

Offshore Minerals Regulation 2006

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Offshore Minerals Act 1999*.

Minister for Mineral Resources

Explanatory note

The object of this Regulation is to replace, with no substantial alteration, the *Offshore Minerals Regulation 2000* which is repealed on 1 September 2006 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation:

- (a) prescribes the appropriate maps to accompany applications for exploration licences and mining licences under the *Offshore Minerals Act 1999* ("**the Act**"), and
- (b) prescribes the procedures to be followed when conducting a ballot to determine the priority of applications for exploration licences and mining licences under the Act submitted within less than 30 minutes of each other, and
- (c) enables the Minister to issue directions to the holder or former holder of a licence under the Act to remove unused mining property from coastal waters or to rehabilitate an area in coastal waters affected by the activities of the holder or former holder, and
- (d) enables the Minister to take action to rectify the situation and to recover costs if such a direction is not complied with, and
- (e) prescribes the rate at which royalty under the Act is to be paid on minerals recovered under a mining licence, and
- (f) prescribes the records to be kept and the returns to be made by the holder of a mining licence under the Act, and
- (g) enables the Minister, with the concurrence of the Treasurer, to determine fees for the purposes of the Act, and
- (h) enables the Minister or an inspector to take copies of certain documents or to test or analyse certain samples.

This Regulation is made under the *Offshore Minerals Act 1999*, including sections 54, 58, 199, 203, 332, 338, 339, 340, 357, 358, 359, 370, 371, 401, 402, 430 and 442 (the general regulation-making power).

This Regulation comprises matters arising under legislation that is substantially uniform or complementary with legislation of the Commonwealth or another State or Territory.

Part 1 – Preliminary

1 Name of Regulation

This Regulation is the *Offshore Minerals Regulation 2006*.

2 Commencement

This Regulation commences on 1 September 2006.

This Regulation replaces the *Offshore Minerals Regulation 2000* which is repealed on 1 September 2006 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation: "**royalty period**" has the same meaning as in section 428 of the Act. "**the Act**" means the *Offshore Minerals Act 1999*.

(2) Notes included in this Regulation do not form part of this Regulation.

Part 2 – Licences

4 Applications for licences

For the purposes of sections 54 (1) (e) and 199 (1) (e) of the Act, each map that accompanies an application for an exploration licence or a mining licence:

(a) must be a 1:1,000,000 series map published by the Department of Primary Industries or, if such a map is not available, a similar map issued by another Division of the Government Service or a public authority (whether of New South Wales or the Commonwealth), and

(b) must show the relevant blocks by distinctive colour tinting or edging.

Part 3 – Ballot procedures

5 Meaning of "applicant" and "delegate"

In this Part:

"**applicant**" includes a person authorised in writing by an applicant to represent the applicant at a drawing of lots under this Part.

"**delegate**" means an officer, member of staff or agent of the Department of Primary Industries who is authorised by the Director-General of that Department to conduct a drawing of lots under this Part.

6 Multiple applications--exploration and mining licences: time of lodgment

For the purposes of sections 58 (2) (b) and 203 (2) (b) of the Act, the prescribed time is 30 minutes.

7 Multiple applications--drawing of lots

(1) For the purposes of sections 58 (2) and 203 (2) of the Act, the prescribed way of drawing lots is set out in subclauses (2)-(9).

(2) Not less than 7 days before the drawing of lots, the delegate is to give notice in writing of the time and place of the draw to each applicant at the principal office of the applicant.

(3) The draw is to be carried out in the presence of all applicants. However, the draw may be carried out in the absence of an applicant who has been notified of the time and place of the draw in accordance with subclause (2) and who does not attend the draw at the notified time and place.

(4) The delegate is to write the name of each applicant on a separate paper of the same kind as the paper on which the name of each other applicant is written.

(5) The papers and writing may be examined by each person present at the draw.

(6) The papers are to be folded in the same manner by the delegate and placed by him or her in an otherwise empty receptacle the interior surface of which will not snag the papers.

(7) A person is to draw the papers individually from the receptacle without looking into the receptacle.

(8) The person referred to in subclause (7):

(a) must not be:

- (i) an applicant or the delegate, or
 - (ii) an officer, employee or agent of an applicant, and
- (b) must be a person declared in writing by each applicant present at the draw and the delegate to be acceptable.
- (9) The delegate is to record:
 - (a) on each paper the place of the paper in the order of drawing papers from the receptacle, and
 - (b) on each application the number that corresponds to the place in the draw of the paper relating to the application.

Part 4 – Restoration of environment

8 Definition

In this Part, "**unused mining property**" means property (including a structure or equipment) that:

- (a) has been brought into coastal waters for use in offshore exploration or mining activities, and
- (b) is not being used and is not intended to be used in exploration or mining activities in accordance with a licence.

