) The Governor in Council is to decide the terms of the appointment (other than salary).

‘(3) Employment of a warden is not subject to an industrial award or agreement, or a decision or rule of an industrial tribunal.

‘Preservation of rights

‘10.9C(1) This section applies if an officer of the public service is appointed as a warden.

‘(2) The person keeps the rights the person has accrued because of employment as an officer of the public service, or that would accrue in the future to the person, as if service as a warden were a continuation of service as an officer of the public service.

‘(3) If the person ceases to be a warden on being appointed to an office of the public service, the person’s service as a warden is service as an officer of the public service for working out the person’s rights as an officer of the public service.

‘Appointment of acting wardens

‘10.9D(1) The Governor in Council may appoint anyone qualified to be appointed as a warden to act as a warden.

‘(2) The *Public Service Management and Employment Act 1988* and the *Public Sector Management Commission Act 1990* do not apply to the person while acting as a warden.

‘(3) However, if the person is an officer of the public service, the person

keeps the rights the person has accrued because of employment as an officer of the public service, or that would accrue in the future to the person because of the employment, as if service as an acting warden were a continuation of service as an officer of the public service.

‘Jurisdiction and powers of wardens

‘10.9E A warden may exercise, throughout the State, the jurisdiction, powers and functions conferred on a warden under this or another Act.

‘Oath to be taken by warden

‘10.9F(1) A person appointed as a warden may exercise a power or function of a warden only if the person has—

- (a) taken the oath prescribed under a regulation or, if no oath is prescribed, by another Act; or
- (b) made an affirmation in the form of the oath.

‘(2) An oath or affirmation mentioned in subsection (1) may be taken or made before a Supreme Court Judge, District Court Judge, Magistrate or warden.

‘(3) The person’s appointment ends if the person does not take the oath or make the affirmation within 3 months after appointment as a warden.

‘Tenure of office

‘10.9G(1) A person ceases to be a warden if—

- (a) the person resigns by signed notice of resignation given to the Minister; or
- (b) the person elects to retire on or after turning 55 by signed notice given to the Minister; or
- (c) the person is removed from office as a warden.

‘(2) A resignation or retirement takes effect on the day the notice of resignation or retirement is given to the Minister or, if a later day of effect is stated in the notice, the later day.

‘Continuation of jurisdiction on retirement

‘10.9H A person who ceases to be a warden for any reason (other than death or removal from office) is taken to continue to be a warden so far as it is necessary to give a decision in a matter the person has partly heard or not decided.

‘Existing wardens continue in office

‘10.9I(1) A person who holds office as a warden immediately before the commencement of this section continues in office as a warden.

‘(2) The warden is to be paid the salary payable to a warden under this Act immediately before the commencement of this section until the warden’s salary is fixed under the *Judges (Salaries and Allowances) Act 1967*.

‘(3) This section expires 1 day after it commences.’.

Omission of s 10.13 (Acting wardens)

96. Section 10.13—

omit.

Insertion of new s 10.15A

97. After section 10.15—

insert—

‘Mining registrar may constitute Wardens Court in some cases

‘10.15A(1) A mining registrar may constitute a Wardens Court at a place whenever a warden cannot attend the place to conduct the business of the Wardens Court.

‘(2) However, the mining registrar may only—

- (a) adjourn a matter before a Wardens Court; or
- (b) set a matter down for hearing by a Wardens Court; or
- (c) enter judgment for an amount not more than the amount specified

in the *Magistrates Courts Act 1921*, section 4 (Jurisdiction of Magistrates Courts).’²⁸

Amendment of s 10.20 (Substantive jurisdiction)

98. Section 10.20(7)—

omit, insert—

‘(7) This section does not confer jurisdiction on a Wardens Court in relation to the recovery of wages or amounts owing under an industrial award or agreement.’.