9 Direction to remove unused mining property

- (1) The Minister may, by notice in writing served on the relevant person, direct the holder or former holder of a licence to remove from coastal waters within the period specified in the notice any unused mining property that the holder or former holder has brought into those waters.
- (2) The Minister may, by a further notice in writing served on the person, extend the period referred to in subclause (1).

10 Disposal of unused mining property

- (1) If unused mining property is not removed in accordance with a direction given under clause 9, the Minister may cause the property to be removed and may direct that the property be sold by public auction.
- (2) Any unused mining property unsold after the public auction may be sold by private treaty.
- (3) The costs incurred by the Minister or a person acting under the direction of the Minister in removing or disposing of unused mining property under this clause are to be deducted from the proceeds of any sale referred to in subclause (2).
- (4) Any balance remaining is to be paid to the holder or former holder of a licence to whom the relevant direction was given under clause 9, unless the Minister determines that it should be paid to some other person who appears to the Minister to be more entitled to the proceeds.
- (5) If the proceeds of sale are less than the amount of costs to be deducted, the proceeds are to be applied in meeting those costs in such manner as the Minister directs.

11 Direction to rehabilitate mining area

- (1) The Minister may, by notice in writing served on the relevant person, direct the holder or former holder of a licence to take specified steps, within the period specified in the notice, to rehabilitate an area in coastal waters that has been damaged or affected by offshore exploration or mining activities carried on by the person.
- (2) The Minister may, by a further notice in writing served on the person, extend the period referred to in subclause (1).
- (3) If a person fails to comply with a direction given to the person under this clause, the Minister may cause to be taken any of the steps specified in the notice in which the direction was given.
- (4) Any costs and expenses incurred by the Minister or a person acting under the

direction of the Minister under subclause (3) are to be deducted from any amount of security held by the Minister under the Act in relation to the licence or former licence concerned.

Part 5 – Royalties

12 Royalties

For the purposes of section 430 of the Act, the rate of royalty prescribed in relation to a mineral is 4 per cent of the landed value of the mineral (as referred to in section 432 of the Act).

13 Records to be kept

The holder of a mining licence must keep records of all minerals recovered under the licence, including the following:

- (a) records of the quantity of minerals recovered during each royalty period,
- (b) records of the quantity and value of minerals disposed of, whether by sale or otherwise, during each royalty period,
- (c) records of the quantity and value of minerals held (in the form in which they are disposed of) by the holder of the licence at the beginning and the end of each royalty period,
- (d) records of all royalty that became payable during each royalty period in connection with the disposal of minerals.

14 Returns to be made

- (1) The holder of a mining licence must furnish a return to the Minister within one month after the last day of each royalty period.
- (2) A return must be in a form that shows:
 - (a) the quantity of each mineral recovered by the holder of the mining licence during the royalty period to which the return relates, and
 - (b) the quantity and value of each mineral disposed of, whether by sale or otherwise, during that period, and
 - (c) the quantity and value of each mineral held (in the form in which it is disposed of) by the holder of the mining licence at the beginning and end of that period, and
 - (d) the location in which each mineral was recovered with respect to the boundary of the area over which the mining licence was granted.

Part 6 – Miscellaneous

15 Fees

The Minister may determine, with the concurrence of the Treasurer, the prescribed fee payable for the purposes of each of the following provisions of the Act:

- (a) section 332 (1)--inspection of the offshore mining register and document file,
- (b) section 338 (1) (e)--registration of transfer of a licence or a share in a licence,
- (c) section 339 (1) (c)--registration of a document (other than a transfer of a licence or a share in a licence) that creates, transfers, affects or otherwise deals with an interest in a licence,
- (d) section 340 (1) (d)--registration of a person as a licence holder after devolution of the rights of a licence holder to the person by operation of law,
- (e) section 357 (4)--certified copy of, or extract from, the offshore mining register,
- (f) section 358 (1)--certified copy of a document that is kept on the document file,
- (g) section 359 (1)--certificate that a thing allowed or required by Part 3.1 (Registration) of the Act has been, or has not been, done.

16 Copies of documents

The Minister or an inspector may take a copy of any document produced to the Minister or inspector in accordance with section 370 of the Act.

17 Testing and analysis of samples

The Minister or an inspector may test or analyse any sample given to the Minister or the inspector in accordance with section 371 of the Act.

18 Saving

Any act, matter or thing that had effect under the *Offshore Minerals Regulation 2000* immediately before the repeal of that Regulation is taken to have effect under this Regulation.

Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	No	number	Schs	Schedules
Cl	clause	p	page	Sec	section
ClI	clauses	pp	pages	Secs	sections
Div	Division	Reg	Regulation	Subdiv	Subdivision
Divs	Divisions	Regs	Regulations	Subdivs	Subdivisions
GG	Government Gazette	Rep	repealed	Subst	substituted
Ins	inserted	Sch	Schedule		

Table of amending instruments *Offshore Minerals Regulation 2006 (438)*. GG No 100 of 11.8.2006, p 6164. Date of commencement, 1.9.2006, cl 2.