Amendment of s 10.33 (Powers of Wardens Court)

99. Section 10.33(1)(d)—

omit, insert—

‘(d) grant prohibition orders, including, for example, orders requiring a person—

- (i) not to destroy information the person has obtained while performing an investigation for a Wardens Court hearing or inquiry; or
- (ii) not to destroy information in the person’s possession because of an investigation for a Wardens Court hearing or inquiry; or
- (iii) not to disclose information known to the person because of the person’s involvement in an investigation performed for a Wardens Court hearing or inquiry; and

(da) grant injunctions, attachment orders and charging orders; and’.

Replacement of s 11.20 (Directions etc. to be complied with)

100. Section 11.20—

omit, insert—

²⁸ The amount is currently \$40 000.

‘Directions to be complied with

‘11.20 A person must comply with a direction given to, or a requirement made of, the person by a mining registrar, field officer or other authorised officer under this Act, unless the person has a reasonable excuse.

Maximum penalty—1 500 penalty units.

‘Wardens Court may review lawfulness of directions

‘11.20A(1) A person dissatisfied with a direction or requirement given or made by a mining registrar, field officer or other authorised officer may, if no other right of appeal against the direction or requirement is given under this Act, apply in writing to the Wardens Court for a review of the direction or requirement.

‘(2) The application must—

- (a) set out the grounds for review; and
- (b) be filed at the office of the mining registrar for the mining district in which the direction or requirement was given or made.

‘(3) If the registrar is not the person who gave the direction or made the requirement, the registrar must give a copy of the application to the person who gave or made it.

‘(4) The Wardens Court must review the direction or requirement and may make any inquiry the Wardens Court considers appropriate to help the warden reach a decision.

‘(5) The Wardens Court may—

- (a) confirm the direction or requirement; or
- (b) amend the direction or requirement; or
- (c) revoke the direction or requirement.

‘(6) If the Wardens Court amends the direction or requirement, the warden’s decision is taken to be the direction or requirement of the mining registrar, field officer or authorised officer.

‘(7) The Wardens Court must notify the decision to—

- (a) the person dissatisfied; and

- (b) the mining registrar, field officer or authorised officer who gave or made the direction or requirement.’.

Amendment of s 11.21 (Minister may require survey)

101.(1) Section 11.21(1), ‘in a manner prescribed by subsection (2)’—
omit.

(2) Section 11.21(2)—
omit, insert—

‘**(2)** The land must be surveyed in the way approved by the Minister by a surveyor licensed under the *Surveyors Act 1977*.’.

Replacement of s 11.27 (Evidentiary provisions)

102. Section 11.27—
omit, insert—

‘Evidentiary provision

‘**11.27(1)** This section applies to a proceeding under this Act.

‘**(2)** The appointment or power of the chief executive, a warden, mining registrar, field officer or other authorised officer must be presumed unless a party, by reasonable notice, requires proof of—

- (a) the appointment; or
- (b) the power to do anything under this Act.

‘**(3)** A signature purporting to be the signature of the chief executive, a warden, mining registrar, field officer or other authorised officer is evidence of the signature it purports to be.

‘**(4)** A certificate purporting to be signed by a person mentioned in subsection (3), and stating any of the following matters is evidence of the matter—

- (a) a stated document is—
 - (i) an authority or a copy of an authority; or
 - (ii) an order, direction, requirement or decision, or a copy of an

order, direction, requirement or decision, given or made under this Act; or

- (iii) a notice, or a copy of a notice, given under this Act; or
- (iv) a record, or a copy of a record, kept under this Act;
- (b) on a stated day, or during a stated period, a stated person was or was not the holder of an authority or a stated authority;
- (c) a stated authority was or was not in force on a stated day or during a stated period;
- (d) on a stated day, a stated authority terminated or was surrendered;
- (e) on a stated day, a stated person was given a stated notice, order, requirement or direction under this Act;
- (f) a stated fee or other amount is payable by a stated person to the State and has not been paid;
- (g) anything else prescribed under a regulation.

‘(5) A certificate purporting to be signed by the chief executive of the department within which the *Land Act 1994* is administered, stating things about stated land that are material to classifying the land as being or not being occupied land, is evidence of the things stated.

‘(6) In this section—

“**authority**” means—

- (a) a prospecting permit; or
- (b) a mining claim; or
- (c) an exploration permit; or
- (d) a mineral development licence; or
- (e) a mining lease.’.

Amendment of s 11.31 (Regulations)

103.(1) Section 11.31(1), ‘not inconsistent with this Act for or with respect to’—

omit, insert—

‘under this Act.

‘(2) A regulation may be made about the following matters—’.

(2) Section 11.31(1)(a), (j), (s) and (t)—

omit.

(3) Section 11.31(2), (3), (5), (6) and (7)—

omit.

Omission of s 11.32 (Existing orders in council and rules of court)

104. Section 11.32—

omit.

Insertion of ss 11.33 – 11.35

105. After section 11.32—

insert—

‘Application of Acts Interpretation Act, s 20A

‘**11.33(1)** Section 11.32 is a law to which *Acts Interpretation Act 1954*, section 20A applies.

‘(2) This section expires on the day it commences.

‘References to repealed Acts

‘**11.34** A reference in an Act or document to the following Acts is taken to be a reference to this Act—

- Mining Act 1898 62 Vic No. 24
- Mining Act 1968 No. 51

‘Numbering and renumbering of Act

‘**11.35** The *Reprints Act 1992*, section 43 (Numbering and renumbering) must be used in the next reprint of this Act produced under the *Reprints Act 1992*.’.

Amendment of Sch 2 (Savings, transitional and validation)

106.(1) Schedule 2, section 2—

insert—

‘**(8C)** On the grant of a mining lease under this section, a mortgage or encumbrance that, immediately before the grant, attached to the mining claim attaches to the mining lease.’.

(2) Schedule 2, section 3—

insert—

‘**(1AB)** However, if the holder does not have the written consent of the owner or Governor in Council to disturbing the surface of a reserve covered by the mining lease, the holder must obtain the consent before disturbing the surface of the reserve.’.

(3) Schedule 2, section 3(10)(a), after ‘granted’, first mention—

insert—

‘under the *Mining Act 1968*’.

(4) Schedule 2, section 3—

insert—

‘**(12C)** On the grant of a mineral development licence under this section, a mortgage or encumbrance that, immediately before the grant, attached to the mining lease attaches to the mineral development licence.’.

Other Acts amended

107. Schedule 2 amends the Acts it mentions.

SCHEDULE 1**MINOR AMENDMENTS OF MINERAL RESOURCES
ACT 1989**

section 3 of the Act

1. Sections 4.14(2) and 7.13(2), ‘a natural person’—*omit, insert—*

‘an individual’.

2. Sections 4.3(1)(b)(i) and (3), 4.13(2), 5.4(1)(a) and (b), 6.3(3)(b) and (c), 7.12(2), 10.7(1)(d) and 10.14, ‘and be upon’—*omit.***3. Section 4.23(1), ‘Notwithstanding the provisions of’—***omit, insert—*

‘Despite’.

4. Sections 4.54(2)(a), 6.27(2)(a) and 7.63(2)(a), ‘by 31 March’—*omit, insert—*

‘before 1 April’.

5. Section 4.54(5)—*omit.***6. Sections 5.30(5)(a) and 6.24(5)(a)—***omit, insert—*

‘(a) an interest that is a registrable charge under the Corporations Law;

SCHEDULE 1 (continued)

or’.

7. Section 5.32(6)—

omit.

8. Section 6.27(6)—

omit.

9. Section 7.63(5)—

omit.

10. Section 9.2(4)—

omit.

11. Section 9.3(2)(c)—

omit, insert—

‘(c) if the return, document or statement has been lodged by or for a corporation—may rely on work performed by auditors who have examined the corporation’s accounts.’.

12. Section 9.3(4)—

omit.

13. Section 10.24(1), ‘forms used,’—

omit.

SCHEDULE 1 (continued)

14. Section 11.13—

omit, insert—

‘Delegation by minister

‘**11.13** The Minister may delegate all or any of the Minister’s powers under this Act to an officer or employee of the department.’.

15. Section 11.17(1)(e), ‘an order in council’—

omit, insert—

‘a regulation’.

16. Section 11.17(1)(e), ‘by that order in council’—

omit, insert—

‘under a regulation’.

17. Schedule 2, section 2(6) to (11) and (13) to (20)—

omit.

18. Schedule 2, section 3(4) to (4E), (6) to (7), (9) to (9B) and (12) to (16)—

omit.

19. Schedule 2, section 4(4) and (6) to (8)—

omit.

20. Schedule 2, sections 6 to 10, 11(6) and (7), 12, 13, 14(1) to (3A), 15, 22 and 23—

omit.

SCHEDULE 1 (continued)

21. Sections 3.20(1), 4.14(1)(a), 4.17(1), 4.41(4), 4.45(2)(a), 4.54(3), 4.66(1), 5.8(a), 5.24(2)(a), 5.32(3), 6.4(a), 6.18(2)(a), 6.27(3), 6.39(1), 7.13(1)(a), 7.18(1), 7.43(4), 7.56(2)(a), 7.63(3) and 7.70(1), ‘in or to the effect of the prescribed form’—

omit, insert—

‘in the approved form’.

22. Sections 3.8(2), 4.36, 4.45(1), 4.47(1)(b), 4.55(1)(a), 5.12(2), 5.24(1), 5.26(1)(b), 5.30(1), 6.7(5), 6.8, 6.18(1), 6.20(1)(b), 6.24(1), 6.28(2)(a), 6.39(5), 7.20(1), 7.55(4), 7.56(1), 7.58(1)(d), 7.64(2)(a), 8.1(3), 10.28(2)(a), 10.29(2)(a) and 11.2, ‘prescribed form’—

omit, insert—

‘approved form’.

23. Section 3.8(5), ‘form prescribed’—

omit, insert—

‘approved form’.

24. Section 4.41(2)(a), ‘in writing in the prescribed manner and form’—

omit, insert—

‘in the prescribed way’.

25. Sections 5.19, 6.16(2), 7.43(2)(a) and 11.6, ‘prescribed manner and form’—

omit, insert—

‘prescribed way’.

SCHEDULE 2**OTHER ACTS AMENDED**

section 107 of the Act

JUDGES (SALARIES AND ALLOWANCES) ACT 1967**1. Part 4, heading—***insert—***‘AND MINING WARDENS’.****2. After section 4—***insert—***‘Salary of wardens****‘4A.(1) In this section—****“warden”** means a warden under the *Mineral Resources Act 1989*.**(2)** The rate of salary payable to a warden is to be fixed by determination of the Tribunal.**(3)** However, the annual rate of salary payable to a warden must not be reduced by determination.**(4)** The salary is payable out of the Consolidated Fund, which is appropriated accordingly.’.**3. Section 5(3)—***insert—***‘(f) a warden.’.**

SCHEDULE 2 (continued)

4. After section 12(1)(e)—*insert—*

‘(f) the rate of salary payable to a warden.’.

5. Section 12(7), after ‘Magistrates’—*insert—*

‘and wardens’.

6. Section 12(8)—*insert—*‘(d) wardens—the Minister administering the *Mineral Resources Act 1989*.’.**7. Section 13(2), after ‘of a Magistrate’—***insert—*

‘or warden’.

8. Section 13(2)(d), after ‘for a Magistrate’—*insert—*

‘or warden’.

9. Section 13(2)(d)(ii), after ‘Magistrate’—*insert—*

‘or warden’.

SCHEDULE 2 (continued)

CONTAMINATED LAND ACT 1991**1. Section 54, ‘officer or’—***insert—*

‘officer of the public service or’.

PENALTIES AND SENTENCES ACT 1992**1. Section 4, definition “proper officer”—***insert—*

‘(d) for an order of a Wardens Court—the registrar.’.

2. Section 8(1)—*insert—*

‘(d) if the order was made by a Wardens Court—any Wardens Court sitting at any place in Queensland.’.

3. Section 8(2), after ‘Magistrate’—*insert—*

‘, warden’.

4. Section 8A(2)—*insert—*

‘(d) a warden—to an officer employed in a mining registrar’s office.’.

